MEETING DATE: **10.13.14**

AGENDA ITEM: PUBLIC HEARING: Adoption of a Resolution Approving the Annual Assessment Levy for Benefit Assessment District West Washington Boulevard No. 2 for Fiscal Year 2014/2015

ATTACHMENTS

PURCHASE AGREEMENT AND ESCROW INSTRUCTIONS

This Purchase Agreement and Escrow Instructions (this "**Agreement**") is entered into as of October __, 2014, between the **City of Culver City**, a municipal corporation ("**Seller**"), and **OliverMcMillan Culver City Theaters, LLC**, a California limited liability company ("**Buyer**"), who agree and, to the extent applicable instruct Escrow Holder, as follows:

1. "AS-IS" Purchase and Sale. In accordance with and subject to this Agreement, Seller shall sell the Property to Buyer, and Buyer shall purchase the Property from Seller. **BUYER ACKNOWLEDGES THAT IT IS PURCHASING THE PROPERTY IN ITS "AS-IS" CONDITION IN RELIANCE SOLELY ON BUYER'S INSPECTION AND EXISTING TENANCY OF THE PROPERTY, THE MATERIALS PROVIDED TO BUYER IN ACCORDANCE WITH THIS AGREEMENT, AND THE AGREEMENTS AND DELIVERIES CONTEMPLATED BY THIS AGREEMENT.**

Buyer agrees to be bound by the provisions of the document labeled "Deed Restrictions" attached hereto as "**Exhibit A-1**" and incorporated herein by this reference.

For purposes of this Agreement, the following terms have the following meanings and the following constitute some of the essential provisions of this Agreement:

"City Lease" means the Lease Agreement regarding the Property entered into as of April 10, 2002, between Seller, as fee owner and lessor of the Property, and Buyer, as master lessee.

"City Theater Requirement" means the full execution of a lease of the Property (conditioned on the Close of Escrow under this Agreement) for a term of at least 15 years (with at least four 5-year renewal options in favor of the theater tenant), by Buyer, as landlord, and a qualified theater operator approved by Seller prior to the Closing for financial capability and relevant experience, as tenant (although ArcLight and Look are deemed pre-approved theater operators). The operator shall be comparable in quality to ArcLight Cinemas, Look Cinemas, iPic Theaters, Landmark Theaters, Knife and Fork, Cobb's premium, Soho House Theater, Cinepolis, and The Lot or similar quality theaters. The City's approval of the operator may not be unreasonably withheld or delayed. Buyer and/or tenant shall make the necessary improvements to the land, structure, equipment and operation of the Property and shall provide an upscale and high quality theater experience with dine-in facilities. The tenant shall operate the theater facility with at least the same quality as the existing theater at the Property. Such lease shall include the covenants set forth in ***Exhibit A-2*** to this Agreement and the lease will be subject and subordinate to the Deed Restrictions.

"Closing Date" means the 30th day after the expiration of the Financing Period (including any extensions thereof for which Extension Fees have been paid to Seller pursuant to this Agreement).

"Council Approval" means the effective date of approval by the City Council of Culver City, at a publicly noticed hearing, of this Agreement and the authorization of the transaction contemplated by this Agreement, as evidenced by the City's execution of this Agreement.

"Deed Restrictions" means the covenants and restrictions specified on the attached ***Exhibit A-1***, which are to be included in the Deed conveying title to the Property from Seller to Buyer. The Deed Restrictions will apply to the 20-year period following the Close of Escrow.

"Escrow Holder" and **"Title Company"** each means First American Title Insurance Company, Attention: Mike Vinti, 4380 La Jolla Village Drive, Suite 200, San Diego, Ca 92122San Diego, CA, Telephone: 858/410-3878, E-Mail: mvinti@firstam.com.

"Financing Condition" means Buyer's receipt of a commitment from a qualified lender and/or equity investors to finance the entire amount of the Purchase Price in the amount of Thirteen Million Dollars ($13,000,000) on the Close of Escrow, on commercially reasonable terms, subject only to such conditions as are required in financing commitments for comparable real estate transactions in Southern California. Buyer shall use its best efforts to satisfy the Financing Condition during the Financing Period.

"Financing Period" means the 60-day period beginning on the date of Council Approval. Up to three times, Buyer may extend the expiration of the Financing Period by up to 30 days by paying the City a $50,000 non-refundable extension fee for each applicable 30-day extension (the "**Extension Fe**es"). The Extension Fees are nonrefundable once paid to Seller, but will be credited towards the Purchase Price on the Close of Escrow.

"Memorandum of Amendment/Termination" means a Memorandum of the Amendment/Termination substantially in the form of the attached ***Exhibit C***.

"Parking Agreement" means that certain Parking Agreement dated July 16, 2001, entered into by and between Seller's predecessor in interest thereunder, the former Culver City Redevelopment Agency, a public body, corporate and politic (the "**Agency**"), and Buyer's predecessor in interest thereunder, Oliver-McMillan Culver City LLC, a Delaware limited liability company, which is an affiliate of Buyer (**"OMCC"**) as amended by that certain Amendment to Parking Agreement dated April 9, 2002, entered into by and between the Agency and Buyer, and as amended by the Second Amendment to Parking Agreement and Termination of Developer Obligations and Ground Lease in the form of the attached **Exhibit B** among Buyer, Seller and OMCC (the "**Amendment/Termination**"), to be executed and recorded at Closing in accordance with this Agreement. The obligations of the Buyer and the Seller under the Parking Agreement shall survive the Closing under this Agreement, and Seller and Buyer shall at all times after the date of this Agreement continue to perform their respective obligations thereunder, subject and in accordance with the terms and conditions thereof.

"Property" means: the real estate in the City of Culver City, County of Los Angeles, California, known as Lot 1 of Parcel Vesting Map 25832 recorded in the Los Angeles County real property records (the "**Land**"), along with all improvements in, on or under the Land, including an existing and operating movie theater (the "**Improvements**"), all easements, licenses, leases, trademarks, trade names, Internet addresses, telephone numbers and other interests appurtenant to the Land or Improvements and all other personal property (tangible and intangible) located on or used in connection with the Land or the Improvements including appliances, furniture, maintenance, office, and other equipment, and marketing materials relating to the Real Property or Improvements (the "**Personal Property**").

"Purchase Price" means Thirteen Million Dollars ($13,000,000.00).

2. Escrow. Within three business days after mutual execution of this Agreement, Buyer shall deliver a copy of this Agreement to Escrow Holder and Buyer and Seller shall cause an escrow ("**Escrow**") to be opened with Escrow Holder for the purpose of facilitating the consummation of this Agreement. The provisions of this Agreement constitute instructions to Escrow Holder; provided, however, Buyer and Seller also shall execute any additional mutual instructions Escrow Holder may require, consistent with this Agreement. Any inconsistency between any such further mutual instructions and this Agreement must be resolved in a manner consistent with this Agreement and the provisions of this Agreement prevail unless Buyer and Seller expressly waive the inconsistent provision in a writing specifically referring to the fact of the inconsistency and the intent to waive it. Seller shall promptly deliver to Buyer all of the following, to the extent they relate to any aspect of the Property and are within Seller's (or its agent's, employee's, or contractor's) possession or control and are not within Buyer's (or its agent's, employee's, or contractor's) possession or control: copies of all permits, approvals, certificates, notices, applications of or to governmental or quasi-governmental entities, surveys, appraisals, audits, studies, reports, maps, plans, specifications, drawings, service or other contracts, and any agreements or instruments related to or secured by any aspect of the Property.

3. Conditions to Closing.

a. Seller's Conditions Precedent. Seller's obligations under this Agreement are subject to the satisfaction of, or Seller's waiver or approval of, the following conditions precedent (collectively, "**Seller's Conditions**"). Unless each of the Seller's Conditions is satisfied, or waived in writing by Seller, on or before the date scheduled for the Closing under this Agreement, then Seller may terminate this Agreement, in which case the Escrow will be terminated and neither Buyer nor Seller will have any further obligation to the other under this Agreement, all costs associated with the cancellation of Escrow will be shared equally by Buyer and Seller, and Escrow Holder shall, without requiring any further instructions from Seller, immediately return to Buyer any funds deposited by Buyer.

i. City Theater Requirement. Buyer must have provided Seller with a Certification executed by Buyer representing and warranting to Seller that the City Theater Requirement has been satisfied, along with an acknowledgement of such fact by the applicable tenant under such new lease, together with copies of the relevant documents documenting such satisfaction of this condition.

ii. Buyer Representation Regarding No Intent to Sell. Buyer must have provided Seller with a Certification executed by Buyer representing and warranting to Seller that Buyer has no current plans or intention to sell the Property for at least 10 years after Closing (but such representation will not constitute a covenant or restriction on Buyer's ownership of the Property or any limitation of any remedy on any lienholder, lender, mortgagee or beneficiary of a mortgage or deed of trust on the Property).

iii. No Breach. Buyer must be in material compliance with all terms of this Agreement.

iv. Satisfaction of Financing Condition. Buyer must have satisfied or waived the Financing Condition.

b. Buyer's Conditions Precedent. Buyer's obligations under this Agreement are subject to the satisfaction of, or Buyer's waiver or approval of, the following conditions precedent (collectively, "**Buyer's Conditions**"). Unless each of the Buyer's Conditions is satisfied, or waived in writing by Buyer, on or before the date scheduled for the Closing under this Agreement, then Buyer may terminate this Agreement, in which case the Escrow will be terminated and neither Buyer nor Seller will have any further obligation to the other under this Agreement, all costs associated with the cancellation of Escrow will be shared equally by Buyer and Seller, and Escrow Holder shall, without requiring any further instructions from Seller, immediately return to Buyer any funds deposited by Buyer.

i. Title. Buyer promptly shall obtain a preliminary report for the Property issued by Title Company, along with legible copies of all documents referenced therein and all locatable easements plotted (the "**Title Report**"). Buyer has 45 days from mutual execution of this Agreement within which to approve or disapprove the status of title to the Property. If Buyer disapproves of any of the exceptions to title identified in the Title Report or on any survey, except for any title exception caused by lack of compliance by Buyer with its obligations under the City Lease and related documents ("**Disapproved Title Exception**") and evidences its disapproval by giving written notice of such disapproval to Seller within such 45-day period, this Buyer's Condition is deemed unsatisfied unless, within five days after such disapproval Seller provides Buyer with evidence satisfactory to Buyer, in Buyer's sole discretion, that each of the Disapproved Title Exceptions will be eliminated on or before the Closing Date. If Seller does not timely provide such evidence, Buyer may waive its prior disapproval before the Closing Date. Nevertheless, for this condition to be satisfied, Seller must have eliminated, before the Close of Escrow, all monetary encumbrances other than those arising from Buyer's lack of compliance with its obligations under the City Lease, notices of pending actions, mechanic's and design professional liens, all special assessments, all taxes and regular assessments due or payable before the Close of Escrow other than those which are the responsibility of Buyer under the City Lease, and possessory rights of others, and Buyer need not specifically disapprove of the foregoing because they are deemed "Disapproved Title Exceptions." Before the Close of Escrow, Title Company must be committed to issue Buyer, as of the Close of Escrow, an ALTA Form 2006 Extended Coverage Owner's Policy of Title Insurance, insuring Buyer in the amount of the Purchase Price that title to the Land is vested in Buyer on the Close of Escrow, subject only to those exceptions to title described in the Title report other than the Disapproved Title Exceptions which have not been waived by Buyer, accompanied by appropriate endorsements regarding, and deletions of, the standard mechanic's lien exception, and any additional affirmative coverage reasonably required by Buyer (the "**Title Policy**").

ii. No Breach, Adverse Actions or Changes. Seller must be in material compliance with all terms of this Agreement. As of the Closing Date, for this condition to be satisfied, there may not then be pending or threatened, any litigation, administrative proceeding, investigation or other form of governmental enforcement, executive or legislative proceeding in any way related to, directed at or otherwise affecting the use, operation or occupancy of any portion of the Property. No material adverse change may have occurred in the condition, occupancy, or value of the Property since the date of this Agreement.

4. Buyer's Deliveries. On or before the Closing Date, Buyer shall deliver to Escrow Holder: (a) funds in the amount required of Buyer under this Agreement, including the Purchase Price and escrow, title and closing costs; (b) the Amendment/Termination and the Memorandum of the Amendment/Termination, executed by Buyer and OMCC and acknowledged by a notary public, and (c)

any documents reasonably required by Title Company or Escrow Holder to consummate the subject transaction.

5. Seller's Deliveries. Seller shall deliver the following to Escrow Holder before the Closing Date: (a) a grant deed duly executed and acknowledged by Seller on the Title Company's standard form, but additionally including the Deed Restrictions, conveying good and marketable title to the Real Property to Buyer (the "**Deed**"); (b) a Bill of Sale and General Assignment conveying to Buyer all aspects of the Property that are not conveyed by the Deed, in form reasonably prescribed by Buyer; (c) the Amendment/Termination and the Memorandum of the Amendment/Termination executed by Seller and acknowledged by a notary public, and (d) all other documents reasonably required by Buyer, Title Company or Escrow Holder in order to consummate the subject transaction (including the standard Owner's affidavit or declaration typically requested of sellers by the Title Company).

6. Closing Escrow. On the Closing Date, provided all conditions to the Close of Escrow have been satisfied (or waived by the party to this Agreement who benefits from the condition), and that Escrow Holder is prepared to perform all of the following, Escrow Holder shall promptly perform all of the following (the "**Close of Escrow**"): (a) cause the Deed and the Memorandum of Amendment/Termination to be recorded with the Official Records of Los Angeles County, California; (b) pay the costs and apply the prorations in accordance with Articles 7 and 8 below; (c) cause the Title Policy to be issued and delivered to Buyer; and (d) disburse to Seller (after making appropriate adjustments for costs and prorations as provided in this Agreement), all funds deposited with Escrow Holder by Buyer in payment of the Purchase Price and disburse to Buyer all of the other deliveries of Seller made pursuant to Article 5 above. If, for some reason, the Close of Escrow does not occur within five business days after the Closing Date, then Buyer or Seller, if not in default under this Agreement, may cancel Escrow by written notice to Escrow Holder, at which point Escrow and the subject transaction become terminated and all monies and documents in Escrow Holder's possession must be distributed by Escrow Holder in accordance with the provisions of this Agreement and such additional mutual instructions as the parties may provide. The cancellation of Escrow will not prejudice or limit any legal or equitable rights of Buyer or Seller.

7. Costs. Seller shall pay (a) one-half of Escrow Holder's fee, (b) documentary transfer and stamp taxes, surtaxes and fees payable in connection with the recordation of the Deed, (c) the cost of the Title Policy, excluding the cost of any endorsements requested by Buyer, and (d) Escrow Holder's customary charges to a seller for document drafting, recording and miscellaneous charges. Buyer shall pay (i) one-half of Escrow Holder's fee, (ii) the cost of the additional premium charged for the Title Policy on account of any endorsements requested by Buyer, and (iii) Escrow Holder's customary charges to a buyer for document drafting, recording and miscellaneous charges. Additionally, Buyer shall pay to Seller the balance of the tax and insurance reserves held by Buyer under the City Lease as of the Close of Escrow. Seller will not be entitled to credit or payment for the capital reserves, which are to be retained by Buyer.

8. Prorations. The following must be prorated between Buyer and Seller, as of the Close of Escrow, on the basis of the actual number of days during the month in which the Close of Escrow occurs: (a) general and special county and city real property taxes and assessments ("Taxes"); and (b) rent under the City Lease, including the base rent and all additional rents required to be paid to Seller under the City Lease. Because rent under the Lease is based on determination of prior revenues and expenses, the parties shall prorate the rent within 30 days after the Close of Escrow, subject to the retention by Escrow of a

reasonable sum to secure the payment to Seller of such rental payments. Proration of Taxes must be based on the most recent official tax bills or notice of valuation available to the general public for the fiscal year in which the Close of Escrow occurs, and to the extent the tax bills do not accurately reflect the actual Taxes assessed against the Property (or any portion of the Property), then Buyer and Seller shall adjust such actual Taxes between Buyer and Seller, outside of Escrow, as soon as reasonably possible following the Close of Escrow. If and to the extent Escrow Holder requires any additional information or instructions from Buyer and Seller in order to perform the prorations, Buyer and Seller shall furnish Escrow Holder with further mutual instructions. Escrow Holder shall not be concerned with any prorations that are to be made after the Close of Escrow pursuant to this Agreement.

9. **LIQUIDATED DAMAGES. IF BUYER MATERIALLY BREACHES THIS AGREEMENT RESULTING IN THE FAILURE OF ESCROW TO CLOSE, THEN SELLER WILL BE ENTITLED TO RETAIN THE EXTENSION FEES, IF ANY, AND RECEIVE AN ADDITIONAL $100,000 AS LIQUIDATED DAMAGES AND AS ITS SOLE REMEDY. BUYER HAS NO OTHER LIABILITY TO SELLER UNDER THIS AGREEMENT FOR DAMAGES, SPECIFIC PERFORMANCE OR OTHERWISE (AND SELLER ACCORDINGLY WAIVES CALIFORNIA CIVIL CODE SECTIONS 1680 AND 3389). BUYER AND SELLER ACKNOWLEDGE THAT SUCH SUM IS REASONABLE CONSIDERING ALL OF THE CIRCUMSTANCES EXISTING ON THE DATE OF THIS AGREEMENT, INCLUDING THE RELATIONSHIP OF SUCH SUM TO THE RANGE OF HARM TO SELLER THAT COULD BE ANTICIPATED AND THE ANTICIPATION THAT PROOF OF CAUSATION, FORESEEABILITY, AND ACTUAL DAMAGES WOULD BE COSTLY OR INCONVENIENT.**

______________ ______________

Buyer's Initials **Seller's Initials**

10. Possession and Documents. On the Close of Escrow, Seller shall deliver to Buyer possession of the Property, free of the rights of any other person or individual other than those of Buyer under the City Lease, which shall be deemed terminated as of the Close of Escrow.

11. Casualty or Condemnation. If before the Close of Escrow any portion of the Property is condemned or suffers a casualty, the result of which is a loss to the Property of more than $150,000, Buyer may terminate this Agreement by giving written notice of termination to Seller within 10 days after learning of the casualty or condemnation. If the Property suffers a casualty, the loss of which is $150,000 or less, or if Buyer fails to timely terminate this Agreement in accordance with the preceding sentence, this Agreement will continue in full force, except that: the closing Date will be extended as reasonably needed by Buyer because of the casualty or condemnation, not to exceed an extension of one hundred and eighty (180) days; the Purchase Price will be reduced by any insurance and condemnation proceeds received before the Close of Escrow by Seller on account of the casualty or condemnation; and any similar proceeds payable after the Close of Escrow will be assigned to Buyer.

12. Designee. Buyer may, on or before the Closing Date, assign to any partnership, corporation, trust or other entity designated by Buyer ("Designee") in which Buyer or its owners hold a controlling ownership interest or to which Seller approves in its sole and absolute discretion, all of Buyer's right, title,

and interest in, to, and under this Agreement and the Escrow, provided that the assignment is in writing and the Designee expressly assumes in writing all of Buyer's obligations under this Agreement and the Escrow. This Agreement binds and inures to the benefit of the permitted successors and assigns of the parties to this Agreement.

13. Like-Kind Exchange. Seller shall cooperate with Buyer in effecting a tax-deferred exchange of the Property under Section 1031 of the Internal Revenue Code so long as Seller incurs no un-reimbursed additional costs or liabilities, and so long as the Close of Escrow is not delayed.

14. Governing Law, Venue and Jurisdiction. This Agreement is governed by and construed in accordance with the laws of the State of California. All actions and proceedings arising in connection with this Agreement must be tried and litigated exclusively in the State and Federal courts located in the County of Los Angeles, State of California, which courts have personal jurisdiction and venue over each of the parties to this Agreement for the purpose of adjudicating all matters arising out of or related to this Agreement. Each party authorizes and accepts service of process sufficient for personal jurisdiction in any action against it as contemplated by this paragraph by registered or certified mail, return receipt requested, postage prepaid, to its address for the giving of notices set forth in this Agreement.

15. Further Assurances. Each party to this Agreement shall execute and deliver all instruments and documents and take all actions as may be reasonably required or appropriate to carry out the purposes of this Agreement.

16. Attorney's Fees. The prevailing party in any litigation, arbitration, bankruptcy, insolvency or other proceeding ("Proceeding") relating to the enforcement or interpretation of this Agreement may recover from the unsuccessful party all costs, expenses, and actual attorney's fees (including expert witness and other consultants' fees and costs) relating to or arising out of (a) the Proceeding (whether or not the Proceeding proceeds to judgment), and (b) any post-judgment or post-award proceeding including, without limitation, one to enforce or collect any judgment or award resulting from the Proceeding. All such judgments and awards shall contain a specific provision for the recovery of all such subsequently incurred costs, expenses, and actual attorney's fees.

17. Interpretation. The terms "includes" and "including" do not imply any limitation. No remedy or election under this Agreement is exclusive, but rather, to the extent permitted by applicable law, each such remedy and election is cumulative with all other remedies at law or in equity. The covenants, conditions, representations and warranties of this Agreement survive the Close of Escrow and the recordation and delivery of the Deed. Each provision of this Agreement is valid and enforceable to the fullest extent permitted by law. If any provision of this Agreement (or the application of such provision to any person or circumstance) is or becomes invalid or unenforceable, the remainder of this Agreement, and the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, are not affected by such invalidity or unenforceability. The rule of construction that ambiguities are to be resolved against the drafting party may not be employed in the interpretation of this Agreement or any amendment to this Agreement. This Agreement may be modified only by a contract in writing executed by the party to this Agreement against whom enforcement of the modification is sought. Any waiver of a default or provision under this Agreement must be in writing. No such waiver constitutes a waiver of any other default or provision concerning the same or any other provision of this Agreement.

No delay or omission by a party in the exercise of any of its rights or remedies constitutes a waiver of (or otherwise impairs) such right or remedy. A consent to or approval of an act does not waive or render unnecessary the consent to or approval of any other or subsequent act.

18. Notices. Each notice and other communication required or permitted to be given under this Agreement ("Notice") must be in writing. Notice is duly given to another party upon: (a) hand delivery to the other party, (b) when sent by facsimile or email to the address and number for such party set forth below, or (c) the next business day after the Notice has been deposited with a reputable overnight delivery service, postage prepaid, addressed to the party as set forth below with next-business-day delivery guaranteed, provided that the sending party receives a confirmation of delivery from the delivery-service-provider. Each party shall make a reasonable, good faith effort to ensure that it will accept or receive Notices to it that are given in accordance with this paragraph. A party may change its address for purposes of this paragraph by giving the other party written notice of a new address in the manner set forth above.

19. Nonliability of City and Successor Agency Officials and Employees. No member, official or employee of the City shall be personally liable to the Buyer, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Buyer or successor or on any obligation under the terms of the Agreement.

SELLER: **The City of Culver City**, a municipal corporation

By: ______________________________
Meghan Sahli-Wells, its Mayor

Address for Notices: 9770 Culver Blvd., Culver City, CA. 90232; fax no. ___________; email ________________________ ; Attention __________________________.

Approved as to form: ________________________________
Carol Schwab, City Attorney

BUYER: **OliverMcMillan Culver City Theaters, LLC**, a California limited liability company

By: ______________________________
Richard Paul Buss, President

Address for Notices: 733 8th Ave., San Diego, CA 92101; fax no. 619-321-1234; email JSchneider@OliverMcMillan.com; Attention General Counsel

EXHIBIT A-1

DEED RESTRICTIONS

Seller and Buyer agree that the Deed referred to in Section 5 of the Purchase and Sale Agreement to which this Exhibit is attached (the "Agreement") shall contain the following language:

1. Grantee, for itself and on behalf of its successors and assigns to all or any portion of the Property, or any interest therein, covenants and agrees to:

A. Operation of Theater. Operate or cause the operation of the Property to provide an upscale and high quality theater experience on the Property with dine-in facilities, comparable to the same quality or better as the Property is operated and maintained as of the date of this Grant Deed; provided, however, if no theater lease continues after the 15th anniversary of this Deed, Grantee will only be obligated to meet this requirement if, after using commercially reasonable efforts, Grantee can lease or operate the theater at a profit (even if such profit is minimal).

B. Historical Society. Reserve approximately fifty (50) square feet of display space along the C Street façade of the Premises and such display space shall be made available, on a priority basis, to the Culver City Historical Society. To the extent the Historical Society, from time to time, chooses not to utilize, fully, the dedicated space, Grantee reserves the right to work with other organizations to use any portion of the dedicated space not being used by the Historical Society. The City agrees that the display space shall be permitted to occupy air space within the public right-of-way. The requirements of this item B shall be deemed satisfied by the continuation of the current exterior building display relating to the history of motion pictures in the City.

C. Maintenance. Maintain, repair and operate the Property or cause the Property to be maintained, in a first quality condition, free of debris, waste and graffiti, and in compliance with the City of Culver City Municipal Code, and the following:

(1) All improvements at the Property shall be maintained in good condition in accordance with the custom and practice generally applicable to the operation described in Paragraph A above.

(2) Landscape maintenance at the Property shall include, without limitation, watering/irrigation; fertilization; mowing; edging; trimming of grass; tree and shrub pruning, trimming and shaping of trees and shrubs to maintain a natural an healthy appearance, road visibility, and irrigation coverage; replacement, as needed, of all plant materials; control of weeds in all planters, shrubs, lawns, ground covers, or other planted areas: and staking for support of trees.

(3) Clean-up maintenance shall include, without limitation, maintenance of all sidewalks, paths and other paved areas at the Property in a clean and weed-free condition; maintenance of all such areas clear of dirt, mud, trash, debris or other matter which is unsafe or unsightly;

removal of all trash, litter and other debris from improvements and landscaping; clearance and cleaning of all areas maintained prior to the end of each day on which maintenance operations are performed to ensure that all cutting s, weeds, leaves and other debris are properly disposed of by maintenance workers.

(4) Grantee's (or its tenant's) maintenance and operation obligations for the Property shall include providing or paying for (a) all necessary utilities such as heat, light, water, gas, air conditioning, sewer service, telephone and other communications services; (b) all security, custodial and janitorial services; and (c) all landscaping materials, supplies and maintenance services. To the extent imposed by law on owners of abutting property, Grantee shall also maintain, or cause others to maintain, the abutting sidewalks and curbs in good and clean order and condition, subject to reasonable wear and tear.

(5) Grantee shall maintain and preserve the Property in good condition and working order, accomplishing the necessary preventative maintenance and repair or replacement of any items which are not in good working order and condition.

(6) Grantee shall make necessary and appropriate capital improvements to preserve the Property to the extent reasonable and practicable in light of the remaining useful life of the Property and the remaining Term of this Lease, take into account state of the art, technological and other changes in the maintenance and operation required under Paragraph A above.

(7) Grantee shall assume responsibility, subject to the provisions of the Lease, for the operation and maintenance (including repair, restoration and reconstruction) of all improvements at the Property and the costs thereof, and the City shall have no liability for costs of such operations and maintenance by Grantee or for any claims arising from the operation and maintenance (including repair, restoration and the reconstruction) of the improvements. Without Limiting the generality of the foregoing, Grantee, in the maintenance of the improvements, shall observe the following standards:

a. Maintain the surface of all pedestrian areas level, smooth and evenly covered with the type of surfacing materials originally installed thereon or such substitute thereof as shall be in all respects equal thereto or better in quality, appearance and durability.

b. Remove all papers, debris, filth and refuse, and sweep, wash down and/or clean all hard surfaces, including brick, metal, concrete, glass, wood and other permanent poles, walls or structural members as required.

c. Maintain such appropriate entrance, exit and directional signs, markers and lights as shall be reason ably required and in accordance with the practices prevailing in the operation of similar developments.

d. Maintain signs, lights, lighting fixtures and associated wiring systems and relamp and/or reballast as needed.

e. Repaint striping, markers, directional signs, etc., as necessary to maintain in first class condition.

f. Maintain landscaping as necessary to keep in tin a first-class, thriving condition.

g. Provide security personnel and security measures to the extent reasonably necessary. Grantee shall seek the advice of the police department in planning appropriate security measures.

h. Maintain and keep in good condition and repair all benches, shelters, planters, mall coverings, banners, kiosks and other furniture, trash containers, sculptures, play areas, platforms and stages.

i. Maintain and keep in a sanitary condition public restrooms and other common-use facilities.

j. Clean, repair and maintain all common utility systems to the extent that the same are not cleaned, repaired and maintained by public utilities.

k. Maintain all fountains and associated structures, drinking fountains, pumps and associated plumbing.

l. Maintain all surface and storm lateral drainage systems.

m. Maintain all sanitary sewer laterals.

If City gives written notice to Grantee that the maintenance or condition of the Property or any portion thereof do not comply with this Lease and such notice describes the deficiencies, Grantee shall correct, remedy or cure the deficiency within thirty (30) days following the submission of such notice, unless the notice states the deficiency is an imminent threat to public health and safety in which case Grantee shall cure the deficiency with all due diligence and shall complete the cure at the earliest possible time but in no event more than forty-eight (48) hours following the submission of the notice. In the event Grantee fails to maintain the Property or any portion thereof or any improvements thereon in accordance with this Lease and fails to cure any deficiencies within the applicable period described above (as extended to the extent reasonably necessary for Grantee to cure), City shall have the right to maintain the Property and the improvements thereon, or portion thereof, or to contract for the correction of any deficiencies, and Grantee shall be responsible for the payment of all such costs actually and reasonably incurred by City.

D. No Pornographic Theater. Refrain from using the Property at any time for a pornographic theater.

2. Grantor expressly and specifically disclaims the making of any representations or warranties, express or implied, regarding or affecting the Property including, without limitation, the physical and environmental condition of the Property.

3. The physical and environmental condition of the Property is being delivered from the Grantor to Grantee in an "as-is" condition, with no warranty expressed or implied by the Grantor, including without limitation, the presence of hazardous materials or the condition of the improvements, the soil, its geology, the presence of known or unknown seismic faults, or the suitability of the Property for the use and operation purposes intended hereunder.

4. Grantee waives, releases and discharges forever the Grantor and its representatives from all present and future losses and liabilities, arising out of or in any way connected with the Grantor's or the Grantee's

use, maintenance, ownership or operation of the Property, except those arising out of the gross negligence or willful misconduct of the Grantor.

5. Grantee acknowledges that it is aware of and familiar with the provisions of Section 1542 of the California Civil Code which provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

Grantee waives and relinquishes all rights and benefits which it may have under Section 1542 of the California Civil Code with respect to the matters described in this Exhibit A.

6. Grantee shall save, protect, defend, indemnify and hold harmless the Grantor and its representatives, from and against any and all losses and liabilities (including, without limitation, reasonable attorneys' and consultants' fees, investigation and laboratory fees, and remedial and response costs but excluding the extent to which such loss or liability arises from the gross negligence or intentional misconduct of the Grantor) which may now or in the future be incurred or suffered by the Grantor or its representatives, by reason of, resulting from or arising in any manner whatsoever as a direct or indirect result of (i) Grantee's ownership (or possession) of all or any part of the Property, (ii) any act or omission on the part of Grantee, or its representatives, contractors or invitees with respect to the Property, (iii) the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission or release from the Property of any hazardous materials discovered on the Property during Grantee's ownership, except to the extent first introduced to the Property before the date of this Grant Deed by anyone other than Grantee or Grantee's theater operator, (iv) any environmental or other condition of the Property discovered during Grantee's ownership, except to the extent first introduced to the Property before the date of this Grant Deed by anyone other than Grantee or Grantee's theater operator, and (v) any losses and liabilities incurred with respect to the Property under any governmental requirements relating to hazardous materials first discovered on the Property during Grantee's ownership, except to the extent the hazardous materials were first introduced to the Property before the date of this Grant Deed by anyone other than Grantee or Grantee's theater operator; provided, however that the provisions of sub-sections 6 (iii)-(v) inclusive shall not apply with respect to adjacent or nearby property owned or controlled by the Grantor.

7. Grantee shall enforce, in a commercially reasonable manner, Grantee's rights as landlord under the lease of the Property as to the obligations of tenant required to be included in such lease, which are specified in the attached Schedule __ attached to this Grant Deed.

The foregoing covenants (a) are for the sole benefit of Grantor (and no third-party beneficiaries), and (b) automatically terminate on the 20th anniversary of the date of this Grant Deed, and (c) do not imply any right of reverter or risk of loss to title to the Property. Subject to the limitation on remedies in the immediately preceding sentence, Grantor's remedies for a breach of any of the foregoing covenants shall include specific enforcement and injunctive relief.

By accepting this Grant Deed and signing this Grant Deed in the space provided below, Grantee and its successors and assigns in the Property agree to be bound by the provisions of this Deed for a period of 20 years after the date of this Grant Deed.

GRANTEE: OliverMcMillan Culver City Theaters, LLC,
a California limited liability company

By: ______________________________
Richard Paul Buss, President

EXHIBIT A-2

[to be attached as Schedule 1 to Deed]

REQUIRED LEASE PROVISIONS

1. Operation of Theater. Tenant shall operate the Premises to provide an upscale and high quality theater experience on the Premises with dine-in facilities, comparable to the same quality or better as the Premises were operated as of the date of this Lease by Pacific Theaters. Landlord's sole remedy for Tenant's failure to meet its continuous operations obligations under this Lease is Landlord's right to recapture, as more fully set forth in Section __ of this Lease.

2. Historical Society. Approximately fifty (50) square feet of display space will be provided along the C Street façade of the Premises and such display space shall be made available, on a priority basis, to the Culver City Historical Society. To the extent the Historical Society, from time to time, chooses not to utilize, fully, the dedicated space, Tenant reserves the right to work with other organizations to use any portion of the dedicated space not being used by the Historical Society. The City has agreed that the display space shall be permitted to occupy air space within the public right-of-way. The requirements of this item 2 shall be deemed satisfied by the continuation of the current exterior building display relating to the history of motion pictures in the City.

3. Maintenance.

a. Tenant shall, except to the extent expressly made Landlord's responsibility under this Lease maintain, repair and operate the Premises or cause the Premises to be maintained, in a first quality condition, free of debris, waste and graffiti, and in compliance with the City of Culver City Municipal Code, and the following:

(8) All improvements at the Premises shall be maintained in good condition in accordance with the custom and practice generally applicable to the Comparable Arclight Theaters.

(9) Landscape maintenance at the Premises shall include, without limitation, watering/irrigation; fertilization; mowing; edging; trimming of grass; tree and shrub pruning, trimming and shaping of trees and shrubs to maintain a natural an healthy appearance, road visibility, and irrigation coverage; replacement, as needed, of all plant materials; control of weeds in all planters, shrubs, lawns, ground covers, or other planted areas: and staking for support of trees.

(10) Clean-up maintenance shall include, without limitation, maintenance of all sidewalks, paths and other paved areas at the Premises in a clean and weed-free condition; maintenance of all such areas clear of dirt, mud, trash, debris or other matter which is unsafe or unsightly; removal of all trash, litter and other debris from improvements and landscaping; clearance and cleaning of all areas maintained prior to the end of each day on which maintenance operations are performed to ensure that all cutting s, weeds, leaves and other debris are properly disposed of by maintenance workers.

(11) Tenant's maintenance and operation obligations for the Premises shall include providing or paying for (a) all necessary utilities such as heat, light, water, gas, air conditioning, sewer service, telephone and other communications services; (b) all security, custodial and janitorial services; and (c) all landscaping materials, supplies and maintenance services. To the extent imposed by law on owners of abutting property, Tenant shall also maintain, or cause others to maintain, the abutting sidewalks and curbs in good and clean order and condition, subject to reasonable wear and tear.

(12) Tenant shall maintain and preserve the Premises in good condition and working order, accomplishing the necessary preventative maintenance and repair or replacement of any items which are not in good working order and condition.

(13) Tenant shall make necessary and appropriate capital improvements to preserve the Premises to the extent reasonable and practicable in light of the remaining useful life of the Premises and the remaining Term of this Lease, take into account state of the art, technological and other changes in the maintenance and operation of the Comparable Arclight Theaters.

(14) Tenant shall assume responsibility, subject to the provisions of the Lease, for the operation and maintenance (including repair, restoration and reconstruction) of all improvements at the Premises and the costs thereof, and the City shall have no liability for costs of such operations and maintenance by Tenant or for any claims arising from the operation and maintenance (including repair, restoration and the reconstruction) of the improvements. Without Limiting the generality of the foregoing, Tenant, in the maintenance of the improvements, shall observe the following standards:

a. Maintain the surface of all pedestrian areas level, smooth and evenly covered with the type of surfacing materials originally installed thereon or such substitute thereof as shall be in all respects equal thereto or better in quality, appearance and durability.

b. Remove all papers, debris, filth and refuse, and sweep, wash down and/or clean all hard surfaces, including brick, metal, concrete, glass, wood and other permanent poles, walls or structural members as required.

c. Maintain such appropriate entrance, exit and directional signs, markers and lights as shall be reason ably required and in accordance with the practices prevailing in the operation of similar developments.

d. Maintain signs, lights, lighting fixtures and associated wiring systems and relamp and/or reballast as needed.

e. Repaint striping, markers, directional signs, etc., as necessary to maintain in first class condition.

f. Maintain landscaping as necessary to keep in tin a first-class, thriving condition.

g. Provide security personnel and security measures to the extent reasonably necessary. Tenant shall seek the advice of the police department in planning appropriate security measures.

h. Maintain and keep in good condition and repair all benches, shelters, planters, mall coverings, banners, kiosks and other furniture, trash containers, sculptures, play areas, platforms and stages.

i. Maintain and keep in a sanitary condition public restrooms and other common-use facilities.

j. Clean, repair and maintain all common utility systems to the extent that the same are not cleaned, repaired and maintained by public utilities.

k. Maintain all fountains and associated structures, drinking fountains, pumps and associated plumbing.

l. Maintain all surface and storm lateral drainage systems.

m. Maintain all sanitary sewer laterals.

b. If City gives written notice to Tenant that the maintenance or condition of the Premises or any portion thereof do not comply with this Lease and such notice describes the deficiencies, Tenant shall correct, remedy or cure the deficiency within thirty (30) days following the submission of such notice, unless the notice states the deficiency is an imminent threat to public health and safety in which case Tenant shall cure the deficiency with all due diligence and shall complete the cure at the earliest possible time but in no event more than forty-eight (48) hours following the submission of the notice. In the event Tenant fails to maintain the Premises or any portion thereof or any improvements thereon in accordance with this Lease and fails to cure any deficiencies within the applicable period described above (as extended to the extent reasonably necessary for Tenant to cure), City shall have the right to maintain the Premises and the improvements thereon, or portion thereof, or to contract for the correction of any deficiencies, and Tenant shall be responsible for the payment of all such costs actually and reasonably incurred by City.

4. No Pornographic Theater. Tenant shall refrain from using the Premises at any time for a pornographic theater.

EXHIBIT B

[*see attached Amendment/Termination*]

Exhibit B to Purchase Agreement and Escrow Instructions

SECOND AMENDMENT TO PARKING AGREEMENT
and
TERMINATION of DEVELOPER OBLIGATIONS and GROUND LEASE

This Second Amendment to Parking Agreement and Termination of Developer Obligations and Ground Lease (this "**Amendment**") is entered into as of ___________, among OliverMcMillan Culver City Theaters, LLC, a California limited liability company ("**Theater Owner**"), which owns the real property described on the attached **Exhibit A** (the "**Theater Property**"), OliverMcMillan Culver City, LLC, a Delaware limited liability company ("**Retail Owner**"), which owns the retail, grocery, and restaurant real property described on the attached **Exhibit B** (the "**Retail Property**"), and the City of Culver City, a municipal corporation ("**City**"), which owns the real properties described on the attached **Exhibit C** on which parking facilities or parking structures are located (the "**City Property**"). OM and the City agree as follows:

1. Recitals.

    a. Until the date of this Amendment, Theater Owner leased the Theater Property from the City under the Lease Agreement entered into as of April 10, 2002, between the City and the Theater Owner (the "**Ground Lease**"). Concurrent with this Amendment, Theater Owner acquired fee title to the Theater Property from the City.

    b. The City's predecessor-in-interest, the former Culver City Redevelopment Agency, a public body, corporate and politic (the "**Agency**"), and Retail Owner entered into a Parking Agreement as of July 16, 2001, as amended by the Amendment to Parking Agreement entered into April 9, 2002, between Theater Owner and the Agency (collectively, "**Parking Agreement**"). A complete copy of the Parking Agreement is attached as **Exhibit D** to this Amendment. The Parking Agreement provides for certain parking rights and easements of the owners of the Theater Property and Retail with respect to the City Property. By this Amendment, the parties intend to modify and continue the Parking Agreement for the benefit of the Theater Property and the Retail Property (collectively, the "**OM Properties**"), notwithstanding the change of ownership of the Theater Property and the exclusion of the Retail Owner from the first Amendment to the Parking Agreement.

    c. The OM Properties and the City Property are the subject of the 2002 Amended DDA (as defined and described in the Parking Agreement). By this Amendment, the parties intend to terminate the Ground Lease and confirm that the "Developer" has no further obligations under the 2002 Amended DDA and to amend the Parking Agreement.

2. Termination of Lease and Developer's Obligations under DDA. The Ground Lease is terminated and of no further force or effect, whatsoever. The "Developer" under the 2002 Amended DDA, including the Theater Owner and the Retail Owner and their respective

properties are no longer subject to any obligations, conditions or restrictions under the 2002 Amended DDA.

3. Modification to Parking Agreement. The Parking Agreement is amended as follows:

   a. Each reference to the "Developer" means both the Theater Owner and the Retail Owner. Each reference to "Development" means the current uses of the OM Properties and any successor use that is commercial (rather than residential) in nature. Each reference in the Parking Agreement to the "Site" means the Theater Property and the Retail Property.

   b. To the extent the City needs to raise parking rates to pay for capital improvements to the subject parking, then even if such rate increase occurs before the 20th year described in paragraph 2 of Section 300, no Developer approval will be required for the rate increase and, instead, the penultimate sentence of paragraph 2 of Section 300 will be the only constraint on such rate increase.

   c. If the City or its successor owner of any City Property elects to eliminate parking from the existing parking facilities on the City Property (permanently or temporarily), it may do so only so long as it provides reasonable replacement parking at no further distance than the existing parking; provided, however, such replacement parking obligation as to the Theater Property arises only if, at the time the applicable parking is eliminated, the Theater Property is operating as a theater.

   d. Section 505 is deleted in its entirety.

4. Covenants Run with the Land. The rights and easements granted and reserved in the Parking Agreement, as amended by this Amendment, are appurtenant to (and cannot be severed from), and run with the land and bind the successors, heirs or assigns of each party to this Amendment as to, their respective properties described in this Amendment. Without limiting the generality of the foregoing, the parties intend the Parking Agreement to comply with all relevant provisions of California law regarding covenants that run with the land and to constitute equitable servitudes on all portions of the City Property.

5. Miscellaneous. All benefits and burdens of this Amendment and the Parking Agreement run with the land. All initially capitalized terms used but not otherwise defined in this Amendment have the meanings ascribed to them in the Parking Agreement. The Parking Agreement remains in full force, unmodified except as specifically stated in this Amendment. This Amendment may be executed in counterparts.

The City: **The City of Culver City**, a municipal corporation

By: ______________________________

Meghan Sahli-Wells, its Mayor

***Approved as to form*:** ______________________________
Carol Schwab, City Attorney

Theater Owner: **OliverMcMillan Culver City Theaters, LLC**, a California limited liability company

By: ____________________________
Richard Paul Buss, President

Retail Owner: **OliverMcMillan Culver City, LLC**, a Delaware limited liability company

By: ____________________________
Richard Paul Buss, President

Exhibit A: Theater Property (Theater portion of Parcel A)
Exhibit B: Retail Property (Parcel C and balance of Parcel A)
Exhibit C (City's parking properties)
Exhibit D: Parking Agreement

EXHIBIT C

Recording Requested By:
First American Title Company

When Recorded Mail To:
OliverMcMillan Culver City, LLC
Attention: General Counsel
733 8th Avenue
San Diego, CA 92101

[*Space above for recorder's use only*]

MEMORANDUM OF SECOND AMENDMENT TO PARKING AGREEMENT
and
TERMINATION of DEVLEOPER OBLIGATIONS and GROUND LEASE

This Memorandum of Second Amendment to Parking Agreement and Termination of Developer Obligations and Ground Lease (this "**Memorandum**") is entered into as of ____________, among OliverMcMillan Culver City Theaters, LLC, a California limited liability company ("**Theater Owner**"), which owns the real property described on the attached **Exhibit A** (the "**Theater Property**"), OliverMcMillan Culver City, LLC, a Delaware limited liability company ("**Retail Owner**"), which owns the retail, grocery, and restaurant real property described on the attached **Exhibit B** (the "**Retail Property**"), and the City of Culver City, a municipal corporation ("**City**"), which owns the real properties described on the attached **Exhibit C** on which parking facilities or parking structures are located (the "**City Property**"). OM and the City agree as follows:

1. Recitals.

a. Until the date of this Memorandum, Theater Owner leased the Theater Property from the City under the Lease Agreement entered into as of April 10, 2002, between the City and the Theater Owner (the "**Ground Lease**"). Concurrent with this Amendment, Theater Owner acquired fee title to the Theater Property from the City.

b. The City's predecessor-in-interest, the former Culver City Redevelopment Agency, a public body, corporate and politic (the "**Agency**"), and Retail Owner entered into a Parking Agreement as of July 16, 2001, as amended by the Amendment to Parking Agreement entered into April 9, 2002, between Theater Owner and the Agency (collectively, "**Parking Agreement**"). The Parking Agreement provides for certain parking rights and easements of the owners of the Theater Property and Retail with respect to the City Property. By an Amendment to Parking Agreement and Termination of Developer Obligations and Ground Lease (the "**Amendment**") entered into between the parties as of the date of this Memorandum, the parties modified and extended the Parking Agreement for the benefit of the Theater Property and the Retail Property (collectively, the "**OM Properties**"), notwithstanding the change of ownership of the Theater Property and the exclusion of the Retail Owner from the first Amendment to the Parking Agreement.

c. The OM Properties and the City Property are the subject of the 2002 Amended DDA (as defined and described in the Parking Agreement). By this Amendment, the parties intend to terminate the Ground Lease and confirm that the "Developer" has no further obligations under the 2002 Amended DDA and the.

2. Termination of Lease and Developer's Obligations under DDA. The Ground Lease is terminated and of no further force or effect, whatsoever. The "Developer" under the 2002 Amended DDA, including the Theater Owner and the Retail Owner and their respective properties are no longer subject to any obligations, conditions or restrictions under the 2002 Amended DDA.

3. Modification to Parking Agreement. The parties grant each other the rights under Parking Agreement, as amended by the Amendment, which Parking Agreement and Amendment are incorporated into this Memorandum by this reference.

4. Miscellaneous. The rights and easements granted and reserved in the Parking Agreement, as amended by the Amendment, which are incorporated into this Memorandum, are appurtenant to, and run with the land and bind the successors, heirs or assigns of each party to this Amendment as to, their respective properties described in this Amendment. Without limiting the generality of the foregoing, the parties intend the Parking Agreement to comply with all relevant provisions of California law regarding covenants that run with the land and to constitute equitable servitudes on all portions of the City Property. All initially capitalized terms used but not otherwise defined in this Memorandum have the meanings ascribed to them in the Parking Agreement. This Memorandum may be executed in counterparts.

The City: **The City of Culver City**, a municipal corporation

By: ______________________________
Meghan Sahli-Wells, its Mayor

Approved as to form: ______________________________
Carol Schwab, City Attorney

Theater Owner: **OliverMcMillan Culver City Theaters, LLC**, a California limited liability company

By: ______________________________
Richard Paul Buss, President

Retail Owner: **OliverMcMillan Culver City, LLC**, a Delaware limited liability company

By: ______________________________

Richard Paul Buss, President

State of California)
County of San Diego)

On _____________, before me, _________________________________, personally appeared __________________________ 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: ___________________________________
Notary Public

(NOTARY SEAL)

My Commission Expires ____________, 20__

State of California)
County of San Diego)

On _____________, before me, _________________________________, personally appeared __________________________ 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: ___________________________________
Notary Public

(NOTARY SEAL)

My Commission Expires ____________, 20__

Exhibit A: Theater Property (Theater portion of Parcel A)
Exhibit B: Retail Property (Parcel C and balance of Parcel A)
Exhibit C (City's parking properties)