

**AMENDMENT TO UNDERTAKING AGREEMENT**

**(SUBDIVISION IMPROVEMENTS)**

**TRACT NO. 061078**

THIS AMENDMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between the City of Lancaster, (the "City") and Plum Canyon Investments, LLC, (the Subdivider").

**RECITALS**

- A. The City approved Tentative Map No. 061078 on February 28, 2005 (the "Tentative Map"), subject to certain conditions of approval set forth in Resolution No. 05-06, which conditions include construction of certain public improvements as set forth hereinbelow.
- B. The City and Subdivider entered into that certain Undertaking Agreement dated August 6, 2008 ("Agreement").
- C. The Agreement requires Subdivider to complete all Work required thereunder on or before January 27, 2011 ("Completion Date").
- D. Subdivider desires to extend the Completion Date.
- E. This Agreement is executed pursuant to the provisions of the Subdivision Map Act of the State of California and applicable City ordinances.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and of the approval of the Map and of the acceptance of the dedications therein offered, and in order to insure satisfactory performance by the Subdivider of Subdivider's obligations under said Subdivision Map Act and said ordinance, the parties agree as follows:

**1. Performance of Work.**

Section 1 of the Agreement is amended and restated to read as follows:

"Subdivider, at its sole cost and expense, will improve Tract No. 061078 by the grading and paving of streets, construction of curbs and gutters, crossgutters and sidewalks, installation of drainage and sanitary sewerage facilities, provision of an underground utility and street lighting system, installation of street signs, parkway trees, a water system and all related facilities, and such other improvements required by the ordinances of the City and/or the City Council in the approval of said Tract/Parcel Map, together with appurtenances, contingencies and engineering costs and as more particularly shown in the improvement plans for contingencies and engineering costs and as more particularly shown in the improvement plans for said Tract/Parcel Map as well as all improvements identified in the "Attachment to PC Resolution No. 05-06, Tentative Tract Map No. 061078 Conditions List (Revised)" dated February 28, 2005 and attached hereto as Exhibit "A" (the "Improvements"). Subdivider will do all work and furnish all materials necessary, in the opinion of the City Engineer, to complete said Improvements in accordance with the plans and specifications on file in the office of the City Engineer or with any changes or modifications required or ordered

by the City Engineer which, in his opinion, are necessary or required to complete the Improvements (the "Work"). Subdivider shall maintain the Improvements and adjacent public facilities clear of all debris, weeds, and other materials which inhibit the performance of the Improvements or become a public nuisance. Should the Subdivider fail to act promptly in accordance with this requirement the City may, at its option, perform the necessary work and the Subdivider shall pay to the City the actual cost of such maintenance plus fifteen (15) percent.

**2. Extension of Term.**

Section 18 of the Agreement is amended and restated to provide as follows:

"Subdivider shall complete all of said Work on or before \_\_\_\_\_, or within such further time as may be granted by the City Council."

**3. Agreement Remains in Effect.**

Except as expressly revised herein, the terms, conditions and requirements set forth in the Agreement shall remain in full force and effect. Any terms not defined in this Amendment shall have the meaning set forth in the Agreement.

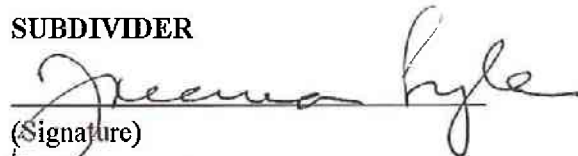
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

**APPROVED:**

**CITY OF LANCASTER**

\_\_\_\_\_  
By: City Engineer

**SUBDIVIDER**

  
\_\_\_\_\_  
(Signature)  
President  
\_\_\_\_\_  
(Office Held)  
KW Property Fund III, L.P., member  
PLUM CANTON INVESTMENTS, LLC  
Partnership or Corporation represented, if applicable

**APPROVED AS TO FORM:**

\_\_\_\_\_  
By: City Attorney

**ALL SIGNATURES MUST BE ACKNOWLEDGED BY NOTARY**

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

State of California        )  
  )  
County of Los Angeles    )

On February 3<sup>rd</sup> 2011, before me Clara Lobendahn, Notary Public, personally appeared Freeman Lyle, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacities, and that by his signatures on the instrument the person, or the entities upon behalf of which the person 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 Clara Lobendahn



# EXHIBIT "A"

## ATTACHMENT TO PC RESOLUTION NO. 05-20

### TENTATIVE TRACT MAP NO. 061278 CONDITIONS LIST

#### GENERAL/ADVISORY

1. All standard conditions as set forth in Planning Commission Resolution No. 91-08 shall apply except Condition Nos. 46 (modified below), and 47 (deleted).
2. Prior to occupancy, construct a perimeter masonry wall along the north, south, and east property lines as indicated on the site plan in accordance with Section 17.28.030.C. of the Lancaster Municipal Code; color and design must be specifically approved by the Director of Community Development. If the property is developed in phases, a masonry wall must be provided around the periphery of each recorded phase in accordance with this condition prior to occupancy of any units in that phase. The requirement for peripheral walls may be waived or modified by the Director of Community Development in order to prevent the creation of double walls where an adequate wall which would meet the intent of this condition is already in existence. All perimeter walls shall meet the structural requirements of the City of Lancaster as specified by the Director of Public Works (modified Condition No. 46).

#### STREETS

3. Per direction of the Director of Public Works, improve and offer for dedication:
  - Challenger Way at 70 feet of an ultimate 100 foot right-of-way
  - Avenue K-8 at 62 feet of an ultimate 82 foot right-of-way
  - 11<sup>th</sup> Street East at 58 foot right-of-way
  - "A" Streets at a 58 foot right-of-way

The applicant is responsible to reconstruct the street to centerline if the existing pavement section does not meet the Department of Public Works street standards.

4. Per the direction of the Director of Public Works, dedicate the right to restrict direct vehicular access to Challenger Way and Avenue K-8 and the east side of Lot No. 1.
5. Per the direction of the Director of Public Works, the Developer shall install a conduit, pull rope, and pull boxes along major and secondary arterials to the nearest traffic signal to be used for future Traffic Signal Communication Interconnect. The interconnect system shall be installed in accordance with the specifications approved by Traffic.

#### DRAINAGE

6. The project shall comply with the Best Management Practices (BMP) of the National Pollutant Discharge Elimination System (NPDES) and all NPDES permit requirements.

7. Per the direction of the Director of Public Works, dedicate and improve a 25-foot-wide drainage easement on east side of Lot Nos. 13, 14, 15, and 16 as per the Master Plan of Drainage.

#### WATER AND SEWER

8. Prior to issuance of grading or building permits, the project proponent will be required to contact the City Building Official regarding the requirements for the purchase of water credits from the City of Lancaster.

#### LANDSCAPING

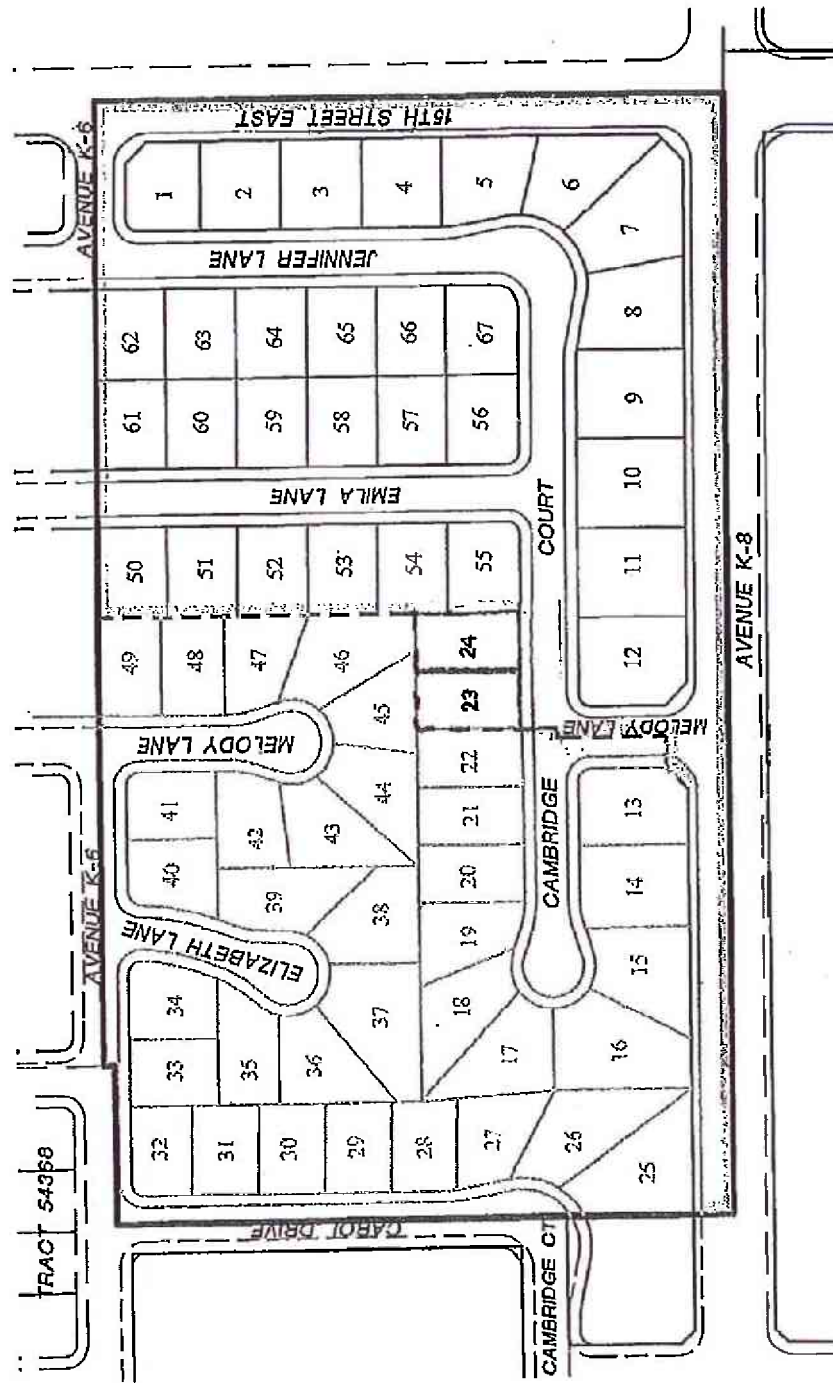
9. Prior to occupancy, provide a 10-foot-wide landscape easement and maintenance district along Challenger Way and Avenue-K-8, in accordance with City policy. The irrigation system, landscape plan, and plant materials are subject to approval of the Department of Public Works. The construction materials, color, and design of the decorative (i.e. slump stone, split faced with brick pilasters, and decorative brick cap) masonry wall abutting the landscape maintenance district is subject to approval of the Director of Community Development. The irrigation and plant materials shall be installed and completed to the satisfaction of the Director of Public Works Department prior to occupancy of any residence within the development. In addition, add a one- to two-course high matching block wall along the back of the sidewalk to protect the landscaping and irrigation, and to prevent irrigation/dirt runoff.
10. Annexation into the Landscape Maintenance District is required.
11. Where landscaping is required or is to be installed by the developer within the front and/or street side yard setback areas, a landscape and irrigation plan shall be submitted for review and approval by City staff. Said landscaping and irrigation system shall conform to the requirements of Ordinance No. 629.
12. The project shall abide by Ordinance No. 821, requirements for residential landscape installation and maintenance.
13. Per direction of the Director of Public Works, the Developer shall install a "purple pipe" irrigation system in all landscape maintenance districts to provide for future connection to a recycled water system.

#### OTHER CONDITIONS

14. Per the direction of the Director of Public Works, construct ADA "walk arounds" at all driveways to the specifications of the Director of Public Works.
15. Per the direction of the Director of Community Development and the Director of Public Works, garages shall maintain a 20-foot setback from property line.

16. The applicant shall comply with all requirements of the Urban Structure Program as outlined in the General Plan and adopted by the City Council.
17. Prior to recordation of the final map, the property shall be annexed into the Lancaster Lighting Maintenance District.
18. Final map design shall be coordinated with the Antelope Valley Transportation Authority (AVTA) for ADA-compliant sidewalks of sufficient width to accommodate ADA-compliant bus benches and shelters.
19. Per the direction of the Director of Community Development, all work shall be limited to the site by installation of a fence to define the limits of development, or an additional Cultural Resource Study would be required for any off-site area which would be disturbed by the development (such as staging and turn around areas).
20. Based on the Biological Resource Report for the proposed subdivision and per the direction of the Director of Community Development, prior to grading/vegetation removal, construction, grubbing or issuance of grading permit, a qualified biologist shall conduct a nesting bird survey and a Mohave ground squirrel survey. If construction activity will occur during the nesting season (birds), a survey should be conducted prior to the removal of trees. Should active birds nest, and/or habitats are found, impacts should be avoided until proper permits are obtained from the State Department of Fish and Game. Evidence that such re-examination has occurred shall be submitted to the Department of Community Development.

TRACT NO. 061078  
CITY OF LANCASTER  
PLUM CANYON INVESTMENTS, LLC  
LOTS 13-22 AND 25-49



NO SCALE