



# memorandum

---

*Community Development Dept.  
Planning Division*

December 6, 2016

To: City Council

From: Jessica von Borck, Assistant City Manager *JNB*

Via: Jeff Schwob, Community Development Director

Subject: December 6, 2016 City Council Meeting Item 5B (Palmdale Estates Mills Act Contracts)

*Exhibits A1 and A2 (Best and Starr House Mills Act Contracts) have been amended to clarify issues discussed at the Historical Architectural Review Board Meeting. Final draft versions of each are attached.*

**Recorded at the request of, and  
when recorded return to:** )  
 )  
 City Clerk )  
 City of Fremont )  
 39100 Liberty Street )  
 P.O. Box 5006 )  
 Fremont, CA 94537-5006 )  
 )

**HISTORICAL PROPERTY CONTRACT  
FOR BEST HOUSE**

This Historical Property Contract for 43151 Mission Boulevard (hereinafter "Agreement") is made by and between the City of Fremont, a municipal corporation (hereinafter "City ") and Robson Homes, LLC, a California limited liability company, (hereinafter "Owner"). City and Owner may be collectively referred to as "parties."

**RECITALS**

- A.** California Government Code title 5, division 1, chapter 1, article 12 (sections 50280 *et seq.*) authorizes local governments to enter into contracts with the owners of qualified historical properties (as defined by Government Code Section 50280.1) to provide for the use, maintenance and restoration of such historical properties so as to retain their characteristics as properties of historical significance.
- B.** Owner possesses fee title in and to that certain real property, together with associated structures and improvements thereon, located at the street address 43151 Mission Boulevard, Fremont, California, (hereinafter "Property"). A legal description of the Property is attached hereto, marked as Exhibit "A", and is incorporated herein by this reference.
- C.** The Property has been designated as a Register Resource in the Fremont General Plan and on the Fremont Registry or is otherwise a qualified historical property.
- D.** City and Owner, for their mutual benefit, now desire to enter into this Agreement both to protect and preserve the character-defining features that convey the historical significance of the Property and to qualify the Property for assessment of valuation pursuant to the provisions of California Revenue and Taxation Code division 1, part 2, chapter 3, article 1.9 (sections 439 *et seq.*).

**NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS IDENTIFIED HEREIN, THE PARTIES HEREBY AGREE AS FOLLOWS:**

1. **Effective Date and Term of Agreement.** This Agreement shall be effective and commence on \_\_\_\_\_, 2016, (hereinafter referred to as the “Effective Date”) and shall remain in effect for a term of 10 years thereafter (the “Initial Term”).
  
2. **Renewal.** Upon the expiration of the Initial Term, and on each anniversary of the Effective Date thereafter (hereinafter referred to as the “Renewal Date”), a year shall automatically be added to the term of this Agreement unless notice of nonrenewal is mailed as provided herein. If either Owner or the City Council desires in any year not to renew the Agreement, Owner or the City Council shall serve by mail written notice of nonrenewal of the Agreement on the other party in advance of the annual Renewal Date. Unless such notice is served by Owner on the City Council at least ninety (90) days prior to the annual renewal date, or served by City Council on Owner at least sixty (60) days prior to the annual renewal date, one (1) year shall automatically be added to the term of the Agreement. Upon receipt by Owner of a notice of nonrenewal from the City, Owner may make a written protest of the notice to the City Council. The City Council may, at any time prior to any Renewal Date, withdraw a notice to Owner of nonrenewal. If either the City Council or Owner serves notice on the other of nonrenewal in any year, the Agreement shall remain in effect for balance of the term remaining on the Agreement since the original execution or since the last renewal of the Agreement, whichever may apply.
  
3. **Protection and Preservation of Historical Property.** During the term of this Agreement, the Property shall be subject to the following conditional requirements and restrictions:
  - a. Owner shall protect and preserve the character-defining features that convey the historical significance of the Property. Attached hereto, marked as Exhibit “B”, and incorporated herein by this reference is a list of character defining features of the Property, which shall be maintained and preserved on the Property throughout the term of this Agreement.
  
  - b. Owner shall, where necessary, restore and rehabilitate the Property according to the rules and regulations of the Office of Historic Preservation of the State Department of Parks and Recreation, the Secretary of the Interior’s Standards for Rehabilitation, the State Historical Building Code, the Fremont Municipal Code, and in accordance with Exhibit B.
  
  - c. Owner shall allow reasonable periodic examinations, by prior appointment, of interior and exterior character-defining features of the Property by representatives of the County Assessor, State Department of Parks and Recreation, State Board of Equalization and City, as may be necessary to determine Owner's compliance with the terms and provisions of this Agreement.

- d. Owner shall serve City by mail, with at least thirty (30) days prior notice of proposed changes to the character-defining features of the Property, such as major landscaping projects, exterior door or window replacement, or any exterior alterations requiring a building permit.
- 4. Valuation of the Property.** During the term of this Agreement, the Property (including the land) shall be valued as enforceably restricted historical property as set forth in California Revenue and Taxation Code section 439 *et seq.*
- 5. Notification to State Office of Historic Preservation.** Owner shall provide written notice of this Agreement to the State Office of Historic Preservation within six (6) months of its effective date.
- 6. Provision of Information of Compliance.** Owner hereby agrees to furnish City with any and all information requested by City which may be necessary or advisable to determine compliance with the terms and provisions of this Agreement.
- 7. Cancellation.** The City, following a duly noticed public hearing as set forth in California Government Code Sections 50280, *et seq.*, may cancel this Agreement if the City Council determines that Owner has breached any of the conditions of this Agreement or has allowed the Property to deteriorate to the point that it no longer meets the requisite standards applicable to a qualified historical property. The City may also cancel this Agreement if the City Council determines that Owner has failed to restore or rehabilitate the Property in the manner specified in subparagraph 3(b) of the Agreement. In the event of cancellation of this Agreement by the City, Owner shall pay the County Auditor a cancellation fee of Twelve and One-Half percent (12 ½%) of the fair market value of the Property, as determined by County Assessor as though the Property were free of the restrictions of this Agreement. If the City determines that performance of the Agreement has become infeasible due to damage to the Property caused by natural disaster or otherwise, the Agreement may be cancelled upon the Owner's application without payment of the cancellation fee, to the extent that non-payment is permitted by law.

**8. Enforcement of Agreement.** In lieu of and/or in addition to any provisions permitting cancellation of this Agreement as referenced herein, City may specifically enforce, or enjoin the breach of, the terms of this Agreement. In the event of a default under the provisions of this Agreement by Owner, City shall give written notice to Owner by registered or certified mail addressed to the address stated in this Agreement, and if such a violation is not corrected to the reasonable satisfaction of the City within thirty (30) days thereafter, or if not corrected within such a reasonable time as may be required to cure the breach or default, or if said breach or default cannot be cured within thirty (30) days (provided that acts to cure the breach or default must be commenced within thirty (30) days and must thereafter be diligently pursued to completion by Owner) then City may, without further notice, declare a default under the terms of this Agreement and may bring any action necessary to specifically enforce the obligations of Owner pursuant to the terms of this Agreement, apply to any court, state or federal, for injunctive relief against any violation by Owner, or apply for such other relief as may be appropriate.

**9. Binding Effect of Agreement.** The Owner hereby voluntarily subjects the Property to the covenants, reservations and restrictions as set forth in this Agreement. City and Owner hereby declare their specific intent that the covenants, reservations and restrictions as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon Owner's successors and assigns in title or interest to the Property. Each owner shall only be responsible to perform obligations during the period that such owner holds title to the Property and shall not be liable for performance of obligations during the period that title to the Property is held by a successor or predecessor owner. Each and every contract, deed or other instrument hereinafter executed, covering or conveying the Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, reservations and restrictions expressed in this Agreement whether or not such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.

**10. Notices.** All notices required or contemplated by this Agreement shall be in writing and shall be delivered to the respective party as set forth in this section. Communications shall be deemed to be effective upon the first to occur of: (a) actual receipt by a party's Authorized Representative, or (b) actual receipt at the address designated below, or (c) three working days following deposit in the United States Mail of registered or certified mail sent to the address designated below. The Authorized Representative of either party may modify their respective contact information identified in this section by providing notice to the other party.

To: City  
Attn: Planning Division  
City of Fremont

To: Owner:  
Robson Homes, LLC  
43151 Mission Blvd

39550 Liberty Street  
P.O. Box 5006  
Fremont, CA 94537-5006

Fremont, CA 94539

**11. General Provisions.**

- a. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause them to be considered joint venturers or members of any joint enterprise.
- b. Owner agrees to and shall hold City and its elected officials, officers, employees and agents harmless from any and all liability for damage or claims for damage for personal injuries, including death, and claims for property damage which may arise from the direct or indirect use or operations of Owner or those of Owner's contractor, subcontractor, agent, employee or other person acting on Owner's behalf which relate to the use, operation and maintenance of the Property. Owner hereby agrees to and shall defend the City and its elected officials, officers, employees and agents with respect to any and all actions for damages caused by, or alleged to have been caused by, reason of Owner's activities in connection with the Property. This hold harmless provision applies to all damages and claims for damages suffered, or alleged to have been suffered, by reason of the operations referred to in this Agreement whether or not the City prepared, supplied or approved the plans, specifications or other documents for the Property.
- c. All of the agreements, rights, covenants, reservations and restrictions contained in this Agreement shall be binding upon and shall inure to the benefit of the parties herein, their heirs, successors, legal representatives, assigns and all persons acquiring any part or portion of the Property, whether by operation of law or in any manner whatsoever.
- d. In the event legal proceedings are brought by any party or parties to enforce or restrain a violation of any of the covenants, reservations or restrictions contained herein, or to determine the rights and duties of any party hereunder, the prevailing party in such proceeding may recover all reasonable attorney's fees to be fixed by the court, in addition to court costs and other relief ordered by the court.
- e. In the event that any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, or by

subsequent preemptive legislation, the validity and enforceability of the remaining provisions, or portions thereof, shall not be effected thereby.

- f. This Agreement shall be construed and governed in accordance with the laws of the State of California.
- 12. Recordation.** No later than twenty (20) days after the parties execute and enter into this Agreement, City shall cause this Agreement to be recorded in the Office of the County Recorder of the County of Alameda.
- 13. Amendments.** This Agreement may be amended, in whole or in part, only by a written recorded instrument executed by the parties hereto.
- 14. Entire Agreement.** This Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the parties concerning the services described herein. This Agreement supersedes all prior negotiations, agreements, and understandings regarding this matter, whether written or oral. The documents incorporated by reference into this Agreement are complementary; what is called for in one is binding as if called for in all.

15. **Signatures.** The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the Owner and the City. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

**IN WITNESS WHEREOF**, the City and the Owner do hereby agree to the full performance of the terms set forth herein

**CITY OF FREMONT**

**OWNER**  
Robson Homes, LLC

\_\_\_\_\_  
By:  
Title: City Manager  
Date: \_\_\_\_\_

\_\_\_\_\_  
By: Mark E. Robson  
Title: President  
Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
By: (Name)  
Title: City Attorney

Exhibit A (Property Description)

Lot 5, As shown on the map of Tract No. 8207, Filed December 18, 2015 in Book 337, Pages 1 through 11 inclusive of Tract Maps, Alameda County Records.

APN 513-0754-005-00

## Exhibit B (Best House Character Defining Features)

### **Character-Defining Features**

A character-defining feature is an aspect of a historic resource's design, construction, or detail that is representative of its function, type, or architectural style. Generally, character-defining features include specific building systems, architectural ornament, construction details, massing, materials, craftsmanship, site characteristics, and landscaping within the period of significance. In order for an important historic resource to retain its significance, its character-defining features must be retained to the greatest extent possible. An understanding of a historic resource's character-defining features is a crucial step in developing a rehabilitation plan that incorporates an appropriate level of restoration, rehabilitation, maintenance, and protection.

### ***Best House***

A two-story, wood-frame structure with an L-shaped plan, the Norman Revival Style Best House has a central hipped roof with an intersecting gable on the south and a variety of subsidiary roof forms that mark the elements of the picturesque front façade. A layer of textured asphalt shingles has been applied over the original wood roofing shingles that simulate a thatched roof. The house is located about 100 feet north of the Starr House, oriented in a southeast direction facing the Central Green and accessed by the same loop drive in front. The asymmetrical front façade has a prominent, offset cylindrical stairway turret with a conical roof flanked on the right by a projecting hipped section marked by decorative half timbering on the second floor and a first floor angled bay window below. To the left is a two story gabled bay with a larger angled bay window on the first floor. The entry is located between the turret and the gabled bay, beneath a small eyebrow dormer at the first floor and a larger recessed eyebrow dormer above. The arch top doorway is accented with rusticated quoins. A simple raised entry porch of red brick has been modified with the addition of an access ramp. The walls of the house are finished with lightly textured white stucco with decorative half timbering. The windows are largely multi-light casements with leaded glass of small, square and diamond shaped panes. The prominent two-story rear ell forms a distinct wing with largely transparent walls that projects into the rear yard, providing multiple vantage points and a connection to the garden beyond. It features a large, three sided end bay on the first floor that houses a conservatory. A raised patio or terrace covered in a tarp-like fabric roof with a hipped profile adjoins it on the southwest side. The recessed upper floor of the ell has a steeply pitched hipped roof, buttressed at the first floor level by smaller shed roofs on two sides, and a large balcony above the three sided end bay of the conservatory below. This second floor room is largely sheathed in glass, with expansive windows and French doors that open onto the balcony. Inside, the house has a central entry hall with the main living areas on the left and the service areas to the right. The entry hall and living and dining rooms have paneled plaster walls and ceilings, crown moldings and arched openings. A sitting room left of the entry has a large stained glass window depicting a parrot. The glazed conservatory has painted wall murals of colorful birds flanking elaborate floral arrangements.

### ***Best House Garage***

The three-car garage is one and a half stories tall, of wood framing with a T-shaped plan. It has a tall hipped roof with dormers on the south and west. The overall form and design of the garage complements the Norman Revival Style of the Best House. It has the same layer of textured asphalt shingles applied over the original wood roofing shingles. A two-story apartment, extending 18 feet to the rear of the garage, is a later addition. The garage now has a central double-hinged door on the south side.<sup>2</sup> Based on site reconnaissance and a review of historical information (including the 2013 HRR), the following should be considered character-defining features of the Best House:

Best House

- Two story height
- Landscaped setting
- Asymmetrical front façade oriented southeast to face the large central lawn
- Stucco cladding with half-timbering
- Complex steeply-pitched roof form with hipped, gable, jerkinhead and curved elements
- Rolled roof treatment at eaves
- Tower element at front façade with narrow windows and conical roof
- Entrance consisting of arched doorway accented with quoins beneath an eyebrow dormer
- Wood multi-light and leaded windows, singly and in groups of two, three and four
- Bay windows: two on front façade, one on rear façade (surmounted by a balustrade)
- Ell extending from rear of house with three-sided bay and roof deck at outermost end
- Massive tapered chimney clad in stucco
- Louvered vents
- Stucco-clad garage with dormer and hipped roof

**Recorded at the request of, and  
when recorded return to:** )  
 City Clerk )  
 City of Fremont )  
 39100 Liberty Street )  
 P.O. Box 5006 )  
 Fremont, CA 94537-5006 )

**HISTORICAL PROPERTY CONTRACT  
FOR STARR HOUSE**

This Historical Property Contract for 43151 Mission Boulevard (hereinafter “Agreement”) is made by and between the City of Fremont, a municipal corporation (hereinafter "City ") and Robson Homes, LLC, a California limited liability company, (hereinafter "Owner"). City and Owner may be collectively referred to as “parties.”

**RECITALS**

- A.** California Government Code title 5, division 1, chapter 1, article 12 (sections 50280 *et seq.*) authorizes local governments to enter into contracts with the owners of qualified historical properties (as defined by Government Code Section 50280.1) to provide for the use, maintenance and restoration of such historical properties so as to retain their characteristics as properties of historical significance.
- B.** Owner possesses fee title in and to that certain real property, together with associated structures and improvements thereon, located at the street address 43151 Mission Boulevard, Fremont, California, (hereinafter “Property”). A legal description of the Property is attached hereto, marked as Exhibit “A”, and is incorporated herein by this reference.
- C.** The Property has been designated as a Register Resource in the Fremont General Plan and on the Fremont Registry or is otherwise a qualified historical property.
- D.** City and Owner, for their mutual benefit, now desire to enter into this Agreement both to protect and preserve the character-defining features that convey the historical significance of the Property and to qualify the Property for assessment of valuation pursuant to the provisions of California Revenue and Taxation Code division 1, part 2, chapter 3, article 1.9 (sections 439 *et seq.*).

**NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS IDENTIFIED HEREIN, THE PARTIES HEREBY AGREE AS FOLLOWS:**

1. **Effective Date and Term of Agreement.** This Agreement shall be effective and commence on \_\_\_\_\_, 2016, (hereinafter referred to as the “Effective Date”) and shall remain in effect for a term of 10 years thereafter (the “Initial Term”).
  
2. **Renewal.** Upon the expiration of the Initial Term, and on each anniversary of the Effective Date thereafter (hereinafter referred to as the “Renewal Date”), a year shall automatically be added to the term of this Agreement unless notice of nonrenewal is mailed as provided herein. If either Owner or the City Council desires in any year not to renew the Agreement, Owner or the City Council shall serve by mail written notice of nonrenewal of the Agreement on the other party in advance of the annual Renewal Date. Unless such notice is served by Owner on the City Council at least ninety (90) days prior to the annual renewal date, or served by City Council on Owner at least sixty (60) days prior to the annual renewal date, one (1) year shall automatically be added to the term of the Agreement. Upon receipt by Owner of a notice of nonrenewal from the City, Owner may make a written protest of the notice to the City Council. The City Council may, at any time prior to any Renewal Date, withdraw a notice to Owner of nonrenewal. If either the City Council or Owner serves notice on the other of nonrenewal in any year, the Agreement shall remain in effect for balance of the term remaining on the Agreement since the original execution or since the last renewal of the Agreement, whichever may apply.
  
3. **Protection and Preservation of Historical Property.** During the term of this Agreement, the Property shall be subject to the following conditional requirements and restrictions:
  - a. Owner shall protect and preserve the character-defining features that convey the historical significance of the Property. Attached hereto, marked as Exhibit “B”, and incorporated herein by this reference is a list of character defining features of the Property, which shall be maintained and preserved on the Property throughout the term of this Agreement.
  
  - b. Owner shall, where necessary, restore and rehabilitate the Property according to the rules and regulations of the Office of Historic Preservation of the State Department of Parks and Recreation, the Secretary of the Interior’s Standards for Rehabilitation, the State Historical Building Code, the Fremont Municipal Code, and in accordance with Exhibit B.

- c. Owner shall allow reasonable periodic examinations, by prior appointment, of interior and exterior character-defining features of the Property by representatives of the County Assessor, State Department of Parks and Recreation, State Board of Equalization and City, as may be necessary to determine Owner's compliance with the terms and provisions of this Agreement.
  - d. Owner shall serve City by mail, with at least thirty (30) days prior notice of proposed changes to the character-defining features of the Property, such as major landscaping projects, exterior door or window replacement, or any exterior alterations requiring a building permit.
- 4. Valuation of the Property.** During the term of this Agreement, the Property (including the land) shall be valued as enforceably restricted historical property as set forth in California Revenue and Taxation Code section 439 *et seq.*
- 5. Notification to State Office of Historic Preservation.** Owner shall provide written notice of this Agreement to the State Office of Historic Preservation within six (6) months of its effective date.
- 6. Provision of Information of Compliance.** Owner hereby agrees to furnish City with any and all information requested by City which may be necessary or advisable to determine compliance with the terms and provisions of this Agreement.
- 7. Cancellation.** The City, following a duly noticed public hearing as set forth in California Government Code Sections 50280, *et seq.*, may cancel this Agreement if the City Council determines that Owner has breached any of the conditions of this Agreement or has allowed the Property to deteriorate to the point that it no longer meets the requisite standards applicable to a qualified historical property. The City may also cancel this Agreement if the City Council determines that Owner has failed to restore or rehabilitate the Property in the manner specified in subparagraph 3(b) of the Agreement. In the event of cancellation of this Agreement by the City, Owner shall pay the County Auditor a cancellation fee of Twelve and One-Half percent (12 ½%) of the fair market value of the Property, as determined by County Assessor as though the Property were free of the restrictions of this Agreement. If the City determines that performance of the Agreement has become infeasible due to damage to the Property caused by natural disaster or otherwise, the Agreement may be cancelled upon the Owner's application without payment of the cancellation fee, to the extent that non-payment is permitted by law.

- 8. Enforcement of Agreement.** In lieu of and/or in addition to any provisions permitting cancellation of this Agreement as referenced herein, City may specifically enforce, or enjoin the breach of, the terms of this Agreement. In the event of a default under the provisions of this Agreement by Owner, City shall give written notice to Owner by registered or certified mail addressed to the address stated in this Agreement, and if such a violation is not corrected to the reasonable satisfaction of the City within thirty (30) days thereafter, or if not corrected within such a reasonable time as may be required to cure the breach or default, or if said breach or default cannot be cured within thirty (30) days (provided that acts to cure the breach or default must be commenced within thirty (30) days and must thereafter be diligently pursued to completion by Owner) then City may, without further notice, declare a default under the terms of this Agreement and may bring any action necessary to specifically enforce the obligations of Owner pursuant to the terms of this Agreement, apply to any court, state or federal, for injunctive relief against any violation by Owner, or apply for such other relief as may be appropriate.
- 9. Binding Effect of Agreement.** The Owner hereby voluntarily subjects the Property to the covenants, reservations and restrictions as set forth in this Agreement. City and Owner hereby declare their specific intent that the covenants, reservations and restrictions as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon Owner's successors and assigns in title or interest to the Property. Each owner shall only be responsible to perform obligations during the period that such owner holds title to the Property and shall not be liable for performance of obligations during the period that title to the Property is held by a successor or predecessor owner. Each and every contract, deed or other instrument hereinafter executed, covering or conveying the Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, reservations and restrictions expressed in this Agreement whether or not such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.
- 10. Notices.** All notices required or contemplated by this Agreement shall be in writing and shall be delivered to the respective party as set forth in this section. Communications shall be deemed to be effective upon the first to occur of: (a) actual receipt by a party's Authorized Representative, or (b) actual receipt at the address designated below, or (c) three working days following deposit in the United States Mail of registered or certified mail sent to the address designated below. The Authorized Representative of either party may modify their respective contact information identified in this section by providing notice to the other party.

To: City  
Attn: Planning Division  
City of Fremont  
39550 Liberty Street

To: Owner:  
Robson Homes, LLC  
43151 Mission Blvd  
Fremont, CA 94539

P.O. Box 5006  
Fremont, CA 94537-5006

**11. General Provisions.**

- a. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause them to be considered joint venturers or members of any joint enterprise.
- b. Owner agrees to and shall hold City and its elected officials, officers, employees and agents harmless from any and all liability for damage or claims for damage for personal injuries, including death, and claims for property damage which may arise from the direct or indirect use or operations of Owner or those of Owner's contractor, subcontractor, agent, employee or other person acting on Owner's behalf which relate to the use, operation and maintenance of the Property. Owner hereby agrees to and shall defend the City and its elected officials, officers, employees and agents with respect to any and all actions for damages caused by, or alleged to have been caused by, reason of Owner's activities in connection with the Property. This hold harmless provision applies to all damages and claims for damages suffered, or alleged to have been suffered, by reason of the operations referred to in this Agreement whether or not the City prepared, supplied or approved the plans, specifications or other documents for the Property.
- c. All of the agreements, rights, covenants, reservations and restrictions contained in this Agreement shall be binding upon and shall inure to the benefit of the parties herein, their heirs, successors, legal representatives, assigns and all persons acquiring any part or portion of the Property, whether by operation of law or in any manner whatsoever.
- d. In the event legal proceedings are brought by any party or parties to enforce or restrain a violation of any of the covenants, reservations or restrictions contained herein, or to determine the rights and duties of any party hereunder, the prevailing party in such proceeding may recover all reasonable attorney's fees to be fixed by the court, in addition to court costs and other relief ordered by the court.
- e. In the event that any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, or by subsequent preemptive legislation, the validity and enforceability of the remaining provisions, or portions thereof, shall not be effected thereby.

- f. This Agreement shall be construed and governed in accordance with the laws of the State of California.
- 12. Recordation.** No later than twenty (20) days after the parties execute and enter into this Agreement, City shall cause this Agreement to be recorded in the Office of the County Recorder of the County of Alameda.
- 13. Amendments.** This Agreement may be amended, in whole or in part, only by a written recorded instrument executed by the parties hereto.
- 14. Entire Agreement.** This Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the parties concerning the services described herein. This Agreement supersedes all prior negotiations, agreements, and understandings regarding this matter, whether written or oral. The documents incorporated by reference into this Agreement are complementary; what is called for in one is binding as if called for in all.

15. **Signatures.** The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the Owner and the City. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

**IN WITNESS WHEREOF**, the City and the Owner do hereby agree to the full performance of the terms set forth herein

**CITY OF FREMONT**

**OWNER**

Robson Homes, LLC

\_\_\_\_\_  
By:  
Title: City Manager  
Date: \_\_\_\_\_

\_\_\_\_\_  
By: Mark E. Robson  
Title: President  
Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
By: (Name)  
Title: City Attorney

Exhibit A (Property Description)

Lot 6, As shown on the map of Tract No. 8207, Filed December 18, 2016 in Book 337, Pages 1 through 11 inclusive of Tract Maps, Alameda County Records

APN 513-0754-006-00

Exhibit B (Starr House Character Defining Features)

***Starr House***

A large two-story Tudor Revival Style building, the Starr House is sited on the west side of the parcel, together with the Best House approximately 100 feet to the north. The house has a wood-frame structure and a largely rectangular plan, with a picturesque asymmetrical front façade oriented northeast to face the large central lawn of the Central Green with views to the broader garden beyond. A prominent design feature of the Starr House is the steeply pitched gable roof with a pair of similar, intersecting two-story gabled bays flanking the entry on the front façade. Green and ochre colored slate shingles cover the roof. The front gables have bargeboards carved in a decorative vine and flower motif, supported on projecting brackets detailed with carved animal heads. A smaller single-story gable is south of the center gable. A tall stucco covered chimney is adjacent to the south side of the center gable. The center gable has an angled first floor bay window with stained glass transoms. An oriel window is above the entrance porch. One enters the entrance porch recessed into the front façade through three round arches supported by round Tuscan columns. Narrow lancet windows flank the large, oak-paneled entrance door in the form of a pointed arch. The exterior is finished with textured stucco walls painted peach, and delineated with decorative half-timbering with rustic adz marks in a variety of geometric patterns. The house has primarily wood-sash casement windows with leaded diamond shaped lights. The south façade has three superimposed gables of varying heights and a service entrance. The north façade has another prominent stepped chimney. The simpler less formal rear façade has two gables. The arched doorway leading to the rear porch has a cast stone surround carved with vines. The house has a covered, rear porch addition; otherwise, there appear to be no significant alterations.

Inside, the house has a first floor central hall with a large living room on the north and kitchen and service area on the south. The elegant curving main stair has a long vertical stained glass window depicting a flowing peacock. The neo-classical style living room has a large fireplace with the walls and ceiling hand painted with classical murals. Two paintings on the west wall are reproductions of works by the French rococo artist Fragonard.

***Starr House Garage***

South of the house, just west of the Motherhouse, is a wood-frame, square plan, one and a half story accessory structure that originally housed a two-vehicle garage for the Starr house. Tudor Revival Style detached garage complements the design of the house, with a twin-peaked, steeply pitched gable end, marked by half-timbering in simple geometric patterns. Small cross gables occur at the first floor on the side facades. The roof is now covered with asphalt shingles. The garage has wood-sash casement windows on both levels. A wrought iron fence and gate leading to the rear garden joins the garage to the house. The north façade originally had two, paired garage doors on hinges constructed of vertical boards and sized for vehicles; the door on the west has been altered and fitted with a standard access door. A small lean to at the southwest corner appears to be a later addition. Inside the garage, a

central staircase provides access to an upper floor apartment that is now used as an office. The first floor now houses the archives for the Sisters of the Holy Family.

Based on site reconnaissance and a review of historical information, the following should be considered character-defining features of the Starr House:

- Two story height
- Landscaped setting
- Asymmetrical front façade oriented northeast to face the large central lawn
- Stucco cladding with half-timbering
- Steeply-pitched cross gable roof clad in slate
- Two front-facing gables with carved verge boards and decorative posts at ridge; one gable features a bay window with stained glass transoms
- Recessed main entrance with arched colonnade and oriel window
- Oak-paneled entrance door flanked by narrow lancet windows
- Wood windows with leaded glass (many with diamond-shaped lights), singly and in groups of two, three, four and five
- Rustic wood lintels and sills at some windows
- Massive chimney clad in stucco
- Louvered vents
- Stucco-clad garage with a steeply-pitched, double-gable roof (with dovescotes at gable peaks), half timbering, and wood windows