

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF BRISBANE
APPROVING A DEVELOPMENT AGREEMENT
FOR ASSESSOR'S PARCEL NUMBERS
007-165-080 THROUGH 007-165-100**

WHEREAS, Section 65864 *et. seq.* of the California Government Code and Resolution No. 82-48 adopted by the Brisbane City Council authorize the City to enter into a development agreement with any person having a legal or equitable interest in real property for the development of that property; and

WHEREAS, HCP BRISBANE LLC, a Delaware limited liability company (Developer), has applied to the City of Brisbane for land use entitlements to allow for the construction of a biotech complex encompassing approximately 540,185 of research and development space in 5 separate buildings, 1,801 parking spaces including a 5-level parking structure with approximately 961 spaces and 15,000 square feet of retail space upon approximately 23 vacant acres of property identified as Assessor's Parcel Numbers 007-165-080 through 007-165-0100; and

WHEREAS the applications for land use entitlements submitted by Developer include an amendment to the Sierra Point Commercial/Retail/Office (SP-C/R/O) General Plan designation for the Property and amendment to the zoning regulations for the Sierra Point Commercial (SP-CRO) district to allow research and development uses, including limited animal testing, amendment to the Sierra Point Design Guidelines along with issuance of a design permit for the Project, and parking modification Use Permit . Such applications are designated as GP-2-05, RZ-2-05, DP-6-05, and UP-12-07 respectively. Developer has also submitted an application for this Development Agreement, identified as DA-1-07; and

WHEREAS, pursuant to the California Environmental Quality Act ("CEQA"), Public Resources Code §§ 21000-21178, an Environmental Impact Report was prepared (SCH #2006012024) ("EIR") which analyzes all of the environmental impacts associated with the Project. The EIR concluded that all of the impacts associated with the Project were either less than significant or could be mitigated to a level of insignificance, with the exception of certain cumulative traffic impacts; and

WHEREAS on January 24, 2008, the Brisbane Planning Commission recommended that the City Council certify the final EIR and approve the planning applications stated above subject to recommended conditions of approval; and

WHEREAS, on _____, the City Council conducted a hearing on the proposed project, at which time any person interested in the matter was given an opportunity to be heard; , and said hearing was thereafter continued from time to time; and

WHEREAS, notice of the City's intention to consider adoption of the Development Agreement was given in accordance with the requirements of California Government Code Section 65867; and

WHEREAS, the proposed Development Agreement was presented to the City Council for consideration, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference; and

WHEREAS, On _____, the City Council held a duly noticed public hearing on the Developer's applications for land use entitlements and following the conclusion thereof, the City Council took the following actions:

- (1) Adopted Resolution No. ____ to certify the EIR, making the findings required for approval of a Statement of Overriding Considerations with respect to the unmitigated impact identified therein, and approving the Mitigation Monitoring Program;
- (2) Adopted Resolution No. ____ amending the General Plan to permit research and development uses per GP-2-05.
- (3) Adopted Ordinance No. ____ amending the text of the zoning regulations for the Sierra Point Commercial District to permit research and development uses, including limited animal testing, per RZ-2-05;
- (4) Adopted Resolution No. ____ amending the Design Guidelines to reflect the Project as approved, granting a Design Permit for the Project, per DP-6-05, subject to the conditions of approval, and granting Parking Use Permit UP-12-07. on _____,

WHEREAS, on _____, the City Council conducted a duly noticed public hearing on the proposed Development Agreement, at which time any person interested in the matter was given an opportunity to be heard; and

WHEREAS, the City Council has considered the staff reports, the minutes, proceedings and recommendations of the Planning Commission, and the oral and documentary evidence presented at the public hearing and has determined that it would be in the best interest of the City to enact the Development Agreement,

NOW, THEREFORE, the City Council of the City of Brisbane hereby ordains as follows:

SECTION 1: The City Council finds that entering into the Development Agreement with HCP BRISBANE LLC, in the form attached hereto as Exhibit A, is consistent with the Brisbane General Plan and the Brisbane Zoning Ordinance and will provide substantial public benefits beyond the exactions for public improvements that would be required under the normal development review process.

SECTION 2: The City Council further finds that the environmental impacts of the Project have been fully and completely analyzed in the Final EIR prepared for the

Project, and the City Council has considered and certified the Final EIR before approving the Development Agreement.

SECTION 3: The Development Agreement attached hereto as Exhibit A is hereby enacted and adopted.

SECTION 4: The City Council hereby authorizes and directs the Mayor to execute the Development Agreement for and on behalf of the City.

SECTION 5: This ordinance shall take effect thirty (30) days from the date of its adoption.

The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on the _____ day of _____, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Michael G. Barnes, Mayor

ATTEST:

Sheri Marie Schroeder, City Clerk

APPROVED AS TO FORM:

Harold S. Toppel, City Attorney