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**SEVENTH AMENDMENT TO THE  
DEVELOPMENT AND  
PRE-ANNEXATION AGREEMENT  
FOR  
GATEWAY VALLEY  
BETWEEN  
CITY OF ORINDA  
AND  
OG PROPERTY OWNER, LLC**

Effective Date: July 22, 2016

**SEVENTH AMENDMENT TO THE DEVELOPMENT AND  
PRE-ANNEXATION AGREEMENT FOR GATEWAY VALLEY BETWEEN  
CITY OF ORINDA AND OG PROPERTY OWNER, LLC**

THIS SEVENTH AMENDMENT TO THE DEVELOPMENT AND PRE-ANNEXATION AGREEMENT FOR GATEWAY VALLEY BETWEEN CITY OF ORINDA AND OG PROPERTY OWNER, LLC ("Seventh Amendment") is entered into as of this 22 day of July, 2016 by and between the CITY OF ORINDA, a municipal corporation of the State of California ("City"), and OG Property Owner, LLC, a Delaware limited liability company ("OGLLC"), as successor-in-interest to Orinda Gateway, LLC. These entities are collectively referred to below as "Parties."

**RECITALS:**

This Seventh Amendment is entered into upon the basis of the following facts, understandings and intentions of the Parties:

- A. The City Council of the City of Orinda, pursuant to Government Code Sections 65864 through 65869.5 and City Council Resolution No. 19-90 ("Development Agreement Legislation"), enacted Ordinance No. 94-27, adopting the 1994 Development Agreement and Pre-Annexation Agreement, on November 15, 1994; enacted Ordinance No. 99-02, approving the First Amendment to the Development and Pre-Annexation Agreement, on April 20, 1999; enacted Ordinance No. 05-02, effective April 16, 2005, approving the Second Amendment and Restatement of the Development and Pre-Annexation Agreement for Gateway Valley between the City of Orinda and Orinda Gateway, LLC ("Restated Development Agreement") and related Conditions of Approval for development of the Montanera Project; enacted Ordinance No. 06-05 on October 17, 2006, effective immediately, approving the Third Amendment to the Restated Development Agreement for development of the Montanera Project; enacted Ordinance No. 07-01, effective March 8, 2007, approving the Fourth Amendment to the Restated Development Agreement for development of the Montanera Project; enacted Ordinance No. 10-01, effective May 13, 2010, approving the Fifth Amendment to the Restated Development Agreement for development of the Montanera Project, and enacted Ordinance No. 13-01, effective June 6, 2013, approving the Sixth Amendment to the Restated Development Agreement for development of the Montanera Project (renamed "Wilder Project") (collectively, "Restated Development Agreement").
- B. On June 17, 2008 and November 17, 2014, respectively, the City Manager of the City of Orinda, pursuant to Sections 11.1 and 11.2 of the Restated Development Agreement executed minor amendments to the Restated Development Agreement ("Administrative Changes").

- C. The Restated Development Agreement and the Administrative Changes are collectively referred to below as the "Development Agreement" or the "Agreement."
- D. The City and OGLLC desire to do the following: (1) clarify and streamline the process for reviewing and acting on applications for design review approval of new homes on finished lots, (2) amend and specify the timing for OGLLC to install landscaping in the transition areas within the Wilder Project, (3) amend and specify the timing for OGLLC to provide an estimate and submit payment to the City of the City-approved cost to design and construct the Edgewood Parking Area, (4) establish the time for OGLLC to complete the trails in the Preserve Areas, (5) amend provisions related to the Art & Garden Center, including relocating the facility to Wilder Park and specifying both the Art & Garden Center components and OGLLC's obligation to pay all design and construction costs, (6) provide for the development of a trailhead respite area at the former Art & Garden Center site, (7) permit OGLLC to place soil generated from grading residential lots on a portion of the current Art & Garden Center site, (8) provide for the installation of artificial turf on Playfield 4 and the allocation of cost as between the City and OGLLC, and (9) permit construction of second units on lots within the Wilder Project.
- E. On April 21, 2016, the Planning Commission considered this Seventh Amendment after duly noticed public hearing and recommended that the City Council approve this Seventh Amendment.
- F. On May 17, 2016, the City of Orinda City Council adopted an Addendum to the Gateway Valley 2005 Supplemental Environmental Impact Report in accordance with Section 15164 of the CEQA Guidelines.
- G. The City of Orinda City Council, after duly noticed public hearings on May 17, 2016, and June 21, 2016, adopted this Seventh Amendment by Ordinance No. 16-04.

NOW THEREFORE, pursuant to Section 11.1 of the Development Agreement, the Parties hereto agree to the following:

1. Defined Terms. All terms used herein shall have the meanings given in the Development Agreement except as expressly otherwise provided herein.
2. Enumeration of Specific Amendments. The Development Agreement is hereby revised to incorporate the following amendments, consistent with the requirements of Section 11.1 of the Development Agreement. **In all of the following sections, where the amendment revises text, double underline text indicates new text; ~~strikeout text~~ indicates a deletion.**

2.1 Design Review for New Homes on Finished, Subdivided Lots. In order to streamline the design review approval process for the development of new homes, the Parties hereby agree that, notwithstanding anything to the contrary in the Development Agreement or the Project Approvals, as of the Effective Date of this Seventh Amendment, the document entitled “Wilder Residential Development Standards and Design Review Process” (Attachment 1 to this Seventh Amendment) shall exclusively govern the design, the development, and the process for the review of plans for new homes on finished, subdivided lots within the Wilder Project. The Parties intend that Attachment 1 replace and supersede all provisions of the following documents that apply to development of new homes: (1) the Appendices of the Development Agreement, (2) the Development Agreement Conditions of Approval set forth in Ordinance 05-02, (3) the Final Development Plan and Vesting Tentative Map and related Conditions of Approval set forth in Planning Commission Statement of Final Action dated November 29, 2005, and (4) the Master Landscape Plan for the Wilder Project, approved by the Planning Commission on February 10, 2015. Except as specifically referenced in Attachment 1, Orinda Municipal Code section 17.30 (Design Review) does not apply to design review for new homes in the Wilder Project.

For ease of administration, the Parties agree that Attachment 1, the Wilder Residential Development Standards and Design Review Process, in its entirety, shall be incorporated into a stand-alone document to be referred to as the “Wilder Design Review Handbook.” In addition to Attachment 1, the Wilder Design Review Handbook shall include the Wilder Architectural Design Guidelines. The Wilder Design Review Handbook shall be prepared by OG LLC, and submitted to the Planning Director and City Attorney for review and approval as to form and content consistent with the terms of this Seventh Amendment. Such approval by the Planning Director and City Attorney shall not be unreasonably withheld or delayed. After approval by the City Planning Director and City Attorney, the Wilder Design Review Handbook shall not be amended without the prior written approval of OG LLC, the Planning Director and the City Attorney. Any changes to the Wilder Design Review Handbook must either be consistent with this Agreement, as

amended by this Seventh Amendment, or the City Council must approve the change as an amendment to the Agreement.

All design review applications submitted on or after the Effective Date of this Seventh Amendment shall comply with the Wilder Residential Development Standards and Design Review Process.

The Wilder Design Review Committee shall consist of four members (a representative of OGLLC, a civil engineer, a landscape architect, and an architect) who OGLLC will select in its reasonable discretion and who OGLLC may replace as necessary. The Wilder Design Review Committee and the City shall review applications for design review approval in accordance with the Design Review Application Process set forth in Attachment 1 to determine if the plans are consistent with the Wilder Residential Development Standards. The Wilder Design Review Committee, in its sole discretion, shall also determine if the plans are consistent with the Wilder Architectural Design Guidelines.

OGLLC and the City agree that as of the date that OGLLC no longer owns fee title to any residential lots in Wilder (the "Turn Over Date"), OGLLC shall no longer have the rights or obligations of the Wilder Design Review Committee, and at that time, the City shall exclusively administer the design review process as described in the Wilder Design Review Handbook for any remaining new home construction in Wilder. OGLLC shall notify the City in writing of the Turn Over Date.

2.2 Art & Garden Center. Notwithstanding anything to the contrary in the Development Agreement, including all Appendices and Project Approvals, the following applies exclusively to the design and construction of the Art & Garden Center on the area ) between Community Playfields 4 and 5 that formerly was designated as a "Passive Park." The location and conceptual site design for the Art & Garden Center shall be substantially consistent with Attachment 2. The Art & Garden Center shall be a public

facility, operated by the Orinda Parks and Recreation Department, with the following components:

- a single-story building of no more than 7,000 square feet, including:
  - an approximately 3,000 square foot multi-use space that can be divided into three separate spaces for clean art and that can also be used for public or private special events;
  - Wood floors in the three rooms (or other similar high quality, durable floor material subject to the approval of the Director of Parks & Recreation);
  - Approximately 1,100 square foot space for dirty art with polished concrete floor (or other similar high quality, durable floor material subject to the approval of the Director of Parks & Recreation);
  - Storage areas, entry way, and janitorial closet;
  - Sinks in four rooms (with the size, location and number (up to four) of sinks to be subject to the approval of the Director of Parks & Recreation);
  - Outdoor patio;
  - Climate-controlled building (heat and air conditioning); and
  - Commercial grade fixtures, finishes and equipment.
- garden areas to include both formal landscaped areas (near buildings) and less formal, native and demonstration gardens on terrace areas with irrigation, an amphitheater, hardscape and perimeter fencing.

The design and construction of the Art & Garden Center shall be environmentally friendly, and use energy efficient, recycled, and/or organic materials wherever possible. The design shall reflect the building's use for studio art classes and public use of the surrounding garden areas.

The Wilder City Council Subcommittee shall review and make recommendations on the Art & Garden Center plans prior to the City Council's approval of this Seventh Amendment.

The Art & Garden Center fixtures, equipment and finishes shall be preapproved by the Director of Parks & Recreation.

2.3 Trailhead Respite Area. Notwithstanding anything to the contrary in the Development Agreement, including all Appendices and Project Approvals, the following applies exclusively to the design and construction of a "Trailhead Respite Area" on a portion of the approximately 4.5- acre area that was formerly the site of the Art & Garden Center. The location and conceptual site design for the Trailhead Respite Area shall be substantially consistent with Attachment 3, and shall include:

- Picnic tables,
- ADA compliant bathroom
- Drinking fountain,
- Trailhead parking, including 19 spaces for automobiles and two (2) horse/equestrian trailer spaces parking, and
- Trees and native hydroseed grass areas.

The Trailhead Respite Area shall be a public facility owned and/or operated by (a) the City of Orinda or (b) East Bay Regional Park District ("EBRPD"). OGLLC shall complete the Trailhead Respite Area no later than the time that OGLLC transfers title to the Western Hills Open Space Area to the EBRPD.

2.4 Soil Disposal Area. OGLLC shall have the right to place soil, generated solely from grading activities within the Wilder site, on the area depicted on Attachment 4 ("Soil Disposal Area"), which was formerly the site of the Art & Garden Center. OGLLC may place no more than 88,000 cubic yards of soil in the Soil Disposal Area, consistent with the Exhibit for Grading at Picnic/Soils Disposal Area, prepared by P/A Design and dated March 31, 2016. OGLLC shall be fully responsible for (i) obtaining a grading permit for the Soil Disposal Area by no later than May 31, 2016 ("Grading Permit") and (ii) complying with all Grading Permit conditions, including providing an erosion control plan and a grading bond or other financial assurance acceptable to the City Engineer. OGLLC shall not allow the engineered placement of any soil in the Soil Disposal Area until after the City has issued the Grading Permit. OGLLC shall monitor the engineered placement of all soil in the Soil Disposal Area to ensure such soil placement is safe and appropriate and complies with the Grading Permit. OGLLC shall

retain ownership of the Soil Disposal Area until the soil disposal activities are complete, the City has inspected the soil placed in the Soil Disposal Area and determined that the Soil Disposal Area is stable, and the area has been appropriately hydroseeded to prevent erosion. At that time, OGLLC shall transfer title to the Soil Disposal Area to one of the following entities: (1) the City, to be accepted at the City's sole discretion, (2) EBRPD, (3) the Geologic Hazard Abatement District, or (4) other appropriate long-term owner. OGLLC's right to place soil at the Soil Disposal Area pursuant to the Grading Permit may not be transferred to a third party without first complying with Transfer provisions of Article 10 of the Development Agreement.

2.5 Development Agreement Section 3.6 is amended as follows:

Review and Processing of City Approvals. The City shall, upon payment by Orinda Gateway, LLC of applicable City Application Fees, accept for processing, review and action, all applications for City Approvals with respect to the Project. All such applications shall be reviewed and processed to completion in accordance with the Permit Streamlining Act (Government Code section 65920, et seq.), in good faith, and in a prompt, diligent and timely manner. In connection with any City Approval, the City shall exercise its discretion, or otherwise take action, in a manner that complies and is consistent with this Agreement and the Project Approvals ~~the Conceptual Development Plan~~ and the City shall approve any application for a City Approval that so complies and is so consistent.

2.6 Development Agreement Section 4.4.3 (as amended by Section 2(f) of the Fifth Amendment) is hereby further amended as follows:

4.4.3 Additional Requirements With Respect To Community Facilities

(a) Community Playfields. Orinda Gateway, LLC shall design and construct the Community Playfields ~~and all related improvements and facilities that are depicted on Appendix B, Figure B.5 (the Conceptual Development Plan)~~, including artificial turf and lighting for the northernmost two sets of Community Playfields and Playfield 4. The City ~~shall make~~ made two payments to Orinda Gateway,



LLC, one in the amount of THREE HUNDRED AND FIFTY THOUSAND DOLLARS (\$350,000.00) toward the cost of installing the lighting and a second payment in the amount of ONE HUNDRED AND FIFTY THOUSAND DOLLARS (\$150,000.00) toward the cost of installing artificial turf for the now completed these two Community Playfields 1 and 2. The City shall make a payment to OGLLC of the amount of the cost differential in excess of ONE HUNDRED AND FIFTY THOUSAND DOLLARS (\$150,000.00) to install artificial turf, instead of a grass playing surface, on Playfield 4. The artificial turf shall be equivalent in design and quality to the artificial turf on Community Playfields 1 and 2. The City shall make this payment within 30 days of receipt of a reimbursement request from OGLLC documenting with sufficient detail the cost differential. OGLLC shall use commercially reasonable efforts to control the amount of the cost to install artificial turf on Playfield 4. OGLLC and the Director of Parks & Recreation shall meet and confer from time to time regarding the cost expended to date and the anticipated future cost to install artificial turf on Playfield 4.

(b) Art & Garden Center. Orinda Gateway, LLC shall design and construct, at no cost to the City, the Art & Garden Center and all related improvements and facilities that are identified in ~~the Conceptual Development Plan~~ Section 2.2 of this Seventh Amendment. City and OGLLC shall cooperate in good faith to keep the cost of the Art & Garden Center reasonable; ~~however, Orinda Gateway, LLC shall only be~~

~~responsible for: (i) the design and installation of all necessary infrastructure improvements and landscaping for the Art & Garden Center (including, but not limited to, site grading, roads, parking areas, utilities, and landscaping) actual hard costs not to exceed ONE HUNDRED THIRTY FIVE DOLLARS PER SQUARE FOOT (\$135.00/sf), subject to CPI; (ii) the design of the Art & Garden Center building, up to a maximum cost of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00), subject to CPI; and (iii) construction of the Art & Garden Center building, up to a maximum of 6,000 square feet, and the purchase and installation of fixtures, furniture and equipment for the Art & Garden Center, in an amount not to exceed ONE HUNDRED AND SEVENTEEN DOLLARS PER SQUARE FOOT (\$117.00/sf), subject to CPI, (which amount does not include the cost of designing and installing the infrastructure improvements and landscaping identified in subparagraph (i) of this paragraph. Orinda Gateway, LLC shall submit an application for design review of the Art & Garden Center no later than issuance of the first mass grading permit for the Project. OGLLC shall complete construction of the Art & Garden Center by no later than July 15, 2015.~~

(c) EVAs, Fire Roads, Trails And Trailheads.

(1) Orinda Gateway, LLC shall Dedicate a permanent public easement for public access over all trails, EVAs, paths and trailheads on OGLLC Lands that are identified on Figure A.1, the Conceptual Land Use Plan, and that are not otherwise Dedicated to the

City as part of the Community Playfields or the Art & Garden Center.

The City retains the discretion to accept such Dedications as set forth in Section 4.4.1.

(2) Obligation to Design and Construct. Orinda Gateway, LLC shall design and construct all trails, EVAs, paths and trailheads and all related improvements and facilities that are identified on Figure A.1, the Conceptual Land Use Plan. The standards of design and construction shall be those stated both in the Infrastructure and Utilities Plan, attached as Appendix D to this Agreement, and in the Development Standards and Criteria attached as Appendix B to this Agreement, as such trails, paths, trailheads and related improvements and facilities may be modified (including the location) from time to time by the Director of Parks & Recreation in consultation with the City Manager and City Attorney and any affected Long Term Land Owner without requiring modification of this Development Agreement. The trails located within any "Montanera Preserve Areas" (which shall now be referred to as the "Wilder Preserve Areas") shall be completed by OGLLC prior to the transfer of title to such Wilder Preserve Area to the applicable Long-Term Land Owner.

2.7 Adjusted Size of Community Playfields & Addition of Picnic Area. Development Agreement Appendix B § 2.B.1, ¶ 4 (as amended by the Fifth Amendment Section 2(b) is further amended as follows:

Community Playfields. In the approximate locations shown on Figures A.1 in Appendix A, and B.5, Community Playfields Detail, the following park and ancillary uses shall be developed on approximately 34 acres

(collectively, "Community Playfields") partially situated on the OGLLC Lands and partially on EBMUD Lands: (1) a total of 5 field areas, including: (a) one combination baseball/soccer field with a 300' radius baseball field and 360' x 220' soccer field (field of play dimensions of 360' x 200'), (b) one combination baseball/soccer field with a 300' radius baseball field and 320' x 210' soccer field (field of play dimensions of 300' x 180'), (c) one combination soccer/baseball field with a 280' radius baseball field and a 390' x 220' soccer field (field of play dimensions of 300' x 180'), (d) one separate 225-foot radius baseball diamond and (e) one separate 350' x 260' soccer field (field of play dimensions of 320' x 220'); (2) parking for up to 25077 cars, including 10 car spaces and 2 horse trailer spaces at the trailhead (which trailhead spaces may be relocated or removed in the future, at the City's discretion, in consultation with EBRPD), and six (6) car spaces at the mail kiosk adjacent to the Art & Garden Center; (3) public trails and trailheads ~~(10 trailhead spaces and 2 horse trailer spaces;~~ (4) the Maintenance Area described under "Use: Playfield Maintenance Yard;" (5) the Art & Garden Center as defined in Section 2.2 of this Seventh Amendment, approximately 2.2 acres of passive park area, including a grass/meadow area measuring a minimum 300' x 120'; (6) a small portion of the public entrance road; (7) other ancillary uses such as restrooms, snack shacks, picnic areas, tot lots (approximately 5,000 square feet in size, located to avoid any possible impacts from overhead power lines or hazards presented by foul balls from the baseball diamonds), landscaping, and storage sheds; and (8) creek restoration and mitigation work. In addition, as shown on the inset in Figure A.1, Appendix A, approximately 50 parking spaces may be replaced at the City's discretion with two public tennis courts and one playfield may be replaced with an Elementary School and an adjacent field (designated for school recreational purposes pursuant to a joint use agreement). See Appendix E. The two northernmost baseball/soccer combination fields shown on Figure B.5, and Playfield 4, shall include artificial turf (if approved by the SF Bay Regional Water Quality Control Board) and field lighting.

~~Picnic Area. OGLLC shall construct a picnic area as shown in Exhibit 1B attached hereto. This picnic area shall be completed no later than Playfields 1 and 2. [Completed.]~~

2.8 On-site Parking. Development Agreement Appendix B § 6.C. is hereby further amended as follows:

Trailhead Respite Area. The trailhead and horse trailer spaces for the Trailhead Respite Area shall be substantially similar to the number (19 car

spaces and 2 horse trailer spaces) and configuration shown on Attachment 43 of this Seventh Amendment.

Art & Garden Center. 50 parking spaces.

Playfield Maintenance Yard. 5 spaces, which may be shared with the Community Playfields.

Playfields and Art & Garden Center. Up to 25077 shared spaces (including up to 10 spaces at the trailhead and 2 horse trailer spaces, which may be relocated or removed in the future, at the City's discretion, in consultation with EBRPD and six (6) car spaces at the mail kiosk adjacent to the Art & Garden Center). Parking on the playfields themselves shall be prohibited. ~~If the playfields and trailhead parking are combined in the Final Development Plan, additional trailhead parking or shared parking arrangements shall be provided to accommodate horse trailers.~~ Fifty of these shared spaces may be replaced by the City in its sole discretion and at its sole cost, with two public tennis courts if the Planning Commission determines that the remaining parking spaces are adequate for the Community Playfields, Maintenance Area, School (if constructed per the First Amended OUSD Agreement to Provide School Services, Appendix E), and Art & Garden Center.

2.9 Timing of Delivery of Community Playfields and Art & Garden Center. March 2005 DA Condition of Approval No. 22, as previously amended by Section 2(a) of the Sixth Amendment, is hereby further amended as follows:

OGLLC shall submit plans and receive ~~City~~ Planning Commission approval of the Community Facilities and Public Improvements, as these terms are defined in the DA. Because the Community Facilities are being constructed by OGLLC for the benefit of the City and the public, the application(s) for the Community Facilities shall be considered a joint application of OGLLC and the City, and all City related application fees shall be waived. The Wilder City Council Subcommittee Parks and Recreation Commission shall review and make recommendations to the City Council ~~Planning Commission~~ regarding the plans for the community playfields, Art & Garden Center and the Trailhead Respite Area ~~trails and trailheads~~. The construction plans for the community playfields ~~shall be~~ were submitted to the City prior to issuance of a building permit for the

first home. Construction of the community playfields shall be completed as follows:

- Playfields 1 and 2: Completed, ~~the earlier of the issuance of the building permit for the 100th home or June 1, 2011. Notwithstanding the foregoing sentence, OGLLC shall make best efforts to achieve completion and delivery of Playfields 1 and 2 by April 1, 2011.~~
- Playfields 3 (including comfort station 2): Completed, ~~no later than June 27, 2013, subject to Permitted Delays and rain delays. Notwithstanding anything to the contrary in the Development Agreement or Final Development Plan, OGLLC shall construct comfort station 2 per the City approved plans dated January 14, 2013, which does not include the "snack shack" element. The City may, at its sole discretion, require OGLLC to include the "snack shack" element as part of comfort station 3.~~
- Playfields 4 and 5 and the Art & Garden Center ~~comfort station 3 and the nearby tot lot: the earlier of the issuance of the building permit for the 100th home or June 1, 2017~~8, subject to Permitted Delays. Additionally, prior to completion June 1, 2015, OGLLC may use Playfield 4 for the purpose of temporary soil storage so long as such use complies with all applicable laws and does not interfere with the City's full use and enjoyment of Community Playfields 1, 2, and/or 3 and 5 following their completion and does not delay completion of any Community Playfield.
- In order to be considered "complete" for purposes of the above deadlines, the turf grass playing surface on Playfield 3, 4 and 5 must have been in place for at least sixty (60) days.
- The Parties further agree that "Permitted Delays" for the purpose of this section includes "unusually severe weather" which means that such weather or its effects (including, without limitation, dry out time) result in delays that cumulatively exceed twenty (20) days for every winter

season (October 1<sup>st</sup> to April 15<sup>th</sup>) occurring after commencement of active construction of Playfields 4 and 5 or the Art & Garden Center.

- The City shall cooperate and expeditiously process applications for Playfields 4 and 5 and the Art & Garden Center. The City shall also assist OGLLC to secure Contra Costa County's expeditious review of OGLLC's permit applications. The Parties acknowledge that permitting delays by the City or County could result in delays in OGLLC's compliance under this Agreement. The Parties shall meet and confer regularly to ensure timely completion of these Community Facilities.

2.10 Appendix D. Section 1.E(12) of Appendix D to the Development Agreement is amended as follows:

12. Prior to transfer of fee title to the Moraga Creek Open Space Area to EBMUD~~issuance of a building permit for the first home~~, OGLLC shall: (i) submit to the Director of Parks & Recreation, for the Director's review and approval, an estimate of the cost to design and construct the Edgewood Parking Area ("Edgewood Parking Area Cost") and (ii) within 30 days of receipt of approval by the Director of Parks & Recreation of the Edgewood Parking Area Cost (which approval shall not be unreasonably withheld or delayed), submit payment to the City a good faith estimate of the full Edgewood Parking Area Cost to design and construct the Edgewood Parking Area ("Edgewood Parking Area Set Aside"). ~~The amount of the Edgewood Parking Area Set Aside shall be submitted by OGLLC to the Director of Park & Recreation for review and approval. Upon completion of construction of the Edgewood Parking Area, OGLLC shall be reimbursed the entire Edgewood Parking Area Set Aside. Upon payment to the City of the Edgewood Parking Area Cost under this Section: (i) OGLLC shall have no further obligation with respect to the Edgewood Parking Area, and (ii) the City shall have the right to use the Edgewood Parking Area Cost at its discretion.~~

2.11 Deletion of Certain Development Agreement Conditions of Approval. In light of the finding that each has been addressed in Attachment 1 of this Seventh Amendment, Development Agreement Conditions of Approval No. 17, No. 19, No. 31 and No. 34 are hereby deleted, each in its entirety. In addition, in light of the finding that the Development Agreement Conditions of Approval applicable to the design and construction of homes on finished lots have been incorporated as appropriate into Attachment 1 of this Seventh Amendment, the Parties agree that the Development Agreement Conditions of Approval shall not apply to the design and construction of homes on finished lots in Wilder.

2.12 Transition Landscaping. Development Agreement Condition of Approval No. 36 is hereby amended as follows:

On or before the times set forth below, OGLLC shall install trees and/or landscaping and a ~~temporary irrigation system~~ permanent irrigation system in the rear transition area along the rosewalks and other improved open space areas (“Transition Landscaping”), ~~after grading and prior to the construction of the adjacent homes,~~ to the extent that such installation does not conflict with proposed construction activities in the surrounding areas. For any location where a permanent irrigation system is required under the approved landscaping plans and cannot be installed at the time that Transition Landscaping is installed, OGLLC shall install a temporary irrigation system or other appropriate option to maximize survival in drought conditions. The Planning Director may approve an extension of the dates by which the Transition Landscaping shall be installed in the areas encompassed by the following Final Maps:

- Final Map 9222: September 30, 2016
- Final Map 9074: December 31, 2016
- Final Map 9224: July 31, 2017
- Final Map 9223: September 30, 2017

2.13 Deletion of Final Development Plan and Vesting Tentative Map Conditions of Approval. The Final Development Plan/Vesting Tentative Map Conditions applicable to the design and construction of homes on subdivided lots have been incorporated into Attachment 1 of this Seventh Amendment and, therefore, the Final Development Plan and Vesting Tentative Map Conditions of Approval shall no longer apply to the design and construction of homes on subdivided lots in Wilder.



2.14 Lot Development Tracking Tool. Table B.3 of Appendix B to the Development Agreement, entitled “Lot Database and FAR Analysis,” is hereby deleted and shall have no further force or effect. Section 6.2 of the Development Agreement is hereby amended to add the following requirement: “As part of the Annual Review submission, OGLLC shall submit a summary table identifying the current status of all 245 lots in Wilder, including, to the extent that the information is reasonably available to OGLLC, the following: (a) Lot Number (b) Lot Type (A-D), (c) current owner, (d) status of design review, (d) status of development, (e) if construction has commenced, the adjusted floor area of the home, (f) the use of any open space bonus, and (g) the use of any approved floor area transfer to/from the home.”

2.15 Annual Review. Pursuant to Section 6.2 of the Development Agreement, on February 19, 2016, OGLLC submitted a report setting forth OGLLC’s good faith compliance with the terms and conditions of the Development Agreement (“Annual Report”) for the period April 23, 2015 to March 15, 2016 (“Reporting Period”). On May 17, 2016, pursuant to Section 6.4 of the Development Agreement, the City hereby certifies that OGLLC is in good faith compliance with the terms of the Development Agreement as provided in Section 6.5 of the Development Agreement.

2.16 Second Units. A second unit may be constructed on a lot in the Wilder Project if the second unit complies with Orinda Municipal Code section 17.3.4 and if the second unit is not materially inconsistent or materially in conflict with the intent, purposes, terms, standards or conditions of this Agreement.

### 3. Interpretation.

- (a) The Development Agreement shall be construed as having been modified by this Seventh Amendment. Except as expressly modified by this Seventh Amendment, the Development Agreement remains in full force and effect.
- (b) In the case of conflict between the provisions of this Seventh Amendment and the terms of the Development Agreement, including the Final Development Plan or any other Project Approval related to the Wilder Project, the provisions of this Seventh Amendment shall control.

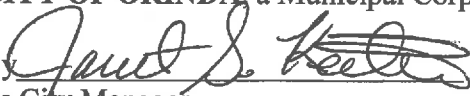
4. Effective Date: Recordation. The Effective Date of this Seventh Amendment shall be the later of the dates on which the City and OGLLC execute this Seventh Amendment, which shall then be recorded as provided in Section 2.1 of the Development Agreement.

IN WITNESS WHEREOF, the City and OGLLC have executed this Seventh Amendment pursuant to Section 11.1 of the Development Agreement to signify their commitment to be bound hereby as of the day and year first written above.

*Signatures to follow on next page*

**CITY:**

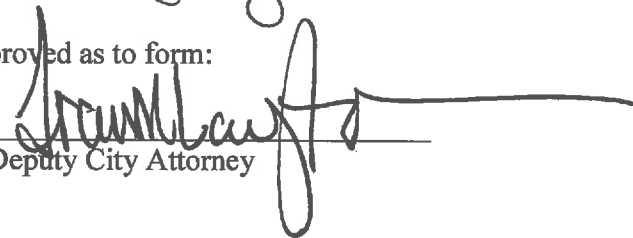
**CITY OF ORINDA**, a Municipal Corporation of the State of California

By   
Its City Manager  
*[signature must be notarized]*

Attest:

By   
Its Interim City Clerk

Approved as to form:

By   
Its Deputy City Attorney

[Remainder of Page Intentionally Left Blank. Signature Page to Follow]

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of Contra Costa )  
On July 22, 2016 before me, Tiffany Morlin, Notary Public  
*Date Here Insert Name and Title of the Officer*  
personally appeared Janet S. Keator  
*Name(s) of Signer(s)*

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 Tiffany Morlin  
*Signature of Notary Public*  
Tiffany Morlin

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: 7th Wilder Development Agreement Document Date: July 22, 2016  
Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_  
Signer Is Representing: \_\_\_\_\_

**OGLLC:**

**OG PROPERTY OWNER, LLC, a Delaware limited liability company**

By: Orinda Gateway Holdings, LLC,  
a Delaware limited liability company,  
its Sole Member

By: Orinda Gateway, LLC,  
a California limited liability company,  
its Sole Member

By: Brookside Land Company, LLC,  
a California limited liability company,  
its Administrative Member

By: *Scott Giddie*  
Name: *Scott Giddie*  
Title: *Member*  
*[signature must be notarized]*

Approved as to form:

Holland & Knight LLP  
Attorneys for OGLLC

By: *Tamsen Blume*  
Tamsen Blume

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Contra Costa

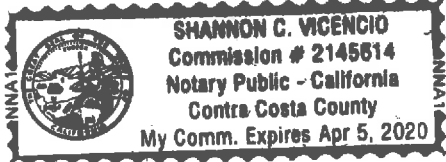
On July 16, 2016 before me, Shannon Vicencio, Notary Public,  
(here insert name and title of the officer)

personally appeared Scott Goldie  
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.  
Shannon Vicencio  
Signature

(Seal)



## **Attachment 1**

### **Wilder Residential Development Standards and Design Review Process**

*Recording Note: The following figures, all as approved by the City Council on June 21, 2016 by Ordinance No. 16-04, are on file with the City Clerk's Office, City of Orinda 22 Orinda Way, Orinda, California 94563:*

Wilder Residential Development Standards and Design Review Process

**Attachment 2**

**Art & Garden Center**

*Recording Note: The following figures, all as approved by the City Council on June 21, 2016 by Ordinance No. 16-04, are on file with the City Clerk's Office, City of Orinda 22 Orinda Way, Orinda, California 94563:*

*Art & Garden Center Wilder dated 02/05/16 prepared by Hunt Hale Jones Architects consisting of 14 sheets (CS, PD, Grading Plan, Civil Site Plan, L1, L2, L3, A1.0, A2.0, A3.0, A3.1, A4.0, A5.0 and CO 1).*

**Attachment 3**

**Trailhead Respite Area**

*Recording Note: The following figure, as approved by the City Council on June 21, 2016 by Ordinance No .16-04, is on file with the City Clerk's Office, City of Orinda 22 Orinda Way, Orinda, California 94563:*

*Trail System Respite Area & Parking Lot, Wilder, Orinda California dated September 15, 2015 prepared by Ripley Designs Landscape Architecture and Land Planning consisting of 1 sheet.*



**Attachment 4**

**Soil Disposal Area**

*Recording Note: The following figure, as approved by the City Council on June 21, 2016 by Ordinance No. 16-04, is on file with the City Clerk's Office, City of Orinda 22 Orinda Way, Orinda, California 94563:*

*Grading Exhibit for Picnic/Soils Disposal Area, prepared by P/A Design Resources, Inc. dated March 31, 2016 consisting of 1 sheet.*

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