



# AJUNTAMENT DE PRATDIP

## Convenio Urbanístico

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### **AGREEMENT PROPOSAL IN THE PLENARY SESSION**

Having regard to the initiative promoted by the mayor president, proposing the definitive approval of the Urban Development Collaboration Agreement with the Planes del Rei Urban Development Conservation Entity, for the Control and Monitoring of Planes del Rei Redevelopment Works.

In view of the favourable reports from the municipal architect and secretary-inspector.

In view of the current regulation concerning urban development agreements contained in the Consolidated Text of the Urban Development Law passed by Legislative Decree 1/2005, 26.7,

The Plenary session of the Municipal Corporation, on the proposal of the Urban Development Informative Commission, by \_\_\_\_\_,<sup>1</sup>

### **AGREES:**

**FIRST.**-To initially approve the Urban Development Collaboration Agreement with the Planes del Rei Development Conservation Entity, for the Control and Monitoring of the Planes del Rei Redevelopment Works, which is added as an appendix to this resolution.

**SECOND.**-To subject the approved agreement to public information for the duration of one month in order that any interested party can examine it and present any allegations and reclamations considered relevant.

**THIRD.**-To personally notify the Planes del Rei Development Conservation Entity of the agreement.

### **URBAN DEVELOPMENT COLLABORATION AGREEMENT WITH “LA ECU” (PLANAS DEL REI DEVELOPMENT CONSERVATION ENTITY) FOR THE CONTROL AND MONITORING OF THE PLANES DEL REI REDEVELOPMENT WORKS**

### **AGREEMENT:**

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<sup>1</sup> Unanimity / Absolute majority of its legal number of members.



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In Pratdip, on \_\_\_\_\_ of \_\_\_\_\_, \_\_\_\_\_

Made and entered into by and between **JOSEP MONTANÉ I VIDAL**, Mayor-President of the Town Council of Pratdip, with **National Identity Number** \_\_\_\_\_.

and Mr. **CHRISTIAN PEUMAN**, with **Foreign Resident Identification Number** \_\_\_\_\_ residing at \_\_\_\_\_,

### ACTING:

Mr. **MUNTANER**, on behalf of the Town Council of Pratdip, in his capacity as mayor-president, as a well-known public figure, he will hereinafter be referred to indistinctly as THE TOWN COUNCIL or as THE MAYOR,

Mr. **PEUMAN**, on behalf of the collaborating "Planes del Rei", Development Conservation Entity, in his capacity as President of this entity, will hereinafter be referred to as "LA ECU" or as THE PRESIDENT OF "LA ECU".

Both parties, with the representation they hold, mutually recognize their sufficient administrative competence and legal capacity for this act and

### DECLARE:

**FIRST.**-That the Collaborating Development Entity for the conservation of the development "Planes del Rei", hereinafter referred to as EUCC Planes del Rei, was constituted and approved at a plenary session of Pratdip town council, on 24th July, 1987, and by means of an Agreement by the Tarragona Urban Development Commission, on 1<sup>st</sup> June, 1988, registered as number 277, document 67, book 2 of the Registry of Collaborating Development Entities of the General Management of Urban Development.

**SECOND.**- That the main and obligatory purpose, according to its Statutes, is the conservation, maintenance, use of communal services and where relevant, finish outstanding communal works included in the area of the "Les Planes del Rei" Development Management Plan, definitively approved by the Provincial Urban Development Commission on May 25<sup>th</sup>, 1965.

**THIRD.**-That the Town Council of Pratdip and Planes del Rei EUCC have agreed to undertake the redevelopment works of Les Planes del Rei, so that the Town Council will definitively accept the development and so that Planes del Rei EUCC, which hitherto has managed this development provisionally, can be dissolved.



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**FOURTH.**-That Pratdip Town Council ACCEPTS that the land, works, facilities, infrastructures and other communal services of the Planes del Rei Development will pass to their ownership, the only exceptions to be stated at a later date, for which reason the services must be adjusted to meet current regulations, so that they can be taken over and their future maintenance be undertaken.

**FIFTH.**-That Planes del Rei EUCC does not have the infrastructure, staff and means to carry out this task, which is why both parties have agreed to sign this agreement, in accordance with the following terms:

### TERMS:

**FIRST.**-In signing this agreement, Pratdip Town Council and Planes del Rei EUCC establish the foundations for the execution of the redevelopment project for the adaptation of the Planes del Rei Development, in the municipal area of Pratdip, which will be processed in accordance with that described in the subsequent terms.

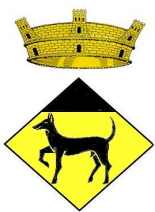
Included within the area of this development are the plots described in **appendix document number 1** accepted by both parties, in which are stated the area, ownership and quota of ownership in the development maintenance costs for each plot.

**SECOND.**-The Pratdip POUM (Municipal Development Management Plan) has envisaged cooperation as the procedure, whereby Pratdip Town Council will execute the work with total observance of that established in the current urban development regulations concerning this procedure.

**THIRD.**- The owners of Planes del Rei undertake to meet the costs arising from carrying out the development work, which include: total costs of the work, drafting of the technical project, work management and Health and Safety Study.

The contracting out, on the part of Pratdip Town Council, of the drafting of the definitive works project, any necessary modifications and additions, as well as its optional management, will observe the rules established by the Spanish Law on Public Administrations Contracts concerning services and technical assistance contracts. In the awarding of the contract, Pratdip Town Council will particularly endeavour to achieve the greatest economy in costs without reducing the quality of the contracted services.

The specifications of financial-administrative terms of the technical assistance contracts which are signed for the purpose, will contain all the measures permitted by current legislation relating to services and technical assistance administrative contracts concerning the contractor's requirement of responsibilities for defects in the drafting of the original project,



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modifications and additions that follow; deviations in the cost of the work in respect of the estimated amount; errors and non-compliance of any type that the awarded company may incur.

The content of these conditions will be agreed upon by the Town Council and the EUCC.

**FOURTH.**-From the moment this agreement is signed until the completion of the work, Planes del Rei EUCC will be responsible for the maintenance of the services existing up to the present day, meaning that the owners will have to continue to pay their corresponding quotas.

In compliance of the sentence of January 25<sup>th</sup>, 2008 by the High Court of Catalonia, the Town Council has reached an agreement whereby it assumes the management of the rubbish collection and drinking water supply services, without this implying that it assumes the ownership of the drinking water supply installations, which it will assume simultaneously with the take-over of the approved development project work.

Therefore, on formalization of this agreement, the Town Council will assume the services of rubbish collection and maintenance of installations and water supply, providing the corresponding bills and managing their payment.

**FIFTH.**-Pratdip Town Council will approve the Planes del Rei redevelopment project, in accordance with the legally established process.

The redevelopment project that Pratdip Town Council is obliged to carry out in compliance with this agreement is incorporated as **appendix number 2** to this appendix, of which it will form an integral part in all legal matters.

Modifications of the Project and the Additional Projects deemed necessary will be agreed upon by both parties within the framework of the Agreement Monitoring Commission. If it is impossible for a consensus to be reached, the Town Council will decide how to proceed, giving priority to the general interests of the Development.

The approved modifications will not affect in any way the unit prices of the project, which Pratdip Town Council undertakes to maintain without alterations of any kind until the complete finalization and hand-over of the work.<sup>2</sup>

Pratdip Town Council undertakes, to incorporate into the POUM (Municipal Development Management Plan) the specifications necessary to make this

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<sup>2</sup> Transactional amendment agreed upon with the lawyer of Pratdip Town Council at the General Ordinary Assembly of the ECU on 12<sup>th</sup> August, 2007.



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General Plan fully compatible with the redevelopment project established in this agreement.

**SIXTH.**-Prior to starting the procedure for contracting the work, Pratdip Town Council will request the relevant reports from the supply services companies concerned (electricity, gas, telephone etc.) in order to obtain full approval of the project to be carried out from these companies.

If by virtue of the reports submitted by these companies, the redevelopment project has to be altered in certain aspects in which the said companies are competing and these aspects are determining factors in the acceptance of the executed work by the said companies, Pratdip Town Council will introduce the resulting modifications when the Agreement Monitoring Commission has been informed of such modifications.

**SEVENTH.**-Pratdip Town Council will put the development work out to contract by open procedure and by invitation to tender.

Putting the work out to contract will be done using the “turnkey system”, that is to say, by way of assuming its risk and venture on the part of the contractor any kind of eventuality that may occur in the execution of the work, without this implying in any case an increase in the offered price.

In the event that there is no bidder in the tender that accepts the said contracting for an amount less than 7 million € (amount set by the Development Project), the contracting will be suspended and the situation will be notified to the Advisory Board, so that an Owner’s Assembly can be convened with the purpose of adopting a decision deemed appropriate.

Once awarded the Contract will be formalized and the Verification of Variation Order will be prepared authorizing the contractor to start the work within a maximum period of fifteen days from the date of the agreed awarding.

The schedule of terms and conditions of the contract will establish the period that the directing technicians establish and will sanction the failure to comply with this period with a punishment established in the application regulations, which in all events will be 0.20 Euros for every 1,000 Euros of the contract price established in article 196 Law 30/2007, 30<sup>th</sup> October.

Any extension of the work finalization period, which would be of an exceptional nature, will require the unanimous agreement of the Agreement Monitoring Commission.

The work must be completed within the period established in the Schedule of Contract Conditions without any possibility of extension.



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The content of the specifications of individual financial administrative conditions of the works contract will observe that established concerning this matter in Law 30/2007, October 30th, on Public Sector Contracts and concordant and additional legislation.

The specifications will regulate with maximum rigor the chapter regarding responsibilities for delay in the execution of the work and for defective execution, in order to make sure that these are finalized within the period established in the contract.

The guarantee period for the work that is set out in the specification of conditions will be that established by law.

The competent municipal organ must give prior notification to the Agreement Monitoring Commission of all actions relating to the awarding, formalization, monitoring, and execution, take-over of the work and contract settlement.

The Town Council undertakes to fulfil punctually and, in all cases, before the expiration of the maximum period established by the Law on Public Sector Contracts, the certifications of the work approved by the municipal organ for contracting.

Prior to the work certifications being approved, the municipal contracting being must inform the Agreement Monitoring Commission.

Pratdip Town Council undertakes to exercise all the legal authority within its power in order to achieve complete and correct execution of the work within the maximum period established in the conditions schedule, imposing the relevant punishments on the contractor and approving the resolution of the contract when contract resolution events arise through causes attributable to the contractor regulated by Law 30/2007, 30<sup>th</sup> October and concurrent, additional legislation.

Before proceeding with the formal take-over of the work, the Town Council must inform the Monitoring Commission.

If the Town Council considers it appropriate, defects reported by the Monitoring Commission will result in the contractor being required to rectify the deficiencies and the take-over of the work will be postponed until the defects have all been corrected.

The return of the definitive guarantee shall not be authorized until the defects reported to the contractor have been totally rectified and the contract guarantee period established by Law has elapsed. The aforementioned should previously be notified to the Agreement Monitoring Commission.





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The Town Council will undertake the responsibility for the land, work, infrastructure, installations and other communal services of the Development from the moment of the work take-over, proceeding immediately to the dissolution of the EUCC.

The work will not be taken over, totally or partially, until all deficiencies noted by Pratdip Town Council have been completely rectified, proceeding immediately to the dissolution of the ECU.

**EIGHTH.**-The charging system that Pratdip Town Council will adopt is the same as that used by Planes del Rei EUCC for the charging of its quotas. Consequently the same participation quotas per plot will be applied as those stated in the attached document mentioned in the first clause.

**NINTH.**-The form of payment for the work by the owners of Planes del Rei to the Town Council is established as follows: on awarding the work the engineering project will be paid in full and thirty five per cent of the estimated work will also be paid.

Twelve months after having signed the Verification of the Variation Order, a further payment of fifteen per cent of the awarded work will be made.

Eighteen months after having signed the Verification of the Variation Order, another payment of fifteen per cent of the awarded work will be made.

The payment of remaining amounts until the costs of the completed work are covered one hundred per cent will be effected on final take-over of the development.

Non-payment on the part of any of the Planes del Rei owners will entitle Pratdip Town Council to initiate the legally established payment enforcement and seizure proceedings.

**TENTH.**-Pratdip Town Council undertakes to take-over the executed work and incorporates it totally, without distinction or conditions, into its patrimony. For this purpose the work will be registered in the Municipal Inventory of Property and Rights in the corresponding epigraph, in accordance with that established for the purpose by Legislative Decree 2/2003, of 28.4, by which is approved the Consolidated Text of the municipal Law and local regime of Catalonia Decree 336/1988, of 17<sup>th</sup> October, by which is approved the Regulations concerning the property of local entities, as work under its ownership.

The express or tacit take-over of the executed work will determine the automatic initiation of the obligation of the conservation and maintenance of the work on the part of Pratdip Town Council and also the official correlative initiation of the EUCC dissolution process.



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**ELEVENTH.** - By means of this Agreement an Agreement Monitoring Commission is created, the duration of which will extend from the signing of this document until the dissolution of the EUCC.

The Monitoring Commission will be made up of four members:

- The Mayor of Pratdip, who will preside the commission.
- Two members appointed by the Town Council.
- Two members appointed by the EUCC.

The members of the Monitoring Commission will be able to attend the meetings accompanied by the persons and technical and legal advisors the members consider appropriate. These individuals will be able to participate in such meetings with the right to speak but not to vote.

The Monitoring Commission will carry out the duties assigned in this Agreement and any others inherent by nature.

Prior to the decisions taken by the different municipal bodies, the Commission must be informed of any incidents that occur during the execution of the work. Its agreements will not be binding on the Town Council.

Prior to the resolutions that Pratdip Town Council may adopt, the Monitoring Commission must be informed of the following matters:

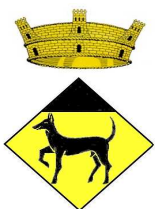
1. Modifications in the original Work Project and Contract.
2. Additional Work Projects and the awarding of the corresponding contract.
3. Approval of the work certifications and invoices.
4. Regulation of the certifications and invoices.
5. Taking over of the work.
6. Work payment.
7. Cancellation of guarantees.
8. Requirement of building contractors responsibilities.

The operation of the Monitoring Commission will be governed by the operating regulations of the collegial bodies established in the administrative regulations.

The Agreement Monitoring Commission will exist independently of the rights the owners have in constituting the Administrative Association Cooperation, in accordance with the purposes and powers established in art. 133 and those following in the Consolidated Text of the Urban Development Law.

**TWELFTH.**-Pratdip Town Council states its wish to allocate the existing equipment in Urban Development, recently acquired, to the location of public services relating to the management of the municipality, which includes the general use by the owners of the Development. Likewise, the Town Council





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will respect in the municipal Development Management Plan, which is currently being processed, the same uses of the land that are presently established in the subsidiary regulations of current planning for the whole area of the development.

And in witness whereof, in accordance with that stipulated above, the contracting parties sign this agreement in duplicate and for a single purpose in the place and on the date referred to above. In my capacity as secretary-inspector of the Town Council and notary of the Municipal Corporation, I hereby attest to the veracity of the above.