

## City of Banning Office of the City Manager

November 25, 2013

Mark Frost  
The Frost Company  
30001 Golden Lantern  
Laguna Niguel, CA 92677

JMA Village, LLC  
1137 Second Street  
Santa Monica, CA 90403


**Subject: Agreement dated January 24, 2012  
Technical Review (TR) 13-06**

Dear Mr. Frost:

The City is in receipt of your letter received October 22, 2013, regarding the subject agreement and the "reasonable approval" requirement by the seller for the hotel tenant occupying the hotel parcel. In accordance with the agreement the City approves your request to change the use of the "Hotel Parcel" to a two-story office building subject to the approval of Technical Review 13-06 and any conditions required by the review.

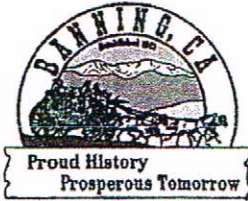
Please be aware that time is of the essence in the performance of this agreement and the City, as of this date, has not received construction documents for the subject project and other items required in connection with the original project entitlement approvals. If you have questions regarding the project review, please contact Zai Abu Bakar, Community Development Director at (951) 922-3131 for assistance.

Sincerely,



Andy Takata  
City Manager

cc: Cox, Castle & Nicholson LLP  
2049 Century Park East, Suite 2800  
Los Angeles, CA 90067  
Attn.: Ed Dygert



# City of Banning

99 E. Ramsey Street • P.O. Box 998 • Banning, CA 92220-0998 • (951) 922-3125 • Fax (951) 922-3128

## COMMUNITY DEVELOPMENT DEPARTMENT

December 17, 2013

JMA Village, LLC  
% Mark Frost  
The Frost Company  
30001 Golden Lantern  
Laguna Niguel, CA 92677

**Subject: Technical Review #13-06**  
**Office Building #4 - The Village at Paseo San Geronio**  
**(APN 541-181-009, 010, 011, 012, 023-028; 541-183-001, 002-004)**

Ladies and Gentlemen:

Your application to revise the Site Plan for Design Review #10-702 from a 29,955 square foot three story Hotel to a 32,200 square foot Office Building is approved, subject to the following conditions of approval attached to this letter. This determination is final unless appealed within ten calendar days from the date of this letter. To expedite any communication, please reference the information listed in the Subject header above, including the assessor's parcel number, when corresponding with, or contacting staff.

Should you have any questions regarding the review process, or if we can be of further assistance, please feel free to contact the Planning Division at the telephone number listed above. To meet with your project planner, please contact Brian Guillot at (951) 922-3152 to schedule an appointment.

Sincerely,

Zai Abu Bakar  
Community Development Director

encl.



In order to maintain these Site uses, reciprocal access agreements and Covenants, Conditions & Restrictions ("CC&Rs") shall be recorded upon the Property by Buyer and Seller prior to the occupancy of any Phase. The CC&R's, in addition to Buyer's normal shopping center restrictions, shall include provisions making Seller a party with enforcement rights, which provisions shall include for maintenance of the Site, non-discrimination, the City's rights of tenant approval pursuant to this Section 11.9, transfer restrictions and other provisions consistent with the Project approvals and this Agreement. The CC&Rs shall be subject to the approval of the City which will not unreasonably withhold its consent. Buyer acknowledges that the Site shall become subject to the CC&Rs upon Seller's execution and recordation of the CC&Rs and Buyer will comply with all of the terms and conditions contained in the CC&Rs.

(b) *Seller's Rights of Tenant Approval as to Restaurant Parcel & Hotel Parcel.* Of particular concern to Seller's conveyance of the Site to Buyer pursuant to the Agreement is the identity and quality of the commercial tenants to occupy the Hotel Parcel and Restaurant Parcel. The Site is situated in the City of Banning's central, downtown commercial area, and the major Hotel/Restaurant tenants on the Site shall represent high quality goods and services commensurate with one of the most centralized commercial locations in Banning. To this end, the initial and subsequent tenants for the Hotel Parcel and the Restaurant Parcel shall be subject to Seller's prior written approval (to be obtained from Seller prior to any occupancy by a Hotel or Restaurant tenant). For purposes of such tenant approval the following tenants are hereby approved as "Pre-Qualified Tenants" and are exemplars of the tenants sought for the Restaurant and Hotel Parcels:

- *For the Restaurant Parcel:* Applebee's, Red Lobster, Guys Italian Dinner House, Olive Garden, Hickory BBQ, B.J. Chicago Pizza, Buca de Beppo, Brinker International (Chillis, Macaroni Grill, etc.), California Pizza Kitchen, Chevys Mexican Restaurant, Elephant Bar, Hickory BBQ, Islands, Johnny Russo, Louise's Trattoria, P.F. Changs, Pat and Oscars, Marie Calendars, Red Robin, Roadhouse Grill, Rubios, Texas Roadhouse, or Wood Ranch BBQ.
- *For the Hotel Parcel:* Hampton Inn, Wyndahm, Ayres, Doubletree, Embassy Suites, Hilton and its related brands, Holiday Inn, Marriott and its related brands, Radisson Inns, and Starwood.

In the event Buyer desires to lease the Hotel Parcel or Restaurant Parcel to a tenant that is not on the aforementioned pre-approved list, Buyer shall first obtain the approval of Seller's legislative body. Seller shall approve tenants for the Hotel or Restaurant Parcel who (i) operate a chain of stores on a nationwide basis, (ii) are comparable to the pre-approved, exemplar tenants listed above, and (iii) do significant marketing within the general market area. In its reasonable discretion, Seller may also approve other tenants, including tenants who operate a regional chain of business.

- (i) Processing Requests for Tenant Approval of Tenants Not Pre-Qualified. Any request by Buyer to the Seller for approval of a particular tenant