

EASEMENT AGREEMENT

This EASEMENT AGREEMENT ("**Agreement**") is effective as of _____, 20____, ("**Effective Date**"), and is between the **CITY OF CAMARILLO**, a California municipal corporation and general law city ("**City**") and the **VENTURA COUNTY TRANSPORTATION COMMISSION**, a public agency ("**VCTC**"). City and VCTC are sometimes referred to individually as a "party," and collectively as the "parties." The parties agree as follows:

RECITALS

A. City has conveyed to VCTC that certain real property ("**Building Parcel**") located at 2220 Ventura Boulevard in the City of Camarillo, County of Ventura, State of California, and more particularly described on the attached Exhibit A, and depicted on the Site Plan attached as Exhibit B ("**Site Plan**").

B. As provided in that certain Property Purchase and Development Agreement effective as of _____, 2014 ("**Purchase Agreement**"), City sold the Building Parcel to VCTC so that it may renovate the existing building on the Parcel or construct a new office building ("**Office Building**") to be used primarily for governmental and other non-profit uses.

C. City has retained that certain real property ("**Parking Parcel**") located adjacent to the Building Parcel that is improved with a parking area, and which is more particularly depicted on Exhibit B and described on the attached Exhibit C.

D. The City and VCTC desire to establish the terms and conditions upon which VCTC and the employees and visitors to the Office Building may utilize the Parking Parcel for parking and access to the Building Parcel as well as the circumstances under which the general public may also utilize the Parking Parcel for parking and special events.

ARTICLE 1 DEFINED TERMS

The following capitalized terms in this Agreement have the meanings set forth below.

1.1 Employees mean persons who work in the Office Building.

1.2 Special Event means scheduled events or other gatherings on the Parking Parcel, which are authorized by City. An **Extended Special Event** is a Special Event on the Parking Parcel that utilizes the Parking Area for a continuous period in excess of 24 hours.

1.3 Parking Area means the portions of the Parking Parcel on which parking spaces including drive aisles and the entry driveway are located as depicted on the Site Plan.

1.4 Parcel refers individually to the Building Parcel or the Parking Parcel, as applicable, and **Parcels** refers to both the Building Parcel and Parking Parcel.

1.5 Regular Business Hours means the period between 7 AM and 7 PM, Monday through Friday, excluding California state holidays, during which time business is conducted at the Office Building.

1.6 Visitors mean guests, invitees, officials and other persons visiting the Office Building.

ARTICLE 2 EASEMENTS

2.1 Grant of Easements. Subject to the terms and conditions of this Agreement, City hereby grants to VCTC, for the benefit of the Building Parcel, a non-exclusive easement for vehicular parking to use at least the minimum number of parking spaces within the Parking Area on the Parking Parcel as may be required under the City's parking regulations for the use of the Office Building ("**Parking Easement**"). City further grants to VCTC, for the benefit of the Building Parcel, a non-exclusive easement for pedestrian and vehicular ingress and egress over the Parking Area for the purpose of access to the Office Building.

2.2 Use of Parking Area.

2.2.1 Types of Vehicles. Use of the parking spaces under the Parking Easement is limited to the parking of automobiles, motorcycles, and small trucks, such as pickup trucks, and may not be used for staging or storage or for the parking of larger or heavier commercial vehicles, such as buses.

2.2.2 Right to Designate Parking Spaces. In the event that parking demand by the general public in the Parking Area significantly interferes with Employee and Visitor parking for the Office Building, the parties will meet and confer and determine the extent to which VCTC may designate certain parking spaces for Employees and Visitors of the Office Building during Regular Business Hours.

2.2.3 Limitation on City Liability. Use of the Parking Area, and the exercise of the easement rights under this Agreement is at the sole risk of VCTC and the Employees and Visitors of the Office Building, and in no event will City have any liability for any damages caused to any Employee or Visitor or the vehicles or personal property of any Employee or Visitor, except for liability arising out of City's negligence, gross negligence or willful misconduct.

2.2.4 Parking Area to Remain Open. VCTC acknowledges and agrees that except with respect to any Special Events, City will keep the Parking Area open for public parking at all times.

2.2.5 Special Events. VCTC acknowledges and agrees that the Parking Area may be used for Special Events, including Extended Special Events, for up to 15 days each calendar year during Regular Business Hours and an unlimited number of days outside of Regular Business Hours. City must provide written notice to VCTC of each intended Special Event use of the Parking Area during Regular Business Hours at least 7 days prior to each such use.

2.2.6 Additional Requirements for Special Events.

(a) At any Special Event held during Regular Business Hours, City must cause to be provided at all times access to the required disabled parking spaces within the Parking Area for use by Employees and Visitors, or City must cause to be provided the same required number of disabled parking spaces in the public alley located between the Building Parcel and Fir Street. City must cause to be installed temporary cones or other barriers and markings to ensure continued access to the existing handicap parking spaces in the Parking Area or must take such other actions as may be reasonably required to provide reasonable

notice of and access to any disabled parking spaces provided in the adjacent alley during Regular Business Hours when there is a Special Event use of the Parking Area.

(b) Upon written request by VCTC or any tenant of the Office Building at least 72 hours in advance, if there is an Extended Special Event scheduled for two or more consecutive weekdays during Regular Business Hours, City must cause to be posted along the Ventura Boulevard frontage of the Parking Parcel notice that such public parking spaces along Ventura Boulevard are reserved for Employees and Visitors of the Office Building during such Extended Special Event. City will use reasonable efforts to monitor and enforce such parking restrictions during applicable Extended Special Events.

2.2.7 Clean Up After Special Events. After each Special Event, the City will cause the Parking Area to be cleaned, including the removal of any debris that would interfere with the use of the Parking Area by Employees and Visitors of the Office Building.

ARTICLE 3 MAINTENANCE AND ADMINISTRATION

3.1 Maintenance of Parking Area.

3.1.1 Regular Maintenance. City is responsible for all regular maintenance of the Parking Area. For purposes of this section, regular maintenance of the Parking Area means all regular maintenance required to keep the Parking Area in good condition and repair, including minor repairs and the maintenance of any landscaped areas. VCTC agrees to pay one half of the costs associated with such regular maintenance, which will include the cost of the City employees or contractors performing such maintenance as well as the reasonable costs of any equipment or supplies needed to perform the work. City will invoice VCTC on a bi-annual basis for its share of such maintenance costs, which invoice must be paid within 30 days of receipt by VCTC. The parties acknowledge that the City's current annual cost to maintain the Parking Area is approximately \$ [REDACTED], and agree that such amount is a reasonable cost based on the existing use of the Parking Area. The parties further acknowledge and agree that the cost estimate in the previous sentence is for the sole purpose of establishing a reasonable cost baseline, and is not intended to place a cap on VCTC's obligation to share in the regular maintenance costs of the Parking Area. If parties ever disagree about the level and quality of maintenance that City is providing, the parties will meet and confer in a good faith effort to resolve the differences between the expected level of maintenance and the provided level of maintenance.

3.1.2 Long-Term Maintenance. The parties acknowledge and agree that proper long-term maintenance of the surface of the Parking Area requires that it be slurry sealed approximately every five years from the Effective Date, and that the surface be completely overlaid every 20 years. The City will cause such long-term maintenance to be performed as periodically needed. VCTC agrees to pay one half of the costs associated with such long-term maintenance. City will notify VCTC of the estimated costs of such long-term maintenance before the commencement of the work, and will invoice VCTC for its 50% share of the final cost upon completion of the work. VCTC must pay the invoice within 30 days of receipt.

3.2 Notice of Damage; Third Party Claims. Each party agrees to provide prompt notice to the other party with respect to any unusual damage to the Parking Area including information regarding who may have caused such damage. Each party also agrees to use commercially reasonable efforts to pursue any available claims for damage with respect to

third parties, including third parties that may have a contractual obligation to either City or VCTC to pay the costs of repairing such damage. In the event of any such unusual damage, the City agrees to promptly perform any required repairs subject to reimbursement by VCTC for its 50% share of such repair costs in accordance with Section 3.1.1 above, less any third party reimbursement received.

ARTICLE 4 INSURANCE AND INDEMNITY

4.1 Insurance. Each party must at all times maintain or cause to be maintained in full force and effect a commercial general public liability insurance policy (on an occurrence and a per location basis) insuring against all claims for personal injury, death or property damage occurring upon, in or about the Parking Parcel as a result of each party's rights to use the Parking Area and its performance of its obligations under this Agreement, with combined single limits of at least Two Million Dollars (\$2,000,000.00) per occurrence, which insurance must include broad form blanket contractual coverage covering the insured's obligations under this Agreement and must include the other party as additional insureds. The City may satisfy this insurance requirement through coverage based on the City's membership with the California Joint Powers Insurance Authority. On or before the Effective Date, and annually thereafter, VCTC must submit to City a certificate of insurance evidencing the insurance coverage required under this section.

4.2 Indemnity. Each party agrees to indemnify, protect, defend and hold the other party and its officials, officers, employees and agents harmless from and against any and all demands, liabilities, damages, expenses, losses, costs, causes of action, suits, claims, and judgments, including without limitation reasonable attorneys' fees, arising out of the parties making the Parking Area available for use by Employees, Visitors and the general public. Notwithstanding the foregoing, neither party has any obligation to indemnify, protect, defend or hold the other party harmless in the event such demand, liability, damage, expense, cause of action, suit, claim or judgments arises out of the negligence, gross negligence or willful misconduct of such party. The provisions of this Section 4.2 will survive the termination of this Agreement.

ARTICLE 5 TERMINATION

5.1 City's Exercise of its Power of Termination. The parties acknowledge and agree that under the Purchase Agreement and Grant Deed pursuant to which the Building Parcel was conveyed to VCTC, City has a power of termination that provides it with the right to cause the reconveyance of title to the Building Parcel to City in the event that: (a) VCTC fails to obtain a Certificate of Occupancy for the Office Building and complete the agreed upon improvements to the Parking Parcel by the "Completion Date," or (b) following construction of the Office Building it is not used "primarily for public purposes," as such term is defined and described in Section 7.2 of the Property Purchase and Development Agreement. If title to the Building Parcel is reconveyed to City through the exercise of its power of termination, then upon such reconveyance of title, this Agreement and all easement and other rights granted will automatically terminate.

ARTICLE 6 MISCELLANEOUS

6.1 Covenants Running with the Land; Prohibition of Fragmentation of Ownership of Easements. The easements and all of the provisions, agreements, covenants, conditions, restrictions and obligations contained in this Agreement are binding upon City and VCTC as the owners of the Parking Parcel and Building Parcel, respectively, and their respective heirs, executors, administrators, successors, assigns, devisees, representatives, and all other persons acquiring any portion of either property, or any interest therein whether by operation of law or any manner whatsoever. All of the provisions of this Agreement are covenants running with the land pursuant to applicable law, including but not limited to Civil Code section 1468. It is expressly agreed that (i) each covenant contained herein is for the benefit of each Parcel in the manner described in this Agreement as being benefitted by such covenant and a burden upon each Parcel; in the manner described in this Agreement as being a burden by such covenant, (ii) runs with each of the Parcels, and (iii) benefits and is binding upon each successor owner or tenant of the specified Parcels and portions thereof during its ownership of a Parcel. The ownership of the easements granted by this Agreement will be held at all times in their entirety solely by the fee title owner of the Building Parcel, and no sale, assignment, transfer or conveyance of such easement rights in part or to any other party is allowed.

6.2 Notices. All notices or other communications required or permitted under this Agreement must be in writing and must be delivered either by hand (including by courier or reputable overnight delivery service), facsimile, or deposited in the United States Mail, registered or certified mail, postage prepaid, and addressed as follows:

City: 601 Carmen Drive
Camarillo, California 93010
Attn: City Manager
Fax (805) 388-5318

VCTC: 2220 Ventura Boulevard
Camarillo, California 93011
Attn: Executive Director
Fax (805) 642-4860

Notices which are delivered by hand, overnight delivery or facsimile will be deemed received upon delivery; notices which are deposited in the United States Mail in accordance with the terms of this section will be deemed received three days after the date of mailing. City and VCTC may each change its address for the purpose of receiving notices, and other communications by a written notice to the other party given in the manner provided by this section.

6.3 Binding Effect. All of the limitations, covenants, conditions, easements, and restrictions contained in this Agreement attach to and run with the Parking Parcel and Building Parcel and will, except as otherwise set forth herein, benefit or be binding upon the successors and assigns of the respective Parcels.

6.4 Attorneys' Fees. In the event of any action or proceedings between the City and VCTC for breach of or to enforce any provision or right under this Agreement, the non-prevailing party in such action will pay to the prevailing party all costs and expenses expressly

including, but not limited to, reasonable attorneys' fees incurred by the prevailing party in connection with such action or proceeding. The prevailing party includes without limitation a party who dismisses an action or proceeding under this Agreement in exchange for consideration substantially equal to the relief sought in the action or proceeding.

6.5 Effect On Third Parties. The rights, privileges, or immunities conferred under this Agreement are for the benefit of the owners of the Parcels and not for any third party.

6.6 Waiver. No waiver of any provision of this Agreement or any breach of this Agreement will be effective unless such waiver is in writing and signed by the waiving party and any such waiver will not be deemed a waiver of any other provision of this Agreement or any other or subsequent breach of this Agreement.

6.7 Severability. In the event any term, covenant, condition, or provision of this Agreement is held to be invalid, void, or otherwise unenforceable, by any court of competent jurisdiction, such holding will in no way affect the validity of enforceability of any other term, covenant, condition, or provision of this Agreement.

6.8 Governing Law. This Agreement is governed by the laws of the State of California. In any suit, action, or proceeding arising out of or related to this Agreement, the parties submit to the jurisdiction and venue of the Superior Court of the County of Ventura.

6.9 Captions. Article and section titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Agreement or any provisions hereof.

6.10 Release. If VCTC or the City sells, transfers or assigns its entire Parcel or its interest in any portion thereof, it will be released from any obligations arising after the date of such sale, transfer or assignment, and thereafter any transferee or assignee will be deemed to have accepted such obligations.

6.11 Time of Essence. Time is of the essence with respect to the performance of each of the covenants and agreements contained in this Agreement.

6.12 Counterparts. This Agreement may be executed in more than one counterpart, each of which will be deemed an original, and all of which together will constitute one and the same instrument.

6.13 Exhibits. All exhibits referred to in this Agreement are attached to this Agreement and incorporated by reference.

6.14 Memorandum of Agreement. This agreement will not be recorded; however, the parties will record a Memorandum of Agreement in substantially the same form as the memorandum attached as Exhibit D.

[Signatures on the following page.]

THE UNDERSIGNED AUTHORIZED REPRESENTATIVES OF THE PARTIES have executed this Agreement as of the Effective Date set forth above.

CITY:

CITY OF CAMARILLO

Bruce Feng, City Manager

ATTEST:

Jeffrie Madland, City Clerk

VCTC:

VENTURA COUNTY TRANSPORTATION
COMMISSION, a public agency

By: _____
Name: _____
Title: _____

ATTEST:

Donna Cole, Clerk of the Board

Exhibit A

Legal Description of Building Parcel

Exhibit B

Site Plan

Parking Easement Agreement

EXHIBIT B

Exhibit C

**Legal Description of the
Parking Parcel**

Exhibit D

Form of Memorandum of Easement Agreement

Recording Requested By, and
When Recorded Return To:

City of Camarillo
601 Carmen Drive
Camarillo, California 93010
Attn: City Clerk

No Recording Fee: Govt. Code § 27383

MEMORANDUM OF EASEMENT AGREEMENT

This Memorandum of Easement Agreement ("**Memorandum**") is effective as of _____, 20__, ("**Effective Date**"), and is between the **CITY OF CAMARILLO**, a California municipal corporation and general law city ("**City**") and the **VENTURA COUNTY TRANSPORTATION COMMISSION**, a public agency ("**VCTC**").

Recitals

A. City is the owner of the real property described in the attached Exhibit A ("**Parking Parcel**").

B. VCTC is the owner of the adjacent real property described in the attached Exhibit B ("**Building Parcel**").

C. City and VCTC have entered into an Easement Agreement effective as of _____, 20__, and as it may be amended from time to time ("**Agreement**"), pursuant to which City granted VCTC certain parking and pedestrian and vehicular ingress and egress rights, with respect to the Parking Parcel for the benefit of the Building Parcel, subject to certain terms and conditions.

D. City and VCTC desire to execute and record this Memorandum to provide constructive notice of each party's benefits and burdens under the Agreement to all third parties.

For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Agreement Terms. VCTC has been granted certain easement rights for the benefit of the Building Parcel as set forth in the Agreement, which is incorporated in this Memorandum by reference. VCTC, as owner of the Building Parcel, also has certain burdens arising from its use of the Parking Parcel including a share of the cost of the maintenance of the Parking Parcel as more particularly set forth in the Agreement. City, as owner of the Parking Parcel, is also subject to the benefits and burdens of the Agreement.

2. Successors. This Memorandum and the Agreement are binding and inure to the benefit of the parties and their respective successors in interest to fee title to the Parking Parcel and Building Parcel.

Parking Easement Agreement

EXHIBIT D

THE UNDERSIGNED AUTHORIZED REPRESENTATIVES OF THE PARTIES have executed this Memorandum as of the Effective Date set forth above.

CITY:

CITY OF CAMARILLO

, City Manager

ATTEST:

, City Clerk

2365115.1

VCTC:

VENTURA COUNTY TRANSPORTATION
COMMISSION, a public agency

By: _____
Name: _____
Title: _____

ATTEST:

, Clerk of the Board