

RESOLUTION NO. 2024-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMECULA APPROVING AGREEMENT PURSUANT TO GOVERNMENT CODE SECTION 66462.5 BETWEEN SB ALTAIR, LLC, AND BROOKFIELD TEMECULA, LLC AND CITY OF TEMECULA FOR ACQUISITION OF CERTAIN PROPERTY INTERESTS (VINCENT MORAGA IMPROVEMENTS)

THE CITY COUNCIL OF THE CITY OF TEMECULA DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Findings.

A. The City of Temecula (the “City”) is a municipal corporation, located in the County of Riverside, State of California.

B. On December 12, 2017, after a duly noticed public hearing, the City Council introduced Ordinance No. 18-02 and on January 9, 2018 adopted Ordinance No. 18-02 approving the Altair Specific Plan #15 and authorizing the execution of that certain Development Agreement between the City and Temecula West Village, LLC recorded on January 30, 2018 as Document No. 2008-0036259 in the Official Records of the County of Riverside. (“Development Agreement”). The approval of the development plans relating to the Altair Specific Plan and Development Agreement authorized development on approximately 270 acres generally located south and west of the intersection of Ridge Park Drive and Vincent Moraga; west of Pujol Street and Murrieta Creek and North of Santa Margarita River (collectively “Development Approvals” or “Altair Project”) identified as Riverside County Tax Assessor’s Parcel Numbers 922-210-049, 940-310-013, 940-310-015, 940-310-016, 940-310-044 through 9440-310-048, and 940-320-001 through 940-320-007.

C. On December 12, 2017, after a duly noticed public hearing and pursuant to the California Environmental Quality Act (“CEQA”), the City Council adopted Resolution No. 17-86 certifying the Altair Specific Plan EIR for the Development Agreement, and approving a Statement of Overriding Considerations and a Mitigation Monitoring Report for the Development Approvals

D. SB Altair, LLC, a Delaware limited liability company and Brookfield Temecula, LLC, a Delaware limited liability company (collectively, the “Developer”) are the successors to the interests of Temecula West Village, LLC in connection with the Development Agreement (“Altair Project”) on that certain real property owned by the Developer and described more particularly in ATTACHMENT 1 to the Development Agreement (“Developer Property”).

E. The Development Approvals included the improvement of the Developer Property in accordance with the Altair Specific Plan #15 and the Development Agreement, including, without limitation, grading, the construction of infrastructure and public facilities related to certain Off-Site Improvements and On-Site Improvements as defined in sections 1.44

and 1.45 of the Development Agreement, and the construction of structures and buildings and installation of landscaping.

F. To facilitate the orderly development of the Altair Project, the Development Agreement was approved subject to certain conditions set forth on the Final Conditions of Approval, approved by City Council at the January 9, 2018 meeting. Specifically, Conditions 171, 172, 204 through 207, 211, and 212 of the Final Conditions of Approval contained a specific condition requiring Developer to construct certain off-site public improvements in connection with the Rancho California Road and Vincent Moraga Improvements (Project Numbers: LD23-2175) (“Vincent Moraga Improvements”).

G. Construction of the Vincent Moraga Improvements involves the acquisition of certain real property interests from nine parcels that are neither owned by the Developer or the City (hereby referenced as “Off-site Property Interests”) described in the Exhibits to the attached Agreement Pursuant to Government Code Section 66462.5 Between SB Altair, LLC and Brookfield Temecula, LLC and the City of Temecula for Acquisition of Certain Property Interests (Vincent Moraga Road Improvements) (“Agreement”). The Off-site Property Interests include certain temporary construction easements, permanent easements, and right of way dedications in connection with the Vincent Moraga Improvements.

H. Pursuant to California Government Code Section 66462.5, when a condition of a subdivision map approval or a development agreement requires the installation or construction of improvements on off-site property not owned or controlled by a developer, and title cannot be obtained by negotiated purchase, a city is required to commence proceedings to acquire off-site property by eminent domain or such off-site improvement conditions will be waived. Pursuant to Government Code Section 66462.5(c), a city and a developer may enter into an agreement to allocate the costs and responsibilities for acquisition of such off-site property. The City and the Developer negotiated the terms of the attached Agreement pursuant to Government Code Section 66462.5.

I. Code of Civil Procedure, Section 1240.010 provides that “[t]he power of eminent domain may be exercised to acquire property only for a public use. Where the Legislature provides by statute that a use, purpose, object, or function is one for which the power of eminent domain may be exercised, such action is deemed to be a declaration by the Legislature that such use, purpose, object, or function is a public use.” Government Code Section 66462.5(c) authorizes a city and a developer of a project, for which the construction of offsite improvements are required, to enter into an agreement requiring the developer to complete the improvements pursuant to Government Code Section 66462 at such time as the city acquires an interest in the land that will permit such improvements to be constructed. Government Code Section 66462.5(a) provides that a city or county may “acquire by negotiation or commence eminent domain proceedings pursuant to Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure to acquire an interest in the land which will permit the improvements to be made, including proceedings for immediate possession of the property under Article (commencing with Section 1255.410) of Chapter 6 of that title.”

J. Under the Agreement, the City will follow the pre-acquisition steps for acquisition of the Off-site Property Interests. The Agreement provides that the City has exclusive

control of the acquisition of the Off-site Property Interests, and the sole and exclusive discretion to adopt a resolution of necessity to authorize the acquisition of said property interests by eminent domain. The Agreement also provides that the City and the Developer will cooperate with each other in connection with the acquisition process and keep each other fully advised of the progress of the acquisition of the Off-site Property Interests. It provides that the Developer is solely responsible for all costs relating to the acquisition of the Off-site Property Interests. It provides that the Developer will deposit \$80,000 with the City. The City will deposit said sum in a Separate Fund that will be used towards the acquisition costs. The Developer is required to maintain the balance in the Separate Fund at \$20,000. It also provides that if the Developer independently acquires any of the Off-site Property Interests by negotiated purchase after an eminent domain proceeding is filed by the City, the Developer will immediately notify the City. In such case, the City will take steps to abandon all or any unnecessary part of the proceeding. Developer is responsible for any and all costs relating to any such abandonment, including all costs, expenses, and/or damages related thereto, including but not limited to condemnee's recoverable costs and/or recoverable attorneys' fees under Code of Civil Procedure Section 1268.610 et seq.

Section 2. **Approval of Agreement.** The City hereby approves that Government Code Section 66462.5 Agreement Between SB Altair, LLC and Brookfield Temecula, LLC and the City of Temecula for Acquisition of Certain Property Interests (Vincent Moraga Road Improvements).

Section 3. **City Manager Authority.** The City Manager is authorized to execute the Agreement in substantially the form attached hereto to take necessary steps to effectuate the purposes of the Agreement.

Section 4. **Certification.** The City Clerk shall certify the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Temecula this 13th day of February, 2024.

James Stewart, Mayor

ATTEST:

Randi Johl, City Clerk

[SEAL]

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss
CITY OF TEMECULA)

I, Randi Johl, City Clerk of the City of Temecula, do hereby certify that the foregoing Resolution No. 2024- was duly and regularly adopted by the City Council of the City of Temecula at a meeting thereof held on the 13th day of February, 2024, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

Randi Johl, City Clerk