

“The City With a Heart”



Perry Petersen, Chair
Mary Lou Johnson, Vice Chair
Kevin Chase
Joe Sammut
Sujendra Mishra
Rick Biasotti

AGENDA

PLANNING COMMISSION MEETING

January 6, 2015
7:00 p.m.

Meeting location: Senior Center, 1555 Crystal Springs Road, San Bruno

Planning Commission meetings are conducted in accordance with Roberts Rules of Order Newly Revised. You may address any agenda item by approaching the microphone until recognized by the Planning Commission Chair. All regular Planning Commission meetings are recorded and televised on CATV Channel 1 and replayed the following Thursday, at 2:00 pm. You may listen to recordings in the Community Development Department. Complete packets are available online at www.sanbruno.ca.gov and at the library. In compliance with the Americans with Disabilities Act, individuals requiring reasonable accommodation for this meeting should notify us 48 hours prior to meeting. Notices, agendas, and records for or otherwise distributed to the public at a meeting of the Planning Commission will be made available in appropriate alternative formats upon request by any person with a disability. Please make all requests to accommodate your disability to the Community Development Department 650-616-7074.

ROLL CALL

PLEDGE OF ALLEGIANCE

1. APPROVAL OF MINUTES

2. COMMUNICATIONS

3. PUBLIC COMMENT ON ITEMS NOT ON AGENDA Individuals allowed three minutes, groups in attendance, five minutes. If you are unable to remain at the meeting, ask the Recording Secretary to request that the Planning Commission consider your comments earlier. It is the Planning Commission's policy to refer matters raised in the forum to staff for investigation and/or action where appropriate. The Brown Act prohibit the Planning Commission from discussing or acting upon any matter not agendaized pursuant to State Law.

4. ANNOUNCEMENT OF CONFLICT OF INTEREST

5. PUBLIC HEARINGS Note: If you challenge the below actions in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this agenda, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

A. Crestmoor Neighborhood

Zoning: R-1-G: Single-Family Residential, Glenview Rebuild Overlay District

Recommended Environmental Determination: Categorical Exemption

Request: that the Planning Commission recommend the City Council adopt an Ordinance approving a Development Agreement between the City of San Bruno and Castle Companies, Inc., for the development of ten lots within the Crestmoor Neighborhood.

6. DISCUSSION

A. CITY STAFF DISCUSSION

B. PLANNING COMMISSION DISCUSSION

7. ADJOURNMENT

The next regular Planning Commission Meeting will be held on January 20, 2015 at 7:00 p.m. at the Senior Center, 1555 Crystal Springs Road, San Bruno.



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STAFF

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Mark Sullivan, AICP, *Long Range Planning Manager*
Brian Millar, AICP, *Contract Planner*
Matt Neubaumer, *Associate Planner*
Marc Zafferano, *City Attorney*

PLANNING COMMISSION

Perry Petersen, *Chair*
Mary Lou Johnson, *Vice
Chair*
Kevin Chase
Joe Sammut
Sujendra Mishra
Rick Biasotti

**PLANNING COMMISSION
STAFF REPORT
AGENDA ITEM NO. 5.A.
January 6, 2015**

PROJECT LOCATION

1. Address: 1641 Claremont Drive, 951 Glenview Drive, 991 Glenview Drive, 1721 Earl Drive, 1655 Claremont Drive, 1115 Fairmont Drive, 2735 Concord Way, 981 Glenview Drive, 1100 Glenview Drive, 1110 Glenview Drive
2. Assessor's Parcel Numbers: 019-023-250, 019-043-460, 019-043-010, 019-041-030, 019-023-280, 019-014-150, 019-023-080, 019-043-020, 019-014-170, 019-014-180
3. Zoning District: R-1-G: Single-Family Residential, Glenview Rebuild Overlay District
4. General Plan Classification: Low Density Residential

ATTACHMENTS

- A:** Location Map
B: Resolution

REQUEST

Request that the Planning Commission recommend the City Council adopt an Ordinance approving a Development Agreement between the City of San Bruno and Castle Companies, Inc., for the development of ten lots within the Crestmoor Neighborhood.

RECOMMENDATION

Staff recommends the Planning Commission adopt Resolution 2015-01, recommending the City Council adopt an Ordinance approving a Development Agreement between the City of San Bruno and Castle Companies, Inc.

REVIEWING AGENCIES

Community Development Department
City Attorney

LEGAL NOTICE

1. Notices of public hearing mailed to owners within the Crestmoor neighborhood on December 24, 2014.
2. Advertisement published in the *San Mateo Daily Journal*, on Saturday, December 27, 2014.

ENVIRONMENTAL ASSESSMENT

Approval of the Development Agreement is Categorically Exempt from the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.* ("CEQA")) pursuant to CEQA Guidelines Sections 15195 (residential infill exemption), 15302 (replacement or reconstruction of existing

structures and facilities) and 15303(a) (construction and location of single-family residence on a legal parcel in a residential zone).

DESCRIPTION OF REQUEST

As further described below, City staff and Castle Companies, Inc. (“Developer”) have negotiated the terms of a Development Agreement for the development of ten single-family residential homes on parcels located in the Crestmoor Neighborhood.

PROPERTY DESCRIPTION

The subject parcels are located at 1641 Claremont Drive, 951 Glenview Drive, 991 Glenview Drive, 1721 Earl Drive, 1655 Claremont Drive, 1115 Fairmont Drive, 2735 Concord Way, 981 Glenview Drive, 1100 Glenview Drive and 1110 Glenview Drive.

PROJECT HISTORY

The Crestmoor Neighborhood is the site of the September 2010 Pacific Gas and Electric Company (“PG&E”) gas line explosion and subsequent fire that resulted in the loss of eight lives, destroyed 38 homes and severely damaged 17 homes. Since the gas pipeline incident, reconstruction of the neighborhood has been ongoing, with 21 destroyed homes having been rebuilt or under construction. The City is currently in the process of reconstructing the utility and other infrastructure to serve the Crestmoor Neighborhood and anticipates that all phases of such reconstruction will be completed by the end of 2016.

On August 21, 2013, the City issued a Request for Proposal (“RFP”), seeking qualified homebuilder/developers to construct up to ten single-family homes on three parcels currently owned by the City located at 981 Glenview Drive, 1110 Glenview Drive and 1641 Claremont Drive (“City Parcels”), and seven parcels currently owned by PG&E located at 951 Glenview Drive, 991 Glenview Drive, 1721 Earl Drive, 1655 Claremont Drive, 1115 Fairmont Drive, 2735 Concord Way and 1100 Glenview Drive (“PG&E Parcels”). The City Parcels and PG&E Parcels are collectively referred to in this staff report and in the Development Agreement as the “Property.”

Through the RFP process, the City selected the Developer to develop such single family homes on the Property consistent with certain “Development Standards” set forth in the RFP (“Project”). Prior to the Planning Commission’s consideration of the Development Agreement, the Developer has entered into purchase and sale agreements with the City and PG&E to acquire the Property, conditioned among other things on the City’s approval and execution of the Development Agreement.

PROJECT DESCRIPTION & ANALYSIS

Development Agreements Generally

California Government Code Section 65864, *et seq.*, and City Resolution 1986-77 authorize the City to enter into an agreement for the development of real property with any person or entity having a legal or equitable interest in such property in order to establish certain development rights in the property. The City Council has found that development agreements will strengthen the public planning process, encourage private participation in comprehensive planning by providing a greater degree of certainty in that process, reduce the economic costs of development, allow for the orderly planning of public improvements and services, allocate costs to achieve maximum utilization of public

and private resources in the development process, and assure that appropriate measures to enhance and protect the environment are achieved.

Terms of Development Agreement with Castle Companies, Inc.

The proposed Development Agreement with the Developer provides Developer with certain protections from changes in City laws, including changes to City zoning and other land use regulations and increases in City fees, for the term of the agreement. The term of the Development Agreement will begin to run upon the later of (1) the effective date of the City Council Ordinance approving the Development Agreement, and (2) the date upon which the Developer takes title to the Property. The initial term of the Development Agreement will run for two years from such date, with the possibility of a one year extension upon the Developer's request.

The Development Agreement specifically does not exempt the Developer from compliance with the requirements of building and construction standards applicable to the Property, requirements of the Federal and State governments, or changes in City laws that are mandated or required by changes in Federal or State law, nor does it limit the City's exercise of its police power for the protection of persons or property from conditions which create a threat to public health or safety.

The Development Agreement commits the Developer to commence construction of all ten homes within 60 days of issuance of building permits by the City, provides that all homes are to be completed and ready for occupancy prior to November 30, 2015, except as noted immediately below, and sets forth the following milestones:

- (a) Developer shall submit a complete application for required planning entitlements to the City of San Bruno on or prior to January 5, 2015;
- (b) The Planning Commission shall consider approving required planning entitlements within ninety (90) days of submission by Developer;
- (c) Developer shall submit to City for plan check complete construction documents for all ten homes within ten (10) days of Planning Commission approval of Project entitlements;
- (d) City shall issue building permits for all ten homes within forty-five (45) days of Developer's submission of complete construction documents meeting the requirements of the planning entitlements;
- (e) Developer shall commence construction of the Project in reliance upon issued building permits within thirty (30) days of issuance of such building permits; and
- (f) Developer shall complete construction and obtain certificates of occupancy for all homes other than the home at 951 Glenview Drive within one hundred eighty (180) days following issuance of the building permits, and shall complete construction and obtain a certificate of occupancy for the home at 951 Glenview Drive within two hundred seventy (270) days following issuance of the building permit.

Recommendation

Staff recommends the Planning Commission adopt Resolution 2015-01, recommending the City Council adopt an Ordinance approving the Development Agreement between the City of San Bruno and Castle Companies, Inc.

Date of Preparation: December 24, 2014
Prepared by: Marc Zafferano, City Attorney

LOCATION MAP



10 Vacant Lots



RESOLUTION NO. 2015 – 01

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN BRUNO RECOMMENDING THAT THE CITY COUNCIL APPROVE A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SAN BRUNO AND CASTLE COMPANIES, INC.

WHEREAS, California Government Code, Title 7, Chapter 4, Article 2.5 (“Development Agreement Statute”) authorizes the City of San Bruno (“City”) to enter into development agreements which will provide certainty, definition and commitment to developers as well as necessary public improvements required by development;

WHEREAS, the City Council has found that development agreements will strengthen the public planning process, encourage private participation in comprehensive planning by providing a greater degree of certainty in that process, reduce the economic costs of development, allow for the orderly planning of public improvements and services, allocate costs to achieve maximum utilization of public and private resources in the development process, and assure that appropriate measures to enhance and protect the environment are achieved;

WHEREAS, the City has enacted Development Agreement Resolution 1986-77 establishing the procedures and requirements for the consideration of development agreements pursuant to the Development Agreement Statute;

WHEREAS, the Crestmoor Neighborhood is the site of the September 2010 Pacific Gas and Electric Company (“PG&E”) gas line explosion and subsequent fire that resulted in the loss of eight lives, destroyed 38 homes and severely damaged 17 homes;

WHEREAS, since the gas pipeline incident, reconstruction of the neighborhood has been ongoing, with 21 destroyed homes having been rebuilt or under construction, and the City is currently in the process of reconstructing the utility and other infrastructure to serve the Crestmoor Neighborhood and anticipates that all phases of such reconstruction will be completed by the end of 2016;

WHEREAS, on August 21, 2013, the City issued a Request for Proposal (“RFP”), seeking qualified homebuilder/developers to construct up to ten single-family homes on three parcels currently owned by the City located at 981 Glenview Drive, 1110 Glenview Drive and 1641 Claremont Drive (“City Parcels”) and seven parcels currently owned by PG&E located at 951 Glenview Drive, 991 Glenview Drive, 1721 Earl Drive, 1655 Claremont Drive, 1115 Fairmont Drive, 2735 Concord Way and 1100 Glenview Drive (“PG&E Parcels,” and together with the City Parcels, “Property”);

WHEREAS, through the RFP process, the City selected Castle Companies, Inc. (“Developer”) to develop such single family homes on the Property consistent with certain development standards set forth in the RFP and the City’s current residential design guidelines (“Project”);

WHEREAS, prior to the Planning Commission's consideration of the proposed Development Agreement, Developer has entered into purchase and sale agreements with City and PG&E to acquire the Property, conditioned among other things on City's approval and execution of the Development Agreement;

WHEREAS, the proposed Development Agreement is consistent with the San Bruno General Plan and Zoning Ordinance;

WHEREAS, the Project is categorically exempt from the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.*) ("CEQA") pursuant to CEQA Guidelines Sections 15195 (residential infill exemption), 15302 (replacement or reconstruction of existing structures and facilities) and 15303(a) (construction and location of single-family residence on a legal parcel in a residential zone);

WHEREAS, a Notice of Public Hearing was mailed on **December 24, 2014** and duly published in *The Daily Journal* on **December 27, 2014** for consideration of the proposed Development Agreement before the Planning Commission; and

WHEREAS, the Planning Commission held a Public Hearing on the proposed Development Agreement on January 6, 2015, and on said date, the Public Hearing was opened, held and closed.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of San Bruno, based on facts in the staff reports, written and oral testimony, and exhibits presented:

1. The Planning Commission hereby finds that the proposed Development Agreement is consistent with the San Bruno General Plan.
2. The Planning Commission hereby finds that the proposed Development Agreement is consistent with the requirements of California Government Code, Title 7, and Chapter 4, Article 2.5 and San Bruno City Council Resolution No. 1986-77.
3. The Planning Commission hereby recommends that the City Council of the City of San Bruno approve the Development Agreement by and between the City of San Bruno and Castle Companies, Inc., substantially in the form attached hereto as Exhibit A.
4. The Secretary of the City of San Bruno Planning Commission is hereby directed to forward to the City Council a certified copy of this resolution together with an attested copy.

Dated: January 6, 2015

Planning Commission Chair

ATTEST:

APPROVED AS TO FORM:

Planning Commission Secretary

City Attorney

I, David Woltering, Planning Commission Secretary, do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the Planning Commission of the City of San Bruno this 6th day of January, 2015 by the following vote:

AYES: Commissioners: _____

NOES: Commissioners: _____

ABSENT: Commissioners: _____

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City of San Bruno
City Clerk's Office
567 El Camino Real
San Bruno, CA 94066

(Space Above This Line for Recorder's Use Only)
Exempt from recording fee per Gov. Code §27383

DEVELOPMENT AGREEMENT

by and between

THE CITY OF SAN BRUNO

and

CASTLE COMPANIES, INC.

for

CRESTMoor NEIGHBORHOOD DEVELOPMENT

EFFECTIVE DATE

City of San Bruno, California

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DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (“**Development Agreement**”) is made and entered in the City of San Bruno on the ___ day of _____, 2014, by and between the City of San Bruno, a municipal corporation (“**City**”) and Castle Companies, Inc., a California corporation (“**Developer**”), pursuant to the authority of Sections 65864 *et seq.*, of the Government Code and City Council Resolution No. 1986-77.

RECITALS

A. The City Council has found that development agreements will strengthen the public planning process, encourage private participation in comprehensive planning by providing a greater degree of certainty in that process, reduce the economic costs of development, allow for the orderly planning of public improvements and services, allocate costs to achieve maximum utilization of public and private resources in the development process, and assure that appropriate measures to enhance and protect the environment are achieved. The City has enacted Development Agreement Resolution 1986-77 establishing the procedures and requirements for the consideration of development agreements pursuant to California Government Code Section 65864 *et seq.*

B. California Government Code Section 65864, *et seq.*, and Resolution 1986-77 authorize the City to enter into an agreement for the development of real property with any person or entity having a legal or equitable interest in such property in order to establish certain development rights in the property.

C. The Crestmoor Neighborhood is the site of the September 2010 Pacific Gas and Electric Company (“**PG&E**”) gas line explosion and subsequent fire that resulted in the loss of eight lives, destroyed 38 homes and severely damaged 17 homes. Since the gas pipeline incident, reconstruction of the neighborhood has been ongoing, with 21 destroyed homes having been rebuilt or under construction. The City is currently in the process of reconstructing the utility and other infrastructure to serve the Crestmoor Neighborhood and anticipates that all phases of such reconstruction will be completed by the end of 2016.

D. On August 21, 2013, the City issued a Request for Proposal (“**RFP**”), a copy of which is attached as Exhibit A, seeking qualified homebuilder/developers to construct up to ten single-family homes on three parcels currently owned by the City located at 981 Glenview Drive, 1110 Glenview Drive and 1641 Claremont Drive, as further described in Exhibit B-1 attached hereto and incorporated herein by this reference (“**City Parcels**”), and seven parcels currently owned by PG&E located at 951 Glenview Drive, 991 Glenview Drive, 1721 Earl Drive, 1655 Claremont Drive, 1115 Fairmont Drive, 2735 Concord Way and 1100 Glenview Drive, as further described in Exhibit B-2 attached hereto and incorporated herein by this reference (“**PG&E Parcels**”). The City Parcels and PG&E Parcels are collectively referred to herein as the “**Property**.”

E. Through the RFP process, City selected Developer to develop such single family homes on the Property consistent with the “**Development Standards**” attached hereto as Exhibit C and incorporated herein by this reference and the City’s current residential design guidelines (“**Project**”). Prior to execution of this Development Agreement, Developer has entered into

purchase and sale agreements with City and PG&E to acquire the Property, conditioned among other things on City's approval and execution of this Development Agreement.

F. City and Developer have reached mutual agreement and desire to voluntarily enter into this Development Agreement to facilitate development of the Project subject to the conditions and requirements set forth herein, such that Developer may complete construction of the homes as expeditiously as possible.

G. On January 6, 2015, the Planning Commission, the initial hearing body for purposes of development agreement review, recommended approval of this Agreement to the City Council.

H. The City Council has reviewed and evaluated the Development Agreement in accordance with Resolution 1986-77 and has found that this Development Agreement is consistent with the City's General Plan.

I. On January 27, 2015, the City Council of the City of San Bruno adopted Ordinance No. _____ approving this Development Agreement. The Ordinance took effect on February 26, 2015.

J. The development of the Project as proposed is consistent with the City's General Plan and zoning for the Property. The City has determined the Project to be categorically exempt from the California Environmental Quality Act (Public Resources Code Section 21000 et seq. ("CEQA")) pursuant to CEQA Guidelines Sections 15195 (residential infill exemption), 15302 (replacement or reconstruction of existing structures and facilities) and 15303(a) (construction and location of single-family residence on a legal parcel in a residential zone). The City filed a Notice of Exemption for the Project on _____, 2015.

K. The development of the Project will require future approvals from the City including, without limitation, architectural review permits, building permits, and certificates of occupancy ("**Future Approvals**"). Future Approvals shall also include any environmental review, if any, required by CEQA, including all mitigation measures, monitoring programs and conditions adopted as a result of any such environmental review.

A G R E E M E N T

NOW, THEREFORE, with reference to the foregoing recitals and definitions and in consideration of the mutual promises, obligations and covenants herein contained, City and Developer agree as follows:

1. Definitions. The following defined terms are used in this Development Agreement:

"**Applicable Law**" is defined in Section 6.4(a).

"**CEQA**" is defined in Recital J.

"**City**" means the City of San Bruno.

"**City Parcels**" is defined in Recital D.

“**Developer**” is defined in the introductory paragraph of this Development Agreement and includes any successors or assigns approved by City pursuant to Section 14.1.

“**Development Agreement**” means this Development Agreement.

“**Effective Date**” of this Development Agreement is defined in Section 5.1.

“**Extended Term**” is defined in Section 5.2(b).

“**Future Approvals**” is defined in Recital K.

“**Initial Term**” is defined in Section 5.2(a).

“**Major Amendment**” is defined in Section 9.2.

“**Minor Amendment**” is defined in Section 9.2.

“**Mortgage**” is defined in Section 16.1.

“**Mortgagee**” is defined in Section 16.1.

“**Notice of Breach**” is defined in Section 11.2.

“**Other Vesting Statute**” is defined in Section 15.

“**Permitted Delay**” is defined in Section 9.4.

“**Permitted Transfer**” is defined in Section 14.1

“**PG&E**” is defined in Recital C.

“**PG&E Parcels**” is defined in Recital D.

“**Project**” is defined in Recital E.

“**Property**” is defined in Recital D and described in Exhibits B-1 and B-2.

“**RFP**” is defined in Recital D.

“**Term**” is defined in Section 5.2.

“**Vested Elements**” are defined in Section 6.4(a).

2. Description of Property. The Property which is the subject of this Development Agreement is described in Exhibits B-1 and B-2 attached hereto.

3. Interest and Qualifications of Developer. Developer represents and warrants that:

3.1 As of the Effective Date, Developer is: (i) duly organized and validly existing under the laws of the State of California; (ii) qualified and authorized to do business in the State of California and has duly complied with all requirements pertaining thereto; (iii) in good standing and has all necessary powers under the laws of the State of California to enter into and perform the undertakings and obligations of Developer under this Development Agreement;

3.2 No approvals or consents of any persons are necessary for the execution, delivery or performance of this Development Agreement by Developer, except as have been obtained;

3.3 The execution and delivery of this Development Agreement and the performance of the obligations of Developer by Developer hereunder have been duly authorized by all necessary action and approvals;

3.4 This Development Agreement is a valid obligation of Developer enforceable in accordance with its terms; and

3.5 As of the Effective Date, Developer has an equitable interest in the Property by virtue of its contractual right to purchase the City Parcels from City and the PG&E Parcels from PG&E pursuant to the terms of purchase and sale agreements with City and PG&E, respectively.

4. Relationship of City and Developer. It is understood that this Development Agreement is a contract that has been negotiated and voluntarily entered into by City and Developer and that Developer is not an agent or partner of City. City and Developer hereby renounce the existence of any form of joint venture or partnership between them, and agree that nothing contained herein or in any document executed in connection therewith shall be construed as making the City a joint venturer or partner with Developer.

5. Effective Date and Term of Agreement.

5.1 Effective Date. This Development Agreement shall become effective upon the later of (1) the date that the ordinance approving this Agreement becomes effective, and (2) the date upon which Developer takes title to the Property ("**Effective Date**"); provided, however, if this Agreement has not become effective by April 14, 2015, this Agreement shall automatically terminate. The parties acknowledge that Section 65868.5 of the Government Code and Resolution 1986-77 require that the City Clerk record this Development Agreement with the County Recorder no later than 10 days after City executes this Development Agreement, and that the burdens of this Development Agreement shall be binding upon, and the benefits of this Development Agreement shall inure to, all successors in interest to the parties to this Development Agreement.

5.2 Term. The term ("**Term**") of this Development Agreement shall be the Initial Term together with any Extended Term.

(a) Initial Term. The Term of this Agreement shall commence upon the Effective Date and shall extend for a period of two (2) years thereafter ("**Initial Term**"). The Initial Term has been established by City and Developer as a reasonable estimate of the time required to develop the Project.

(b) Extended Term. Provided neither City nor Developer have terminated this Development Agreement and Developer has fully complied with all terms of this Development Agreement, Developer may request in writing that City extend the Initial Term of this Agreement for up to one (1) additional one (1) year period (“**Extended Term**”). Such written request may be delivered to City not earlier than two hundred seventy (270) days nor later than one hundred twenty (120) days prior to the termination date of the Initial Term.

(c) City Review of Request for Extended Term. Upon receipt of such request, City shall undertake a review of Developer’s good faith compliance with the terms of this Development Agreement in the same manner as set forth in Section 10 for a periodic review of this Development Agreement. Developer and City shall comply with the provisions of Section 10 with respect to such review so that it can be completed prior to the expiration of the Initial Term. If Developer has met all requirements of this Development Agreement, City may approve such extension. However, City may also approve an extension if the City Council determines that Developer has not fully satisfied all other material requirements and conditions of Project Approvals, but it is in the best interests of City and Developer to extend. If the Initial Term of this Development Agreement is extended in accordance with the provisions of this Section 10, City shall record an instrument giving notice of the Extended Term and the termination date thereof.

(d) Termination of Development Agreement As To Completed Homes. Notwithstanding the foregoing, and except as otherwise provided in Section 9.7, the obligations of Developer under this Agreement shall terminate as to each parcel upon issuance of a certificate of occupancy for the completed home on that parcel, and City shall thereafter cooperate with reasonable requests to remove this Agreement as an exception to title for such parcel.

6. Use of the Property and Applicable Law.

6.1 Permitted Uses. The permitted uses of the Property, the density and intensity of use, the maximum height and size of proposed buildings, provisions for reservation or dedication of land for public purposes, and requirements for infrastructure and public improvements shall be governed by the provisions of this Development Agreement and Applicable Law.

6.2 Project Development. If Developer elects to proceed with the Project, Developer agrees to develop the Project in accordance with Applicable Law and the terms and conditions of this Development Agreement. Except as provided in Sections 11.1, 13.2 and 17.1 hereof, Developer shall have no liability if Developer elects not to proceed with the Project or the contemplated development of the Project fails to occur for any reason.

6.3 Fees. Developer shall pay the following fees and charges, calculated at the time of payment:

(a) Processing and Consultant Fees. City may charge and Developer shall pay when due processing, engineering, outside inspection, legal and consulting fees in accordance with and as authorized by the terms of the Reimbursement Agreement executed concurrently herewith by and between Developer and City.

(b) Single-Family Residential Business License Tax. Developer shall pay the single-family residential business license tax in accordance with Section 3.16.170 (Single-family residential structures) of the San Bruno Municipal Code.

(c) Development Fees. Developer shall pay all fees and charges required by the San Bruno Municipal Code as of the Effective Date, including water and wastewater fees and capacity charges, application fees and building permit fees. Water capacity fees shall be calculated based upon the difference of the final meter size required for fire sprinkler flow and the prior ¾-inch meter for the previous residence on the lot. Wastewater capacity fees shall be calculated as the difference between the 1-inch meter rate (current City standard) and the prior ¾-inch meter for the previous residence on the lot. Fees shall be calculated using the applicable City Fee Schedule in effect as of the Effective Date and shall remain fixed as of the Effective Date for a period of one (1) year thereafter.

(d) Other Agency Fees. Nothing in this Development Agreement shall limit the right of any other local, regional, state or federal agency or district to impose otherwise lawful fees on the Project, including non-City fees imposed by such agencies or districts and collected by City solely for the benefit of such agencies or districts, unless such fees are levied only with the exclusive approval of the City.

6.4 Applicable Rules, Regulations and Policies.

(a) Vested Elements. The permitted uses of the Property, the maximum density and intensity of use, the maximum height and size of proposed buildings, types of land uses, and other terms and conditions of development applicable to the Property are as set forth in:

(i) The ordinances, resolutions, codes, rules, regulations and official policies of City, governing the permitted uses of land, governing density and intensity of use, and governing design, improvement and construction standards and specifications applicable to the development of the Property on the Effective Date, unless provided otherwise within this Development Agreement (collectively, “**Applicable Law**”); and

(ii) This Development Agreement, including all Exhibits; and are hereby vested subject to the provisions of this Development Agreement (“**Vested Elements**”). City hereby agrees to be bound with respect to the Vested Elements, subject to Developer’s compliance with the terms and conditions of this Development Agreement.

(b) Applicable Building and Construction Standards. All building and construction standards, including the Uniform Building Code, Uniform Plumbing Code, Uniform Swimming Pool Code, Uniform Electrical Code and Uniform Mechanical Code, applicable to the Property, whether as to existing or future structures, are not subject to this Development Agreement and Developer shall develop the Project in accordance with such codes as applicable from time to time including, in addition, codes, ordinances, policies, rules or regulations enacted or adopted from time to time to protect persons or property from health and safety perils.

(c) Compliance with Federal and State Requirements. Developer, at its sole cost and expense, shall comply with requirements of, and obtain all permits and approvals required by, regional, state and federal agencies having jurisdiction over the Project.

(d) Changes in City Laws. This Development Agreement shall not preclude the application to the development of the Property of changes in City laws, regulations, plans or policies, the terms of which are specifically mandated and required by changes in state or federal laws or regulations as provided in Government Code Section 65869.5. In the event state or federal laws or regulations enacted after the Effective Date of this Development Agreement or action by any other governmental agency other than City prevent or preclude compliance with one or more provisions of this Development Agreement, or require changes in plans, maps or permits approved by City, this Development Agreement shall be modified, extended or suspended as may be necessary to comply with such state or federal laws or regulations or the regulations of such other governmental agency. Immediately after enactment of any such new law or regulation, the parties shall meet and confer in good faith to determine the necessity of any such modification or suspension based on the effect such modification or suspension would have on the purposes and intent of this Development Agreement. It is the intent of the parties that any such modification or suspension be limited to that which is necessary, and to preserve to the extent possible the original intent of the parties in entering into this Development Agreement. If such modification or suspension would impact the purpose and intent of the Development Agreement and is infeasible in Developer's sole and absolute discretion, then Developer shall have the right to terminate this Development Agreement by written notice to City, subject to the provisions of Section 9.7 hereof.

In addition, Developer shall have the right, at its sole cost and expense and at no cost to City, to challenge the new law or regulation preventing compliance with the terms of this Development Agreement, and in the event such challenge is successful, this Development Agreement shall remain unmodified and in full force and effect and any related delay caused by the successful litigation challenge shall be deemed a Permitted Delay. In the event that Developer so challenges the new laws or regulations, City reserves the right to take any position in such Developer challenge, even if contrary to Developer, in order to protect City's lawful authority or jurisdiction or financial interests.

To the extent that any actions of federal or state agencies (or actions of other governmental agencies, including City, required by federal or state agencies or actions of City taken in good faith in order to prevent adverse impacts upon City by actions of federal, state or other governmental agencies) have the effect of preventing, delaying or modifying development of the Project or any portion thereof, neither Developer nor City shall in any manner be liable for any such prevention, delay or modification of said development. Such actions include flood plain or wetlands designations and actions of City or other governmental agencies as a result thereof and the imposition of air quality or transportation measures or sanctions and actions of City or other governmental agencies as a result thereof. If Developer elects to proceed with the Project, Developer may be required, at its cost and, subject to the rights of Developer in the foregoing paragraph of this Section 6.4(d) to challenge the law, without cost to or obligation on the part of City, to participate in such regional or local programs and to be subject to such development restrictions as may be necessary or appropriate by reason of such actions of federal, state or other governmental agencies (or action of City taken in order to prevent adverse impacts upon City by actions of federal, state or other governmental agencies). Any such actions described in this paragraph, which prevent or delay development of the Project shall constitute a Permitted Delay (as defined in Section 9.4 hereof). The imposition of taxes, fees or other charges or costs by state, federal or county agencies, which add to the cost of developing the

Project but which do not otherwise prevent, delay or modify the Project shall not be deemed actions which prevent, delay or modify development of the Project for purposes of the foregoing provisions of this paragraph and shall not constitute a Permitted Delay.

(e) City's Police Power. Nothing in this Development Agreement shall be construed to limit the authority of City in the exercise of its police power or pursuant to federal, state or regional or other agency mandate to adopt and apply to Developer and the development of the Project, codes, ordinances, policies, rules and regulations that have the legal effect of protecting persons or property from conditions which create a threat to health, safety or physical risk. To the best of City's knowledge, there is no pending City enforcement action with respect to the Property. "City's knowledge" means the current actual knowledge of the Property condition at the time of execution of this Agreement.

(f) Project Standards. The rules, regulations and official policies governing design, improvement and construction standards and specifications applicable to the Project, including all public improvements, shall be those in force and effect at the time of the applicable permit approval, to the extent not in conflict with the provisions of this Development Agreement.

6.5 Development Timing. City and Developer acknowledge that Developer's ability to proceed with development of the homes depends on numerous factors, including the timing of City approvals, construction field conditions and other factors outside the control of Developer. Notwithstanding the foregoing, City and Developer acknowledge and agree that it is Developer's intent to begin home construction as soon as possible after Developer's acquisition of the Property, and that in any event, Developer shall simultaneously begin and diligently thereafter pursue to completion construction of all ten of the homes within sixty (60) days of issuance of building permits by City. All ten homes shall be completed and ready for occupancy prior to November 30, 2015. The parties acknowledge and agree that achievement of the following milestones is critical to meeting such deadline:

(a) Developer shall submit a complete application for required planning entitlements to the City of San Bruno on or prior to January 5, 2015;

(b) The Planning Commission shall consider approving required planning entitlements within ninety (90) days of submission by Developer;

(c) Developer shall submit to City for plan check complete construction documents for all ten homes within ten (10) days of Planning Commission approval of Project entitlements;

(d) City shall issue building permits for all ten homes within forty-five (45) days of Developer's submission of complete construction documents meeting the requirements of the planning entitlements;

(e) Developer shall commence construction of the Project in reliance upon issued building permits within thirty (30) days of issuance of such building permits; and

(f) Developer shall complete construction and obtain certificates of occupancy for all homes other than the home located at 951 Glenview Drive within one hundred eighty (180) days following issuance of building permits for such homes, and shall complete construction and

obtain a certificate of occupancy for the home located at 951 Glenview Drive within two hundred seventy (270) days following issuance of the building permit for such home.

7. Subsequently Enacted Rules and Regulations; Initiatives.

7.1 Subsequently Enacted Rules and Regulations. The City may during the term of this Development Agreement apply such newer City enacted or modified ordinances, rules, regulations and official policies adopted on a city-wide basis (except as limited by other development agreements or other vesting mechanisms) which are not in conflict with the terms of this Development Agreement. To the extent any changes in the General Plan, the zoning codes or other rules, ordinances, regulations or official policies (whether adopted by means of an ordinance, initiative, resolution, policy, order or moratorium, initiated or instituted for any reason whatsoever and adopted by the City Council, Planning Commission or any other Board, Commission or Department of City or any designated officer or employee thereof, or by the electorate) are in direct conflict with the terms of this Development Agreement, the terms of this Development Agreement shall prevail.

7.2 Initiatives. Developer recognizes the risk that an initiative measure might invalidate or prevail over this Development Agreement and assumes such risk. Should an initiative measure or measures be enacted which would preclude construction of all or any substantial part of the Project, and should such measure be determined by a court of competent jurisdiction to invalidate or prevail over all or any part of this Development Agreement, Developer shall have no recourse against City for any damages Developer might sustain as a result thereof. In the event such court action is initiated, then City and Developer shall meet and confer in good faith to determine whether to: (a) challenge the initiative pursuant to Section 13.2; (2) modify the Project and the Development Agreement pursuant to Section 9 in a manner which would, to the extent feasible, achieve the mutual goals and objectives of the parties hereto; or (3) terminate this Development Agreement pursuant to Section 9.1. In the event that the City and Developer cannot reach mutual agreement within a reasonable time to preserve the right to legal challenge, Developer may, at its own expense, institute and maintain such a legal challenge or terminate this Development Agreement. City shall not unreasonably delay an approval, inspection or certificate of occupancy prior to certification of the initiative measure election results.

8. Obligations of the Parties.

8.1 Developer. In addition to the other obligations of Developer set forth herein, Developer shall have the following obligations:

(a) Development of the Property. In consideration of City entering into this Development Agreement, Developer has agreed that if Developer elects to proceed with development of the Project, such development shall be in conformance with all of the terms, covenants and requirements of this Development Agreement and Future Approvals, and Developer shall perform those specific obligations and provide those specific contributions identified in this Development Agreement and in the conditions of approval to the Future Approvals. Developer and its successors and assigns, as applicable, shall pay when due any and all fees, charges and other costs, including mitigation impact fees and costs, which are imposed

pursuant to this Development Agreement or are otherwise lawfully imposed on all or any portion of the Project, whether imposed by City or other agencies.

(b) Sales Tax Point of Sale Designation. **[NOTE: City staff looking into whether requirement is applicable given the size and scope of the Project.]** Developer shall use commercially reasonable efforts to the extent allowed by law to require all persons and entities providing bulk lumber, concrete, structural steel and pre-fabricated building components, such as roof trusses, to be used in connection with the construction and development of, or incorporated into, the Project, to (a) obtain a use tax direct payment permit; (b) elect to obtain a subcontractor permit for the job site of a contract valued at Five Million Dollars (\$5,000,000) or more; or (c) otherwise designate the Property as the place of use of material used in the construction of the Project in order to have the local portion of the sales and use tax distributed directly to the City instead of through the county-wide pool. Developer shall instruct each of its subcontractors to cooperate with the City to ensure the full local sales/use tax is allocated to City. To assist City in its efforts to ensure that the full amount of such local sales/use tax is allocated to the City of San Bruno, Developer shall provide City with an annual spreadsheet, which includes a list of all subcontractors with contracts in excess of the amount set forth above, a description of all applicable work, and the dollar value of such subcontracts. City may use said spreadsheet sheet to contact each subcontractor who may qualify for local allocation of use taxes to the City.

8.2 City. In addition to the other obligations of City set forth herein, in consideration of Developer entering into this Development Agreement, and provided that Developer exercises due diligence, good faith and files full, accurate and complete applications with timely payment of all fees, City agrees that it will accept, process and review, in good faith and in a timely manner, all applications for Future Approvals related to the Project filed by Developer or other owners of the Property or those with rights to acquire any such Property, in accordance with the terms of this Development Agreement. City agrees that the scope of its review of remaining or supplementary applications for development approvals shall be exercised in a manner consistent with the terms of this Development Agreement and Applicable Law.

9. Amendment.

9.1 Amendment By Written Consent. Except as otherwise expressly provided herein (including Section 10 relating to City's annual review and Section 11 relating to termination in the event of a breach), this Development Agreement may be terminated, modified or amended only by mutual written consent of the parties hereto or their successors-in-interest or assignees and in accordance with the provisions of Government Code Sections 65967, 65867.5 and 65868 and Resolution 1986-77.

9.2 Major Amendment. Any amendment to this Development Agreement which affects or relates to (a) the term of this Development Agreement; (b) permitted uses of the Property; (c) provisions for the reservation or dedication of land; (d) conditions, terms, restrictions or requirements for subsequent discretionary actions; (e) the density or intensity of use of the Property or the maximum height or size of proposed buildings; or (f) monetary contributions by Developer, shall be deemed a "**Major Amendment**" and shall require giving of notice and a public hearing before the Planning Commission and City Council. Any amendment which is not a Major Amendment shall be deemed a "**Minor Amendment**" subject to Section 9.3 below and

shall not, except to the extent otherwise required by Applicable Law, require notice or public hearing before the parties may execute an amendment hereto. The City Manager or his or her designee shall have the authority to determine if an amendment is a Major Amendment subject to this Section 9.2 or a Minor Amendment subject to Section 9.3 below. Developer shall have the right to appeal the City Manager's determination to the City Council.

9.3 Minor Amendment. The City Manager or his or her designee shall have the authority to review and approve amendments to this Development Agreement provided that such amendments are not Major Amendments. Developer shall have the right to appeal such City Manager approvals to the City Council.

9.4 Permitted Delays. In addition to any specific provisions of this Development Agreement, performance by any party of its obligations hereunder shall be excused during any period of delay caused at any time by reason of acts of God or civil commotion, riots, strikes, picketing, or other labor disputes, shortage of materials or supplies, or damage to work in process by reason of fire, floods, earthquake, or other casualties, restrictions imposed or mandated by governmental or quasi-governmental entities, enactment or conflicting laws (including new or supplementary environmental regulations), litigation instituted after execution of this Development Agreement, acts or neglect of the other party, or any other cause beyond the reasonable control of party (each a "**Permitted Delay**"). Changes in the financial position of Developer or of the economy in general or Developer's inability to obtain financing for the Project shall not be deemed a Permitted Delay. City or Developer shall promptly notify the other of any delay hereunder as soon as possible after the same has been ascertained. The term of this Development Agreement shall be extended by the period of any Permitted Delay.

9.5 Requirement for Writing. No modification, amendment or other change to this Development Agreement or any provision hereof shall be effective for any purpose unless specifically set forth in a writing, which refers expressly to this Development Agreement and is signed by duly authorized representatives of the parties or their successors. The City Clerk shall record an appropriate notice of any Major Amendment, cancellation or termination with the San Mateo County Recorder not later than ten (10) days after the effective date of the action effecting such amendment, cancellation or termination, accompanied by a legal description of the Property.

9.6 Amendments to Development Agreement Legislation. This Development Agreement has been entered into in reliance upon the provisions of the development agreement legislation (California Government Code Section 65864 *et seq.*) as those provisions existed on the Effective Date. No amendment or addition to those provisions which would materially affect the interpretation or enforceability of this Development Agreement shall be applicable to this Development Agreement unless such amendment or addition is specifically required by the California State Legislature, or is mandated by a court of competent jurisdiction. If such amendment or change is permissive (as opposed to mandatory), this Development Agreement shall not be affected by the same unless the parties mutually agree in writing to amend this Development Agreement to permit such applicability.

9.7 Provisions Surviving Termination. Notwithstanding anything in this Development Agreement to the contrary, Sections 9.7, 11.1, 13.2 and 17.1 of this Development Agreement

shall survive and remain in effect following termination or cancellation of this Development Agreement for so long as necessary to give them full force and effect with respect to claims or rights of City arising prior to such termination or cancellation.

10. Annual Review.

10.1 Time of Review. City and Developer shall review this Development Agreement and all actions taken with respect to the development of the Project every 12 months from the Effective Date to determine Developer's good faith compliance with this Development Agreement. The time for review may be modified either by written agreement by the parties hereto or by one of the following ways: (a) recommendation by City staff; (b) by resolution of the Planning Commission; or (c) by resolution of the City Council. The burden of proof, by substantial evidence, of good faith compliance shall be upon Developer. If, after the required review and any subsequent appeals, City concludes that Developer has not complied in good faith with the terms of the Development Agreement, then City may deliver a Notice of Breach and the parties shall follow the procedure set forth in Section 11 for resolving a breach.

10.2 No City Waiver. City does not waive any claim of defect or breach in performance by Developer if, following periodic review pursuant to this Section 10, City does not propose to modify or terminate this Development Agreement. Failure of City to conduct an annual review shall not constitute a waiver by City of its rights to otherwise enforce the provisions of this Development Agreement nor shall Developer have or assert any defense to such enforcement by reason of any such failure to conduct an annual review.

11. Default.

11.1 Remedies for Breach. City and Developer acknowledge that the purpose of this Development Agreement is to carry out the parties' objectives as set forth in the Recitals hereof. City and Developer agree that to determine a sum of money which would adequately compensate City or Developer for choices they have made which would be foreclosed should the Project not be completed pursuant to and as contemplated by this Development Agreement is not possible and that damages would not be an adequate remedy. Therefore, City and Developer agree that in the event of a breach of this Development Agreement, the only remedies available to the non-breaching party shall be: (1) suits for specific performance to remedy a specific breach; (2) suits for declaratory or injunctive relief; (3) suits for mandamus under Code of Civil Procedure Section 1085, or special writs; or (4) termination of this Development Agreement or, at the option of City in the event of breach by Developer, termination of the rights of Developer under this Development Agreement. Except for attorney's fees and associated costs as set forth herein, monetary damages shall not be awarded to City or Developer. All of these remedies shall be cumulative and not exclusive of one another, and the exercise of any one or more of these remedies shall not constitute a waiver or election with respect to any other available remedy.

11.2 Notice of Breach. Prior to the initiation of any action for relief specified in Section 11.1 above because of an alleged breach of this Development Agreement, the party claiming breach shall deliver to the other party or parties a written notice of breach ("**Notice of Breach**"). The Notice of Breach shall specify the reasons for the allegation of breach with reasonable particularity. The so-called breaching party shall have thirty (30) days to use good faith efforts

to cure the breach or, if such cure is of the nature to take longer than 30 days, to take reasonable actions to commence curing the breach during such thirty (30) day period and to thereafter diligently prosecute such cure to completion as soon as possible and in any event no later than ninety (90) days following the Notice of Breach. Failure to respond and cure the breach within said period shall not be deemed an admission of the breach, but the party alleging the breach may proceed to pursue its remedies hereunder.

12. Estoppel Certificate. Any party may, at any time, and from time to time, deliver written notice to any other party requesting such party to certify in writing that, to the knowledge of the certifying party, (i) this Development Agreement is in full force and effect and is a binding obligation of the parties, (ii) this Development Agreement has not been amended or modified either orally or in writing, and if so amended, identifying the amendments, and (iii) the requesting party is not in default in the performance of its obligations under this Agreement, or if in default, describing therein the nature and amount of any such defaults. A party receiving a request hereunder shall execute and return such certificate within thirty (30) days following the receipt thereof. The City Manager of City shall have the right to execute any certificate requested by Developer hereunder. City acknowledges that a certificate hereunder may be relied upon by transferees and mortgagees.

13. Cooperation and Implementation.

13.1 Other Governmental Permits. Developer shall apply in a timely manner for any approvals which may be required from other governmental or quasi-governmental agencies having jurisdiction over the Project as may be required for the development of, or provision of services to, the Project. City shall cooperate with Developer (without, however, being required to be an advocate for Developer), without cost or financial obligation on the part of City, in Developer's endeavors to obtain such permits and approvals.

13.2 Cooperation in the Event of Third-Party Legal Challenge. City and Developer shall cooperate in the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Development Agreement or Future Approvals or the underlying environmental review and documents. To the extent that Developer determines to contest such litigation challenges, Developer shall reimburse City, within ten (10) days following City's written demand therefor which may be made from time to time during the course of such litigation, all costs incurred by City in connection with the litigation challenge, including City's administrative, legal and court costs, provided that the City shall either: (a) elect to joint representation by Developer's counsel; or (b) retain an experienced litigation attorney, require such attorney to prepare and comply with a litigation budget, and present such litigation budget to Developer prior to incurring obligations to pay legal fees in excess of \$10,000. Developer further agrees to indemnify and hold City harmless from and against any and all claims for recovery of the third party's litigation expenses, including attorney's fees. If Developer elects, in its sole and absolute discretion, not to contest such litigation challenges, the City shall have no obligation to contest such challenges.

14. Transfers, Assignments.

14.1 Limitations on Right to Assign. The qualifications and identity of Developer are of particular concern to City. It is because of those unique qualifications and identity that City has entered into this Development Agreement with Developer. Prior to completion of the Project in accordance with this Development Agreement and the Future Approvals, no voluntary or involuntary successor in interest of Developer shall acquire any interest in the Property nor any rights or powers under this Development Agreement, except as may be approved by the City in its sole and absolute discretion. Notwithstanding such limitation on the right to assign, City approval of a transfer or assignment of this Agreement or any interest therein shall not be required in connection with any of the following: (a) transfers resulting from the death or mental or physical incapacity of any shareholder, member or partner of Developer; (b) any assignment for financing purposes, including the grant of a deed of trust, to secure the funds necessary for construction and permanent financing of the Project; (d) a transfer which combined with any and all previous or simultaneous transfers represents less than fifty percent (50%) of the equity or beneficial interest of Developer, provided such transfer does not cause a material change in the rights to manage and control Developer; (e) the sale of any individual residential units in the Project; or (f) the grant of any easements on the Property required for development of the Project (a "**Permitted Transfer**"). Developer shall give at least 30 days prior written notice to City of a Permitted Transfer. In addition, City shall be entitled to review such documentation as may be reasonably required by the City's City Manager to assess the nature and scope of the Permitted Transfer.

14.2 City Administration of Assignment Provisions. City shall administer the provisions of this Section 14 through its City Manager or his or her designee. Developer shall notify the City Manager in writing of its request for City consent to any sale, assignment or transfer under this Section 14 requiring such consent, and provide the City Manager with such supporting information and documentation which he or she may reasonably request in connection with the evaluation of the proposed sale, assignment or transfer.

15. Other Vesting Statutes, Land Use Entitlements. The parties intend that, so long as this Development Agreement is in effect, the provisions of this Development Agreement shall govern and control as to the procedures and the terms and conditions applicable to the development of the Property over any contrary or inconsistent provisions contained in Section 66498.1 *et seq.*, of the Government Code or any other State law now or hereafter enacted purported to grant or vest development rights based on land use entitlements ("**Other Vesting Statute**"). In furtherance of this intent, and as a material inducement to the City to enter into this Development Agreement, Developer on its own behalf and on behalf of its successors and assigns agrees that:

15.1 Notwithstanding any provisions to the contrary in any Other Vesting Statute, the conditions and requirements of the Future Approvals and this Development Agreement, while in effect, shall govern and control the rights of Developer to develop the Property;

15.2 While this Development Agreement is in effect, Developer waives the benefits of any Other Vesting Statute insofar as they may be inconsistent or in conflict with the terms and conditions of this Development Agreement or the Future Approvals; and

15.3 While this Development Agreement is in effect, Developer may make application for a land use entitlement under any Other Vesting Statute, but only insofar as said application for the granting of the land use entitlement pursuant to said application would not be inconsistent or in conflict with the terms and conditions of this Development Agreement or the Future Approvals.

16. Mortgagee Protection; Certain Rights of Cure.

16.1 Mortgagee Protection. This Development Agreement shall be superior and senior to any lien placed upon the Property or any portion thereof after the date of recording this Development Agreement, including the lien of any deed of trust or mortgage (“**Mortgage**”). Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all of the terms and conditions contained in this Development Agreement (including City’s remedies to terminate this Development Agreement, and to seek other relief as provided in this Development Agreement) shall be binding upon and effective against any person or entity, including any deed of trust beneficiary or mortgagee (“**Mortgagee**”) who acquires title to the Property, or any portion thereof, by foreclosure, trustee’s sale, deed in lieu of foreclosure, or otherwise.

16.2 Mortgagee Not Obligated. Notwithstanding the provisions of Section 16.1 above, no Mortgagee shall have any obligation or duty under this Development Agreement to construct or complete the construction of the Project, or to guarantee such construction or completion; provided, however, that a Mortgagee shall not be entitled to devote the Property to any uses or to construct any improvements thereon other than those uses or improvements provided for or authorized by this Development Agreement, or otherwise under the Future Approvals.

16.3 Notice of Default to Mortgagee. If City receives a written notice from a Mortgagee, Developer or any approved assignee requesting a copy of any notice of default given Developer or a designated approved assignee hereunder and specifying the address for service thereof, then City shall deliver to such Mortgagee at such Mortgagee’s cost (or Developer’ cost), concurrently with service thereon to Developer, any notice given to Developer with respect to any claim by City that Developer is in default hereunder, and if City makes a determination of default hereunder, City shall if so requested by such Mortgagee likewise serve at such Mortgagee’s cost (or Developer’ cost) notice of such noncompliance on such Mortgagee concurrently with service thereon on Developer. Each Mortgagee shall have the right during the same period available to Developer to cure or remedy, or to commence to cure or remedy, the event of default claimed or the areas of noncompliance set forth in City’s notice.

16.4 No Supersedure. Nothing in this Section 16 shall be deemed to supersede or release a Mortgagee or modify a Mortgagee’s obligations under any subdivision improvement agreement or other obligation incurred with respect to the Project outside this Development Agreement, nor shall any provision of this Section 16 constitute an obligation of City to such Mortgagee, except as to the notice requirements of Section 16.3.

17. Indemnification and Insurance.

17.1 Indemnification. It is specifically understood and agreed by the parties that the development contemplated by this Development Agreement is a private development, that City has no interest in or responsibility for or duty to third persons concerning any of said improvements, and that Developer shall have full power over the exclusive control of the Property herein described subject only to the limitations and obligations of Developer under this Development Agreement. Developer hereby agrees to and shall indemnify, defend with counsel reasonably acceptable to City and hold City and its elected and appointed representatives, officers, agents and employees harmless from any and all claims arising out of this Agreement and not covered under Section 13.2 above, including claims for bodily injury, including death, and property damage, which may arise directly or indirectly from the acts, omissions, negligence or willful misconduct of Developer or its shareholders, partners, members, principals, officers, employees, representatives, agents, contractors or subcontractors, excepting suits and actions arising from the sole negligence or willful misconduct of City. This indemnification and hold harmless agreement applies to all damages and claims for damages (including attorneys' fees and costs) suffered or alleged to have been suffered by reason of the acts, omissions, negligence or willful misconduct referred to in this Section 17.1, regardless of whether or not City prepared, supplied or approved plans or specifications for the Project.

17.2 Insurance. Developer shall procure and maintain or shall cause its contractors to take out and maintain for the duration of this Development Agreement, a commercial general liability policy in the amount of Two Million Dollars (\$2,000,000) combined single limit and workers' compensation insurance as required by law. Such policy or policies shall be written on an occurrence form. Companies writing the insurance required hereunder shall be licensed to do business in the State of California. The commercial general liability policies hereunder shall name City and its officers, agents, employees, and representatives as additional insureds. Developer shall furnish City with a certificate of insurance or duly executed endorsement evidencing the required insurance coverage and such additional insured status. The certificate shall contain a statement of obligation on the part of the carrier to notify City of any material change, cancellation or termination of the coverage at least thirty (30) days in advance of the effective date of any such material change, cancellation or termination. Coverage provided hereunder by Developer shall be primary insurance and shall not be contributing with any insurance, self-insurance or joint self-insurance maintained by City, and the policy shall so provide. The insurance policies shall contain a waiver of subrogation for the benefit of the City. The required certificate or endorsement shall be furnished by Developer to City at least thirty (30) days prior to the start of construction of the Project.

18. Notices. Formal written notices, demands, correspondence and communications between City and Developer shall be sufficiently given if: (a) personally delivered; or (b) dispatched by next day delivery by a reputable carrier such as Federal Express to the offices of City and Developer indicated below, provided that a receipt for delivery is provided; or (c) if dispatched within the San Francisco Bay Area by first class mail, postage prepaid, to the offices of City and Developer indicated below. Such written notices, demands, correspondence and communications may be sent in the same manner to such persons and addresses as any party may from time-to-time designate by next day delivery or by mail as provided in this Section.

City: City Manager
City of San Bruno
567 El Camino Real
San Bruno, CA 94066
Telephone: (650) 616-7070
Facsimile: (650) 873-6749

with a copy to: City Attorney
City of San Bruno
567 El Camino Real
San Bruno, CA 94066
Telephone: (650) 616-7003
Facsimile: (650) 742-6515

Developer: Castle Companies, Inc.
Attention: Steve Garrett
12885 Alcosta Boulevard, Suite A
San Ramon, CA 94583
Telephone: (925)-328-1000
Facsimile: (925) 242- 8100

with a copy to: Toby Sherman & Doyle LLP
Attn: John F. Doyle
4309 Hacienda Dr., Suite 350
Pleasanton, CA 94588
Telephone: (925) 463-3300
Facsimile: (925) 463-3301

Notices delivered by deposit in the United States mail as provided above shall be deemed to have been served two (2) business days after the date of deposit if addressed to an address within the State of California, and three (3) business days if addressed to an address within the United States but outside the State of California.

19. Miscellaneous.

19.1 Headings. Section headings in this Development Agreement are for convenience only and are not intended to be used in interpreting or construing the terms, covenants or conditions of this Development Agreement.

19.2 Severability. Except as otherwise provided herein, if any provision of this Development Agreement is held invalid, the remainder of this Development Agreement shall not be affected, except as necessarily required by the invalid provisions, and shall remain in full force and effect unless amended or modified by mutual consent of the parties.

19.3 Agreement Runs with the Land. All of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Development Agreement shall be binding upon the parties and their respective heirs, successors (by merger, consolidation, or

otherwise) and assigns, devises, administrators, representatives, lessees, and all of the persons or entities acquiring the Property or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever, and shall inure to the benefit of the parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns. All of the provisions of this Development Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land pursuant to applicable law, including Section 1468 of the Civil Code of the State of California. Each covenant to do or refrain from doing some act on the Property hereunder, or with respect to any City-owned property, (a) is for the benefit of such properties and is a burden upon such property, (b) runs with such properties, (c) is binding upon each party and each successive owner during its ownership of such properties or any portion thereof, and each person or entity having any interest therein derived in any manner through any owner of such properties, or any portion thereof, and shall benefit each property hereunder, and each other person or entity succeeding to an interest in such properties. Every person who now or hereafter owns or acquires any right, title or interest in or to any portion of the Project or the Property is and shall be conclusively deemed to have consented and agreed to every provision contained herein, whether or not any reference to this Development Agreement is contained in the instrument by which such person acquired an interest in the Project or the Property.

19.4 Applicable Law/Venue/Attorneys' Fees and Costs. This Development Agreement shall be construed and enforced in accordance with the laws of the State of California, without reference to choice of law provisions. Any legal actions under this Development Agreement shall be brought only in the Superior Court of the County of San Mateo, State of California. Should any legal action be brought by any party because of breach of this Development Agreement or to enforce any provision of this Development Agreement, the prevailing party shall be entitled to reasonable attorney's fees and such other costs as may be found by the court.

19.5 Recordation of Termination. Upon completion of performance of the parties or termination of this Development Agreement, a written statement acknowledging such completion or termination shall be recorded by City in the Official Records of San Mateo County, California.

19.6 Interpretation. All parties have been represented by counsel in the preparation and negotiation of this Development Agreement, and this Development Agreement shall be construed according to the fair meaning of its language. The rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Development Agreement. Unless the context clearly requires otherwise, (a) the plural and singular numbers shall each be deemed to include the other; (b) the masculine, feminine, and neuter genders shall each be deemed to include the others; (c) "shall," "will," or "agrees" are mandatory, and "may" is permissive; (d) "or" is not exclusive; (e) "includes" and "including" are not limiting; and (f) "days" means calendar days unless specifically provided otherwise.

19.7 Time is of the Essence. Time is of the essence of this Development Agreement and of each and every term and condition hereof.

19.8 Agreement is Entire Understanding. This Development Agreement is executed in one original. This Development Agreement constitutes the entire understanding and agreement of the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Development Agreement as of the date first above-written.

CITY:

CITY OF SAN BRUNO, a municipal corporation

By: _____
Constance C. Jackson

[SIGNATURE MUST BE NOTARIZED]

Title: City Manager

ATTEST:

By: _____
_____, City Clerk

APPROVED AS TO FORM:

By: _____
Mark L. Zafferano, City Attorney

DEVELOPER:

CASTLE COMPANIES, INC., a California corporation

By: _____
[SIGNATURE MUST BE NOTARIZED]

Name: THOMAS A. BALDACCI

Title: PRESIDENT

ACKNOWLEDGEMENTS

STATE OF CALIFORNIA)

COUNTY OF _____)

On _____, 2014 before me, _____,
Notary Public, 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)

COUNTY OF _____)

On _____, 2014 before me, _____,
Notary Public, 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
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Signature: _____ (SEAL)

STATE OF CALIFORNIA)

COUNTY OF _____)

On _____, 2014 before me, _____,
Notary Public, 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
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WITNESS my hand and official seal.

Signature: _____ (SEAL)



City of San Bruno

REQUEST FOR PROPOSAL (RFP) FOR CONSTRUCTION OF SINGLE FAMILY HOMES CRESTMOR NEIGHBORHOOD

I. INTRODUCTION AND BACKGROUND

The City of San Bruno is seeking qualified homebuilder/developers to construct up to ten (10) single-family homes in the Crestmoor Neighborhood. The Crestmoor Neighborhood is the site of the September 2010 PG&E gas pipeline explosion and fire that resulted in the loss of 8 lives, the destruction of 38 homes, and extensive damage to an additional 17 homes.

Since the gas pipeline incident, reconstruction of the neighborhood has been ongoing. To date, twenty-one destroyed homes have been rebuilt or are currently being constructed. PG&E owns six (6) vacant lots and has an additional lot currently in escrow to purchase. The City of San Bruno owns five (5) lots, three (3) of which are available for development as a part of this RFP. The selected developer will construct nine new homes with the possibility of one additional home should PG&E close escrow on the remaining lot in the near future.

The City and PG&E have entered into an agreement that authorizes the City to issue this RFP and to select a single homebuilder/developer ("Developer") to construct the new homes on all of the designated lots. Interested developers shall not contact PG&E regarding this RFP or development of the lots. All inquiries shall be directed to Tony Rozzi, City of San Bruno at (650) 616-7089 or via email at trozzi@sanbruno.ca.gov.

Once selected, the Developer will be expected to enter into a Development Agreement (DA) with the City to construct homes on these lots in accordance with the City's development standards, building requirements and timeframe as specified in this RFP.

Following a review of proposals submitted by interested developers, the City will interview one or more teams that it determines to be best suited to successfully build the homes and make a final recommendation for approval by the City Council. Only one developer will be selected to develop all lots.

II. DEVELOPMENT OPPORTUNITY

Overview

In the aftermath of the 2010 PG&E gas line explosion and subsequent fire that destroyed 38 homes and severely damaged 17 homes, the City Council encouraged displaced residents to return to the community and rebuild. To date, seventeen (17) of the destroyed homes have been completed and four (4) are currently under construction. There are nine (9) vacant parcels available for development,

measuring between 5,000 and 7,500 square feet in size with rear- and front yard Public Utility Easements in many instances. In addition, one more parcel may become available for development during or after the RFP process. The Overview Map of Vacant Parcels (Exhibit 1) illustrates the location of the lots that are available for home construction per this RFP:

Address	Owner	Lot Size	Maximum Floor Area**
981 Glenview Drive	City of San Bruno	5490	2929
1110 Glenview Drive	City of San Bruno	5150	2745
1641 Claremont Drive	City of San Bruno	5893	3047
951 Glenview Drive	PG&E	7108	2377
991 Glenview Drive	PG&E	6005	3105
1721 Earl Avenue	PG&E	7129	3344
1655 Claremont Drive	PG&E	7495	3504
1115 Fairmont Drive	PG&E	5000	2750
2735 Concord Way	PG&E	5292	2823
1100 Glenview Drive	In Escrow to PG&E*	6014	3013

* May become available for purchase.

** This is an estimate of allowable floor area, which includes a minimum 400 s.f. garage, and should be verified using the Residential Development Standards.

The City requires that each vacant parcel be developed with a single family home. A licensed architect should design the individual homes for each property, conform to all development standards, as well as the City's Residential Design Guidelines, and respect the prevailing development pattern in the entire neighborhood, which is modest in size.

It is the City and the community's goal to have all of the homes that are the subject of this RFP constructed and sold by the time that all of the infrastructure is completed in the neighborhood (end of 2014). Ideally, the successful developer will be able to construct and sell all nine (or ten) homes within a 12-16 month timeframe from the selection by the City as the Developer.

Public Infrastructure Improvements in the Neighborhood

The City is currently in the process of reconstructing the infrastructure in the entire Crestmoor neighborhood. All of the subject lots have the required utility connections in place to the property line (with the exception of PG&E gas service that will be extended during home construction). The City has recently completed new infrastructure (water, sewer, storm drain) replacement in the portion of the neighborhood containing these lots. The next phase of the infrastructure reconstruction (Phase III) will replace the same underground utilities in the remainder of the neighborhood. Phase III is scheduled to be completed in spring 2014. The final phase of infrastructure (Phase IV) will be the replacement of curb, gutter, sidewalk, roadway resurfacing, and new streetlights in the entire neighborhood. Phase IV will commence upon the completion of Phase III and

should be completed by the end of 2014. The replacement of the former "tot lot" park at Earl Avenue and Glenview Drive (possibly on the 1670, 1680, & 1690 Claremont lots) will also occur during this timeframe. More information regarding the infrastructure replacement project can be found at the Rebuild Crestmoor Website at www.RebuildCrestmoor.org.

Environmental Background

The City anticipates filing a Notice of Determination that the project is Statutorily Exempt per the California Environmental Quality Act (CEQA) according to Section 15302: Replacement or reconstruction of existing structures and facilities and Section 15303(a): Construction and location of one-single family residence on a legal parcel in a residential zone.

The San Mateo County Health Department - Environmental Health Services Division directed the removal of building debris from the destroyed and damaged houses and performed testing for the presence of hazardous materials as part of the cleanup effort after the September 2010 fire. Following the demolition and debris removal operations, the lots where homes burned down underwent extensive soil contamination testing. This testing indicated that results were well below the thresholds of concerns for risks to human health. A sample report submitted to the City by San Mateo County is available in the Available Project Information section at the end of this document. Reports on all vacant lots will be made available to the selected development team.

Developer's Financial Responsibility

It shall be the Developer's responsibility to secure any necessary funding for the purchase of the lots and the construction and sales of the homes. No financial assistance will be provided by the City. All costs for building permits, development review, plan checking, building inspection and other services required for the home construction shall be borne solely by the Developer. A representative calculation for the permit fees associated with an example 2,500 square foot house in this neighborhood is included in the Design Criteria and Requirements section. The successful Developer shall be required to fund a deposit account with the City to ensure the payment of all staff and consultant time in processing the entitlement approvals for the proposed homes. This will be in addition to direct permitting fees (e.g. building permit, encroachment permit, San Bruno School District fees).

Upon selection of a developer by the City Council and subsequent execution of a Development Agreement, the Developer shall be prepared to immediately begin design of the proposed homes. A non-refundable deposit of \$125,000 shall be placed into escrow upon execution of the Development Agreement to ensure the homes are constructed. These funds shall be drawn against to cover staff and consultant time described above as part of the deposit account. Any funds remaining at the completion of design approval shall be applicable to the purchase price. The Developer shall close escrow on the purchase of each lot within five (5) calendar days of issuance of the building permit for each lot. All necessary performance bonds and other assurances to guarantee the completion of all of the homes, as specified in the Development Agreement, shall be in place at the time of building permit issuance.

III. DESIGN CRITERIA & REQUIREMENTS

The planned homes in this proposal for the Crestmoor neighborhood will need to strictly adhere to the City's development standards without requiring entitlement approval; shall follow the adopted Residential Design Guidelines; and participate in a public input process as requested by the City. The City is not seeking "custom" homes in this neighborhood. The new homes will need to adhere to the aesthetics of the existing neighborhood and blend with the surrounding development. Although designs that exceeded the development standards were considered and approved for displaced property owners, the City **will not** consider homes on these lots that exceed the development standards.

All proposals for the vacant lots in the Crestmoor neighborhood will need to strictly adhere to the City's pre-disaster development standards without requiring approval of any variance, conditional use permit, or other exception to those standards. The selected Developer shall follow the adopted Residential Design Guidelines to ensure the construction of homes that are consistent with the aesthetics of the homes that existed pre-disaster, and participate in a public review process by the City.

A. Development Standards

The selected development team will have a demonstrated ability to design a project that fits the character and scale of the neighborhood and follows the current development standards below.

- Overall Size – The maximum permitted floor area is inversely proportional to size and slope of a lot. In general, the maximum Floor Area Ratio (FAR) will be .55 but the average slope of the lot will determine the maximum FAR. All enclosed area is included in the floor area calculation (living area, garage). Open patios do not count towards the floor area calculation.
- Parking – A two-car parking garage will be required, with a minimum 20'-0" by 20'-0" interior dimension. A 20'-0" driveway, measured from back of sidewalk to face of garage is required.
- Lot Coverage – The maximum allowable lot coverage is 80% of the maximum allowable floor area.
- Height – Limited to a two-story building with a height of 28 feet for lots with less than a 20% slope.
- Setbacks:

Front Yard

- a) 15 feet from front property line to front of main structure
- b) Open porches and similar architectural elements may be as close as 9'-0" from the front property line.

- c) 20 feet from back edge of the sidewalk to front of garage (Size of driveway)

Side Yard

- a) 5 feet from side of main structure to side property line (Interior side)
- b) 10 feet from side of main structure to side property line (Corner side, if applicable)

Rear Yard

- a) 10 feet from back of main structure to rear property line

Front Property Lines

The location of front property lines vary based on the width of the City's right of way. Property lines are measured from the back of sidewalk as follows:

- a) Glenview Drive between San Bruno Ave and Earl Ave – 5.5 feet
- b) Glenview Drive between Earl Ave and Plymouth Way – 4.5 feet
- c) Claremont Drive – 5.5 feet
- d) Earl Avenue – 4.5 feet
- e) Fairmont Drive – 4.5 feet
- f) Concord Way – 5.5 feet

Public Utility Easements

There are several public utility easements (PUE) in the neighborhood and on the vacant parcels. No structures are permitted in a PUE. The individual lot surveys and topographic survey indicate the location of easements and are available in the Available Project Information section.

B. Residential Design Guidelines

The City will require that the successful proposal include several home designs for the vacant lots and that no single design will be used more than three (3) times or be located adjacent to one another. Front elevation options shall be offered to create further diversity within the project. All attempts should be made to create a thoughtful, varied set of designs for the replacement homes.

Although the development standards detail the general limits for the mass and scale of the home design, the architectural design team should reference the Residential Design Guidelines closely for specific façade expectations, including:

- Neighborhood Compatibility
- Second Floor Treatment
- Entries
- Doors and Windows
- Materials and Colors
- Architectural Details
- Open Space and Landscaping
- Privacy and Solar Access

The Residential Development Guidelines that will be applicable to this project are accessible from the Available Project Information at the end of this document.

C. Green Building

The circumstances of this development opportunity are unique, given the natural gas line explosion and subsequent fire that destroyed a large portion of the neighborhood. The homeowners who have chosen to rebuild have made sustainable construction a priority. Many of the rebuilt homes are a minimum 35% more energy efficient than typical homes in California and offsetting 100% of their electricity demand with solar power. Two homes are currently being certified as LEED Platinum and two homes are currently being built to LEED Gold standards and preparing for certification. Proposed homes should reflect the rebuilding community's commitment to energy independence and efficiency.

The City encourages, but does not require, the following:

- A Title 24 energy report that is a minimum 35% better than CA code
- Quality Insulation Installation (QII) verified by a certified QII inspector
- Solar photovoltaic and/or solar hot water installation

Proposals that include green building elements will be evaluated favorably.

D. Development Review and Permitting

Planning Entitlement

The City expects to execute a DA to transfer the vacant parcels to the selected development team. As part of that DA, the City will require an Architectural Review Permit and associated public review process. The Architectural Review Permit process will require a high quality submittal that includes complete floor and site plans, elevations, renderings, material samples and associated graphics to illustrate compatibility with the Residential Design Guidelines.

Building Permit

The Community Development Department will be the lead Department for design and development review. The City expects to review all the homes as one submittal package and will issue individual building permits for each home.

There are no timing restrictions for breaking ground in San Bruno but storm water pollution prevention measures will be required for the rainy season between October 1st and April 30th. Seasonally appropriate best management practices shall be required through the year.

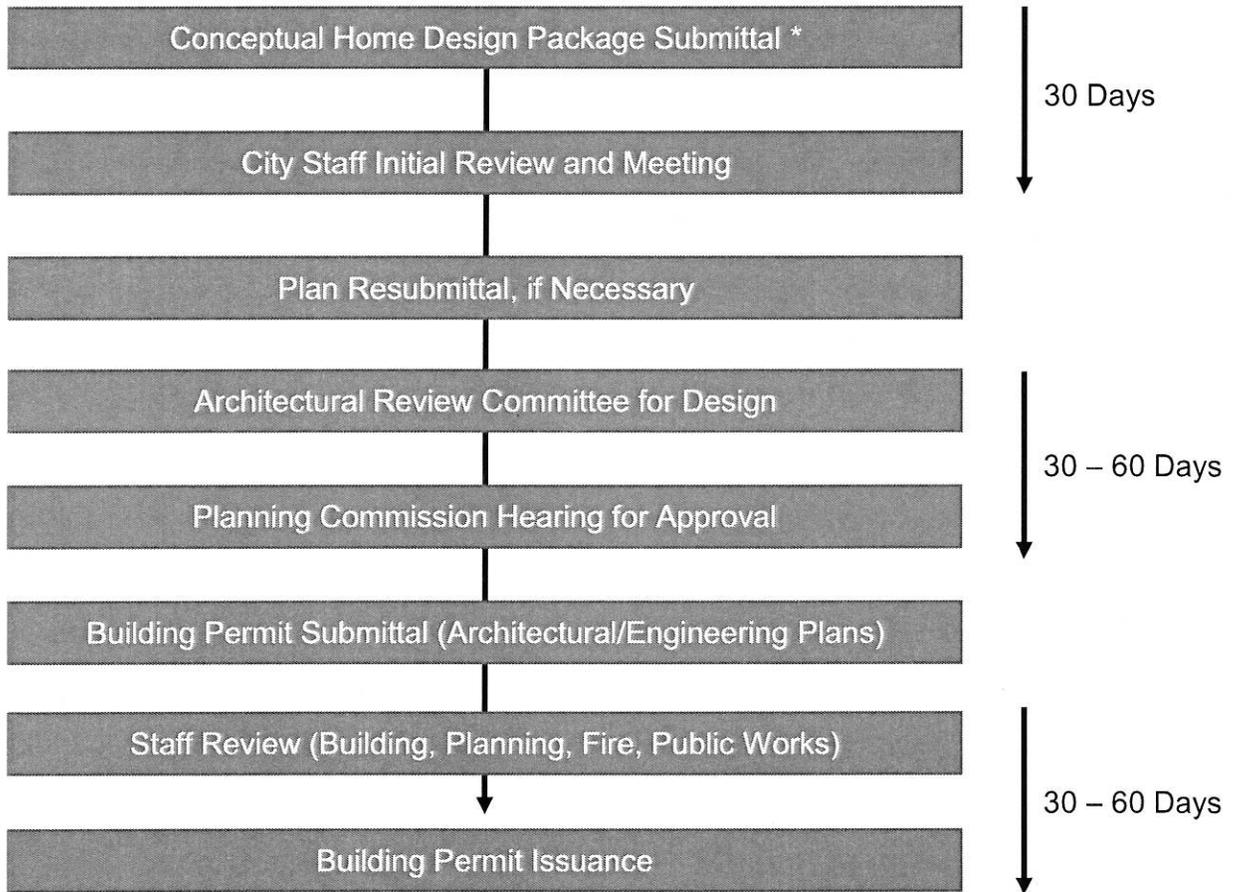
Development Fees

All fee estimates are based on a home with 2,500 s.f. of living area and a 400 s.f. garage. The fee estimates were generated using minimum valuations and are subject to change based on actual building costs at time of building permit submittal.

Building Permit Estimate	\$ 38,500	Based on minimum valuation of \$185/s.f. for finished space and \$70/s.f. for garage. Includes wastewater and water capacity charges.
San Bruno School District Fee	\$ 7,425	Calculated at \$2.97/s.f. of new living area
Encroachment Permit	\$ 354	Plus \$276 refundable deposit
Estimated Total	\$ 46,279	Per home

Approval Process Overview for New Homes

The following flow chart indicates the process for the review of the new homes:



* Per Section III Design Criteria and Requirements, all homes must meet current development standards and building codes. No Use Permit requests will be considered.

IV. SUBMITTAL REQUIREMENTS

The Developer should have a successful track record of construction of multiple homes simultaneously and must demonstrate the financial viability of its offer to purchase these lots.

Respondents to this RFP are requested to supply all of the information described herein, in a complete yet concise format. The City expects submittals to provide enough information to allow staff and other advisors to evaluate and rank the qualifications of the Development Teams.

Developer's proposals shall follow the order and contain, at a minimum, the following information:

Project Team and Qualifications

- Executive Summary of the firm(s)
- Team member names, roles and contact information
- Resumes of Team members highlighting their experience in single-family residential home construction
- Designated public liaison to interface with the community
- Minimum of three (3) references from completed home building projects

Previous Single-family Home Construction Experience

- Provide a brief narrative of five (5) residential single-family construction projects that the team members have completed within the last 10 years, focusing on partners, financing, type of homeownership programs, roles and tasks
- Include three (3) examples of home designs/floor plans and elevations with finished color project photos if available (Ten page maximum, not including home designs and photos)

Financial Capacity

- Financial statements for the last two (2) years for which they are available
- Evidence of ability to close purchase of lots and ability to finance and construct. Provide letter or other evidence from prospective construction lender indicating willingness to provide construction financing or provide proof of funds adequate to construct homes.
- Provide financial information on equity partners (if any)
- Bonding capacity and name, address and phone number of bonding company

Design Proposal

- One preliminary (conceptual) illustrative home design for a corner lot
- One preliminary (conceptual) illustrative home design for an interior lot
- Preliminary plans should include a site plan, floor plan(s), and elevations
- The City will be looking for consistency with the Development Standards and Residential Design Guidelines

Build out Schedule and Marketing Plan

- Provide an estimated timeline of build out of the homes and sales schedule based upon Developer's knowledge of the market for the homes in this area.
- Provide a narrative of the marketing and sales plan/effort that is anticipated to achieve the estimated delivery timeline.

Purchase Price

The Developer shall provide a binding purchase price for each of the lots per this schedule:

	Address	Purchase Price
1	981 Glenview Drive	
2	1110 Glenview Drive	
3	1641 Claremont Drive	
4	951 Glenview Drive	
5	991 Glenview Drive	
6	1721 Earl Avenue	
7	1655 Claremont Drive	
8	1115 Fairmont Drive	
9	2735 Concord Way	
10	1100 Glenview Drive	

Supplemental Information

The Developer is free to include any additional supplemental information regarding their approach, delivery/sales strategy, scheduling, timing, or other items that may differentiate their proposal from others.

Any part of the proposal considered to contain proprietary or other privileged information shall be marked as "Confidential".

V. SUBMITTAL DELIVERY AND SCHEDULE

All responses to this RFP must be submitted on or before **4:45 PM on September 6, 2013** to the following address and contact:

Tony Rozzi
Contract Associate Planner
City of San Bruno
567 El Camino Real
Tel: (650) 616-7089
Fax: (650) 873-6749
Email: trozzi@sanbruno.ca.gov

The City requests five (5) hard copies of the full proposal and one electronic copy on CD in PDF format. Late proposals will not be considered and incomplete proposals may be rejected.

No later than 5:00PM on Tuesday, September 10, 2013, all potential proposers shall submit a statement of their intent to submit a proposal to the City of San Bruno. This notice of intent shall include the proposer's company name, address, primary contact and primary contact's e-mail address and telephone number. This notice of intent shall be emailed to the City contact at the email listed above.

Proposals must be made in the official name under which the respondent's business is conducted and must be signed by a person duly authorized to legally bind the entity submitting the proposal.

To maintain an open process, all questions shall be directed via e-mail on or before September 19, 2013 to the contact person above. The City will group and respond to all questions (without attribution). Responses will be made available as an addendum to this RFP and published on the Rebuild Crestmoor web site (www.rebuildcrestmoor.org). No information other than that flowing through these channels will be provided once the RFP has been released. In addition, interested parties may participate in the Bidders Conference, as described further herein.

The overall schedule for this RFP process is summarized below:

Action/Event	Schedule/Deadline
City release of RFP	August 21, 2013
Deadline for Notice of Intent to Submit Proposal	September 10, 2013 (5:00 PM)
Mandatory Bidders Conference	September 12, 2013 (1:00 PM @ San Bruno City Hall)
Deadline for submission of questions related to the RFP	September 19, 2013 (5:00 PM)
Deadline for submissions of RFP	September 25, 2013 @ 4:45PM
Interviews of selected team(s)*	Week of October 7, 2013
City Council Consideration*	October 22, 2013
DA Negotiation & Execution Period*	November 2013
DA to City Council*	December 2013

**Denotes dates are tentative and subject to change.*

As noted, the City will be hosting a Mandatory Bidders Conference at the San Bruno City Hall to answer any questions related to this RFP on September 12, 2013 at 1:00 PM. Interested parties must attend in person.

VI. SELECTION CRITERIA AND PROCESS

This RFP is the first step in considering the selection of a qualified development team to construct these homes. Upon receipt of qualifications packages from interested parties, City staff and its advisors will review and screen the list of candidate developers down to selected finalist. The finalists will be asked to participate in an interview with the City and its selected advisors. Based on the submittal materials, the interview, and the application of the criteria described below, the City will select a top-ranked team and prepare a staff report for consideration by Council.

Upon approval by the City Council, the selected developer and the City will negotiate and execute a DA for the construction of the homes on the lots. The exact terms and conditions of the DA will be determined subsequent to selection of a Developer. However, the DA will include milestones for construction timing, development guidelines, payment terms and timing, deposits, and other items requiring clarity and documentation for both the City and Developer. Substantial deviations from the terms outlined by the Proposer in response to this RFP may be grounds for disqualification.

The City does not warrant or promise to select a finalist developer and reserves the right to determine its best course of action. The City also reserves the right to select a developer based on the response to this RFP, foregoing the interview process, if it is determined at its sole discretion that it is advantageous to do so. Further, the City reserves the right to modify the terms and conditions of this or subsequent offerings, and to alter the selection process, criteria, and timetable as circumstances require, including making no selection at all.

Each proposal will be evaluated in its entirety with all of the submittal requirements described above being considered as appropriate. In conjunction with the evaluation of each Submittal for responsiveness and conformance to the RFP, the City will evaluate each Submittal based upon the following primary criteria.

1. Developer Experience and Qualifications

The City will carefully evaluate the qualifications of the Developer, and the specific personnel assigned to this project, in terms of their home building experience. In addition, the residents of the Crestmoor neighborhood have all experienced significant impacts and disruption due to the September 9, 2010 PG&E gas pipeline explosion and fire and ongoing reconstruction within the community. Assigned personnel to this project and the construction of these homes shall respect the history in the neighborhood. Developer shall include a qualified liaison to interact with the community in a thoughtful and sensitive manner.

2. Financial Capacity and Acumen

The City will evaluate the developer's demonstration of a credible ability to provide adequate funds to acquire the lots and construct these homes in the timeframe required for this project. The financial and organizational capacity of

the proposed development entity that will be signing the DA will be of critical importance. The proposal shall include the disclosure of current uncommitted equity capital on hand, lines of credit available, and estimates of how much debt and equity could be made available for this project. Selection will be significantly weighted in favor of those responses that include strong equity capacities backed by quantified information.

3. Delivery Schedule and Timing

The development of homes on these vacant lots is a priority for the City and the community. Given the pace of the reconstruction of the infrastructure in the neighborhood, it is anticipated that a majority of the street and utility reconstruction will be completed by January 2015. Proposals should consider the desire to have all of the homes constructed within this timeframe. Regardless, a realistic projection of the construction and sales timeframe should be included in the proposal. Any concerns or issues that could impact the delivery timing should be fully explained and discussed.

4. Purchase Price

The purchase price to be paid to the City and PG&E for the lots is an important aspect of the proposal. However, purchase price is not the overriding or primary issue that will be considered in the selection of a developer. A developer who possesses the financial ability to deliver the project, proven track record and experience, the sensitivity to the environment of the neighborhood, and resources to meet the desired timeframes may be selected even if their purchase price is not the highest.

5. Special Requirements or Conditions

The City will consider the implications of any significant conditions, limitations, special requirements, reservations or conditions precedent that the Developer will require before signing a DA. Developers shall clearly and candidly state special requirements in the proposal.

VII. GENERAL CONDITIONS

Any material clarifications or modifications to the RFP or the selection process will be made in writing and provided to all registered proposers. It is the responsibility of the developers, before submitting a response to the RFP, to ascertain if any notices, clarifications, addenda, or other communications to responders have been issued by the City. Oral explanations or instructions from City staff or consultants shall not be considered binding.

Developers' responsiveness to all items in this RFP will be taken as evidence of the developer's interest and commitment to the project. A failure to respond completely will be interpreted as a lack of full interest and commitment or a deficiency on the developer's part.

The City reserves the right to:

- Modify or cancel the selection process or schedule at any time.
- Waive minor irregularities.
- Reject any and all responses to this RFQ/P and to seek new submissions when it is in the best interest of the City to do so.
- Seek clarification or additional information or evidence from individual respondents, including, but not limited to, evidence of the developer's financial status.
- Judge the developer's written or oral representations as to their veracity, substance and relevance to development in the Crestmoor neighborhood, including seeking and evaluating independent information on any Developer.
- Incorporate this RFP and the selected team's response to this RFP as a part of any formal agreement between the City and the developer.
- Modify the development opportunity available to potential Developers.

All expenses related to any developer's response to this RFP, or other expenses incurred during the period of time the selection process is underway, are the sole obligation and responsibility of that Developer. The City will not, directly or indirectly, assume responsibility for these costs. In addition, the City shall not be liable for any real estate commissions or brokerage fees which may arise as a result of the Developer selection process.

The proposer shall not offer any gratuities, favors, or anything of monetary value to any official, employee, or outside consultant associated with the development of the Crestmoor neighborhood for purposes of influencing consideration of a response to this RFP.

The City makes no representations about the conditions of the site, including utilities, soils, or other surface or subsurface conditions. The respondent shall make its own conclusions concerning such conditions. Information provided in this RFP, as well as in related reports by City staff or consultants, is provided for the convenience of the responders only and is not intended to be exhaustive. The accuracy or completeness of this information is not warranted by the City.

VIII. AVAILABLE PROJECT INFORMATION

The following website provides a number of documents in addition to a copy of this RFP. It also includes notices concerning important dates and events. As noted above, answers to e-mailed questions will be posted to this website and any additional notifications will also be posted.

http://www.rebuildcrestmoor.org/app_pages/view/300

Available Exhibits for review include:

- 1) Overview Map of Vacant Parcels
<http://www.rebuildcrestmoor.org/files/managed/Document/308/Crestmoor%20Vacant%20Lots%20061213.pdf>
- 2) Single Family New Home Construction Development Standards
http://www.sanbruno.ca.gov/comdev_images/planning/Residential%20Additions%20&%20New%20Construction.pdf
- 3) Residential Design Guidelines
http://www.sanbruno.ca.gov/comdev_images/planning/San%20Bruno%20RD%20FINAL%20042210%20.pdf
- 4) Topographic Survey Map
<http://www.rebuildcrestmoor.org/files/managed/Document/301/Topographic%20Survey.pdf>
- 5) Topographic Survey of Individual Vacant Lots
<http://www.rebuildcrestmoor.org/files/managed/Document/311/Individual%20Lot%20Surveys%20for%20RFP.pdf>
- 6) Pre- and Post-Removal Activity Results Report for 1680 Claremont Drive
<http://www.rebuildcrestmoor.org/files/managed/Document/312/1680%20Claremont%20Dr%20Pre%20and%20Post%20Removal%20Report.pdf>

EXHIBIT B-1

LEGAL DESCRIPTION OF THE CITY PARCELS

[to be inserted]

Real Property in the City of San Bruno, County of San Mateo, State of California, legally described as follows:

EXHIBIT B-2

LEGAL DESCRIPTION OF THE PG&E PARCELS

[to be inserted]

Real Property in the City of San Bruno, County of San Mateo, State of California, legally described as follows:

EXHIBIT C

DEVELOPMENT STANDARDS

Developer shall comply with the development standards outlined in the City's "Request for Proposal (RFP) for Construction of Single Family Homes – Crestmoor Neighborhood," released August 21, 2013.