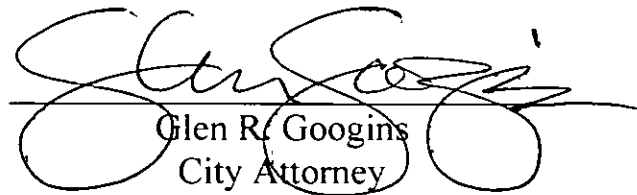


THE ATTACHED AGREEMENT HAS BEEN REVIEWED
AND APPROVED AS TO FORM BY THE CITY
ATTORNEY'S OFFICE AND WILL BE
FORMALLY SIGNED UPON APPROVAL BY
THE CITY COUNCIL


Glen R. Googins
City Attorney

Dated: 4/30/15

AGREEMENT
FOR DEFERRAL OF DEVELOPMENT
IMPACT FEES

AGREEMENT FOR DEFERRAL OF DEVELOPMENT IMPACT FEES

This AGREEMENT FOR DEFERRAL OF DEVELOPMENT IMPACT FEES (“Agreement”), is entered into effective May 22, 2015 (“Effective Date”), by and between the City of Chula Vista, a chartered municipal corporation (the “City”), and Stone Creek Casitas, LLC, a California limited liability company (“Developer”). The City and Developer are collectively referred to in this Agreement as the “Parties”. The Parties enter into this Agreement with reference to the following recited facts (each a “Recital”).

RECITALS

A. Developer (and/or its affiliates) owns, in fee simple, the real property generally known as 3875 Main Street, Chula Vista, CA 91911, as described and depicted in the attached Exhibit “A” (the “Property”), incorporated herein by this reference.

B. The Developer has applied for and the City has approved the development of a 97-unit apartment project on the Property (the “Project”).

C. As authorized by California *Government Code* section 66000, *et seq.*, the City imposes development impact fees in connection with the approval of a development project. Such fees include: (i) the Public Facilities Development Impact Fee pursuant to Chula Vista Municipal Code (“CVMC”) section 3.50, *et seq.* (“PFDIF”); (ii) the Western Transportation Development Impact Fee pursuant to CVMC section 3.55, *et seq.* (“TDIF”); and (iii) the Park Development Fee pursuant to CVMC section 17.10, *et seq.* (“PAD”).

D. Developer has pursued numerous financing sources to finance the Project, and has obtained a commitment for the requisite financing to commence and complete the Project; however, the terms of the financing require that payment of certain development fees be deferred and paid in installments, rather than at the issuance of the certificate of occupancy for the residential units, as otherwise required by the City.

E. Without such deferral, the Developer will be unable to secure financing and the Project will not be financially feasible.

F. Developer has requested that the City defer the PFDIF, the TDIF and the PAD, estimated to be \$1,728,637, in order to obtain the financing necessary to construct the Project.

G. The City has the authority to defer the payment of certain impact fees in accordance with CVMC section 3.56.010. Specifically, the City may authorize deferral of the PFDIF, the PAD, and the portions of the TDIF that are not legally required to be collected at the time of issuance of a certificate of occupancy of each residential unit (collectively the “Deferred Fees”). In approving this Agreement, the City has made the findings required by CVMC section 3.56.010 to allow for the deferral of the Deferred Fees. It is estimated that the Deferred Fees are \$1,728,637.

H. The City has determined that, at the time of the execution of this Agreement, the fair market interest rate is 2.0%.

I. This Agreement is intended to satisfy the provisions of CVMC chapter 3.56 and allow the deferral of the Deferred Fees for a period not to exceed 30 years.

AGREEMENT

NOW THEREFORE, in consideration of the above Recitals and for good and valuable consideration the receipt and sufficiency of which the Parties hereby acknowledge, Developer and the City agree as follows:

1. **Agreement to Defer the Deferred Fees.** City agrees to defer Developer's obligation to pay the Deferred Fees for the Project subject to Developer's obligation to pay the Deferred Fees on the terms and conditions set forth herein.
2. **Deferred Fees.** The Developer agrees and affirms that it has an obligation to pay the Deferred Fees for the Project and shall do so on the terms and conditions set forth within this Agreement.
 - a. **Amount of Deferred Fees.** At the time of the execution of this Agreement, the Deferred Fees are estimated to be One Million Seven Hundred Twenty Eight Thousand Six Hundred and Thirty Seven Dollars (\$1,728,637). This amount is an estimate only, and the amount of Deferred Fees under this Agreement shall be calculated according to the rates in effect at the time of issuance of the building permits for the Project.
 - b. **Interest.** Interest shall accrue from the date of issuance of a certificate of occupancy for the Project at a rate of two percent (2.00%) per annum on any outstanding Deferred Fees balance during the deferral period.
3. **Payments.** Starting on the first day of the eleventh year after the Effective Date of this Agreement (i.e. the 121st month) (the "Payment Start Date"), Developer shall make monthly payments, due on the first day of each month, for the remaining term of this Agreement until the Deferred Fees, and any accumulated interest and penalties on the Deferred Fees have been paid in full. All interest that has accrued prior to the Payment Start Date shall be paid in equal monthly installments over the repayment term (i.e. 240 equal installments) and no further interest shall accrue on said accrued interest amount; provided, however, that interest shall continue to accrue on any unpaid Deferred Fees.
 - a. **Amount of Monthly Payment.** The amount of each monthly payment will be identified in the Schedule of Payments, which will be attached hereto as Exhibit "C" and incorporated herein by this reference when the final amount of the Deferred Fees is fixed. The schedule will identify the portion of the payment that will be applied to interest and to principal.
 - (i) **Remittance:** The required payments shall be made in immediately available funds, either certified check or wire transfer as follows:

To : Director of Finance, City of Chula City 276 Fourth Avenue, Chula Vista CA 91910.

- b. Late Payments. Late payments shall accrue interest at a rate of 5% per annum.
 - c. Returned Check Penalties. In the event that a payment is returned for insufficient funds or otherwise, the Developer shall pay the City any expenses it may occur as a result of the returned check. Interest, in accordance with section 2(b) shall also accrue on the outstanding monthly payment amount until such funds are remitted in full.
 - d. Prepayment. The Developer may prepay the outstanding balance in whole or in part, without incurring any penalty, and such payment will be deducted from the balance owed.
4. Acceleration of Payments. Developer shall pay the outstanding balance of the Deferred Fees, including any accrued interest and penalties, in full prior to any transfer, including sale or devise, of the Property and/or the Project and associated entitlements to any other party or entity, subject to the provisions of sections 11 and 14 herein; or following a written notice from the City that Developer has materially breached this Agreement, and such breach remains uncured for 21 days after delivery of notice.
 5. Note. Developer's obligation to pay the Deferred Fees shall be evidenced by a promissory note ("Note") executed by Developer in favor of the City, substantially in the form attached hereto as Exhibit "B." In the event of inconsistency between the terms of the Note and those of this Agreement, the terms of the Note shall control. Developer shall execute and deliver the Note to the City when the final amount of the Deferred Fees is fixed, and prior to the issuance of a certificate of occupancy for the Project.
 6. Deed of Trust. The Note representing the obligation to pay the Deferred Fees shall be secured by a deed of trust recorded with the County Recorder of the County of San Diego against the Property ("Trust Deed"). The Trust Deed shall be in substantially the form attached hereto as Exhibit "D".
 - a. Trust Deed Position. Except as expressly provided herein, the Trust Deed shall be first in priority to all other financial liens with respect to the Property and the Project.
 - b. Agreement to Subordinate. The City agrees to subordinate its lien position to financing for the construction of the Project, a takeout loan or refinancing of the same provided that such financing is provided by a lender reasonably approved by the City and the lender affords City reasonable mortgagee protection, as reasonably determined by the City.
 - c. Recordation. The Trust Deed shall be recorded prior to the issuance of a certificate of occupancy for the Project.

7. **Title Report and Insurance.** Developer shall provide the City a policy of title insurance securing its position in the amount of the Deferred Fees (“Title Policy”) in a form reasonably approved by the City.
8. **Recording.** In addition to the above-mentioned security obligations, the Developer shall record this Agreement or notice thereof with the County Recorder of the County of San Diego within thirty (30) days of its execution and the obligations hereunder shall be binding upon successors in interest until released in writing by the City or in accordance with any other provisions of this Agreement.
9. **Development of the Project.** This Agreement does not obligate Developer to develop the Project on the Property. If Developer provides notice to the City of its abandonment of the Project at any time prior to issuance of a certificate of occupancy, Developer shall have no obligations or liabilities under this Agreement, the Note and the Trust Deed, and each shall be deemed rescinded and reconveyed as appropriate; provided, however, if Developer or any successor thereto thereafter proceeds with development of the Project, the Deferred Fees therefor, recalculated at the time of filing written notice of intent to proceed, shall be due and payable as a condition of issuance of a certificate of occupancy.
10. **Waiver of Time to Apply for Deferral.** The requirements set forth in CVMC sections 3.56.030 (a), pertaining to the time to file an application with the Development Services Director for deferral of the Impact Fees, are hereby waived as permitted therein.
11. **Assignments and Transfers.** Developer may not assign or transfer all or any portion of its interest in the Property or Project, unless and until (a) Developer pays any and all outstanding amounts owed under the Note, or (b) City reasonably approves the proposed transferee(s), and such transferee(s) agrees in writing to assume Developer’s obligations hereunder. In determining whether to consent to an assignment or transfer of interest, the City may evaluate the financial position of the entity or individual to whom the transfer is proposed, the length of time such entity or individual has engaged in a similar business to the Developer, and such other reasonable factors which may affect such entity’s or individual’s ability to satisfy the terms and conditions under this Agreement. Developer agrees to cooperate with the City as reasonably necessary during the approval process, which shall be completed within 21 days after delivery of written consent by the proposed transferee(s) to assume Developer’s obligations under this Agreement (the “Review Period”). The City’s determination shall be final. The proposed transferee(s) of Developer’s interest in the Property or Project shall be deemed approved if the City does not approve or reject the transferee(s) prior to expiration of the Review Period.
12. **Community Facilities District.** The City anticipates the formation of a Community Facilities District (“CFD”) that will encompass the Property. In accordance with CVMC section 3.56.050, Developer will have the option to annex into the CFD if established. In accordance with CVMC section 3.56.040(A), Developer agrees that it shall not oppose or encourage others to oppose the formation of the CFD. The breach of this provision shall be considered a material breach and shall trigger the payment acceleration provision under Section 3.

13. **Status of Agreement upon Voluntary Annexation into CFD.** Provided Developer is current in its obligations to make monthly payments, if the Developer elects to annex into the CFD and if the annexation process is completed, Developer shall have no further obligations or liabilities under this Agreement, the Note (which shall be deemed satisfied in full), or the Trust Deed, and the trustee under the Trust Deed shall execute and record a deed of full reconveyance. In the event that Developer has outstanding payments at the time of annexation of the Property into the CFD, upon its payments of all outstanding amounts, including any penalties and interest, it shall be released from its obligations. Until such time, interest and penalties shall accrue on any outstanding amounts.
14. **Remedies.** In order to enforce Developer's obligations under the terms of this Agreement or the Note, the City shall be entitled to pursue any and all remedies provided at law or in equity, including, without limitation, any and all remedies provided under this Agreement, the Note and Trust Deed. Without limiting the generality of the foregoing, in the event of a default by Developer of its obligations hereunder, the City shall have the right to accelerate the debt owed under the Note and pursue collection of the Deferred Fees directly from Developer. All such remedies shall be cumulative and non-exclusive. Notwithstanding the foregoing and provided that Developer is current in its obligations under this Agreement, Developer shall have no further obligations or liabilities under this Agreement and the Note upon an assignment or transfer of the Project approved in writing by the City.
15. **Recitals and Exhibits.** Any recitals set forth above and exhibits attached hereto are incorporated by reference into this Agreement.
16. **Authority.** Each of the signatories to this Agreement warrants and represents that he or she is competent and authorized to enter this Agreement on behalf of the Party for whom he or she purports to sign.
17. **Notices.** Unless otherwise specifically permitted by this Agreement, all notices or other communications required or permitted under this Agreement shall be in writing, and shall be personally delivered; sent by registered or certified mail, postage prepaid, return receipt requested; or sent by facsimile, provided that the telecopy cover sheet contain a notation of the date and time of transmission, and shall be deemed received: (a) if personally delivered, upon the date of delivery to the address of the person to receive such notice, (b) if mailed in accordance with the provisions of this paragraph, two (2) business days after the date placed in the United States mail, (c) if mailed other than in accordance with the provisions of this paragraph or mailed from outside the United States, upon the date of delivery to the address of the person to receive such notice, or (d) if given by facsimile during business hours when delivery can be confirmed, when delivered. Notices shall be given at the following addresses:

If to City:

City of Chula Vista
276 Fourth Avenue
Chula Vista, CA 91910
Attn: Director of Development Services
Email: kbroughton@chulavistaca.gov

If to Developer:

Jim Pieri
Stone Creek Casitas, LLC
333 H Street
Chula Vista, CA 91910
Email: jim.pieri@mountainwest.com

With copies to:

Michael Sobkowiak, Esq.
Friedman Law Group, P.C.
1900 Avenue of the Stars, 11th Floor
Los Angeles, CA 90067
Email: msobkowiak@flg-law.com

City of Chula Vista
276 Fourth Avenue
Chula Vista, CA 91910
Attn: City Attorney

18. **Captions.** Captions in this Agreement are inserted for convenience of reference and do not define, describe or limit the scope or intent of this Agreement or any of its terms.
19. **Allocation of Legal Expenses.** Each Party shall bear its own costs relative to any costs or expenses incurred in compliance with, or in the drafting or negotiation of, and the approval process, of this Agreement.
20. **Entire Agreement.** This Agreement contains the entire agreement between the parties regarding the subject matter hereof. Any prior oral or written representations, agreements, understandings, and/or statements shall be of no force and effect and are intended to be replaced in total by this Agreement. Each Party warrants and represents that no representative of any other Party has made any oral representation or oral agreements not contained in this Agreement. Each party further warrants and represents that it has not relied upon any oral statements or promises made by any representatives of any other Party to this Agreement in executing this Agreement.
21. **Preparation of Agreement.** No inference, assumption or presumption shall be drawn from the fact that a party or its attorney prepared and/or drafted this Agreement. It shall be conclusively presumed that both parties participated equally in the preparation and/or drafting of this Agreement.
22. **Attorneys' Fees.** In any action or proceeding brought by either Party seeking to enforce the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and court costs in addition to any other costs, damages, or remedies.
23. **Governing Law.** This Agreement shall be subject to and governed by the laws of the State of California, without regard to conflict of law rules.
24. **Severability.** In the event that any provision of this Agreement is declared by any court of competent jurisdiction or any administrative judge to be void or otherwise invalid, all of the other terms, conditions and provisions of this Agreement shall remain in full force and effect to the same extent as if that part declared void or invalid had never been

incorporated in the Agreement and in such form, the remainder of the Agreement shall continue to be binding upon the Parties, provided that the provision stricken is not a material term or condition of this Agreement. In the event that the provision is material, the Parties agree to meet and confer to amend the Agreement such that its original purpose and intent can be fulfilled. If the Parties are unable to amend the Agreement, then payment of the outstanding balance of the Deferred Fees shall be accelerated in the manner identified in Section 4 of this Agreement.

25. **Counterparts.** This Agreement may be signed and executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one Agreement. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or email shall be effective as delivery of an originally executed counterpart of this Agreement.
26. **Time of the Essence.** Time is of the essence in the performances of the Parties' obligations contained herein.
27. **Waiver.** A failure of a Party to enforce strictly a provision of this Agreement shall in no event be considered a waiver of any party of such provision. No waiver by a Party of any breach or default by the other Party shall operate as a waiver of any succeeding breach or other default or breach by such other Party. No waiver shall have any effect unless it is specific, irrevocable and in writing.
28. **Further Acts.** In addition to the acts recited in this Agreement, the Parties agree to perform, or cause to be performed on the date of this Agreement, or thereafter, any and all such further acts as may be reasonably necessary to consummate the transactions contemplated hereby. Each of the Parties agrees that it will execute and deliver all such documents and instruments as may be necessary and appropriate to effectuate the terms of this Agreement.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, this Agreement for Deferral of Development Impact Fees has been executed by the Parties as of the last date set forth below.

Dated: _____

STONE CREEK CASITAS, LLC, a California limited liability company

By: Chrismatt Corporation, a California corporation, its Managing Member

By: _____

Name: James V. Pieri

Title: President

Dated: _____

CITY OF CHULA VISTA,
a chartered municipal corporation

By: _____

Name: _____

Title: _____

Approved as to Form:

Glen R. Googins, City Attorney

EXHIBIT A – Depiction and Description of Property

LEGAL DESCRIPTION

Real property in the City of Chula Vista, County of San Diego, State of California, described as follows:

PARCEL 1:

THE NORTHERLY 660.00 FEET OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 18 SOUTH, RANGE 2 WEST, SAN BERNARDINO BASE AND MERIDIAN IN THE COUNTY OF SAN DIEGO, ACCORDING TO THE UNITED STATES GOVERNMENT SURVEY, APPROVED FEBRUARY 25, 1870.

EXCEPTING THEREFROM THE WESTERLY 958.00 FEET.

ALSO EXCEPTING THEREFROM THE EASTERLY 20.00 FEET.

AND ALSO EXCEPTING THEREFROM THAT PORTION LYING WITHIN THE EASTERLY 120.00 FEET OF THE WESTERLY 1078.00 FEET OF THE NORTHERLY 330.00 FEET OF SAID SOUTHEAST QUARTER OF THE NORTHEAST QUARTER.

AND ALSO EXCEPTING THEREFROM THAT PORTION OF THE SOUTHERLY 5.00 FEET OF THE NORTHERLY 30.00 FEET OF SAID SOUTHEAST QUARTER OF THE NORTHEAST QUARTER LYING EASTERLY OF THE EASTERLY LINE OF THE WESTERLY 1083.00 FEET OF SAID SOUTHEAST QUARTER OF THE NORTHEAST QUARTER.

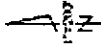
ALSO EXCEPTING THEREFROM THAT PORTION OF SAID PROPERTY DESCRIBED AS "PARCEL NO. 57-0178-B" IN A FINAL ORDER OF CONDEMNATION RECORDED MAY 09, 1977 AS INSTRUMENT NO. 77-175526 OF OFFICIAL RECORDS.

PARCEL 2:

AN EASEMENT FOR ROAD AND PUBLIC UTILITY PURPOSES, OVER, UNDER ALONG AND ACROSS THE EASTERLY 20.00 FEET OF THE NORTH HALF OF THE EAST HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 18 SOUTH, RANGE 2 WEST, SAN BERNARDINO BASE AND MERIDIAN, ACCORDING TO UNITED STATES GOVERNMENT SURVEY, EXCEPTING THEREFROM THE NORTHERLY 30.00 FEET OF SAID EASTERLY 20.00 FEET.

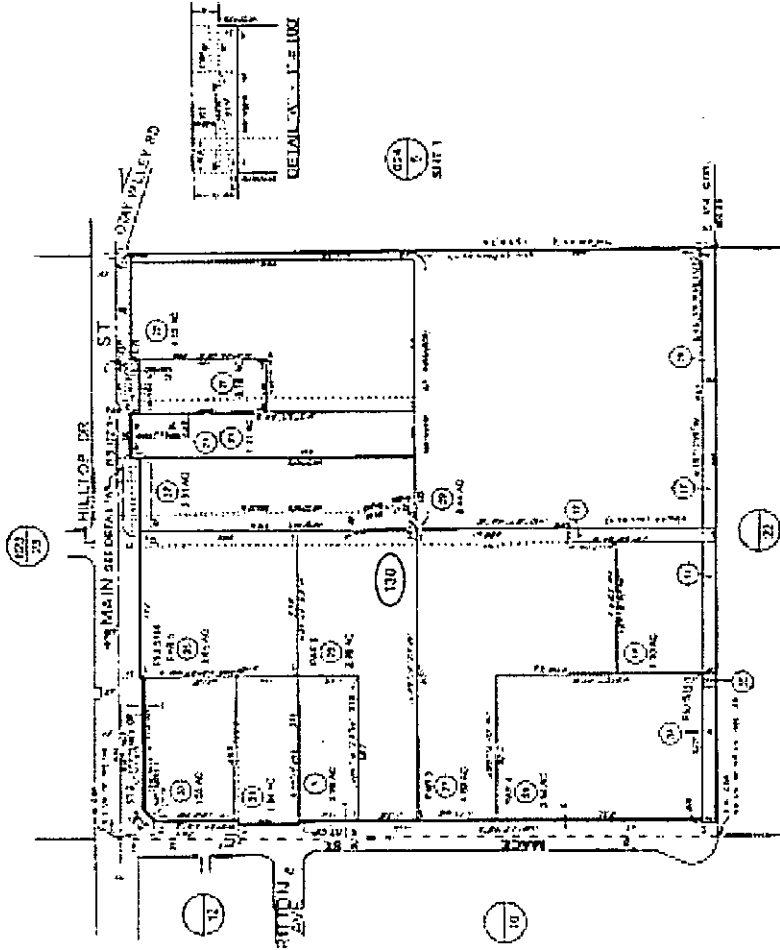
APN: 629-130-22-00

R20 - 13



14100011 ADD

CHANGES		DATE	BY	REASON
1	ADD	10/10/84
2	ADD	10/10/84
3	ADD	10/10/84
4	ADD	10/10/84
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47	ADD	10/10/84
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49	ADD	10/10/84
50	ADD	10/10/84



THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY. NO WARRANTY IS MADE FOR THE ACCURACY OF THE DATA SHOWN. ASSASSORS & PARCELS MAY NOT CORRELATE EXACTLY WITH LOCAL, STATE, FEDERAL OR NATIONAL COORDINATES.



REC 23 - T 185 - R20 - FOR RE 14
 NOS 8317, 8010, 8199, 10110, 10344, 18728

EXHIBIT B – Note

PROMISSORY NOTE SECURED BY DEED OF TRUST

The undersigned, Stone Creek Casitas, LLC, a California limited liability company (“Borrower”), promises to pay to the City of Chula Vista, a chartered municipal corporation, (“Lender”), the principal sum of _____ (\$ _____), together with interest on the unpaid principal balance at an annual rate of two percent (2%), with all principal and interest due and payable on _____, 2045 (the “Maturity Date”).

This promissory note (“Note”) shall be subject to the following additional provisions:

1. Payment Schedule: Payments hereunder shall consist of principal and interest, fully amortized over twenty (20) years (the “Repayment Term”), payable in installments of _____ (\$ _____), each month commencing on _____, 2025 (the “Payment Start Date”), and continuing thereafter on the same day of each month until the Maturity Date, when all unpaid accrued interest and principal shall be payable. All interest that has accrued prior to the Payment Start Date shall be paid in equal monthly installments over the Repayment Term (i.e., 240 equal installments) and no further interest shall accrue on said accrued interest amount; provided, however, that interest shall continue to accrue on any unpaid portion of the principal.

Security. This Note is secured by a Deed of Trust of even date herewith, made by Borrower, as trustor, for the benefit of Lender, as beneficiary (the “Deed of Trust”), covering certain real property, as therein described.

2. Prepayment. This Note may be prepaid, at any time, in whole or in part, without premium or penalty, as long as any principal prepayment is accompanied by a payment of interest accrued to the date of prepayment on the amount prepaid.
3. Application of Payments. Each payment under this Note shall be credited as set forth in the payment schedule attached hereto as Exhibit “A.”
4. Default. The occurrence of any of the following events shall constitute an “Event of Default” hereunder: (a) Borrower’s failure to pay any sum due under this Note when it becomes due and payable, (b) the occurrence of a default under the Deed of Trust, or (c) any breach of any other promise or obligation in this Note or in any other instrument now or after this date securing the indebtedness evidenced in this Note. During an Event of Default, and after written notice has been given therefor, Lender may, at its option, declare this Note (including, without limitation, all accrued interest) to be immediately due and payable, regardless of the Maturity Date.
5. Costs of Collection. If this Note is not paid when due, whether on the Maturity Date or on acceleration of this Note, Borrower promises to pay all collection costs, including, but not limited to, attorney fees and court costs, whether or not suit is filed on this Note.

6. Waiver of Presentment. Borrower and all persons liable or to become liable on this Note waive presentment, protest, and demand; notice of protest, demand, and dishonor; and any and all other notices or matters of a like nature.
7. Default Rate of Interest. During an Event of Default, the entire unpaid principal balance shall automatically bear interest at an annual rate equal to the lesser of (a) five percent (5%) or (b) the maximum interest rate allowed by law.
8. Governing Law. This Note shall be governed by and construed in accordance with the laws of the State of California.
9. Usury. All agreements between Borrower and Lender are expressly limited, so that in no event or contingency, whether because of the advancement of the proceeds of this Note, acceleration of maturity of the unpaid principal balance, or otherwise, shall the amount paid or agreed to be paid to Lender for the use, forbearance, or retention of the money to be advanced under this Note exceed the highest lawful rate permissible under applicable usury laws. If, under any circumstances, fulfillment of any provision of this Note or the Deed of Trust securing this Note or any other agreement pertaining to this Note, after timely performance of such provision is due, shall involve exceeding the limit of validity prescribed by law that a court of competent jurisdiction deems applicable, then, ipso facto, the obligations to be fulfilled shall be reduced to the limit of such validity. If under any circumstances, Lender shall ever receive as interest an amount that exceeds the highest lawful rate, the amount that would be excessive interest shall be applied to reduce the unpaid principal balance under this Note and not to pay interest, or, if such excessive interest exceeds the unpaid principal balance under this Note, such excess shall be refunded to Borrower. This provision shall control every other provision of all agreements between Borrower and Lender.
10. Time Is of the Essence. Time is of the essence with respect to all obligations of Borrower under this Note.

IN WITNESS WHEREOF, Borrower has executed this Promissory Note Secured by Deed of Trust as of the date first written above.

Date: _____

Borrower:

STONE CREEK CASITAS, LLC, a California
limited liability company

By: Chrismatt Corporation, a California
corporation, its Managing Member

By: _____

Name: James V. Pieri

Title: President

EXHIBIT C – Payment Schedule

[To be inserted when the final Deferred Fees amount is established]

EXHIBIT D – Trust Deed

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL DOCUMENT
AND TAX STATEMENT TO:

NAME:

STREET
ADDRESS:

CITY, STATE &
ZIP CODE:

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

APN: 629-130-22-00

DEED OF TRUST

This Deed of Trust is made as of _____, 2015, between Stone Creek Casitas, LLC, a California limited liability company, herein called "Trustor," whose address is 303 H Street, Suite 103, Chula Vista, CA 91910, _____, herein called "Trustee," and the City of Chula Vista, a chartered municipal corporation, herein called "Beneficiary."

TRUSTOR IRREVOCABLY GRANTS, TRANSFERS, AND ASSIGNS TO TRUSTEE IN TRUST, WITH POWER OF SALE, that certain real property in San Diego County, California (the "Property") having assessor's parcel number 629-130-22-00, and more particularly described in Exhibit "A" attached hereto and by this reference incorporated herein.

THIS DEED OF TRUST IS MADE FOR THE PURPOSE OF SECURING:

- A. Performance of each obligation, covenant and agreement of Trustor herein contained; and
- B. Payment of the indebtedness evidenced by one promissory note of even date herewith, and any extension and renewal thereof, in the principal sum of _____ (\$ _____) executed by Trustor as "Borrower," in favor of Beneficiary or order.

TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR AGREES:

1. To keep the Property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefor; to comply with all laws affecting the Property or requiring any alterations or improvements to be made thereon; not to commit or permit waste thereof; not to commit, suffer or permit any act upon the Property in violation of

law; to cultivate, irrigate, fertilize, fumigate, prune and do all other acts which from the character or use of the Property may be reasonably necessary, the specific enumerations herein not excluding the general.

2. To provide, maintain and deliver to Beneficiary fire insurance satisfactory to and with loss payable to Beneficiary. The amount collected under any fire or other insurance policy may be applied by Beneficiary upon any indebtedness secured hereby and in such order as Beneficiary may determine, or at option of Beneficiary the entire amount so collected or any part thereof may be released to Trustor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

3. To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary to foreclose this Deed.

4. To pay: at least ten days before delinquency all taxes and assessments affecting the property, including assessments on appurtenant water stock; when due, all encumbrances, charges and liens, with interest, on the property or any part thereof, which appear to be prior or superior hereto; all costs, fees and expenses of this Trust.

Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do, without notice to or demand upon Trustor, and without releasing Trustor from any obligation hereof, may: make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon the property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, pay necessary expenses, employ counsel and pay such reasonable fees.

5. To pay immediately and without demand all sums so expended by Beneficiary or Trustee, with interest from date of expenditure at the amount allowed by law in effect at the date hereof, and to pay for any statement provided for by law in effect at the date hereof regarding the obligation secured hereby any amount demanded by the Beneficiary not to exceed the maximum allowed by law at the time when said statement is demanded.

6. That any award of damages in connection with any condemnation for public use of or injury to the property or any part thereof is hereby assigned and shall be paid to Beneficiary who may apply or release such monies received by it in the same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance.

7. That by accepting payment of any sum secured hereby after its due date, Beneficiary does not waive its right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

8. That at any time or from time to time, without liability therefor and without notice, upon written request of Beneficiary and presentation of this Deed and said note for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, Trustee may: reconvey any part of the property; consent to the making of any map or plat thereof; join in granting any easement thereon; or join in any extension agreement or any agreement subordinating the lien or charge hereof.

9. That upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed and said note to Trustee for cancellation and retention and upon payment of its fees, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto." Five years after issuance of such full reconveyance, Trustee may destroy said note and this Deed (unless directed in such request to retain them).

10. That upon default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale and of written notice of default and of election to cause the Property to be sold, which notice Trustee shall cause to be filed for record. Beneficiary also shall deposit with Trustee this Deed, said note and all documents evidencing expenditures secured hereby.

After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell the Property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of the Property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to such purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee, or Beneficiary as hereinafter defined, may purchase at such sale.

After deducting all costs, fees and expenses of Trustee and of this Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale to payment of: all sums expended under the terms hereof, not then repaid, with accrued interest at the amount allowed by law in effect at the date hereof; all other sums then secured hereby; and the remainder, if any, to the person or persons legally entitled thereto.

11. Beneficiary, or any successor in ownership of any indebtedness secured hereby, may from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument, executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where said

property is situated, shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its title, estate, rights, powers and duties. Said instrument must contain the name of the original Trustor, Trustee and Beneficiary hereunder, the book and page where this Deed is recorded and the name and address of the new Trustee.

12. That this Deed applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Beneficiary shall mean the owner and holder, including pledgees, of the note secured hereby, whether or not named as Beneficiary herein.

13. That Trustee accepts this Trust when this Deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party unless brought by Trustee.

14. This Deed of Trust shall be governed by and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, Trustor has caused this Deed of Trust to be executed as of the day and year first written above.

“TRUSTOR”

STONE CREEK CASITAS, LLC,
a California limited liability company

By: Chrismatt Corporation, a California
corporation, its Managing Member

By: _____
Name: James V. Pieri
Title: President

STATE OF CALIFORNIA)

COUNTY OF _____)

On _____, before me, _____, a 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)