

**DEVELOPMENT AND CONSTRUCTION CONTRACT  
FOR PUBLIC IMPROVEMENTS**

(Public Parking Improvements)

(City Contract No. \_\_\_\_\_)

This DEVELOPMENT AND CONSTRUCTION CONTRACT FOR PUBLIC IMPROVEMENTS (this “**Contract**”) is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2019 (the “**Effective Date**”), by and between the CITY OF CULVER CITY, a municipal corporation (the “**City**”), and CULVER PUBLIC MARKET, LLC, a Delaware limited liability company (the “**Developer**”). The City and the Developer are also referred to herein individually as a “**Party**” and collectively as the “**Parties**”. The Parties hereby agree as follows:

**RECITALS**

The following Recitals are a substantive part of this Contract.

A. The Successor Agency to the Culver City Redevelopment Agency, a public entity existing under the laws of the State of California and successor-in-interest to the former Culver City Redevelopment Agency (the “**Successor Agency**”) and the Developer entered into that certain Disposition and Development Agreement dated as of October 8, 2018, a public record on file in the office of the City Clerk (the “**DDA**”), relating to, among other things, the conveyance, development, operation and use of the “**Property**”. “**DDA**” as used herein shall mean, refer to and include the DDA, as well as any riders, exhibits, addenda, implementation agreements, amendments and attachments thereto or other documents expressly incorporated by reference in the DDA. Any capitalized term not herein defined shall have the same meaning as set forth in the DDA.

B. Pursuant to the terms and conditions of the DDA, the Successor Agency will convey (i) the Site to the Developer and (ii) Site A-1 to the City.

C. Pursuant to the terms and conditions of the DDA, the Developer will Develop and Cause Construction of the Project on the Site and on portions of Site A-1.

D. Pursuant to the terms and conditions of this Contract, the Developer shall Develop and Cause Construction of the Public Parking Improvements on Site A-1.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

## AGREEMENT

### 1.0 DEFINITIONS

Capitalized terms used herein unless otherwise defined herein or in the DDA shall have the meanings set forth below:

**“Additional Contracts”** means any contracts for an amount greater than Five Thousand and 00/100 Dollars (\$5,000.00), in addition to the Construction Contract, entered into by the Developer after the Effective Date pursuant to Section 2.1(d) below with additional consultants and/or contractors for the construction of the Public Parking Improvements, or any portion thereof. Each of the Additional Contracts shall be referred to herein as an “Additional Contract”. Notwithstanding anything to the contrary set forth in this Contract, the Additional Contracts shall expressly exclude the Existing Contracts. The Developer covenants and agrees that the Additional Contracts shall comply with all prevailing wage requirements applicable to the services being performed under California Labor Code Section 1720 *et seq.*, including, without limitation, complying with applicable requirements of California Senate Bill No. 854 signed into law on June 20, 2014.

**“Assignment of Construction Contract”** means an assignment executed by the Developer, and consented to by the Contractor, delivered to and for the benefit of the City, substantially in the form attached to this Contract as Exhibit A and incorporated herein by this reference.

**“Assignment of Plans, Reports and Data”** means an assignment executed by the Developer, and consented to by the architect, delivered to and for the benefit of the City, substantially in the form attached to this Contract as Exhibit B and incorporated herein by this reference.

**“Bonds”** means the tax-exempt bonds, the proceeds of which are intended to be used by the City to fund primarily the City’s share of the development and construction of the Public Parking Improvements.

**“Business Day”** means any calendar day other than a Saturday, Sunday, legal or national holiday or any other day on which the Culver City City Hall is closed for business.

**“Certificate of Liability Insurance”** means that certain form of Certificate of Liability Insurance, attached to this Contract as Exhibit C and incorporated herein by this reference.

**“City”** is defined in the preamble to this Contract. “City” also includes any assignee of, or successor to, the rights, powers and responsibilities of the City.

**“City Fee Waiver”** is defined in Section 2.5(d) below.

**“City Funds”** means the funds to be used by the City to pay its share of the costs, fees and expenses for the development and construction of the Public Parking Improvements, which

funds include the proceeds of the Bonds.

“**City Manager**” means the City Manager of the City or designee.

“**Claim**” and “**Claims**” are defined in Section 4.1(e) below.

“**Common Elements**” means all improvements located outside the boundaries of either the Site A-1 Public Parking Condominium and the Site A-1 Retail Condominium, other than structural elements, shared utility facilities, and other shared facilities, as more particularly set forth in the Condominium Plan and the Condominium CC&Rs.

“**Completion**” means, with regard to development of the Public Parking Improvements, the satisfaction of each of the following events: (i) the City shall have determined that development and construction of the Public Parking Improvements have been completed in substantial compliance with this Contract and the Plans approved by the City (the City agrees that final sign-off on the permits for the construction of the Public Parking Improvements by City inspectors shall be deemed to satisfy the provisions of this clause (i)); (ii) a certificate of occupancy (or its equivalent), not to be unreasonably withheld, shall have been issued for the Public Parking Improvements to the extent that a certificate of occupancy (or its equivalent) is required by the City prior to commencing use thereof; (iii) provided that the City promptly commences and diligently pursues such action following the satisfaction of the events described in clauses (i) and (ii) above, the City has officially accepted ownership of the Public Parking Improvements or any portion thereof in the manner prescribed by the City for acceptance of public improvements to the extent that such official acceptance is required by the City; (iv) a notice of completion pursuant to California Civil Code Section 8186 has been duly recorded in the Official Records for the Public Parking Improvements; and (v) the Developer has delivered to the City unconditional lien releases for its contractor, suppliers and subcontractors providing more than Ten Thousand and 00/100 Dollars (\$10,000.00) worth of materials or labor to the Public Parking Improvements, and any mechanic’s liens that have been recorded or stop notices that have been delivered have been paid, settled or otherwise extinguished, discharged, released, waived, bonded around or insured against, or for any contractor, suppliers or subcontractors for which the Developer has not delivered the aforesaid mechanic’s lien releases, the time for the Developer’s contractor, suppliers and subcontractors to file a claim pursuant to California Civil Code Sections 8412 and 8414 in connection with the Public Parking Improvements has expired.

“**Condominium CC&Rs**” means that certain Declaration of Covenants, Conditions and Restrictions to be entered into between the City, as the owner of the Public Parking Improvements, the land on Site A-1 and the Site A-1 Public Parking Condominium, and the Developer, as the owner of the Site and the Site A-1 Retail Condominium, and the Common Elements. The Condominium CC&Rs are to be recorded against the Site and Site A-1 in the Official Records, substantially in the form attached to this Contract as Exhibit D and incorporated herein by this reference.

“**Condominium Plan**” means that certain map and plan delineating the Site A-1 Parking Condominium and the Site A-1 Retail Condominium, Common Elements shared by and/or benefitting both the Site A-1 Parking Condominium and the Site A-1 Retail Condominium, and

any other elements that may be required by applicable laws, ordinances and regulations in order to create the Site A-1 Parking Condominium and the Site A-1 Retail Condominium.

“**Construction Contract**” is defined in Section 2.1(a) below.

“**Contract**” is defined in the preamble hereto. “Contract” also includes all attachments and exhibits hereto, which are hereby incorporated herein by this reference, and any amendments or modifications which may be entered into by the Parties in accordance herewith.

“**Contractor**” is defined in Section 2.1(a) below.

“**Days**” means calendar days, and the statement of any time period herein shall be calendar days and not working or Business Days, unless otherwise specified.

“**DDA**” is defined in Recital A above.

“**Default**” is defined in Section 7.1(a) below.

“**Defaulting Party**” is defined in Section 7.3(a) below.

“**Develop and Cause Construction**” means the performance of the Public Parking Improvements Scope of Work including, without limitation, the design, entitling and construction of the Public Parking Improvements as approved by the City pursuant to the terms of this Contract. As used in the immediately preceding sentence, “cause” shall include, without limitation, the Developer taking all necessary steps and executing all necessary documents to effectuate such construction activities to be performed by duly licensed construction contractors or to otherwise be done in compliance with all applicable contractor licensing requirements of the State of California. The Parties acknowledge that nothing in this Contract shall be interpreted to mean that the Developer is or shall be acting as a general contractor with respect to the construction of the Public Parking Improvements.

“**Developer**” is defined in the preamble to this Contract. “Developer” also includes any permitted assignees or nominees of the Developer in accordance with this Contract.

“**Developer Funds**” means the amount of funds, over and above the amount of City Funds which the City is obligated to pay to the Developer in connection with the Developer’s efforts to Develop and Cause Construction of the Public Parking Improvements. The anticipated amount of the Developer Funds is set forth on the Public Parking Improvements Budget, provided that said figure is solely an estimate and shall not be deemed a representation or warranty by the Developer whatsoever as to the actual amount of the Developer Funds that will be expended by the Developer to Develop and Cause Construction of the Public Parking Improvements.

“**Developer Parties**” is defined in Section 2.4(d) below.

“**Disbursement Procedures**” means the provisions setting forth the establishment of an

account to hold the City Funds, and the timing and conditions for the disbursement of City Funds to the Developer to pay the City's share of the Public Parking Improvements Costs, substantially in the form attached to this Contract as Exhibit E and incorporated herein by this reference.

**“Effective Date”** is defined in the preamble to this Contract.

**“Event of Default”** is defined in Section 7.1(e) below.

**“Existing Contracts”** means any contracts entered into by the Developer prior to the Effective Date with any contractors or consultants in connection with the design and/or construction of the Public Parking Improvements, or any portion thereof. The Existing Contracts are listed on Exhibit F attached hereto and incorporated herein by this reference.

**“Force Majeure”** is defined in Section 10.18(a) below.

**“Governmental Requirements”** means all laws, ordinances, statutes, codes, rules, orders, decrees, requirements, resolutions, policy statements and regulations (including, without limitation, those relating to land use, subdivision, zoning, the environment, labor relations, prevailing wage, notification of sale to employees, Hazardous Materials, occupational health and safety, water, earthquake hazard reduction and building and fire codes, and including all Environmental Laws and Labor Laws) of the United States, the State of California, the County of Los Angeles, the City and of any other political subdivision, agency or instrumentality exercising jurisdiction over the City, the Developer or Site A-1.

**“Hazardous Materials Activity”** means any actual, proposed or threatened storage, holding, existence or suspected existence, release or suspected release, emission, discharge, generation, processing, abatement, removal, disposition, treatment, handling or transportation of any Hazardous Materials from, under, into, on, above or across Site A-1 or surrounding property or any other use of or operation on Site A-1 or the surrounding property in violation of Environmental Laws that creates a risk of Hazardous Materials contamination of Site A-1.

**“Indemnified Parties”** is defined in Section 4.1(a).

**“Material Timing Impact”** means, as to any City-requested modification or modifications to the Plans, any change or changes which could be expected, using commercially reasonable standards, to delay the outside critical path timing set forth in the Construction Contract for the Public Parking Improvements by more than two weeks cumulatively as a result of all such modifications.

**“Maximum Public Parking Improvements Contribution”** means the maximum price to be paid by the City to the Developer for the Developer to Develop and Cause Construction of, and for the Completion of, the Public Parking Improvements, which maximum price shall be Six Million Six Hundred Thousand and 00/100 Dollars (\$6,720,000.00). The foregoing Six Million Six Hundred Thousand and 00/100 Dollar (\$6,720,000.00) amount shall be increased by any amounts for which the City is responsible pursuant to Section 2.6 below, and by any increased costs incurred by the Developer to Develop and Cause Construction of the Public Parking

Improvements as a result of the City's default under this Contract.

“**Non-Defaulting Party**” is defined in Section 7.3(a) below.

“**Notice**” means a notice in the form prescribed by Section 9.0(a) below.

“**Notice of Default**” is defined in Section 7.1(d) below.

“**Offering Notice**” is defined in Section 12.1 below.

“**Off-Site Improvement Costs**” means all “hard” and “soft” costs (including, without limitation, design, engineering, permitting and construction costs) incurred by the Developer in connection with the construction by the Developer of any improvements to be located outside of the boundaries of the Property as part of the construction of the Project and/or the Public Parking Improvements.

“**Parties**” is defined in the preamble to this Contract.

“**Party**” is defined in the preamble to this Contract.

“**Permit and Impact Fees**” is defined in Section 2.5(d) below.

“**Plans**” means any and all final construction, architectural, design, landscaping and grading plans, drawings and specifications prepared for the Project and the Public Parking Improvements, as more specifically described on Exhibit G, attached hereto and incorporated herein by this reference. The Plans may be modified with respect to the Public Parking Improvements as set forth in Section 2.6 below.

“**Post-Closing Funding Account**” is defined in Section 2(a)(1) of the Disbursement Procedures.

“**Post-Closing Funding Account Holder**” is defined in Section 2(a)(1) of the Disbursement Procedures.

“**Project Improvements**” means the buildings and other improvements to be constructed by the Developer on the Site as the Project pursuant to the DDA. For clarification purposes, the Project Improvements do not include the Public Parking Improvements.

“**Public Parking Improvements**” means certain public parking improvements, to be located on Site A-1 and to be owned by the City, which Public Parking Improvements the Developer shall Develop and Cause Construction of to Completion on Site A-1, in accordance with the approved Plans and this Contract. The Parties acknowledge that the Public Parking Improvements shall expressly exclude any improvements constructed by the Developer upon or within the Site A-1 Retail Condominium. Notwithstanding anything to the contrary set forth in this definition of Public Parking Improvements or elsewhere in this Contract, it is contemplated that the structural elements that support or are otherwise integral to the structure of the Public

Parking Improvements and the Site A-1 Retail Condominium will be Common Elements under the Condominium CC&Rs, to be owned and maintained by the association created under the Condominium CC&Rs as more particularly set forth therein.

“**Public Parking Improvements Budget**” means the sources and uses of City Funds and the Developer Funds for development and construction of the Public Parking Improvements under this Contract as set forth in Exhibit H, which is attached hereto and incorporated herein by this reference.

“**Public Parking Improvements Costs**” means the actual costs and expenses incurred by the Developer to Develop and Cause Construction of the Public Parking Improvements including, without limitation, all so-called “soft costs” (e.g., architectural, engineering, consultant expenses, permit fees, impact fees and legal expenses), and all so-called “hard costs” (e.g., the actual cost of constructing the Public Parking Improvements).

“**Public Parking Improvements Cost Percentage**” is defined in Section 3(d) of the Disbursement Procedures.

“**Public Parking Improvements Payment Amount**” is defined in Section 6(e) of the Disbursement Procedures.

“**Public Parking Improvements Scope of Work**” means that portion of the work to be performed by the Developer in connection with the design, entitling and construction of the Public Parking Improvements that is set forth on Exhibit I, which is attached hereto and incorporated herein by this reference.

“**Reply Notice**” is defined in Section 12.2 below.

“**Retention**” is defined in Section 6(e) of the Disbursement Procedures.

“**Rider**” means those City-required terms and provisions for specified construction contracts and design contracts substantially in the form as set forth in Exhibit J-1 and Exhibit J-2 attached hereto and incorporated herein by this reference.

“**Right of First Offer**” is defined in Section 12.1 below.

“**Schedule of Performance**” means that certain Schedule of Performance, attached to this Contract as Exhibit K and incorporated herein by this reference, setting forth the dates and/or time periods by which certain obligations set forth in this Contract must be accomplished by the Parties. The Schedule of Performance is subject to revision from time to time as mutually agreed upon in writing between the Developer and the City Manager, and the City Manager is authorized to make such revisions as the City Manager deems reasonably necessary.

“**SECTION 1542**” is defined in Section 2.4(d) below.

“**Site A-1 Memorandum of Right of First Offer**” means that certain memorandum

evidencing the Right of First Offer, substantially in the form as set forth in Exhibit P attached hereto and incorporated herein by this reference.

“**Site A-1 Public Parking Condominium**” means a condominium unit to be created upon Site A-1 which shall include the portion of the improvements constructed upon Site A-1 that are devoted to parking uses.

“**Site A-1 Retail Condominium**” means a condominium unit to be created upon Site A-1 and, if elected by the Developer, the Site which shall include the portion of the improvements constructed upon Site A-1 and the Site that are devoted to retail and ancillary uses.

“**Successor Agency**” is defined in Recital A above. “Successor Agency” also includes any assignee of, or successor to, the rights, powers and responsibilities of the Successor Agency.

“**Tentative Agreement Date**” is defined in Section 12.2 below.

“**Termination Notice**” is defined in Section 7.3(a) below.

“**Third-Party Insurance Requirements**” means that certain list of Third-Party Insurance Requirements, attached to this Contract as Exhibit L and incorporated herein by this reference.

## **2.0 CONSTRUCTION OF PUBLIC PARKING IMPROVEMENTS**

### **2.1 Construction Contract for Public Parking Improvements**

(a) As of the Effective Date of this Contract, the Developer has entered into a construction contract for the construction of the Project Improvements and Public Parking Improvements (and along with both, all Common Elements) (the “**Construction Contract**”) with a contractor approved by the City (the “**Contractor**”). By executing this Contract, the City hereby acknowledges and agrees that the form of Construction Contract attached hereto as Exhibit M (and incorporated herein by this reference) and the Contractor identified therein are hereby approved by the City and meet and comply with all requirements of this Contract and the City’s public bid process relating to the letting of such Contract, and that such approval of such Construction Contract and Contractor has been satisfied by the Developer or otherwise waived by the City in accordance with City ordinances, rules and regulations.

(b) Subject to the last sentence of this Section 2.1(b) below, the Public Parking Improvements Costs shall be paid by the City with City Funds pursuant to the Disbursement Procedures and this Contract, and as said costs are calculated, determined and allocated pursuant to and in accordance with this Contract. Notwithstanding the foregoing, except as may be authorized by further action of the City or as otherwise expressly set forth in this Contract, in no event shall payment of the Public Parking Improvements Costs by the City exceed the Maximum Public Parking Improvements Contribution, which amounts the City hereby represents and warrants are within the City’s current budget and/or otherwise within an available, unexhausted and unencumbered appropriation of the City. Except as otherwise

expressly set forth in this Contract, any funds needed to make payments for any additional costs, fees or expenses in excess of the Maximum Public Parking Improvements Contribution shall be the sole obligation of the Developer.

(c) The City's approval of the Construction Contract or any Additional Contract for the development and construction of the Public Parking Improvements shall not in and of itself constitute a waiver by the City of any breach or violation of this Contract by the Developer, and the Developer shall refrain from claiming that any such approval constitutes such a waiver; provided, however, that such approval shall constitute the City's acknowledgment and agreement that the Construction Contract and any such Additional Contract meets the applicable requirements of this Contract with respect to the form of that contract and the City provisions required to be included therein, including the requirements of Section 2.1(f) below, or that the City has otherwise irrevocably waived such requirements.

(d) Should the Developer desire to enter into any Additional Contracts, the Developer shall submit to the City, and the City Manager shall reasonably review and approve, the form of proposed Additional Contract to be entered into by the Developer with such consultant and/or contractor prior to the Developer's execution of such Additional Contract, or the Developer shall otherwise provide that, even if executed, such Additional Contract shall be conditioned upon the City's approval thereof as required under this Contract. In connection with the foregoing, at the time of submitting any proposed contract for final approval by the City, the Developer shall use commercially reasonable efforts to submit a redline of the required form of Rider against the rider attached to the applicable Contract reflecting any proposed differences, unless the City elects, in its reasonable discretion, to waive in writing such requirement for any particular proposed Additional Contract. The City's review and approval rights set forth in this Section 2.1(d) shall be limited solely to confirming that the proposed Additional Contract complies with the requirements of this Contract. Each such Additional Contract shall be delivered to the City in its final executed form prior to or concurrently with commencement of any payments by the City made pursuant to this Contract and the Disbursement Procedures for amounts incurred by the Developer under such Additional Contract. Additionally, even if the same does not qualify as an Additional Contract, the Developer shall notify the City of every contract the Developer enters into with respect to the Public Parking Improvements from and after the Effective Date that (i) is subject to prevailing wage requirements under applicable Governmental Requirements, and (ii) is for an amount of One Thousand Dollars (\$1,000) or more.

(e) Each of the Additional Contracts, if any, shall be entered into with a duly licensed, insured, reputable, qualified and financially responsible contractor or consultant.

(f) Without limiting the Developer's obligations and the City's rights set forth in this Contract with respect to the development, construction and construction management of the Public Parking Improvements, the Developer shall require that the Additional Contracts sufficiently include and/or incorporate the terms and provisions set forth in the appropriate attached Rider (with respect to Additional Contracts that are construction contracts), or the appropriate attached Rider (with respect to Additional Contracts that are consultant contracts), in each case with only such modifications therein as have been approved by the City, not to be unreasonably withheld, conditioned or delayed. In addition:

(1) In the event that the Additional Contracts are assigned to the City pursuant to this Contract, the Developer shall cooperate in good faith with the City (at no out-of-pocket cost or expense to the Developer) in the City's exercising any remedies provided in the subject Additional Contract or the applicable Rider thereto, including, without limitation, providing necessary documents.

(2) The Developer shall obtain evidence of the applicable contractor's or consultant's compliance with the Third-Party Insurance Requirements prior to execution of any contract by the Developer, and shall provide such evidence to the City upon its request.

(3) The Developer shall be obligated to provide evidence to the City that the contract contains adequate and appropriate express third-party beneficiary language in form and content acceptable to the City Attorney, which may be established by the attachment and incorporation of the Rider.

(g) The Developer agrees that, without the prior written approval of the City, it shall not enter into any contract or supplemental agreement which would in any way alter the quality or character of the Public Parking Improvements from that in any City-approved Plans or which is inconsistent with this Contract.

## 2.2 Construction Management

(a) In consideration for the City's obligations under this Contract, the Developer, without limiting the Parties' obligations to pay their respective shares of the Public Parking Improvement Costs as otherwise provided in this Contract, shall exercise good faith and reasonable efforts to manage, coordinate and administer all aspects of the development and construction of the Public Parking Improvements, including all aspects of the Construction Contract and the Additional Contracts for the development of the Public Parking Improvements in accordance with their terms, including, without limitation, the following: (i) coordinating all regulatory processes including inspection, plan application, permits and the like; (ii) coordinating with the Contractor and other Developer and City consultants and contractors to evaluate performance and constructability issues and make cost savings recommendations to the City as may be identified by the Developer without reducing the aesthetic or quality of construction of the Public Parking Improvements intended by the design; (iii) reviewing construction-related documents for completeness with the Contractor and other Developer and City consultants and contractors; (iv) selecting contractors and consultants that are responsible and reasonably qualified; (v) exercising commercially reasonable efforts to obtain competitive prices when selecting labor and materials; (vi) coordinating with the Contractor and other Developer and City consultants and contractors with regard to accuracy, feasibility, availability and cost of materials, labor and building systems, as necessary and applicable; (vii) coordinating with the Contractor and other Developer and City consultants and contractors for construction of the Public Parking Improvements, including, without limitation, the progression of the services performed by the Contractor and such other consultants and contractors; (viii) monitoring and managing a master schedule to Develop and Cause Construction of the Public Parking Improvements complete with milestones consistent with the Schedule of Performance and this Contract; (ix) managing, in consultation with the City, the Contractor's management, conduct and completion of all bid, bid

negotiations and bid conferences as may be required during construction of the Public Parking Improvements and applicable to the Public Parking Improvements including, without limitation, the purchase of equipment and materials for the Public Parking Improvements, and negotiation and execution of applicable contracts; (x) coordinating the approved Plans and specifications and any clarifications to same for the Public Parking Improvements with the City, the Contractor and other Developer and City consultants and contractors; (xi) administering the Construction Contract and other Developer consultant and contractor contracts including communications, payments, monitoring of construction document interpretations, changes in scope and other procedural aspects for the Public Parking Improvements; (xii) monitoring, coordinating and supervising the day-to-day work of the Contractor and other Developer consultants and contractors working on the Public Parking Improvements; (xiii) maintaining construction documentation for, review and monitor schedule adherence, and remain reasonably available to meet with the City on all aspects of construction of the Public Parking Improvements; (xiv) reviewing, investigating and submitting for City approval change orders proposed by the Developer as required under Section 2.6 below; (xv) monitoring, coordinating and supervising the procurement, delivery and installation services for any furniture, fixture and equipment purchases for the Public Parking Improvements; (xvi) overseeing punch-list completion, organize and cause to be delivered to the City all documentation and releases applicable to the Public Parking Improvements and required from the Contractor and other Developer consultants and contractors pursuant to their applicable contracts with the Developer and this Contract; (xvii) coordinating with the Contractor and other Developer consultants and contractors on the delivery to the City of maintenance and operation manuals, warranties, as-built drawings and final close-out reports applicable to the Public Parking Improvements pursuant to their applicable contracts with the Developer and this Contract; (xviii) monitoring, in consultation with the City, compliance of the Contractor and other Developer consultants and contractors with applicable prevailing wage requirements; and (xix) managing, in consultation with the City, compliance by the Contractor and other Developer consultants and contractors actually performing work and/or maintenance relating to Site A-1 with the requirements of their contracts pertaining to Hazardous Materials Activity, Hazardous Materials, Environmental Laws, Governmental Requirements, Labor Laws (including, in the event that the Developer elects to initiate litigation to cause the Contractor and/or other applicable contractor(s) and consultant(s) to comply with any of the items referenced in this clause (xix), reasonably cooperating with the City in pursuing such litigation for the benefit of the City as well as the Developer, but only if (A) the Developer elects to pursue same for its own benefit but otherwise without obligation under this Contract to initiate or conduct litigation on the City's behalf or for its benefit, (B) pursuing such litigation for the City's benefit will not result in any legal or ethical conflict of interest or otherwise impair the Developer's claim(s) against the subject party or parties, and (C) pursuing such litigation for the City's benefit will not result in any increased cost or expense for the Developer (unless the City agrees in a manner reasonably satisfactory to the Developer to reimburse the Developer for, or otherwise cover, such costs and expenses). Further, the Developer shall be responsible for the coordination of the Contractor and all other Developer and City consultants and contractors involved in the construction of the Public Parking Improvements so as to achieve the integrated and coordinated development of the Public Parking Improvements in substantial compliance with the approved Plans, including, without limitation, the progression of the services performed by the Contractor and other such consultants and contractors for the construction of the Public Parking Improvements.

(b) Notwithstanding any other provisions contained in this Contract, it is agreed, understood and acknowledged by the City that the Developer is not expected to personally act as a licensed general contractor, construction contractor, architect, engineer or environmental expert with regard to the construction management services to be provided pursuant to this Contract. Nothing contained in this Contract shall be deemed to require the Developer to personally perform any act which would constitute the rendering of professional architectural, engineering, laboratory testing or other licensed professional services.

### 2.3 Public Works Project

(a) The Developer acknowledges and agrees that the construction and completion of the Public Parking Improvements constitutes a public work under applicable California law, and except as otherwise expressly set forth in this Contract, the Developer agrees to, and to require that the Contractor and other Developer consultants and contractors for the Public Parking Improvements, abide by all applicable Governmental Requirements and City policies applicable due to the public works nature of the construction of the Public Parking Improvements in the performance of this Contract.

(b) Within thirty (30) Days after the Effective Date, the Developer shall execute a license agreement in substantially the same form as Exhibit N, attached hereto and incorporated herein by this reference, and that is satisfactory to the City, which authorizes the Developer's use of the City's logo and/or historic Culver City sign for the purposes and under the terms and conditions set forth in the license agreement.

### 2.4 Completion of Public Parking Improvements

(a) In accordance with the provisions set forth herein, the Developer shall Develop and Cause Construction of the Public Parking Improvements to Completion in accordance with the approved Plans, all permits and City and other governmental approvals for the Public Parking Improvements and this Contract. The Developer agrees to comply with all applicable payment bond requirements with respect to the development, construction and construction management of the Public Parking Improvements, which payment bonds shall be based upon the amount attributable to the Public Parking Improvements as set forth in the Public Parking Improvements Budget. Without limiting any provisions of this Contract, the City and the Developer anticipate that, on or prior to the Effective Date, the City, the Developer, and the Successor Agency shall enter into a separate agreement allowing the Developer, if it so elects, to enter upon Site A-1 to perform or to permit the performance of certain utility and site work prior to the Closing under the DDA, and any such rights of entry shall continue in full force and effect from and after the Effective Date of this Contract. Additionally, concurrently with the mutual execution and delivery of this Contract, the Developer shall cause to be executed and delivered to the City a guaranty executed by the Developer's parent company substantially in the form as Exhibit Q attached hereto.

(b) At such time as is mutually agreed by the Parties, provided that the Condominium Plan and the Condominium CC&Rs are finalized, but not later than Completion of the Public Parking Improvements, Site A-1 and the Site shall be subject to the requirements of

the Condominium CC&Rs executed by and between the Parties. Concurrent with the Close of Escrow for the sale of the Site to the Developer, or the conveyance of Site A-1 to the City, whichever occurs first, or at such later time as the Developer and the City have finalized the Condominium CC&Rs and have recorded the Condominium Plan, the Condominium CC&Rs shall be recorded in the Official Records against Site A-1 and the Site as a covenant senior to any monetary lien and encumbrance (other than nondelinquent taxes and assessments).

(c) The Developer shall use commercially reasonable efforts to cause the Public Parking Improvements to be completed not later than the date specified therefor in the Schedule of Performance, as such date may be extended pursuant to the terms of this Contract.

(d) Upon Completion of the Public Parking Improvements, the Developer shall deliver to the City a quitclaim deed, bill of sale or such other documents or instruments reasonably requested by the City to reflect that title to the Public Parking Improvements has been transferred to the City, in a form reasonably acceptable to both Parties. The Public Parking Improvements shall be deemed transferred to the City in their "AS IS, WHERE IS" and "WITH ALL FAULTS" condition, expressly without any covenant, warranty or representation, information, study, report or other information from or provided by the Developer whatsoever, oral or written, express or implied, as to quality, utility, desirability, physical condition of, compliance with law, or any other matter whatsoever, of the Public Parking Improvements, except that the Developer shall assign to the City, without representation, warranty or other obligation or liability by or on the part of the Developer, such design and construction warranties as the Developer may have obtained under the Construction Contract and the Additional Contracts in connection with the construction of the Public Parking Improvements. Except as specifically set forth in this Contract, neither the Developer nor any of the Developer Parties has made or makes, and the Developer, on behalf of itself and all of the Developer Parties, specifically negates and disclaims, any representations, warranties or guarantees of any kind or character, whether express or implied, oral or written, past, present or future of, as to, covering or with respect to the Public Parking Improvements, the condition thereof, or any other matter whatsoever, or any claims relating to any of the foregoing. Following the transfer of the Public Parking Improvements to the City, the Developer shall have no obligation whatsoever to make repairs, replacements or improvements to the Public Parking Improvements or to pay any fees, costs or expenses related thereto; provided, however, that the foregoing shall in no way limit any express obligations of the Developer under the Condominium CC&Rs and/or that certain Parking License Agreement, of approximately even date herewith, by and between the Parties.

AS A MATERIAL PART OF THE CONSIDERATION TO THE DEVELOPER FOR THE TRANSFER OF THE PUBLIC PARKING IMPROVEMENTS TO THE CITY, THE CITY, ON BEHALF OF ITSELF AND ANY SUCCESSORS-IN-INTEREST, HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES AND RELEASES AND FOREVER DISCHARGES AND ACQUITS THE DEVELOPER AND ITS AFFILIATED, OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS AND AGENTS (COLLECTIVELY, THE "**DEVELOPER PARTIES**"), FROM ANY AND ALL CLAIMS OF ANY KIND OR NATURE WHATSOEVER, WHETHER KNOWN OR UNKNOWN, SUSPECTED OR UNSUSPECTED, FIXED OR CONTINGENT, OR

LIQUIDATED OR UNLIQUIDATED, WHICH IT NOW HAS, OWNS, HOLDS OR CLAIMS TO HAVE, OWN OR HOLD, OR AT ANY TIME HERETOFORE HAD, OWNED, HELD OR CLAIMED TO HAVE, OWN OR HOLD, AGAINST THE DEVELOPER AND THE DEVELOPER PARTIES RELATING TO SITE A-1 AND THE PUBLIC PARKING IMPROVEMENTS INCLUDING, WITHOUT LIMITATION, CLAIMS THAT ARE BASED DIRECTLY OR INDIRECTLY ON, ARISE FROM OR IN CONNECTION WITH, OR ARE RELATED TO ANY FACTS, MATTERS, CIRCUMSTANCES, CONDITIONS OR DEFECTS (WHETHER PATENT OR LATENT) OF ANY KIND RELATED TO, ARISING FROM OR BASED UPON SITE A-1 OR THE PUBLIC PARKING IMPROVEMENTS OR THE CONDITION THEREOF; PROVIDED, HOWEVER, THAT SUCH WAIVER AND RELEASE WILL NOT APPLY TO A BREACH BY THE DEVELOPER OF ANY EXPRESS WARRANTY OR REPRESENTATION CONTAINED IN THIS CONTRACT. THE CITY ACKNOWLEDGES AND AGREES THAT THE CITY HAS EXPRESSLY NEGOTIATED THE LIMITATIONS OF LIABILITY CONTAINED IN THIS SECTION 2.4(d) AND THAT SUCH LIMITATIONS ARE REASONABLE. THE CITY ACKNOWLEDGES AND AGREES THAT THE DEVELOPER HAS AGREED TO ENTER INTO THIS CONTRACT IN CONSIDERATION FOR AND IN RELIANCE UPON THE FOREGOING LIMITATIONS OF LIABILITY, AND THAT THE CONSIDERATION UNDER THIS CONTRACT IS BASED IN PART ON THE LIMITATIONS OF LIABILITY. THE CITY HEREBY EXPRESSLY WAIVES ANY STATUTORY OR OTHER DISCLOSURES WHICH MAY BE REQUIRED TO BE DELIVERED TO THE CITY UNDER APPLICABLE LAWS AND FOR WHICH DELIVERY CAN BE WAIVED UNDER APPLICABLE LAWS AND ACKNOWLEDGES THAT THE OBLIGATIONS OF THE DEVELOPER WITH RESPECT TO DISCLOSURE ARE CONTROLLED BY THE TERMS OF THIS CONTRACT.

THE CITY HEREBY ACKNOWLEDGES THAT IT HAS READ AND IS FAMILIAR WITH THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 1542 (“**SECTION 1542**”), WHICH IS SET FORTH BELOW:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.” BY INITIALING BELOW, THE CITY HEREBY WAIVES THE PROVISIONS OF SECTION 1542 SOLELY IN CONNECTION WITH THE MATTERS

WHICH ARE THE SUBJECT OF THE FOREGOING WAIVERS  
AND RELEASES.

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City's Initials

2.5 Public Parking Improvements Costs; Method of Financing

(a) The City's share of the Public Parking Improvements Costs shall be paid for with City Funds, subject to the terms and conditions of this Contract and the Disbursement Procedures.

(b) Except as other funds may be authorized by further action of the City Council of the City, the City's sole source of payment to the Developer for the costs of development and construction of the Public Parking Improvements shall be the City Funds expressly specified in this Contract.

(c) Except for the City's obligation to pay the Maximum Public Parking Improvements Contribution and any obligations that the City may incur under Section 2.6(b) below, the Developer shall pay all costs of development, construction and construction management of the Public Parking Improvements. The Developer's obligation under this Contract to pay for any costs associated with the design, permitting, development, construction and/or construction management of the Public Parking Improvements does not in any way limit the City's obligation to pay the Maximum Public Parking Improvements Contribution.

(d) Before commencement of the construction of the Public Parking Improvements or other work upon Site A-1, the Developer shall, at its own expense, secure or cause to be secured any and all permits and approvals which may be required for the construction of the Public Parking Improvements, whether required by the City, the Successor Agency or any other governmental agency affected by such construction or work, and pay all costs, charges and fees associated therewith, whether in effect now or imposed, created or implemented in the future (all such fees imposed by the City or the Successor Agency shall be referred to herein collectively as the "**Permit and Impact Fees**"), subject to the following limitations. To the extent that any Permit and Impact Fees pertain solely to the Public Parking Improvements or pertain to the construction of any off-site improvements to be constructed in connection with the Public Parking Improvements, the Developer shall not be obligated to pay the same, and the City hereby irrevocably waives all such Permit and Impact Fees. To the extent that any Permit and Impact Fees pertain to both the Public Parking Improvements and the Project, or to off-site improvements required to be constructed in connection with the Public Parking Improvements and the Project, the Developer shall not be obligated to pay, and the City hereby irrevocably waives, such portion of such Permit and Impact Fees as is calculated by multiplying all such Permit and Impact Fees by the Public Parking Improvements Cost Percentage. For the avoidance of doubt, to the extent that any Permit and Impact Fees pertain solely to the construction of the Project and not to the construction of the Public Parking Improvements, the Developer shall be solely responsible for the payment of such Permit and Impact Fees. The waiver of the Permit and Impact Fees set forth in this Section 2.5(d) shall be referred to herein as the "**City Fee Waiver**". The City acknowledges that the City Fee Waiver is of material

importance to the Developer's financial underwriting of the Project and if such City Fee Waiver were not obtained the Project's financial viability may be jeopardized, and that the Developer and the Successor Agency contemplated in the DDA that the City Fee Waiver would be expressly set forth in, and approved by the City as part of, this Contract. The Developer understands and acknowledges that the City cannot waive any fees imposed by a non-City entity (e.g., the County of Los Angeles), whether or not related to the Public Parking Improvements, even though such fees might be paid to and collected by the City initially. A calculation of the anticipated amount of the City Fee Waiver, as of the date hereof, is set forth on Exhibit O, which is attached hereto and incorporated herein by this reference.

## 2.6 Change Orders

### (a) Approval Process

The Parties recognize that time is of the essence and agree to the following:

(1) Any changes to the Plans requested by the City after the Effective Date of this Contract shall be subject to the prior written approval of the Developer, such approval not to be unreasonably withheld. Without limiting the Developer's approval rights set forth in the immediately preceding sentence, it shall be deemed reasonable for the Developer to withhold its approval to any proposed change to the Plans requested by the City that, in the Developer's reasonable judgment, would result in one or more of the following events: (i) the proposed change would have a material impact to the look, quality, functionality or operations of the Public Parking Improvements including, without limitation, access between or among the Public Parking Improvements, the Site A-1 Retail Condominium, and the balance of the Project; (ii) the proposed change would have a Material Timing Impact; or (iii) the proposed change would result in any increase in costs for which the City does not provide additional funds as provided in Section 2.6(b) below. The Developer shall respond to any change order proposed by the City within ten (10) Business Days of its receipt thereof.

(2) Any changes to the Plans requested by the Developer after the Effective Date of this Contract shall be subject to the prior written approval of the City, such approval not to be unreasonably withheld. The City shall respond to any change order proposed the Developer within ten (10) Business Days of its receipt thereof. Upon failure of the City to respond to a requested change order within ten (10) Business Days of receipt, the Developer shall provide the City written Notice of its failure to respond, and if the City fails to respond to a requested change order with within five (5) Business Days of receipt of such Notice, then the change order shall be deemed to be approved by the City.

(3) In order to facilitate timely processing of change orders, the City, the Developer and the Contractor shall each attend construction contract progress meetings at least twice each month, or as otherwise reasonably requested by either Party, in order to assist in implementing the timely construction of the Public Parking Improvements.

(b) Allocation of Costs of Change Orders

The costs of any change order (including, without limitation, costs of modifying the Plans) shall be solely borne by the Developer if such modification is requested or required by the Developer and shall be solely borne by the City if such modification is requested or required by the City. The Developer's approval of any change order proposed or requested by the City shall be expressly conditioned upon the City depositing into the Post-Closing Funding Account, within ten (10) Business Days of the Developer's written request, one hundred ten percent (110%) of the additional costs reasonably anticipated by the Developer to be incurred in connection with the design and implementation of the requested change order, with supplemental written instructions mutually agreed upon the Parties to the Post-Closing Escrow Account Holder governing the procedure for the timing of the release and disposition of such additional funds provided by the City. In the event that the Parties cannot agree upon the aforesaid supplemental instructions to the Post-Closing Escrow Account Holder, or in the event that the City does not timely deposit the additional funds required pursuant to the foregoing, then the Developer shall have no obligation to perform or otherwise carry out the subject change order(s) requested by the City.

(c) Federal or State-Mandated Changes

The other provisions of this Contract regarding change orders shall have no applicability to any change orders requested by the City pursuant to any federal or state law, ordinance or regulation first enacted or made applicable to the Public Parking Improvements after the Effective Date, which changes are not triggered or otherwise made applicable to the Public Parking Improvements as a result of any action taken or improvement made by or at the direction of the City. If the City requests any such federally-mandated or state-mandated change orders, then the Developer shall implement such changes at the Developer's sole cost and expense in the course of its construction of the Public Parking Improvements.

2.7 Nondiscrimination in Employment

The Developer certifies and agrees that all persons employed or applying for employment by it and all general contractors, subcontractors, bidders and vendors, are and shall be treated equally by it without regard to, or because of race, color, religion, ancestry, national origin, sex, age, sexual orientation, pregnancy, childbirth or related medical condition, medical condition (cancer related) or physical or mental disability, and in compliance with Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000 *et seq.*, the Federal Equal Pay Act of 1963, 29 U.S.C. Section 206(d), the Age Discrimination in Employment Act of 1967, 29 U.S.C. Section 621 *et seq.*, the Immigration Reform and Control Act of 1986, 8 U.S.C. Section 1324b *et seq.*, 42 U.S.C. Section 1981, the California Fair Employment and Housing Act, California Government Code Section 12900 *et seq.*, the California Equal Pay Law, California Labor Code Section 1197.5, California Government Code Section 11135, the Americans with Disabilities Act, 42 U.S.C. Section 12101 *et seq.*, and all other antidiscrimination laws and regulations of the United States and the State of California as they now exist or may hereafter be amended. The Developer shall allow representatives of the City access to its employment records related to this

Contract during regular business hours to verify compliance with these provisions when so requested by the City.

## 2.8 Rights of Access

The City shall have unrestricted authority and the absolute right to enter upon and inspect Site A-1 without charges or fees, at any hour on any day during the period of construction for the purpose of ensuring compliance with this Contract, including, without limitation, the inspection of the work being performed in the construction of the improvements. Prior to entering Site A-1, the City shall coordinate with the Developer and/or the Contractor and shall abide by the Contractor's safety rules and regulations. The City shall indemnify, defend and hold harmless the Developer for any third-party Losses and Liabilities (including, without limitation, attorneys' fees and costs) arising out of the foregoing inspection activities, except those arising out of the gross negligence or misconduct of the Developer or its employees, officers, agents, representatives or contractors.

## 2.9 Levies and Attachments on Site A-1

The Developer shall remove or have removed any levy or attachment made on Site A-1 or any part thereof, or assure the satisfaction thereof within a reasonable time to the extent arising from the Developer's direct or indirect actions, including, without limitation, the performance of contractor and consultant services. Nothing herein shall be deemed to prohibit the Developer from contesting the validity or amount of any levy or attachment or to limit the remedies available to the Developer or the City with respect thereto.

## 2.10 No Modification or Limit of City Requirements or Regulatory or Municipal Power

Nothing in this Contract is intended to or shall limit, modify, impact or otherwise affect any regulatory or municipal power or authority of the City or any City standard, rule, law, regulation, ordinance or requirement, including, without limitation, any City permitting, planning or inspecting requirement, and the City expressly reserves all such requirements, power and authority.

## 2.11 City Step-In Rights

In the event that this Contract is terminated by the City as a result of an Event of Default by the Developer hereunder, then, in addition to any other remedies that the City may have at law or in equity, the City shall have the right, but not the obligation, to elect, upon written notice to the Developer delivered if at all within ninety (90) Days following such termination, to take an assignment of the Construction Contract (and, if elected by the City, each of the Existing Contracts and the Additional Contracts) in accordance with an assignment document substantially in the form of the Assignment of Construction Contract, and thereafter undertake or cause the commencement and/or Completion of the Public Parking Improvements or any portion thereof. The negotiation and documentation of the Construction Contract and the Additional Contracts shall contemplate the possible exercise of the foregoing rights. In the event that the City makes such election to exercise its step-in rights, with written notice to the

Developer, the Developer agrees to cooperate with the City in good faith (but at no material out-of-pocket cost or expense to Developer) in in order to effectuate the purposes of this Section 2.11 and the Completion of the Public Parking Improvements by the City, including, without limitation, granting any necessary right of entry upon the Site or any portion thereof as necessary to effectuate the purposes of this Section.

Additionally, in the event that this Contract is terminated by the City as a result of an Event of Default by the Developer hereunder, then, in addition to any other remedies that the City may have at law or in equity, the City shall have the right, but not the obligation, to elect, upon written notice to the Developer delivered if at all within thirty (30) Days following such termination, to take an assignment of the Plans that pertain to the Public Parking Improvements in accordance with the Assignment of Plans, Reports and Data, in which event, upon the written request of the City, the Developer shall promptly, and no later than ten (10) Business Days after receipt of such request, deliver to the City copies of any and all plans, drawings, studies and related documents concerning the Public Parking Improvements within the Developer's possession and control, without representation or warranty whatsoever as to the accuracy, completeness, legality, quality and/or utility of any such items, and subject to all third party rights therein, for the City's use in connection with Completion of the Public Parking Improvements.

#### 2.12 Defects in Plans

The Developer hereby waives and releases any Losses and Liabilities that it may have against the City or its officers, employees, agents, representatives and volunteers, for any monetary damages or compensation as a result of defects or errors in the Plans, including, without limitation, the violation of any laws, and for defects or errors in any work done according to the approved Plans. The City shall not be responsible to the Developer, the Contractor, other Developer contractors and consultants or any other third parties in any way for any defects or errors in the Plans, or for any structural or other defects or errors in any work done according to the approved Plans. The Developer makes such release with full knowledge of SECTION 1542 and hereby waives any and all rights thereunder to the extent of this release, if SECTION 1542 is applicable. SECTION 1542 provides as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.”

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Developer's Initials

#### 2.13 Disclaimer of Responsibility of City

Except as expressly provided in this Contract, and without limiting any approval

of the Plans or approval and acceptance of the Public Parking Improvements under this Contract, the City neither undertakes nor assumes nor will have any responsibility or duty to the Developer, the Contractor, any other Developer contractor or consultant or any third party to review, inspect, supervise, pass judgment upon or inform the Developer, the Contractor, any other Developer contractor or consultant or any third party of any matter in connection with the design, development or construction of the Public Parking Improvements, whether regarding the quality, adequacy or suitability of the Plans, whether or not approved by the City, any labor, service, equipment or material furnished to Site A-1 or Public Parking Improvements in connection with or in furtherance of the work done, any person furnishing the same or otherwise. The Developer, the Contractor, any other Developer contractors or consultants and all third parties shall rely upon its or their own judgment regarding such matters, and any review, inspection, supervision, exercise of judgment or information supplied to the Developer, the Contractor, any other Developer contractors or consultants or any third party by the City in connection with such matter is for the public purpose of redeveloping Site A-1, and neither the Developer nor the Contractor, any other Developer contractors or consultants or any third party is entitled to rely thereon. Except upon exercise of any City step-in rights as set forth in Section 2.11 above, the City shall not be responsible for the manner of performance of any of the work of design, construction, improvement or development of Site A-1 or any part of the Public Parking Improvements.

#### 2.14 Benefit Assessment District

The Developer acknowledges that, as of the Effective Date, the Property is subject to Benefit Assessment District West Washington Boulevard No. 2 which covers the maintenance, operation and servicing of road median improvements (including curbs, plantings, trees, and lighting) benefitting the Property (collectively, the “**Median Improvements**”) and other properties within such Benefit Assessment District. As of the Effective Date the annual costs attributable to the Property under such Benefit Assessment District are estimated to be approximately \$4,500.00 (provided that such amount is included for context only and shall not be binding upon the City). So long as the City performs such maintenance and repair as is necessary to keep such Median Improvements in good and slightly condition and the costs assessed against the Property do not materially increase (other than increases due to normal and reasonable inflationary factors and/or the construction of the Project and the Public Parking Improvements), and so long as the scope of the improvements which are included within the Benefit Assessment District maintenance, operation, and servicing obligations is not expanded, the Developer agrees that it shall not vote against any proposal or measure requiring the consent of the benefitted owners to the continuation of such Benefit Assessment District.

### **3.0 CITY PAYMENTS**

3.1 Disbursement of City Funds for Public Parking Improvements. The City Funds shall be held and disbursed by the City as set forth in the Disbursement Procedures set forth in Exhibit E attached hereto.

### 3.2 Inspection of Books and Records; Audit

(a) For a period of four (4) years following the later of (i) payment by the City of costs that are payable by the City under this Contract or (ii) Completion of the Public Parking Improvements, the Developer shall maintain in a commercially reasonable form its books, records and related documents of all costs incurred in connection with the Public Parking Improvements, and shall provide true and correct copies of all such books, records and/or related documents to the City promptly upon the City's request, at the sole cost and expense of the City, or shall otherwise make such books, records and/or related documents available to the City and its representatives at the Developer's principal business offices in Southern California, and such books, records and related documents shall be maintained by the Developer at its principal business offices in Southern California.

(b) Prior to the expiration of the four (4) year period referenced in Section 3.2(a) above, the City may inspect and audit the Developer's books, records and related documents pertaining to costs incurred in connection with the Public Parking Improvements, at the City's sole cost and expense, upon providing at least ten (10) Business Days' prior Notice to the Developer. In the event that any audit by the City reveals any overpayment by the City, then the Developer shall repay to the City the overpaid amount within ten (10) Days following the City's written demand therefor; in the event that any such audit reveals an underpayment by the City, then the City shall pay the additional amount owed to the Developer within ten (10) Days following the discovery of such underpayment, provided that the foregoing shall not obligate the City to pay any amounts in excess of the Maximum Public Parking Improvements Contribution.

## 4.0 INDEMNITY AND INSURANCE

### 4.1 Indemnity

(a) The Developer shall indemnify, defend and hold harmless the City and the Successor Agency and their respective representatives (collectively, the "**Indemnified Parties**") from and against any and all Losses and Liabilities for any third-party claims against the Indemnified Parties for damages to property or injuries to persons, including personal injury and accidental death, which are caused by any of the Developer's activities under this Contract, whether such activities or performance thereof are caused by the Developer or by anyone directly or indirectly employed or contracted by the Developer, including consultants, and whether such Losses or Liabilities shall accrue or be discovered before or after termination of this Contract, except to the extent caused by the acts or omissions of the Indemnified Parties. The foregoing obligations of the Developer to indemnify, defend and hold harmless the Indemnified Parties shall not apply to the extent that the subject Losses and Liabilities are caused by the acts or omissions of any Indemnified Party.

(b) The Developer's obligation to indemnify, defend and hold harmless the Indemnified Parties as set forth herein supplements and in no way limits, and is in no way limited by, the scope of indemnifications set out elsewhere in this Contract or the City's rights to or contractor/consultant obligations for indemnification to the City provided by the Rider.

(c) The Developer's obligation to indemnify, defend and hold harmless the Indemnified Parties as set forth herein shall not be limited by amounts of insurance held by the Developer.

(d) The Indemnified Parties have no obligation to monitor compliance with these requirements. Failure of the Indemnified Parties to monitor compliance with these requirements imposes no obligations on the Indemnified Parties and shall in no way act as a waiver of any rights hereunder; provided, however, that the foregoing shall not waive or excuse the express obligations of the Indemnified Parties for notification of a Claim and cooperation in defense set forth in this Section 4.1. This obligation to indemnify, defend and hold harmless the Indemnified Parties as set forth herein is binding on the successors, assigns, nominees or heirs of the Developer and shall survive the expiration or termination of this Contract or this Section 4.1 for Claims accrued as of the date of such expiration or termination.

(e) The City shall promptly notify the Developer of any claim asserted against the Indemnified Parties and within the scope of this Section 4.1 (individually, a "**Claim**" and collectively, the "**Claims**"). The Indemnified Parties shall tender their defense to the Developer and assist the Developer, as may be reasonably requested, in such defense. In the event of Claims against multiple parties, the Developer shall provide a joint defense with respect to any such Claims, including, if applicable, defense of the Developer, and shall, without cost to the Indemnified Parties, defend, indemnify and hold the Indemnified Parties harmless with respect to such joint Claim. Upon the Developer's failure to defend, indemnify and hold the Indemnified Parties harmless from such Claims as required above, the Indemnified Parties subject to such Claim may employ their own defense counsel at the Developer's cost. Upon such notification and tender, the Developer shall have independent duties to defend (at its cost) such Claim, and to indemnify the Indemnified Parties with respect to such Claim, except to the extent that such injury, death or damage is determined by a court of competent jurisdiction to have been caused by the acts or omissions of the Indemnified Parties. Payment of a Claim shall not be a condition precedent to an Indemnified Party's right to defense and indemnity.

(f) The Developer shall not settle or compromise the defense of such claim or action on behalf of the Indemnified Parties, or permit a default judgment to be taken against the Indemnified Parties, without the prior written approval of the affected Indemnified Parties, which shall not unreasonably be withheld, conditioned or delayed. Nothing in this indemnity shall be construed or applied to waive, limit or reduce the express contractual obligations of the Indemnified Parties under any agreements to which they are a party or to transfer any such contractual obligations of an Indemnified Party to another party.

(g) The City shall pay, defend (with counsel reasonably acceptable to the Developer), indemnify and hold harmless the Developer and its officers, officials, contractors, employees, agents, representatives, successors and assigns, from and against any and all losses, costs, expenses, damages, and liabilities, liquidated or unliquidated, based upon, arising from or connected in any manner with any third party challenges to the Parcel Creation (except for any such third party challenges to the Parcel Creation resulting from the willful misconduct of Developer). The obligations of the Parties under this Section 4.1(g) shall commence to accrue on the Effective Date and shall survive any termination of this Contract.

## 4.2 Insurance

### 4.2.1 Contractor(s) Requirements

Without limiting the indemnification obligations described in this Contract, and as required in Section 2.1 above, the Developer shall require that the Contractor and any other contractor or consultant retained by the Developer for the development, construction and/or construction management of the Public Parking Improvements to procure and maintain, at no cost and expense to the City, insurance coverage for all work provided by such contractor or consultant under such contractor's or consultant's respective contract with the Developer, in accordance with the Third-Party Insurance Requirements, subject to any modifications therein that may be reasonably approved by the City with respect to an individual contractor or consultant, which insurance requirements shall not limit any indemnification obligations of the applicable contractor or consultant for the benefit of the City.

### 4.2.2 Developer Requirements

Without limiting the indemnification obligations described in this Contract, the Developer shall procure and maintain, at no additional cost and expense to the City beyond the City's reimbursement obligations set forth herein, insurance coverages in types, amounts and form and consistent with the sample Certificate of Liability Insurance, with respect to the Developer's performance of its obligations set forth in this Contract and the development, construction and construction management of the Public Parking Improvements, effective prior to or as of the Effective Date.

## **5.0 REPRESENTATIONS AND WARRANTIES AND COVENANTS**

(a) As of the Effective Date, (i) the City hereby represents and warrants to the Developer that the representations made by the City to the Developer in Section 2.1(b) above and Section 10.12 below are true, correct, and accurate, and (ii) the Developer hereby represents and warrants to the City that the representations made by the Developer to the City in Section 10.12 below are true, correct, and accurate.

(b) Until the Completion of the Public Parking Improvements, the Parties shall, upon learning of any fact or condition which would cause any of the warranties and representations in this Contract to be materially false or misleading, immediately give written Notice of such fact or condition to the other Party.

## **6.0 CREATION OF CONDOMINIUMS AND CONVEYANCE TO DEVELOPER**

Following the Effective Date, the Developer shall, at its sole cost and expense, create the Condominium Plan necessary for the Site A-1 Retail Condominium and the Site A-1 Public Parking Condominium each to be created as separate legal condominium parcels. In connection with the creation of the Condominium Plan, unless otherwise agreed by the Parties, it is contemplated that Site A-1 will continue to be owned by the City and shall be included as part of the Site A-1 Public Parking Condominium, and that the Site will continue to be owned by the

Developer and at Developer's election may be included as part of the Site A-1 Retail Condominium. Thereafter, the City shall use commercially reasonable and diligent efforts, in cooperation with the Developer, to process the Condominium Plan such that, upon not less than ten (10) Days' prior written notice from the Developer to the City, but not earlier than the Closing under the DDA, the City will convey to the Developer by grant deed (or at the Developer's option, quitclaim deed) the Site A-1 Retail Condominium (or the portion thereof that is located within the airspace on Site A-1) for total consideration of One and 00/100 Dollar (\$1.00). The Parties hereto acknowledge that the foregoing is fair and adequate consideration in light of the Developer's performance of its obligations under the DDA and this Contract and the fact that a portion of the Project consists of the Site A-1 Retail Condominium, a portion of which is located within the same structure as the Public Parking Improvements, and the City shall receive material benefit from the consummation of the transactions contemplated by the DDA and this Contract. The Parties acknowledge that the conveyance of the Site A-1 Retail Condominium (or the portion thereof that is located within the airspace on Site A-1) to the Developer may occur concurrently with or after the Closing under the DDA, depending on when the Condominium Plan and Condominium CC&Rs are finalized and ready for recordation and when the Developer notifies the City of its desire to have the Site A-1 Retail Condominium (or the portion thereof that is located within the airspace on Site A-1) conveyed to the Developer. Within ten (10) Days of the Developer's written request, the City will execute and deliver to the Developer (or the Escrow Agent), each duly executed and acknowledged with authorization to record the same in the Official Records, the Condominium Plan, the Condominium CC&Rs, the grant deed (or quitclaim deed) conveying the Site A-1 Retail Condominium (or the portion thereof that is located within the airspace on Site A-1) to the Developer, and any other applications, documents or instruments as are reasonably requested by the Developer in order to create the Condominiums and convey the Site A-1 Retail Condominium (or the portion thereof that is located within the airspace on Site A-1) to the Developer. Title to the Site A-1 Retail Condominium or the applicable portion thereof shall be conveyed to the Developer in its "as is, where is" condition, with all faults, but subject only to such exceptions to title as are contemplated by the DDA or this Contract or approved by the Developer.

## **7.0 DEFAULTS, REMEDIES AND TERMINATION**

### **7.1 Defaults – General; Notice of Default; Event of Default**

(a) Subject to the extensions of time set forth in Section 10.18, the failure by either Party to timely perform any term or provision of this Contract constitutes a default under this Contract (a "**Default**").

(b) Notwithstanding the foregoing, subject to the extensions of time set forth in Section 10.18, the following shall constitute a Default of the Developer:

(1) The Developer fails to commence construction of the Public Parking Improvements as required by this Contract for a period of one hundred twenty (120) Days after the date set forth in the Schedule of Performance for reasons other than events occurring under or covered by Section 10.18 below); or

(2) The Developer abandons construction of the Public Parking Improvements for a period of one hundred twenty (120) consecutive Days (for reasons other than events occurring under or covered by Section 10.18 below), and does not (i) within sixty (60) Days of receipt of written Notice from the City of the City's intention to exercise its remedies under this Section 7.0, provide Notice to the City of the Developer's intention to recommence construction of the Public Parking Improvements, and (ii) within sixty (60) Days of the Developer's providing the Notice set forth in the immediately preceding clause (i), actually recommence construction of the Public Parking Improvements; or

(3) The Developer otherwise materially Defaults under this Contract, and such Default is not cured within the time provided in this Contract; or

(4) The termination of the Construction Contract by the Contractor thereunder prior to Completion due to the Developer's default under the Construction Contract which is not cured within any applicable notice or cure period set forth therein (unless the Developer in good faith disputes such termination by the Contractor); or

(5) The Developer (i) files a petition in bankruptcy (or otherwise commences bankruptcy or a similar proceeding) or (ii) has filed by or against it (or, with respect to the Developer, any guarantor of the Developer and a comparable replacement guarantor is not provided), under any applicable bankruptcy, insolvency or similar law now or hereafter in effect, a petition in bankruptcy or other commencement of a bankruptcy or similar proceeding and such petition or proceeding is not dismissed within ninety (90) Days after filing; or

(6) The occurrence of default by the Developer under the DDA which is not cured within the applicable cure period provided by the DDA and not otherwise excused under the terms of the DDA, and which results in the Successor Agency's termination of the DDA.

(c) The Developer shall use commercially reasonable efforts to commence and complete the obligations in accordance within the times set forth in the Schedule of Performance, if any; provided, however, that failure to commence or complete any such obligation in accordance with the Schedule Performance, or any delay whatsoever in the construction of the Public Parking Improvements shall not constitute a Default, except as expressly provided in Section 7.1(b)(1) and/or (2) above.

(d) Prior to exercising any right or remedy because of a Default and as a condition thereto, the Party not in Default shall give written Notice of default (a "**Notice of Default**") to the Party in Default, specifying the Default complained of by the injured Party. Failure or delay in giving such Notice of Default shall not constitute a waiver of any Default, nor shall it change the time of Default.

(e) If the Default is not cured or commenced to be cured (i) within ten (10) Days after service of a Notice of Default if the nature of the Default is the failure to pay any amounts owing hereunder, or (ii) within thirty (30) Days after service of a Notice of Default for any other Default under this Contract (provided, however, that if more than thirty (30) Days is reasonably required to cure the subject Default, the Party in Default does not commence to cure

such Default within such thirty (30) Day period and thereafter diligently prosecute it to completion), then such failure shall constitute an event of Default (an “**Event of Default**”) under this Contract. For the avoidance of doubt, no delay in the Developer’s construction of the Public Parking Improvements shall constitute an Event of Default by the Developer except as set forth in Section 7.1(b)(1) and/or (2) above.

(f) Without limitation of any other lender or equity investor rights under Section 10.15 below, any holder of a mortgage or deed of trust granted by the Developer and secured by the Site A-1 Retail Condominium shall have the right, at its option, within the time periods provided to the Developer herein, to cure or remedy or commence to cure or remedy and thereafter to pursue with due diligence the cure or remedy of any such Default and to add the cost thereof to the mortgage debt and the lien of its mortgage on Site A-1 Retail Condominium.

(g) Except as required to protect against further damages, and except as otherwise expressly provided in this Contract, the Party not in Default may not institute proceedings against the Party in Default until the expiration of the cure period provided herein with respect to such Default.

## 7.2 Institution of Legal Actions

In addition to any other rights or remedies available at law or in equity as a result of an Event of Default, either Party may institute legal action to cure, correct or remedy any Default, or to recover damages for any Event of Default or to obtain any other legal or equitable remedy consistent with the purpose of this Contract, subject in all events to the limitations set forth in this Section 7.2 below, Section 7.6 below, and Section 7.7 below. To the extent permitted by law, such legal actions must be instituted and prosecuted only in the Superior Court of the County of Los Angeles, State of California, or in the Federal District Court in the Central District of California, or any applicable appellate courts. Notwithstanding the foregoing or any other provision of this Contract to the contrary, in the event of an Event of Default by the Developer as described under Section 7.1(b) above, the City’s sole and exclusive remedy shall be to provide a Termination Notice as set forth in Section 7.3 below.

## 7.3 Termination

(a) Upon the occurrence of an Event of Default as described above under this Section 7.0, this Contract may, at the option of the Party that did not commit the Event of Default (the “**Non-Defaulting Party**”), be terminated by written Notice (a “**Termination Notice**”) to the Party committing the subject Event of Default (the “**Defaulting Party**”). Notwithstanding the foregoing, the City’s right to terminate this Contract pursuant to this Section 7.3(a) shall apply only to Events of Default by the Developer occurring under Section 7.1(b) above. From the date of delivery of a Termination Notice by one Party to the other Party, this Contract shall be deemed terminated and there shall be no further rights or obligations between the Parties, except that the obligations and rights of the Parties under this Contract that expressly continue after termination of this Contract shall continue in effect.

(b) This Contract may also be terminated by the mutual, written consent of the Parties.

(c) Upon a termination of this Contract as a result of a Developer Event of Default, the Developer shall have no claim or right to any further payments hereunder with respect to further performance by the Developer under this Contract after the effective date of such termination, but such termination shall not affect the City's obligations with respect to the Developer's performance prior to the effective date of that termination to make payments for actual costs incurred prior to the termination date that comply with the payment request procedures set forth in this Contract and the Disbursement Procedures, including disbursement to the Developer of any retention payable to the Contractor under the Construction Contract applicable to work performed prior to the effective date of that termination.

(d) All indemnities under this Contract shall survive the termination of this Contract with respect to any obligations which have accrued under this Contract as of the date of such termination. Notwithstanding anything herein to the contrary, termination of this Contract shall not waive, limit or otherwise affect the provisions of any other agreements executed by the Parties in connection with the Public Parking Improvements and/or the Project, which shall remain applicable in accordance with their terms.

#### 7.4 Acceptance of Service of Process

(a) If any legal action is commenced by the Developer against the City, then service of process on the City shall be made by personal service upon the City Manager or in such other manner as may be provided by law.

(b) If any legal action is commenced by the City against the Developer, then service of process on the Developer shall be made by personal service upon an officer or member of the Developer or in such other manner as may be provided by law, and shall be valid whether made within or without the State of California.

#### 7.5 Rights and Remedies Cumulative

Except as otherwise expressly stated in this Contract, the rights and remedies of the Parties are cumulative, and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same time or different times, of any other rights or remedies for the same default or any other default by the other Party.

#### 7.6 Damages

Upon the occurrence of an Event of Default, except as otherwise provided in this Contract, the Defaulting Party shall be liable to the Non-Defaulting Party for any damages caused by such Event of Default. Neither Party, however, shall have any right to indirect or consequential, punitive or special damages against the other Party under any provision of this Contract or arising from or related to any Event of Default, and each Party hereby waives the right to claim the same against the other.

## 7.7 Specific Performance

Without limiting the Developer's rights and remedies under this Contract, upon the occurrence of an Event of Default by the City in its obligation to conveyance of the Site A-1 Retail Condominium (or the applicable portion thereof) to the Developer as required in Section 6.0 above, the Developer shall have the right, at its option (and not as an election of remedies), to institute and pursue an action for specific performance relating thereto. Except as expressly set forth in this Section 7.7, neither Party shall have the right to pursue an action for specific performance of any obligations required under this Contract.

## 7.8 Inaction Not Waiver of Default

Any failures or delays by either Party in asserting any of its rights and remedies as to any Default shall not operate as a waiver of any Default or of any such rights or remedies or deprive either such Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies at any time.

## **8.0 RESTRICTION ON ASSIGNMENT**

This Contract is for the specific obligations of the Parties as described in this Contract. Except for an assignment of this Contract by the Developer (i) concurrent with an assignment of the DDA to an assignee which is permitted by or approved by the Successor Agency pursuant to the DDA, or (ii) which is reasonably required in order to comply with any applicable licensing requirements, or (iii) is made to an affiliate of the Developer (which shall mean an entity controlled by or under common control with Regency Centers, L.P., a Delaware limited liability company, or Regency Centers Corporation, a Florida corporation), any attempt by either Party to assign the benefits or burdens of this Contract without written approval of the other Party shall be prohibited and shall be null and void. No assignment by either Party of this Contract shall release or relieve such Party from its obligations under this Contract.

## **9.0 NOTICES, DEMANDS AND OTHER COMMUNICATIONS BETWEEN THE PARTIES**

(a) All notices, demands, requests, elections, approvals, disapprovals, consents or other communications given under this Contract shall be in writing and shall be given by personal delivery, certified mail, return receipt requested, or overnight guaranteed delivery service and addressed as follows:

To City: City of Culver City  
Attn: Mr. Sol Blumenfeld, Community Development Director  
9770 Culver Boulevard  
Culver City, California 90232-0507

Copy to: City of Culver City  
Attn: Carol Schwab, Esq., City Attorney  
9770 Culver Boulevard  
Culver City, California 90232-0507

Copy to: Kane, Ballmer & Berkman  
Attn: Todd C. Mooney, Esq.  
515 S. Figueroa Street, Suite 780  
Los Angeles, California 90071

To Developer: Culver Public Market, LLC  
c/o Regency Centers Corporation  
915 Wilshire Boulevard, Suite 2200  
Los Angeles, California 90017  
Attn: Mr. John Nahas

Copy to: Culver Public Market, LLC  
c/o Regency Centers Corporation  
One Independent Drive, Suite 114  
Jacksonville, Florida 32202-5019  
Attn: Legal Department

Copy to: Kennerly, Lamishaw & Rossi LLP  
707 Wilshire Blvd., Suite 1400  
Los Angeles, CA 90017  
Attn: Robert L. Madok, Esq.

(b) Any Notice shall be deemed received immediately if delivered by hand, upon receipt if delivered by reputable private courier service (*e.g.*, Federal Express), and shall be deemed received on the fifth (5<sup>th</sup>) Day from the date it is postmarked if delivered by certified or registered United State Mail.

## **10.0 GENERAL PROVISIONS**

### 10.1 Governing Law

This Contract shall be governed by the laws of the State of California.

### 10.2 Successors and Assigns

All of the terms, covenants and conditions of this Contract shall be binding upon the Parties and their permitted successors and assigns.

### 10.3 Conflicts of Interest

No member, official or employee of the City shall have any direct or indirect

interest in this Contract, nor shall such member, official or employee participate in any decision relating to this Contract which is prohibited by law.

#### 10.4 Warranty Against Payment of Consideration for Contract

The Developer warrants that it has not paid or given, and shall not pay or give, any third person any money or other consideration for obtaining this Contract, other than normal costs of conducting business and costs of professional services such as project managers, architects, engineers, attorneys and public relations consultants.

#### 10.5 Approvals by Parties

Approvals required of the Parties shall be given within the time set forth in the Schedule of Performance or, if no time is given, then within a reasonable time. Wherever this Contract requires a Party to approve any contract, document, plan, proposal, specification, drawing or other matter, such approval shall not be unreasonably withheld, conditioned or delayed. In the event that a Party declines to approve any contract, document, plan, proposal, specification, drawing or other matter, such denial shall be in writing and shall include the reasons for such denial. The Party considering the request for such approval shall use commercially reasonable efforts to respond to such request for approval within ten (10) Days of receipt unless a different period for response is expressly provided herein.

#### 10.6 Counterparts

This Contract may be executed in any number of counterparts, each of which shall constitute an original, but all of which, when taken together, shall constitute but one and the same instrument.

#### 10.7 Titles and Captions

Titles and captions are for convenience of reference only and do not define, describe or limit the scope or the intent of this Contract or of any of its terms. References to section numbers are to sections in this Contract, unless expressly stated otherwise. The defined terms in this Contract apply equally to the singular and plural forms thereof. The words “include”, “includes” and “including” are deemed to be followed by the phrase “without limitation”.

#### 10.8 Interpretation

This Contract shall be interpreted as a whole and in accordance with its fair meaning and as if each Party participated in its drafting. Captions are for reference only and are not to be used in construing meaning.

#### 10.9 Amendment of Contract; Merger

No modification, rescission, waiver, release or amendment of any provision of

this Contract shall be made except by a written agreement executed by the Parties. This Contract merges all negotiations, stipulations and provisions relating to the subject matter of this Contract which preceded or may accompany the execution of this Contract.

#### 10.10 Severability

If any term, provision, condition or covenant of this Contract or its application to any Party or circumstances shall be held, to any extent, invalid or unenforceable, then the remainder of this Contract, or the application of the term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected, and shall be valid and enforceable to the fullest extent permitted by law.

#### 10.11 Attorneys' Fees

In the event of a dispute between the Parties with respect to the terms or conditions of this Contract, the prevailing Party shall be entitled to collect from the other its reasonable attorneys' fees as established by the judge or arbitrator presiding over such dispute.

#### 10.12 Legal Advice

Each Party represents and warrants to the other Party the following: it has carefully read this Contract, and in executing this Contract, it does so with full knowledge of any right which it may have; it has received independent legal advice from its respective legal counsel as to the matter set forth in this Contract, or has knowingly chosen not to consult legal counsel as to the matters set forth in this Contract; and, it has freely executed this Contract without any reliance upon any agreement, promise, statement or representation by or on behalf of the other Party or its respective agents, employees or attorneys, except as specifically set forth in this Contract, and without duress or coercion, whether economic or otherwise.

#### 10.13 Time of Essence

Time is expressly made of the essence with respect to the performance by the Parties of each and every obligation and condition of this Contract.

#### 10.14 Mutual Cooperation

Each Party agrees to cooperate with the other in this transaction and, in that regard, to sign any and all documents which may be reasonably necessary, helpful or appropriate to carry out the purposes and intent of this Contract.

#### 10.15 Lender Protection Provisions

To the extent that any lender to or equity investor in the Public Parking Improvements requires modifications to this Contract or any Exhibit hereto, the City agrees to reasonably consider such modifications.

#### 10.16 Non-Liability of Officials and Employees

No member, official or employee of the City shall be personally liable to the Developer, or any successor in interest or assignee, in the event of any Event of Default by the City or for any amount which may become due to the Developer or successor in interest or assignee thereof under the terms of this Contract. No member, officer or employee of the Developer or any affiliate of the Developer shall be personally liable to the City, or any successor in interest or assignee thereof, in the event of any Event of Default by the Developer or for any amount which may become due to the City or any successor in interest or assignee thereof under the terms of this Contract. Any liabilities of the Developer under this Contract shall be recovered solely from the Developer's interest in the Site, and any rents, profits and/or proceeds derived therefrom.

#### 10.17 Plans and Data

(a) If this Contract is terminated by the City due to a Developer Event of Default, then, within ninety (90) Days following such termination, the City shall have the right, by written Notice to the Developer, to elect to take an assignment of the Plans that pertain to the Public Parking Improvements in accordance with the Assignment of Plans, Reports and Data, in which event, upon the written request of the City, the Developer shall promptly, and no later than ten (10) Business Days after receipt of such request, deliver to the City copies of any and all plans, drawings, studies and related documents concerning the Public Parking Improvements within the Developer's possession and control, without representation or warranty whatsoever as to the accuracy, completeness, legality, quality and/or utility of any such items, and subject to all third-party rights therein, for the City's use in connection with Completion of the Public Parking Improvements.

(b) Upon delivery to the City pursuant to this Section 10.17, the City shall have an irrevocable, nonexclusive license and the right to use such materials as it deems necessary and appropriate to complete the Public Parking Improvements without cost, expense or obligation to the Developer but subject to all third-party rights therein.

#### 10.18 Enforced Delay; Extension of Times of Performance

(a) Failure by either Party to perform shall not be deemed a Default hereunder and times for performance shall be extended as provided herein where delays are due to war; insurrection; strikes; lockouts; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; litigation by a third party; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor or supplier; acts of the other Party; acts or failure to act of any public or governmental agency or entity including, without limitation, the City (other than that acts or failure to act of the City shall not excuse performance by the City); delays in the issuance of any governmental approvals or authorizations or similar causes beyond the control and without the fault of the Party claiming an extension of time to perform (collectively, a "**Force Majeure**" delay); provided, however, that the Party claiming the existence of a Force Majeure delay and an extension of its obligation to perform

shall notify the other Party in writing of the nature of the matter causing the delay and such Notice shall be provided to the other Party within sixty (60) Days after the date of knowledge of the commencement of the cause of the delay. Notwithstanding the foregoing, none of the foregoing events shall constitute a Force Majeure delay unless and until the Party claiming such delay and interference with obligations hereunder delivers written Notice to the other Party within the time period stated above which Notice shall describe the event, its cause, when and how such Party obtained knowledge, the date the event commenced and the estimated delay resulting therefrom. Furthermore, in no event shall any Force Majeure delay apply to a Party's obligation to make any payment of money or authorize the payment of money owing under this Contract.

(b) The extension of time to perform shall commence to run from the time of the commencement of the cause and shall continue only for the period of the Force Majeure delay; provided, however, that in no event shall performance be excused pursuant to this Section for any Force Majeure delay for a cumulative period of more than eighteen (18) months. If said Force Majeure delay extends for more than eighteen (18) months, then either Party may terminate this Contract upon fifteen (15) Days written Notice to the other Party. Upon such termination, the obligations and rights of the Parties under this Contract that expressly continue after termination of this Contract shall continue in effect.

(c) Times of performance under this Contract may also be extended in writing by mutual agreement of the Parties.

#### 10.19 Relationship Between Parties

The Parties agree that the Developer, in the performance of this Contract, shall act as and be an independent contracting party and shall not act in the capacity of an agent, employee or partner of the City. It is hereby acknowledged that the relationship between the Parties is not that of a partnership or joint venture and that the Parties shall not be deemed or construed for any purpose to be the agent of the other. Each Party agrees to indemnify, hold harmless and defend the other from any claim made against the indemnified Party arising from a claimed relationship of partnership or joint venture between the Parties with respect to the construction of the Public Parking Improvements and resulting from the actions or statements of the indemnifying Party inconsistent with the foregoing provision.

#### 10.20 No Third Party Beneficiaries

Except with respect to the express lender protection provisions set forth in Section 10.15 above, this Contract is made and entered into for the sole protection and benefit of the City, its successors and assigns, and the Developer, its permitted successors and assigns, and no other person or persons shall have any right of action hereon or hereunder.

#### 10.21 Computation of Time

The time in which any act is to be done under this Contract is computed by excluding the first day, and including the last day. If any act is to be done by a particular time

during a day, then that time shall be Pacific Time Zone time. If the last day for an action to be performed, an event to occur or a condition to be satisfied falls on a Saturday, Sunday, legal or national holiday, or a day on which the Culver City City Hall is closed for business, then such outside date shall be automatically extended to the next Business Day. With respect to any provision in this Contract that places an obligation on the City or involves noticing the City within a certain number of Business Days, a general Business Day on which the Culver City City Hall is closed shall not constitute a Business Day in that provision for purposes of calculating Business Days.

#### 10.22 Administration by Designated Representatives

(a) Mr. John Nahas shall be the designated Developer representative for purposes of administering the Developer's obligations under this Contract and shall be the contact point for the Developer's responsibilities for the development, construction and construction management of the Public Parking Improvements and for job performance, negotiations, contractual matters and coordination with the City, the Contractor and all other contractors and consultants retained to develop and construct the Public Parking Improvements. The Developer representative shall provide primary supervision of all such contractor and consultant performance. The Developer may designate a successor or replacement the Developer representative at any time, and from time to time, upon written Notice to the City. The Developer reserves the right to designate an alternative the Developer representative with comparable experience and abilities upon prior written Notice to the City.

(b) The City Manager or designee shall be the City representative for purposes of administering the City's obligations under this Contract and shall be the contact point for the City's responsibilities for performance, negotiations, contractual matters, and coordination with the Developer, the Contractor and other contractors and consultants retained to develop and construct the Public Parking Improvements, as necessary and applicable to the City, of the subject matters of this Contract. The City Manager or designee shall have the administrative authority to issue interpretations, waive provisions and enter into amendments of this Contract (including the attached Exhibits) so long as such actions do not substantially change the uses or development permitted for the Public Parking Improvements and contemplated by this Contract, or materially add to the costs of the City as specified in this Contract or as agreed to by the City Council. Without limitation of the foregoing, the City Manager or designee is expressly authorized to use, and is hereby delegated the administrative authority to authorize the City's use of, available applicable contingency funds budgeted and allocated by the City to the development and construction of the Public Parking Improvements from the authorized applicable contingency amount shown on the Public Parking Improvements Budget or otherwise authorized by the City in order to pay for any prior City-approved cost and expense overruns or work change orders incurred under the Construction Contract or Additional Contracts that are outside the Maximum Public Parking Improvements Contribution or incurred by any other applicable Developer consultants or contractors approved by the City which are attributable and allocable to the City's share of costs of construction of the Public Parking Improvements as calculated and determined in accordance with this Contract. Any additional payments to be made by the City under this Contract which would exceed the Maximum Public Parking Improvements Contribution must be first properly budgeted and appropriated by the City

Council toward the development and construction of the Public Parking Improvements.

## **11.0 CONTINUING RIGHTS AND OBLIGATIONS OF PARTIES**

With respect to the City in its municipal or regulatory capacity, nothing in this Contract shall waive, modify, limit, reduce or in any way affect any rights or requirements of the City.

## **12.0 CONTINUING RIGHT OF FIRST OFFER IN FAVOR OF DEVELOPER**

If at any time following the Effective Date the City desires to sell or otherwise transfer title to Site A-1 or the Site A-1 Public Parking Condominium to any party other than an entity that is wholly owned and controlled by the City, then the City shall first comply with the procedures set forth in this Section 12.0.

### 12.1 Offering Notice

If at any time following the Effective Date, the City desires to sell its fee interest in Site A-1 or the Site A-1 Public Parking Condominium, or any portion of or interest in either of the foregoing, to a third party that is not wholly owned and controlled by the City, for consideration, then the City, for itself and its successors and assigns, covenants and agrees that it shall, before pursuing such sale provide written notice (an “**Offering Notice**”) to the Developer of the terms on which the City proposes to sell Site A-1 or the Site A-1 Public Parking Condominium, or the subject portion thereof or interest therein (or, if any terms have been approved by the City Council of the City, the terms that have been so approved), and the Developer shall have the right to accept and/or negotiate the terms and conditions upon which the Developer may buy Site A-1 or the subject portion thereof as provided in this Section 12.0 (the “**Right of First Offer**”).

### 12.2 Right of First Offer

In order to exercise its Right of First Offer, the Developer shall provide the City a written notice (a “**Reply Notice**”) within forty-five (45) Days after the date of receipt of an Offering Notice from the City of the terms on which the Developer would be willing to proceed with purchase of Site A-1 or the Site A-1 Public Parking Condominium, or the subject portion thereof. If the Developer delivers a Reply Notice setting forth its proposed terms of a purchase of Site A-1 or the Site A-1 Public Parking Condominium, or the subject portion thereof, as provided above, and the City agrees to the purchase price set forth in the Reply Notice, then the Developer’s staff and the City’s staff, each acting in their sole discretion, shall negotiate the terms, conditions and form of the purchase and sale agreement within sixty (60) Days of the Developer’s delivery of its Reply Notice. If the Developer and the City’s staff, each acting in their sole discretion, reach agreement on the terms, conditions and form of the purchase and sale agreement as provided in this Section 12.2 above, then the City staff shall undertake such actions as are necessary to bring the purchase and sale agreement to the City Council for consideration within forty-five (45) Days after reaching such tentative agreement (the “**Tentative Agreement Date**”). Nothing herein shall be deemed a pre-commitment on behalf of either of the Parties to reach agreement on the terms and conditions of the purchase and sale agreement or a

representation that the City Council will approve the purchase and sale agreement. Without limiting the generality of the foregoing, the Developer acknowledges that the City Council's approval of the purchase and sale agreement will be subject to those public hearings, notices and subsequent approvals as may be required by law, provided that the Developer shall have the right (but not the obligation) to require that the purchase and sale agreement entered into between the Parties for the sale of Site A-1 or the Site A-1 Public Parking Condominium, or the subject portion thereof pursuant hereto be conditioned upon final City Council and any other applicable governmental approval of the purchase and sale agreement and the transaction contemplated therein be obtained (with all periods in which such City Council or other governmental action may be administratively or legally challenged having expired with no such challenge having been filed, or if filed, resolved and terminated to the sole satisfaction of the Developer) within seventy-five (75) Days of the Tentative Agreement Date (or such longer period as may be agreeable to the Developer).

### 12.3 Right of Developer to Proceed

If the Developer does not provide a Reply Notice to the City within forty-five (45) Days after the receipt of the Offering Notice as set forth in Section 12.2 above, then the Developer's Right of First Offer under this Section 12.0 shall terminate and be of no further force or effect. If the Developer provides a Reply Notice but (a) the City rejects the purchase price proposed in such Reply Notice by written notice to the Developer, (b) the Developer's staff and the City's staff are unable after good faith negotiations to agree upon the terms, conditions and form of the purchase and sale agreement within sixty (60) Days after the Developer's delivery of the Reply Notice (each acting in its sole and absolute discretion), (c) the City Council does not timely approve any purchase and sale agreement presented for its consideration within forty-five (45) Days of the Tentative Agreement Date, or (d) the City Council timely approves the purchase and sale agreement presented for its consideration within forty-five (45) Days of the Tentative Agreement Date but the governmental action(s) approving such purchase and sale agreement are administratively or legally challenged and such challenge is not resolved in accordance with the last sentence of Section 12.2 above, then the City shall be free to thereafter enter into a transaction for sale of Site A-1 or the Site A-1 Public Parking Condominium, or the subject portion thereof, to a third party, subject to the provisions of this Section 12.3 below. If the Developer did timely deliver a Reply Notice to the City: (1) the City shall have the right to proceed with the transaction with such third party for a purchase price that is not materially less favorable to the Developer than the greatest of (A) the purchase price set forth in the last written offer, if any, from the Developer, (B) the purchase price set forth in the last form of the purchase and sale agreement (if any) which the Developer proposed prior to the expiration of the sixty (60) Day negotiating period described above, or (C) the Purchase Price approved by the City Council. The purchase price shall be deemed "materially less favorable" if it is more than five percent (5%) less than the greatest of the prices set forth in clauses (A), (B) or (C) of the immediately preceding sentence. If the transaction with such third party is not entered into by the twelve (12) month anniversary of the expiration of the sixty (60) Day negotiating period referenced in Section 12.3 above, or if the Developer timely delivers the Reply Notice and the proposed subsequent transaction would be concluded for a purchase price that is materially less favorable to the Developer than the greatest of that set forth in clauses (A), (B) or (C) of this Section 12.3 above, then, in such event, the City shall not thereafter enter into an agreement for

sale of Site A-1 or the Site A-1 Public Parking Condominium, or portion thereof, to a third party (other than the City) without first giving the Developer another Right of First Offer in accordance with the provisions of this Section 12.0.

#### 12.4 Termination of Right of First Offer

The Developer's rights under this Section 12.0 shall survive with respect to Site A-1 or the Site A-1 Public Parking Condominium, or any portion thereof, until the earliest of: (i) upon the conclusion of a transaction between the City and a third-party transferee following the City's compliance with the applicable requirements of this Section 12.0 for Site A-1 or the Site A-1 Public Parking Condominium, or the subject portion thereof or interest therein; or (ii) upon the termination of the Developer's Right of First Offer pursuant to Section 12.3 above. For purposes of clarity, notwithstanding a sale of one or more portions of or interests in Site A-1 or the Site A-1 Public Parking Condominium, or a portion thereof, to a third party following compliance with the provisions of this Section 12.0 with respect to such sale(s), the Right of First Offer shall continue to apply to all remaining portions of or interests in Site A-1 or the Site A-1 Public Parking Condominium until such remaining portion(s) of or interests in Site A-1 and the Site A-1 Public Parking Condominium is (are) sold or the Developer's rights under this Section 12.0 are otherwise terminated. The Developer's rights under this Section 12.0 do not expire or terminate as to any portion of or interest in Site A-1 as to which the City retains fee title until the provisions of this Section 12.0 are complied with by the City with respect to such portion of or interest in Site A-1 or the Site A-1 Public Parking Condominium and until such right terminates by the provisions of this Section 12.4 above. In any event, the Right of First Offer herein is personal to the Developer or any person or entity that owns the Site or the Site A-1 Retail Condominium or an interest therein, and in no event, shall the Developer have the right to assign or otherwise transfer that right to any other person or entity except for any person or entity acquiring an ownership interest in the Site or the Site A-1 Retail Condominium.

#### 12.5 Memorandum of Right of First Offer

The Parties agree to cause the Site A-1 Memorandum of Right of First Offer to be recorded against Site A-1 and the Site A-1 Public Parking Condominium, which shall include specific reference to the foregoing Right of First Offer. The terms of this Section 12.0 shall survive any termination of this Contract.

*[Signatures Contained on Following Pages]*

IN WITNESS WHEREOF, the Parties have executed this Contract as of the date first set forth above.

**“DEVELOPER”**

CULVER PUBLIC MARKET, LLC,  
a Delaware limited liability company

By: Regency Centers, L.P.,  
a Delaware limited partnership,  
its Managing Member

By: Regency Centers Corporation,  
a Florida corporation,  
its General Partner

By: \_\_\_\_\_  
Name: John Nahas  
Its: Vice President, Investments

*[Signatures Conclude on Following Page]*

**“CITY”**

CITY OF CULVER CITY,  
a municipal corporation

By: \_\_\_\_\_  
John M. Nachbar  
City Manager

APPROVED AS TO CONTENT:

By: \_\_\_\_\_  
Sol Blumenfeld  
Community Development Director

ATTEST:

By: \_\_\_\_\_  
Jeremy Green  
City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Carol Schwab  
City Attorney

By: \_\_\_\_\_  
KANE, BALLMER & BERKMAN  
City Special Counsel

**Exhibit A**

**Form of Assignment of Construction Contract**

[behind this page]

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

IN THE CITY OF CULVER CITY, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, BEING PARCEL 1 OF PARCEL MAP NO. 74999 AS PER MAP FILED IN BOOK 402, PAGES 47 AND 48 OF PARCEL MAPS, IN THE OFFICE OF THE REGISTRAR – RECORDER/COUNTY CLERK OF SAID COUNTY.

THIS DESCRIPTION WAS PREPARED BY ME, OR UNDER MY SUPERVISION, IN CONFORMANCE WITH THE PROFESSIONAL LAND SURVEYORS' ACT.

  
\_\_\_\_\_  
PASCAL R. APOTHELOZ P.L.S. 7734                      05/17/19



**Exhibit B**

**Form of Assignment of Plans, Reports and Data**

[behind this page]

## ASSIGNMENT OF PLANS, REPORTS, AGREEMENTS, AND DATA

FOR VALUE RECEIVED, the receipt and sufficiency of which are hereby acknowledged, CULVER PUBLIC MARKET, LLC, a Delaware limited liability company (the “**Developer**”), effective upon the Effective Date (as hereinafter defined), does hereby, pursuant to this Assignment of Plans, Reports, Agreements, and Data (this “**Assignment**”), to the extent assignable, assign, pledge, transfer and set over to the CITY OF CULVER CITY, a municipal corporation (the “**City**”), all of its rights, title and interest in and to the following (collectively, the “**Plans, Reports, Agreements, and Data**”): any and all plans, drawings, studies, reports and related documents concerning that certain real property described in Attachment 1 attached hereto and incorporated herein by this reference (“**Site A-1**”), and all amendments, modifications, supplements, general conditions and addenda thereto, including, without limitation, Environmental Reports (as hereinafter defined), all architectural and engineering plans, any architect’s agreement entered into hereafter (the “**Architect’s Agreement**”) by and between the Developer and any architect engaged to perform services with respect to Site A-1 (the “**Architect**”) and those certain plans and specifications referred to therein, and all amendments, modifications, supplements, general conditions and addenda thereto (collectively, the “**Architectural Plans**”) prepared by the Architect for the account of the Developer in connection with the development of certain real property located on Site A-1. Effective upon the Effective Date, the Plans, Reports, Agreements, and Data, including, without limitation, the Architect’s Agreement and the Architectural Plans, are hereby assigned as consideration for the City’s execution of that certain Development and Construction Contract for Public Improvements (the “**DCC**”), dated \_\_\_\_\_, 2019 and entered into by and between the Developer and the City. “DCC” as used herein shall mean, refer to and include the DCC, as well as any riders, exhibits, addenda, implementation agreements, amendments and attachments thereto or other documents expressly incorporated by reference in the DCC. Any capitalized term not herein defined shall have the same meaning as set forth in the DCC. The DCC is hereby incorporated herein by this reference. For purposes hereof, “**Environmental Reports**” means any “Phase I” and/or “Phase II” investigations of the Property, and all final reports and test results (not including drafts) provided by the Developer’s environmental consultant.

The “**Effective Date**” shall be the date on which the City terminates the DCC as a result of an Event of Default by the Developer thereunder and elects, pursuant to Section 10.17 of the DCC, to take assignment of the Plans, Reports, and Data. Effective upon the Effective Date, the City shall have the right, but not the obligation, at any time to take such action as the City may at any time or from time to time determine to be necessary or desirable in order to cure any default by the Developer under the Architect’s Agreement, including, without limitation, the protection of the Developer’s rights with respect to the Architectural Plans or to protect the rights of the Developer thereunder. The Developer shall indemnify and hold harmless the City against any liabilities, claims, costs or expenses, including reasonable attorneys’ fees, accruing under the Architect’s Agreements prior to the Effective Date. The Developer shall be released from all liability under the Architect’s Agreements from and after the Effective Date. The indemnities contained in this paragraph shall not extend to any actions, suits, claims, demands, liabilities, losses, damages, obligations, costs or expenses caused to the extent arising from the acts or

omissions of the indemnified party. The Developer agrees to have each Architect engaged to perform services in connection with Site A-1 execute a Consent in the form attached hereto.

Upon the Effective Date, the City may exercise its rights hereunder and take possession of and title to the Plans, Reports, Agreements, and Data. The Developer shall deliver possession of and title to the Plans, Reports, Agreements, and Data to the City promptly upon the City's written request. The City hereby acknowledges and agrees that any Plans, Reports, Agreements, and Data which are assigned to the City (or its successors or assigns) pursuant to this Assignment shall be strictly on an "as is, with all faults" basis, and the City hereby acknowledges and agrees that the Developer shall not be deemed to have made any representation or warranty whatsoever as to the quality, accuracy, utility, or compliance with law of the Plans, Reports, Agreements, and Data, and the City (and its successors and assigns) shall utilize and/or rely on any of the Plans, Reports, Agreements, and Data at its sole risk.

The Developer and the Architect, by executing the Consent to this Assignment, agree that the City does not assume any of the Developer's obligations or duties concerning the Architect's Agreement and the Architectural Plans, including, without limitation, the obligation to pay for the preparation of the Architect's Agreement and the Architectural Plans, until and unless the Effective Date has occurred.

The Developer hereby represents and warrants to the City that, except for any assignment as may be required by the construction lender (if any) and/or the DDA, no previous assignment of its interest in the Plans, Reports, Agreements, and Data, including, without limitation, the Architect's Agreement and the Architectural Plans, has been made, and the Developer agrees not to assign, sell, pledge, transfer, mortgage or otherwise encumber its interest in the Plans, Reports, Agreements, and Data, including, without limitation, the Architect's Agreement and the Architectural Plans, so long as this Assignment is in effect, except for any assignment, sale, pledge, transfer, mortgage, or other encumbrance that is (i) subject and subordinate to the City's rights under this Assignment, (ii) consented to by the City, such consent not to be reasonably withheld, conditioned, or delayed, or (iii) made in connection with a transfer that is permitted pursuant to the DCC.

Upon Completion of the Public Parking Improvements in accordance with the DCC, this Assignment shall automatically terminate.

This Assignment shall be binding upon and inure to the benefit of the heirs, legal representatives, assigns, or successors in interest of the Developer and the City.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Developer has caused this Assignment of Plans, Reports, Agreements, and Data to be executed as of \_\_\_\_\_, 20\_\_\_\_.

**“DEVELOPER”**

CULVER PUBLIC MARKET, LLC,  
a Delaware limited liability company

By: Regency Centers, L.P.,  
a Delaware limited partnership,  
its Managing Member

By: Regency Centers Corporation,  
a Florida corporation,  
its General Partner

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: John Nahas  
Vice President, Investments

**CONSENT**

The undersigned has prepared or will prepare the Architectural Plans and hereby consents to the above Assignment. The undersigned also agrees that in the event of a breach by the Developer of any of the terms and conditions of the Architect's Agreement or any other agreement entered into with the undersigned in connection with the Architectural Plans, the undersigned shall give written notice to the City of such breach. The City shall have 60 calendar days from the receipt of such notice of default to remedy or cure said default; however, nothing herein shall require or obligate the City to cure said default, but only gives it the option to do so.

The undersigned also agrees that in the event of default by the Developer under any of the documents or instruments entered into in connection with said Architect's Agreement, the undersigned, at the City's request, shall continue performance under the Architect's Agreement in accordance with the terms hereof, provided that the undersigned shall be reimbursed in accordance with the Architect's Agreement for all services rendered on the City's behalf.

Dated: \_\_\_\_\_

ARCHITECT:  
\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTACHMENT 1

LEGAL DESCRIPTION

[behind this page]

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

IN THE CITY OF CULVER CITY, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, BEING PARCEL 1 OF PARCEL MAP NO. 74999 AS PER MAP FILED IN BOOK 402, PAGES 47 AND 48 OF PARCEL MAPS, IN THE OFFICE OF THE REGISTRAR – RECORDER/COUNTY CLERK OF SAID COUNTY.

THIS DESCRIPTION WAS PREPARED BY ME, OR UNDER MY SUPERVISION, IN CONFORMANCE WITH THE PROFESSIONAL LAND SURVEYORS' ACT.

  
\_\_\_\_\_  
PASCAL R. APOTHELOZ P.L.S. 7734                      05/17/19



**Exhibit C**

**Form of Certificate of Liability Insurance**

[behind this page]



# CERTIFICATE OF LIABILITY INSURANCE

COMBPRO-01

KOTIANSR

DATE (MM/DD/YYYY)

6/9/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

|                        |  |
|------------------------|--|
| PRODUCER<br>[REDACTED] | CONTACT NAME: [REDACTED]                                   |
|                        | PHONE (A/C, No, Ext): [REDACTED] FAX (A/C, No): [REDACTED] |
|                        | E-MAIL ADDRESS: [REDACTED]                                 |
|                        | INSURER(S) AFFORDING COVERAGE                              |
|                        | INSURER A: [REDACTED] NAIC # [REDACTED]                    |
| INSURED<br>[REDACTED]  | INSURER B: [REDACTED]                                      |
|                        | INSURER C: [REDACTED]                                      |
|                        | INSURER D: [REDACTED]                                      |
|                        | INSURER E: [REDACTED]                                      |
|                        | INSURER F: [REDACTED]                                      |

## COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE   | ADDL INSD | SUBR WVD       | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS  |
|----------|---|-----------|----------------|---------------|-------------------------|-------------------------|---|
| A        | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY<br><input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR<br><input checked="" type="checkbox"/> EBL \$1M/Ded \$1,000<br><input checked="" type="checkbox"/> GL Ded \$0<br>GEN'L AGGREGATE LIMIT APPLIES PER:<br><input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC<br>OTHER: |           | X              | [REDACTED]    | 06/01/2016              | 06/01/2017              | EACH OCCURRENCE \$ 1,000,000<br>DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000<br>MED EXP (Any one person) \$ 10,000<br>PERSONAL & ADV INJURY \$ 1,000,000<br>GENERAL AGGREGATE \$ 2,000,000<br>PRODUCTS - COMP/OP AGG \$ 2,000,000 |
| B        | AUTOMOBILE LIABILITY<br><input checked="" type="checkbox"/> ANY AUTO<br><input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS<br><input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS  |           |                | [REDACTED]    | 06/01/2016              | 06/01/2017              | COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000<br>BODILY INJURY (Per person) \$<br>BODILY INJURY (Per accident) \$<br>PROPERTY DAMAGE (Per accident) \$   |
| C        | <input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR<br><input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE<br>DED <input checked="" type="checkbox"/> RETENTION \$ 10,000   |           |                | [REDACTED]    | 06/01/2016              | 06/01/2017              | EACH OCCURRENCE \$ 25,000,000<br>AGGREGATE \$ 25,000,000  |
| B        | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY<br>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)<br>If yes, describe under DESCRIPTION OF OPERATIONS below  |           | Y / N<br>N / A | [REDACTED]    | 06/01/2016              | 06/01/2017              | <input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER<br>E.L. EACH ACCIDENT \$ 1,000,000<br>E.L. DISEASE - EA EMPLOYEE \$ 1,000,000<br>E.L. DISEASE - POLICY LIMIT \$ 1,000,000                                   |
| D        | Crime   |           |                | [REDACTED]    | 11/01/2015              | 11/01/2016              | See Attached  |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

THIS CERTIFICATE VOIDS & REPLACES THE PREVIOUSLY ISSUED CERTIFICATE DATED: 6/3/2016

Re: [REDACTED]

(A) The Successor Agency to the Culver City Redevelopment Agency, Members of the Board of Directors its officers, agents and employees, and (B) The City of Culver City, members of their City Council, their boards and commissioners, officers, agents, and employees are Additional Insureds to the extent provided by the policy language or endorsement issued or approved by the insurance carrier.

## CERTIFICATE HOLDER

## CANCELLATION

|  |  |
|--|--|
| The City of Culver City<br>The Successor Agency to the<br>Culver City Redevelopment Agency<br>9770 Culver Boulevard<br>Culver City, CA 90232 | SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. |
|  | AUTHORIZED REPRESENTATIVE<br>[REDACTED]  |

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### ADDITIONAL COVERAGE SCHEDULE

| COVERAGE  | LIMITS   |
|---|--|
| <b>POLICY TYPE:</b> Crime<br><b>CARRIER:</b> [REDACTED]<br><b>POLICY TERM:</b> 11/1/2015 – 11/1/2016<br><b>POLICY NUMBER:</b> [REDACTED]            | <b>\$1,000,000 Ea Claim</b><br><b>\$15,000 Retention</b> |
| <b>POLICY TYPE:</b> Professional E&O<br><b>CARRIER:</b> [REDACTED]<br><b>POLICY TERM:</b> 11/1/2015 – 11/1/2016<br><b>POLICY NUMBER:</b> [REDACTED] | <b>\$2,000,000 Ea.Claim</b><br><b>\$25,000 Retention</b> |

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

### SCHEDULE

**Name Of Additional Insured Person(s) Or Organization(s):**

The Successor Agency to the Culver City Redevelopment Agency, members of the Board of Directors, its officers, agents and employees, and B) the City of Culver City, members of their City Council, their boards and commissions, officers, agents, and employees.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. **Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

1. In the performance of your ongoing operations; or
2. In connection with your premises owned by or rented to you.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

**Exhibit D**

**Condominium CC&Rs**

[To Be Negotiated by the Parties Following Closing under the DDA]

**Exhibit E**

**Disbursement Procedures**

[behind this page]

## **DISBURSEMENT PROCEDURES**

1. Defined Terms. As used herein, capitalized terms shall have the meanings set forth in the Development and Construction Contract for Public Improvements (the “**DCC**”) to which these Disbursement Procedures are attached as Exhibit E, all attachments and exhibits to the DCC (which are hereby incorporated herein by this reference), and any amendments or modifications which may be entered into in accordance therewith (collectively, the “**Contract**”).

2. Deposit and Use of City Funds; Post-Closing Funding Account.

a. City Funds.

(1) Concurrent with the Closing under the DDA, the City shall deposit the City Funds into an account opened by the City (the “**Post-Closing Funding Account**”) to be held at a mutually acceptable escrow company (the “**Post-Closing Funding Account Holder**”) in an amount equal to the total Maximum Public Parking Improvements Contribution for the Public Parking Improvements as set forth in the Contract, which amount represents the City’s share of the projected Public Parking Improvements Costs as calculated and determined pursuant to and in accordance with the Contract as of the Effective Date. The costs incurred by the Developer to Develop and Cause Construction of the Public Parking Improvements to Completion, including, without limitation, all such costs incurred pursuant to the terms of the approved Construction Contract and Additional Contracts, up to but not exceeding the Maximum Public Parking Improvements Contribution, shall be paid by the City in accordance with and subject to the terms and conditions of the Contract and these Disbursement Procedures. The City shall be responsible, at its sole cost and expense, for any and all costs associated with the Post-Closing Funding Account, and such costs shall not be included in or applied toward the Maximum Public Parking Improvements Contribution.

(2) As interest accrues on the City Funds deposited in the Post-Closing Funding Account, such interest shall be and remain the sole property of the City and shall be disbursed to the City from time to time. The principal of the City Funds and any accrued interest thereon held in the Post-Closing Funding Account shall not be pledged to any lender, contractor, consultant, or other third party, the Developer, or any Developer contractor or consultant, and the principal of the City Funds and any accrued interest thereon held in the Post-Closing Funding Account shall not constitute security for any loan or other obligation of the City. Prior to disbursement of any City Funds pursuant to and in accordance with the terms of the Contract and these Disbursement Procedures, the principal of the City Funds and any accrued interest thereon held in the Post-Closing Funding Account shall be owned by the City, in accordance with the rights of the City as provided in the Contract and these Disbursement Procedures.

(3) The Developer hereby acknowledges and agrees that neither the Developer nor the Contractor, other Developer contractors or consultants, or any third party has any lien on or security interest in, or right of setoff in respect of, the City Funds deposited and held in the Post-Closing Funding Account, including any accrued interest thereon, for the payment of fees and expenses or for any other purpose whatsoever. Except for the City’s rights to closure of the Post-Closing Funding Account and receipt of all remaining City Funds held in

the Post-Closing Funding Account including accrued interest, as discussed below, nothing in the foregoing shall otherwise allow the City to withdraw the City Funds from the Post-Closing Funding Account or to alter these Disbursement Procedures without the written consent of both the City and the Developer.

b. Monthly Disbursements.

(1) The City Funds, together with any accrued interest thereon which has not been released to the City and has been currently budgeted and appropriated by the City for use toward the City's share of the Public Parking Improvements Costs, shall be held and applied to pay for the City's share of the Public Parking Improvements Costs in accordance with the terms of the Contract and these Disbursement Procedures.

(2) Monthly payments from the Post-Closing Funding Account will be made to the Developer in accordance with the Contract and these Disbursement Procedures. The City shall maintain and keep accurate records regarding amounts on deposit in the Post-Closing Funding Account, including any and all interest earned thereon, and shall provide the Developer with monthly statements of the Post-Closing Funding Account, including all interest earned thereon.

(3) The Developer shall have the right, upon not less than five (5) Business Days' advance written notice, to inspect the City's books and records relating to the amounts deposited into and disbursed from the Post-Closing Funding Account and the uses of such funds.

3. Conditions Precedent to Disbursement of City Funds. All disbursements of City Funds to the Developer shall be used by the Developer for reimbursement of the Public Parking Improvements Costs incurred and/or paid by the Developer, including payment to third-party contractors, subcontractors or creditors of the Public Parking Improvements, as the case may be, upon the City's approval of the Payment Request (as defined below) and the amount of the payment in accordance with these Disbursement Procedures. Disbursement of any City Funds hereunder shall be subject to the satisfaction of all of the following conditions precedent:

a. The Construction Contract shall have been delivered to the City in its final executed form;

b. The Assignment of Construction Contract and the Assignment of Plans, Reports and Data each shall have been signed by the Developer and consented to by the Contractor or architect, respectively, and with respect to any request by the Developer for payment of any amounts incurred under any Additional Contract, the City shall have the right to withhold authorization of such payment until the contractor under the subject Additional Contract shall have also consented to an assignment of its contract in the same general form as the Assignment of Construction Contract;

c. Any Additional Contract under which the Developer is requesting payment from the Post-Closing Funding Account shall have been delivered to the City in its final executed form;

d. The Developer shall have obtained from the Contractor a written estimate, based upon the Contractor's good faith judgment, of what portion of the total maximum Construction Contract price is allocable to the performance of the Public Parking Improvements Scope of Work, and what portion thereof of the total maximum Construction Contract price is attributable to the Off-Site Improvement Costs, and shall have delivered evidence of such allocation to the City. The "**Public Parking Improvements Cost Percentage**" shall be that fraction, expressed as a percentage, (i) the numerator of which shall be the amount allocated to the performance of the Public Parking Improvements Scope of Work as set forth in the immediately preceding sentence and (ii) the denominator of which shall be the total maximum price payable under the Construction Contract (including the construction of both the Public Parking Improvements and the Project Improvements), less the Off-Site Improvement Costs. For example purposes only, if the total maximum amount set forth in the Construction Contract for the construction of the Public Parking Improvements and the Project Improvements, minus the Off-Site Improvement Costs, were Twenty Million and 00/100 Dollars (\$20,000,000.00), and the amount allocated pursuant to the foregoing to the Public Parking Improvements was Nine Million and 00/100 Dollars (\$9,000,000.00), then the Public Parking Improvements Cost Percentage would be forty-five percent (45%); and

e. The Developer shall not be in default under the Contract beyond any applicable notice and/or cure period(s).

4. Disbursements. Upon satisfaction of all conditions precedent as set forth in Section 3 above, the City shall disburse City Funds in the Post-Closing Funding Account once per month for application in accordance with the Public Parking Improvements Budget. The amount disbursed from the Post-Closing Funding Account in response to a Payment Request shall be in accordance with the provisions of Section 5 below. The City shall reasonably determine whether or not the conditions precedent to its obligation to disburse (or consent to disbursement of) City Funds have been satisfied.

5. Documentation of Amounts to be Disbursed for Costs of Public Parking Improvements. Disbursements of City Funds for the payment of the City's share of the Public Parking Improvements Costs shall be conditioned upon submission to the City of a written itemized statement or payment request substantially in the form described in this Section 5 (each, a "**Payment Request**"). The Developer shall submit and deliver a copy of each Payment Request to the City. Each Payment Request shall consist of at least all of the following:

a. A cover letter signed by the Developer and dated as of the date of the Payment Request. The letter must include the period covered by the Payment Request, the amount of the Payment Request, the description of work performed, material supplied and/or costs incurred or due for which disbursement is requested. The Developer shall pre-approve all third-party invoices submitted to the City for payment, before submittal to the City. The Developer shall include as separate line items on each monthly Payment Request the specific amounts due and payable for construction of the Public Parking Improvements consistent with the specificity required for such costs by these Disbursement Procedures, including references to

the applicable line item(s) on the Public Parking Improvements Budget. Each Payment Request shall be sequentially numbered.

b. A spreadsheet including line items conforming to the Public Parking Improvements Budget. The spreadsheet must set forth the amounts of all disbursements of City Funds, including the current Payment Request, and must show the remaining City Fund balances.

c. A summary invoice for the total amount requested, with the amount of each backup invoice shown on the summary as a separate line item. Consultant fees, if any, must be shown as a separate line item.

d. Backup invoices or such other appropriate documentation reasonably acceptable to the City including, without limitation, approved change order(s), to evidence, document, justify and support each line item in the summary invoice, with each backup item approved in writing by the Developer.

e. Conditional and unconditional lien releases as required by the City and such other additional backup documentation and information as may be reasonably required by the City in order to determine the appropriateness of the specific costs for which payment is requested (*e.g.*, vouchers, invoices, and architect's inspector's and/or engineer's periodic certifications of the percentage and/or stage of construction that has been completed).

6. Approval of Payment Requests; Disbursement of Funds.

a. Each Payment Request shall be subject to the review and reasonable approval of the City, which approval shall be limited to the City's confirming that the Payment Request is consistent with and meets all applicable requirements of the terms and conditions of the Contract and these Disbursement Procedures. Any City Funds so disbursed from the Post-Closing Funding Account shall only be expended by the Developer for the City's share of the Public Parking Improvements Costs as set forth in the approved Public Parking Improvements Budget. A Payment Request shall be submitted not more frequently than once monthly. Notwithstanding the foregoing, disbursements of City Funds shall not be withheld or delayed due to nonmaterial errors or omissions in the form or content of a Payment Request. The Developer shall be diligent in its efforts to respond to all requests by the City for supplemental or corrective measures.

b. Except as set forth in Section 6.c below with respect to the concrete work, for each category of work or other expense set forth in the Public Parking Improvements Budget, the City's share shall be a fraction, the numerator of which shall be the amount of such line item set forth in Column F of the Public Parking Improvements Budget, and the denominator of which shall be the amount of such line item set forth in Column H of the Public Parking Improvement Budget. For example purposes, if the Developer incurred \$100,000 in costs relating to the installation of elevators in the Public Parking Improvements, the Payment Request would set forth that the City would be responsible for 82.73% of such \$100,000 amount, or \$82,730.

c. With respect to the concrete work performed in the Public Parking Improvements, the City's share of each separate level of such work shall that percentage set forth in the SubCategory column of the Public Parking Improvements Budget (i.e., 18% for the Foundations and Level 1, 33% for the Vertical elements to Level 2 and the Level 2 slab, etc.).

d. Any disbursements from the Post-Closing Funding Account shall require only written instructions or authorization from the City.

e. Subject to Section 6.f below, within ten (10) Business Days following the receipt of any Payment Request, subject to the terms and conditions of the Contract and these Disbursement Procedures, the City shall pay (or shall instruct in writing the Post-Closing Funding Account Holder to pay) to the Developer (or such third party(ies) as may be requested by the Developer), the amount equal to the City's share of the Public Parking Improvements Costs incurred by the Developer as set forth in the subject Payment Request (the "**Public Parking Improvements Payment Amount**"), less a retention of ten percent (10%) (the "**Retention**") of the Public Parking Improvements Payment Amount. The Retention shall be released by the Post-Closing Funding Account Holder to the Developer for payment to the Contractor or other applicable Developer contractors upon Completion of the Public Parking Improvements, or sooner as may be required by applicable law or these Disbursement Procedures, and consistent with the provisions of the Construction Contract and any Additional Contracts.

f. If the City does not approve all or a portion of the Public Parking Improvements Payment Amount, then the City shall provide written Notice to the Developer within ten (10) -Business Days of receipt of a Payment Request setting forth in specific detail the amount at issue and the reason(s) for such disapproval period. If the City does not object within that ten (10) -Business Day period, then the City shall proceed with disbursement of the Payment Request and shall promptly instruct the Post-Closing Funding Account Holder to disburse the subject Public Parking Improvements Payment Amount to the Developer, less any applicable Retention. If the City timely objects to a Payment Request, then the City shall proceed to promptly instruct the Post-Closing Funding Account Holder to disburse to the Developer the amounts set forth in the Payment Request (less the applicable Retention), if any, that are not contested by the City pursuant to this Section 6.f. If any portion of the Public Parking Improvements Payment Amount is disputed by the City pursuant to this Section 6.f, then the Parties shall promptly meet and discuss in good faith the disputed matter and reasonably attempt in good faith to resolve any difference in position with respect thereto, and, in that event, each of the Parties shall make itself available for such meeting(s) and reasonably negotiate in good faith to resolve any difference between the Parties. In the event that the Parties are not able to resolve any differences pursuant to the foregoing within thirty (30) Days of either Party's request to meet and confer on the subject disputed matter, either Party shall have the right to pursue such remedies as are available under the Contract, at law, or in equity including, without limitation, seeking declaratory relief from a court of competent jurisdiction.

g. Upon Completion of the Public Parking Improvements, or sooner as may be required by applicable law or the provisions of the Contract or these Disbursement

Procedures, the City shall pay or promptly instruct the Post-Closing Funding Account Holder to pay the Retention to the Developer.

7. Termination of Post-Closing Funding Account. Upon the Developer's receipt of written notice from the City notifying the Developer of the occurrence of any of the following events: (i) a termination of the Contract by either of the Parties; (ii) the Successor Agency's successful exercise of the right of reverter reverting title to the Site in the Successor Agency pursuant to the DDA; (iii) Completion of the Public Parking Improvements and payment in full of all costs of the Public Parking Improvements and other amounts (if any) due and payable by the City under the Contract; (iv) the successful exercise of the City's Right of First Offer and purchase of the Site pursuant to the DDA and the close of escrow for that purchase; or (v) the Developer's written agreement with the City to close the Post-Closing Funding Account and disburse all remaining funds therein to the City, the Post-Closing Funding Account shall be closed and, except for any amount owing by the City to the Developer for work performed and/or events occurring prior to the date of any of the occurrences set forth in the immediately preceding clauses (i) through (v), any and all City Funds remaining in the Post-Closing Funding Account (including principal and accrued interest thereon, if any) shall be promptly disbursed to the City, and all such funds shall be retained by the City as its sole and separate property.

8. Reservation of Rights. Nothing contained herein shall be construed as restricting, limiting, amending or modifying the rights of the Parties in the Contract. In the event of a conflict between the terms of these Disbursement Procedures and the terms of the Contract, the terms of these Disbursement Procedures shall control.

**Exhibit F**

**List of Existing Contracts**

[behind this page]

Exhibit "F"

LIST OF EXISTING CONTRACTS

JRDV Architects

**JRDV Sub-consultants:**

- International Parking Design
- LRM - Landscape Architects
- Ficcadenti Waggoner and Castle - Structural Engineers

DRC Engineering Inc - Civil Engineering

Krazan & Associates, Inc - Structural Engineering

International Parking Design

Grush Construction – General Contractor

**Exhibit G**

**List of Plans**

[behind this page]

Exhibit "G"

LIST OF PLANS

SITE A

DRAWING INDEX

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|          |                                   |                        |                                       |         |                                    |            |   | M095-A     | MECHANICAL TITLE 24 - SITE A         |                            |  |            |  |
|          |                                   |                        |                                       |         |                                    |            |   | M096-A     | MECHANICAL TITLE 24 - SITE A         |                            |  |            |  |
|          |                                   |                        |                                       |         |                                    |            |   | M097-A     | MECHANICAL TITLE 24 - SITE A         |                            |  |            |  |
|          |                                   |                        |                                       |         |                                    |            |   | M098-A     | MECHANICAL TITLE 24 - SITE A         |                            |  |            |  |
|          |                                   |                        |                                       |         |                                    |            |   | M099-A     | MECHANICAL TITLE 24 - SITE A         |                            |  |            |  |
|          |                                   |                        |                                       |         |                                    |            |   | M100-A     | MECHANICAL TITLE 24 - SITE A         |                            |  |            |  |

Exhibit "G"

LIST OF PLANS

SITE B

| <b>DRAWING INDEX</b>                  |   |
|---------------------------------------|---|
| <b>GENERAL</b>                        |   |
| G021-B                                | TITLE SHEET, DRAWING INDEX                      |
| G101-B                                | GENERAL NOTES & ABBREVIATIONS                   |
| G102-B                                | ACCESSIBILITY STANDARDS & DETAILS               |
| G103-B                                | ACCESSIBILITY STANDARDS & DETAILS               |
| G221-B                                | CODE ANALYSIS & EXITING                         |
| <b>LANDSCAPING &amp; IRRIGATION</b>   |   |
| L020-B                                | COVER SHEET                                     |
| L121-B                                | CONSTRUCTION PLAN - GROUND FLOOR PLAN           |
| L122-B                                | TOP OF WALL - GROUND FLOOR PLAN                 |
| L221-B                                | CONSTRUCTION DETAILS                            |
| L222-B                                | CONSTRUCTION DETAILS                            |
| L223-B                                | CONSTRUCTION DETAILS                            |
| L321-B                                | IRRIGATION PLAN - GROUND FLOOR PLAN             |
| L322-B                                | IRRIGATION DETAILS                              |
| L323-B                                | IRRIGATION DETAILS                              |
| L421-B                                | PLANTING PLAN- GROUND FLOOR PLAN                |
| L422-B                                | PLANTING DETAILS                                |
| L521-B                                | LIGHTING PLAN - GROUND FLOOR PLAN               |
| <b>SITE ARCHITECTURAL</b>             |   |
| AS101-B                               | ARCHITECTURAL SITE PLAN                         |
| AS321-B                               | SITE DETAILS: TRASH ENCLOSURE                   |
| <b>ARCHITECTURAL</b>                  |   |
| A121-B                                | GROUND FLOOR PLAN - SITE B                      |
| A122-B                                | ROOF PLAN - SITE B                              |
| A123-B                                | SLAB PLANS - SITE B                             |
| A124-B                                | GROUND FLOOR RCP - SITE B                       |
| A221-B                                | EXTERIOR ELEVATIONS - SITE B                    |
| A321-B                                | BUILDING SECTIONS                               |
| A323-B                                | WALL SECTIONS & DETAILS                         |
| A324-B                                | WALL SECTIONS & DETAILS                         |
| A325-B                                | WALL SECTIONS & DETAILS                         |
| A500-B                                | DETAILS - WALL, TYPICAL                         |
| A521-B                                | DETAILS - SILL                                  |
| A522-B                                | DETAILS - DOOR & WINDOW                         |
| A600-B                                | DETAILS - ROOF, TYPICAL                         |
| A601-B                                | DETAILS - ROOF, TYPICAL                         |
| A602-B                                | DETAILS - ROOF, TYPICAL                         |
| A603-B                                | DETAILS - ROOF, TYPICAL                         |
| A621-B                                | DETAILS - PARAPETS                              |
| A622-B                                | DETAILS - PARAPETS                              |
| A623-B                                | DETAILS - EYEBROWS                              |
| A721-B                                | DOOR & WINDOW SCHEDULE                          |
| A722-B                                | WINDOW SCHEDULE                                 |
| A821-B                                | WALL TYPE SCHEDULE & DETAILS                    |
| <b>STRUCTURAL</b>                     |   |
| S001-B                                | GENERAL NOTES                                   |
| S002-B                                | GENERAL NOTES                                   |
| S003-B                                | TABLES  |
| S101-B                                | TYPICAL SLAB ON GRADE & FOOTING DETAILS         |
| S102-B                                | TYPICAL WOOD FRAMING DETAILS                    |
| S103-B                                | FRAMING DETAILS                                 |
| S104-B                                | TYPICAL WALL, DECK & MISC. DETAILS              |
| S112-B                                | TYPICAL STEEL DETAILS                           |
| S113-B                                | TYPICAL STEEL DETAILS                           |
| S221-B                                | FOUNDATION FLOOR PLAN                           |
| S222-B                                | ROOF FRAMING PLAN                               |
| S301-B                                | MOMENT FRAME ELEVATIONS                         |
| S311-B                                | MOMENT FRAME NOTES AND DETAILS                  |
| S321-B                                | EXTERIOR ELEVATIONS                             |
| S501-B                                | FOUNDATION FOOTING DETAILS                      |
| S511-B                                | FRAMING DETAILS                                 |
| S512-B                                | FRAMING DETAILS                                 |
| <b>MECHANICAL</b>                     |   |
| M001-B                                | HVAC LEGEND, NOTES AND ABBREVIATIONS            |
| M002-B                                | TYPICAL MECHANICAL DETAILS                      |
| M003-B                                | 2 HR FIRE WRAP DETAILS                          |
| M004-B                                | TYPICAL MECHANICAL DETAILS                      |
| M005-B                                | TYPICAL MECHANICAL DETAILS                      |
| M006-B                                | MECHANICAL TITLE 24 - SITE B                    |
| M007-B                                | MECHANICAL TITLE 24 - SITE B                    |
| M027-B                                | MECHANICAL SCHEDULES - SITE B                   |
| M121-B                                | HVAC PLAN FIRST FLOOR - SITE B                  |
| M122-B                                | MECHANICAL CONTROLS - SITE B                    |
| <b>PLUMBING &amp; FIRE PROTECTION</b> |   |
| P001-B                                | MASTER LEGEND PLUMBING                          |
| P121-B                                | GROUND FLOOR - SITE B PLUMBING                  |
| P122-B                                | ROOF PLAN - SITE B PLUMBING                     |
| P521-B                                | PLUMBING DETAILS - SITE B                       |
| <b>ELECTRICAL</b>                     |   |
| E021-B                                | SYMBOLS LIST, FIXTURE LIST AND DETAILS - SITE B |
| E022-B                                | SINGLE LINE DIAGRAM - SITE B                    |
| E023-B                                | TITLE 24 FORMS PAGE 1                           |
| E024-B                                | TITLE 24 FORMS PAGE 2                           |
| E025-B                                | TITLE 24 FORMS PAGE 3                           |
| E026-B                                | TITLE 24 FORMS PAGE 4                           |
| E121-B                                | GROUND FLOOR ELECTRICAL PLAN - SITE B           |
| E121-BPH                              | GROUND FLOOR PHOTOMETRICS - SITE B              |

**Exhibit H**

**Public Parking Improvements Budget**

[behind this page]

|                                |             |                           |                   | Parking Garage                      |                                  | SITE A -Parking Structure        |
|--------------------------------|-------------|---------------------------|-------------------|-------------------------------------|----------------------------------|----------------------------------|
| CULVER PUBLIC MARKET 4/24/2019 |             |                           |                   | Parking Structure City Contribution | Parking Structure Developer      | <b>PARKING STRUCTURE</b>         |
| No.                            | SubCategory | Description               | Base Estimate     |                                     |                                  | Amount                           |
|                                |             |                           |                   | <b>SITE A -Parking Structure</b>    | <b>SITE A -Parking Structure</b> | <b>SITE A -Parking Structure</b> |
|                                |             | Fire Sprinklers           | \$136,900         | <b>\$74,949</b>                     | <b>\$15,641</b>                  | \$90,590                         |
| <b>15</b>                      | 15000       | HVAC                      | \$875,000         | \$875,000                           |                                  | \$175,060.00                     |
|                                |             | HVAC                      | \$875,000         | <b>\$144,834</b>                    | <b>\$30,226</b>                  | \$175,060                        |
| <b>16</b>                      | 16000       | Electrical                | \$2,002,295       | \$2,002,295                         |                                  | \$940,441.00                     |
|                                |             | Electrical                | \$1,972,295.00    | <b>\$778,065</b>                    | <b>\$162,376</b>                 | \$940,441                        |
|                                |             | Switchgear                |                   | <b>\$107,554</b>                    | <b>\$22,446</b>                  | \$130,000                        |
|                                |             | Conduit/Wiring            |                   | <b>\$505,043</b>                    | <b>\$105,398</b>                 | \$610,441                        |
|                                |             | Lighting                  |                   | <b>\$165,468</b>                    | <b>\$34,532</b>                  | \$200,000                        |
|                                |             | Photovoltaic System       | \$30,000.00       | <b>\$0</b>                          |                                  | \$0                              |
|                                |             | <b>SUBTOTAL</b>           | <b>20,119,490</b> |                                     |                                  | \$7,694,589.00                   |
|                                |             | <b>Fee</b>                | <b>804,780</b>    | <b>\$254,642.25</b>                 | <b>\$53,141.75</b>               | \$307,784.00                     |
|                                |             | <b>Insurance</b>          | <b>313,863</b>    | <b>\$99,310.67</b>                  | <b>\$20,725.33</b>               | \$120,036.00                     |
|                                |             | <b>Grand Totals</b>       | <b>21,238,133</b> | <b>\$6,720,000</b>                  | <b>\$1,402,409</b>               | <b>\$8,122,409.00</b>            |
| <b>Additional</b>              |             | Edison/Utility Relocation | \$405,000         | \$405,000                           |                                  |                                  |
|                                |             |                           |                   |                                     | <b>City Allocation</b>           | <b>82.73%</b>                    |

| SITE A - Retail Bldg  | SITE A - Sitework     | SITE B - Buildings    | SITE B - Sitework   | Offsite               |
|-----------------------|-----------------------|-----------------------|---------------------|-----------------------|
| RETAIL BUILDING       | SITEWORK              | BUILDINGS             | SITEWORK            | OFFSITE               |
| Amount                | Amount                | Amount                | Amount              | Amount                |
| SITE A - Retail Bldg  | SITE A - Sitework     | SITE B - Buildings    | SITE B - Sitework   | Offsite               |
| \$46,310              | \$0                   | \$0                   | \$0                 | \$0                   |
| \$699,940.00          | \$0.00                | \$0.00                | \$0.00              | \$0.00                |
| \$699,940             | \$0                   | \$0                   | \$0                 | \$0                   |
| \$413,504.00          | \$220,000.00          | \$211,100.00          | \$70,000.00         | \$147,250.00          |
| \$413,504             | \$190,000             | \$211,100             | \$70,000            | \$147,250             |
| \$0                   | \$30,000              | \$0                   | \$0                 | \$0                   |
| \$6,546,110.00        | \$1,679,241.00        | \$2,208,143.00        | \$831,596.00        | \$1,159,811.00        |
| \$236,849.00          | \$92,165.00           | \$88,326.00           | \$33,264.00         | \$46,392.00           |
| \$92,370.00           | \$35,944.00           | \$34,447.00           | \$12,973.00         | \$18,093.00           |
| <b>\$6,875,329.00</b> | <b>\$1,807,350.00</b> | <b>\$2,330,916.00</b> | <b>\$877,833.00</b> | <b>\$1,224,296.00</b> |
|                       |                       |                       |                     |                       |

**Exhibit I**

**Public Parking Improvements Scope of Work**

[behind this page]

Exhibit “I”

PUBLIC PARKING IMPROVEMENTS SCOPE OF WORK

In accordance with approved plans, the Developer will construct a three-and a half-level public parking structure that shall provide approximately 177 parking spaces to serve the project and the local community.

**Exhibit J-1**

**Form of Rider – Construction Contracts**

[behind this page]

## RIDER TO CONTRACT

This Rider to Contract (this “**Rider**”) is attached to and incorporated in that certain \_\_\_\_\_ (the “**Agreement**”) dated \_\_\_\_\_, 20\_\_\_\_, by and between CULVER PUBLIC MARKET, LLC, a Delaware limited liability company (the “**Developer**”) and \_\_\_\_\_, a California corporation (the “**Contractor**”). This Rider shall form an integral part of the Agreement, and the provisions set forth below shall be controlling notwithstanding anything to the contrary in the Agreement. Wherever possible, the provisions of this Rider and the Agreement shall be construed consistently so that each is given application to the fullest extent possible consistent with its intent. All defined terms used in this Rider and not otherwise defined herein, shall have the meaning prescribed for such term in the Agreement.

1. The Contractor hereby agrees that, with respect to the work and/or services to be performed by the Contractor for the proposed public parking improvements (and not for any portion of the private project improvements) under the Agreement (such work and/or services shall hereinafter be referred to as the “**Public Improvements Services**”), the City of Culver City, a municipal corporation (the “**City**”), shall be an express third party beneficiary of the Agreement, including, without limitation, a third party beneficiary of all guaranties, warranties, indemnitees, defend and hold harmless provisions and remedies provided to the Developer pursuant to the terms of the Agreement with the same right and authority to enforce the same either concurrently with or separate from the Developer. Loss, waiver or other limitation on such rights as to the Developer shall not affect or impact the City’s rights under those provisions, nor shall any such loss, waiver or other limitation on such rights as to the City affect or impact the Developer’s rights under such provisions, and each of the Developer and the City shall have the right to separately and independently exercise such rights as their interests may appear. Nothing herein shall limit the Contractor’s right to require the Developer’s timely performance of any duties or obligations of the Developer in accordance with the terms of the Agreement. Nothing in this Section 1 shall modify the provisions of the Agreement requiring and/or providing for the Contractor to take direction from or obtain the approvals of the Developer, and the Contractor shall rely and act upon such directions and approvals from the Developer in accordance with the provisions of the Agreement.

2. Without limiting Section 1 above, the Contractor specifically acknowledges that, with respect to the Public Improvements Services, the City shall be an express third party beneficiary of the indemnities by the Contractor of the Developer set forth in the Agreement. The Contractor further acknowledges and agrees that the Contractor’s indemnity obligations under those provisions to the City are not limited by the insurance coverages that the Contractor is required to maintain and if, for any reason such insurance coverages are insufficient to cover all obligations under those indemnity provisions, the Contractor shall nevertheless remain responsible to perform those indemnity obligations in full. The Contractor further acknowledges and agrees that the Contractor’s indemnity obligations under those provisions shall survive termination of the Agreement.

3. The City shall also be named as an additional insured in an endorsement to the insurance policies required by the Agreement. The Contractor shall furnish the City with evidence that such insurance has been obtained upon execution of this Rider by the Contractor, the Developer and the City.

4. The Contractor acknowledges that it is acting as an independent contractor in performing its obligations under the Agreement and that, notwithstanding anything in the Agreement, the Contractor shall in no event be considered an agent or employee of the City, and in no event shall the Contractor or any of its employees have any right to participate in any pension plan, insurance, bonus, worker's compensation or similar benefits the City provides for its employees. The Contractor shall be responsible to pay and hold the City harmless from any and all payroll and other taxes and interest thereon and penalties therefor which may become due as a result of any obligations, services or other matters performed by the Contractor or its agents or employees pursuant to the Agreement.

5. The City neither undertakes nor assumes nor will it have any responsibility or duty to the Contractor or to any employee or agent of the Contractor to review, inspect, supervise, pass judgment upon or inform the Contractor or any such third party of any matter in connection with the design, development or construction of the public parking improvements, whether regarding (i) the quality, adequacy or suitability of the plans, whether or not approved by the City, (ii) any labor, service, equipment or material furnished to or used in connection with the Public Improvements Services, (iii) any person furnishing the same or (iv) other like matters. The Contractor and all employees and agents of the Contractor shall rely upon their own judgment regarding such matters, and any review, inspection, supervision, exercise of judgment or information supplied to the Contractor or to any such third party by the City in connection with such matters is for the public purpose of redeveloping the site, and neither the Contractor nor any third party is entitled to rely thereon. Nothing contained in this Rider shall abrogate, supersede or nullify any right the Developer has to approve documents produced by the Contractor as set forth in the Agreement.

6. Any notices to the City pursuant to the Agreement shall be delivered to the City in the manner provided in the Agreement at the address set forth below. For purposes of this Section 6, a general business day on which the Culver City City Hall is closed shall not constitute a business day:

To City: City of Culver City  
Attn: Mr. Sol Blumenfeld, Community Developer Director  
9770 Culver Boulevard  
Culver City, CA 90232-0507

With a Copy to: City of Culver City  
Attn: Carol Schwab, Esq., City Attorney  
9770 Culver Boulevard  
Culver City, CA 90232-0507

With a Copy to: Kane, Ballmer & Berkman, City Special Counsel  
Attn: Todd C. Mooney, Esq.  
515 South Figueroa Street, Suite 780  
Los Angeles, CA 90071

7. For the benefit of the City as well as the Developer, the Contractor shall comply with all applicable laws, ordinances, rules, regulations and requirements governing the public parking improvements, including, without limitation, current California state laws regarding water consumption and stormwater and waste water retention and discharge. The Contractor shall also, at

its expense, procure and maintain all permits, licenses and certificates which may be required at any time in connection with the performance of any work or services performed by or through the Contractor pursuant to the Agreement, including, without limitation, a Culver City business tax certificate. Without limitation of the foregoing, the Contractor specifically acknowledges and agrees that it shall be responsible for complying with all prevailing wage requirements applicable to the Contractor's services under California Labor Code Section 1720 *et seq.*, including any work performed by employees, agents or contractors of the Contractor pursuant to the Agreement, and including, without limitation, complying with applicable requirements of California Senate Bill No. 854 signed into law on June 20, 2014.

8. To the extent that applicable Public Improvements Services have been paid for under the Agreement, the Contractor specifically acknowledges and agrees that with respect to the work performed, gathered and prepared by the Contractor or caused to be performed, gathered and prepared by the Contractor in the Contractor's performance of the Public Improvements Services, if any, the City shall also have the right to exercise and enjoy the benefits of the irrevocable, nonexclusive license described therein, including the right to copy, retain and use all computations, plans, drawings, studies, specifications, design documents and any other instruments, data, computer media and materials gathered or prepared by the Contractor or caused to be gathered or prepared by the Contractor in the Contractor's performance of the Public Improvements Services, if any, at no further cost to the City, and without cost, expense or obligation to the Contractor, the Developer or any third party, and whether or not the Agreement is terminated for any reason, and whether the public parking improvements are developed or not. All such work product shall be transmitted or caused to be transmitted to the City by the Contractor within ten (10) calendar days after a written request therefor is made by the City. The City shall also have the right to exercise and enjoy the benefits of such an irrevocable, nonexclusive license, including the right to copy, retain and use all such design or other work product produced by any third party contractor whose services are retained by the Contractor for the public parking improvements, and the Contractor shall deliver such work product to the City within the timeframe described in this Section 8 when the City provides the Contractor a written request for such work product. All written documents that are intended for public review shall be provided to the City by the Contractor in a format suitable for posting on the Internet. Any reuse of such drawings, specifications and other documents by the City for a purpose other than for the public parking improvements, or any portion thereof, without the written agreement of the Contractor shall be at the City's risk and expense, and without any liability or exposure to the Contractor; and the City shall indemnify and hold harmless the Contractor from any and all third party claims, damages, losses and expenses arising out of or resulting therefrom.

9. In maintaining its records of Public Improvements Services and reimbursable expenses, the Contractor shall maintain sufficiently detailed records of the Public Improvements Services performed by or on behalf of the Contractor and resulting work that are attributable to the public parking improvements so that the calculations and resulting costs and expenses attributable to the portion of the Contractor's Public Improvements Services shall be separately identified and distinguished from the remaining scope of work performed by or on behalf of the Contractor pursuant to the Agreement.

10. The Contractor acknowledges and agrees that by virtue of its execution and delivery of this Rider the Contractor shall have no rights or remedies against the City for any payments due by the Developer to the Contractor under the Agreement or for the performance of any of the

Developer's obligations under the Agreement, and the City's execution of this Rider shall not be construed or interpreted in any way as the City's agreement or consent to be subject to the Developer's obligations under the Agreement or to be a guarantor for the performance of the Developer's obligations under the Agreement. Except as expressly provided in the last sentence of Section 8 above, the City shall have no liability whatsoever to the Contractor due to the City's execution of this Rider or otherwise.

11. In connection with performance and implementation of the Agreement, the Contractor agrees that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin or ancestry, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises, nor shall the transferee himself or herself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the premises. Without limitation of the foregoing, the Contractor further certifies and agrees that all persons employed or applying for employment by it and all of its subcontractors, sub-consultants, bidders and vendors, are and will be treated equally by it without regard to, or because of race, color, religion, ancestry, national origin, sex, age, sexual orientation, pregnancy, childbirth or related medical condition, medical condition (cancer related) or physical or mental disability, and in compliance with Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000 *et seq.*, the Federal Equal Pay Act of 1963, 29 U.S.C. Section 206(d), the Age Discrimination in Employment Act of 1967, 29 U.S.C. Section 621 *et seq.*, the Immigration Reform and Control Act of 1986, 8 U.S.C. Section 1324b *et seq.*, 42 U.S.C. Section 1981, the California Fair Employment and Housing Act, Cal. Government Code Section 12900 *et seq.*, the California Equal Pay Law, Cal. Labor Code Section 1197.5, Cal. Government Code Section 11135, the Americans with Disabilities Act, 42 U.S.C. Section 12101 *et seq.* and all other antidiscrimination laws and regulations of the United States and the State of California as they now exist or may hereafter be amended. The Contractor shall allow representatives of the Developer and the City access to its employment records related to the Agreement and this Rider during regular business hours to verify compliance with these provisions when so requested by the Developer or the City.

12. In connection with performance and implementation of the Agreement, the Contractor agrees to reasonably coordinate its performance of the Public Improvements Services as necessary with other consultants or contractors retained by the Developer or the City for the public parking improvements.

13. There shall be no modification, waiver or other alteration or change to the provisions of this Rider without the written consent of all of the parties hereto. In order to evidence their agreement to the provisions of this Rider and their incorporation into the Agreement in accordance with the terms above, the Contractor, the Developer and the City have separately executed this Rider below.

*[Remainder of the Page Intentionally Left Blank]*

**IN WITNESS WHEREOF**, the Developer, the City and the Contractor have caused this Rider to be executed as of the date first set forth above.

**“DEVELOPER”**

CULVER PUBLIC MARKET, LLC,  
a Delaware Limited Liability Company

By: Regency Centers, L.P.,  
a Delaware limited partnership,  
its Managing Member

By: Regency Centers Corporation,  
a Florida corporation,  
its General Partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

*[SIGNATURES CONTINUE ON FOLLOWING PAGE]*

**“CITY”**

CITY OF CULVER CITY,  
a municipal corporation

By: \_\_\_\_\_  
John M. Nachbar  
City Manager

APPROVED AS TO CONTENT:

By: \_\_\_\_\_  
Sol Blumenfeld  
Community Development Director

ATTEST:

By: \_\_\_\_\_  
Jeremy Green  
City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Carol Schwab  
City Attorney

By: \_\_\_\_\_  
KANE, BALLMER & BERKMAN  
City Special Counsel

*[SIGNATURES CONCLUDE ON FOLLOWING PAGE]*

**“CONTRACTOR”**

\_\_\_\_\_,  
a California corporation  
*\*see notes below*

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\*Notes: This document must be executed by the Corporation’s Chief Executive Officer, President or Vice-President, on the one hand, and the Corporation’s Chief Financial Officer, Treasurer, Assistant Treasurer or Secretary on the other hand.

**Exhibit J-2**

**Form of Rider – Consultant Contracts**

[behind this page]

## RIDER TO CONTRACT

This Rider to Contract (this “**Rider**”) is attached to and incorporated in that certain \_\_\_\_\_ (the “**Agreement**”) dated \_\_\_\_\_, 20\_\_\_\_, by and between CULVER PUBLIC MARKET, LLC, a Delaware limited liability company (the “**Developer**”) and \_\_\_\_\_, a California corporation (the “**Consultant**”). This Rider shall form an integral part of the Agreement, and the provisions set forth below shall be controlling notwithstanding anything to the contrary in the Agreement. Wherever possible, the provisions of this Rider and the Agreement shall be construed consistently so that each is given application to the fullest extent possible consistent with its intent. All defined terms used in this Rider and not otherwise defined herein, shall have the meaning prescribed for such term in the Agreement.

1. The Consultant hereby agrees that, with respect to the work and/or services to be performed by the Consultant for the proposed public parking improvements (and not for any portion of the private project improvements) under the Agreement (such work and/or services shall hereinafter be referred to as the “**Public Improvements Services**”), the City of Culver City, a municipal corporation (the “**City**”), shall be an express third party beneficiary of the Agreement, including, without limitation, a third party beneficiary of all guaranties, warranties, indemnitees, defend and hold harmless provisions and remedies provided to the Developer pursuant to the terms of the Agreement with the same right and authority to enforce the same either concurrently with or separate from the Developer. Loss, waiver or other limitation on such rights as to the Developer shall not affect or impact the City’s rights under those provisions, nor shall any such loss, waiver or other limitation on such rights as to the City affect or impact the Developer’s rights under such provisions, and each of the Developer and the City shall have the right to separately and independently exercise such rights as their interests may appear. Nothing herein shall limit the Consultant’s right to require the Developer’s timely performance of any duties or obligations of the Developer in accordance with the terms of the Agreement. Nothing in this Section 1 shall modify the provisions of the Agreement requiring and/or providing for the Consultant to take direction from or obtain the approvals of the Developer, and the Consultant shall rely and act upon such directions and approvals from the Developer in accordance with the provisions of the Agreement.

2. Without limiting Section 1 above, the Consultant specifically acknowledges that, with respect to the Public Improvements Services, the City shall be an express third party beneficiary of the indemnities by the Consultant of the Developer set forth in the Agreement. The Consultant further acknowledges and agrees that the Consultant’s indemnity obligations under those provisions to the City are not limited by the insurance coverages that the Consultant is required to maintain and if, for any reason such insurance coverages are insufficient to cover all obligations under those indemnity provisions, the Consultant shall nevertheless remain responsible to perform those indemnity obligations in full. The Consultant further acknowledges and agrees that the Consultant’s indemnity obligations under those provisions shall survive termination of the Agreement.

3. The City shall also be named as an additional insured in an endorsement to the insurance policies required by the Agreement. The Consultant shall furnish the City with evidence that such insurance has been obtained upon execution of this Rider by the Consultant, the Developer and the City.

4. The Consultant acknowledges that it is acting as an independent contractor in performing its obligations under the Agreement and that, notwithstanding anything in the Agreement, the Consultant shall in no event be considered an agent or employee of the City, and in no event shall the Consultant or any of its employees have any right to participate in any pension plan, insurance, bonus, worker's compensation or similar benefits the City provides for its employees. The Consultant shall be responsible to pay and hold the City harmless from any and all payroll and other taxes and interest thereon and penalties therefor which may become due as a result of any obligations, services or other matters performed by the Consultant or its agents or employees pursuant to the Agreement.

5. The City neither undertakes nor assumes nor will it have any responsibility or duty to the Consultant or to any employee or agent of the Consultant to review, inspect, supervise, pass judgment upon or inform the Consultant or any such third party of any matter in connection with the design, development or construction of the public parking improvements, whether regarding (i) the quality, adequacy or suitability of the plans, whether or not approved by the City, (ii) any labor, service, equipment or material furnished to or used in connection with the Public Improvements Services, (iii) any person furnishing the same or (iv) other like matters. The Consultant and all employees and agents of the Consultant shall rely upon their own judgment regarding such matters, and any review, inspection, supervision, exercise of judgment or information supplied to the Consultant or to any such third party by the City in connection with such matters is for the public purpose of redeveloping the site, and neither the Consultant nor any third party is entitled to rely thereon. Nothing contained in this Rider shall abrogate, supersede or nullify any right the Developer has to approve documents produced by the Consultant as set forth in the Agreement.

6. Any notices to the City pursuant to the Agreement shall be delivered to the City in the manner provided in the Agreement at the address set forth below. For purposes of this Section 6, a general business day on which the Culver City City Hall is closed shall not constitute a business day:

To City: City of Culver City  
Attn: Mr. Sol Blumenfeld, Community Developer Director  
9770 Culver Boulevard  
Culver City, CA 90232-0507

With a Copy to: City of Culver City  
Attn: Carol Schwab, Esq., City Attorney  
9770 Culver Boulevard  
Culver City, CA 90232-0507

With a Copy to: Kane, Ballmer & Berkman, City Special Counsel  
Attn: Todd C. Mooney, Esq.  
515 South Figueroa Street, Suite 780  
Los Angeles, CA 90071

7. For the benefit of the City as well as the Developer, the Consultant shall comply with all applicable laws, ordinances, rules, regulations and requirements governing the public parking improvements, including, without limitation, current California state laws regarding water consumption and stormwater and waste water retention and discharge. The Consultant shall also, at

its expense, procure and maintain all permits, licenses and certificates which may be required at any time in connection with the performance of any work or services performed by or through the Consultant pursuant to the Agreement, including, without limitation, a Culver City business tax certificate. Without limitation of the foregoing, the Consultant specifically acknowledges and agrees that it shall be responsible for complying with all prevailing wage requirements applicable to the Consultant's services under California Labor Code Section 1720 *et seq.*, including any work performed by employees, agents or contractors of the Consultant pursuant to the Agreement, and including, without limitation, complying with applicable requirements of California Senate Bill No. 854 signed into law on June 20, 2014.

8. To the extent that applicable Public Improvements Services have been paid for under the Agreement, the Consultant specifically acknowledges and agrees that with respect to the work performed, gathered and prepared by the Consultant or caused to be performed, gathered and prepared by the Consultant in the Consultant's performance of the Public Improvements Services, if any, the City shall also have the right to exercise and enjoy the benefits of the irrevocable, nonexclusive license described therein, including the right to copy, retain and use all computations, plans, drawings, studies, specifications, design documents and any other instruments, data, computer media and materials gathered or prepared by the Consultant or caused to be gathered or prepared by the Consultant in the Consultant's performance of the Public Improvements Services, if any, at no further cost to the City, and without cost, expense or obligation to the Consultant, the Developer or any third party, and whether or not the Agreement is terminated for any reason, and whether the public parking improvements are developed or not. All such work product shall be transmitted or caused to be transmitted to the City by the Consultant within ten (10) calendar days after a written request therefor is made by the City. The City shall also have the right to exercise and enjoy the benefits of such an irrevocable, nonexclusive license, including the right to copy, retain and use all such design or other work product produced by any third party contractor whose services are retained by the Consultant for the public parking improvements, and the Consultant shall deliver such work product to the City within the timeframe described in this Section 8 when the City provides the Consultant a written request for such work product. All written documents that are intended for public review shall be provided to the City by the Consultant in a format suitable for posting on the Internet. Any reuse of such drawings, specifications and other documents by the City for a purpose other than for the public parking improvements, or any portion thereof, without the written agreement of the Consultant shall be at the City's risk and expense, and without any liability or exposure to the Consultant; and the City shall indemnify and hold harmless the Consultant from any and all third party claims, damages, losses and expenses arising out of or resulting therefrom.

9. In maintaining its records of Public Improvements Services and reimbursable expenses, the Consultant shall maintain sufficiently detailed records of the Public Improvements Services performed by or on behalf of the Consultant and resulting work that are attributable to the public parking improvements so that the calculations and resulting costs and expenses attributable to the portion of the Consultant's Public Improvements Services shall be separately identified and distinguished from the remaining scope of work performed by or on behalf of the Consultant pursuant to the Agreement.

10. The Consultant acknowledges and agrees that by virtue of its execution and delivery of this Rider the Consultant shall have no rights or remedies against the City for any payments due by the Developer to the Consultant under the Agreement or for the performance of any of the

Developer's obligations under the Agreement, and the City's execution of this Rider shall not be construed or interpreted in any way as the City's agreement or consent to be subject to the Developer's obligations under the Agreement or to be a guarantor for the performance of the Developer's obligations under the Agreement. Except as expressly provided in the last sentence of Section 8 above, the City shall have no liability whatsoever to the Consultant due to the City's execution of this Rider or otherwise.

11. In connection with performance and implementation of the Agreement, the Consultant agrees that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin or ancestry, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises, nor shall the transferee himself or herself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the premises. Without limitation of the foregoing, the Consultant further certifies and agrees that all persons employed or applying for employment by it and all of its subcontractors, sub-consultants, bidders and vendors, are and will be treated equally by it without regard to, or because of race, color, religion, ancestry, national origin, sex, age, sexual orientation, pregnancy, childbirth or related medical condition, medical condition (cancer related) or physical or mental disability, and in compliance with Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000 *et seq.*, the Federal Equal Pay Act of 1963, 29 U.S.C. Section 206(d), the Age Discrimination in Employment Act of 1967, 29 U.S.C. Section 621 *et seq.*, the Immigration Reform and Control Act of 1986, 8 U.S.C. Section 1324b *et seq.*, 42 U.S.C. Section 1981, the California Fair Employment and Housing Act, Cal. Government Code Section 12900 *et seq.*, the California Equal Pay Law, Cal. Labor Code Section 1197.5, Cal. Government Code Section 11135, the Americans with Disabilities Act, 42 U.S.C. Section 12101 *et seq.* and all other antidiscrimination laws and regulations of the United States and the State of California as they now exist or may hereafter be amended. The Consultant shall allow representatives of the Developer and the City access to its employment records related to the Agreement and this Rider during regular business hours to verify compliance with these provisions when so requested by the Developer or the City.

12. In connection with performance and implementation of the Agreement, the Consultant agrees to reasonably coordinate its performance of the Public Improvements Services as necessary with other consultants or contractors retained by the Developer or the City for the public parking improvements.

13. There shall be no modification, waiver or other alteration or change to the provisions of this Rider without the written consent of all of the parties hereto. In order to evidence their agreement to the provisions of this Rider and their incorporation into the Agreement in accordance with the terms above, the Consultant, the Developer and the City have separately executed this Rider below.

*[Remainder of the Page Intentionally Left Blank]*

**IN WITNESS WHEREOF**, the Developer, the City and the Consultant have caused this Rider to be executed as of the date first set forth above.

**“DEVELOPER”**

CULVER PUBLIC MARKET, LLC,  
a Delaware Limited Liability Company

By: Regency Centers, L.P.,  
a Delaware limited partnership,  
its Managing Member

By: Regency Centers Corporation,  
a Florida corporation,  
its General Partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

*[SIGNATURES CONTINUE ON FOLLOWING PAGE]*

“CITY”

CITY OF CULVER CITY,  
a municipal corporation

By: \_\_\_\_\_  
John M. Nachbar  
City Manager

APPROVED AS TO CONTENT:

By: \_\_\_\_\_  
Sol Blumenfeld  
Community Development Director

ATTEST:

By: \_\_\_\_\_  
Jeremy Green  
City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Carol Schwab  
City Attorney

By: \_\_\_\_\_  
KANE, BALLMER & BERKMAN  
City Special Counsel

*[SIGNATURES CONCLUDE ON FOLLOWING PAGE]*

**“CONSULTANT”**

\_\_\_\_\_,  
a California corporation  
*\*see notes below*

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\*Notes: This document must be executed by the Corporation’s Chief Executive Officer, President or Vice-President, on the one hand, and the Corporation’s Chief Financial Officer, Treasurer, Assistant Treasurer or Secretary on the other hand.

**Exhibit K**

**Schedule of Performance**

[behind this page]

Exhibit "K"

SCHEDULE OF PERFORMANCE

|   | <b>Task</b>  | <b>Deadline</b>                           |
|---|--|---|
| 1 | Developer commences construction of Improvements                   | 30 Days after Close of Escrow             |
| 2 | Developer substantially completes all construction of Improvements | 24 months after Construction Commencement |

**Exhibit L**

**Third-Party Insurance Requirements**

[behind this page]

**EXHIBIT L**  
**TO**  
**DEVELOPMENT AND CONSTRUCTION CONTRACT**  
**THIRD PARTY INSURANCE REQUIREMENTS**

For the benefit of the City of Culver City and the Successor Agency to the Culver City Redevelopment Agency, each Contractor retained by Developer for the development and construction of the Public Parking Improvements shall furnish the following insurance with respect to the Project or the Services to be performed pursuant to its agreement with Developer (“**Agreement**”):

1.1 Professional Liability. If applicable to Contractor’s Services due to design work or similar professional services, the Contractor shall obtain for the benefit of the Project or Services under the Agreement professional liability insurance, including contractual liability coverage, having a minimum limit of \$2,000,000 for each claim, and an aggregate limit of \$2,000,000 for all claims arising out of Services performed under the Agreement. Such insurance shall be maintained for a period of at least three (3) years after completion of the Services. The professional liability policy shall not exclude bodily injury or property damage and shall not have environmental restrictions. The professional liability SIR shall not exceed \$25,000 unless otherwise approved by the City of Culver City. For the avoidance of doubt, Contractor shall not be obligated to carry the insurance set forth in this Section 1.1 if it is not retained by the Developer for the performance of design services.

1.2 Commercial Liability and Other Insurance. At all times while the Agreement is in effect, Contractor shall maintain in force at its expense:

1.2.1 General Liability. Commercial general liability insurance which affords coverage at least as broad as Insurance Services Office (ISO) Commercial General Liability coverage form ISO CG 00 01, with a per occurrence and aggregate limit of not less than \$15,000,000 (by combination of primary and excess coverage). Excess or umbrella policies shall follow form or provide coverage at least as broad as the primary policies. No endorsements restricting coverage are allowed unless approved in writing by the City of Culver City; and any such limiting endorsement that has not been first submitted to the City of Culver City and approved in writing by the City of Culver City shall render the commercial general liability insurance policy not in compliance with these Third Party Insurance Requirements. The commercial general liability policy shall not have a Completed Operations exclusion. The commercial general liability policy deductible or SIR shall not exceed \$100,000.

1.2.2 Worker’s Compensation. Worker’s compensation insurance as required by California law. Employer’s Liability insurance shall also be provided with not less than a \$1,000,000 limit per accident or occupational illness for bodily injury or disease. Evidence of insurance for worker’s compensation coverage must include a waiver of subrogation endorsement in

favor of Developer, the City of Culver City, the Successor Agency to the Culver City Redevelopment Agency, and their respective members, directors, officials, officers, employees, agents and consultants.

1.2.3 Business Auto. Business automobile liability insurance to insure Contractor for operations of all hired, owned, and non-owned vehicles with coverage at least as broad as ISO CA 00 01 covering Symbol 1 (“Any Auto”) with limits for each accident of not less than \$5,000,000 Combined Single Limit. No endorsements restricting coverage are allowed unless approved in writing by the City of Culver City; and any such limiting endorsement that has not been first submitted to the City of Culver City and approved in writing by the City of Culver City shall render the business automobile liability insurance policy not in compliance with these Third Party Insurance Requirements.

1.2.4 Property. During construction of the Public Parking Improvements, insurance for the property under construction shall be provided under an “all risk” course of construction policy (“builder’s risk”) on a completed value basis with coverage at least as broad as ISO form CP 10 30, including loss by flood and earthquake. The builder’s risk insurance shall include coverage for delay in start-up (i.e. “business income”) in an amount based on a Probable Maximum Loss Analysis reasonably acceptable to the City of Culver City.

1.2.5 Contractor’s Pollution Liability. During construction of the Public Parking Improvements, Contractor shall maintain Contractors Pollution Liability insurance covering bodily injury and property damage liability, and clean up expense with a limit no less than \$5,000,000 per incident.

1.2.6 All insurance required under these Third Party Insurance Requirements, with the exception of Sections 1.1 and 1.2.2, shall provide or be endorsed to provide status as additional insureds for (a) the City of Culver City, its elected and appointed officials, officers, agents, employees, and representatives and (b) the Successor Agency to the Culver City Redevelopment Agency, its elected and appointed officials, officers, agents, employees, and representatives. If additional insured status is provided by automatic (“blanket”) endorsement or provision within the body of the policy document, the endorsement or complete policy provision must be submitted and approved by the City of Culver City prior to commencement of work.

1.2.7 All insurance required under Sections 1.2.1, 1.2.3, 1.2.4, and 1.2.5 above, shall be primary, and any insurance carried by Developer, the City of Culver City, or the Successor Agency to the Culver City Redevelopment Agency shall be non-contributory.

1.3 Intentionally Omitted.

1.4 Certificates of Insurance. At the time of commencement of Services under the Agreement, certificates of insurance and policy endorsements reflecting the actual maintenance and validity of the insurance policies required by these Third Party Insurance Requirements shall be filed by Contractor with Developer and the City of Culver City for review and approval as to sufficiency and as to form. Additionally, Contractor shall file with Developer and the City of Culver City the provision in the insurance policies that expressly allows, but does not require, third parties or additional insureds, as applicable, to pay the applicable deductible or SIR if Contractor fails to do so,

as described below in Section 1.9. All insurance policies required by these Third Party Insurance Requirements shall contain or shall be endorsed to contain the following provision: “not to be canceled or non-renewed without thirty (30) days’ prior written notice (ten (10) days’ prior notice for cancellation for nonpayment of premium) to the City of Culver City.”

1.5 Term of Insurance. The insurance to be obtained hereunder shall be effective beginning upon commencement of Services under the Agreement and shall continue through Completion of the Project. However, coverage for the Completed Operations hazard under the commercial general liability insurance and excess umbrella policies shall continue in effect through the date which is ten (10) years after Completion of the Public Parking Improvements. Contractor shall have the right to change insurance carriers only if such change is without prejudice to any claim (asserted or unasserted) of Developer, the City of Culver City, or the Successor Agency to the Culver City Redevelopment Agency, and this is confirmed in writing to the City of Culver City by the new insurance carrier, whether asserted or unasserted, and Contractor shall deliver a certified copy of such proposed replacement insurance certificate to the City of Culver City at least thirty (30) days prior to the expiration date of Contractor’s insurance policy then in effect. If the terms of coverage (other than limits as set forth above) of such policies are reasonably unacceptable to the City of Culver City, then Contractor shall at the City of Culver City’s request, but at Contractor’s expense, revise its coverage or obtain additional coverage, as the City of Culver City may deem appropriate. Any such changes in coverage requested by the City of Culver City shall not affect the terms for insurance coverage required for the benefit of Developer without its respective written consent.

1.6 Waiver of Subrogation. All insurance policies required by these Third Party Insurance Requirements, including worker’s compensation insurance, shall be endorsed to waive subrogation against Developer, the City of Culver City, the Successor Agency to the Culver City Redevelopment Agency, and their respective members, directors, officials, officers, employees, agents and consultants, or shall specifically allow Contractor and others providing insurance evidence in compliance with these Third Party Insurance Requirements to waive their right of recovery prior to a loss. Developer shall include in its agreement with the Contractor a waiver of all rights of recovery against the City of Culver City, the Successor Agency to the Culver City Redevelopment Agency, and their respective members, directors, officials, officers, employees, agents and consultants. Contractor shall require that each contractor and consultant retained by the Contractor on the Public Parking Improvements provide similar waivers in writing each in favor of the City of Culver City, the Successor Agency to the Culver City Redevelopment Agency, and their respective members, directors, officials, officers, employees, agents and consultants.

1.7 Contractor Requirements. Developer shall cause Contractor to maintain the same insurance coverage as required in these Third Party Insurance Requirements, unless otherwise first approved in writing by the City Manager or designee on behalf of the City of Culver City in advance of such Contractor’s entry on to Site A-1, and the Contractor shall provide Developer and the City of Culver City with evidence of such insurance.

1.8 Ratings of Insurance Carriers. All insurance listed in these Third Party Insurance Requirements, above, shall be issued by companies licensed to do business in the State of California, with a claims paying ability rating of “BBB” or better by S&P (and the equivalent by any other Rating Agency) and a rating of A-VII or better in the current A.M. Best’s Insurance Reports.

1.9 Additional Insureds. All liability insurance policies required by these Third Party Insurance Requirements, except professional liability insurance policies, shall allow, but not require, third parties or additional insureds, as applicable, to pay any applicable SIR if the Named Insured fails to do so. Notwithstanding, however, for each insurance coverage, except professional liability insurance policies, that has a SIR provision, Contractor shall be responsible for paying the applicable SIR for all insurance and shall be liable to the City of Culver City and the Successor Agency to the Culver City Redevelopment Agency for said payments in the same manner as those interests would have been protected had the policies not contained a SIR provision. Any deductible or SIR amount shall be shown on any “evidence of insurance” provided to the City of Culver City and the Successor Agency to the Culver City Redevelopment Agency.

1.10 No Limit on Indemnity Obligations. Insurance provided pursuant to these Third Party Insurance Requirements shall not limit the indemnity obligations of Contractor benefitting the City of Culver City and the Successor Agency to the Culver City Redevelopment Agency to the fullest extent permitted by law.

**Exhibit M**

**Construction Contract**

[behind this page]

**LUMP SUM**  
**CONTRACT FOR CONSTRUCTION**  
**of**  
**CULVER PUBLIC MARKET**  
**between**  
**CULVER PUBLIC MARKET, LLC**  
**a Delaware limited liability company**  
**and**  
**Ed Grush General Contractor, Inc.**  
**Dated April\_\_\_\_\_, 2019**

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# AGREEMENT BETWEEN OWNER AND CONTRACTOR

THIS AGREEMENT, entered into as of April , 2019 by and between Culver Public Market, LLC, a Delaware limited liability company (the "Owner") and General Contractor, Ed Grush General Contractor, Inc. (the "Contractor"), for the construction of the Culver Public Market (the "Project") described in the Contract Documents listed on Exhibit A hereto.

## WITNESSETH:

For and in consideration of the mutual covenants and conditions herein contained, and other good and valuable consideration, the parties hereto, intending to be legally bound, do hereby covenant and agree as follows:

### ARTICLE I DEFINITIONS AND ATTACHMENTS

#### **Section 1.1 Certain Defined Terms. As used herein, the term:**

1.1.1 "Agreement" means this Agreement between Owner and Contractor, including all schedules, exhibits, attachments and other documents annexed hereto and made part hereof or incorporated herein by reference, as well as any addenda hereto or modifications hereof made and entered into as provided herein.

1.1.2 "Application for Payment" has the meaning ascribed to it in Section 11.1.

1.1.3 "Architect" means that certain person or entity designated from time to time by the Owner as the Architect by written notice delivered to the Contractor as herein provided. As of the date of this Agreement, the Architect is JRDV.

1.1.4 "Change Order" has the meaning ascribed to it in Section 7.1.

1.1.5 "Contract Documents" means this Agreement, the General Conditions of the Contract and any Special Conditions, the Drawings, the Specifications, all documents incorporated by reference into any of the foregoing documents, and all other documents, if any, set forth in the Schedule of Contract Documents attached hereto as Exhibit A. The following order of precedence shall apply in the case of direct, irresolvable conflicts among the Contract Documents: (i) all executed Change Orders (with the latest taking precedence); (ii) this Agreement; (iii) the General Conditions of the Contract; (iv) the Specifications; and (v) all other Contract Documents. ~~(with the order of precedence of such document being the order listed on Exhibit A attached hereto).~~ Contractor shall promptly notify Owner of any conflict or inconsistency among any of the components of the Contract Documents, with the resolution of such conflict or inconsistency to be made by Owner and provided to Contractor in writing. Requirements contained in one component of the Contract Documents and not contained in another component of the Contract Documents shall not be deemed a conflict or inconsistency.

1.1.6 "Contract Sum" means the lump sum amount to be paid to Contractor, as described in Section 5, and as may be adjusted pursuant to the terms of this Agreement.

1.1.7 "Contractor's Fee" has the meaning ascribed to it in Section 6.1.

1.1.8 "Contractor's Representative" means the person designated from time to time by the Contractor as its representative in a notice delivered to the Owner as herein provided. As of the date of this Agreement, the Contractor's Representative is John Vega. Contractor's Representative shall not be changed without ten (10) days advance written notice to, and reasonable approval of, the Owner.

1.1.9 "Drawings" means, collectively, (i) the drawings listed in Exhibit A, (ii) such additional plats, drawings, profiles, typical cross-sections, general cross-sections, working drawings and supplemental drawings concerning the Work as may hereafter be issued and approved by the Owner's Representative, and (iii) such amendments to any of the foregoing documents as may be issued and approved by the Owner's Representative.

1.1.10 "Construction Change Directive" means a written order issued by the Owner on the form attached hereto as Exhibit E for a change in the Work or Contract Documents, which may or may not require an adjustment in the Contract Sum or Contract Time under other provisions of the Contract Documents.

1.1.11 "Final Completion" has the meaning ascribed to it in Section 8.6.1 of the General Conditions.

1.1.12 "Final Payment" has the meaning ascribed to it in Section 12.1.

1.1.13 "General Conditions" means the General Conditions of the Contract for Construction of the Project attached hereto as Exhibit B.

1.1.14 "Jobsite" means the area designated by the Owner as the area on which the Work is to be performed hereunder and such other areas as may be designated by the Owner's Representative for access thereto and for the storage of the Contractor's materials and equipment.

1.1.15 "Modification" means (1) a written addendum to the Contract Documents signed by both the Owner and the Contractor or (2) a Change Order.

1.1.16 "Notice to Proceed" means a notice given by the Owner to the Contractor in which the Contractor is instructed to proceed with the Work.

1.1.17 "Owner's Representative" means the person designated from time to time by the Owner as its representative in a notice delivered to the Contractor as herein provided. As of the date of this Agreement the Owner's Representative is Tom Middleton.

1.1.18 "Project Schedule" has the meaning ascribed to it in Section 4.8.1 of the General Conditions.

1.1.19 "Schedule of Values" means a schedule, prepared by the Contractor and approved by the Owner's Representative, allocating the entire Contract Sum among the various portions of the Work, and including the Contractor's Fee as a single separate item. The Schedule of Values shall be prepared in such form and supported by such data to substantiate its accuracy as the Owner's Representative or Owner's lender(s) may require, and shall be used as a basis for reviewing the Contractor's Applications for Payment.

1.1.20 "Special Conditions" means the Special Conditions of the Contract for Construction of the Project, if any, attached hereto as an Exhibit.

1.1.21 "Specifications" means the specifications listed in Exhibit A and all additions thereto hereafter issued by the Architect and approved by the Owner.

1.1.22 "Subcontract Sum" means the total amount stipulated in the Subcontract to be paid by the Contractor to the Subcontractor for the Subcontractor's performance of the Subcontract.

1.1.23 "Subcontractor's Percentage of Completion" means the percentage of that portion of the Subcontractor's Work which has actually been completed.

1.1.24 "Subcontractor's Schedule of Values" means a schedule, prepared by the Contractor or the Subcontractor and approved by the Owner's Representative, allocating the entire Subcontract Sum among the various portions of the Subcontractor's Work. The Subcontractor's Schedule of Values shall be prepared in such form and supported by such data to substantiate its accuracy as the Owner's Representative may require, and shall be used as a basis for reviewing the Contractor's Applications for Payment with respect to payments to the Subcontractors included therein.

1.1.25 "Subcontractor's Work" means that portion of the Work to be performed by the Subcontractor under the Subcontract.

1.1.26 "Subcontractors" means those persons or other entities which contract directly with Contractor to furnish any portion of the Work. The term "Subcontractors" does not include any person or other entity furnishing materials only.

1.1.27 "Subcontracts" means those contractual agreements entered into between Contractor and Subcontractors in accordance with the provisions of Article 9.

1.1.28 "Substantial Completion" has the meaning ascribed to it in Section 8.4.1 of the General Conditions.

1.1.29 "Value Engineering" means a process in which the Contractor, utilizing its professional skills, knowledge and expertise, works with the Owner and Owner's professional team to review drawings and specifications for the Work and construction methods to be utilized in the performance of the Work and recommends to the Owner and architect/engineer changes that will either improve the quality of workmanship or materials incorporated into the Work without increasing the Cost of the Work, or will lower the cost of the Work without sacrificing quality of such workmanship, design intent or materials.

1.1.30 "Work" means all of the labor, equipment, materials and services to be furnished by the Contractor pursuant to the Contract Documents.

**Section 1.2 Meanings of Certain Words.** Whenever the words "directed," "permitted," "ordered," "designated," "prescribed," or words of like import are used, it shall be understood that the direction, requirements, permission, order, designation, or prescription of the Owner or the Owner's Representative is intended. The words "approved," "acceptable," "satisfactory," or words of like import, shall mean approved by, or acceptable to or satisfactory to the Owner, unless otherwise expressly stated.

**Section 1.3 Additional Defined Terms.** Terms used in this Agreement which are defined in the General Conditions shall have the meanings ascribed to them in the General Conditions.

**Section 1.4 Attachments.** Attached hereto and forming a part of this Agreement are the following Exhibits:

- 1.4.1 Exhibit A - Scope of Work and Schedule of Contract Documents
- 1.4.2 Exhibit B - General Conditions
- 1.4.3 Exhibit C - Project Milestone Dates
- 1.4.4 Exhibit D - Interim and Final Waivers of Lien
- 1.4.5 Exhibit E - Change Order
- 1.4.6 Exhibit F – Construction Change Directive
- 1.4.7 Exhibit G - Insurance
- 1.4.8 Exhibit H – Payment Procedures
- 1.4.9 Exhibit I.1 – Close Out Package
- 1.4.10 Exhibit I.2- Close Out Documents
- 1.4.11 Exhibit J – Project Description and Approach
- 1.4.12 Exhibit K- Clarifications, Inclusions and Exclusions
- 1.4.13 Exhibit L- Clever Devices
- 1.4.14 Exhibit M- N/A
- 1.4.15 Exhibit N- SWPPP & WQMP
- 1.4.16 Exhibit O-Geotechnical Engineering Investigation Work Plan, Soils Report
- 1.4.17 Exhibit P- Plan Log
- 1.4.18 Exhibit Q – Phasing Plan Example
- 1.4.19 Exhibit R- Project Specifications
- 1.4.20 Exhibit S – Construction Management Plan –City Example
- 1.4.21 Exhibit T – Water Sub-Meter Requirements
- 1.4.22 Exhibit U – Pad Certification Endorsements
- 1.4.23 Exhibit V – City of Culver Rider
- 1.4.24 Exhibit W- Project Staff List
- 1.4.25 Exhibit X – Cost Breakdown

**ARTICLE II**  
**THE WORK**

**Section 2.1 Performance of the Work.** The Contractor shall furnish all supervision, labor, materials, tools, equipment, supplies, and services, and shall perform all other acts and supply all other things (including, but not limited to, all light, power, water, and sanitary facilities for workmen during the progress of the Work) necessary to produce the buildings, structures, improvements and related facilities described in the Contract Documents, including all work expressly specified therein and such additional work as may be reasonably inferable therefrom, as necessary to produce the results intended by the Contract Documents, saving and excepting only such items of work as are specifically stated in the Contract Documents not to be the obligation of the Contractor.

**2.2 City Step-In Rights**

In the event that this Contract is terminated by the City as a result of an Event of Default by the Developer hereunder, then, in addition to any other remedies that the City may have at law or in equity, the City shall have the right, but not the obligation, to elect, upon written notice to the Developer delivered if at all within one hundred eighty (180) Days following such termination, to take an assignment of the Construction Contract (and, if elected by the City, each of the Existing Contracts and the Additional Contracts) in accordance with an assignment document substantially in the form of the Assignment of Construction Contract, and thereafter undertake or cause the commencement and/or Completion of the Public Parking Improvements or any portion thereof. The negotiation and documentation of the Construction Contract and the Additional Contracts shall contemplate the possible exercise of the foregoing rights. In the event that the City makes such election to exercise its step-in rights, with written notice to the Developer, the Developer agrees to cooperate with the City in good faith in in order to effectuate the purposes of this Section 2.11 and the Completion of the Public Parking Improvements by the City, including, without limitation, granting any necessary right of entry upon the Site or any portion thereof as necessary to effectuate the purposes of this Section.

- Additionally, in the event that this Contract is terminated by the City as a result of an Event of Default by the Developer hereunder, then, in addition to any other remedies that the City may have at law or in equity, the City shall have the right, but not the obligation, to elect, upon written notice to the Developer delivered if at all within thirty (30) Days following such termination, to take an assignment of the Plans that pertain to the Public Parking Improvements in accordance with the Assignment of Plans, Reports and Data, in which event, upon the written request of the City, the Developer shall promptly, and no later than ten (10) Business Days after receipt of such request, deliver to the City copies of any and all plans, drawings, studies and related documents concerning the Public Parking Improvements within the Developer's possession and control, without representation or warranty whatsoever as to the accuracy, completeness, legality, quality and/or utility of any such items, and subject to all third party rights therein, for the City's use in connection with Completion of the Public Parking Improvements.

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**ARTICLE III**  
**THE CONTRACTOR'S DUTIES AND STATUS**

**Section 3.1 Representations and Warranties.** Contractor represents and warrants to the Owner that Contractor (a) is experienced and skilled in the construction of structures and improvements of the type described in the Contract Documents, and (b) has, by careful examination, satisfied itself as to (i) the nature, location and character of the Jobsite, including, without limitation, the surface and

subsurface (by review of available reports and information) condition of the land and all structures and obstructions thereon, both natural and man-made, and all surface and subsurface (by review of available reports and information) water conditions of the Jobsite and the surrounding area, as more specifically provided in Section 4.1.2 of the General Conditions; (ii) the nature, location and character of the general area in which the Jobsite is located, including, without limitation, the adjacent property, the Jobsite's climatic conditions, available labor supply, labor cost, equipment supply and equipment cost; (iii) the quality and quantity of all materials, supplies, tools, equipment, labor and professional services necessary to complete the Work in the manner and in accordance with the time requirements required by the Contract Documents; and (iv) all other matters or things which, in the reasonable judgment of the Contractor, could in any manner affect the performance of the Work.

**Section 3.2 Contractor's Covenant.** The Contractor recognizes and accepts the relationship of trust and confidence established between it and the Owner by this Agreement. Contractor covenants with the Owner to furnish its best skill and judgment and to cooperate with the Owner's Representative and the Architect (and its consultants) in furthering and protecting the interests of the Owner. Contractor further agrees to furnish efficient business administration and superintendence and to use every effort to keep an adequate supply of qualified workmen and materials at the Project at all times, and to secure execution of the Work in the best and soundest way, and in the most expeditious and economical manner consistent with the interests of the Owner.

**Section 3.3 Contractor's Representative.** The Contractor's Representative shall be authorized to represent the Contractor in all matters regarding this Agreement and the Project and shall be a person acceptable to Owner. If, at any time, Owner shall advise the Contractor that the Contractor's Representative is not acceptable to Owner, Contractor shall forthwith designate a new Contractor's Representative acceptable to Owner.

**Section 3.4 Value Engineering Services.** If the Owner requests that the Contractor furnish Value Engineering Services after the date of this Agreement, the Contractor shall, at no additional cost to Owner, be responsible for reviewing the architectural, civil, mechanical, electrical, plumbing, structural, landscaping, lighting, fire protection, signage and other drawings that may be available, along with Specifications as they are being developed. Contractor shall be responsible for making recommendations with respect to such factors as constructability, feasibility, project costs, availability of material and labor, and time requirements for procurement and construction, installation methods and design criteria. The Contractor shall not be responsible for the accuracy, completeness, adequacy or coordination of the Drawings and Specifications, or the quality of the engineering and design represented therein unless specifically noted in the Contract Documents. The proceeding notwithstanding, the Contractor is obligated under Article 4.1.2 of the General Conditions to review the Drawings and Specifications and to satisfy himself of the documents adequacy and coordination prior to commencing the Work. The final Owner-approved value engineering alternates will be as outlined in Exhibit A and may be modified from time to time during the project.

#### ARTICLE IV TIME OF COMMENCEMENT AND COMPLETION

**Section 4.1 Commencement and Completion of the Work.** The Contractor shall commence the Work upon receipt of the Notice to Proceed and receipt of permits necessary to commence the Work, and shall achieve Substantial Completion of the Work on or before **October 23, 2020** (provided that the Notice to Proceed is issued by **May 29, 2019**, subject to any extensions of time pursuant to the terms of the Contract Documents (the "Substantial Completion Date"). Final Completion shall be achieved on or before **November 23, 2020**, subject to any extensions of time pursuant to the terms of the Contract Documents.

**Section 4.2 Delays.** Time is of the essence in the performance of this Agreement. The Contractor shall take all necessary actions required to remedy any delay due to the fault of the Contractor or anyone working under Contractor (e.g. Subcontractors, laborers, materialmen, etc.), including, without limitation, providing additional forces to perform the Work, or working overtime at the Contractor's expense. ~~If Substantial Completion of the Work has not been achieved by the Substantial Completion Date, then Contractor shall pay to Owner liquidated damages in the amount of \_\_\_\_\_ for each day of delay or any part thereof that Substantial Completion of the Work is achieved after the Substantial Completion Date.~~ If Final Completion of the Work has not been achieved by the Final Completion Date, then Contractor shall pay to Owner liquidated damages in the amount of \$3,000.00 for each day of delay or any part thereof that Final Completion of the Work is achieved after the Final Completion Date. Contractor acknowledges and agrees that such liquidated damages are not a penalty, are a reasonable estimate of the Owner's damages in the event of a delay in the completion of the Work, and that such damages are difficult to calculate with certainty. The amount of liquidated damages due to the Owner under this Section shall be credited to the Owner as a deduction from the Cost of the Work, and shall result in a reduction of the Contract Sum. Guaranteed Maximum Price. To the extent such deduction of the Cost of the Work is not sufficient to cover the amount of liquidated damages due to Owner under this Section, Contractor shall pay to Owner the balance of such liquidated damages within ten (10) days of receipt of an invoice therefor. ~~Additionally, to the extent permitted by law, Contractor hereby agrees to defend, reimburse, indemnify and hold Owner and/or its affiliated companies harmless and against any and all third party claims and actions asserted against Owner as a result of any delay occasioned by any act or omission of Contractor, or anyone working under the Contractor.~~ Contractor's obligations pursuant to this Section shall survive any termination of this Agreement with respect to any act or omission which took place prior to such termination.

**Section 4.3 Adverse Weather Conditions.** Contractor shall include in the Project Schedule an adequate number of days to compensate for customary adverse weather conditions, and no extensions of time will be granted because of days lost to customary adverse weather conditions except as permitted by Section 7.3.1 of the General Conditions.

**Section 4.4 Information, Decisions and Approvals.** The Owner shall furnish the Contractor with all information reasonably necessary for the Contractor to expeditiously perform the Work. Decisions and approvals required of the Owner shall be provided in a timely manner so as not to delay the orderly progression of the Work, and Contractor shall allow a reasonable amount of time for review of submittals by the Owner.

## ARTICLE V CONTRACT SUM

**Section 5.1 Contract Sum.** The Owner agrees to pay the Contractor for the Work the lump sum amount of Twenty one million, two hundred thirty eight thousand, one hundred and thirty three dollars (\$ 21,238,133.00) (the "Contract Sum").

**Section 5.2 Adjustment of Contract Sum.** The Contract Sum stated above shall be increased or decreased for changes in the Work as provided in Article 7.

## ARTICLE VI CONTRACTOR'S FEE

**Section 6.1 Contractor's Fee.** Owner agrees to pay to Contractor, as part of the Contract Sum, a fee for the performance of the Work (the "Contractor's Fee"), which is intended to cover the Contractor's profit and general overhead costs. The Contractor's Fee shall be separately itemized on the Schedule of Values.

**Section 6.2 Adjustment of Contractor's Fee.** The Contractor's Fee shall be increased or decreased (as the case may be) by an amount equal to five and a half percent (5.5%) of the actual cost to Contractor of any changes in the Work required by the Owner. Any such adjustment shall be incorporated into an appropriate Change Order issued pursuant to Article 7. There shall be no automatic markup for general conditions costs in any Change Order, as any actual general conditions costs are to be itemized as part of any proposed Change Order.

## **ARTICLE VII** **CHANGES IN THE WORK**

**Section 7.1 Owner May Order Changes.** The Owner, through the Owner's Representative, may from time to time, by written instructions or drawings issued to the Contractor, make changes in the Drawings and Specifications, issue additional instructions, require additional work or direct the omission of work previously ordered, and the provisions of this Agreement shall apply to all such changes, modifications, and additions with the same effect as if they were embodied in the original Contract Documents. The Architect has no authority to authorize any additional or changed Work that would require an increase in the Contract Sum or an extension of the Contract Time. Contractor shall not be entitled to any reimbursement for additional costs, or for an increase in the Contract Sum, due to any alleged extra or changed work unless a Change Order, as defined in Section 11.1 of the General Conditions and in the form attached as Exhibit E, or a Construction Change Directive (in the event the Owner and Contractor disagree as to the appropriate amount, or time extension, in of a proposed Change Order) in the form attached as Exhibit F, shall first have been signed and issued by the Owner or the Owner's Representative. If the Contractor proceeds with any extra or changed work without a signed Change Order or Construction Change Directive (even if verbal approval has been obtained), Contractor shall be deemed to have waived any claim based upon such extra or changed work. Any work performed on a time and material basis pursuant to a signed Construction Change Directive is subject to the Owner's prior approval of labor, overtime and equipment rental rates. All change order work shall be subject to audit by the Owner.

**Section 7.2 Adjustments to Contract Sum and Contract Time.** Adjustments to the Contract Sum and/or Contract Time on account of changes in the Work shall be made as provided in Section 11.1.3 of the General Conditions.

## **ARTICLE VIII** **ALLOWANCES**

**Section 8.1 Allowances Included in Contract Sum.** The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by these allowances shall be supplied for such amounts and by such persons as the Owner may direct, but the Contractor will not be required to employ persons against whom Contractor makes a reasonable objection. The Contractor shall be obligated to review the materials and equipment selected by the Owner for inclusion in the allowances to insure that everything required for completion of the Project is included. The Contractor shall also be required to establish deadlines for the selection and procurement of allowance items.

**Section 8.2 Provisions Respecting Allowances.** Unless otherwise provided in the Contract Documents:

8.2.1 materials and equipment under an allowance shall be selected by the Owner so as to avoid unreasonable delay in the Work;

8.2.2 an allowance shall cover the cost to the Contractor of materials and equipment delivered at the Jobsite and all required taxes, less applicable trade discounts;

8.2.3 the Contractor's costs for unloading and handling at the Jobsite, labor, installation costs, connection costs, field overhead and other expenses contemplated for stated allowance amounts shall be included in the allowances;

8.2.4 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect the difference between actual costs (and/or quantities if the allowance is based on a certain quantity of material or work) and the allowances listed in the Contract Documents. The Contractor shall comply with all notice requirements in the Contract Documents concerning any potential increase in the allowance amounts, and thus the Contract Sum.

8.2.5 Allowance Reconciliation. Contractor acknowledges that, as part of the cost of its Work, Contractor has included certain allowances for costs yet to be determined. Contractor acknowledges that such allowances are only permitted to be spent upon the prior written consent of Owner. If, at the end of the Project, there are unused funds from such allowances, the Contractor shall return any unused funds directly to the Owner by Change Order.

## **ARTICLE IX** **SUBCONTRACTS**

**Section 9.1 Awarding of Subcontracts.** Those portions of the Work that the Contractor does not customarily perform with the Contractor's own personnel shall be performed under Subcontracts, awarded pursuant to the provisions of Section 5.2 of the General Conditions.

**Section 9.2 Form of Subcontracts; Conformance with Certain Requirements.** All subcontracts (i) shall be written on a standard subcontract form meeting the requirements of Section 5.3 of the General Conditions, without modification thereof unless approved in writing in advance by the Owner, and (ii) shall otherwise conform to the requirements of the General Conditions.

**Section 9.3 Adjustments to Subcontracts.** Contractor must provide written evidence that the Owner-approved Change Orders have been negotiated by written instrument into the Contractor's Subcontracts as appropriate.

## **ARTICLE X** **ACCOUNTING RECORDS**

**Section 10.1 Records to be Maintained by Contractor.** The Contractor shall keep full and detailed accounts and records, and exercise such controls as may be necessary for proper financial management under this Agreement. All accounting and control systems shall be satisfactory to the Owner. At all reasonable times, the Owner, the Owner's lender and the Owner's accountants and representatives shall be afforded access to, and shall be permitted to copy and audit the Contractor's records, books, correspondence, instructions, drawings, receipts, Subcontracts, purchase orders, vouchers, memoranda and other data relating to this Agreement, and the Contractor shall preserve all of the same for a period of three (3) years after final payment, or for such longer period as may be required by law. Audit costs are the sole responsibility of the Owner. If the audit findings reveal an overpayment for labor, materials, Equipment or services to either the Contractor or its Subcontractors, the Contractor will immediately reimburse the Owner for the amounts overpaid. If the audit findings reveal an overpayment of 2% or greater of above noted costs, the Contractor will also immediately reimburse the Owner for the cost of the audit.

## **ARTICLE XI** **PROGRESS PAYMENTS**

## **Section 11.1 Applications for Payment.**

11.1.1 Time for Submission; Supporting Data. On or before the thirtieth (30th) day of each month, the Contractor shall furnish to the Owner (and, if directed by the Owner, shall furnish a copy to the Architect) a statement (the "Application for Payment") of the Work performed to date during the preceding calendar month for which it claims it is entitled to be paid. Each Application for Payment shall be in a form approved by Owner and shall be accompanied by such supporting documents as may be reasonably required by the Owner, the Owner's lender(s) or the Architect to support the amount requested by the Contractor.

11.1.2 Schedule of Values. Each Application for Payment shall be based upon the most recent Schedule of Values approved by the Owner.

11.1.3 Percentage of Completion. Each Application for Payment shall show the percentage of completion applicable to each portion of the Work, as of the end of the period covered by the Application for Payment.

11.1.4 Waivers of Lien. Each Application for Payment shall be accompanied by duly executed and correctly completed waivers of lien, in the applicable form attached hereto as Exhibit D or such other form satisfactory to the Owner and in compliance with the laws of the state where the Project is located, executed by the Contractor, each Subcontractor and every other person or entity entitled to assert a lien or claim against the Project, and an updated Lien Waiver Log in a form to be provided by Owner. The Owner may require Contractor to furnish a sworn statement with each Application for Payment, setting forth an accurate list of all Subcontractors, suppliers of Contractor and every other person or entity entitled to assert a lien or claim against the Project.

11.1.5 Progress Reports. Each Application for Payment shall be accompanied by a signed and completed Progress Report, in a form to be approved by the Owner, for the period covered by the Application for Payment along with a hard copy and electronic version of the Project Schedule update.

11.1.6 Requirements of Owner's Lender. In addition to the foregoing provisions of this Section 11.1, each Application for Payment shall be in such form and shall be accompanied by such supporting data as may be required by Owner's lender(s).

## **Section 11.2 Payments to Contractor.**

11.2.1 Computation of Amount of Payments. Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

11.2.1.1 There shall first be determined an amount representing the aggregate percentage of Work completed to date as compared to the Contract Sum in accordance with the Schedule of Values, less retainage of ten percent (10%). The Contractor shall provide sufficient information to validate percentage complete noted in payment application.

11.2.1.2 There shall be added to such sum the earned portion of the Contractor's Fee line item in the Schedule of Values, less retainage. The earned portion of the Contractor's Fee shall be an amount which bears the same ratio to the Contractor's Fee (as the same may have been adjusted pursuant to Section 6.2) as the completed portion of the Work determined in accordance with Sections 11.2.1.1 bears to the entire Contract Sum. The retainage applicable to the Contractor's Fee shall be ten percent (10%) of the earned portion thereof included in each Application for Payment.

11.2.1.3 There shall be subtracted from such sum:

11.2.1.3.1 The aggregate of previous payments made by the Owner.

11.2.1.3.2 The shortfall, if any, indicated by the Contractor in the documentation required by Section 11.1.1 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner in such documentation.

11.2.1.3.3 Amounts, if any, for which the Owner's Representative has withheld approval for payment as provided in Section 8.3.2 of the General Conditions.

11.2.2 Payment of Certain Work Precluded. Any Work performed pursuant to a Construction Change Directive shall not be included in the Contractor's Application for Payment until such Work is included in a Change Order executed by Owner.

11.2.3 Time Within Which Payments Are To Be Made. The Owner shall make payment to the Contractor of the amount computed in accordance with the provisions of this Section 11.2 with respect to a correct and complete Application for Payment within ~~sixty (60)~~ thirty (30) days after it is submitted.

### **Section 11.3 Payments to Subcontractors.**

11.3.1 Calculation of Maximum Allowable Payments. Except with the Owner's prior written approval, and subject to audit by the Owner, payments to Subcontractors included in any Application for Payment shall not exceed an amount for each Subcontractor calculated as follows:

11.3.1.1 That portion of the Subcontract Sum properly allocable to completed Work shall first be determined by multiplying the Subcontractor's Percentage of Completion of each portion of Subcontractor's Work by the share of the total Subcontract Sum allocated to that portion in the approved Subcontractor's Schedule of Values, less retainage equal to ten percent (10%) thereof.

11.3.1.2 There shall be added to such sum that portion of the Subcontract Sum properly allocable to materials and equipment delivered and suitably stored at the Jobsite for subsequent incorporation in the Work or, if and to the extent that the requirements of Section 8.2.2 of the General Conditions have been met, suitably stored offsite, less retainage equal to ten percent (10%) of the amount thereof.

11.3.1.3 There shall be subtracted from such sum:

11.3.1.3.1 The aggregate of previous payments made by the Contractor to the Subcontractor.

11.3.1.3.2 Amounts, if any, for which the Owner's Representative has withheld approval for payment to the Contractor for reasons which are the fault of the Subcontractor.

11.3.2 Payment of Retainage. As to each Subcontractor, any retainage against the Subcontract Sum shall be included in the final Application for Payment and shall be payable as provided in Article 12, unless otherwise agreed to in writing by the Owner.

11.3.3 Subcontractor Documentation. Each Subcontractor shall submit all documentation reasonably requested by Owner to substantiate their right to payment, including lien waivers in the applicable form attached hereto as Exhibit D or such other form satisfactory to the Owner and in compliance with the laws of the state where the Project is located.

**Section 11.4 Material or Equipment Not Delivered to Jobsite.** Except with the Owner's prior written approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the Jobsite. For all fabricated material in the process of production at an offsite location, where the Owner or Contractor has already paid for all or a portion of such material, or where such material is lienable in the state where the Project is located without being delivered to the Project, the Owner shall be deemed to have title to such material and shall be entitled to possession of such material upon demand, with no other restriction than that payment in full for the material be made at the time possession by the Owner is assumed. The Owner shall have the right to enforce this provision by means of equitable relief in Court without having to show irreparable harm or an inadequate remedy at law, and this Section 11.4 shall be deemed specifically incorporated by reference into any subcontractor or purchase order entered into by the Contractor where it may be applicable.

**Section 11.5 Reliance on Information Furnished by Contractor.** The Contractor represents, warrants and covenants to and with the Owner that all data and information contained in each Application for Payment, and all other information furnished in connection therewith is and shall be true, accurate and complete and that all documents furnished in connection therewith are and shall be genuine and accurate originals thereof. Handwritten modifications will not be accepted. This representation, warranty and covenant shall be deemed to be repeated as to each Application for Payment presented to Owner as provided herein. In taking action on the Contractor's Applications for Payment, the Owner shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor, as well as on the genuineness of all documents furnished by Contractor in connection therewith, and such reliance shall not be deemed to represent that the Owner has made a detailed examination, audit or arithmetic verification of such information or supporting data or documents or that the Owner, or Owner's Representative, has made exhaustive or continuous on-site inspections, or that they have made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of this Agreement.

**Section 11.6 Retainage.** Retainage shall be held until the time of Final Payment. Each release of retainage to Subcontractors shall be included in the Final Application for Payment, unless otherwise agreed to by Owner in writing.

**Section 11.7 Title to Work.** Title as to all labor, materials and equipment incorporated in the Work shall pass to Owner at time of incorporation.

**Section 11.8 Payment Procedure.** Contractor acknowledges and agrees to the terms and conditions set forth on Exhibit H attached hereto as to any payments made by Owner under this Agreement.

## **ARTICLE XII** **FINAL PAYMENT**

**Section 12.1 Conditions Precedent to Final Payment.** The final payment of all amounts due and owing by the Owner to the Contractor under this Agreement (the "Final Payment") shall be made only after all of the following shall have occurred:

12.1.1 All of Contractor's obligations under this Agreement and the other Contract Documents shall have been fully performed, including punch list work, but excluding Contractor's responsibility to correct defective or nonconforming Work, as provided in Section 12.2.2 of the General Conditions, and to satisfy other requirements, if any, which necessarily survive the Final Payment.

12.1.2 A final Application for Payment shall have been submitted to the Owner within forty-five (45) days after Substantial Completion of the Work and completion of all punch list items as

provided in Section 8.4 of the General Conditions, along with the consent of Contractor's surety (if any) to final payment.

12.1.3 The Contractor shall have delivered to the Owner final and unconditional waivers of lien, in the applicable form attached hereto as Exhibit D or such other form satisfactory to the Owner and in compliance with the laws of the state where the Project is located, duly executed and correctly completed by Contractor and all Subcontractors, suppliers and other persons or entities entitled to a lien against the Project or any part thereof.

12.1.4 The issuance of a permanent certificate of occupancy for the Project and any other permits, licenses or approvals required by the Contract Documents, unless the issuance of such permanent certificate of occupancy or other permit, license or approval shall be withheld or delayed due to no fault of the Contractor or anyone working under Contractor.

12.1.5 Submittal and/or assignment (as applicable) of any and all as-built documents, training or operation manuals, warranties, guarantees, attic stock and any other closeout documents or items required by the Contract Documents.

**Section 12.2 Time for Final Payment.** The Owner shall make Final Payment within forty-five (45) days after satisfaction of all conditions precedent to such payment contained in Section 12.1 have occurred.

### **ARTICLE XIII** **MISCELLANEOUS PROVISIONS**

**Section 13.1 Assignment.** This Agreement may not be assigned, in whole or in part, by the Contractor without the prior written consent of the Owner. Any attempt to assign this Agreement without Owner's prior written consent shall be void ab initio. The Owner may freely assign this Agreement to any lender, related or affiliated entity of Owner, or to any purchaser of the Project. If Owner assigns this Agreement to its lender, Contractor agrees to enter into an agreement reasonably acceptable to the lender for completion of the remaining Work as long as Lender takes on Owner's responsibilities for payment. Any entity which shall succeed to the rights of the Owner shall be entitled to enforce its rights hereunder.

**Section 13.2 Notices.** Any notice required by the terms of this Agreement, and any other notice, in order to be effective shall be in writing and shall be personally delivered, forwarded by registered or certified mail (return receipt requested), or by overnight delivery service addressed as follows:

**TO OWNER:**

Culver Public Market, LLC  
915 Wilshire Blvd.  
Suite 2200  
Los Angeles, CA 90017

Attn: Tom Middleton  
Phone: 213-553-2218

**With a copy to:**  
Regency Centers, LP  
c/o General Counsel  
One Independent Drive, Suite 114  
Jacksonville, FL 32202

**TO CONTRACTOR:**

Ed Grush General Contractor, Inc.  
3236 East Willow Street  
Signal Hill, CA 90755

Attn: David Karian & Bob Grush  
Phone: 562-426-9526

Either party may change the address to which notices are to be sent by giving written notice to the other party. Notice personally delivered shall be effective on the date of delivery. Notice given by mail or overnight delivery shall be effective on the date of receipt or, in the absence of delivery, on the date of mailing.

**Section 13.3 Further Documents.** The Contractor agrees to provide from time to time such certificates, documents, reports and information, including forms of Contractor performance letters and notices for the benefit of the Owner's lender, as may be reasonably requested by such lender, or any escrow agent under any construction loan escrow or title insurer, and to cooperate with such lender, escrow agent or insurer to the fullest extent possible.

**Section 13.4 Headings and Captions.** The headings and captions contained in this Agreement are inserted for convenience of reference only, and are not to be deemed part of or to be used in construing this Agreement.

**Section 13.5 Pronouns; Joint and Several Liability.** The necessary grammatical changes required to make this Agreement apply in the plural sense where there is more than one person or entity constituting the Contractor and to either corporations, partnerships, individual males or females, shall in all instances be assumed as though in each case fully expressed. If there be more than one person or entity constituting the Contractor, the liability of all such persons or entities for compliance with and performance of the terms of this Agreement shall be joint and several.

**Section 13.6 Partial Invalidity.** If any term of this Agreement, or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term of this Agreement shall be valid and enforced to the fullest extent permitted by law.

**Section 13.7 Survival.** All representations and warranties of Contractor herein and any provision of this Agreement which obligates the Contractor after the termination of this Agreement shall be deemed to survive such termination.

**Section 13.8 Time of Essence.** Time is of the essence of this Agreement.

**Section 13.9 Counterparts.** This Agreement may be signed in several counterparts, each of which shall be deemed an original and all such counterparts together shall constitute one and the same instrument.

**Section 13.10 Corporate Status and Qualification of Contractor.** The persons executing this Agreement on behalf of the Contractor represent and warrant that: (i) the Contractor is a duly organized corporation under the laws of the state of its domestication identified in the opening paragraph of this Agreement and is qualified and licensed to perform construction services in the state in which the Project is located; (ii) is authorized to do business in such state; (iii) all of Contractor's franchise and corporate taxes have been paid to date; and (iv) such persons are duly authorized by the board of directors (and shareholders, if required) of such corporation to execute and deliver this Agreement on behalf of the corporation.

IN WITNESS WHEREOF the parties hereto have executed these presents in form and manner proper and sufficient in law as of the day and year first above written.

**OWNER**

**CULVER PUBLIC MARKET, LLC,**  
a Delaware limited liability company

By: Regency Centers, L.P.,  
a Delaware limited partnership  
Its: Managing Member

By: Regency Centers Corporation,  
a Florida corporation  
Its: General Partner

By: \_\_\_\_\_ (Sign Here)  
Tom Middleton  
Print Name  
Its: Senior Project Manager  
Position/Title

**CONTRACTOR**

Ed Grush General Contractor, Inc.  
a \_\_\_\_\_ corporation

By: \_\_\_\_\_ (Sign Here)  
David Karian  
Print Name  
Its: Vice President  
Position/Title

**Exhibit A**  
**Scope of Work and Schedule of Contract Documents**

Exhibit A - Scope of Work and Schedule of Contract Documents

Exhibit B - General Conditions

Exhibit C - Project Milestone Dates

Exhibit D - Interim and Final Waivers of Lien

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Exhibit F – Construction Change Directive

Exhibit G - Insurance

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Exhibit J – Project Description and Approach

Exhibit K- Clarifications, Inclusions and Exclusions

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Exhibit N- SWPPP & WQMP

Exhibit O-Geotechnical Engineering Investigation Work Plan, Soils Report

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Exhibit Q – Phasing Plan Example

Exhibit R- Project Specifications

Exhibit S – Construction Management Plan – City Example

Exhibit T – Water Sub-Meter Requirements

Exhibit U – Pad Certification Endorsements

Exhibit V – City of Culver Rider

Exhibit W- Project Staff List

Exhibit X – Cost Breakdown

**Exhibit B**  
**General Conditions**

**GENERAL CONDITIONS  
OF THE CONTRACT  
FOR CONSTRUCTION  
OF  
CULVER PUBLIC MARKET**

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**Article I**  
**CONTRACT DOCUMENTS**

**Section 1.1 Definitions.**

1.1.1. “Owner/Contractor Agreement”. The term “Owner/Contractor Agreement” means the Agreement between Owner and Contractor, including all exhibits, to which these General Conditions are attached as an Exhibit.

1.1.2. “Provide”. When the word “provide”, including derivatives thereof, is used, it shall mean to properly coordinate, fabricate, complete, transport, deliver, install, connect, erect, construct, test and furnish all labor, materials, equipment, apparatus, appurtenances, and all items and expenses necessary to properly complete in place, and render operational or usable in accordance with the terms of the Contract Documents, even if not expressly written but implied.

1.1.3. “Knowledge”. The terms “knowledge”, “recognize” and “discover”, their respective derivatives and similar terms in the Contract Documents, as used in reference to the Contractor, shall be interpreted to mean that which the Contractor knows, recognizes, and discovers in exercising the care, skill and diligence required by the Contract Documents. Analogously, the expression “reasonably inferable” and similar terms in the Contract Documents shall be interpreted to mean reasonably inferable by a contractor familiar with the Project and exercising the care, skill and diligence reasonably required by the Contract Documents.

1.1.4. Other Defined Terms. Unless otherwise defined herein, all capitalized terms used herein have the meanings ascribed to them in the Owner/Contractor Agreement. Unless otherwise stated in the Contract Documents, words which have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

**Section 1.2 Execution, Integration and Intent.**

1.2.1. Site Conditions. By executing the Owner/Contractor Agreement, the Contractor represents that it has visited the Jobsite and surrounding vicinity and has familiarized itself with the conditions under which the Work is to be performed, and correlated its observations with the requirements of the Contract Documents. The Contractor and each Subcontractor shall evaluate and satisfy themselves as to the conditions and limitations under which the Work is to be performed, including, without limitation, (1) the location, layout and nature of the Project site and surrounding areas, (2) generally prevailing climatic conditions, (3) anticipated labor supply and costs, (4) availability and cost of materials, tools and equipment, (5) other similar issues and (6) local jurisdictional requirements.

1.2.2. Comprehensive Nature of Contract Documents. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work. The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all. Work not covered in the Contract Documents will not be required unless it is consistent therewith and is reasonably inferable therefrom as being necessary to produce the intended results. In the event of a conflict between the Drawings, Specifications or other Contract Documents, the Contractor shall be deemed to have included the more expensive option in the Guaranteed Maximum Price or Contract Sum, as applicable, and shall notify Owner in writing of the issue.

1.2.3. Integration Clause. The Contract Documents collectively set forth the rights and obligations of the parties. This Owner/Contractor Agreement and all exhibits and attachments thereto represent the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral. The Owner/Contractor Agreement

may be amended or modified only by a fully executed Change Order. The Contract Documents shall not be construed to create any contractual relationship of any kind between the Owner and any Subcontractor, supplier, or other third party, or create any obligations of the Owner to such parties directly.

1.2.4. Organization of Specifications Not Controlling. The organization of the Specifications into divisions, sections and articles, and the arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade, and no adjustments shall be made in the Guaranteed Maximum Price or Contract Sum as a result of the Contractor's failure to insure that all Work described anywhere in the Contract Documents is provided for, irrespective of the organization of the Specifications or other Contract Documents.

1.2.5. Supplemental Design Information. Any item of Work mentioned in the Specifications and not shown on the Drawings, or shown on the Drawings and not mentioned in the Specifications, shall be provided by the Contractor as if shown or mentioned on both. The Drawings and Specifications indicate the scope of the Project in terms of the architectural design, quality level of the Project, the dimensions of the building or buildings, the type of structural, mechanical, electrical and utility systems and the major architectural elements of construction. The Drawings and Specifications do not necessarily indicate or describe all Work required for the full performance and completion of the Work. The Owner/Contractor Agreement, Contractor's subcontracts and material agreements are awarded on the basis of such documents with the understanding that the Contractor, Subcontractors and materialmen are to furnish items required for proper completion of the Work. It is intended that the Work be of best quality construction and the Contractor shall be responsible for the inclusion of adequate amounts to cover installation of all items indicated, described, required by code or ordinance or necessary to make a system operational. Generally, the Specifications indicate types, qualities and methods of installation of the various materials and equipment required for the Work. If a matter is shown on the Drawings or necessarily inferable therefrom (as in the case of an item necessary to complete a system), but not included in the Specifications, it is nevertheless included in the Work. Where a typical or representative detail is shown on the Drawings, such detail shall constitute the standard of workmanship and materials throughout corresponding portions of the Work. Where necessary, the Contractor shall adopt such detail for the use in said corresponding portions of the Work in a manner that is satisfactory to the Owner, as well as being code compliant, all for the Contract Price. Before ordering any material or doing any Work, the Contractor and each of its Subcontractors shall verify measurements at the Jobsite to the extent possible. The Contractor shall notify the Owner and the Architect in writing of any dimensional inconsistencies immediately after the Contractor becomes aware and shall obtain Owner's and Architect's determination of a resolution of such inconsistencies or conflicts prior to ordering affected materials or proceeding with work. Drawings for mechanical, plumbing and electrical work are diagrammatic and indicate the general arrangements of the equipment, the sizes and runs of piping and ducts and the manner of connection. The Contractor shall carefully examine the Drawings and the field conditions and shall be responsible for the proper coordination and fitting of equipment, fixtures and piping as indicated, and this responsibility shall extend to the coordination of all work between the trades.

**Section 1.3 Ownership and Use of Documents.** All Drawings, Specifications and copies thereof furnished by Owner, the Architect and/or consulting engineers to Contractor are and shall remain the property of the Owner. They are to be used only with respect to this Project and are not to be used on any other project and they are not to be used by the Contractor or any Subcontractor, Sub-Subcontractor or material or equipment supplier on other projects or for additions to this Project outside the scope of the Work without the express prior written consent of the Owner. The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are granted a limited license to use and reproduce applicable portions of the Drawings, Specifications and other documents prepared by the Architect appropriate to and exclusively for use in the execution of their Work under the Contract Documents. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with

this Project is not to be construed as publication in derogation of the Owner's reserved rights. Drawings and Specifications are not to be used for any marketing or advertising without the Owner's written consent.

**Section 1.4 Captions and Headings.** The headings and captions contained in these General Conditions are inserted for convenience of reference only, and are not to be deemed part of or to be used in construing these General Conditions.

**Section 1.5 Interpretation.** In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

## **Article II** **ARCHITECT**

### **Section 2.1 Administration of the Owner/Contractor Agreement.**

2.1.1. Architect to Provide Limited Administration. The Architect may provide limited administration of the Owner/Contractor Agreement as hereinafter described. The Owner has the unfettered right to perform, or assign to the Architect, contract administration responsibilities as it may deem appropriate, in its sole direction.

2.1.2. Authority of Architect and Owner's Representative. The Architect shall have authority to act on behalf of the Owner only to the extent expressly provided in the Contract Documents. The Contractor acknowledges that some or all portions of the Work may have been designed by the Owner's Civil Engineer. Accordingly, the term "Architect" also means the Civil Engineer under direct contract with the Owner.

2.1.3. Architect's Visits to Jobsite. The Architect will visit the Jobsite at intervals appropriate to the stage of construction (or as otherwise agreed with Owner) to familiarize itself with the progress and quality of the Work, and to determine if the Work is proceeding in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of his or her on-site observations as an architect, the Architect will keep the Owner informed of the progress of the Work, and will assist the Owner in identifying potential defects and deficiencies in the Work of the Contractor.

2.1.4. Matters for Which Architect Is Not Responsible. The Owner and Architect will not be responsible for, and will not have control or charge of, construction means, methods, techniques, trade coordination or procedures, or for safety precautions and programs in connection with the Work, and the Architect will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. Neither the Owner nor the Architect will be responsible for or have control or charge over the acts or omissions of the Contractor, Subcontractors, or any of their agents or employees, or any other persons performing any of the Work. Unless otherwise provided, the Architect shall have no responsibility for the review and approval of the Contractor's payment applications.

2.1.5. Architect to Have Access to Work. The Owner and Architect shall at all times have access to the Work wherever it is in preparation and progress.

2.1.6. Interpretations by Architect. The Architect, with the Owner's prior written consent, shall prepare graphic illustrations and other documents that clarify or interpret various aspects of the Drawings and Specifications. The Architect shall render interpretations, with reasonable promptness so as to not

delay the orderly progress of the Work. Either party to the Owner/Contractor Agreement may make written request to the Architect for such interpretations. All interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings.

2.1.7. Architect's Authority to Reject Work or Make Special Requirements. The Architect, with the Owner's concurrence, shall have the authority to reject Work which does not conform to the Contract Documents. Whenever, in its opinion, the Architect considers it necessary or advisable for the implementation of the intent of the Contract Documents, the Architect shall have authority, with the Owner's concurrence, to require special inspection or testing of the Work in accordance with Section 14.4, whether or not such Work be fabricated, installed or completed. However, neither the Architect's authority to act under this Section 2.1.7, nor any decision made by the Architect in good faith either to exercise or not to exercise such authority, shall give rise to any duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, any of their agents or employees, or any other person performing any of the Work. Additionally, the failure of the Owner or architect to reject Work shall not be construed as a waiver of the Owner's rights and remedies and ability to object to non-conforming work at a subsequent date.

2.1.8. Architect's Review of Submittals. The Architect will review and approve or take other appropriate action upon Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for conformance with the design concept of the Work and with the information given in the Contract Documents. Such action shall be taken with reasonable promptness so as to cause no delay in the Work or in the activities of the Owner, the Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 4.1, 4.4 or 4.11. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

2.1.9. Preparation of Change Orders. The Owner prepares all Change Orders and if Owner so requests, the Architect may prepare Change Orders in accordance with Article 11, or the Owner may request that the Contractor prepare draft Change Orders for the Owner's approval. All Change Orders shall be prepared and executed on the form attached to the Owner/Contractor Agreement as an Exhibit.

2.1.10. Architect to Conduct Inspection. If requested by Owner in its sole discretion, the Architect shall conduct inspections to determine the dates of Substantial Completion and Final Completion, and shall receive and forward to the Owner for the Owner's review, approval and records written warranties, guarantees, as-builts and related closeout documents required by the Contract Documents and assembled by the Contractor. When requested by the Owner, the Architect will issue a certification of Substantial Completion, upon compliance with the requirements of the Contract Documents. If requested by Owner, the Architect will assist the Owner to review the final Certificate for Payment for Owner's approval upon Contractor's compliance with the requirements of the Contract Documents. Neither the Certificate of Substantial Completion nor the final Certificate for Payment will be issued without a complete walk-through and approval by the Owner. The Architect and Owner will review the Contractor's punch-list to be attached to the Certificate of Substantial Completion.

2.1.11. Architect's Project Representatives. If the Owner and Architect agree, the Architect shall provide one or more Project Representatives to assist the Architect in carrying out the Architect's responsibilities at the Jobsite. The duties, responsibilities and limitations of authority of any such Project Representative shall be as set forth in an exhibit to be incorporated in the Contract Documents.

2.1.12. Modifications of Architect's Authority. The duties, responsibilities and limitations of authority of the Architect as the Owner's representative during construction as set forth in the Contract Documents will not be modified or extended without written consent of the Owner and the Architect. The Contractor acknowledges and agrees that all decisions of the Architect are subject to the approval of the Owner, consistent with the terms of the Contract Documents.

2.1.13. Appointment of Successor Architect. In case of the termination of the employment of the Architect, the Owner shall appoint an architect against whom the Contractor makes no reasonable objection, whose status under the Contract Documents shall be that of the former architect.

2.1.14. Concurrence by Inspecting Architect or Other Representative. If Owner's lender shall designate an inspecting architect or other representative, the Owner may require the concurrence of such architect or representative in each instance in which the approval of the Architect or the Owner is required by any provision of these General Conditions or other Contract Documents. The Contractor shall cooperate with such inspecting architect or representative to the fullest extent possible.

### **Article III** **OWNER**

#### **Section 3.1 Information and Services Required of the Owner.**

3.1.1. Information as to Site Conditions. The Owner shall furnish surveys describing surface physical characteristics, legal limitations for the site of the Project and a legal description of the site. The Owner shall also provide information regarding known utilities. Contractor shall confirm the location of each utility, shall excavate, protect, reroute or take whatever other action is necessary to maintain service when required or dispose of or cap each utility as required by the Work or as may be included in the Specification. The Contractor represents that it is generally familiar with the Project site and the area surrounding the Project site. The Contractor represents that it has inspected the location of the Work and has satisfied itself as the condition thereof. The Contractor shall exercise special care in executing subsurface work in proximity of known or reasonably foreseeable subsurface utilities, improvements and easements. All information, data or reports as to the conditions at the Jobsite are furnished by the Owner for information purposes only, and the Owner makes no warranties as to such information. The Contractor shall promptly repair and restore utilities damaged by Contractor, which are to remain.

3.1.2. Owner to Obtain and Pay for Approvals. Except as otherwise expressly provided in Section 4.6.1 or any other provision of the Contract Documents, the Owner shall secure and pay for necessary approvals, easements, permits (excluding trade permits), assessments and charges required for the construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

3.1.3. Information or Services Under Owner's Control. Except as otherwise provided in Section 3.1.1, and subject to the provisions of that Section, upon receipt of a written request therefore from the Contractor, information or services under the Owner's control and reasonably required for the performance of the Work shall be furnished by the Owner with reasonable promptness so as to avoid delay in the orderly progress of the Work.

3.1.4. Contractor to Receive Copies of Drawings and Specifications. Unless otherwise provided in the Contract Documents, the Contractor will be given access to a secure electronic site or a

File Transfer Protocol (FTP) site, from which Contractor may download and print, at Contractor's expense, the Drawings and Specifications prepared by the Architect or the Owner's design consultants, and other drawings and documents reasonably necessary for the execution and completion of the Work.

3.1.5. Owner's Representative. The Owner's Representative shall monitor the Contractor's performance of the Work. The Owner's Representative in each case, may instruct the Contractor with regard to matters set forth in the Drawings and Specifications, and shall decide any and all questions which may arise as to the progress, quality or cost of the Work.

3.1.6. Owner's Responsibilities Cumulative. The foregoing responsibilities are in addition to other duties and responsibilities of the Owner enumerated herein, and especially those in respect to Article 6 (Work by the Owner or by Separate Contractors), Article 8 (Payments and Completion) and Article 10 (Insurance).

3.1.7. No Waiver. Nothing herein, including but not limited to the failure to object, shall be construed as a waiver of the Owner's right to reject non-conforming work, unless such work is clearly and explicitly accepted in writing.

### **Section 3.2 Owner's Right to Stop the Work.**

3.2.1. Stop Work Orders. If the Contractor fails to correct defective Work as required by Section 12.2 or fails to carry out the Work in accordance with the Contract Documents, the Owner, by written order may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the Owner to stop the Work shall not give rise to any duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity. This right shall be in addition to, and not in restriction of, the Owner's rights under Section 12.2.

3.2.2. Suspension of the Work. Subject to the provisions of Article 7 concerning delay, if the Owner, acting in good faith, believes that suspension of the Work is warranted by reason of unforeseen conditions which may adversely affect the quality of the Work if such Work were continued, the Owner may suspend the Work by written notice to the Contractor. If the Contractor, in its reasonable judgment, believes that a suspension is warranted by reason of unforeseen circumstances which may adversely affect the quality of the Work if the Work were continued, the Contractor shall immediately notify the Owner of such belief and describe with particularity the reasons therefor.

3.2.3. The Owner's Right to Carry Out the Work. If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within seven (7) days after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to any other remedy the Owner may have, make good such deficiencies. In such case an appropriate Change Order shall be issued deducting from the payments then or thereafter due the Contractor the cost of correcting such deficiencies, including architectural, consulting and legal fees required by the circumstances. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner within ten (10) days after receipt of an invoice therefor. The rights of the Owner under this Section shall not give rise to any duty on the part of the Owner to exercise such rights for the benefit of the Contractor or any other person or entity. This provision shall include the right of the Owner to supplement Contractor's forces as may, in the Owner's sole reasonable judgment, be required.

## **Article IV CONTRACTOR**

### **Section 4.1 Review of Contract Documents.**

4.1.1. Ability to Perform. The Contractor represents that it is fully licensed as a contractor qualified by applicable law of the place of the Project to perform all the Work in this Agreement and in good standing as such under the laws of the site of the Project. The Contractor represents to the Owner that there is no litigation pending or threatened (including proceedings under Title 11 of the U.S. Code) against the Contractor (except personal injury and property damage litigation fully covered by insurance) which will materially and adversely affect its ability to perform its obligations under the Contract Documents.

4.1.2. Contractor to Review Contract Documents. The Contractor shall, prior to commencing work, carefully study and compare the Contract Documents with each other and with any information furnished by the Owner pursuant to Section 3.1 or information otherwise available to the Contractor, and shall at once report to the Owner and the Architect all errors, inconsistencies or omissions discovered. In addition, the Contractor shall notify the Architect of materials, systems, procedures or methods of construction, either shown on the drawings or specified, that it believes are incorrect, inadequate, obsolete, unsuitable for the purpose intended, or which could have an adverse effect upon installation or completion by others under separate contracts for tenant improvement work or leasehold improvements. In addition, if the Contractor performs any construction activity and if it knows, or reasonably should have known, that any of the Contract Documents contain a recognized error, inconsistency or omission, the Contractor shall be responsible for such performance and shall bear the cost of correction thereof. The Contractor shall perform no portion of the Work at any time without Contract Documents or, where required, approved Shop Drawings, Product Data or Samples for such portion of the Work.

4.1.3. Verification of Field Measurements and Conditions. The Contractor shall take field measurements and verify field conditions, and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies or omissions discovered shall be reported to the Owner and the Architect at once; and the Contractor's failure to verify field measurements and conditions or report inconsistencies shall not serve as basis for an adjustment in the Guaranteed Maximum Price or Contract Sum. In satisfying its obligations under this Section, Contractor shall confirm the location of each utility, shall excavate and dispose of all utilities and shall properly abandon or cap each off-site utility as required for the Work, by the local utility providers, or by the Contract Documents. To the extent, if any, that Owner has heretofore caused soil tests or test borings to have been made on the Jobsite, Owner has made such tests available to Contractor, and the Contractor has studied the result of such tests, test borings and information as to subsurface conditions and Jobsite geology. Owner does not assume any responsibility whatsoever with respect to the sufficiency or accuracy of tests or borings made, or of the logs of such tests or borings, or of other investigations, or of the interpretations made thereof, and there is no warranty or guaranty, express or implied, that the conditions indicated by such investigations, tests, borings, logs or information are representative of those existing throughout the Jobsite, or any part thereof, or that unforeseen conditions may not exist. The Contractor and each of his Subcontractors shall satisfy themselves as to the conditions of the premises and existing work or items thereon, and the conditions under which they would be obligated to operate in performing their Work, or portion thereof, or that would in any manner affect the Work under the Owner/Contractor Agreement, except for conditions which are not visible or reasonably discoverable or inferable from the Contract Documents or the location of the site by an experienced contractor or subcontractor, unless such conditions were disclosed in a report delivered to the Contractor prior thereto or are of a usual nature or do not differ materially from those ordinarily encountered in construction work of the type and scope set forth in the Contract Documents. No allowance will be made by the Owner for any error or negligence in this regard. Errors, inconsistencies and omissions shall be reported to the Owner and the Architect at once. The Contractor shall satisfy himself as to the accuracy of all grades, elevations, dimensions and locations affecting a particular phase of the Work before starting such phase. In all cases of interconnection of his Work with existing or other work he shall verify at the site all dimensions relating to such existing or

other work. Any errors due to the Contractor's failure to so verify or satisfy himself as to such grades, elevations, locations or dimensions shall be promptly rectified by him without an increase in the Guaranteed Maximum Price or Contract Sum. Based upon the foregoing inspections, understandings, agreements and acknowledgments, the Contractor agrees and acknowledges (i) that the Guaranteed Maximum Price or Contract Sum is just and reasonable compensation for all the Work, including all foreseen and foreseeable risks, hazards and difficulties in connection therewith, and (ii) that the Contract Time is adequate for the performance of the Work. The Contractor shall have no claims for surface or subsurface conditions encountered that could have reasonably been foreseen by the Contractor.

4.1.4. Work to Be in Accordance With Contract Documents and Approved Submittals. The Contractor shall perform the Work in accordance with the Contract Documents and submittals approved pursuant to Section 4.11.

## **Section 4.2 Supervision and Construction Procedures.**

4.2.1. Supervision and Direction of Work. The Contractor shall supervise and direct the Work, using its best skill and attention. The Contractor shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Owner/Contractor Agreement, including coordination of the duties of all trades, unless the Contract Documents give other specific instructions concerning these matters. The Contractor shall be responsible for properly laying out the Work, and for all lines, elevations and measurements for all of the Work executed under the Contract Documents. The Contractor shall reasonably verify the figures shown on the drawings before laying out the Work and will be held responsible for any error, omission or inaccuracies resulting from his failure to do so.

4.2.2. Contractor Responsible for Acts of Others. The Contractor shall be responsible to the Owner for the acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons performing or supplying any of the labor, materials or services constituting the Work under the Owner/Contractor Agreement, and any losses, damages or costs suffered by Owner as a result thereof.

4.2.3. Contractor Not Relieved of Obligations. The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by the activities or duties (or the failure to perform such duties or activities) of the Owner or the Architect in their administration of the Owner/Contractor Agreement, or by inspections, tests or approvals required or performed by persons other than the Contractor. Any tests or inspections required by or performed by the Owner or Architect, or anyone at the Owner's direction, are for the Owner's sole benefit and do not relieve the Contractor of its requirement to perform the Work in accordance with the Contract Documents.

4.2.4. Contractor Supervision. The Contractor shall have direct control of all construction operations and be responsible for the satisfactory overall performance of the Contractor's suppliers and subcontractors in order that the entire work is properly implemented and coordinated and shall provide such supervision when any Work is being performed.

4.2.5. Contractor Responsible for Inspection of Work. The Contractor shall be responsible for inspection of portions of Work already performed under the Owner/Contractor Agreement to determine that such portions are in proper condition to receive subsequent Work.

4.2.6. Establishment of Reference Data. At the earliest possible time prior to the commencement of the Work on the Jobsite, the Contractor shall have all property corners and benchmarks verified by a surveyor designated and paid for by the Contractor and approved by the Owner, shall

establish necessary reference marks from which the Work accurately can progress, shall furnish the Owner evidence of such verification and shall report at once any errors discovered during the process of such verification. The Contractor shall preserve all reference points, benchmarks, and other survey points established by the Owner and, in case of the destruction of these points, shall replace them.

4.2.7. Inspections by Public Authority or Utility Provider. If any of the Work is required to be inspected or approved by any public authority or utility provider, the Contractor shall cause such inspection or approval to be performed. No inspection performed (or not performed) by the Owner hereunder, shall be considered a waiver of any of the Contractor's obligations hereunder or be construed as an approval or acceptance of the Work or any part thereof.

4.2.8. Coordination of Utility. Contractor shall schedule (in coordination with overall project schedule and/or tenant requirements), notify and coordinate the Work for all public and private utility providers as may be required for the Project, including but not limited to, all telephone, electric, gas, water, sanitary sewer and cable television services required for the Owner's intended use.

4.2.9. Separate Contracts at Jobsite. Contractor agrees that it will not prohibit or otherwise hinder or prevent any subcontractor or materialman engaged in any aspect of the performance of the Work from entering into separate subcontracts with another general contractor engaged by any tenant of the Owner except by reason of genuine, good faith concerns (including conflicting man-hour and capacity requirements).

4.2.10. Communications Equipment. The Contractor shall maintain electronic equipment at the site with the capability to send and receive telecopies, receive telephone voice mail messages and conduct conference calls, e-mail systems compatible with the Architect's and Owner's systems, and the receiving telephone shall have speaker phone capabilities.

4.2.11. Concealed or unknown conditions. If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Owner will promptly investigate such conditions and, if the Owner reasonably determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Owner reasonably determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Owner shall promptly notify the Contractor in writing, stating the reasons. If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Section 4.

### **Section 4.3 Labor and Materials.**

4.3.1. Contractor to Pay for Labor, Materials and Services. Unless otherwise provided in the Contract Documents or as delineated on Exhibit A to the Agreement, the Contractor shall provide and pay for all labor, materials, supervision, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. The Contractor shall check all materials and labor entering into the Work and shall keep full detailed accounts thereof.

4.3.2. Enforcement of Discipline. The Contractor shall at all times enforce strict discipline and good order among its employees and its Subcontractors and their employees, and shall not employ or permit its Subcontractors to employ on the Work any unfit person, anyone not skilled in the performance of their respective assigned tasks or any person that is impaired by drugs or alcohol. The Contractor acknowledges that it is the Contractor's responsibility to hire all personnel for the proper and diligent prosecution of the Work and the Contractor shall use its best efforts to maintain labor peace for the duration of the Project. In the event of a labor dispute, caused by the Contractor's failure to comply with this provision, the Contractor shall not be entitled to any increase in the ~~Guaranteed Maximum Price or~~ Contract Sum or Contract Time as a result thereof.

~~4.3.3. Pre Hire Drug Screening. The Contractor shall implement and maintain to the satisfaction of the Owner a pre hire drug screening program for all employees, and Contractor shall, upon request by the Owner, furnish the Owner with information on the Contractor's program prior to commencement of the Work.~~

4.3.4. Post-Accident Drug Screening. The Contractor agrees to implement drug and alcohol screening for all persons involved in an on-site accident. Such drug-screening shall take place as soon as reasonably possible after such accident. The results of such drug screening shall be made available to the Owner.

4.3.5. Code of Conduct. Owner has adopted a Code of Business Conduct and Ethics which guides it, its employees and its independent contractors in all business dealings. It can be found on Regency Centers' website at: [www.regencycenters.com/companyinformation](http://www.regencycenters.com/companyinformation). It is the embodiment of Owner's ethics policy and describes Owner's core values and business principles, setting forth guidelines on how Owner conducts business. Owner abides by the Code and expects that Contractor will become familiar with it and abide by it in dealings with Owner.

**Section 4.4 Warranty.** The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Owner/Contractor Agreement will be of the best quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, shall be considered defective. The Contractor's warranty excludes any remedy for damage or defects caused by abuse, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage; provided, however, that modifications, extensions, attachments to, completion of or repair to systems in the Work by others (including the Owner or tenants performing tenant improvement work), including, without limiting the generality of the foregoing, the electrical, HVAC, plumbing, security and sprinkler systems, shall not void the Contractor's warranty so long as the same are done in accordance with the original design and installation standards. If required by the Owner or the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. Warranties will commence from the date of Substantial Completion. All original warranties shall be delivered to the Owner with copies to the

Architect, if requested, at no additional cost upon completion of the Work. At the time of final completion of the Work, the Contractor agrees to assign to the Owner any and all manufacturers' warranties relating to materials and labor used in the Work and further agrees to perform the Work in such manner so as to preserve any and all such manufacturers' warranties. In addition to the foregoing stipulations, the Contractor shall comply with all other warranties referred to in any portions of the Contract Documents or otherwise provided by law or in equity, and where warranties overlap, the more stringent requirement shall govern. The Owner reserves the right, in its sole discretion, to assign all and any of its rights to any warranties given under the Contract Documents. The Contractor shall incorporate this provision in its contracts with subcontractors and suppliers.

**Section 4.5 Taxes.** The Contractor shall pay all sales, consumer, use, remodel and other similar taxes for the Work or portions thereof provided by the Contractor which are legally enacted as of the later of the date of the Owner/Contractor Agreement, or the date upon which the Owner and the Contractor agree upon the ~~Guaranteed Maximum Price (if such Guaranteed Maximum Price was not determined as of the date of such Owner/Contractor Agreement)~~ or the Contract Sum, regardless of whether any such tax is not yet effective or merely scheduled to go into effect. When pursuant to any government program, any grant, rebate, accelerated capital cost allowance or other form of cost reduction is made available with respect to a product which is to be incorporated into the Work, the Contractor, for himself, his subcontractors and suppliers, acknowledges and agrees that any such cost reduction by way of grant, rebate, accelerated capital cost allowance or the like is the sole and exclusive property of the Owner. Such grant, rebate or accelerated capital cost allowance or the like may include, but is not limited to, products or apparatus for the conservation or regulation of energy, the generating of electricity, solar heating systems and equipment used in the fabrication and control of same. The Contractor and subcontractors shall advise the Owner of every product obtained for incorporation into the Work for which they believe a rebate, refund, exemption, grant or other price reduction may be available and shall cooperate with the Owner in obtaining the same.

#### **Section 4.6 Permits, Fees and Notices.**

4.6.1. Contractor to Obtain Permits. Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the trade permits and ~~governmental fees, licenses, and inspections~~ necessary for proper execution and completion of the Work which are customarily secured after execution of the Owner/Contractor Agreement and which are legally required when bids are received or negotiations concluded. The Contractor shall call for inspections and obtain inspectors signatures for inspection and occupancy. Owner shall pay any fees associated with inspection, use, occupancy permits, and building licensing. Contractor shall give notices necessary and incidental to the due and lawful prosecution fo the work. Owner shall pay all charges and fees for governmental or utility entities, all utility availability and pay all costs, charges and fees in connection with such permits. procure all certificates of inspection, use, occupaney permits and licenses, pay all charges and fees and give all notices necessary and incidental to the due and lawful prosecution of the Work, all utility availability and service permits and pay all costs, charges and fees in connection with such permits. Owner shall reimburse Contractor for the actual cost of the Building Permits and Grading Permit fees at cost, with no mark-up, paid on a straight pay basis. Original copies of the certificates of inspection and use and the building permit shall be delivered to the Owner upon completion of the Work. The Contractor represents, warrants and covenants to the Owner that it is fully licensed, certified and authorized to enter into the Contract Documents and that it and the Subcontractors are and shall continue to be fully licensed, certified and authorized to perform the Work contemplated by the Contract Document and any other work performed at the Project, and will provide evidence of the same to the Owner upon request.

4.6.2. Contractor to Give Notices. The Contractor shall give all notices and comply with all laws, ordinances, codes, rules, regulations and lawful orders of any public authority bearing on the

performance of the Work. The Contractor shall not notify governmental authorities regarding environmental matters without prior written consultation with, and advice from, the Owner unless required by law.

4.6.3. Contractor to Review Contract Documents. It shall be the obligation of the Contractor to make itself familiar with all industry standards, local building codes and regulations applicable to the Work. The Contractor shall not violate any zoning, setback or other locational requirements of applicable laws, codes, ordinances and regulations, any special site plan conditions applicable to the Work, or any recorded covenants of which the Contractor has knowledge. Contractor shall review the Contract Documents, and verify that the Contract Documents comply with applicable laws, statutes, ordinances, building codes, rules or regulations.

4.6.4. Compliance with Laws, Etc. The Contractor shall comply with and give notices required by law, ordinances, rules, regulations and lawful orders of public authorities bearing on performance of the Work, in effect on the date of execution of the Agreement. If the Contractor, any of its Subcontractors or anyone working under the Contractor, performs Work contrary to laws, statutes, ordinances, building codes, and rules and regulations without providing the required written notice to the Architect and Owner, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs. If the Contractor becomes aware of any required approval, he shall promptly notify the Owner or the Architect of it in writing, and shall expeditiously ~~procure~~ pursue such approval. The Contractor shall request all information required from the Owner for permits, approvals or certificates sufficiently in advance to allow the Owner sufficient time, in the Owner's reasonable opinion, to provide such information to the Contractor, so the Contractor has sufficient time to procure permits, approvals or certificates so as not to delay the Project. The Contractor will assist the Owner in the expeditious release of all jurisdiction bonds at the completion of the Work. All original permits, certificates of inspection and occupancy and similar documents shall be delivered to the Owner upon completion of the Project.

4.6.5. Tenant Certificates. Contractor acknowledges that the Owner may be required to provide evidence to tenants of the Project that the Project was completed in accordance with the Contract Documents and to the best of the Contractor's knowledge in compliance with all applicable laws, rules, codes and regulations. Upon request by the Owner from time-to-time, Contractor shall provide the Owner and any tenants of the Project designated by the Owner with a certification of compliance to such effect.

#### **Section 4.7 Project Manager and Supervisory Personnel.**

4.7.1. Project Manager. The Contractor shall employ a competent project manager and necessary assistants who shall be in attendance at the Jobsite during the progress of the Work, as necessary. The project manager shall represent the Contractor and all communications given to the project manager shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. Other communications shall be so confirmed on written request in each case. The project manager shall be satisfactory to the Owner in all respects, and the Owner shall have the right to require the Contractor to dismiss from the Project any project manager whose performance is not satisfactory to the Owner, and to replace such project manager or superintendent with a project manager or superintendent satisfactory to the Owner.

4.7.2. Supervisory Personnel. Prior to commencement of any of the Work the Contractor shall submit to the Owner, for the Owner's approval, a list of all supervisory personnel, including (without limitation) the project manager and superintendent, whom the Contractor intends to employ on the Project, as well as a chain-of-command organizational chart covering all aspects of the Contractor's organization related to the Project and the Work. The Contractor shall not employ supervisory personnel not approved by the Owner, and shall not change such supervisory personnel without first obtaining the

Owner's written approval. The Contractor shall not replace the project manager or superintendent without the consent of the Owner except with another project manager or superintendent satisfactory to the Owner in all respects.

4.7.3. Unauthorized Change in Project Manager, Superintendent or supervisory personnel. Except in the cases of termination or resignation, the Project Manager(s), Superintendent(s), and other Supervisory Personnel that have been approved by the Owner to work on the Project will not be changed by the Contractor at any time until the Work is fully completed. If Contractor elects to change the Owner-approved Project Manager(s) and/or Superintendent(s) without prior written approval from Owner, Contractor shall be liable for damages to the Owner in the amount of ~~\$10,000~~ \$5,000 per person per occurrence.

## **Section 4.8 Project Schedule; Records and Reports.**

4.8.1. Project Schedule. Prior to the execution of the Owner/Contractor Agreement and prior to the commencement of the Work, the Contractor shall prepare and submit to the Owner, for its review and approval and as an Exhibit to the Owner/Contractor Agreement, in both hard copy and executable electronic format a detailed critical path "Project Baseline Schedule" showing the relative times for performance of all significant tasks included in the Work by Contractor and the Subcontractors, and generally providing for expeditious and practicable execution of the Work. Such schedule, as approved by Owner, and as amended and updated by Contractor (with Owner's approval), is referred to herein as the "Project Schedule." The CPM scheduling software used for preparing and maintaining the Project Baseline Schedule and all updates shall be the same as or fully compatible with the Owner's scheduling software and approved by Owner in advance of initial schedule submission. Contractor also shall establish a program, in accordance with procedures approved by the Owner, for measuring progress against the Project Schedule and shall maintain copies of such program at the Jobsite to reflect current conditions. Contractor shall provide the Owner and Architect with weekly reports as to the current status of, and deviations from, the Project Schedule, the causes of any such deviations, and the corrective action that has been taken or will be taken to correct such deviations. The Project Schedule and any revisions thereto, are not Contract Documents, and any milestone, substantial or final completion dates required by the Contract Documents may not be modified except by written Change Order signed by both parties.

4.8.2. Schedule Changes. Schedule changes include, but are not necessarily limited to the addition or deletion of activities from the schedule, changes in logical relationships, changes in estimated duration of activities, and changes in constraints, resources, etc. Any changes to the schedule that the Contractor contemplates, must be reported to the Owner in advance of incorporation along with an explanation for the changes and a proposed revised Project Schedule. No such changes shall alter the planned completion date(s), unless the changes are the result of a properly executed Change Order.

4.8.3. Records. The Contractor shall keep accurate and detailed written records of the progress of the Project during all stages of construction and shall submit monthly written progress reports to the Owner which shall contain such information as Owner shall reasonably request. Contractor shall submit such other interim reports as are requested by the Owner.

4.8.4. Schedule Summary Report. The Contractor shall, unless otherwise requested by Owner, prepare a weekly report (the "Schedule Summary Report"), in a form and of sufficient detail and character as approved by the Owner, identifying the significant schedule milestones achieved during the week, identifying those milestones that were not achieved and the reasons for such non-achievement, and shall include a detailed schedule of the following week's activities.

4.8.5. Daily Force and Activity Report. The Contractor shall, unless otherwise requested by owner, on each business day prepare a report (the "Daily Force and Activity Report") on a form approved

by the Owner's Representative describing the labor forces (by trade/subcontractor) and equipment present on the Jobsite during such day and their hours worked and respective activities. If requested by Owner, each Daily Force and Activity Report shall be delivered to the Owner's Representative at the Jobsite or home office by 9:00 A.M. on the next succeeding business day (or by electronic mail if the Owner's Representative is not at the Jobsite).

4.8.6. Materials Status Report. Within thirty (30) days after the date of the Owner/Contractor Agreement, the Contractor shall, unless otherwise requested by Owner, prepare a report (the "Materials Status Report") which includes a complete list of suppliers, items to be purchased from the suppliers or fabricators, time required for fabrication and the scheduled delivery dates for each item as coordinated with the Project Schedule. As soon as available, copies of purchase orders shall be furnished to the Owner.

4.8.7. Weekly Status Report. The Contractor shall, unless otherwise requested by Owner, prepare a weekly report in a form and of sufficient detail and character as approved by the Owner, which report shall include the following:

- .1. The current Project Schedule Update, progressed to the close of the reporting period, a statement by the Contractor's project manager as to the progress of the Work in accordance with such Project Schedule Update (including information concerning the work of each of the Subcontractors) and the Contractor's expectation of completion in accordance with such Project Schedule Update. The weekly Project Schedule Update shall be a unique file with a unique name, which is a progressed version of the previous update. Such update shall be provided in both hard copy and executable electronic format similar to Project Baseline Schedule. If changes are made to the Project Schedule, by virtue of incorporation of a change order or other reason, the changes must be made independent of progressing the schedule.
- .2. an updated Materials Status Report;
- .3. a listing of the number, amount and status of Field and Change Orders, an outstanding design issues and/or Requests for Information (RFIs) Log, a change proposal status log, and a projected final Cost of the Work;
- .4. a concise written summary, prepared by the Contractor's project manager, outlining significant achievements, problems, and issues that affect the Project progress, quality or cost;
- .5. digital progress photographs; and
- .6. such other information as the Owner shall request from time to time.

Nothing contained in the Weekly Report shall be deemed proper notice under other provisions of the Contract Documents for changes in the Contract Sum or Contract completion dates.

4.8.8. Schedule of Submittals. Within thirty (30) days after the Owner issues the Notice to Proceed, the Contractor shall prepare and keep current, for the Architect's and the Owner's review, a schedule of submittals, which shall be coordinated with the Project Schedule, and which allows the Architect and the Owner reasonable time to review submittals.

4.8.9. Weekly Progress Meetings. The Contractor, including specifically the Project Manager and Superintendent, shall attend weekly progress meetings with the Owner's Representative at the Jobsite, or at such other time and frequency as is acceptable to the Owner's Representative. At each such meeting, progress of the Work shall be reported in detail with reference to the Project Schedule and Project costs. The Contractor shall prepare a two-week look-ahead schedule and one week look back showing, in detail, the schedule of various activities to take place and have taken place on the jobsite during the upcoming two-week period and previous one-week period. Each Subcontractor whose work is to be reported on or may be affected by the work of others shall be required to send to such meetings a competent representative to report the condition of such Subcontractor's work and to receive information and instructions.

#### **Section 4.9 Documents and Samples at the Jobsite.**

4.9.1. Record Copy of Certain Contract Documents. The Contractor shall maintain at the site for the Owner one record copy of all Drawings, Specifications, Addenda, Change Orders and other Modifications including Architect's responses to RFIs, in good order and marked currently to record all changes and selections made during construction, and, in addition, approved Shop Drawings, Product Data, Samples and similar submittals. These shall be available to the Owner and the Architect and shall be delivered to the Owner in duplicate upon completion of the Work, accompanied by a certificate of the Contractor that they show accurate and complete "as-built" conditions, stating sizes, kind of materials, vital piping and conduit locations, and similar matters. The final set of record documents shall be furnished to the Owner in form satisfactory to the Owner, as a condition to Final Payment.

4.9.2. Approved Permit Drawings. The Contractor shall maintain all approved permit drawings in a manner so as to make them accessible to the Owner, governmental inspectors and other authorized agencies. All approved or permit drawings shall be in properly labeled packages and delivered to the Owner within thirty (30) days of Final Completion of the Work.

#### **Section 4.10 Shop Drawings, Product Data and Samples.**

4.10.1. "Shop Drawings" Defined. "Shop Drawings" are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

4.10.2. "Product Data" Defined. "Product Data" are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate a material, product or system for some portion of the Work.

4.10.3. "Samples" Defined. Samples are physical examples which illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

4.10.4. Shop Drawings, Product Data and Samples Not Contract Documents. Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. The purpose of these submittals is to demonstrate for those portions of the Work for which submittals are required the way the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents.

4.10.5. Review by Contractor. The Contractor shall prepare, review, and submit, with reasonable promptness and in such sequence as to cause no delay in the Work or in the work of the Owner or any separate contractor, all Shop Drawings, Product Data and Samples required by the Contract Documents. By such review and submission the Contractor represents that it has determined and verified the acceptability and conformity of all materials, field measurements and field construction criteria related

thereto, and that it has checked and coordinated information contained within such submittals with the requirements of the Work and of the Contract Documents.

4.10.6. Approval by Architect. The Contractor shall perform no portion of the Work requiring submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittals has been approved by the Architect. Such Work shall be in accordance with approved submittals.

4.10.7. Deviations from Contract Documents. The Contractor shall not be relieved of responsibility for any deviation from the requirements of the Contract Documents by the Owner or Architect's approval of Shop Drawings, Product Data or Samples or similar submittals unless the Contractor has specifically informed the Architect in writing of such deviation at the time of submission and the Architect has given written approval of the specific deviation. The Contractor shall not be relieved from responsibility for errors or omissions in the Shop Drawings, Product Data or Samples by the Owner or Architect's approval thereof.

4.10.8. Contractor's Attention to Revisions. The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data or Samples or similar submittals, to revisions other than those requested by the Architect on previous submittals.

4.10.9. Requirements for Submittal. Shop Drawings and Product Data for architectural, structural, mechanical and electrical work shall be electronically submitted by the Contractor in Portable Document Format (PDF) to the Architect for approval and electronically copying the Owner's Representative. Samples shall be provided directly to the Architect as required.

The Contractor shall check the Submittal of its suppliers and Subcontractors as well as its own Submittals before submission. In particular, Contractor shall ascertain that submittals meet all the requirements of the Contract Documents and conform to the structural and space conditions. If Submittals show variations from Contract Documents, whether because of standard shop practice or other reasons the Contractor shall make special mention thereof in transmittal to the Architect.

When corrections are necessary, the submittal with corrections noted will be returned electronically to the Contractor, with copy to Owner, for their records. The Contractor shall then submit a corrected submittal, repeating the process until the submittal is complete and correct to the satisfaction of the Architect and the Owner's Representative. The approved submittal then will be returned to the Contractor. The Contractor shall furnish and distribute the approved submittal for the use of the various trades at the Jobsite.

4.10.10. Operating and Maintenance Data. The Contractor shall assemble for the approval by the Architect and/or Owner all operating and maintenance data and installation manuals from all manufacturers whose equipment is installed in the Work, and shall submit such information to the Owner in electronic form satisfactory to the Owner as a precondition to final payment. The Contractor shall also prepare a checklist or schedule showing the type of lubricant, filters and other consumables to be used at each point of application, and the intervals between lubrication, filter and other consumables changes for each item of equipment. Such lists or schedules shall be typewritten or printed and bound in folios with each page or chart protected by a transparent plastic envelope or cover. Three such folios shall be submitted to the Architect for approval and transmittal to the Owner.

## **Section 4.11 Use of Site.**

4.11.1. Confinement of Contractor's Operations. The Contractor shall confine operations at the Jobsite to areas permitted by law, ordinances, permits and the Contract Documents, and shall not unreasonably encumber the Jobsite with any materials or equipment.

4.11.2. Access to Neighboring Properties. The Contractor shall assure free, safe, convenient, unencumbered and direct access to properties neighboring the Jobsite for the owners of such properties and their respective tenants, agents, invitees and guests.

4.11.3. Contractor Signs. The Contractor and Subcontractor shall not erect any sign on the Project site without the prior written consent of the Owner. Any such sign must comply with the Construction Documents and with all applicable laws, rules, codes and regulations, at the sole cost of the Contractor.

4.11.4. Project Sign. The Project sign will be constructed in accordance with Owner's Project Sign standards, delivered and installed by separate contract

4.11.5. Utility Service. The Contractor shall not interrupt utility service to the Jobsite or to adjacent sites. If the Contractor is required to interrupt utility services to perform its Work, Contractor shall coordinate such interruption with the utility provider, the Owner and any affected adjacent owners or tenants so as to avoid any damage to the Owner. ~~Notwithstanding anything to the contrary contained in the Contract Documents, Unless required to perform the work according to this agreement.~~ Contractor shall not interrupt utility service during business hours for any reason and Contractor shall pay any outage fee and/or premium or overtime charges along with any costs caused by or associated with improper execution of the outage as part of the Owner/Contractor Agreement.

4.11.6. Logistics Plan. Within fifteen (15) days after the execution of this Agreement, the Contractor will prepare for the Owner's review and the Contractor's use a logistics plan for efficient and effective use of the Project site and for secure storage of materials and equipment by the Contractor and all Subcontractors. Once approved by the Owner this logistics plan must be approved by the authority having jurisdiction (if required). In addition, it will be the Contractor's responsibility to assist the Owner in obtaining agreements from adjacent landowners where necessary for the construction of the Project (including but not limited to approvals necessary for operation of a tower crane if required).

#### **Section 4.12 Cutting and Patching of Work.**

4.12.1. Cutting and Patching by Contractor. The Contractor shall be responsible for all cutting, fitting or patching that may be required to complete the Work or to make its several parts fit together properly.

4.12.2. Effect on Other Work. The Contractor shall not damage or endanger any portion of the Work or other work of the Owner, tenants or any separate contractors by cutting, patching or otherwise altering any work, or by excavation. The Contractor shall not cut or otherwise alter the work of the Owner, its tenants or any separate contractor except with the written consent of such parties. The Contractor shall not unreasonably withhold from the Owner or a separate contractor the Contractor's consent to cutting or otherwise altering the Work.

#### **Section 4.13 Cleaning Up.**

4.13.1. Premises to Be Kept Clean. The Contractor at all times shall keep the premises free from accumulation of waste materials or rubbish caused by its operations, including any hazardous materials brought to the Project by the Contractor. At the completion of the Work, the Contractor shall remove all waste materials and rubbish from and about the Project as well as all its tools, construction

equipment, machinery and surplus materials. The Contractor shall maintain streets, sidewalks and temporary means of access or passage around the Jobsite in a clean and safe condition. The Contractor shall remove all spillage and tracking arising from the performance of the Work from such areas, and shall establish a regular maintenance program of sweeping and hosing to minimize accumulation of dirt and dust upon such areas. The Contractor will ensure that the project site and areas affected around the site will be cleaned on a daily basis.

4.13.2. Cleaning and Maintenance. If, after notice is given to the Contractor's Representative that the site is not properly cleaned or maintained, the Contractor does not take immediate corrective action, the Owner may take corrective action at the Contractor's sole cost and expense. If any fines or penalties are assessed to the Owner as a result of the Contractor's failure to keep a clean and maintained site, the Contractor will promptly reimburse the Owner for the entire cost plus a 10% administration fee.

4.13.3. Final Cleaning. In addition to general broom cleaning, the Contractor shall perform the final cleaning for all trades at completion of the Work in accordance with the following, unless otherwise provided in the Specifications:

- .1. remove temporary protections;
- .2. remove marks, stains, fingerprints and other soil or dirt from glass and from painted, decorated, and natural finished woodwork and other work;
- .3. remove spots, mortar, plaster, soil and paint from all finish floor and wall materials and wash or wipe clean;
- .4. clean fixtures, cabinetwork and equipment, removing stains, paint, grime and dust and leave same in an undamaged and new condition;
- .5. clean aluminum in accordance with recommendations of the manufacturer;
- .6. clean resilient floors thoroughly with a well rinsed mop containing only enough moisture to clean off any surface dirt or dust and buff dry by a machine to bring the surfaces to sheen; and
- .7. power sweep and flush all on-site and offsite roadway, pavement and parking areas and pressure wash all curbs.

**Section 4.14 Royalties and Patents.** The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is specifically required by the Contract Documents. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished in writing to the Architect and the Owner.

**Section 4.15 Indemnification.**

4.15.1. Indemnity by Contractor. To the fullest extent permitted by law, the Contractor shall indemnify, reimburse, hold harmless, and defend the Owner and its lender, the Owner's project and/or development manager, the Architect, Architect's consultants, and all of their agents, employees, consultants, parent subsidiaries or affiliated companies, partners, successors and assigns (the "Indemnified Parties") from and against claims, damages, losses and expenses, including, but not limited

to, attorneys' fees, arising out of or resulting from performance of the Work, a breach of the Owner/Contractor Agreement or a violation of applicable laws, codes or ordinances, if caused by the negligent acts or omissions or willful misconduct of the Contractor, a Subcontractor, a Sub-Subcontractor, a material or equipment supplier, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable; provided, however, that as required by Section 2782 of the California Civil Code, this Section shall not require the Contractor to indemnify the Indemnified Parties against liability for damages for death or bodily injury to persons, injury to property, or any other loss, damage or expense arising from the sole negligence or willful misconduct of the Indemnified Parties who are directly responsible to the Contractor. Such obligations set forth in this Section shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person. If the Work is to be performed in a state that prohibits any part of the indemnity coverage contained herein, the Contractor shall provide the maximum indemnity coverage allowed by that state to each of the Indemnified Parties. Contractor's liability insurance shall be primary as to any coverage maintained by Owner. The Contractor shall indemnify, hold harmless (including attorney's fees and legal expenses) and defend the Owner and the Owner's lenders, if any, from and against any assertion of lien claims by Subcontractors, Sub-subcontractors, material or equipment suppliers and against any assertion of security interests by suppliers of goods or materials, provided Owner has made all undisputed payments in accordance with the terms of the Contract Documents. The Contractor shall bond off or otherwise discharge any lien filed against the Project within ten (10) days of written demand by the Owner, whether or not the Contractor believes the claim is valid, provided the Contractor has been paid all undisputed amounts in accordance with the Owner/Contractor Agreement.

Without limitation of the foregoing, to the fullest extent permitted by law, the Contractor specifically agrees to indemnify, defend and hold harmless the Indemnified Parties from and against all claims, damages, losses and expenses, including, but not limited to, attorneys' fees, arising out of any violation of any applicable labor and wage laws, including, without limitation, California Assembly Bill 1897 (2014) (the "Labor/Wage Laws") in connection with the Work. The Contractor shall provide to Owner, prior to commencement of the Work, a copy of a valid certificate of worker's compensation coverage or any other insurance required under the Labor/Wage Laws and such other documentation as may be required by the Owner to evidence the Contractor's compliance with the Labor/Wage Laws. The Contractor covenants, represents and warrants to Owner that in carrying out the Work the Contractor shall comply at all times with the Labor/Wage Laws.

4.15.2. Indemnity to Survive Agreement. This Section 4.15 and all indemnities in this Agreement, including the above indemnity and all other indemnity provisions, shall survive the termination or completion of this Agreement.

4.15.3. No Limitation. In claims against any person or entity indemnified under this Section 4.15 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Section 4.15 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

4.15.4. Architect's Negligence Not Covered by Indemnity. The obligations of the Contractor under this Section 4.15 shall not extend to the liability of the Architect, the Architect's consultants, other Owner's consultants, and the agents and employees of any of them arising out of their negligence.

**Section 4.16 Contractor Representations.** The Contractor represents and warrants the following to the Owner (in addition to the other representations and warranties contained in the Contract Documents) as an inducement to the Owner to execute the Owner/Contractor Agreement which

representations and warranties shall survive the execution and delivery of the Owner/Contractor Agreement and the final completion of the Work:

- .1. that he and, to the best of his knowledge, his Subcontractors are financially solvent and authorized to do business in the State where the Project is located and properly licensed by all necessary governmental and public and quasi-public authorities having jurisdiction over him and over the Work and the site of the Project;
- .2. that his execution of the Owner/Contractor Agreement and his performance thereof is within his duly authorized powers;
- .3. that his duly authorized representative has visited the site of the Work, familiarized himself with the local conditions under which the Work is to be performed (to the extent possible by visual observations and measurement) and correlated his observations with the requirements of the Contract Documents; and
- .4. the Contractor and, to the best of Contractor's knowledge, his Subcontractors possess the level of expertise, skill and experience necessary for the type of work each is to perform in connection with this Project.

**Section 4.17 Employment Requirements.** The Contractor and his Subcontractors shall comply with all applicable laws, ordinances, rules, regulations and orders of any public authority relating to the terms and conditions of employment of any employee who is employed in connection with the work to be performed under the Owner/Contractor Agreement, including without limitation, the applicable provisions of the Fair Labor Standards Act, the Fair Employment Practice Law and the Equal Pay Act. The Contractor or his Subcontractors shall not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin to the extent permitted by law. The Contractor shall afford equal employment opportunities without discrimination because of race, creed, color, sex or national origin. Such action shall be taken with respect, but not limited to, recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, lay-off, termination, rates of pay or other forms of compensation and selection for training including apprenticeship or on-the-job training.

**Section 4.18 OSHA Requirements.** The Contractor and his Subcontractors shall comply with regulations of the Occupational Safety and Health Administration ("OSHA") which compliance shall include as may be relevant appealing decisions, performing corrective work on the Work within abatement periods when work has been done by subcontractors and furnishing such supporting information or material as may be necessary to fully protect the rights of the Owner and Subcontractors on pending or prospective violation orders. The Contractor is solely responsible for safety of his and his subcontractors' Work; the Owner assumes no safety responsibility for the Work. The Contractor is solely responsible for any fines or penalties levied by OSHA due to the Contractor's negligence.

## **Article V** **SUBCONTRACTORS**

### **Section 5.1 Definitions.**

5.1.1. "Subcontractor". A "Subcontractor" is a person or entity who has a direct contract with the Contractor to perform any of the Work at the site, or to supply labor, services, materials or supplies for the Project. The term Subcontractor is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or its authorized representative. The term Subcontractor does not

include any separate contractor having its own direct contractual relationship with Owner or its subcontractors.

5.1.2. “Sub-subcontractor”. A Sub-subcontractor is a person or entity at any tier who has a direct or indirect contract with a Subcontractor to perform any of the Work at the site. The term Sub-subcontractor is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative thereof.

## **Section 5.2 Award of Subcontracts and Other Contracts.**

5.2.1. Award Procedure. Unless and to the extent otherwise required by the Contract Documents, Subcontractors and Sub-subcontractors shall be chosen and written contracts awarded to them in accordance with the provisions of this Article 5. ~~For Guaranteed Maximum Price Contracts, each subcontract to be awarded, unless otherwise agreed by the Owner in writing, shall be based on the Contractor obtaining complete competitive bids from not fewer than three (3) qualified Subcontractors (such qualification to be determined by Contractor, subject to the approval of Owner). The Contractor will provide the Owner with a detailed analysis of the competitive bids and the Contractor and the Owner shall determine which bids will be accepted. The subcontract bids received for each separate trade shall be presented to the Owner with a complete, detailed spreadsheet analysis of the bids, inclusive of any Contractor or subcontractor additions, exclusions or qualifications, Contractor’s detailed estimate or allowance for Scope of Work not included with in the Subcontractor bid, and with a written recommendation to the Owner as to the lowest qualified bidder. The Owner may require contractor to obtain additional bids if the minimum three (3) bids provided are in the Owner’s sole judgment not competitive. The Contractor, as soon as practicable after the execution of the Owner/Contractor Agreement, shall furnish to the Owner and the Architect in writing the names of the persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each of the principal portions of the Work. The Owner will, within a reasonable period of time, reply to the Contractor in writing stating whether or not the Owner, after due investigation, has reasonable objection to any such proposed person or entity. Failure of the Owner to reply promptly shall constitute notice of no reasonable objection. For Guaranteed Maximum Price Contracts, copies of all bids or other proposals from proposed Subcontractors and Sub-subcontractors shall be submitted to the Owner for review. Contractor shall subcontract to the approved Subcontractor for Scope and Cost of the approved Subcontract bid proposal. All Subcontractors and Sub-subcontractors shall be subject to the approval of Owner’s lender, if any.~~

5.2.2. Objections. The Contractor shall not contract with any such proposed person or entity to whom the Owner or the Architect has made reasonable objection under the provisions of Section 5.2.1.

5.2.3. Substitutions. As to Guaranteed Maximum Price Contracts, if the Owner or the Architect has reasonable objection to any such proposed person or entity and the Owner directs the acceptance of a Subcontractor’s bid in excess of the bid recommended by the Contractor for the same work, such excess shall be treated as a change in the Work, the Guaranteed Maximum Price shall be increased or decreased by the difference in cost occasioned by such substitution, and an appropriate Change Order shall be issued. However, no increase in the Guaranteed Maximum Price shall be allowed for any such substitution unless the Contractor has acted promptly and responsively in submitting names as required by this Section 5.2.

5.2.4. Objections to Substitutions. The Contractor shall make no substitution for any Subcontractor, person or entity previously selected if the Owner makes reasonable objection to such substitution.

5.2.5. Subcontractor Financial Solvency. The Contractor warrants that, to the best of its ability, the subcontractors it intends to hire to perform Work at the Project are financially solvent and authorized to conduct business in the state where the project is located and properly licensed by all necessary governmental, public and quasi-public authorities having jurisdiction over the Work and site of the Project.

### **Section 5.3 Subcontractual Relations.**

5.3.1. Nature of Subcontractor's Obligations. By an appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by the terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by the Contract Documents, assumes toward the Owner and the Architect. Said agreement shall preserve and protect the rights of the Owner and the Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that the subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the Contractor-Subcontractor Agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with his Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the Subcontract, copies of the Contract Documents to which the Subcontractor will be bound by this Section 5.3, and identify to the Subcontractor any terms and conditions of the proposed subcontract agreement which may be at variance with the Contract Documents. Each Subcontractor shall similarly make copies of such Documents available to its Sub-subcontractors. ~~For Guaranteed Maximum Price contracts, the Owner may require Contractor to furnish copies of executed subcontracts and purchase orders, including prices.~~

5.3.2. Subcontract Requirements. Notwithstanding any provision of Section 5.3.1, any part of the Work performed for the Contractor by a Subcontractor or its Sub-subcontractor shall be pursuant to a written subcontract between the Contractor and such Subcontractor (or the Subcontractor and its Sub-subcontractor at any tier), which shall be prepared on a form of subcontract satisfactory to the Owner. Each such subcontract shall, where the context so requires, contain provisions that:

- .1. require such Work to be performed in accordance with the requirements of the Contract Documents;
- .2. unless covered by Builders Risk waive all rights the contracting parties may have against one another or that the Subcontractor may have against the Owner for damages caused by fire or other perils covered by the insurance described in the Contract Documents;
- .3. require the Subcontractor to carry and maintain insurance coverage in accordance with the requirements of the Contract Documents, and to file certificates of such coverage with the Contractor;
- .4. require the Subcontractor to submit certificates and waivers of liens for Work completed by it and by its Sub-subcontractors as a condition to the disbursement of the progress payment next due and owing, and on the forms referenced in the Contract Documents;
- .5. require submission to the Contractor or the Subcontractor, as the case may be, of applications for payment in a form approved by the Owner, and which provide for ten percent (10%) retainage, together with clearly defined invoices and

billings supporting all such applications, as required by Owner, under each subcontract to which the Contractor is a party;

- .6. require the Subcontractor to furnish, so far as practicable, unit prices and any other formulae for use in the determination of costs of changes in the Work;
- .7. require the Subcontractor to furnish to the Contractor in a timely fashion all information necessary for the preparation and submission of the reports required herein;
- .8. require that each Subcontractor continue to perform under its subcontract in the event the Owner/Contractor Agreement is terminated and the Owner shall request such Subcontractor to continue such performance;
- .9. require each Subcontractor to maintain its records in accordance with the provisions of the Owner/Contractor Agreement, and to permit the Owner to exercise as to each such Subcontractor the audit rights granted under the Owner/Contractor Agreement, and to otherwise audit "time and material" and overtime costs to be charged to the Project as permitted herein;
- .10. require the Subcontractor to agree to any relevant unit prices set forth in the Contract Documents;
- .11. require each Subcontractor to abide by any applicable federal, state law, ordinance, or regulation, including, without limitation, laws with respect to equal employment opportunity and similar matters; and
- .12. require each Subcontractor to waive trial by jury in any action, proceeding, or counterclaim involving any matter whatsoever arising out of or in any way connected with the Project.

5.3.3. Contract with Affiliates. The Contractor shall not enter into any subcontract, contract, agreement, purchase order, lease or other arrangement ("Arrangement") for the furnishing of any portion of the materials, services, equipment or Work with any party or entity if such party or entity is an Affiliated Contractor Entity (as defined below), unless such Arrangement has been approved in advance by the Owner, after full disclosure in writing by the Contractor to the Owner of such affiliation or relationship and all details relating to the proposed Arrangement. The term "Affiliated Contractor Entity" means any entity related to or affiliated with the Contractor or with respect to which the Contractor has direct or indirect ownership or control, including, without limitation, any entity owned in whole or part by the Contractor; any holder of more than 10% of the issued and outstanding shares of, or the holder of any interest in, the Contractor; any entity in which any officer, director, employee, partner or shareholder (or member of the family of any of the foregoing persons) of the Contractor or any entity owned by the Contractor has a direct or indirect interest, which interest includes, but is not limited to, that of a partner, employee, agent or shareholder.

**Section 5.4 Contingent Assignment of Subcontracts.** Each subcontract agreement for a portion of the Work is hereby assigned by the Contractor to the Owner provided that:

5.4.1 such assignment is effective only after termination of the Owner/Contractor Agreement by the Owner pursuant to Article 13, and only for those subcontract agreements which the Owner accepts by notifying the Subcontractor in writing at the time Owner desires such assignment; and

5.4.2 such assignment is subject to the prior rights of the surety, if any, obligated under any bond relating to the Owner/Contractor Agreement; and

5.4.3 the Owner may further assign such subcontract agreements to another general contractor.

**Section 5.5 Labor Issues.** The Contractor shall be responsible for managing and endeavoring to resolve all labor disputes resulting from the performance of the Work. To the extent any labor union disputes the use of any non-union trade on the Project retained by the Contractor or any Subcontractor, the Contractor shall be responsible for responding to all union demands and actions in accordance with applicable laws and for managing the resolution of any such dispute ~~and shall indemnify, defend and hold harmless Owner from and against any claims and demands asserted against Owner in connection therewith. The Guaranteed Maximum Price or Contract Sum, and Contract Time, shall not be subject to adjustment due to cost incurred by the Contractor or delays in the Work arising from the Contractor's or any Subcontractor's use of any non-union trade in the performance of the Work, and the Contractor shall bear all costs associated with responding to any resulting union action and shall endeavor in good faith and with reasonable diligence to resolve any disputes or otherwise respond to any resulting union action so as to minimize any disruption in the Work.~~

## **Article VI**

### **WORK BY OWNER OR BY SEPARATE CONTRACTORS**

#### **Section 6.1 Owner's Right to Perform Work and to Award Separate Contracts.**

6.1.1. Reservation by Owner. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site.

6.1.2. Meaning of "Contractor" in Separate Contracts. When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

6.1.3. Coordination of Activities. The Owner, at its option, either (i) shall provide for coordination of the activities of the Owner's own forces and of each separate contractor (or tenant contractor) with the Work of the Contractor, who shall cooperate with them or (ii) shall require that the Contractor provide for such coordination, which the Contractor shall perform when directed by Owner to do so as part of the Contract Sum or Guaranteed Maximum Price. The Contractor shall participate with other separate contractors and the Owner in reviewing their construction schedules and performance requirements when directed to do so. The Contractor shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement with Owner. The construction schedules shall then constitute the schedules to be used by the Contractor, separate contractors and the Owner until subsequently revised. This Section shall not affect milestone, substantial or final completion dates required by the Contract Documents, which can only be modified by written Change Order signed by both parties.

#### **Section 6.2 Mutual Responsibility.**

6.2.1. Coordination with Owner and Separate Contractors. The Contractor shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

6.2.2. Reporting of Discrepancies. If part of the Contractor's Work depends upon proper execution of construction or operations by the Owner or a separate contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Owner in writing apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acknowledgment that the Owner's or separate contractors' completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to latent defects not then reasonably discoverable.

6.2.3. Delay Cost. Costs caused by unforeseen delays in the critical path activities of the Work, or by improperly timed activities or defective construction, shall be borne by the party responsible therefor.

6.2.4. Damage to Construction or Property of Owner or Separate Contractors. The Contractor shall promptly remedy damage caused by the Contractor to completed or partially completed construction, or to property of the Owner or separate contractors as provided in Section 9.2.5.

6.2.5. Disputes Regarding Damage to Work or Property of Separate Contractors. If any separate contractor claims or alleges that the Contractor has caused damage to the work or property of such separate contractor, the Contractor shall promptly attempt to resolve the dispute with the separate contractor. Provided, however, the Contractor shall immediately repair any damage caused if necessary to ensure that no further damage will be caused. If the Contractor fails to make such repairs, then the Owner may make such repairs at the Contractor's expense. ~~If any separate contractor initiates legal or any other proceedings against the Owner on account of any damage alleged to have been caused by the Contractor, the Owner shall notify the Contractor, who shall defend such proceedings at its own expense, and if any judgment or award against the Owner arises therefrom, the Contractor shall pay or satisfy it and shall reimburse the Owner for all attorneys' fees and court or other costs which the Owner has incurred over and above those paid for directly by the Contractor.~~

6.2.6. Same Responsibilities for Owner and Separate Contractors. The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 4.12.

6.2.7. Owner's Right to Clean Up. If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish as described in Section 4.14, the Owner may clean up and allocate the cost among those responsible as the Owner reasonably determines to be just and equitable.

## **Article VII** **TIME**

### **Section 7.1 Definitions.**

7.1.1. "Contract Time". Unless otherwise provided, "Contract Time" is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work, and/or any other milestones established by the Contract Documents.

7.1.2. Date of Commencement of Work. The date of commencement of the Work is the date established in the Owner/Contractor Agreement or as otherwise directed in writing by the Owner.

7.1.3. Date of Substantial Completion. The date of Substantial Completion of the Work or designated portion thereof is the date established pursuant to the provisions of Section 8.4.

7.1.4. “Day”. The term “day” as used in the Contract Documents means calendar day, unless otherwise expressly defined on the Contract Documents.

## **Section 7.2 Progress and Completion.**

7.2.1. Time of Essence. Time limits stated in the Contract Documents are of the essence of the Owner/Contractor Agreement. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work. The Contractor acknowledges that the Owner is building this project to rent or sell to tenants and the Owner will receive substantial rental or sale income from the tenants. The Contractor also acknowledges that developing, building, and leasing buildings such as the Project is the primary business of the Owner. As such, TIME FOR SUBSTANTIAL COMPLETION AND FINAL COMPLETION IS OF THE ESSENCE. In the event the Contractor does not achieve Substantial Completion and/or Final Completion of the Project by the Scheduled Completion Date, the Owner will incur substantial damages in the form of lost rental income and other charges and expenses under the leases with the Owner's tenants. All damages for Contractor's failure to achieve Substantial Completion and/or Final Completion of the Project by the Scheduled Completion Date shall be as provided in Owner/Contractor Agreement.

7.2.2. Premature Commencement. The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence operations on the Jobsite or elsewhere prior to the effective date of insurance required of the Contractor by the Owner/Contractor Agreement. The date of commencement of the Work shall not be changed by the effective date of such insurance. Unless the date of commencement is established by a Notice to Proceed given by the Owner, the Contractor shall notify the Owner in writing not less than five days (or longer if Owner so requires) before commencing the Work, so as to permit the timely filing of mortgages and other security interests.

7.2.3. Commencement and Completion. The Contractor shall begin the Work on the date of commencement, shall thereafter proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time, and shall achieve any milestone dates or other completion dates referenced in the Contract Documents.

## **Section 7.3 Delays and Extensions of Time.**

7.3.1. Extensions of Time. If the critical path activities of the Work are materially delayed, as shown by a contemporaneous time impact analysis of the current updated Project Schedule, at any time by the willful misconduct or gross negligence of the Owner or Architect, or of an employee of either, or of a separate contractor employed by the Owner, or by changes ordered in the Work, as reflected in Change Orders approved by the Owner that provide for the Contract Time to be extended, or by economic industry-wide strikes, unavoidable casualties, armed conflict (with or without declaration of war) involving the United States of America or other causes beyond the Contractor's control, and which could not have been anticipated by Contractor, then the Contract Time shall be equitably adjusted by Change Order. In the event of delay to the critical path activities of the Work caused by the Owner, the Architect, or the employees or agents of either, Contractor shall be entitled to an adjustment in the Contract Sum or Guaranteed Maximum Price, but only for those additional field overhead costs actually incurred as a result of delay to the critical path activities of the Work. Contractor specifically waives all claims for indirect or consequential damages, including but not limited to extended home office overhead, stacking of trades, labor inefficiencies, lost profits and/or bonding capacity resulting from any delay claim.

7.3.2. Claims for Increase in Contract Time. If the Contractor wishes to make a claim for an increase in the Contract Time, written Notice as provided herein shall be given within seven (7) days after occurrence of the event giving rise to the delay. After providing such notice of claim, Contractor shall maintain daily reports of all labor, equipment and materials it intends to submit as part of the Claim and

provide copies of these daily reports to Owner on not less than a weekly basis. Contractor shall take action to minimize the amount of cost and expenses associated with any down time. Failure to strictly comply with this reporting requirement shall be deemed a waiver of all the portion of the claim for which such daily reports were not provided. Contractor shall submit its claim (including evidence supporting a delay in the critical path activities of the Work) within thirty (30) days of the notice set forth above, and if such notice or claim is not provided in writing within the time required in this Section, any claim shall be deemed waived by the Contractor. The Contractor's claim shall include an estimate of cost and a contemporaneous time impact analysis of the current updated Project Schedule showing the probable effect of delay on progress of the Work. Notwithstanding anything else contained elsewhere in the Contract Documents, Contractor's entitlement to additional compensation for any claims to increase Contract Time shall be limited to direct additional costs, plus mark-up not to exceed 5% for work directly performed by the Contractor and in the aggregate not more than 10% for all work performed by the Contractor and its various subcontractors at any tier level. In the case of a continuing delay only one claim is necessary. Contractor shall not rely on any purported verbal waiver of this provision. For purposes of this Section, notice of claims shall be provided to the Owner as required by the Owner/Contractor Agreement, and notice of claims provided by other means, such as by e-mail or meeting minutes, shall not constitute sufficient notice. Any disputes between the parties as to a claim for an increase in the Contract Time shall be handled in accordance with the procedure set forth in Article 17 below.

7.3.3. Adverse Weather Conditions. If adverse weather conditions are the basis for a claim for additional time, such claim shall be documented by data substantiating that weather conditions materially deviated from the customary and normal seasonal conditions for the Contract Time, based on historical data specific to the geographic location of the Project, and that weather conditions had a materially adverse effect on the critical path activities of the Work. Time only extensions may be granted for bona fide delays to the critical path caused by adverse weather.

## **Article VIII** **PAYMENTS AND COMPLETION**

### **Section 8.1     Schedule of Values.**

8.1.1. Payment System. Payment shall be made in accordance with the provisions of this Agreement and specifically Exhibit H to the Agreement. To the extent that Exhibit H conflicts with any other provision of this Agreement, Exhibit H shall control. To the extent that Exhibit H does not apply to a particular payment or is silent as to a particular issue or situation, the procedure delineated below shall apply.

8.1.2. Schedule of Values Preparation. The Contractor will prepare and submit, for approval by the Owner, twenty (20) days prior to submission of the first Application for Payment a schedule of values (i.e., trade and materials breakdown) allocated to various portions of the Work in the form approved by Owner. This schedule shall be used as a basis for reviewing the Contractor's Application for Payment. The schedule of values shall not be revised without the written consent of the Owner. This consent shall not be unreasonably withheld and the Schedule of Values shall be adjusted from time to time to reflect the actual costs of the various portions of the Work not to exceed the Contract Sum. The Contractor agrees the Schedule of Values is used strictly for payment purposes. The Schedule of Values is not an acceptance and/or agreement by the Owner that certain work is included or excluded from the Contract Documents. As an alternative, the schedule of values may be in the form of a cost-loaded CPM project schedule, if approved by Owner. If it is intended that the wages or salaries of certain personnel stationed at the Contractor's principal or other offices shall be included in the Contract Sum, the personnel

to be included, whether for all or only part of their time, and the rates at which their time will be charged to the Work.

8.1.3. Trade Payment Breakdown. Before the first Application for Payment and with each Application thereafter each Subcontractor (as required by Owner) and the Contractor for any of the Work performed by his company shall prepare and submit to the Contractor (who shall in turn submit it to the Owner and Architect), a trade payment breakdown following the format of the Contractor's schedule of values for that portion of the Work to be performed by him. The form shall show in sufficient detail by convenient units:

- .1. Description of work;
- .2. Total value based upon the subcontract (or contract) sum;
- .3. Percentage of work completed to date;
- .4. Value of work completed to date based upon percentage of completion;
- .5. Percentage of subcontract (or contract) amount previously billed;
- .6. Previous amount billed;
- .7. Percentage completed this request; and
- .8. Value of work completed this request based upon percentage of completion.

A trade payment breakdown which does not include sufficient detail or reflects unbalancing or "front-loading" of the value of the Work may be rejected by the Owner. Notwithstanding that a trade payment breakdown has been initially approved and subsequently used, but later found improper for any reason, sufficient funds will be withheld (without accruing interest thereon) from future partial request for payment to insure adequate reserves (including retainages) to complete the Work. Any reserve shall be disbursed at the same time as the remaining retainage hereunder.

## **Section 8.2 Applications for Payment.**

8.2.1. Time for Submission, Disputes with Subcontractors. Applications for Payment shall be submitted by Contractor to Owner from time to time, as provided in the Owner/Contractor Agreement. Such applications may not include requests for payment of amounts the Contractor does not intend to pay to a Subcontractor or material supplier because of a dispute or other reason.

8.2.2. Payment for Materials and Equipment. Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work, with the approval of the Owner. If approved in advance by the Owner, in its sole discretion, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon Owner's lender agreeing to advance funds for such stored materials, compliance by the Contractor with procedures satisfactory to the Owner and its lender to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include applicable insurance, storage and transportation to the site for such materials and equipment stored off the site. ~~The Contractor shall submit, within thirty (30) days after the date of commencement of the Work and thereafter as the Owner requires, schedules of materials and equipment for each category or subcontract for which application for payment will be made, which schedules shall include items,~~

~~quantities, value or unit prices with extensions, and the month in which Application for Payment with respect thereto is expected to occur. Schedules shall be updated on a monthly basis and submitted as a necessary attachment to the Contractor's Application for Payment and such submission shall be a condition precedent to processing the Application for Payment.~~

8.2.3. Warranties Deemed Included in Application for Payment. By submitting any Application for Payment, the Contractor shall be deemed to warrant that title to all Work covered by such Application for Payment passes to the Owner at the time of the Application for Payment, and that all Work for which payments theretofore shall have been received from the Owner is free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

### **Section 8.3 Progress Payments.**

8.3.1. Amounts and Times Governed by Owner/Contractor Agreement. Progress payments shall be made by the Owner to the Contractor in the amounts and at the times provided in the Owner/Contractor Agreement.

8.3.2. Owner's Right to Refuse to Make Payment. Without limiting any other right or remedy which it may have, the Owner may refuse to make any payment to such an extent as may be necessary, in the Owner's good faith opinion, to protect the Owner from loss because of:

- .1. defective Work not remedied;
- .2. third party claims filed or reasonable evidence indicating probable filing of such claims (Owner may withhold 125% of such claims);
- .3. failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
- .4. reasonable evidence that the Work cannot be completed for the unpaid balance of the Guaranteed Maximum Price or Contract Sum;
- .5. damage to the Owner or another contractor;
- .6. reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance of the Guaranteed Maximum Price or Contract Sum would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7. persistent failure to carry out the Work in accordance with the Contract Documents.

When the above reasons for withholding payment are removed, payment will be made for such amounts withheld.

8.3.3. Payments to Subcontractors. The Contractor shall pay each Subcontractor no later than ten (10) days from receipt of payment from the Owner, out of the amount paid to the Contractor on account of such Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of such Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each

Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in similar manner. ~~If required by the Owner or its lender, if any, the Contractor shall send to the Owner, within five (5) days of receipt of payment from the Owner, copies of checks paid for all items of the Contractor's costs listed in the Application for Payment that were not paid prior to the date on which the Application for Payment was submitted.~~ The Contractor shall have no agreement with any subcontractor or supplier which permits the Contractor to withhold retainage or other sums from its subcontractors and suppliers in excess of those amounts actually withheld or retained by the Owner from the Contractor. It is the intent of this Agreement that the Contractor be obligated to pay its subcontractors and suppliers within ten (10) days following receipt of payment from the Owner for all work to the extent the Owner has paid the Contractor.

8.3.4. No Obligation to See to Payment. Neither the Owner nor the Architect shall have any obligation to pay or to see to the payment of any moneys to any Subcontractor except as may otherwise be required by law. The Owner for cause shall have at any time the right to issue joint checks to subcontractors and suppliers as it, ~~in its sole discretion~~, shall reasonably deem appropriate or necessary, and Contractor agrees to cooperate with Owner in implementing that joint check process as may be required.

8.3.5. Payment Does Not Constitute Acceptance of Work. No Application for Payment, nor any payment on account thereof by the Owner, nor any partial or entire use or occupancy of the Project by the Owner, shall constitute an acceptance of any Work not in accordance with the Contract Documents.

#### **Section 8.4 Substantial Completion.**

8.4.1. Definition of Substantial Completion. The Date of Substantial Completion of the Work or designated portion thereof is the date certified by the ~~Architect and/or~~ Owner when the Work is sufficiently complete in accordance with the Contract Documents so that the Owner could beneficially occupy and utilize the Work or designated portion thereof for the use for which it is intended, without relieving the Contractor of any of its responsibilities under this Owner/Contractor Agreement, and all permits and certificates necessary for such occupancy or utilization have been obtained, provided the permits and certificates are not being withheld because of the act or omission of the Owner, ~~or Architect or other party not within control of Contractor.~~ The Contractor acknowledges that due to the nature of the Project, various portions of the Project (i.e., the "anchor" and the other tenants) may reach Substantial Completion at different times. The Contractor agrees that when only a portion of the Project reaches Substantial Completion, full and complete access shall be provided for the customers/clients of the tenant of that portion of the Project reaching Substantial Completion.

8.4.2. Procedure; Punch List. When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Owner's Representative a comprehensive list of items to be completed or corrected. The Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the Contractor's list, the Owner's Representative and/or the Architect with Owner's approval will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Owner's Representative's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract Documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Owner's Representative. The Contractor shall then submit a request for another inspection by the Owner's Representative to determine Substantial Completion.

8.4.3. Certificate of Substantial Completion. When the Work or designated portion thereof is substantially complete, the Owner's Representative will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all remaining items on the punch list accompanying the Certificate. The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate. The Owner shall be entitled to withhold 150% of the value of the outstanding items at the time of Substantial Completion, in addition to any other retainage that may be held under the Contract Documents.

## **Section 8.5 Partial Occupancy or Use.**

8.5.1. Partial Occupancy. The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the property insurance carrier and authorized by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld.

8.5.2. Joint Inspection. Immediately prior to such partial occupancy or use, the Owner, Contractor and, at Owner's option, Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

8.5.3. Partial Occupancy Does Not Constitute Acceptance of Work. Unless specifically agreed to in writing by the Owner, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

## **Section 8.6 Final Completion and Final Payment.**

8.6.1. Definition of Final Completion. Final Completion shall occur when (i) all Work, including any items not required for Substantial Completion are fully complete in all respects and in accordance with the Contract Documents and (ii) the Contractor has delivered to the Owner the following:

- .1. an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied;
- .2. a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be cancelled, substantially modified or allowed to expire until at least thirty (30) days' prior written notice has been given to the Owner;
- .3. a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents;
- .4. consent of the surety, if any, to final payment;

- .5. if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, final and unconditional releases and waivers of liens, claims, security interests or encumbrances arising out of the Owner/Contractor Agreement, to the extent and in such form as required by the Contract Documents. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees;
- .6. all closeout documents, as-built documents, Owner's manuals, warranties and similar documents required by the Contract Documents;
- .7. all certificates of occupancy or similar approvals relating to the Project;
- .8. verification that all punch lists are fully completed to the Owner's and Architect's satisfaction; and
- .9. Audit and reconciliation of charges.

8.6.2. Delay of Final Completion. If, after Substantial Completion of the Work, Final Completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting Final Completion, and the Owner's Representative and, if requested by Owner, Architect so confirm, the Owner shall, upon application by the Contractor and approval by the Owner's Representative, and without terminating the Owner/Contractor Agreement, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than the retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Owner as a further condition precedent to its entitlement to receive such payment.

8.6.3. Acceptance of Final Payment Constitutes Waiver of Claims by Contractor. Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing in accordance with the terms of the Contract Documents, and identified by that payee as unsettled at the time of final Application for Payment.

8.6.4. Final Completion as Condition Precedent to Final Payment. Final Completion shall be a condition precedent to final payment. No additional invoices or change order requested from the Contractor or its subcontractors will be accepted by the Owner after issuance of final payment. All financial obligations for such invoices will be the responsibility of the Contractor.

Lien Law Requirements. In no event will the Owner be required to issue final payment until all requirements of construction lien laws in the state where the Project is located are satisfied.

**Article IX**  
**PROTECTION OF PERSONS AND PROPERTY**

**Section 9.1 Safety Precautions and Programs.**

9.1.1. Contractor's Responsibility. The Contractor shall be exclusively responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the

performance of the Owner/Contractor Agreement. Coordination of the Contractor's Safety program with the safety programs of other contractors, if any, is the Contractor's sole responsibility.

9.1.2. Discovery of Hazardous Materials. In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl ("PCB"), or any other substance defined as a hazardous material by any federal, state or local authority ("Hazardous Materials"), which has not been rendered harmless, the Contractor shall immediately stop Work in the area affected and report the condition to the Owner in writing. The Contractor shall not report environmental conditions to governmental agencies or any other entity without prior consultation with Owner unless required by law. Except as otherwise provided in Section 9.1.3, the Owner, at its expense, shall be responsible for obtaining the services of a licensed laboratory to verify the presence or absence of the Hazardous Materials reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless. The Work in the affected area shall not thereafter be resumed except by written agreement of the Owner and Contractor if in fact the material is hazardous and has not been rendered harmless. If such work stoppage, due to the presence of Hazardous Material, causes a critical path delay, then a change order may be executed to properly extend the contract performance period for the amount of critical path delay and the field costs associated with such delay. The Work in the affected area shall be resumed immediately following the occurrence of any one of the following events:

- .1. the Owner causes remedial work to be performed which results in the absence of the Hazardous Materials (as defined by federal, state and local laws); or
- .2. the Owner and the Contractor, by written agreement, decide to resume performance of the Work; or
- .3. the Work may safely and lawfully proceed, as determined by an appropriate governmental authority or as evidenced by a written report to both the Owner and the Contractor, which is prepared by an environmental engineer reporting directly to the Owner.

9.1.3. Hazardous Materials for Which Contractor is Responsible. Notwithstanding Section 9.1.2, Contractor shall be solely responsible for the remediation, disposal, and transport of all Hazardous Materials (1) brought to or created at the Site by the Contractor or anyone working under Contractor, or (2) which were pre-existing at the Site but require remediation, disposal or transport due to the negligence of Contractor or Contractor's breach of this Agreement. The Contractor agrees that it shall not utilize or incorporate any material or product containing asbestos, PCBs or other Hazardous Materials, into the Work or bring or permit anyone to bring any such substances to the Project site, and shall indemnify and hold Owner harmless from any claims or damages resulting from a breach of this provision.

## **Section 9.2 Safety of Persons and Property.**

9.2.1. Reasonable Precautions to Prevent Loss to Persons and Property. The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

- .1. employees on the Work and other persons including but not limited to shopping center customers, tenant employees, and delivery persons who may be affected thereby;

- .2. the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and
- .3. other property at the site or adjacent thereto (whether such other property belongs to owner of not), such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

Whenever required by existing conditions and progress of the Work, the Contractor shall shore up, brace, underpin and protect as may be necessary, all foundations and other parts of existing structures, on, adjacent to or adjoining the site, which are in any way affected by its operation.

9.2.2. Compliance with Law. The Contractor assumes all responsibility for complying with all federal, state and local statutes, ordinances, codes, rules and regulations that may apply to the Work, including without limitation by reason of specification, the applicable provisions of the Fair Labor Standards Act, the Fair Employment Practice Law and the Equal Pay Act, and Contractor shall indemnify the Owner against any citation, fine or other loss or damages due to the failure of Contractor or its employees or subcontractors to comply with same. The Contractor and its Subcontractors shall comply with regulations of the Occupational Safety and Health Administration ("OSHA"), which compliance shall include furnishing such supporting information or material as may be necessary to fully protect the rights of the Owner and Subcontractors on pending or prospective violation orders. The Contractor is solely responsible for safety of its and its subcontractors' Work; the Owner assumes no safety responsibility for the Work. The Contractor shall comply with all storm water management requirements of any governmental agency, Owner requirements or any tenant requirements of Owner, including, but not limited to, any EPA requirements applicable to the Project. In addition, the Contractor shall be responsible to the Owner for payment of any fines, penalties and corrective work arising out of Contractor's failure to comply with such requirements.

9.2.3. Signs and Warnings. The Contractor shall erect and maintain, as required by OSHA, local authority, existing conditions and performance of the Owner/Contractor Agreement, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notifying owners and users of adjacent sites and utilities.

9.2.4. Explosives and Other Hazardous Materials. When use or storage of explosives or regulated or Hazardous Materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel, and with prior written approval of the Owner. Contractor is the owner of all Hazardous Materials brought to the Project Site by the Contractor, and shall be strictly liable for such Hazardous Materials while they are being stored, handled or installed at the Project site. The Contractor shall submit Material Safety Data Sheets and other documentation required by the Owner, the Contract Documents or applicable law. The Contractor shall strictly comply with all applicable laws, rules, and regulations relating to environmental matters. The Contractor shall indemnify Owner for any damage, injury or loss arising out of the use of explosives at the Project site.

9.2.5. Contractor to Remedy Damage or Loss. The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents), to property referred to in Sections 9.2.1.2 and 9.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 9.2.1.2 and 9.2.1.3, except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either

of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 4.15.

9.2.6. Designation of Safety Officer. The Contractor shall designate a responsible member of its organization at the site whose duty shall be to monitor and supervise the safety program, and otherwise prevent accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and the Architect.

9.2.7. Overloading of Work. The Contractor shall not load or permit any part of the Work to be loaded beyond its designated capacity.

9.2.8. Protection of Adjoining Property and Persons. Contractor shall protect adjoining private or municipal property and shall provide barricades, temporary fences, and covered walkways required to protect the safety of persons (including invitees and passersby), as required by prudent construction practices, local building codes, ordinances and other laws, and the Contract Documents. Contractor shall prepare and submit to the Owner, for its approval, a site utilization plan showing the location of its on-site office, if any, all perimeter fencing, protected walkways, staging areas and haul roads. Such plan, as same may be amended and updated from time to time by Contractor with Owner's approval, shall be maintained at the Jobsite to reflect current conditions. Owner's right of approval hereunder shall not be deemed to lessen Contractor's responsibility under this Section 9.2.8.

9.2.9. Protection Against Elements. Contractor shall maintain Work, materials and apparatus free from injury or damage from rain, wind, storms, frost or heat. If adverse weather makes it impossible to continue operations safely in spite of weather precautions, the Contractor shall cease Work and notify the Owner and the Architect of such cessation. The Contractor shall not permit open fires on the Project site.

9.2.10. Repair of Damage Resulting from Work. In addition to its other obligations pursuant to this Article 9, the Contractor shall, at its sole cost and expense, promptly repair any damage or disturbance to walls, utilities, sidewalks, curbs and the property of third parties (including municipalities) resulting from the performance of the Work, whether by it or by its Subcontractors or Sub-subcontractors. The Contractor shall maintain streets in a clean good repair and traversable condition. And shall repair damage caused by the work.

9.2.11. Accident Reports. The Contractor shall report in writing to the Owner and the Architect all accidents arising out of or in connection with , the Work which caused death, personal injury or property damage, giving full details and statements of witnesses. In addition, if death or serious personal injury or serious damages are caused, the accident shall be reported immediately by telephone or messenger to appropriate local authority, the Owner and the Architect.

9.2.12. Securing Work. When all or a portion of the Work is to be suspended for any reason, the Contractor and Subcontractor shall cover over and securely fasten down all coverings to protect such work as may be susceptible to damage from any cause.

9.2.13. Fire Protection. The Contractor shall extend the permanent fire protection, if same is to be provided in the Work, within the structure at the earliest date feasible. At all times during construction, the Contractor shall provide a reasonable and code-compliant number of fire extinguishers and other approved fire-fighting devices. Each fire extinguisher and other device shall be conspicuously displayed and clearly marked with instructions for use. The Contractor shall coordinate the logistics plan with the Owner and local Fire Marshal having jurisdiction over the Project.

9.2.14. Roof Traffic. Completed roof surfaces shall not be subjected to traffic nor shall they be used for storage of material. Where such activity must take place on the roof in order to perform the work, adequate protection to the roof shall be provided.

9.2.15. Site Security. The Owner shall not be responsible for reimbursement of any kind for any losses or damages that may occur to the Contractor's tools, materials, equipment, etc. Storage and security of the Contractor's tools, materials, equipment, etc. is the sole responsibility of the Contractor at its sole cost and expense.

9.2.16. Road and Parking Area Traffic. To the maximum extent possible, completed road and parking surfaces shall not be subjected to construction equipment traffic nor shall they be used for storage of material or equipment. Where such activity must take place on final paved areas in order to perform the work, adequate measures, to be approved by owner, to protect to the pavement shall be provided and all damage shall be promptly repaired and surface restored to new condition by Contractor.

**Section 9.3 Emergencies.** In any emergency affecting the safety of persons or property, the Contractor shall act, at its discretion, to prevent threatened damage, injury or loss. Any additional compensation or extension of time claimed by the Contractor on account of emergency work shall be determined in accordance with Article 11.

## **Article X** **INSURANCE**

**Section 10.1 Insurance.** The terms and conditions of all insurance to be provided by Contractor are set forth in the Owner/Contractor Agreement.

### **Section 10.2 Bonds.**

10.2.1. Contractor's Surety Bonds. The Contractor shall provide to the Owner a letter from the Contractor's surety indicating the surety's willingness to issue payment and performance bonds in connection with the Owner/Contractor Agreement, whether or not Owner decides to require payment and performance bonds. If specifically requested by the Owner, Contractor shall furnish to Owner and maintain performance and payment bonds in a form acceptable to Owner. Such bonds shall be issued by a surety reasonably acceptable to Owner, shall name the Owner and its lender (if any) as obligees and shall be in an amount at least equal to the ~~Guaranteed Maximum Price or~~ Contract Sum. All dual obligee rider language is subject to the approval of the Owner and the lender. If required, the Contractor shall deliver the executed, approved bonds to the Owner within seven days after execution of the Owner/Contractor Agreement.

10.2.2. Subcontractors' Labor and Material Payment Bonds. If approved by the Owner, Contractor may procure surety bonds from Subcontractors and Sub-subcontractors.

10.2.3. Cost of Bonds. The costs of all bonds required under this Section 10.2 shall not be included in the Guaranteed Maximum Price or Contract Sum. If the final cost of any bond is less than the amount included in the Guaranteed Maximum Price or Contract sum, such amounts shall be deducted from the Guaranteed Maximum Price or Contract Sum by appropriate change order.

10.2.4. Contractor to Furnish Copies of Bonds. Upon the request of any person or entity appearing to be a potential beneficiary of any of the bonds required under this Section 10.2, the Contractor promptly shall furnish a copy of the bonds or shall permit a copy thereof to be made and delivered to such person or entity.

**Article XI**  
**CHANGES IN THE WORK**

**Section 11.1 Change Orders.**

11.1.1. Definition of "Change Order". A Change Order is a written order to the Contractor signed by the Owner and accepted by the Contractor, issued after execution of the Owner/Contractor Agreement, authorizing a change in the Work or an adjustment in the contract terms, Guaranteed Maximum Price, Contract Sum, the completion dates, and/or the construction duration specified in the Contract Documents.

11.1.2. Owner May Order Changes in Work. The Owner, without invalidating the Owner/Contractor Agreement, may order changes in the Work within the general scope of the Owner/Contractor Agreement consisting of additions, deletions or other revisions, and the Guaranteed Maximum Price (or Contract Sum) and the Contract Time may also be adjusted accordingly, if approved by the Owner in writing. All such changes in the Work shall be authorized by written Change Order or Construction Change Directive (on forms approved by Owner), and shall be performed under the applicable conditions of the Contract Documents. Contractor shall perform all changed Work required by Owner, whether or not disputes exist between the Owner and the Contractor. Contractor shall provide all Change Order pricing within 14 days for any time and material change order or 14 days for all other change orders of any change ordered by Owner, or shall be deemed in material breach of the Owner/Contractor Agreement. In no event shall any personnel of Owner be authorized to approve Change Orders or Construction Change Directives other than the Owner's designated representative. No course of conduct or dealings between the parties, no express or implied acceptance of alterations or additions to the Work, and no claim that the Owner had been unjustly enriched by any change in the Work, whether or not there is in fact any unjust enrichment, shall be the basis for any claim to an increase in the Contract Sum or extension of the Contract Time.

11.1.3. Method of Determining Cost or Credit. The increase in the Guaranteed Maximum Price or Contract Sum resulting from a change in the Work performed by Contractor shall be determined by a properly estimated, negotiated and agreed-to cost in advance of the execution of the changed work or actual, incurred cost to be determined in a manner agreed upon by the parties, for work necessarily completed under a Construction Change Directive and prior to Change Order finalization. The increase or decrease in the Guaranteed Maximum Price or Contract Sum resulting from a change in the Work shall be determined for work performed by Subcontractors in one or more of the following ways (the fee being adjusted according to the percentages set forth in the Owner/Contractor Agreement):

- .1. by mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2. by unit prices stated in the Contract Documents or subsequently agreed upon; or
- .3. by actual, incurred Cost of the Work in a manner agreed upon by the parties.

11.1.4. Use of Approved Rates. Any labor rates, overtime rates, equipment rental rates and unit prices shall be approved by the Owner in writing in advance of any Work to be charged on the basis of such rates or prices. All costs incurred pursuant to a Change Order shall be subject to audit by the Owner.

11.1.5. Contractor Markups. For Work performed by any subcontractor, the subcontractor's mark-ups shall be no greater than fifteen percent (15%) total for overhead/general conditions and profit/fee. General Contractor markups shall be in accordance with Article 6 of the Contract.

11.1.6. Method of Determining Changes to Contract Time. All contract Change Orders shall address potential changes to both cost and time. Any extension or reduction of the contract performance period shall be based on a contemporaneous Time Impact Analysis. Such analysis compares the critical path and scheduled completion dates of the current updated Project Schedule without the changed work to the same schedule with the proposed changed work properly inserted. Only change order work that causes a critical path delay or reduction will result in such extension or reduction being considered for inclusion if the Change Order. The Owner may, at its sole discretion, opt to accelerate the Contractor, for a mutually agreed upon added cost, rather than extend the contract performance period, if warranted.

**Section 11.2 Concealed Conditions.** Subject to the provisions of Section 3.1 of the Owner/Contractor Agreement, should concealed conditions be encountered in the performance of the Work below the surface of the ground which Contractor would be unable to ascertain upon a reasonable investigation of subsurface conditions, or should concealed or unknown conditions in an existing structure be at variance with the conditions indicated by the Contract Documents, or should unknown physical conditions below the surface of the ground or concealed or unknown conditions in an existing structure of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Owner/Contractor Agreement, be encountered, the Guaranteed Maximum Price or Contract Sum shall be equitably adjusted by Change Order, subject to the notice of claim and claim procedures contained in the Owner/Contractor Agreement. Unless otherwise specifically noted in the Contract Documents, if there are different possible foreseeable concealed conditions underground or in an existing structure, the Guaranteed Maximum Price shall be deemed to include the most costly of the different foreseeable concealed conditions.

**Section 11.3 Notice of Claim.** Notice of claims for adjustments in the Guaranteed Maximum Price or Contract Sum, or Owner/Contractor Agreement completion dates, by the Contractor must be made within seven (7) days after occurrence of the event giving rise to such claims. Claims with backup documentation shall be submitted within thirty (30) days of the notice required above. Claims must be submitted in writing, even if the claim is allegedly based on a previous oral or written statement by the Owner. Any claim not made in accordance with the terms of this Section shall be deemed waived by the Contractor. The Contractor acknowledges and agrees that the Owner can only waive the requirements of this Section in writing and that it cannot rely on any oral statement of the Owner to the contrary. For purposes of this Section, notice of claims shall be provided to the Owner as required by the Owner/Contractor Agreement, and notice of claims provided by other means, such as by e-mail or meeting minutes, shall not constitute sufficient notice. Any dispute between the parties as to a claim for adjustments in the Guaranteed Maximum Price or Contract Sum shall be handled in accordance with the procedure set forth in Article 17 below.

## **Article XII**

### **UNCOVERING AND CORRECTION OF WORK**

#### **Section 12.1 Uncovering of Work.**

12.1.1. Where Work Covered Contrary to Request. If a portion of the Work is covered contrary to the request of the Architect or the Owner or to requirements specifically expressed in the Contract Documents, it must, if required in writing by the Architect, the Owner or any governmental authority, be uncovered for their observation and be replaced at the Contractor's expense without an extension in the Contract Time, or adjustment in the Guaranteed Maximum Price or Contract Sum.

12.1.2. Where Work Covered Not Contrary to Request. If a portion of the Work has been covered which the Architect, the Owner or any governmental authority has not specifically requested to observe prior to its being covered, the Architect or the Owner may request to see such Work and it shall be uncovered by the Contractor. The Contractor shall notify the Owner of any request by the Architect to

uncover. If such Work is in accordance with the Contract Documents, the cost of uncovering and replacement shall, by appropriate Change Order, be charged to the Owner. If such Work is not in accordance with the Contract Documents, the Contractor shall pay such cost.

## **Section 12.2 Correction of Work.**

12.2.1. Rejected Work. The Contractor shall promptly correct Work rejected by the Architect, the Owner or any governmental authority, ~~or~~ that does not conform to the requirements of the Contract Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections and compensation for the Architect's services and expenses made necessary thereby.

12.2.2. Warranty. If, within one (1) year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Section 8.4.1, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. This period of one year shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual performance of the Work. This obligation shall survive acceptance of the Work under the Owner/Contractor Agreement and termination of the Owner/Contractor Agreement. The Owner shall give such notice promptly after discovery of the condition. This remedy is cumulative, and shall not preclude the Owner from using any other remedy for defective work available to them under the Contract Documents or applicable law. All warranties shall be assignable to Owner, or name Owner as a beneficiary thereof. The benefits of all warranty provisions in the Contract Documents shall inure to the benefit of any purchaser of the Project.

12.2.3. Removal of Nonconforming Work. At Contractor's expense, the Contractor shall remove from the Jobsite portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

12.2.4. Owner May Correct Nonconforming Work. If the Contractor fails to correct nonconforming Work within a reasonable time to the Owner's and Architect's satisfaction, the Owner may correct it in accordance with Section 3.3 and charge the cost thereof to the Contractor. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect or the Owner, the Owner may remove it and store the salvageable materials or equipment at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten (10) days after written notice, the Owner may upon ten (10) additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, including compensation for the Architect's services and any other expenses made necessary thereby. If such proceeds of sale do not cover costs which the Contractor should have borne, the Guaranteed Maximum Price or Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

12.2.5. Damage or Destruction Caused by Contractor. The Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

12.2.6. No Limitation. Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations which the Contractor might have under the Contract Documents. Establishment of the time period of one (1) year as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

12.2.7. Acceptance of Defective or Non-Conforming Work. If the Owner prefers to accept Work which is not in accordance with the requirements of the Contract Documents, the Owner may do so in writing only, instead of requiring its removal and correction, in which case the Guaranteed Maximum Price or Contract Sum shall be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

## **Article XIII**

### **TERMINATION OF THE CONTRACT**

#### **Section 13.1 Termination by the Contractor.**

13.1.1. Grounds for Termination. The Contractor may terminate the Owner/Contractor Agreement if the Work is stopped for a period of ninety (90) consecutive days through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor, for any of the following reasons:

- .1. issuance of an order of a court or other public authority having jurisdiction;
- .2. an act of government, such as a declaration of national emergency, making any material progress or performing the Work impractical; or
- .3. failure of the Owner to make payment of an Owner-approved invoice as provided in the Owner/Contractor Agreement for a period of ~~ninety (90)~~ sixty (60) days.

13.1.2. Notice of Termination, Right of Recovery. If one of the above reasons exists, the Contractor may, upon seven (7) days' written notice to the Owner and Architect, terminate the Owner/Contractor Agreement and recover from the Owner payment for Work executed (including Contractor's Fee earned to date) through the date of termination, and any actual and reasonable costs incurred in terminating the Work. The Owner shall have no further liability to the Contractor on the Project.

#### **Section 13.2 Termination by the Owner for Cause.**

13.2.1. Grounds for Termination. The Owner may terminate the Owner/Contractor Agreement if the Contractor:

- .1. refuses or fails to supply enough properly skilled workers or proper materials in accordance with the Project Schedule;
- .2. fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- .3. disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction;

- .4. otherwise fails to perform any of its material obligations under the Contract Documents;
- .5. becomes financially insolvent and is unable, upon request by the Owner, to give the Owner reasonable assurances of its ability to meet its obligations hereunder, or is the subject of a voluntary or involuntary bankruptcy proceeding;
- .6. fails to reasonably maintain the Project schedule; or
- .7. fails to place or maintain the insurance requirements as outlined in the Contract Documents.

13.2.2. Notice of Termination; Owner's Rights. When any of the above reasons exist, the Owner shall give the Contractor written notice by hand delivery or by a nationally recognized overnight delivery service of the Contractor's default, and the Contractor shall have five (5) days from the date of the notice to cure the default, or diligently commence curing the default, in the event it cannot be cured within the five (5) day period. Upon failure of the Contractor to correct and cure, or commence curing as provided herein, the default within five (5) days, the Owner may, without prejudice to any other rights or remedies of the Owner:

- .1. take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2. take possession of all materials and equipment paid for by the Owner stored offsite;
- .3. accept assignment of subcontracts pursuant to Section 5.4; and
- .4. finish the Work by whatever reasonable method the Owner may deem expedient.

13.2.3. Contractor Not Entitled to Further Payment Until Work Finished. When the Owner terminates the Owner/Contractor Agreement for one of the reasons stated in Section 13.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished by Owner, and all damages suffered by, or costs incurred, the Owner have been deducted from the amounts otherwise due the Contractor. In the event of such termination, the Contractor shall immediately turn all Project documents over to the Owner, including permit drawings, record drawings, subcontractor and supplier files, permit files and other files as may be requested by Owner.

13.2.4. Cost of Completion. If the unpaid balance of the Guaranteed Maximum Price or Contract Sum equals or exceeds costs of finishing the Work, including compensation for the Architect's services and other reasonably necessary consultants and expenses made necessary thereby, and other damages due to the Owner, the difference shall be paid to the Contractor. If the unpaid balance of the Guaranteed Maximum Price or Contract Sum is less than the costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages due to the Owner (including the cost of managerial time and attorney's fees), Contractor shall immediately pay Owner the difference.

### **Section 13.3 Suspension by the Owner for Convenience.**

13.3.1. Owner's Right to Suspend Work. The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

13.3.2. Adjustments for Increased Cost of Performance. An adjustment may be made for increases in the cost of performance of the Owner/Contractor Agreement, including the Contractor's Fee on the increased cost of performance (per the Change Order provisions of Article 11), caused by suspension, delay or interruption. No adjustment shall be made to the extent:

- .1. that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible or over which the Owner had no control; or
- .2. that an equitable adjustment is made or denied under another provision of the Owner/Contractor Agreement.

13.3.3. Owner's Right to Terminate for Convenience. The Owner may, at its option, terminate the Owner/Contractor Agreement for its convenience by written notice thereof to the Contractor. Upon receipt of any such notice, Contractor shall, unless the notice directs otherwise, immediately discontinue the Work on that date, and, to the extent specified in the notice, place no further orders or subcontracts for materials, equipment, services, or facilities, except as may be necessary for completion of such portion of the Work as is not discontinued; promptly make every reasonable effort to procure cancellation upon terms satisfactory to Owner of all orders and subcontracts to the extent they relate to the performance of the discontinued portion of the Work and shall thereafter do only such Work as may be necessary to preserve and protect work already in progress and to protect materials and equipment on the Site or in transit thereto. Upon such termination, the obligations of the Owner/Contractor Agreement shall continue as to portions of the Work already performed and as to bona fide obligations assumed by Contractor prior to the date of termination. Upon termination, Contractor shall be entitled to be paid the full cost of all Work properly done by Contractor to the date of termination not previously paid for, plus a pro rata portion of the Contractor's Fee earned on account of the percentage of such Work which has been properly completed. The Owner shall have no further liability to the Contractor, including consequential damages, lost profits or other damages arising out of the termination. If, as of the date of such termination, Contractor has properly prepared or fabricated off the Site any goods for subsequent incorporation in the Work, and if Contractor delivers such goods to the Site or to such other place as the Owner shall reasonably direct, then Contractor shall be paid for such goods or materials. In the event of such termination, the Contractor shall immediately turn all Project documents over to the Owner, including permit drawings, record drawings, subcontractor and supplier files, permit files and other files as may be requested by Owner.

## **Article XIV**

### **MISCELLANEOUS PROVISIONS**

#### **Section 14.1 Governing Law.**

14.1.1. Law of Situs to Govern. The Owner/Contractor Agreement shall be governed by the law of the place where the Project is located, not including its choice of law rules.

14.1.2. No Precedent for Lack of Enforcement. Historical lack of enforcement of any local law shall not constitute a waiver of Contractor's responsibility for compliance with such law in a manner consistent with the Contract Documents unless and until the Contractor has received written consent for the waiver of such compliance from the Owner and the agency responsible for the local law enforcement.

14.1.3. Successors and Assigns. The Owner and Contractor respectively bind themselves and their permitted successors, assigns and legal representatives to the other party hereto and to successors, permitted assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in the Contract Documents.

## **Section 14.2 Rights and Remedies.**

14.2.1. Rights and Obligations Cumulative. The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

14.2.2. No Waiver. No action or failure to act by the Owner, Architect or Contractor shall constitute a waiver of any right or duty afforded any of them under the Owner/Contractor Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

14.2.3. Severability. The invalidity of any part or provision of the Contract Documents shall not impair or affect in any manner the validity, enforceability or effect of the remaining parts and provisions of the Contract Documents.

## **Section 14.3 Tests.**

14.3.1. Arrangements for Inspection, Testing or Approval. If the Owner, Contract Documents or current laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or local practices in the Project jurisdiction, require any portion of the Work to be inspected, tested or approved, the Contractor shall make arrangements for such inspections, tests and approvals and shall give the Owner and the Architect timely notice of its readiness so the Owner and the Architect may observe such inspection, testing or approval. ~~The Contractor~~ Owner shall bear all costs of such inspections, tests or approvals conducted by public authorities or required by the Contract Documents. Unless otherwise provided, the Owner shall bear all costs of other inspections, tests or approvals. In the event the Work is not ready for inspection on the date specified by the Contractor or the Work fails the test, the Contractor shall be liable to the Owner for any additional costs incurred by the Owner for the failed inspection including but not limited to the costs for re-testing.

14.3.2. Securing of Required Certificates. Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Owner.

14.3.3. Observation by Architect or Other Owner Representative. If the Architect or other owner representative is to observe tests, inspections or approvals required by the Contract Documents, the Contractor shall properly notify the Architect sufficiently in advance of such test so that the Architect may make arrangements to attend and the Architect will do so promptly and, where practicable, at the normal place of testing.

14.3.4. Avoidance of Delay. Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

14.3.5. Interest. In no event shall any interest be due and payable by the Owner to the Contractor, any Subcontractor or any other party on any of the sums payable by the Owner under the Owner/Contractor Agreement, including, without limitation, the sums which the Owner is authorized to retain pursuant to the Contract Documents.

14.3.6. Equal Opportunity Employer. Owner is an equal opportunity employer. It is the policy of Owner to comply with all applicable state and federal laws prohibiting discrimination in employment based on race, age, color, sex, religion, national origin, disability or other protected classification. Contractor acknowledges that it is also an equal opportunity employer and that it, its employees, agents and subcontractors will comply with all applicable state and federal laws prohibiting discrimination in

employment based on race, age, color, sex, religion, national origin, disability or other protected classification.

14.3.7. **Confidentiality.** The Contractor shall not publish, permit to be published, or distribute for public consumption or otherwise, any information, oral or written concerning the Work, the Owner, the Contract Documents, contract performance, or any other matter relating to the Owner without the prior written consent of the Owner, except to its attorneys, counsel, representatives and other advisors and Subcontractors, all of which the Contractor shall ensure are subject to this same confidentiality restriction.

## **Article XV**

### **IDENTIFICATION OF PARTIES PROVIDING LABOR, SERVICES OR MATERIALS**

**Section 15.1 Sworn Statements.** In addition to the requirements of Article 5, the Subcontractor shall, as often as requested by the Owner or by the Contractor, furnish a sworn statement identifying all parties who have furnished or are furnishing labor or materials to the Subcontractor with their names and addresses and amounts due or to become due each of them. Like statements may, at Contractor's option, be required from any Sub-Subcontractor or suppliers of the Subcontractor. The Subcontractor shall include in all of this Subcontracts and Purchase Orders, and require all lower tier Subcontractors and suppliers to include in their contracts related to the Project, a requirement that sworn statement be provided at Contractor's or Owner's demand identifying all parties who have furnished or are furnishing labor or materials to Subcontractor together with their names and addresses and amounts due or to become due each of them. The Subcontractor expressly consents to the Contractor contracting any lower tier Subcontractors, supplies or laborers in order to verify amounts owed by the Subcontractor. If requested by the Contractor, the Subcontractor shall furnish Contractor with evidence that the Subcontractor has paid all bills and expenses incurred by the Subcontractor for labor, services, equipment and materials used by the Subcontractor, or any other liability incurred by the Subcontractor in any way, for the purpose of performing the Subcontractor's Work.

## **Article XVI**

### **SUBCONTRACTOR INDEMNIFICATION**

**Section 16.1 Indemnification.** In addition to the other requirements of Article 5, Subcontractor shall defend, indemnify and hold harmless the Contractor and Owner, and their respective officers, directors, agents or employees, from and against any and all claims, demands, payments, damages, losses, attorney's fees and litigation expenses and expenses arising from injury to or destruction of tangible property (other than the work itself), including loss of use resulting therefrom, accident, bodily injury, sickness, disease or death, or damage whatsoever caused to any person, firm or corporation, caused in whole or in part by any act, omission, negligence or default of Subcontractor, its officers, directors, agents or employees, or any act, omission, negligence or default of any Subcontractor's lower tier subcontractors, materialmen, suppliers, servants, licensees or agents or any other person or entity for whose acts Subcontractor is liable and their respective officers, directors, agents, or employees, Subcontractor's indemnity obligation under this Section shall remain in effect and Subcontractor shall indemnify Contractor and Owner as stated herein even where such claims, damages or loss are attributable in part to any act, omission, negligence or default of Contractor or Owner or their respective officers, directors, agents, or employees or others for whom they are responsible. Subcontractor's indemnity obligation to Contractor and Owner shall include all costs, reasonable attorneys' fees, expenses and liabilities incurred in or arising out of the Subcontractor's conduct covered by this indemnity obligation. In the event any claim, action or proceeding be brought against Contractor or Owner by reason of or arising out of Subcontractor's indemnity obligation under this Section, Subcontractor, if requested and upon notice from Contractor, shall defend against such action or proceeding at its sole expense by counsel satisfactory to Contractor and Owner.

## **Section 16.2 Indemnification for Subcontractor Labor Force / Builder's Risk Deductibles**

16.2.1. Subcontractor's Labor Force. To the fullest extent permitted by law, the Subcontractor shall defend, indemnify and hold harmless the Contractor and Owner and their respective officers, directors, agents, or employees from and against any and all claims, demands, payments, damages, losses, premiums, fines and any other expenses arising from any Subcontractor's, Subcontractor's Contractors, Subcontractor's Sub-subcontractors, or of any tier or their respective entity for whose acts Subcontractor shall be liable, materialmen, suppliers, servants, licensees or agent, or any other person, Subcontractor's indemnity obligations under this Section 16.2.1 shall include all costs, reasonable attorneys' fees, expenses, interest and liabilities incurred in or arising out of Subcontractor's indemnity obligation under this Section 16.2.1, Subcontractor, upon notice from Contractor, shall defend against such action or proceeding at its expense by counsel satisfactory to Contractor and Owner.

16.2.2. Builder's Risk Deductible. To the fullest extent permitted by law, the Subcontractor shall indemnify, defend and hold harmless the Contractor and Owner and their respective officers, directors, agents or employees from and against any and all claims, demands, payments, damages, losses, premiums, fines and any other expenses related to any builders risk deductible expense to the extent Subcontractor or its lower tier Subcontractors, materialmen, suppliers, and their respective officers, directors, agents, or employees, and all other persons for whom Subcontractor may be responsible have contributed to or caused any loss, damage or destruction to the Work covered by builder's risk insurance provided to the Project, Subcontractor's indemnity obligation under this Section 16.2.2 shall include all costs, reasonable attorney's fees, expenses, interests and liabilities incurred in or arising out of the Subcontractor's conduct covered by this indemnity obligation. In case of any claim, action or proceeding should be brought against Contractor or Owner by reason of any builders risk deductible expense or arising out of Subcontractor's indemnity obligation under this Section 16.2.2, Subcontractor, upon notice from Contractor, shall defend against such action or proceeding at its sole expense by counsel satisfactory to Contractor and Owner.

16.2.3. Indemnification for Damages Associated with Performance of the Contract Work. To the fullest extent permitted by law, the Subcontractor shall defend, indemnify and hold harmless the Contractor and Owner, and their respective officers, directors, agents, or employees including the Architect and Architect's consultants, from and against any and all claims, demands, payments, damages, losses, attorney's fees and litigation expenses and expenses arising from the conduct, management, or performance of the Work including, but not limited to, any and all claims arising from any condition of the Work due to any act, omission, negligence, breach or default on the part of Subcontractor in the performance of any obligation on his part to be performed pursuant to this Subcontract or liens relating to Subcontractor's Work, regardless of who performs the Work or supplies materials for or on behalf of Subcontractor. The indemnity of Contractor and Owner under this Section 16.3 shall not apply to claims for bodily injury, sickness or death covered in Section 16.2.1 above, but shall include all costs, reasonable attorneys' fees, expenses and liabilities incurred in or arising out of the Subcontractor's conduct covered by this indemnity obligation. In case any claim, action or proceeding be brought against Contractor or Owner by reason of or arising out of Subcontractor's indemnity obligation under this Section 16.3, Subcontractor, upon notice from Contractor, shall defend against such action or proceedings at its expense by counsel satisfactory to Contractor and Owner.

## **Article XVII DISPUTE RESOLUTION**

**Section 17.1 Good Faith Efforts to Resolve Disputes.** The parties shall make good faith efforts to resolve any claim, dispute or controversy arising out of or relating to the Owner/Contractor Agreement, these General Condition or any Contract Document, including, but not limited to those

arising out of or related to the breach, termination or invalidity of the Owner/Contractor Agreement, and those arising in tort or contract (collectively “Disputes”).

**Section 17.2 Step Negotiations.** In the event that either Contractor or Owner concludes, after making a good faith effort to resolve a Dispute in the normal course of business at the Project team level, that such Dispute cannot be resolved informally, then it shall have the right to initiate the processes identified in this Section 17.2. Any of the time periods specified in this Section 17.2 may be extended by mutual agreement of the parties.

17.2.1. Senior Management Negotiations. If the Dispute has not been resolved by the Contractor and Owner, then either Contractor or Owner shall have the right to give the other written notice of its request to have the Dispute heard by senior management of their respective organizations.

17.2.2. Voluntary Mediation. If the Dispute has not been resolved by senior management within a reasonable time, then either Contractor or Owner may suggest to the other that the Dispute be referred to mediation. If the other Party is interested in pursuing mediation, then it shall consult with the other to determine the processes and conditions associated with the mediation, including but not limited to the exchange of reasonable information and documents relating to the Dispute and the names of potential mediators. The costs of the mediator will be shared equally by both parties.

17.2.3. Condition Precedent. Nothing herein shall be considered a condition precedent to filing of litigation to resolve a dispute under this Agreement. Any litigation shall be held in the State of the Project ~~or Duval County, Florida~~. The parties agree to submit to the jurisdiction of any State or Federal Court in in the State of the Project ~~or Duval County, Florida~~. Neither Contractor nor Owner shall be compelled to submit to the voluntary mediation process described in Section 17.2.2 above in advance of initiation of litigation.

17.2.4. Confidentiality. All negotiations pursuant to this Section 17.2 shall be deemed confidential and shall be treated as compromise and settlement negotiations for purposes of applicable judicial evidentiary requirements.

17.2.5. JURY WAIVER; COUNTERCLAIMS. OWNER AND CONTRACTOR KNOWINGLY, INTENTIONALLY, AND VOLUNTARILY waive trial by jury in any action, proceeding, or counterclaim involving any matter whatsoever arising out of or in any way connected with THE OWNER/CONTRACTOR AGREEMENT.

**Section 17.3 Continuation of Work.** Pending final resolution of any Dispute, Owner and Contractor shall continue to fulfill their respective obligations under the Owner/Contractor Agreement, these General Conditions and any Contract Documents.

**Section 17.4 Costs for Dispute Resolution.** Each Party will bear its own costs for litigation, except that the prevailing party shall be entitled to recover such costs, including reasonable attorney’s fees, from the non-prevailing party.

**Exhibit C**  
**Project Schedule**

**Exhibit D**  
**Interim and Final Waivers of Lien**

**CONDITIONAL WAIVER AND RELEASE UPON PROGRESS PAYMENT**  
**[California Civil Code § 8132]**

NOTICE: THIS DOCUMENT WAIVES THE CLAIMANT'S LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS EFFECTIVE ON RECEIPT OF PAYMENT. A PERSON SHOULD NOT RELY ON THIS DOCUMENT UNLESS SATISFIED THAT THE CLAIMANT HAS RECEIVED PAYMENT.

**Identifying Information**

Name of Claimant: \_\_\_\_\_

Name of Customer: \_\_\_\_\_

Job Location: \_\_\_\_\_

Owner: \_\_\_\_\_

Through Date: \_\_\_\_\_

**Conditional Waiver and Release**

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job through the Through Date of this document. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant are waived and released by this document, unless listed as an Exception below. This document is effective only on the claimant's receipt of payment from the financial institution on which the following check is drawn:

Maker of Check: \_\_\_\_\_

Amount of Check: \$ \_\_\_\_\_

Check Payable to: \_\_\_\_\_

**Exceptions**

This document does not affect any of the following:

- (1) Retentions.
- (2) Extras for which the claimant has not received payment.
- (3) The following progress payments for which the claimant has previously given a conditional waiver and release but has not received payment:

Date(s) of waiver and release: \_\_\_\_\_

Amount(s) of unpaid progress payment(s): \$ \_\_\_\_\_

- (4) Contract rights, including (A) a right based on rescission, abandonment, or breach of contract, and (B) the right to recover compensation for work not compensated by the payment.

**Signature**

Claimant's Signature: \_\_\_\_\_

Claimant's Title: \_\_\_\_\_

Date of Signature: \_\_\_\_\_

**CONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT**  
**[California Civil Code § 8136]**

NOTICE: THIS DOCUMENT WAIVES THE CLAIMANT'S LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS EFFECTIVE ON RECEIPT OF PAYMENT. A PERSON SHOULD NOT RELY ON THIS DOCUMENT UNLESS SATISFIED THAT THE CLAIMANT HAS RECEIVED PAYMENT.

**Identifying Information**

Name of Claimant: \_\_\_\_\_

Name of Customer: \_\_\_\_\_

Job Location: \_\_\_\_\_

Owner: \_\_\_\_\_

**Conditional Waiver and Release**

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant are waived and released by this document, unless listed as an Exception below. This document is effective only on the claimant's receipt of payment from the financial institution on which the following check is drawn:

Maker of Check: \_\_\_\_\_

Amount of Check: \$ \_\_\_\_\_

Check Payable to: \_\_\_\_\_

**Exceptions**

This document does not affect any of the following:

Disputed claims for extras in the amount of: \$ \_\_\_\_\_

**Signature**

Claimant's Signature: \_\_\_\_\_

Claimant's Title: \_\_\_\_\_

Date of Signature: \_\_\_\_\_

**UNCONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT**  
**[California Civil Code § 8138]**

NOTICE TO CLAIMANT: THIS DOCUMENT WAIVES AND RELEASES LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL WAIVER AND RELEASE FORM.

**Identifying Information**

Name of Claimant: \_\_\_\_\_

Name of Customer: \_\_\_\_\_

Job Location: \_\_\_\_\_

Owner: \_\_\_\_\_

**Unconditional Waiver and Release**

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant are waived and released by this document, unless listed as an Exception below. The claimant has been paid in full.

**Exceptions**

This document does not affect any of the following:

Disputed claims for extras in the amount of: \$ \_\_\_\_\_

**Signature**

Claimant's Signature: \_\_\_\_\_

Claimant's Title: \_\_\_\_\_

Date of Signature: \_\_\_\_\_

**UNCONDITIONAL WAIVER AND RELEASE UPON PROGRESS PAYMENT**  
**[California Civil Code § 8134]**

NOTICE TO CLAIMANT: THIS DOCUMENT WAIVES AND RELEASES LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL WAIVER AND RELEASE FORM.

**Identifying Information**

Name of Claimant: \_\_\_\_\_

Name of Customer: \_\_\_\_\_

Job Location: \_\_\_\_\_

Owner: \_\_\_\_\_

Through Date: \_\_\_\_\_

**Unconditional Waiver and Release**

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job through the Through Date of this document. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant are waived and released by this document, unless listed as an Exception below. The claimant has received the following progress payment: \$ \_\_\_\_\_

**Exceptions**

This document does not affect any of the following:

- (1) Retentions.
- (2) Extras for which the claimant has not received payment.
- (3) Contract rights, including (A) a right based on rescission, abandonment, or breach of contract, and (B) the right to recover compensation for work not compensated by the payment.

**Signature**

Claimant's Signature: \_\_\_\_\_

Claimant's Title: \_\_\_\_\_

Date of Signature: \_\_\_\_\_

**Exhibit E**  
**Change Order**



**Exhibit F  
Construction Change Directive**

|                                      |            |     |
|--------------------------------------|------------|-----|
| <b>Construction Change Directive</b> | OWNER      | ( ) |
|                                      | ARCHITECT  | ( ) |
|                                      | CONTRACTOR | ( ) |
| <b>Electronic Format</b>             | FIELD      | ( ) |
|                                      | OTHER      | ( ) |

**PROJECT:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**CONSTRUCTION CHANGE DIRECTIVE (CCD) #** \_\_\_\_\_

**CONTRACTORS CHANGE REQUEST (COR) #** \_\_\_\_\_

**TO CONTRACTOR:**

**CONTRACT DATE:** \_\_\_\_\_

**CONTRACT FOR:** \_\_\_\_\_

**You are hereby directed to make the following change(s) to the contract Work:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**PROPOSED ADJUSTMENTS**

1. Contractor is directed to proceed with the above described change(s) and to submit costs as noted in item #2 below within fourteen (14) calendar days of the date of this Directive. In the case of T&M authorization, final costs shall be based upon the actual cost incurred and supported by daily vendor time tickets, signed daily by Contractor's project superintendent. In no case shall final costs submitted by Contractor for the work completed under this directive, exceed the following not-to-exceed estimate as mutually agreed between Contractor and Owner, without Contractor receiving additional written authorization for said additional costs.

**The estimated Not-To-Exceed (NTE) cost of this Change is \$** \_\_\_\_\_

2. The proposed basis of adjustment to the Contract Sum or Guaranteed Maximum Price is:

- ( ) Time and Materials (T&M)
- ( ) Unit Price of \$ \_\_\_\_\_ per contract or attached agreed upon rates
- ( ) as provided in the General Conditions of the Contract
- ( ) or as otherwise follows:

3. The Contract Time is estimated to (increase, decrease, remain unchanged) by \_\_\_\_\_ days. Contractor shall request and document any changes to the Contract Time with the cost submittal for this directive.

When signed by the Owner and received by the Contractor, this document becomes effective immediately as a Construction Change Directive (CCD), and the Contractor shall proceed with the change(s) described above.

|              |                   |
|--------------|-------------------|
| <b>OWNER</b> | <b>CONTRACTOR</b> |
| BY: _____    | BY: _____         |
| Its: _____   | Its: _____        |
| DATE: _____  | DATE: _____       |

## **Exhibit G Insurance Requirements**

1. **Contractor's Liability Insurance.** The Contractor shall maintain such insurance as will protect the Owner and the Contractor from claims set forth below which may arise out of or result from the Contractor's operations under the Contract and for which the Owner or the Contractor may be legally liable, whether such operations are those of the Contractor, any Subcontractor or anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, as follows:

1.1 **Workers' Compensation Insurance.** Worker's Compensation Insurance, in statutory limits, insuring the Contractor's full liability under the Worker's Compensation and Occupational Disease laws of the state where the Work is performed, and Employer's Liability coverage with not less than a \$1,000,000 limit, covering:

1.1.1 Claims under workers' compensation, disability benefit acts, and other similar employee benefit acts which are applicable to the Work to be performed; and

1.1.2 Claims for damages because of bodily injury, occupational sickness or disease, or death of employees.

1.2 **Commercial General Liability Insurance.** Commercial General Liability Insurance with coverage on an "occurrence" basis.

1.2.1 **Claims Covered.** Such insurance shall insure Contractor for work performed under the Contract against:

1.2.1.1 Claims for damages because of bodily injury, personal injury, sickness or disease, or death of any person other than his employees; and

1.2.1.2 Claims for damages because of injury to or destruction of tangible property (including loss of use resulting therefrom), other than injury to the smallest identifiable part of the work that causes the bodily injury or property damage loss.

1.2.2 **Endorsements or Modifications.** The policy for such insurance shall contain the following coverages, endorsements or modifications:

1.2.2.1 Completed Operations Coverage. With respect to completed operations liability, when the entire Work has been determined complete by the Contractor and accepted by the Owner, Contractor agrees to furnish evidence of such insurance coverage for two (2) successive twelve (12) month periods by the insurance carrier then writing completed operations coverage for the Contractor;

1.2.2.2 Contractor's Protective Liability to cover Contractor's liability arising out of Work performed by its Subcontractors;

1.2.2.3 Blanket Contractual Liability, including liability arising out of the indemnification agreement set forth herein in the Contract;

1.2.2.4 Personal Injury Liability with employee and contractual exclusions deleted;

1.2.2.5 Broad Form Property Damage extended to apply to Completed Operations;

1.2.2.6 All exclusions related to loss by explosion, collapse or underground damage (X, C, U) shall be deleted; and

1.2.2.7 The Combined Single Limit of liability for Bodily Injury, Personal Injury, Death and Property Damage, except automobile, shall not be less than ~~\$25~~ \$15,000,000 each occurrence. (This limit may be met by a combination of primary coverage and umbrella coverage).

1.2.2.8 In the event that the Contractor utilizes cranes, overhead hoists or overhead rigging to perform the Work, the insurance policy shall bear an appropriate endorsement stating that Contractor has Rigger's Liability coverage in an amount not less than \$5,000,000 each occurrence and \$10,000,000 general aggregate.

1.3 **Commercial Automobile Liability.** Contractor shall carry insurance to insure it for operations of all owned, hired, and non-owned vehicles with limits for each accident of not less than \$1,000,000 Combined Single Limit with respect to Bodily Injury, Death and Property Damage.

1.4 **Completed Operations Coverage.** Contractor shall carry completed operations liability insurance in an amount not less than ~~\$25~~ \$15,000,000 each occurrence covering all of the Work until the expiration of all applicable statute of limitations periods.

1.5 **Policy Requirements.**

1.5.1 The insurance required of the Contractor shall be issued by an insurer or insurers lawfully authorized to do business in the jurisdiction in which the Project is located, and maintaining a Best's rating of at least A 10, or as otherwise approved by Owner.

1.5.2 The insurance required of the Contractor shall be written for not less than any limits of liability required by law.

1.5.3 Insurance coverages required under Sections 1.2, 1.3 and 1.4 shall name Owner and its designees (including, without limitation, Owner's Lender (if applicable) as additional insureds with respect to the operations of Contractor and its Subcontractors, and shall be endorsed to be primary, non-contributory, and not excess of any other insurance.

1.5.4 Certificates of insurance evidencing the coverages required herein, and otherwise acceptable to the Owner, shall be filed with the Owner prior to commencement of the Work. Such certificates shall bear the endorsement "not to be cancelled, allowed to lapse or substantially modified without thirty (30) days' prior written notice by certified mail, return receipt requested," to the Owner, c/o Regency Centers Corporation, 915 Wilshire Boulevard, Suite 2200, Los Angeles, California 90017, Attn: Construction Dept.

2. **Property Insurance.**

2.1 The Owner shall purchase and maintain all-risk property insurance at 100% replacement cost upon the entire Work at the Jobsite and portions of the Work stored off the site with the Owner's approval, and contingent transit coverage for portions of the Work in transit. This insurance shall include the interests of the Owner, the Contractor and the Subcontractors in the Work and shall insure against all risk of physical damage subject to standard exclusions. Losses not covered by Owner's insurance or Contractor's insurance shall be borne pursuant to the provisions of the Contract. If the Contractor is

damaged by failure of the Owner to purchase or maintain such insurance and to so notify the Contractor, the Owner shall bear all reasonable costs properly attributable thereto. Owner will maintain a \$5,000 deductible (through final completion and receipt of final payment) limit under the Builders' Risk Insurance provided by Owner and losses within the deductible amount will be paid by the Contractor or the responsible Subcontractor. If not covered under the Builders' Risk insurance or otherwise provided in the Contract Documents, the Contractor shall effect and maintain similar property insurance on portions of the Work stored off the site or in transit.

2.2 Should Owner elect to provide any materials, furniture, fixtures and/or equipment to be installed by the Contractor, its Subcontractors or Sub-subcontractors, the cost of which is not included in the Contract Price, the value of such materials, furniture, fixtures and/or equipment will be included in the amount of Builders' Risk limit liability as shown on the policy to be purchased and maintained by the Owner.

2.3 Any loss insured under Section 2.1 is to be adjusted with the Owner and made payable to the Owner as trustee for the insureds, as their interests may appear, subject to the requirements of any applicable mortgagee clause. The Contractor shall pay each Subcontractor a just share of any insurance moneys received by the Contractor, and by appropriate agreement, written where legally required for validity, shall require each Subcontractor to make payments to its Subcontractors in similar manner.

2.4 The Contractor waives all rights against the Owner, the Owner's contractors, and the Owner's agents and employees, and the Architect, the Architect's consultants and all of their agents and employees for any damages to the extent covered by insurance obtained or required to be obtained pursuant to the provisions of Section 2.1, except for such rights as they may have to the proceeds of such insurance by Owner as trustee, and except as to deductibles provided for elsewhere in this Exhibit or the Contract.

2.5 If the Owner finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion thereof, such occupancy shall not commence prior to a time mutually agreed to by the Owner and Contractor and to which the insurance company or companies providing the property insurance have consented by endorsement to the policy or policies. This insurance shall not be cancelled or lapsed on account of such partial occupancy. Consent of the Contractor and of the insurance company or companies to such occupancy or use shall not be unreasonably withheld.

2.6 Contractor acknowledges and agrees that the property insurance to be carried by Owner pursuant to the provisions of Section 2.1 hereof shall not be required to cover any tools, apparatus, machinery, scaffolding, hoists, forms, staging, shoring and other similar items commonly referred to as construction equipment, which may be on the site and the capital value of which is not included in the Work. The Contractor shall purchase and maintain such insurance so as to cover the loss or damage to such construction equipment. Any such policy obtained by the Contractor shall include a waiver of subrogation in accordance with the requirements of Section 2.4 hereof.

## **Exhibit H Payment Procedure**

Contractor acknowledges and agrees that all payment applications from Contractor, and any subcontractor at any tier or supplier working on the Project whose contract value exceeds \$1,000, shall be submitted to Owner using the Textura payment management system (“Textura”). The Textura system has been explained to the Contractor and the Contractor agrees to comply with the procedures and information requirements of the Textura system in the format, and with the content, required by the Textura system.

Contractor further acknowledges and agrees that any electronic signatures entered into the system for any document by Contractor’s personnel, or by someone using Contractor’s Textura login information, are legally binding upon Contractor, whether or not such signatures were actually authorized. Accordingly, Contractor shall use appropriate safeguards to prevent the unnecessary distribution and potential misuse of its Textura login information. Contractor waives its right to assert any claim or defense as to the enforcement of any document, or to challenge any payment, based upon a contention that Contractor’s login information was misappropriated or that a signature was unauthorized.

Contractor shall also submit monthly lien waivers to Owner on the forms required in the Agreement, using Textura. Contractor acknowledges and agrees that its electronic signatures on lien waivers are legally binding, are deemed to be made under oath, and shall be notarized in accordance with the laws of the state where any such electronic signature is made. In the event there is any question as to whether a notarization is effective, the Owner may require a hard copy original of the notarized document.

Contractor expressly agrees that it will not challenge the validity, enforceability or admissibility as evidence of any electronic signature or notarization made using Textura.

Contractor shall be responsible for the fees and costs associated with its use of Textura. Likewise, subcontractors shall be responsible for the fees associated with their use of Textura.

Owner shall pay all participants in the Project (collectively the “Project Participants”) through the use of the Textura system, including, but not limited to the Contractor and all subcontractors at any tier and suppliers, except as noted above and unless otherwise directed by Owner. Owner shall have the right to access and use any and all data in the Textura system, as may be necessary to effect electronic payments to Project Participants, verify payments and contract status concerning any Project Participant, and for any other purposes reasonably related to implementation of the Project. Such information may include, but is not limited to bank routing and bank account numbers for each Participant receiving a payment.

Owner’s payment of Project Participants through the Textura system is done purely for Owner’s convenience, does not create any contractual relationship between Owner and anyone working on the Project with whom Owner does not have a formal written agreement, and shall not be used as the basis for any claim by any subcontractor or supplier that it has a right to any payment from Owner on the Project.

Information submitted to Owner via Textura by any Project Participant, including but not limited to the Contractor, shall not be deemed formal notice of any claim for additional time or increased compensation. Notice of any such claim shall be given in accordance with the terms of the Agreement. Inadvertent payment of unapproved change order amounts or claims shall be subject to revocation.

Contractor agrees to indemnify the Owner and its lender (if any) as to any incorrect payment made through the Textura system as a result of information submitted by Contractor or any subcontractor

or supplier. Contractor shall verify and check all submissions made in the Textura system by itself or any subcontractor or supplier so as to preclude any errors or improper payments to any Project Participant.

This Addendum shall be incorporated by reference into, and shall be deemed a part of, each and every Subcontract and Purchase Order for the Project.

**Exhibit C**

**PROJECT MILESTONE DATES**

| <b>MILESTONE</b>  | <b>DATE</b>   |
|---|---|
| <b>Notice to Proceed</b>  | May 29, 2019  |
| <b>Construction Start Date</b>  | June 3, 2019  |
| Certified/Turnover for Site A - Suite 100 to be complete 180 days prior to substantial completion   |   |
| Certified/Turnover for Site A - Suites 110-160 to be complete 120 days prior to substantial completion  |   |
| Certified/Turnover Shops for Site B to be complete 120 days prior to substantial completion   |   |
| <b>Substantial Completion 10/25/2020</b>  |   |
| <b>Final Completion 11/25/2020</b>  |   |
| Liquidated Damages  | \$3,000 per day for each calendar day beyond Final completion |
| Contract Schedule does not include delays that may be caused by Southern California Edison's failure to timely complete their work related to relocation of the overhead electrical distribution and communication lines on the project site. |   |
|   |   |
|   |   |
|   |   |
|   |   |

## Exhibit I.1

### CLOSEOUT PACKAGE

Items to be furnished by Contractor prior to final payment:

1. All maintenance and operating manuals, three (3) copies each;
2. Marked sets of Drawings and Specifications reflecting "as built" conditions, three (3) copies each (both prints and electronic files on discs), transmitted to Architect and Owner at end of project;
3. Reproducible drawings provided by the Owner to the Contractor upon which the Contractor shall have transferred all changes in the location of any concealed utilities, mechanical or electrical systems and components;
4. Any special guarantees or warranties required by the Contract Documents;
5. Assignments and/or transfers of all guarantees and warranties from Subcontractors, vendors, suppliers and manufacturers;
6. A list of names, address and 24 hour phone numbers (i.e. pagers, voice mails, recorders, mobiles and home numbers) of the Contractor and all Subcontractors and other persons providing guarantees and warranties;
7. Conditional Final original lien waiver from the Contractor and Unconditional Final original lien waivers all Subcontractors, Sub-subcontractors and Material Suppliers;
8. A final, unconditional certificate of occupancy for each building and the entirety of the Project, subject to unfinished work by others, containing no qualifications or restrictions, to the extent not theretofore delivered to the Owner;
9. A certificate evidencing that insurance required to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least thirty (30) days prior written notice has been given to the Owner;
10. A written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required;
11. Consent of surety, if any, to final payment;
12. All warranty binders, O&M Materials and other deliverables required under the Contract Documents;

13. All keys, access cards and tools necessary to access all rooms, access panels, hose bibbs, etc. Contractor to submit three (3) copies of each, properly package and clearly labeled;
14. If required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases of claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner;
15. The Warranty Acknowledgements required under Subparagraph 12.2.2 of the General Conditions. All warranties shall commence upon the date of final Owner acceptance;
16. All required instructional periods for Owner IS employees and/or Property Manager or maintenance personnel for operation and maintenance of systems and equipment required under the Contract Documents shall have been completed;
17. All information required by Owner in order for Owner to secure rebates to which it is entitled under any of its national purchasing programs;
18. Written agreement between Owner and Contractor on the date, prior to the expiration of the warranty period provided for under the Contract Documents, upon which Contractor and Owner will perform an inspection of the Project to identify any warranty work to be performed by Contractor; and
19. Recorded Notice of Completion.
20. Signed – off punch list showing items complete and signed by all parties.
21. Keys:
  - a. Provide keys for all keyed cylinders used on the project
  - b. All keys shall be properly tagged and labeled with a key ID number
  - c. Provide a full size plan of the project indicating key ID numbers and location of the associated cylinder.

Exhibit I.2

Close Out  
Documents

## Project Site Visit Walk Through Highlights

Upon completion of the Project the General Contractor shall schedule a Project Site Visit Walk Through with the Project Manager. Invitees shall be the Property Manager, the Project Manager, the Manager of Tenant Construction, and the General Contractor's representative.

During this meeting the following items will be reviewed:

- Landscaping controller locations and zones
- Water shut-off valves for each building
- Roof access for each building
- Fire Riser rooms for each building
- Fire Alarm Control panel for each building
- Site Lighting and control panel locations and zones
- Utility/Electrical Rooms for each building w/meter labels identifying address # or suite #
- Trash Enclosures
- Key box location and emergency services' KNOX-BOX Rapid Entry System location for each building
- Lease and Tenant Turnover Status (Identify which spaces have been turned over and Notices of Non-Responsibility filed; or not filed)
- Storm Water Treatment facility (bio-swales, retention basins, catch-basin filters (fossil filters), etc.)
- Walk each Tenant space and locate water supply shut-off valve and sub-meter location
- Verify all HVAC RTU's (roof top units) are labeled
- Verify location of Site Furnishings
- EV Car Charging Stations and their Electricity Meter locations

The Project Manager shall review any other items that the Regency considers necessary.

The General Contractor shall prepare a close out binder that includes the following

1. O&M MANUALS

1.1. PROJECT DIRECTORY

- A. Prime Contractor(s) contact(s)
- B. All Subcontractors-contacts
- C. All Major Vendors-contacts
- D. All Consultants-contacts

1.2. PERMITS, CERTIFICATES, AND C OF O

- A. Copy of FINAL signed building permit
- B. Copy of Certificate of Substantial Completion
- C. Copy of Certificate of Occupancies (if issued) for each building and the entirety of the Project, subject to unfinished work by others, containing no qualifications or restrictions, to the extent therefore not delivered to the owner
- D. Notice of Termination – State Water Resources Control Board

1.3. OPERATIONS AND MAINTENANCE MATERIAL

- A. HVAC System/Commissioning – Balance Report
- B. Fire Sprinkler System
- C. Fire Alarm System
- D. Time Clocks
- E. Storm Water Management System
- F. Landscaping controller clocks & charts
- G. Any additional O&M manuals as required

1.4. CUT SHEETS/FINISH BOARDS

- A. Paint color brush-out cards (with color name and formula number)
- B. Water sub-meters
- C. Irrigation valves and control clock
- D. Wall pack light fixtures and lamps
- E. Decorative light fixtures and lamps
- F. Parking lot light fixtures and lamps
- G. Site furnishings (trash cans, benches, mailboxes, etc.)
- H. Fabric Awnings (if applicable)
- I. Storm Water Management consumable materials
- J. Finish Materials Boards

2. WARRANTIES, BONDS and Rebates

2.1. WARRANTIES

- A. HVAC Warranty shall be no less than 5 years and in the name of the Center (e.g. Applegate Ranch LLC)
- B. Roofing Material should be warrantable for 15 years; however, no actual "warranty" is to be purchased within the contract
- C. New Construction 1 year Warranty Letters
- D. Date for the walkthrough prior to the expiration of the warranty period, upon which the Contractor and the Owner will perform an inspection of the project to identify any warranty work to be performed by the contractor

2.2. BONDS

- A. Owner shall be notified of all bonds and or escrow accounts that do not expire with the final completion of construction are to be identified with scope of work and a full listing and description of all continuing obligations and encumbrances on going with the Project (e.g. off-site improvements, sewer district improvements, road improvements, etc.)
- B. A certificate evidencing that insurance required to remain in force after the final payment is currently in effect and will not be canceled

or allowed to expire until at least thirty (30) day prior written notice has been given to the Owner. Additionally a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required

C. Consent of surety, if any, to final payment

2.3. Rebates

A. All information required by owner in order to secure rebates to which it is entitled under any of its national purchasing programs

3. UTILITIES

3.1. UTILITY METER MATRIX

- A. Utility meter addresses and account numbers in a Matrix prepared by the General Contractor
- B. Gas meter numbers added as tenants move in as required
- C. House meters

4. RECORD DOCUMENTS

4.1. Digital Copies

A. Contractor shall have record documents converted to digital and include in the binder.

4.2. AS-BUILT PLANS

- A. GC shall prepare As-Built Drawing/Record Set Drawings, updated and posted with all RFI, Deltas and Change Orders on drawings.)
- B. GC shall convert all As-Built/Record Set Drawings to PDF format
- C. All Tenant As-Built plans shall be converted to PDF format
- D. Contractor shall include Specifications, Structural Calculations, Energy Calculations, C3 and other engineering calculations as applicable to the project.

5. SITE LOCATION MAPS

5.1. UTILITY METER & WATER SHUT OFF VALVE LOCATIONS

- A. Contractor shall submit to Regency a site plan showing locations of the utility meters and service shut off valves for each building
- B. Contractor shall submit to Regency a site plan showing utility meters and shut off valve/service locations for each Tenant space

5.2. ROOF ACCESS PLAN FOR ALL BUILDINGS

- A. Contractor shall submit to Operations a site plan showing the roof access locations for each building on site

5.3. SITE LIGHTING AND LANDSCAPING ZONES

- A. Contractor will submit to Regency a site plan showing the Site Lighting zones and the controller location for each zone
- B. Contractor will submit to Regency a site plan showing the Site Landscaping zones and the controller location for each zone
- C. Lighting Controls – any lights controlled remotely to be include in binder

5.4. KEYING

- A. Contractor shall submit to Regency a site plan showing the Key Box, Knox Box, and Mail Box locations for each building
- B. Labeled and organized keys for tenant spaces, utility rooms, roof access, doghouses, fire risers, PIVS, landscape controllers/clocks, backflows, KNOX BOXES and mail boxes. Minimum of (3) copies of each key required and shall be properly packaged and clearly labeled.
- C. All extra keys including but not limited to Utility Room, DDC/Backflow. Minimum of (3) copies of each key is required and shall be properly packaged and clearly labeled.
- D. Preventer & PIV, Hose Bib Flow Adjuster, Hose bib Access Panel keys

6. BACK STOCK OF MATERIALS & SUPPLIES

6.1. ATTIC STOCKS

- A. Any materials including but not limited to paint, wall coverings, FF&E, ceiling tiles, under finishes, and lighting covers are to be labeled and turned over to Regency
- B. A storage site of these materials to be discussed at project site visit walk through

7. **Contact List and sub contractor information**

- 7.1. A list of names and 24 phone numbers of the Contractors and all Subcontractors and other persons providing guarantees and warranties.
- 7.2. Conditional Final original lien waiver from the Contractor and Unconditional final original lien waiver from the Subcontractors, Sub-subcontractor and Material Suppliers

## Exhibit J

### PROJECT DESCRIPTION & APPROACH

#### PROJECT DESCRIPTION

##### Owner

For more than 50 years, Regency has owned, operated and developed dominant, grocery-anchored retail centers that are exceptionally merchandised and maintained. As of 2016, the Company owns 428 thriving centers and has 19 regional offices and properties located in most major U.S. markets. Operating as a fully integrated real estate company, Regency is a qualified real estate investment trust that is self-administered and self-managed.

##### Project Overview

Your firm has been selected to provide a competitive budget and proposal for General Contracting services for the development of the Culver Public Market located at the north/east, & south/west corner of Washington Blvd and Centinella, in Culver City, CA.

The site is divided into two parcels, the easterly parcel and the westerly parcel.

The project consists the ground-up construction of two (2) retail buildings and a public parking garage with retail on the first floor.

The construction should be phased to successfully complete the work from a construction logistics standpoint, but also in a way that achieves the Milestone Dates shown in Exhibit C.

##### Design and Construction Overview

The project was designed to meet current Building Codes & Adopted City Ordinances. The parcel sits in the City of Culver City.

##### LEED

This will not be a LEED certified project.

##### Scope of Work

The documents provided within the RFP clearly detail the scope of work. The following narrative is complimentary to those documents.

- Culver Public Market Ground-up development of a 27k SF retail center, anchored by a market hall concept in Culver City sub-market of Los Angeles, California

The Property is comprised of two groups of parcels located on the northeast and northwest corners of the Washington Boulevard and Centinela Avenue intersection

The northwest corner (“Site A”) is 53k SF (1.22 acres), and the northeast corner (“Site B”) is 19.7k SF (0.45 acres)

- Market Hall Concept

11.5k SF – Market Hall Premises

26.8k SF – Total Project GLA

- Public Parking Garage

Contractor will be required to construct an attached two-and-a-half-level public parking structure that shall provide approximately 184 spaces to serve the project.

The construction should be phased to successfully complete the work from a construction logistics standpoint, but also in a way that achieves the Milestone Dates shown in Exhibit C.

#### Abatement and Demolition

Site will be delivered to Contractor as-is. Contractor will be responsible for any required demolition, abatement, grading, etc.

#### Sitework Scope Summary

Contractor shall be responsible for all erosion control and temporary stormwater mitigation efforts throughout the duration of construction in order to protect against any flooding of areas adjacent to work. If flooding does occur, Contractor is responsible for mucking out any overly saturated soil and repairing any water damage. Contractor to implement measures to prevent runoff across the site and should plan on providing remedial grading in the event of heavy rains.

The attached Soils & Paving Reports (Exhibit O) by Krazan Associates lists existing soils conditions, boring of existing soils, and recommended paving sections. Contractor shall coordinate these depths with adjacent structures and phases to ensure jobsite safety and a streamlined schedule. All testing and inspections will be paid for by Owner; however, it will be the Contractor’s responsibility to schedule all inspections and to verify and sign inspector time tickets and/or reports

in the field. These shall be signed only by either the Contractor's Superintendent or the Project Manager. The costs of any re-inspections shall be paid for by the Contractor.

The Contractor shall be responsible for all import and export that may be required to carry out the Work.

Contractor shall be responsible to visit the site during the bid period and perform their own investigations on the existing conditions. If requested and coordinated with Owner, Contractor may perform additional potholing in order to determine existing soils conditions and sections in addition to the information already given in Exhibit O.

Furnish and install all new hardscape, landscaping, and irrigation per enclosed documents.

Contractor shall include the cost of power-washing and sealing all pedestrian flatwork (concrete, unit pavers, etc.) per Architect's recommendations prior to turnover/acceptance in their Base Bid.

The General Contractor will be responsible for ensuring a smooth and timely turnover of all components of the project to the Owner, including training, punch lists and closeout documents. It is expected that the General Contractor and its subcontractors shall remain readily available during the warranty period to provide support for repairs. Staffing plans should account for this activity for the first year of operation. Contractor shall conduct a one-year warranty walkthrough with Owner.

## PROJECT APPROACH

### Overview

The Owner requires a highly qualified General Contracting firm that is capable of staffing, managing and creating a highly visible development project that is complex, fast-paced, high quality, and budget and schedule driven. Integral to the success of the project are personnel that are flexible, creative, knowledgeable, and able to effectively communicate to a wide audience. All aspects of construction activities, documentation, and accounting must be transparent and well-detailed.

### Bidding and Procurement

The General Contractor will be responsible for managing the entire bid process and will be required to Guaranteed Maximum bid, inclusive of all costs; within the specified bidding timeframe. Contractor shall examine the bid documents carefully and shall submit a Request For Information (“RFI”) to the Architect if unable to interpret any terminology contained therein, and/or for clarification of any ambiguity, inconsistency, discrepancy, omission, and/or error Contractor may discover therein. RFI’s shall be typed and submitted directly to JRDV architects via e-mail. Responses will be distributed back to contractor with the original RFI request.

### Site Staging, Logistics and Phasing

Contractor shall work within the hours permitted by local city ordinances.

The Contractor is reminded that some work may be taking place side-by-side with other contractors, including but not limited to Tenants’ and owners contractors and all reasonable efforts must be taken by Contractor to coordinate, facilitate and maintain regular tenant deliveries and provide safe construction ingress, egress and parking at all times.

Contractor shall prepare, with Owner’s cooperation and subject to Owner’s final approval, a detailed Phasing Plan for completion of each proposed phase, outlining very specific areas and timelines for completion of each phase. Should Contractor’s phasing plans require any drive to be closed, prior approval by the Owner will be required. Owner may also require Tenant approval.

Coordination with the operations of existing tenants and the construction and build-out of the new tenants, are critical to site logistics planning. A Site Staging and Traffic Control Plan must be submitted within seven (7) days of Notice of Award. The Staging and Traffic Control Plan must include dates and should consider ingress and egress traffic, parking, Contractor and subcontractor parking, storage areas and construction deliveries and offices, tenant staging areas, SWPPP requirements, temporary utilities, restroom facilities and trash bins, adjacent properties and noise, special events, protective barricades and signage, temporary lighting and any other impacts the project may have on the customers, tenants and adjacent neighbors and properties.

The City of Culver City requires all construction staging areas to be located as far as feasible from existing residences or other noise-sensitive uses. Furthermore, all construction equipment shall be fitted with properly operating mufflers. Contractor shall use non-glare, directional lighting to minimize potential light and glare impacts when lights are necessary for nighttime safety and security in the construction areas. Spillage shall be controlled to the maximum extent feasible and shall not exceed 0.5 foot candles at any property line. Temporary perimeter screening shall be utilized throughout the construction period in all areas where a solid visual barrier does not exist between adjacent uses or roadways on the Culver Public Market site. Barriers shall be installed in such a manner as to not adversely affect traffic safety in any adjacent area.

As a part of the project, use of public streets will be required for access, and the entire site will be secured. The Contractor shall be responsible for all project security throughout the project, once the project commences. The Contractor shall also be responsible for the protection and safety of any of the tenants within the project boundaries, as well as any adjacent property.

Contractor shall maintain all-weather access to the project site and building pads throughout the project duration. Including access around perimeter of buildings. This includes necessary labor and material installation to the satisfaction of local governing agencies and owner to maneuver vehicles around buildings.

Contractor to coordinate with city officials and Owner to provide the necessary access and staging described above.

#### Construction and Post-Construction Activities

Throughout the course of the project, the General Contractor will be responsible for holding a weekly meeting with the Owner's Representative and consultants, and preparing and distributing weekly meeting minutes. Weekly meeting minutes shall include current submittal and procurement logs, RFI log, Change Order Requests log, 3-week look-ahead schedule, weekly photo narrative and daily manpower log.

During the project, the General Contractor will be responsible for all schedule-related issues. A master baseline CPM schedule must be submitted in accordance with the contract. The schedule will be updated as required on an ongoing basis, and modified as necessary to demonstrate how the Contractor will achieve the project Milestones and overall completions dates. A detailed schedule and budget report will be prepared and reviewed monthly.

The GC and all subcontractors, sub-tier subcontractors and vendors working on the project with contract values of \$1,000 or higher are required to enroll and have their payment applications submitted and processed at the end of each month through the Textura-CPM™ (Construction Payment Management) system. See **Exhibit H** for more information on the Textura-CPM™ system, process and associated fees.

The GC and its subcontractors will be responsible for maintaining a full set of contract documents at the jobsite for Owner's review and will maintain digital as-builts throughout the project, ensuring that these documents are properly organized and stored at the jobsite and available for Owner's review at all times. The Owner will expect that O&M manuals, as-built drawings and other close-out documents will be in usable form and turned over at Substantial Completion of the project.

The GC and subcontractors will be responsible for ongoing warranty issues following Substantial Completion of the project. Certain trades and elements may require an extended warranty period. At the completion of the project, all warranties will be made coterminous with the Certificate of Occupancy, at no additional cost to the Owner.

### Staffing

It is anticipated that the GC may provide a fluctuating staff level as necessary to manage each aspect of the project. It is essential a single Project Manager and a single Project Executive be assigned to the project for its entire duration so that Owner has a single point of contact for all issues.

At least one General Superintendent shall be assigned to the project and available on site full-time throughout the duration of the project.

Other staffing (i.e. – Project Engineer(s), Project Accountant, etc.) should be provided and coordinated as required to ensure a knowledgeable and capable team is in place at all times. Once assigned to the project, these team members may not be modified without the express written permission of the Owner.

## **Exhibit K**

### **Clarifications, Inclusions & Exclusions Exhibit**

The following documents included as Exhibit K:

- Clarifications, Inclusions & Exclusions Exhibit

### Clarifications, Inclusions & Exclusions Exhibit

- 1) Contractor has considered in proposal cost to confirm all utilities are stubbed to each pad for: fire line, domestic water, gas, phone conduit, electrical conduits, sewer.
- 2) Contract includes trade permits, fees & licensing. Building permits only will be reimbursed by owner.
- 3) Contractor to coordinate deputy inspection & testing requirements with Owners representative. Contractor agrees to schedule representative efficiently to avoid failure of tests/inspections, and cancellations. Contractor to verify hours and sign daily tickets for owner's representative.
- 4) Contractor has considered all temporary provisions for construction, including temporary power for lighting, onsite flagmen for traffic control, water for irrigation, etc. and includes fencing at perimeter of work limit lines.
- 5) Contractor includes multiple mobilizations, as required for a complete scope of work. No additional mobilizations will be considered for reimbursement through owner.
- 6) Includes site security as required.
- 7) Contractor shall comply with all NPDES regulations in effect at time of work, and with owners SWPPP, will be included in general requirements. All management/reporting to be included per required documents. Contractor shall be responsible for any or all fines incurred by owner as a result of contractor's noncompliance.
- 8) Contractor to conduct with owner weekly jobsite meetings with owner and provide meeting minutes within 2 working days of the meeting.
- 9) Due to the early nature of the plan dates, it is agreed that the contract price includes all labor, material and operations whether shown on plans or not, to complete the building and site work as intended and customary for a project of this type and standard for the industry. Contractor has a complete knowledge and understanding of this type of construction and agrees no contract price increase will be approved unless owner increase scope of work substantially.
- 10) Contract includes reasonable plan check comments that may be issued from the city at time of permit issuance.
- 11) Contractor agrees all contractors pricing will be held through the duration of the project. No building material or labor price escalation will be accepted for the duration of the project.
- 12) Contractor agrees to provide all necessary coordination and paperwork to building department or city agencies as required to obtain approvals and permits required by the contract documents.
- 13) Contractor includes all necessary grease interceptors venting, through roof of associated building, for all grease interceptors that have been previously installed, or in the contract documents. Contractor is to document locations of stubs with the site contractor.
- 14) All Design Build Fire Alarm work for a complete system signed off by ALL required agencies. Contractor has included all temporary/permanent phone lines, electrical requirements, utilities required to have fire life safety signed off and has included fire alarm monitoring for 30 days after final acceptance, sign off by owner/tenant.
- 15) Contractor has reviewed utility requirements and considered all necessary cabling/conduit, outlets, for all fixtures, including but not limited to Cable/phone, SCE, SoCal Gas, Bldg Fire Alarm.
- 16) Contractor to confirm installation of outlets above storefront windows, as required by code

- 17) Contractor has reviewed, considered and included all standards and requirements for serving utilities included in contractor's scope of work. Includes, but not limited to: Bollards, painting, necessary/required clearances for improvements.
- 18) Contractor agrees to provide all necessary temporary requirements for utility companies to proceed with scheduling/installation of improvements.
- 19) Contractor to provide an onsite traffic flow plan prior to start of work.
- 20) Contractor to provide all trench plate, pedestrian traffic, public safety, etc. as required for onsite work. Any engineering or design required by contractors means and methods shall be the responsibility of the contractor.
- 21) Contractor has read & understood the geo-technical investigation(s) & has included all costs associated with scope of work .
- 22) All unit costs to include Overhead & Profit & once executed all back-up to be submitted, including but not limited to: vendor receipts, unit costs, hourly rates, substantiating back up, signed daily tickets, etc.
- 23) In addition to Bollards shown on contract documents - Contractor includes providing and installing all bollards required for all utilities, pedestals, and new, existing improvements protection, required by serving utilities, public agencies. Shown or not shown on contract documents.
- 24) Contractor agrees to review all existing utilities stubs and improvements on/offsite and make necessary, temporary or final, adjustments to proceed start of the scope of work.
- 25) Contractor has visited site and observed existing conditions, and has considered included costs for all labor & material required to provide owner a complete project.
- 26) Contractor agrees to coordinate & schedule all work in conjunction with tenant contractors.
- 27) Contractor has coordinated all utility P.O.C.'s with each consultant plans to ensure correct amount of work.
- 28) Contractor includes temporary water, including irrigation for landscaping, and dust control.
- 29) Contractor to contact each utility and schedule a pre-job walkthrough to ensure scheduling for milestones dates/critical paths. Provide owner copy of meeting minutes immediately following pre-job meeting.
- 30) Contractor to work directly with sign contractor to ensure requirements are fulfilled for the bldg signage, and confirmed electrical requirements. Contract includes conduit/wire stubbed for all new building signage and installed to the nearest house panel. Contractor includes coordination with building sign contractor.
- 31) Awnings at new shops, to be design build for framework & to be submitted to structural engineer for approval, as required to fulfil the intent of the design.
- 32) Contractor agrees to provide all necessary/required building signage and bldg. addresses as required by the city of Culver City or any other authorities having jurisdiction.
- 33) Contractor includes all necessary labor, material, services, utilities, etc for installation of domestic water submetering for all demised suites, if required by project documents. To include but not limited to: coordination with all consultants, vendors, a complete remotely metered domestic water system for each tenant, scheduling, ordering meters, etc. All water submeters to be installed per applicable codes.
- 34) Electrical meters must be provided at all suites prior to Independent Air Balances by tenant. Bid includes all necessary move-ins for Independent Air Balance.
- 35) Contractor to include monthly photos/vidies that encompasses the bldgs. through duration of project and submit to owner on a monthly basis

- 36) In a timely fashion, contractor to submit all product submittals to consultants to avoid last minute expediting, acceleration of approvals, deliveries, etc.
- 37) Contractor to schedule walkthrough with ALL governing agencies/departments and utilities to ensure milestone dates are achieved and a minimum 45 days prior to turnover tenant of for substantial completion. Provide owner meeting minutes of sign off requirements by agencies.
- 38) Contractor agrees no hanging of any signage/solicitation on perimeter fencing, buildings, windows, trailers, etc.
- 39) Conduit for tenant and building signage is included in contract. Coordinate installation to ensure properly working signs prior to Certificate of Occupancy
- 40) Contractor has reviewed existing grades & site conditions and agrees to accept conditions prior to start of work. Contractor has considered all additional work required for the intended building scope of work. Contractor has evaluated proposed grades with subcontractors and agrees to make any adjustments to the design, to ensure the intent of the drawings are achieved, per code requirements, at no additional cost to owner.
- 41) Contractor agrees to coordinate with all tenants and tenants' contractors including the coordination of scheduling and turnover for a seamless transition.
- 42) Contractor to remove and properly dispose of demolition debris.
- 43) Over-excavation, shoring, slot cutting, and/or backfill for retaining walls, is included in contract, if required.
- 44) Contractor to provide owner and City video of all new sewer and storm drain lines at project completion.
- 45) Contractor agrees to protect in place all existing improvements onsite/offsite, and adjacent to property.
- 46) Contractor is responsible for installation of all plaster expansion joints per plans and specs/ industry standards, show or not shown on drawings.
- 47) Provide all mock ups (10'x10') as required for approval in project documents, including but not limited to: paint, stone, storefront, textured/plaster, colored hardscape, pavers, grey/acid wash/sandblasted/finished concrete.
- 48) Contractor agrees to ensure all roofs drain properly. Contractor to make necessary adjustments with crickets, cants to ensure proper roof drainage, per local requirements.
- 49) Change orders – when submitting T&M Change Order Requests, contractor to provide all detailed back up including actual labor rates, vendor backup and contracts, quantities of improvements, hours, etc. and daily subcontractor work tickets verified and signed by superintendent.
- 50) Contractor to visit the site to field verify all dimensions and elevations shown on plans and if necessary, confirm scales used by on architectural and civil related plans.
- 51) If required by contract documents or public agencies, contractor to provide design and/or deferred submittals as may be necessary to complete the work including but not limited to the following trades: awnings, shoring, storefront, roof trusses, fire sprinklers, fire alarm, traffic control, etc.
- 52) Contractor to provide a procurement schedule for all submittals, vendor delivery, mock ups, per contract requirements
- 53) All coring, sawcutting, asphalt patching, required for new improvements
- 54) For duration of project, contractor to provide a double wide construction trailer, to include the following: carpet floors conference table, with ability to accommodate a 12 person on a weekly basis; 2 restrooms; WiFi connectivity, separate 10'x10' office for Regency Centers,

- including a desk and chair, table and chairs for 4 people, temporary plan rack or plan table, and filing cabinet with 4 drawers.
- 55) Contractor to maintain a complete set of all contract documents and all changes issued to the contractor on a separate set of plans, and shall be kept up to date through the duration of the project including a 3 ring binder with all addendums, Bulletins, narratives, RFIs, etc.
  - 56) Contractor agrees to provide and install all waterproofing and drainage requirements at all retaining walls, and exposed walls at building conditions.
  - 57) Contractor agrees to proposal is valid for 60 days from date of proposal.
  - 58) Contractor has included all labor and material for all lighting as shown on contract documents.
  - 59) All cleanouts and utility pull/boxes that are to be located inside of bldg. hardscape are to be parallel, perpendicular, and level with adjacent improvements. Contractor to confirm plan designation prior to installation. In the event a utility box is not able to be relocated, contractor agrees to install custom lid topped with adjacent surface finish.
  - 60) All wet/dry utilities/boxes are to be plumb, level, parallel and perpendicular to adjacent improvements.
  - 61) Contractor has reviewed local jurisdiction requirements and agrees to provide and install all necessary roof hatches, roof access doors with locking device, fire sprinklers, etc.
  - 62) Contractor agrees to provide all necessary back up, in writing from appropriate governmental employee, if any field changes are required/requested by employee.
  - 63) Contractor agrees to provide all necessary rain protection for utility, foundation/footings and all open trenches.
  - 64) Contractor should prevent runoff across the site and should plan on some remedial grading in the event of heavy rains.
  - 65) On any change orders, Contractor to provide a detailed breakdown of cost, including unit costs, labor rates, any schedule impacts, etc. prior to commencing any work. Upon issuance of change order request, Contractor to provide pricing within five (5) calendar days.
  - 66) Awarding Contractor to provide all cost breakdowns as requested by Owner throughout duration of the project.
  - 67) Contractor to furnish and install seal coat and restripe (one additional coat) of adjacent parking and drives at end of project at Site B.
  - 68) Contractor to power-wash and seal all pedestrian flatwork (concrete, unit pavers, etc.) prior to turnover/acceptance.
  - 69) Contractor to provide "all-weather" access road installation. Contractor to provide continuous access to all building pads at all times.
  - 70) Owner to secure applications, approved designs and pay all fees for utilities. Upon issuance of approved plans, it shall be the Contractor's sole responsibility to schedule weekly meetings with utility planners and coordinate the work with the utility companies for complete installation.
  - 71) Contractor to provide all dewatering as required for proper installation of new improvements.
  - 72) Contractor agrees to relocate staging and equipment areas as required for installation of improvements, and as required for free and clear access to jobsite and trailer
  - 73) Contractor includes all trade related fees/permits
  - 74) Includes prevailing/union wages as required by California State Laws

## Exhibit L

### Clever Devices and Bus Stop Equipment

Contractor shall furnish and install bus stop benches and trash receptacles at three bus stop shelter locations, in accordance with the attached City of Culver City Bus Stop Standards, dated July 31, 2018. This work shall also include removal and disposal of existing bus stop shelters, and clearing, grading and site preparation for new bus stop shelters, to be furnished and installed by others.

Contractor scope of work shall also include ~~contracting~~ coordinating with Clever Devices for and for the installation of three new poles for the solar powered LED Passenger Information Displays, ~~Contractor shall furnish and install support posts~~ per specifications provided by the Transportation Department at locations approved by Transportation Department.

**Developer Checklist and Documentation to Provide to Transportation Department  
Culver Public Market Hall Project at 12403 Washington Blvd.**

The developer shall obtain from the manufacturers and provide to City the warranty and other documentations below with information identifying the bus stop locations and bus stop furniture for which the warranty documents are intended for.

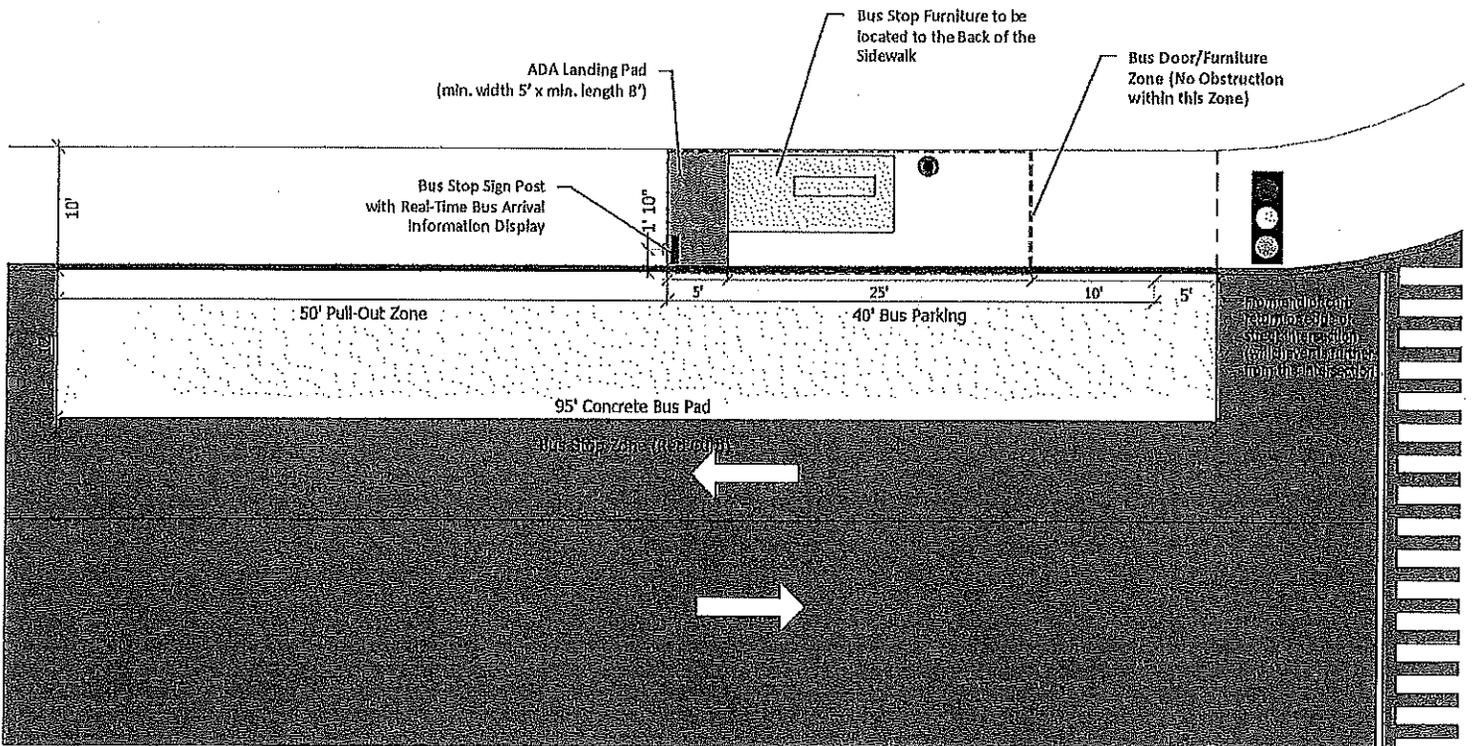
Bench and Trash Receptacle

- Developer shall purchase and install benches and trash receptacles at locations approved by Transportation Department for bus stops at (1) Washington Blvd./Centinela Ave. WB, (2) Centinela Ave./Washington Blvd. NB, and (3) Centinela Ave./Washington Blvd. SB.
- Warranty document that reflects all materials and workmanship to be guaranteed to be free of defects resulting from the use of inferior materials, equipment, powder coat paint, or workmanship for a period of five (5) years after delivery.
- Warranty document that reflects the warranty period for all materials to be free of UV deterioration.

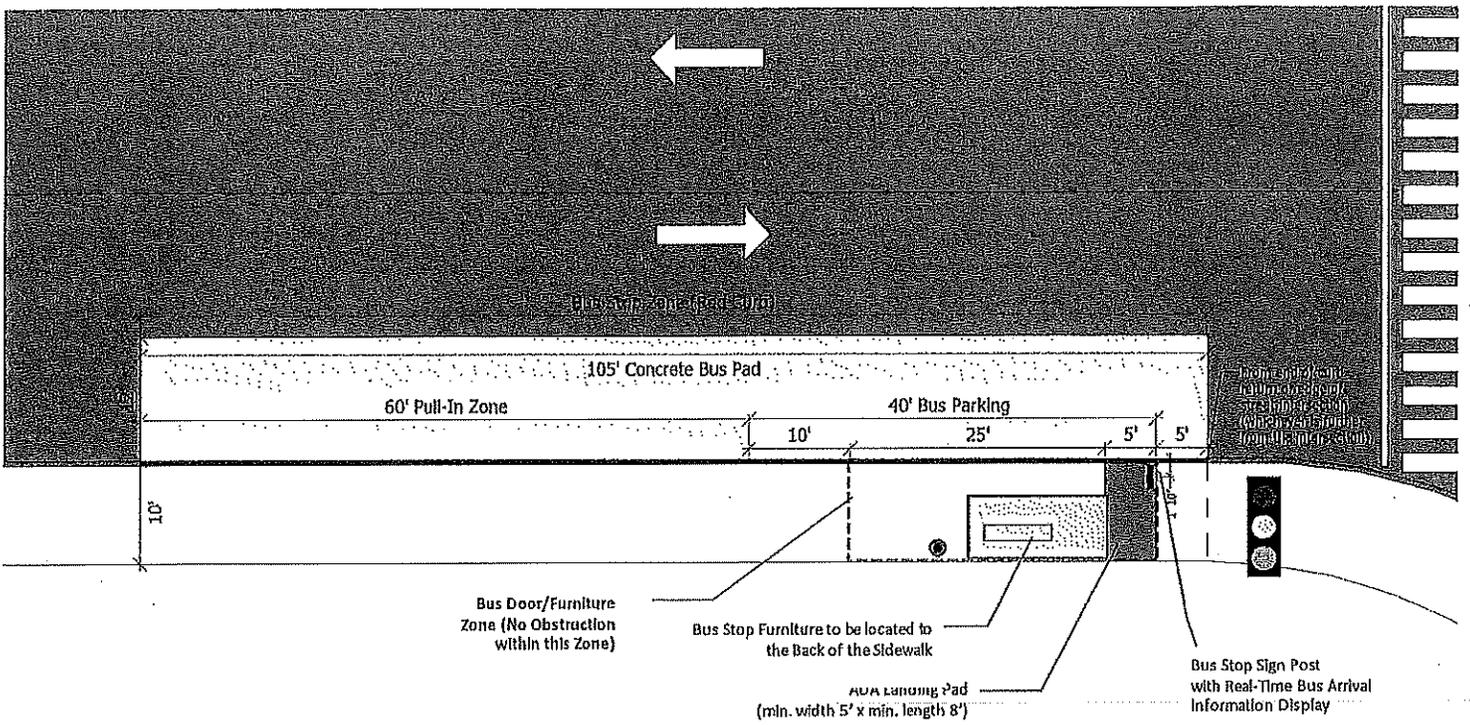
Real-time Sign

- Developer shall install three (3) new posts per specifications provided by Transportation Department at locations approved by Transportation Department.
- Documentation of payment in full for the procurement, design, configuration, testing, and installation of three (3) Solar Powered Passenger Information Display LED signs (two-line, 24-character) per City standard.
- Developer shall provide a copy of the signed contract with Clever Devices that shows the following:
  - a. Clever Devices will work with Transportation Department on the procurement, design, configuration, testing, and installation of the Solar Signs;
  - b. Procurement, design, configuration, testing, and installation of the Solar Signs shall commence after the completion of Culver CityBus's real-time bus arrival information system so as not to incur the need for storage.
  - c. Warranty documents from Clever Devices and WaySine on the following:
    - i. The powder-coating have a minimum warranty of five (5) years without any material degradation.
    - ii. All components, including batteries and powder-coating, should be covered by WaySine's five (5) year warranty on manufacturing defects.
    - iii. Other relevant warranty documents.
  - d. Clever Devices will provide support and services during the warranty period of the signs.

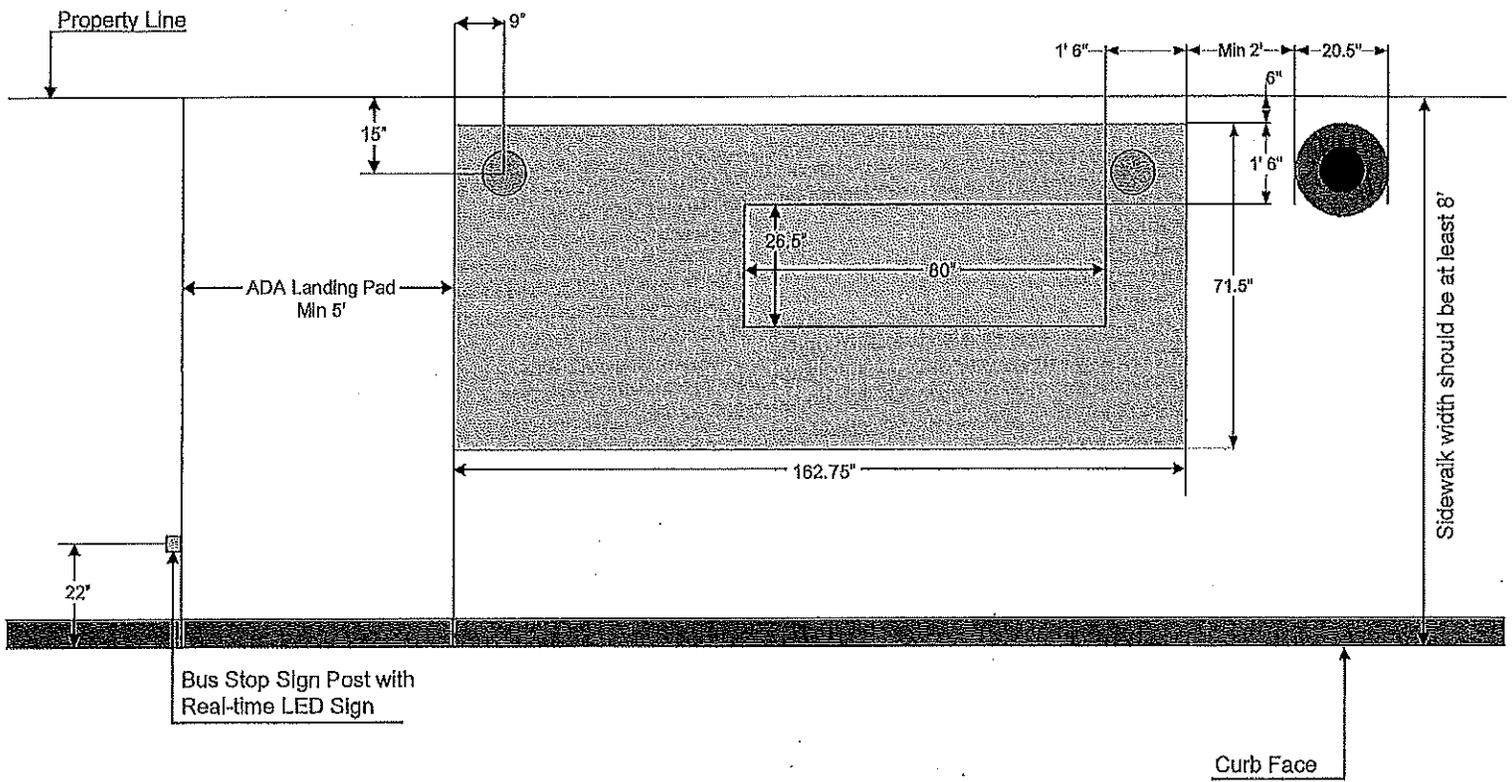
Standard Bus Stop Diagram - Farside



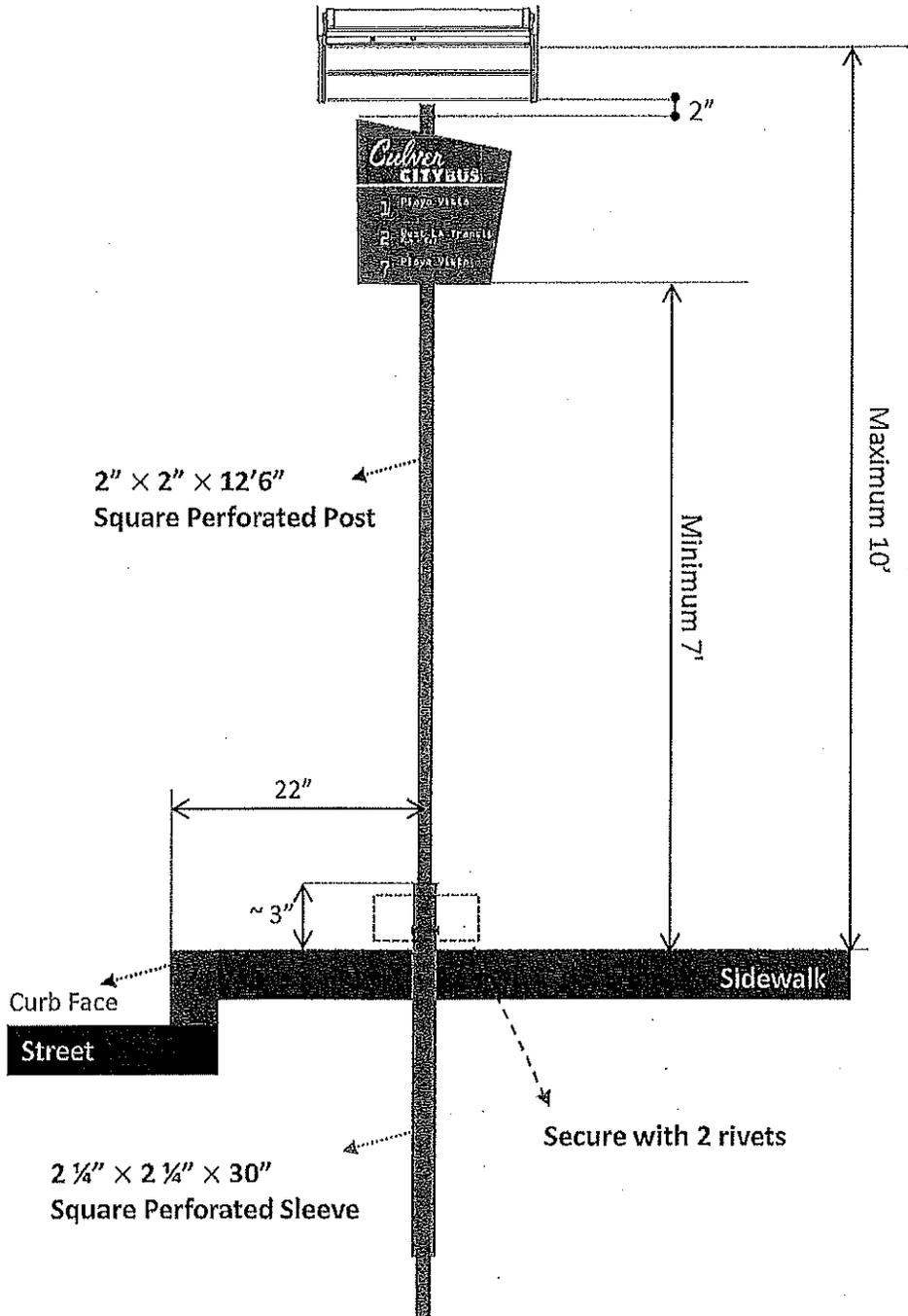
Standard Bus Stop Diagram - Nearside



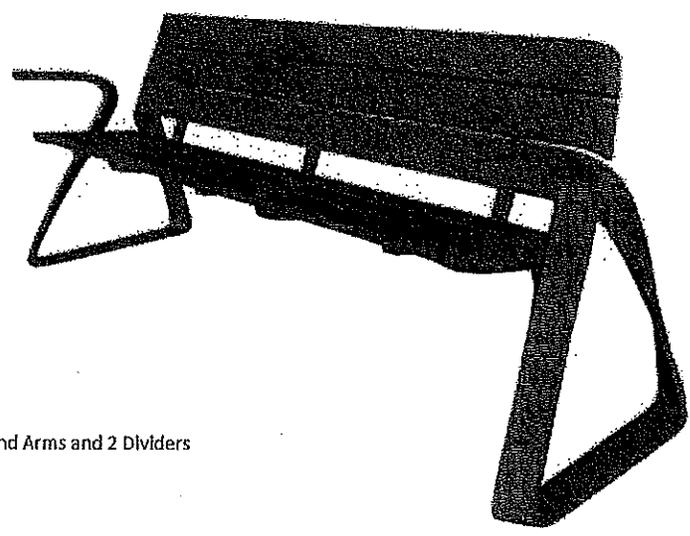
Standard Bus Stop Diagram – Detail Furniture Layout  
With Backed Bench



Standard Bus Stop Sign Post Elevation

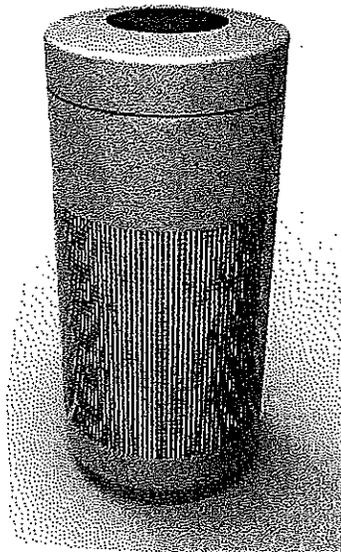


Bench – Isometric View



Product Information:  
Manufacturer: LANDSCAPE FORMS  
Style: REST Backed Bench w/ End Arms and 2 Dividers  
Finish: ALUMINUM  
Color: SILVER

Trash Receptacle



Product Information:

Manufacturer: LANDSCAPE FORMS  
Style: PETOSKEY TRASH RECEPTACLE WITH TOP OPENING AND KEYED LOCK  
Model #: PK999-06233  
Finish: COMMERCIAL GRADE POLYETHYLENE PLASTER LINER  
Capacity: AT LEAST 30 GALLON  
Color: POWDER COAT SILVER

**Exhibit N**

**SWPPP & WQMP**

The following documents prepared by DRC Civil Engineering and are included as Exhibit N:

1. Stormwater Pollution Prevention Plan (SWPPP) dated 12/18/17
2. Erosion Control Drawings dated 7/25/18 (one sheet for Site A and one sheet for Site B).
3. ~~NOI Fee Statement from State Water Resources Control Board.~~
4. Low Impact Development (LID) dated 12/15/17.
5. General Contractor is responsible for compliance with in limits of work.

# STORM WATER POLLUTION PREVENTION PLAN

for

## Culver City Marketplace

Precise Grading Plan  
W. Washington Blvd & Centinela Ave

Project Risk Level: 1

*Legally Responsible Person (LRP):*

### Regency Centers

915 Wilshire Blvd, Suite 2200  
Los Angeles, CA 90017

Contact:

Ph: (213) 553-2218

*Authorized Signatory:*

Tom Middleton

*Contractor:*

**TBD**

TBD

TBD

WPCM: TBD

QSP: TBD

*SWPPP Prepared by:*

### DRC Engineering, Inc.

160 S Old Springs Rd., Suite 210  
Anaheim Hills, CA 92808  
Cory Mack, Project Engineer/QSD #1052  
Ph: (714) 685-6860

DRC Project No.: 15-820

SWPPP Date: December 18, 2017

Estimated Construction Start Date: January 2<sup>nd</sup>, 2019

Estimated Construction End Date: April 30<sup>th</sup>, 2020

WDID No:

**BID SET 9/4/18**

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**Qualified SWPPP Developer -  
Approval and Certification of the Stormwater Pollution Prevention Plan**

Project Name/Address: Culver City Marketplace  
W. Washington Blvd & Centinela Ave  
Culver City, CA 90066

"As the architect/engineer of record, I have selected appropriate BMPs to effectively minimize the negative impacts of this project's construction activities on storm water quality. The project owner and contractor are aware that the selected BMPs must be installed, monitored, and maintained to ensure their effectiveness. The BMPs not selected for implementation are redundant or deemed not applicable to the proposed construction activity."

\_\_\_\_\_  
*QSD Signature*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
Cory Mack  
*QSD Name*

\_\_\_\_\_  
QSD #1052  
*QSD Certificate Number*

\_\_\_\_\_  
Project Engineer, DRC Engineering, Inc.  
*Title and Affiliation*

\_\_\_\_\_  
(714) 685-6860  
*Telephone Number*

\_\_\_\_\_  
cmack@drc-eng.com  
*Email*



**LRP -  
Approval and Certification of the Stormwater Pollution Prevention Plan**

Project Name/Address: Culver City Marketplace  
W. Washington Blvd & Centinela Ave  
Culver City, CA 90066

"I certify that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, to the best of my knowledge and belief is true accurate and complete. I am aware that submitting false and/or inaccurate information, failing to update the SWPPP to reflect current conditions, or failing to properly and/or adequately implement the SWPPP may result in revocation of grading and/or other permits or other sanctions provided by law."

Regency Centers  
\_\_\_\_\_  
*Legally Responsible Person*

\_\_\_\_\_  
*Signature of Legally Responsible Person  
(authorized representative of) or Approved  
Signatory*

\_\_\_\_\_  
*Date*

Tom Middleton  
\_\_\_\_\_  
*Name of Legally Responsible Person (authorized  
representative of) or Approved Signatory*

(213) 553-2218  
\_\_\_\_\_  
*Telephone Number*



# Low Impact Development Plan (LID Plan)

**Project Name:**

Culver City Marketplace  
Washington Blvd. & Centinela Ave.

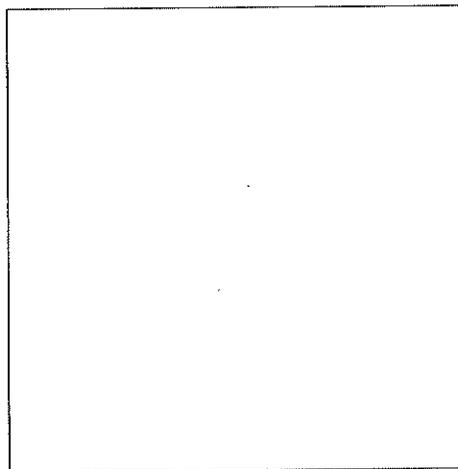
Culver City, CA

Prepared for:

Regency Centers  
915 Wilshire Blvd., Suite 2200  
Los Angeles, CA 90017

Prepared by:

Drc Engineering Inc.  
160 South Old Springs Road #210  
Anaheim Hills, Ca, 92808  
(714) 685-6860



PE Stamp & Sign Here

Prepared On: 12/15/17

**BID SET 9/4/18**

## Project Owner's Certification

I certify under penalty of law that this document and all attachments were prepared under my jurisdiction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathered the information, to the best of my knowledge and belief, the information submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

|                |                                 |       |  |
|----------------|---------------------------------|-------|--|
| Owner's Name:  | Tom Middleton                   |       |  |
| Owner's Title: | Senior Project Manager          |       |  |
| Company:       | Regency Centers                 |       |  |
| Address:       | 915 Wilshire Blvd., Suite 2200  |       |  |
| Email:         | TomMiddleton@regencycenters.com |       |  |
| Telephone No:  | (213) 553-2218                  |       |  |
| Signature:     |                                 | Date: |  |

## Preparer (Engineer) Certification

|   |                                 |      |  |
|---|---------------------------------|------|--|
| Engineer's Name:  | Larry Gates                     |      |  |
| Engineer's Title:   | President                       |      |  |
| Company:  | DRC Engineering Inc.            |      |  |
| Address:  | 160 South Old Springs Road #210 |      |  |
| Email:  | lgates@drc-eng.com              |      |  |
| Telephone No:   | 714-685-6860                    |      |  |
| I hereby certify that this Low Impact Development Plan is in compliance with, and meets the requirements set forth in, Order No. R4-2012-0175, of the Los Angeles Regional Water Quality Control Board. |                                 |      |  |
| Engineer's Signature  |                                 | Date |  |
| Place Stamp Here  |                                 |      |  |

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# 1. PROJECT DESCRIPTION

## 1.1. PROJECT CATEGORY

| Category  | YES                                 | NO                       |
|---|-------------------------------------|--------------------------|
| 1. Development <sup>a</sup> of a new project equal to 1 acre or greater of disturbed area and adding more than 10,000 square feet of impervious area <sup>b</sup>   | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Development <sup>a</sup> of a new industrial park with 10,000 square feet or more of surface area <sup>c</sup>   | <input type="checkbox"/>            | <input type="checkbox"/> |
| 3. Development <sup>a</sup> of a new commercial mall with 10,000 square feet or more surface area <sup>c</sup>  | <input type="checkbox"/>            | <input type="checkbox"/> |
| 4. Development <sup>a</sup> of a new retail gasoline outlet with 5,000 square feet or more of surface area <sup>c</sup>   | <input type="checkbox"/>            | <input type="checkbox"/> |
| 5. Development <sup>a</sup> of a new restaurant (SIC 5812) with 5,000 square feet or more of surface area <sup>c</sup>  | <input type="checkbox"/>            | <input type="checkbox"/> |
| 6. Development <sup>a</sup> of a new parking lot with either 5,000 ft <sup>2</sup> or more of impervious area <sup>b</sup> or with 25 or more parking spaces  | <input type="checkbox"/>            | <input type="checkbox"/> |
| 7. Development <sup>a</sup> of a new automotive service facility (SIC 5013, 5014, 5511, 5541, 7532-7534 and 7536-7539) with 5,000 square feet or more of surface area <sup>c</sup>  | <input type="checkbox"/>            | <input type="checkbox"/> |
| 8. Projects located in or directly adjacent to, or discharging directly to a Significant Ecological Area (SEA), <sup>d</sup> where the development will:<br>a. Discharge stormwater runoff that is likely to impact a sensitive biological species or habitat; and<br>b. Create 2,500 square feet or more of impervious area <sup>b</sup> | <input type="checkbox"/>            | <input type="checkbox"/> |
| 9. Redevelopment <sup>e</sup> of 5,000 square feet or more in one of the categories listed above<br><b>If yes, list redevelopment category here:</b>  | <input type="checkbox"/>            | <input type="checkbox"/> |
| 10. Redevelopment <sup>e</sup> of 10,000 square feet or more to a Single Family Home, without a change in landuse.  | <input type="checkbox"/>            | <input type="checkbox"/> |

- a Development includes any construction or demolition activity, clearing, grading, grubbing, or excavation or any other activity that results in land disturbance.
- b Surfaces that do not allow stormwater runoff to percolate into the ground. Typical impervious surfaces include: concrete, asphalt, roofing materials, etc.
- c The surface area is the total footprint of an area. Not to include the cumulative area above or below the ground surface.
- d An area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and would be disturbed or degraded by human activities and developments. Also, an area designated by the City as approved by the Regional Water Quality Control Board.
- e Land-disturbing activities that result in the creation, addition, or replacement of a certain amount of impervious surface area on an already developed site. Redevelopment does not include routine maintenance activities that are conducted to maintain the original line and grade, hydraulic capacity, or original purpose of facility, nor does it include modifications to existing single family structures, or emergency construction activities required to immediately protect public health and safety.

## 1.2. PROJECT DESCRIPTION

Total Project Area (ft<sup>2</sup>): 77,515

Total Project Area (Ac): 1.78

### EXISTING CONDITIONS

| Condition        | Area (ft <sup>2</sup> ) | Percentage (%) |
|------------------|-------------------------|----------------|
| Pervious Area:   | 77,515                  | 100            |
| Impervious Area: | 0                       | 0              |

### PROPOSED CONDITIONS

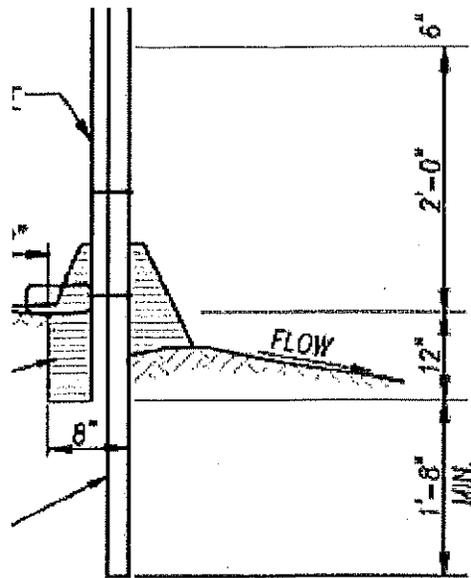
| Condition        | Area (ft <sup>2</sup> ) | Percentage (%) |
|------------------|-------------------------|----------------|
| Pervious Area:   | 7,400                   | 10             |
| Impervious Area: | 70,115                  | 90             |

### SITE CHARACTERISTICS

|  |   |
|--|---|
| <p><b>DRAINAGE PATTERNS/CONNECTIONS</b></p>  | <p>Existing:</p> <p>In the existing condition the site is 100% pervious and generally drains to the south towards Washington Blvd.</p> <hr/> <p>Proposed:</p> <p>The proposed site will be 90% impervious. Runoff will generally flow away from the structures and will be collected by onsite catch basins and drop inlets. Water will be treated by the use of underground infiltration chambers.</p>   |
| <p><b>NARRATIVE PROJECT DESCRIPTION:</b></p> | <p>The proposed Site A will consist of one retail building with attached parking structure +/- 98,000 SF. The site will also include hardscape and landscape surrounding the proposed buildings. The proposed site will be 90% impervious. Runoff will generally flow away from the structures and will be collected by onsite catch basins and drop inlets. Water will be treated by the use of underground infiltration.</p> <p>The proposed Site B will consist of two retail buildings +/- 5,400 SF. The site will also include hardscape and landscape surrounding the proposed buildings. The proposed site will be 90% impervious. Runoff will generally flow away from the structures and will be collected by onsite catch basins and drop inlets. Water will be treated by the use of underground infiltration.</p> <p>There is one trash enclosure proposed. The design details are included in Appendix E. The ordinary wastes will be picked up by local waste</p> |

**Low Impact Development Plan (LID Plan)**  
Culver City Marketplace

|  |   |
|--|---|
|  | <p>management company on a weekly basis and hazardous waste will be disposed of by a licensed hazardous waste hauler.</p> <p>No outdoor storage is proposed for this site.</p> <p>There are four catch basins/inlets proposed for the on-site storm drain system. Stencil or affixed sign containing a brief statement that prohibits dumping of improper materials will be installed at the proposed catch basins/inlets.</p> <p>The site is 1.78 AC. In the proposed condition the site will be 90% impervious. Landscaped areas are located around the structure and islands within the parking fields. Plants with similar and low irrigation requirements and/or California native plant species will be chosen for efficient irrigation purposes.</p> <p>Activities on the site will be in conformance with this LID and the Culver City zoning ordinance and standards. Anticipated pollutants for this project include heavy metals, trash and debris, and oil and grease. Potential pollutants include nutrients, pesticides, organic compounds, sediments, and oxygen demanding substances.</p> <p>All solid and liquid waste will be handled and disposed of with caution, ensuring that no waste generated on the site will pollute storm water. There will be no activities associated with vehicle or equipment fueling, maintenance, or repair on the site. There will be no outdoor storage of materials.</p> |
|--|---|



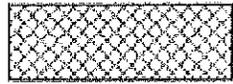
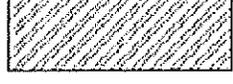
- WM1- MATERIAL DELIVERY AND STORAGE
- WM2- MATERIAL USE
- WM3- STOCKPILE MANAGEMENT
- WM4- SPILL PREVENTION AND CONTROL
- WM5- SOLID WASTE MANAGEMENT
- WM6- HAZARDOUS WASTE MANAGEMENT
- WM7- CONTAMINATION SOIL MANAGEMENT
- WM8- CONCRETE WASTE MANAGEMENT
- WM9- SANITARY/SEPTIC WASTE MANAGEMENT
- WM10- LIQUID WASTE MANAGEMENT

DO NOT OBTAIN CONSENT FROM ADJACENT OWNERS.  
 NOT ALLOWED FROM ONE SIDE OF  
 OTHER WITHOUT WRITTEN CONSENT  
 OWNERS.

### L SILT FENCE DETAIL

NOT TO SCALE

### LEGEND:

-  STABILIZED CONSTRUCTION ENTRANCE
-  CONSTRUCTION STAGING AREA
-  CONCRETE WASHOUT
-  PAVING OPERATIONS

CITY OF CULVER CITY  
 PUBLIC WORKS DEPARTMENT  
 ENGINEERING DIVISION

CULVER PUBLIC MARKET

EROSION CONTROL & LSWPPP  
 SITE PLAN AND DETAILS

APPROVED BY:

CHARLES D. HERBERTSON, P.E., L.S.  
 PUBLIC WORKS DIRECTOR/CITY ENGINEER

DATE

SHEET

CA-06

Sheet 6 Of 6 Sheets

EXTERNAL REFERENCES: 5820ma101 5820bn101 5820t1102 5820pg100 \_img\_co\_stamp 5820f1103 5820 AR Bldg 5820duma A 5820duma B  
 FILENAME: M:\2015\15-820 Regency Culver City\PG\SITE A\06\_5820arA01.dwg, LAST SAVED ON: Jul 25 2018 9:08am PLOTTED BY: ANDREW, ON:

**BID SET 9/4/18**

**GENERAL CONDITIONS AND SPECIFICATIONS**

1. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF CHANDLER AND THE ARIZONA DEPARTMENT OF TRANSPORTATION AND CONSTRUCTION.
2. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.
3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL UTILITIES AND EXISTING STRUCTURES.
4. THE CONTRACTOR SHALL MAINTAIN ADEQUATE SAFETY MEASURES THROUGHOUT THE PROJECT.
5. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE REMOVAL AND DISPOSAL OF ALL DEBRIS AND EXCESS MATERIAL.
6. THE CONTRACTOR SHALL MAINTAIN RECORDS OF ALL WORK DONE AND SUBMIT THEM TO THE CITY ENGINEER UPON COMPLETION.
7. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL ADJACENT PROPERTIES AND THE PUBLIC.
8. THE CONTRACTOR SHALL MAINTAIN ADEQUATE SAFETY MEASURES THROUGHOUT THE PROJECT.
9. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE REMOVAL AND DISPOSAL OF ALL DEBRIS AND EXCESS MATERIAL.
10. THE CONTRACTOR SHALL MAINTAIN RECORDS OF ALL WORK DONE AND SUBMIT THEM TO THE CITY ENGINEER UPON COMPLETION.

1. The contractor shall be responsible for obtaining all necessary permits and approvals from the City of Chandler and the Arizona Department of Transportation and Construction.

2. The contractor shall maintain access to all adjacent properties at all times.

3. The contractor shall be responsible for the protection of all utilities and existing structures.

4. The contractor shall maintain adequate safety measures throughout the project.

5. The contractor shall be responsible for the removal and disposal of all debris and excess material.

6. The contractor shall maintain records of all work done and submit them to the City Engineer upon completion.

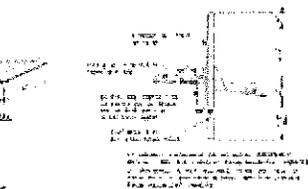
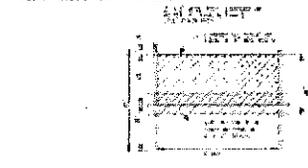
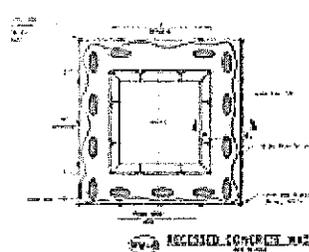
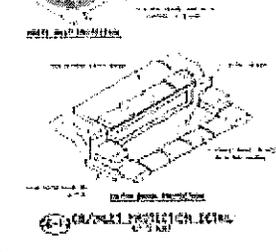
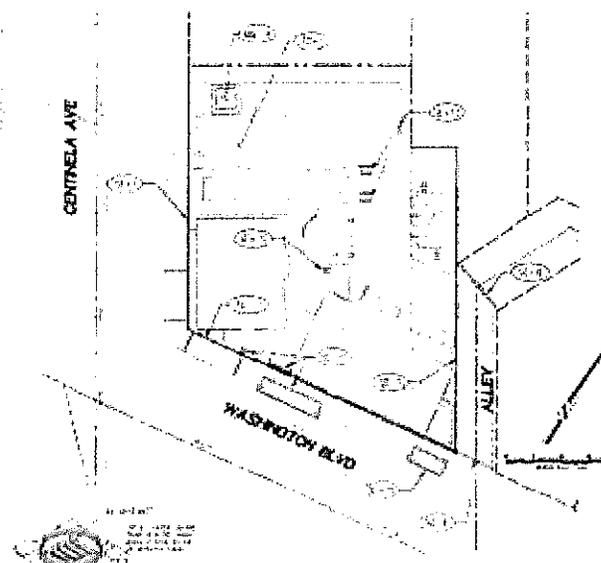
7. The contractor shall be responsible for the protection of all adjacent properties and the public.

8. The contractor shall maintain adequate safety measures throughout the project.

9. The contractor shall be responsible for the removal and disposal of all debris and excess material.

10. The contractor shall maintain records of all work done and submit them to the City Engineer upon completion.

| NO. | DESCRIPTION    |
|-----|----------------|
| 1   | CONCRETE       |
| 2   | STEEL          |
| 3   | PAINT          |
| 4   | ASPHALT        |
| 5   | GRASS          |
| 6   | LANDSCAPING    |
| 7   | UTILITIES      |
| 8   | STRUCTURES     |
| 9   | SAFETY         |
| 10  | DEBRIS REMOVAL |



| NO. | DESCRIPTION    |
|-----|----------------|
| 1   | CONCRETE       |
| 2   | STEEL          |
| 3   | PAINT          |
| 4   | ASPHALT        |
| 5   | GRASS          |
| 6   | LANDSCAPING    |
| 7   | UTILITIES      |
| 8   | STRUCTURES     |
| 9   | SAFETY         |
| 10  | DEBRIS REMOVAL |

| NO. | DESCRIPTION    |
|-----|----------------|
| 1   | CONCRETE       |
| 2   | STEEL          |
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| 5   | GRASS          |
| 6   | LANDSCAPING    |
| 7   | UTILITIES      |
| 8   | STRUCTURES     |
| 9   | SAFETY         |
| 10  | DEBRIS REMOVAL |

**CITY OF CHANDLER CITY PUBLIC WORKS DEPARTMENT ENGINEERING DIVISION**  
**CLAYTON PUGH MARKET**  
**EMERSON CONTROL IN LEANPH SITE PLAN AND DETAILS**  
 10-04  
 10-04  
 10-04

**Exhibit O**

**Geotechnical Work Plan, Soils Report**

The following geotechnical documents are included as Exhibit O:

1. Geotechnical Engineering Investigation prepared by Krazan & Associates, Inc. dated February 13, 2018.

**GEOTECHNICAL ENGINEERING INVESTIGATION  
PROPOSED CULVER CITY MARKET PLACE  
NORTH OF WASHINGTON BOULEVARD & CENTINELA  
AVENUE  
CULVER CITY, CALIFORNIA**

**PROJECT NO. 112-18009  
FEBRUARY 13, 2018**

**Prepared for:**

**MR. TOM MIDDLETON  
REGENCY CENTER  
915 WILSHIRE BOULEVARD, SUITE 2200  
LOS ANGELES CA 90017**

**Prepared by:**

**KRAZAN & ASSOCIATES, INC.  
1100 OLYMPIC DRIVE, SUITE 103  
CORONA, CALIFORNIA 92881  
(951) 273-1011**

# Krazan & ASSOCIATES, INC.

GEOTECHNICAL ENGINEERING • ENVIRONMENTAL ENGINEERING  
CONSTRUCTION TESTING & INSPECTION

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**Exhibit P**

**Plan Log**

The following documents are included as Exhibit P – Plan Log:

CONTRACT DOCUMENTS  
 CULVER PUBLIC MARKETPLACE  
 12403 W. Washington Blvd 4061 S Centinela Ave  
 Culver City, CA

| <b>Exhibit P</b> |   |                 |
|------------------|---|-----------------|
| <b>SITE A</b>    |   |                 |
| G011-A           | TITLE SHEET DRAWING INDEX                   | 2/11/2019       |
| G101-A           | GENERAL NOTES & ABBREVIATIONS               | 2/11/2019       |
| G102-A           | ACCESSIBILITY STANDARDS & DETAILS           | 2/11/2019       |
| G103-A           | ACCESSIBILITY STANDARDS & DETAILS           | 2/11/2019       |
| G104-A           | ACCESSIBILITY STANDARDS & DETAILS           | 2/11/2019       |
| G211.1-A         | CODE ANALYSIS & EXITING                     | 2/11/2019       |
| G211.2-A         | CODE ANALYSIS & EXITING                     | 2/11/2019       |
| G211.3-A         | CODE ANALYSIS & EXITING                     | 2/11/2019       |
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| G211.5-A         | PATH OF TRAVEL TO RESTROOM                  | 2/11/2019       |
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CONTRACT DOCUMENTS  
 CULVER PUBLIC MARKETPLACE  
 12403 W. Washington Blvd 4061 S Centinela Ave  
 Culver City, CA

|          |                                     |                 |
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CONTRACT DOCUMENTS  
 CULVER PUBLIC MARKETPLACE  
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 Culver City, CA

|          |   |                 |
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| S001-A   | GENERAL NOTES                           | 2/11/2019       |
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| E111APH       | GROUND FLOOR PHOTOMETRIC PLAN SITE A         | 2/11/2019       |
| E112-A        | SECOND FLOOR ELECTRICAL PLAN SITE A          | DELTA 2 3/14/19 |
| E112-APH      | SECOND FLOOR PHOTOMETRIC PLAN SITE A         | 2/11/2019       |
| E113-A        | SECOND FLOOR PHOTOMETRIC PLAN SITE A         | 2/11/2019       |
| E114-A        | THIRD FLOOR ELECTRICAL PLAN SITE A           | 2/11/2019       |
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| G103-B        | ACCESSIBILITY STANDARDS & DETAILS            | 1/25/2019       |
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| A621-B        | DETAILS PARAPETS                             | 1/25/2019       |
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| A623-B        | DETAILS EYEBROWS                             | 1/25/2019       |
| A721-B        | DOOR & WINDOW SCHEDULE                       | DELTA 2 3/14/19 |

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| S301-B   | MOMENT FRAME ELEVATIONS                         | 2/11/2019       |
| S311-B   | MOMENT FRAME NOTES & DETAILS                    | 2/11/2019       |
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| S501-B   | FOUNDATION FOOTING DETAILS                      | 2/11/2019       |
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| M004-B   | TYPICAL MECHANICAL DETAILS                      | 2/11/2019       |
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| P121-B   | GROUND FLOOR SITE B PLUMBING                    | DELTA 2 3/14/19 |
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| E121-BPH | GROUND FLOOR PHOTOMETRICS SITE B                | 2/11/2019       |
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**EDISON DRAWINGS**

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| 20F4 | ECS CARRIER SOLUTIONS | 2/3/2019  |
| 10F1 | ECS RISER DETAIL      | 2/3/2019  |
| 10F1 | SPLICING PROCEDURE    | 2/3/2019  |
| 10F4 | DRY UTILITY COMPOSITE | 8/28/2018 |
| 20F2 | DRY UTILITY COMPOSITE | 8/28/2018 |
| 10F2 | RELOCATE OH LINES     | 5/8/2006  |
| 20F2 | RELOCATE OH LINES     | 9/23/2009 |

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| 20F2                     | DRY UTILITY COMPOSITE                        | 8/28/2018 |
| <b>OFFSITE</b>           |  |           |
| LS-1                     | COVER SHEET                                  | 9/5/2018  |
| LS-2                     | CONSTRUCTION PLAN                            | 9/5/2018  |
| LS-3                     | IRRIGATION PLAN                              | 9/5/2018  |
| LS-3A                    | IRRIGATION WATER USE CALCS                   | 9/5/2018  |
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| LS-5                     | PLANTING PLAN                                | 9/5/2018  |
| LS-6                     | PLANTING DETAILS                             | 9/5/2018  |
| 10F2                     | RELOCATE OH LINE TO UNDERGROUND              | 2/11/2019 |
| 20F2                     | RELOCATE OH LINE TO UNDERGROUND              | 2/11/2019 |
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| CB-02                    | TYPICAL SECTIONS & DETAILS                   | 2/7/2019  |
| CB-03                    | GRADING & DRAINAGE PLAN                      | 2/7/2019  |
| CB-04                    | COMPOSITE UTILITY PLAN                       | 2/7/2019  |
| CB-05                    | HORIZONTAL CONTROL PLAN                      | 2/7/2019  |
| CB-06                    | EROSION CONTROL & LSWPPP SITE PLAN & DETAILS | 2/7/2019  |
| CUB-01                   | COMPOSITE UTILITY PLAN TITLE SHEET           | 2/7/2019  |
| CUB-02                   | NOTES  | 2/7/2019  |
| CUB-03                   | COMPOSITE UTILITY PLAN                       | 2/7/2019  |
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| CSTP-03                  | STRIPING PLAN                                | 2/7/2019  |
| CSTP-04                  | STRIPING PLAN                                | 2/7/2019  |
| CSS-01                   | SEWER IMPROVEMENT                            | 2/7/2019  |
| CSS-02                   | SEWER IMPROVEMENT                            | 2/7/2019  |
| CSS-03                   | SEWER IMPROVEMENT                            | 2/7/2019  |
| CSL-01                   | STREET LIGHT                                 | 2/7/2019  |
| CSL-02                   | STREET LIGHT                                 | 2/7/2019  |
| CUA-01                   | COMPOSITE UTILITY PLAN - TITLE SHEET         | 2/7/2019  |
| CUA-02                   | NOTES & DETAILS                              | 2/7/2019  |
| CUA-03                   | COMPOSITE UTILITY PLAN                       | 2/7/2019  |
| CA-01                    | TITLE SHEET TYPICAL SECTIONS & DETAILS       | 2/7/2019  |
| CA-02                    | TYPICAL SECTIONS & DETAILS                   | 2/7/2019  |
| CA-03                    | GRADING & DRAINAGE PLAN                      | 2/7/2019  |
| CA-04                    | COMPOSITE UTILITY PLAN                       | 2/7/2019  |
| CA-05                    | HORIZONTAL CONTROL PLAN                      | 2/7/2019  |
| CA-06                    | EROSION CONTROL & LSWPPP SITE PLAN & DETAILS | 2/7/2019  |
| CS-01                    | STREET IMPROVEMENTS                          | 2/7/2019  |
| CS-02                    | TYPICAL SECTIONS & NOTES                     | 2/7/2019  |
| CS-03                    | ALLEY RAMPS DETAILS                          | 2/7/2019  |
| CS-04                    | WASHINGTON BLVD STA 21+00 TO 27+50           | 2/7/2019  |
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| CS-06                    | COLONIAL AVE STA 7+00 TO 10+00               | 2/7/2019  |
| CS-07                    | PUBLIC UTILITY PLAN                          | 2/7/2019  |
| CS-08                    | WASHINGTON BLVD CROSS SECTION                | 2/7/2019  |
| CS-09                    | CENTINELA AVE CROSS SECTION                  | 2/7/2019  |
| CS-10                    | COLONIAL AVE CROSS SECTION                   | 2/7/2019  |

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|  |                 |
|  |                 |
| <b>ADDENDUM 1 DATED 2/28/19</b>  |                 |
| <b>ADDENDUM 2 DATED 3/14/19</b>  |                 |
| <b>SPECIFICATIONS BY JRDV ARCHITECTS, INC. DATED 1/25/19</b>                                       |                 |
| <b>SPECIFICATIONS BY JRDV ARCHITECTS, INC. REVISED DATED 3/14/19</b>                               |                 |
| <b>RFI'S 1 THRU 23</b>   |                 |
| <b>SUPPLEMENTAL STRUCTURAL CALCULATIONS-SITE A BY FICCADENTI WAGGONER AND CASTLE DATED 1/25/19</b> |                 |
| <b>SUPPLEMENTAL STRUCTURAL CALCULATIONS-SITE B BY FICCADENTI WAGGONER AND CASTLE DATED 1/25/19</b> |                 |
| <b>LOW IMPACT DEVELOPMENT PLAN BY DRC ENGINEERING, INC DATED 12/15/17</b>                          |                 |
| <b>NEC INFILTRATION TESTING BY KRAZAN &amp; ASSOCIATES, INC. DATED 6/13/16</b>                     |                 |
| <b>NWC INFILTRATION TESTING BY KRAZAN &amp; ASSOCIATES, INC. DATED 6/13/16</b>                     |                 |
| <b>HYDROLOGY STUDY BY DRC ENGINEERING, INC. DATED 6/14/18</b>                                      |                 |
| <b>SWPPP BY DRC ENGINEERING, INC. DATED 12/18/17</b>   |                 |
| <b>GEOTECHNICAL ENGINEERING INVESTIGATION BY KRAZAN &amp; ASSOCIATES, INC. DATED 2/13/18</b>       |                 |
| <b>PHASE 1 ENVIRONMENTAL SITE ASSESSMENT REPORT BY ARCADIS U.W., INC. DATED 9/14/16</b>            |                 |
| <b>EXHIBIT CLEVER DEVICES - BUS STOP EQUIPMENT</b>   |                 |
| <b>EXHIBIT CONSTRUCTION MANAGEMENT PLAN</b>  |                 |
| <b>EXHIBIT WATER SUBMETER REQUIREMENTS</b>   |                 |

Exhibit Q

Site Staging and Phasing Plan

Attached is an example. Contractor to provide phasing and staging plan for Culver Public Market and owner review.

**SITE SUMMARY**

|                                    |                   |
|------------------------------------|-------------------|
| Building Area                      |                   |
| Building - A (School)              | 8,000 sf          |
| Building - B (Market)              | 43,829 sf         |
| Building - C (Shops 4)             | 4,160 sf          |
| Building - D (Drug)                | 14,576 sf         |
| Building - E (Shops 3)             | 3,300 sf          |
| Building - F (Shops 2)             | 6,000 sf          |
| Building - G (Shops 1)             | 8,387 sf          |
| Building - H (Bank)                | 4,040 sf          |
| Building - I (Shops 5)             | 6,000 sf          |
| Building - J (Med. Office/Retail)  | 9,000 sf          |
| Building - K (MOB)                 | 60,000 sf         |
| Building - L (Med. Office/Retail)  | 60,000 sf         |
| Building - M (Acute-Care Hospital) | 75,000 sf         |
| <b>TOTAL GBA</b>                   | <b>248,292 sf</b> |

**Parking Required:**  
 Retail (BLDG A TO I) 98,292 sf @ 2s 437 stalls  
 Medical Office (J&L) 15,000 sf @ 100 90 stalls  
 Building M (80 beds @ 2 stalls per bed) 160 stalls  
 Building K (60,000 sf @ 1000) 360 stalls  
**TOTAL REQUIRED** 1,047 stalls  
**PARKING PROVIDED** 1,104 stalls

**LAND:** 22.55 AC  
**BLDG:** 982,804 SF  
**COVERAGE:** 248,292 SF  
 25.28%

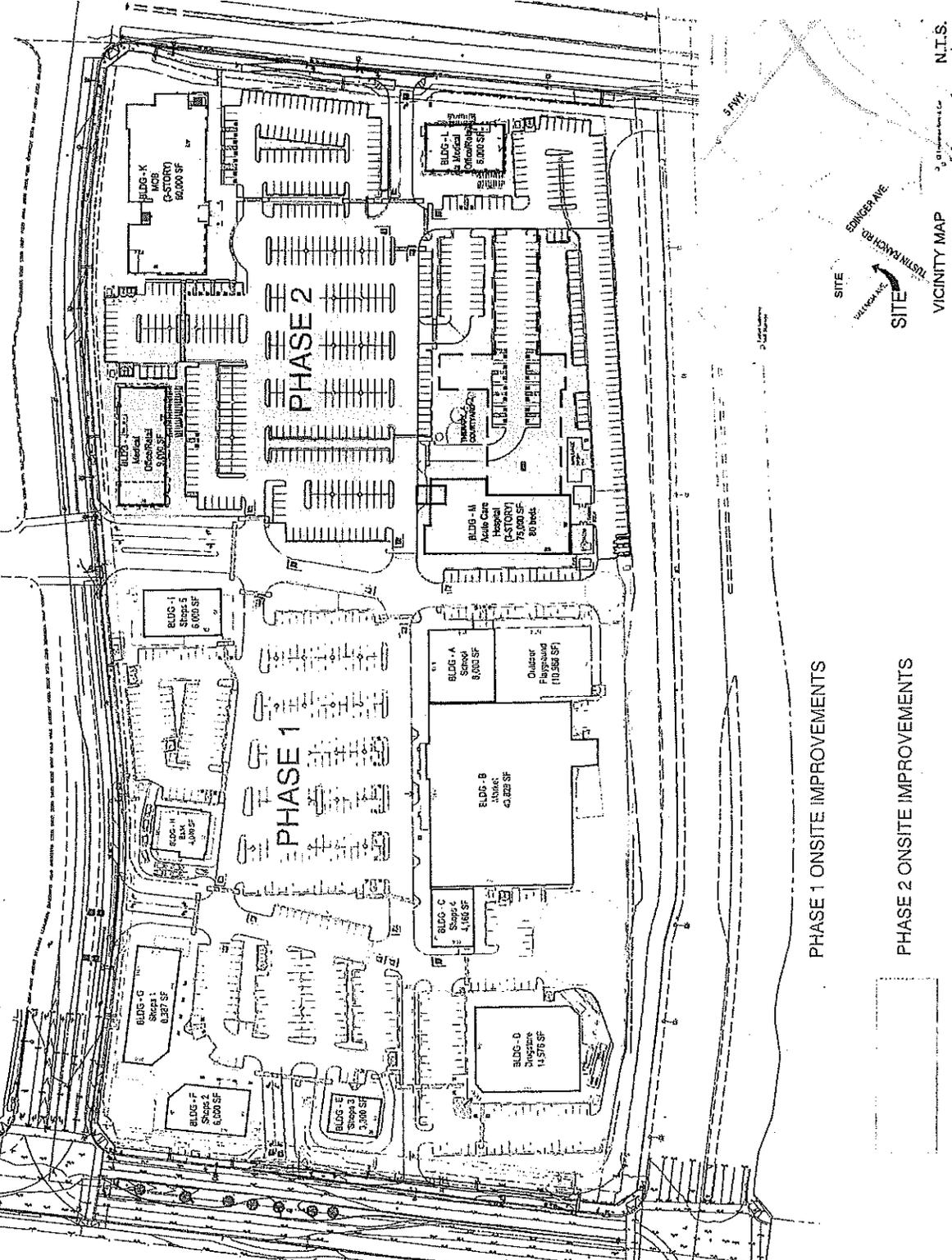
**MINIMUM BUILDING SETBACK:**

Edinger Avenue 20 feet  
 Tustin Ranch Road 30 feet  
 Valencia Avenue 25 feet  
 Kensington Park Drive 20 feet  
 Minimum distance between buildings 10 feet

**LANDSCAPE SETBACK:**

Edinger Avenue 30 feet  
 Tustin Ranch Road 30 feet  
 Valencia Avenue 30 feet  
 Kensington Park Drive 20 feet

**Attachment & Phasing Plan**



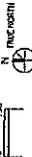
PHASE 1 ONSITE IMPROVEMENTS

PHASE 2 ONSITE IMPROVEMENTS

**TUSTIN LEGACY**

**SITE PLAN**

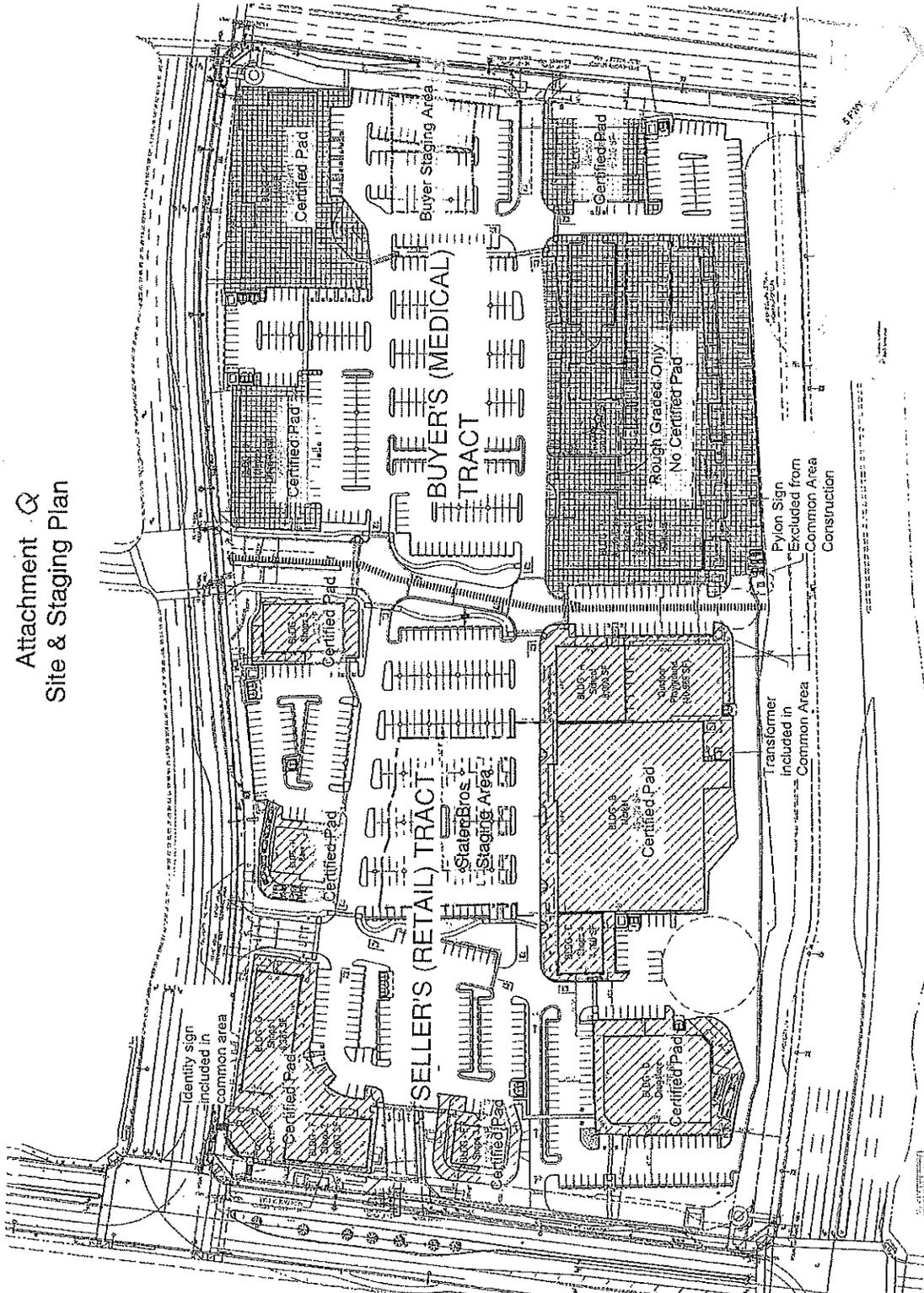
11-22-2015  
 Scale: 1"=50'-0"



ACR: 2012-125

144 North Orange St, Orange, CA 92665 (714) 659-9860

# Attachment Q Site & Staging Plan



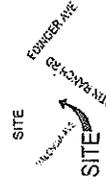
- Buyer Building Areas
- Seller Building Areas\*
- Buyer Staging Area
- Work Limit Lines
- Stater Bros Staging Area

\* Underground utility services and equipment to be delivered to Building Areas per Approved Plans.

REGENCY CENTERS  
515 Wilshire Blvd., Suite 2200, Los Angeles, CA 90017  
(213) 555-2200

ITUSTIN LEGACY

VICINITY MAP N.T.S.



## SITE SUMMARY

| Building Area                      | Area              |
|------------------------------------|-------------------|
| Building - A (School)              | 8,000 sf          |
| Building - B (Market)              | 43,829 sf         |
| Building - C (Shops 4)             | 4,160 sf          |
| Building - D (Drug)                | 14,576 sf         |
| Building - E (Shops 3)             | 3,300 sf          |
| Building - F (Shops 2)             | 6,000 sf          |
| Building - G (Shops 1)             | 8,387 sf          |
| Building - H (Bank)                | 4,040 sf          |
| Building - I (Shops 5)             | 6,000 sf          |
| Building - J (Med. Offices/Retail) | 9,000 sf          |
| Building - K (MOB)                 | 60,000 sf         |
| Building - L (Med. Offices/Retail) | 6,000 sf          |
| Building - M (Acute-Care Hospital) | 75,000 sf         |
| <b>TOTAL GBA</b>                   | <b>248,292 sf</b> |

**Parking Required:**  
 Retail (BLDSS A TO I) 98,292 sf @  $\frac{1}{225}$  437 stalls  
 Medical Office (J&L) 15,000 sf @  $\frac{1}{1000}$  90 stalls  
 Building M (80 beds @ 2 stalls per bed) 160 stalls  
 Building K (60,000 sf @  $\frac{1}{1000}$ ) 360 stalls  
**TOTAL REQUIRED** 1,047 stalls

**PARKING PROVIDED** 1,104 stalls

**LAND:** 22.55 AC 982,304 SF  
**BLDG:** 248,292 SF  
**COVERAGE:** 25.28%

**MINIMUM BUILDING SETBACK:**  
 Edinger Avenue 20 feet  
 Tustin Ranch Road 30 feet  
 Valencia Avenue 25 feet  
 Kensington Park Drive 20 feet  
 Minimum distance between buildings 10 feet

**LANDSCAPE SETBACK:**  
 Edinger Avenue 30 feet  
 Tustin Ranch Road 30 feet  
 Valencia Avenue 30 feet  
 Kensington Park Drive 20 feet

144 North Orange St. Orange, CA 92666 (714) 839-9860  
 AUG 26 12 12P  
 11/23/2018  
 SCALE: 1" = 50'

## **Exhibit R**

### **Project Specifications**

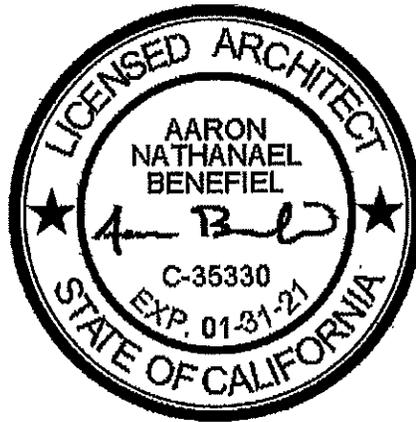
The following project document is included as Exhibit R: Specifications prepared by JRDV Architects, Inc. dated March 14, 2019.

# SPECIFICATIONS

for

## **CULVER PUBLIC MARKET SITES A & B**

12343, 12337, & 12403 W. Washington Blvd. & 4061 S.  
Centinela Ave., Culver City, CA



August 31, 2018  
Revised March 14, 2019

Prepared by

**JRDV Architects, Inc.**

2625 Broadway, 6<sup>th</sup> Floor  
Oakland, California 94612  
510.295.4392

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**Exhibit S**

**Construction Management Plan**

The following Construction Management Plan is a template from prior project. Contractor to develop and provide a plan the satisfies all city department requirements

SAMPLE

**MORLEY  
BUILDERS**

Prepared by  
Morley Builders / Benchmark Contractors

Updated July 27, 2017

# Construction Management Plan, Traffic Control Plan, and Pedestrian Protection Plan

8777 WASHINGTON BLVD  
CULVER CITY

Morley Builders  
3330 Ocean Park Blvd  
Santa Monica, CA 91377

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---

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# Introduction

---

## 1.0 Introduction

### 1.1 Purpose

This Construction Management Plan has been documented to anticipate how the Project Management team shall implement and conduct its site management responsibilities during the Construction phase of the "8777 Washington" Project (the Project).

The aim of this Plan is to describe the scope and anticipated scheduling of construction as a means of ensuring and facilitating an integrated and coordinated construction phase.

### 1.2 Scope

This Plan provides a holistic approach that:

- anticipates how the project management team will comply with requirements relating to construction;
- defines the project objectives and targets of particular relevance to the construction phase;
- describes constraints specific to the construction phase and the project in general;
- details the proposed strategy for the construction phase, with particular regard to establishment resourcing, site organization and construction controls.

### 1.3 Program

The proposed program will require the construction of:

- 3 Levels of Subterranean parking in concrete
- 1 Level of Concrete Podium for Ground Floor Retail / Lobby / Parking at ground level
- 3 Levels of concrete above podium office building

### 1.4 Site Location

The development site (see Figure 1) is located at 8777 Washington Blvd in Culver City and is bounded by Washington Blvd to the south, National Blvd to the west, and private commercial properties to the north and east. The site is known as "8777 Washington".

# Introduction

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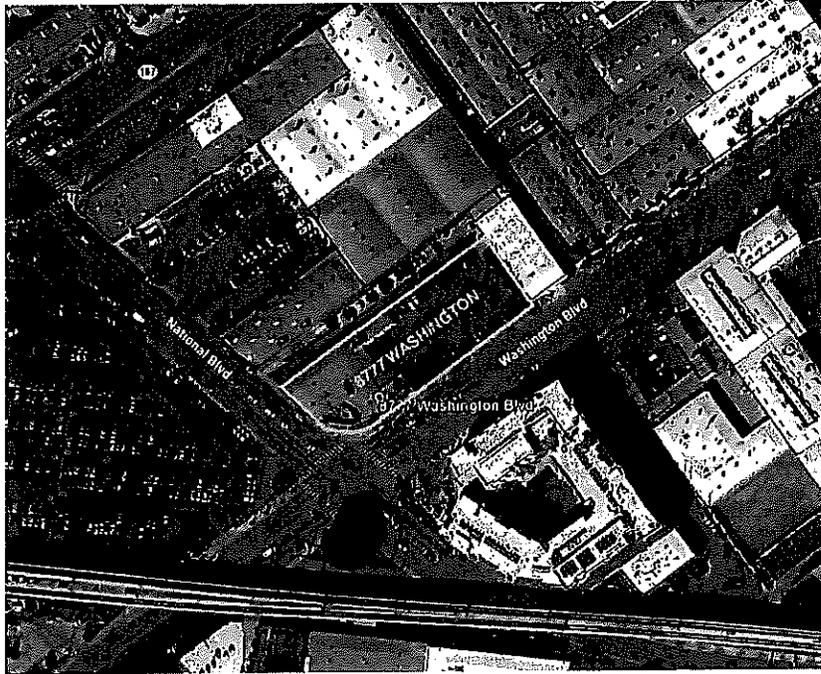


Figure 1 – Site Location

The site area is approximately .98 ac and is located within Culver City's Transportation Oriented Development district in close proximity to Metro's Expo Line Culver City Station.

- End of Section 1 -

# Construction Management

---

## 2.0 Construction Management

### 2.1 External Considerations

The major external constraints on the project are:

- Maintaining smooth vehicular, bicycle, and pedestrian traffic flow with minimal disruptions to the surrounding streets.
- Ensuring continued use of right turn to National from Washington.
- Minimizing impact on neighbors.
- Coordination with neighboring construction projects in order to minimize impacts from parallel construction processes on community.

Upon commencement, our project team's anticipated tasks will be:

- Locate a project office, site accommodation and facilities (Reference Exhibit A.8.1 for proposed locations)
- Implement an offsite parking plan for construction workers, consistent with Exhibit A.11
- Confirm the locations of existing services and obtain all necessary permits and approvals.
- Arrange for the installation of temporary services – power, water and sewer to service the project during construction, consistent with Exhibit A.8.1
- Locate designated trash areas to be hauled by the City's franchise hauler, consistent with Exhibit A.8.1

### 2.2 Anticipated Approvals

A series of permits will be required for project phases including demolition, excavation, subterranean and above ground construction.

We foresee that these approvals must be approved before work can begin. Some anticipated items requiring further approval include, but not be limited to:

- This Construction Management Plan which includes traffic management plans, Pedestrian Protection Plan, and Haul Route
- Demolition – Onsite and Offsite
- Shoring Plans
- Grading and Excavation Plan, including SWPPP reports and Erosion and Sediment Control Plan
- Foundation Only
- Main Core and Shell
- Dewatering
- Micro-Piles

Before any lane closures and/or other temporary modifications to traffic are implemented, further approvals will be required from Culver City Public Works Traffic Management Division and/or other pertinent city departments. These items might include, but will not be limited to:

- Traffic Control Plan including, but not limited to vehicular, bicycle, and pedestrian traffic routing.
- Off-site Civil work
- After Hours Application

### 2.3 Site Security

The site will be secured using appropriate fences, with access gates manned with qualified security guards/traffic control officers. Entry will be controlled and will be limited to approved personnel and equipment. The site will be secured after hours and patrolled by qualified security guard. All visitors to the site will be required to sign in at the site office.

# Construction Management

---

## 2.4 Public / Worker Safety

All site staff and subcontractors will be required to complete a site specific orientation before beginning work on site. The orientation will cover aspects relating to health, safety, and onsite practice standards. Specific items may include, but will not be limited to site access, emergency evacuation procedures, location of first aid facilities, location of amenities, site hours, material handling, noise and dust policies and environmental management.

An onsite certified Safety Administrator will be appointed during the early stages of the project. The administrator will conduct regular inspections of the project site, and will be actively involved in ensuring compliance with Cal/OSHA and/or other safety standards, reviewing Safety Management Plans, and making recommendations with regard to health and safety issues.

### 2.4.1 Temporary Construction Fencing

The installation of temporary fencing is anticipated as a means of ensuring the safety and wellbeing of members of the community. (Refer to Exhibits A.1, and A.2 for anticipated location of fencing). Fencing during construction will consist of chain link fencing with decorative windscreen. Gates will be used on all access points onto the site. Fencing installation will be subject to city approval. Fencing along Washington and National will include decorative fencing per Conditions of Approval item 127.

### 2.4.2 Pedestrian Detours

Reference Exhibit A.4. Sidewalks adjacent to the site will be closed during construction. Pedestrians will be rerouted to opposite side of streets using existing crosswalks. Adequate signage will be provided for re-directing pedestrians. Pedestrian re-routing signage plan to be submitted to the city separately for approval.

### 2.4.3 Bicycle Detours

Reference Exhibit A.5. Use of the bicycle lane in front of the project site on Washington Blvd is anticipated to continue throughout the Demolition phase. Flagmen stationed at construction vehicle entry and exit points will ensure safety of cyclists crossing these points.

As the site is readied for the subsequent phases, the sidewalk and both the parking and bicycle lanes in front of the project site on Washington Blvd will be closed for 24 months. Cyclists approaching the TOD using the northbound bicycle path will be detoured to the alternate route shown on Exhibit A.5. Bicycle re-routing signage plan to be submitted to the city with the engineered Traffic Management Plan under separate submittal.

## 2.5 Community Notification

The construction will have several distinct phases that will require different material handling strategies to optimize scheduling and minimize impact to surrounding streets, neighbors, and other potential stakeholders.

Where an impact from material handling and/or construction planning is anticipated, stakeholders and authorities will be consulted before implementation.

To this end, the construction management team, in conjunction with the developer, will work with pertinent stakeholders to develop an email notification list as a means of notifying said parties of potential construction impacts at least 2 days prior to commencing actions.

## 2.6 General Onsite Administration and Emergency Contact Info

The Project Construction Manager will maintain an office at the project site if required. The Project Construction Manager and field staff will be responsible for implementing and maintaining procedures and policies. Contractor's onsite representative and emergency contact is Eric Cronin – Office # 310-399-1600, Cell # 714-308-5720.

# Construction Management

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## 2.6.1 Construction Hours

- General Construction

The project will comply with Culver City's allowable construction hours of:

- *Monday-Friday*: 8:00 AM through 8:00 PM
  - *Saturdays*: 9:00 AM through 7:00 PM
  - *Sundays and National holidays* (temporary in nature, if required): 10:00 AM through 7:00 PM  
(*Will require city approval*)
- Hauling, Concrete Trucks, and/or Material Delivery/Removal will occur during the same normal working hours listed above. Refer to Exhibits A.6 and A.7
  - In accordance with Conditions of Approval item 35, Contractor may pursue a temporary use permit to allow all construction activities (including dirt hauling, concrete pouring, etc.) beyond the hours listed above. Consistent with that same Condition of Approval, if Contractor provides a traffic control officer at the intersection of Helms Avenue and Washington Boulevards between 7:30 am and 9 am on weekdays, and no automobile travel lanes are closed due to the project, hauling and concrete truck pumping may occur prior to 9 am.
  - Lane Closures  
Every effort will be made to minimize the need for full lane closures. Should lane closures be required, neighbors and city officials will notified via the email notification system set up at the commencement of construction. Lane closures will not occur between the hours of 7am to 9am or from 4pm to 6pm unless specifically approved under separate permit. Such events will also be coordinated with the city and neighborhood representatives and neighboring construction projects.

## 2.7 Hoisting

- During the excavation and shoring phase of the project, most of the hoisting materials will be done with mobile cranes located on the closed sidewalk and bike lane within the site fencing areas. There will be occasional need for cranes to extend beyond the limits of the site fencing for hoisting in this phase. Such hoisting will not occur between the hours of 7am to 9am or from 4pm to 6pm. Such events will also be coordinated with the city and neighborhood representatives and neighboring construction projects.
- After the excavation phase, a tower crane will be placed inside the project footprint. Deliveries will be pulled into the construction fencing, and unloaded with the tower crane. See exhibit A.8.2
- If any hoisting is required after the removal of the tower crane, mobile cranes will be located on the closed sidewalk and bike lane within the site fencing areas.

- End of Section 2 -

# Construction Methodology

## 3.0 Construction Methodology

### 3.1 Demolition and Excavation (121 work days)

The site is currently a commercial property that includes a one story commercial building, a small storage structure, and surface parking.

Existing services within the site will be located and either capped if redundant or modified if they are to be used as temporary services for construction.

*Demolition is expected to take 15 work days with impact to traffic from debris hauling occurring over the course of 10 days with an estimated 4 truckloads being hauled each day.*

*During this phase, no public right-of-way is going to be taken up by the project. Only demolition within the property lines will occur. The only item in the public right-of-way that will be removed during this phase are the street trees. Flagmen will be present during this operation to ensure the safety of the public.*

Trucks will enter the site from Washington Blvd and move to a designated loading area where they will be loaded with material before exiting on Washington Blvd. (Figure 4). Where required, curb ramps will be placed at entry/exit points to mitigate damage to curbs. Flagmen will be stationed at entry and exit points to ensure safety.

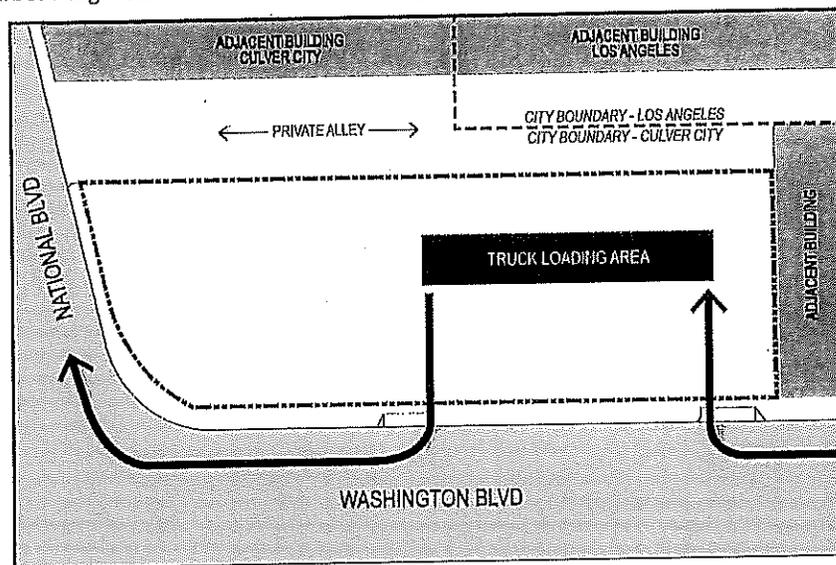


Figure 4 – Staging during Demolition

During excavation, a shoring system will be required to support the site walls. Shoring will begin with placement of soldier piles along the site's perimeter. This process is estimated to take approximately 30 days. Lagging spanning between soldier piles will be placed in coordination with the excavation of the site. As the site is excavated, there will be a need to provide bracing to further support the shoring system. This will occur over two separate time frames during which time excavation of earth will cease. This is anticipated to take an additional 24 days.

The project will require the excavation of 37 FT of earth below street level with an expected time frame 89 days. **Dirt hauling is anticipated to occur over 45 nonconsecutive days within the 89 day excavation period. 95 dump trucks per day will be required to haul the estimated volume of dirt from the site. Dirt hauling will occur Monday through Friday 8:00 AM through 8:00 PM or as modified by the TUP.** Trucks will enter the site from Washington Blvd and exit onto National Blvd (Figure 5). Where required, curb ramps will be placed at entry/exit points to mitigate damage to curbs. Flagmen will be stationed at entry and exit points to ensure safety.

# Construction Methodology

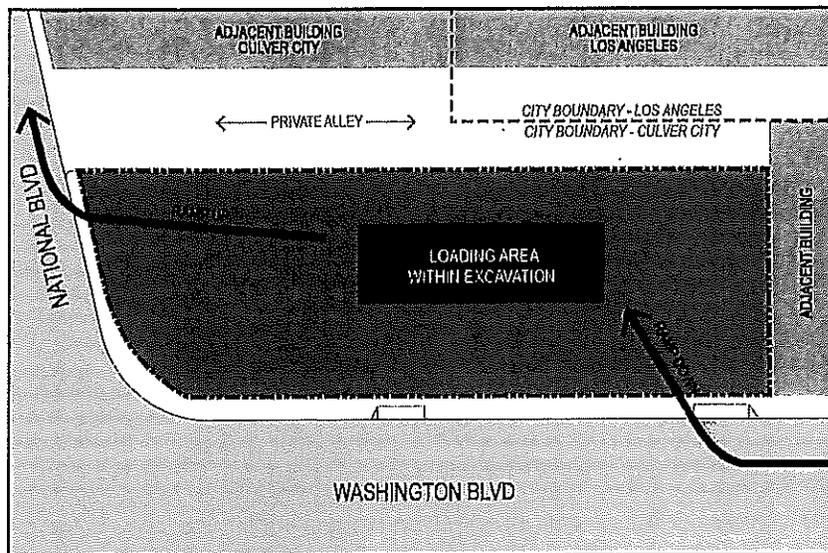


Figure 5 – Staging during Excavation

## 3.2 Subterranean Work

Based on the geotechnical report, the structure will require a mat foundation. In order to facilitate its and future construction, we foresee the installation of a tower crane adjacent to the building core. Reference Exhibit A.8.2 for approximate location of tower crane.

The tower crane will be erected as soon as the area it is to be located has been excavated. The crane will assist in various tasks that would otherwise interfere with traffic flow on Washington Blvd. These tasks will include, but are not limited to the removal of the last of the excavation where it may otherwise be uneconomical to be done by other means and the movement of material into the excavated site for subterranean level work.

Given the size of the site and the nature of the project's program, the site will be divided into zones so that concurrent activities can occur. As excavation is completed, in-ground services will be installed followed by preparation of the ground to receive the structural mat foundation that will be cast in concrete.

Because of the desire to minimize impacts on the flow of traffic on Washington and National, we propose the use of a series of separate placing booms for the placing of concrete. These booms will be located within the project site and will mitigate the potential for traffic congestion that comes with use of a truck-mounted concrete boom pump. The use of this proposed system is anticipated for all onsite concrete construction.

Following the placement of the mat foundation and its subsequent topping slab, the upper basement levels will be cast in zones, so that multiple work fronts will be created. Different formwork systems will be considered and taken into account in the design of the structure to ensure the time frame can be met.

As with the mat foundation, concrete will be cast to the lower level slabs and columns using a pump and separate placing booms in order to minimize the impact on traffic on the adjacent streets.

## 3.3 Concrete Construction (190 work days)

The concrete construction of the project will encompass three subterranean parking levels, four levels of above grade office. The time frame required to complete the concrete portions of the project is anticipated to take approximately 190 work days. Included within this time-frame is the assembly of shoring to support formwork; construction/assembly of the required formwork for floor slabs, columns, and walls; placement of steel reinforcement for those structural components; and the placement and finishing of concrete.

*Concrete placement is expected to occur over 57 nonconsecutive days within the 190 day concrete*

# Construction Methodology

**construction period.** Construction material deliveries (ready-mix trucks) will occur during normal working hours described in section 2.7.1 above. Concrete delivery trucks will enter and exit site staging area on Washington Blvd (Figure 6). Flagmen will be stationed at entry and exit points to ensure safety.

The concrete trades will be supported by, but not limited to, a tower crane for lifting of materials and equipment, separate placing booms to place concrete, and perimeter guardrail systems to provide fall protection.

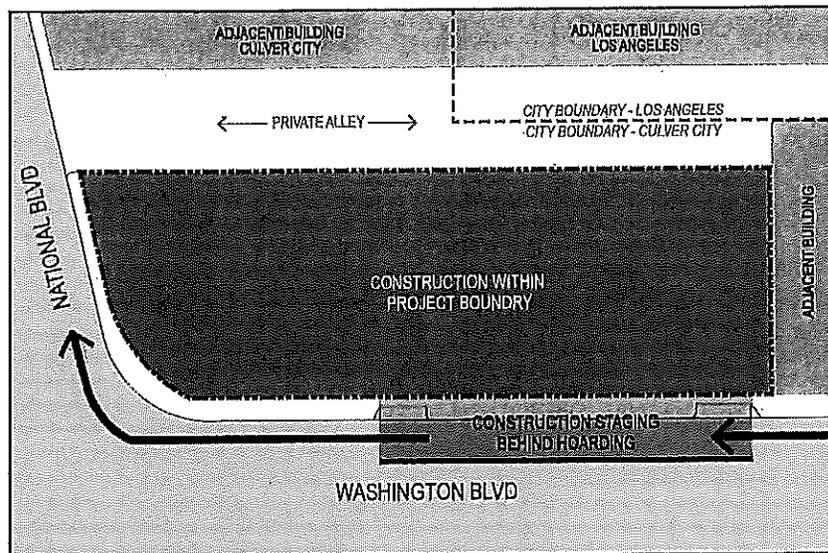


Figure 6 – Staging during Construction (see Appendix 2)

## 3.4 Building Enclosure (90 work days)

The glass enclosure for the office and ground level commercial spaces will be erected as soon as practical to commence sealing floors so that finishes and fit out, if required, can commence. The scheduling of the enclosure installation is scheduled for 90 days.

## 3.5 Services and Finishes (286 work days)

For the concrete commercial and subterranean portions of the building, the installation of the services will commence as each of slabs are cast and the formwork is stripped.

The installation of services will be organized in several passes, with the first pass termed as “rough in of services”. This typically includes all services that can be installed without needing the protection of the building façade.

Exterior finishes typically begin after the building envelope has been installed. In the concrete commercial part of the project this is usually after the enclosure has been installed.

The scheduling of the service and finish installations is 286 days.

## 3.6 Offsite Work (42 work days running concurrent with completion of interior fit-out)

Offsite work is expect to begin as soon as the building envelope is installed.

Offsite work will consist of, but may not be limited to, replacement of sidewalk along the street facing sides of the project perimeter; installation/relocation of signage; placement of landscaping, trees, public seating, and bicycle parking as prescribed by Culver City's Streetscape Master Plan; and the paving and striping of the project's half of Washington Blvd and National Blvd.

# Construction Methodology

Every effort will be made to minimize the impact on vehicle traffic flow by keeping staging activities to the parking and bicycle lanes on Washington Blvd. We do foresee the need for temporary lane closures when repaving those portions of Washington Blvd and National Blvd required of this project. In order to alleviate the effects on traffic, we anticipate scheduling lane closures required for certain activities to evening after the peak traffic hours. Those activities that will be performed during daytime hours will be scheduled to take place after the morning peak traffic hours.

**The anticipated time frame for all offsite improvements is 42 work days.** This period will include approximately 2 days for concrete placement for sidewalk and gutter construction. This will require the nonconcurrent temporary closure of the parking and bicycle lanes on Washington and one lane on National for this purpose.

Repaving activities will require the sequential closing of the westbound lanes on Washington and the northbound lanes of National within a 2-3 day period, outside of peak traffic hours, to allow for milling the existing pavement. This will be followed by alternating single lane closures for approximately 2 days to allow for repaving activities to occur outside of peak traffic hours.

## 3.7 Construction Sequence and Planning

As the scope of work is further detailed in the later design phases of the project, this concept construction management plan will also require modification.

Based on the building's pre-entitlement design, the project's construction will be divided into 3 distinct phases requiring respective logic to construct the building efficiently and minimize impact on surrounding streets and neighbors. These phases are:

- Phase 1. Demolition / Shoring / Excavation / Drainage with Waterproofing  
*Estimated Start Date: August 2017*  
*Duration: 176 work days / 235 calendar days*
  
- Phase 2. Foundations / Concrete Structure / Enclosure / Finishes  
*Estimated Start Date: March 2018*  
*Duration: 396 work days / 529 calendar days*
  
- Phase 3. Offsite Improvements / Landscaping  
*Estimated Start Date: August 2019*  
*Duration: 42 work days / 50 calendar days*

*Estimated Date of Completion: October 2019*

- End of Section 3 -

## 4.0 Environmental

### 4.1 General

The objective of this section is to identify the proposed methods that will be employed to minimize potential impacts of noise, vibration, and air quality in the vicinity of the development.

### 4.2 Noise and Vibration Management

Normal work hours will occur within Culver City's allowable construction hours of 8:00 AM to 8:00 PM, Monday-Friday. There will be some Saturday work that will occur within the allowable hours of 9:00 AM to 7PM. While not anticipated, Sunday work hours may be required in order to keep to the construction schedule. If Sunday work is needed, it will occur within the allowable hours of 10:00 AM to 7PM after approval by city officials. Note these hours of construction may be modified under a temporary use permit contingency upon city approval.

All subcontractors will be responsible for managing noise and vibration in accordance with their project specific Management Plans. Some mitigating measures will be:

- Requiring all construction equipment to be operated with an exhaust muffler and sound control devices that meet or exceed those provided on the original equipment.
- Requiring proper maintenance of construction equipment to minimize noise emissions.
- Staging of construction material deliveries behind fencing to minimize noise emitting from idling vehicles.
- Requiring stationary source equipment to be located the greatest distance from the public right-of-way.
- Requiring construction workers to be respectful of the surrounding neighborhood and keep non-construction related noise to a minimum prior to, during, and after allowed construction hours.

In accordance with conditions of approval item 35, contractor will provide sound blankets on temporary fencing along Washington and National if required by the city.

After hours work may be required for specific tasks in order to minimize impacts to pedestrians, vehicular traffic or in the interest of safety. Proposed work to occur outside of normal working hours include the following:

- Mat Foundation Pour
- Tower Crane erection and dismantling
- Offsite improvements

All after hour's work will be subject to the Communication Management Plan. Consultation with pertinent Culver City departments will occur prior to any works being scheduled. Businesses and surrounding residents will be given notification via email of the proposed after hours work prior to the starting said work including details of the work to be performed with an anticipated time required to undertake each activity.

We do not foresee significant vibration generated by the construction that might impact adjoining properties.

### 4.3 Dust Management and Erosion Control

Dust and Erosion control measures will be implemented as required, and will comply with SCAQMD and Culver City regulations for controlling fugitive dust and Erosion. Measures that may be employed include:

- *Site Perimeter:* Erection of a 6 ft. high fence with attached windscreen at the site's perimeter under which sand bags and/or straw wattles will be placed

# Environmental

- 
- *Demolition:* All trucks removing demo materials from site will be loaded within the site perimeter and will be required to cover loads as deemed necessary for dust control.
  - *Excavation:* Rumble strips at truck entry/exit ways, watering down working of stockpiles and surfaces as required, covering of stocks while minimizing piling of material, and use of street sweepers to maintain adjacent roadways.
  - Construction – Maintain a high level of housekeeping to minimize likelihood of windblown dust

- End of Section 4 -

## 5.0 Exhibit A

- 5.1 Exhibit A.1 – Temporary Fencing Plan During Demo and Excavation
- 5.2 Exhibit A.2 – Temporary Fencing Plan During Concrete and Finishes
- 5.3 Exhibit A.3 – Use of Public Right of Way
- 5.4 Exhibit A.4 – Pedestrian Routing
- 5.5 Exhibit A.5 – Bicycle Routing
- 5.6 Exhibit A.6 – Excavation Truck Access
- 5.7 Exhibit A.7 – Concrete Pumping
- 5.8 Exhibit A.8.1 – Site Logistics
- 5.9 Exhibit A.8.2 – Site Logistics with Tower Crane
- 5.10 Exhibit A.9 – Haul Route to Jobsite
- 5.11 Exhibit A.10 - Haul Route from Jobsite
- 5.12 Exhibit A.11 – Construction Parking
- 5.13 Exhibit A.12 – Sample Signage
- 5.14 Exhibit A.13 – Schedule

SAMPLE  
City Req's

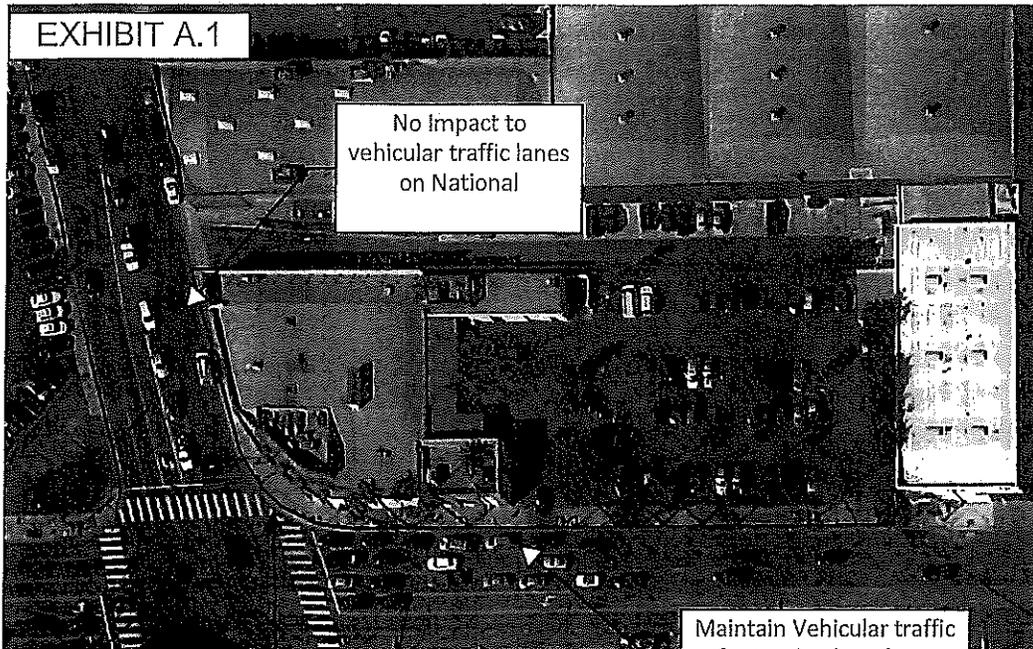
EXHIBIT A

# MORLEY BUILDERS

8777 Washington Blvd.  
Culver City, CA  
Site Logistics Plan



EXHIBIT A.1

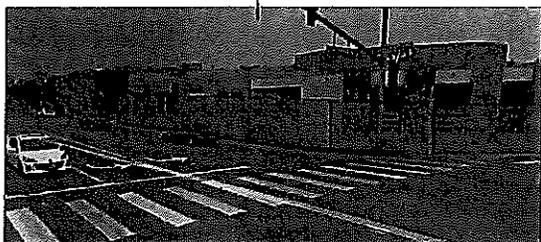


No impact to vehicular traffic lanes on National

**MORLEY BUILDERS**  
Temporary Fencing Plan  
During Demo and Excavation

- Fire Hydrant
- Temporary Fencing

Maintain Vehicular traffic for turning lane from Washington to National



Temporary construction fencing set on the curb to close pedestrian access along National Blvd, and Washington.



Temporary Construction Fencing on Edge of Curb

EXHIBIT A.2

No Impact to  
vehicular traffic lanes  
on National

Closure of  
bicycle lane

Maintain Vehicular traffic  
for turning lane from  
Washington to National

# MORLEY BUILDERS

Temporary Fencing Plan  
During Concrete and Finishes

● Fire Hydrant

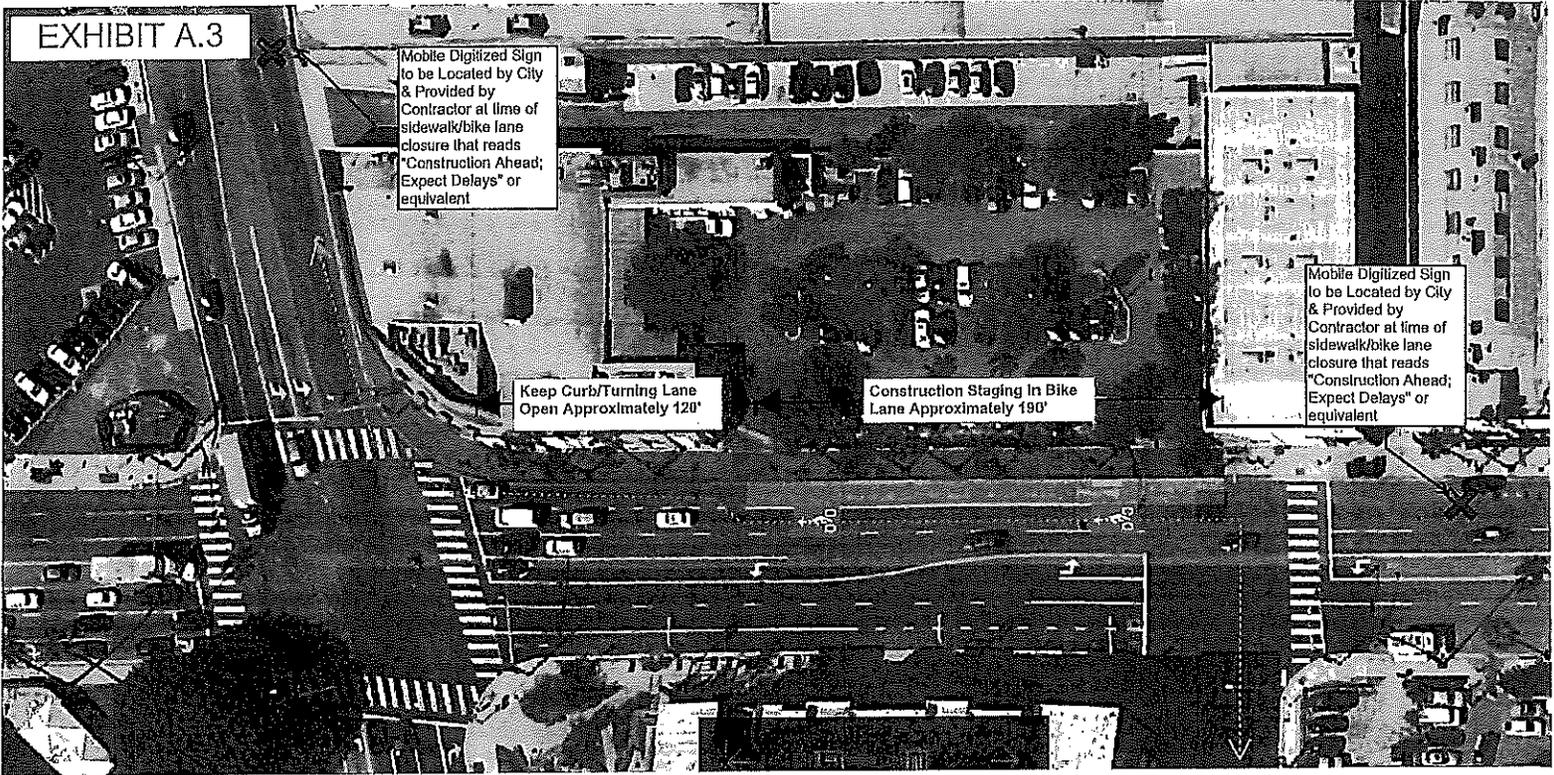
— Temporary Fencing



Temporary construction fencing set on the curb to close pedestrian access along National Blvd. and Washington.



Temporary Construction Fencing on Edge of Bike Lane

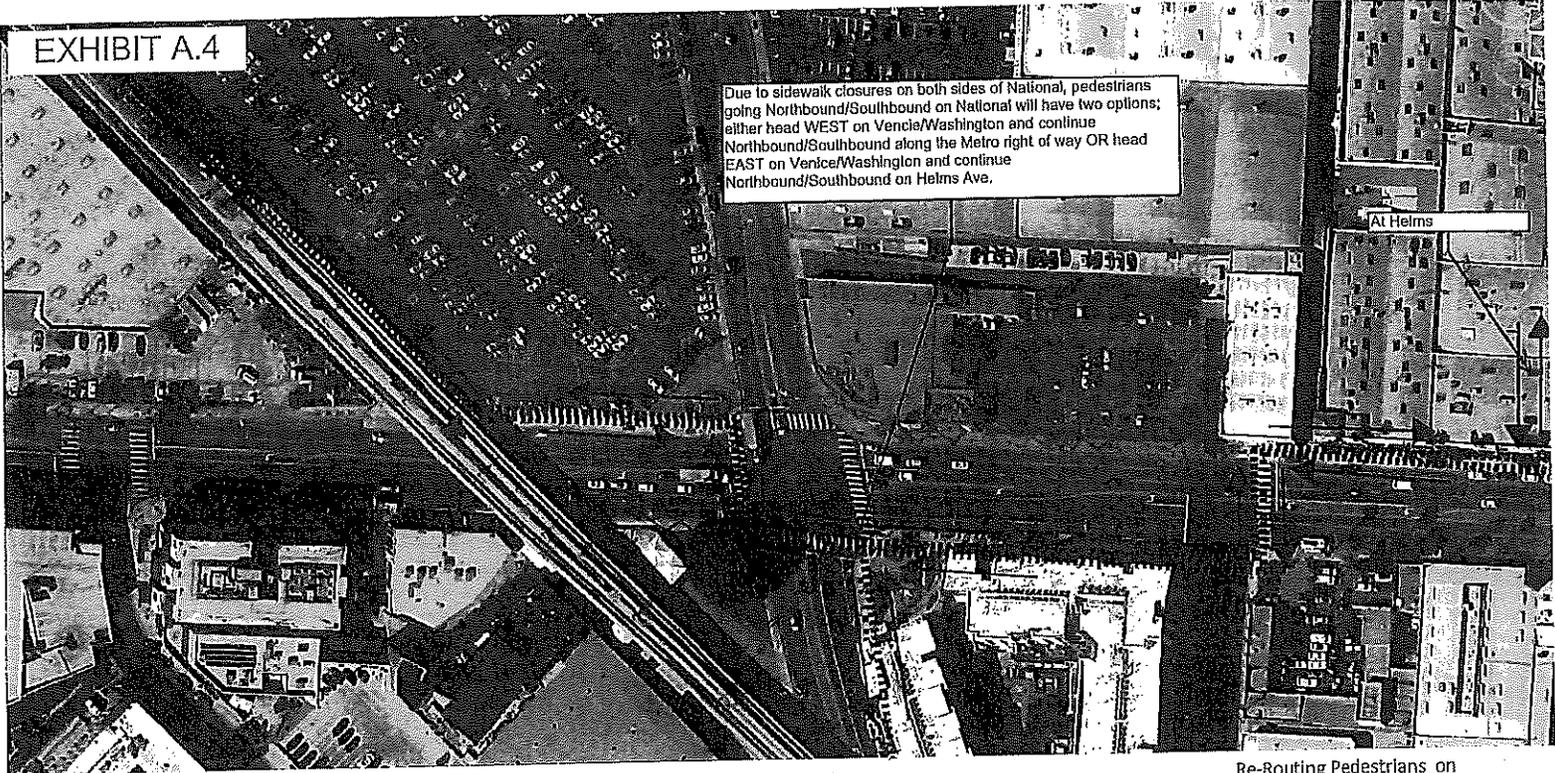


**MORLEY BUILDERS**

Use of Public Streets and Sidewalk

EXHIBIT A.3

EXHIBIT A.4



Due to sidewalk closures on both sides of National, pedestrians going Northbound/Southbound on National will have two options; either head WEST on Venice/Washington and continue Northbound/Southbound along the Metro right of way OR head EAST on Venice/Washington and continue Northbound/Southbound on Helms Ave.

At Helms

**MORLEY BUILDERS**

Pedestrian Routing



Re-Routing Pedestrians on Washington- approximately 24 Months



Proposed Re-Routing Pedestrians on National - approximately 24 Months

Temporary pedestrian signage to be submitted to Public Works separately for approval.

## 5.0 Exhibit A

- 5.1 Exhibit A.1 – Temporary Fencing Plan During Demo and Excavation
- 5.2 Exhibit A.2 – Temporary Fencing Plan During Concrete and Finishes
- 5.3 Exhibit A.3 – Use of Public Right of Way
- 5.4 Exhibit A.4 – Pedestrian Routing
- 5.5 Exhibit A.5 – Bicycle Routing
- 5.6 Exhibit A.6 – Excavation Truck Access
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- 5.10 Exhibit A.9 – Haul Route to Jobsite
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- 5.12 Exhibit A.11 – Construction Parking
- 5.13 Exhibit A.12 – Sample Signage
- 5.14 Exhibit A.13 – Schedule

Sample

DEMOLITION DEBRIS RECYCLING PLAN

Plan Check #: \_\_\_\_\_

1. GENERAL PROJECT INFORMATION:

Over-the-Counter Permit  Yes  No City-Sponsored Project\*  Yes  No

\*Name of City Employee contact: \_\_\_\_\_

Type of Project:  Demolition\*  New Construction  Alteration  Addition

Project Description (In Detail) DEMOLITION OF EXISTING

ONE STORY COMMERCIAL BUILDING & EXISTING

A.C. PAVEMENT PARKING LOT

Project Address: 8777 WASHINGTON BLVD

Project Sq. Ft.: 14,200 Project Valuation: 125,000<sup>sq</sup>

Estimated Project: Start Date: Aug 1 Completion Date: \_\_\_\_\_

Legal Owner (please print): \_\_\_\_\_ Phone No. \_\_\_\_\_

Applicant's name FRANK MARTINEZ / JED ISSA (please print)

Phone No.: 909-628-1999 Fax No.: 909-628-1928 E-Mail: frank@doja-inc.com

Applicant's Relation to Project:  Owner  Contractor  Architect  Permit Expeditor

Company Name (if Applicable): DOJA INC.

Address: 3050 W. MISSION BLVD, ONTARIO, CA

=====  
(for Staff only)

Permit#: \_\_\_\_\_

Waste Management Plan (WMP) Reviewed By: \_\_\_\_\_

Date: \_\_\_\_\_ WMP Approved:  Yes  No

If not approved, describe reviewer's actions: \_\_\_\_\_

Address: 8777 Washington Blvd **C&D WASTE MANAGEMENT PLAN**

**2. STRATEGIES FOR WASTE RECYCLING AND/OR DISPOSAL:**

For each of the following categories of recycling and disposal activities, describe those strategies you plan to utilize for the project at the address above.

|                               |   | Yes                | No     |   |
|-------------------------------|---|--------------------|--------|---|
| <b>1. SALVAGE:</b>            |   |                    |        |   |
| 1a                            | Do you plan to salvage materials from this project prior to construction or demolition activities?  |                    | X      |   |
| 1b                            | If "yes," please list the items that will be salvaged (e.g., doors, windows, jambs, casing, toilets, sinks, other fixtures, hardwoods, wood siding, cabinets and shelving, carpet and pad, bricks, acoustical ceiling, lights, fans, ceramic roof tiles, structural materials, reusable lumber, etc.)? Must take before and after photo documentation and/or sales/donation receipts required.<br>*"Before pictures" will represent before project is started | 1.                 |        |   |
|                               |   | 2.                 |        |   |
|                               |   | 3.                 |        |   |
|                               |   | 4.                 |        |   |
|                               |   | 5.                 |        |   |
| <b>2. SOURCE SEPERATION:*</b> |   |                    |        |   |
| 2a.                           | Do you plan to source separate any materials on this project for delivery to a recycling facility (e.g., separation of items such as wood, concrete, metal into separate bins)? This would also include materials that will be recycled at a landfill as daily cover or as landfill road base, Receipts from approved facility are required.  | X                  |        |   |
| 2b.                           | If you plan to salvage or source separate, please indicate the materials, haulers, and facilities. Receipts will be required. (We do not have an auditing process for reuse programs ex: habitat for humanity or reuse facilities, or Mexico)   | Materials          | Hauler |   |
|                               |   | Asphalt + Concrete | DOJA   | Republic Landfill<br>United Rock Products |
|                               |   |                    |        |   |
| <b>3. ON-SITE USE:</b>        |   |                    |        |   |
| 3a                            | Do you plan any on-site reuse activities for this project (e.g., reuse of wood forms from other projects for concrete, on-site crushing of concrete for on-site use, use of reusable containers or pallets for material deliveries, etc.)? (please provide photos of locations these items were reused)   |                    | X      |   |
|                               | If "yes," please describe.  |                    |        |   |
| <b>4. INERT FILL USE:</b>     |   |                    |        |   |
| 4a                            | Will any source separated dirt or mixed inerts (i.e., dirt, concrete, asphalt) be delivered to a inert landfill (one that accepts only inert material) or be used for any other non-landfill fill purpose? (For Concrete and Asphalt: load receipts will be required) (Dirt: provide photographic documentation if load tickets are not available by the facility & written documentation from facility owner that material were dumped at their site.)       | X                  |        |   |
| 4b                            | If "yes," please indicate the materials, haulers, and facilities.   | Materials          | Hauler |   |
|                               |   | A.C.<br>Concrete   | DOJA   | Republic Landfill<br>UNITED LANDFILL      |
|                               |   |                    |        |   |

\*This includes recovering reusable items from remodeling or demolition projects and includes stand-alone items (appliances), easy to remove items such as doors, mantelpieces, and removal of reusable structural items by hand (lumber, wood siding, roof tiles).

Address: 8777 Washington Blvd

|  |  |   |                  |        |
|--|--|---|------------------|--------|
| 5.   | <b>RECYCLABLES: Mixed C&amp;D recycling facilities and diversion rate:</b>   |   | Yes              | No     |
| 5a   | Will any mixed debris be delivered to a mixed C&D recycling facility for mechanical and/or manual separation of recyclables? |   | X                |        |
| 5b   | If "yes," identify the facility and hauler who will deliver.   | Facility (check one)                              | X                | Hauler |
|  |  | Recology - 83%                                    |                  |        |
|  |  | Southern California Disposal - 82%                |                  |        |
|  |  | East Valley Diversion - 85%                       |                  |        |
|  |  | Downtown Diversion - 83%                          | X                | DOGA   |
|  |  | California Waste Serv. 87%                        |                  |        |
|  |  | Construction Demolition Recycling Inc.(IRS) - 78% |                  |        |
|  | Direct Disposal - 73%  |   |                  |        |
| 6.   | <b>SELF-HAUL:</b>  |   | Yes              | No     |
| 6a   | Will any C&D debris be self-hauled by your company or by subcontractors?   |   | X                |        |
| 6b   | If "yes," identify which companies will be self-hauling debris. List Names of hauler and provide facility.                   | Self-Hauler                                       | Facility         |        |
|  |  | DOGA  | Downtown P.      |        |
|  |  | Berinto Trucking                                  | " "              |        |
| 7.   | <b>REFUSE: Disposal at Landfill</b>  |   | Yes              | No     |
| 7a   | Will any materials from this project be disposed of at a landfill?   |   | X                |        |
| 7b   | If "yes," identify the haulers who will deliver the disposed debris and the disposal facilities.                             | Landfill  | Facility         |        |
|  |  |   | WASTE MANAGEMENT |        |
|  |  |   | AZUSA facility   |        |
|  |  |   |                  |        |
| 7c   | Do you have any exemptions to request prior to start of the project (Yes/No)   |   | NO               |        |
| If Yes: What type of material :  |  |   |                  |        |
| 8  | <b>EDUCATIONAL STRATEGIES:</b>   |   |                  |        |
| Describe in detail how you plan to inform your workers and any subcontractors of and ensure participation in your diversion goals and Waste Management Plan activities.  |  |   |                  |        |
| <p>The Demo MEETING will be held to inform &amp; discuss our C&amp;D waste management plan and our goals of Diversion Rate to meet. This issue will be discussed at every weekly &amp; Daily TASK MEETING.</p> |  |   |                  |        |

**C&D WASTE MANAGEMENT PLAN**

Address: 8777 Washington Blvd

9. **ESTIMATE OF RECYCLING AND/OR DISPOSAL ACTIVITIES:**  
 Summarize the information provided in Part Three (pages 2-3) of this Waste Management Plan on the following chart. Please refer to the C&D Conversion Table (pg. 5) if assistance in calculation is needed

| Type of Material                      | Type of Activity (check box) |                     |                         |                       | Total Quantities (In Tons)* | Total Recycled (In Tons)* | Total Disposed (In Tons)* | Facility Used (list specific names of recycling facilities, transfer stations, landfills, etc.) | Method of Transport (Self Haul, debris box, other?) |
|---------------------------------------|------------------------------|---------------------|-------------------------|-----------------------|-----------------------------|---------------------------|---------------------------|---|---|
|                                       | Recycle - to Facility        | Recycle - Salvage** | Recycle - On-Site Reuse | Dispose - to Facility |                             |                           |                           |   |   |
| <b>Mixed Materials***</b>             |                              |                     |                         |                       |                             |                           |                           |   |   |
| Mixed C&D Materials                   |                              |                     |                         | X                     | 342                         | 283.84                    |                           | Downtown Division   | Self Haul   |
| Mixed Inerts                          |                              |                     |                         |                       | 150                         | 0                         |                           | ARUSA   | Self Haul   |
| <b>Separated Materials</b>            |                              |                     |                         |                       |                             |                           |                           |   |   |
| Asphalt                               |                              |                     |                         | X                     | 300                         | 300                       |                           | Republic  | Self Haul   |
| Brick                                 |                              |                     |                         |                       |                             |                           |                           |   |   |
| Concrete                              |                              |                     |                         | X                     | 270                         | 270                       |                           | Unitor  | Self Haul   |
| Dirt/Clean Fill                       |                              |                     |                         |                       |                             |                           |                           |   |   |
| Lumber                                |                              |                     |                         |                       |                             |                           |                           |   |   |
| Roofing Materials                     |                              |                     |                         |                       |                             |                           |                           |   |   |
| Metals                                |                              | X                   |                         |                       | 1                           | 1                         |                           |   |   |
| Sheetrock                             |                              |                     |                         |                       |                             |                           |                           |   |   |
| Yard Trimmings                        |                              |                     |                         |                       |                             |                           |                           |   |   |
| Other Salvageable Materials/Items**** |                              |                     |                         |                       |                             |                           |                           |   |   |
| Other                                 |                              |                     |                         |                       |                             |                           |                           |   |   |
| <b>TOTALS:</b>                        |                              |                     |                         |                       | <b>1062</b>                 | <b>854.86</b>             |                           |   |   |

\*See Conversion Table (page 5) to convert cubic yards to tons.  
 \*\*Estimate in pounds where necessary and convert to partial tons -- see Conversion Table (page 5).  
 \*\*\*Divide the "Total Quantities" tonnages for all mixed materials between the "Total Recycled" and "Total Disposed" columns. [For example, if the facility you are using (see C&D Recycling Facilities list) has a 70% diversion rate, and you are sending 10 tons to that facility, "Total Recycled" = 7.0 and "Total Disposed" = 3.0.]  
 \*\*\*\*See #1b on page 2 for examples of salvageable materials other than those items listed under "Separated Materials" above.

Estimated Diversion Rate: 80 %\*\*\*\*  
 \*\*\*\*\*Divide tons of waste recycled by total tons of waste recycled and disposed; convert to a percentage.

## C&D WASTE MANAGEMENT PLAN

### C&D Conversion Table

Address: \_\_\_\_\_

Please use this page if needed to calculate your estimated tonnages

| <input checked="" type="checkbox"/> | <b>Check each conversion being used.</b>                        |              |                |
|-------------------------------------|---|--------------|----------------|
|                                     | Mixed C&D Materials   | 1 cubic yard | = 500 pounds   |
|                                     | Mixed Inerts  | 1 cubic yard | = 1 ton        |
|                                     | Asphalt, Brick, Concrete, Dirt (separated from other materials) | 1 cubic yard | = 1 ton        |
|                                     | Lumber  | 1 cubic yard | = 150 pounds   |
|                                     | Asphalt Shingles  | 1 cubic yard | = 419 pounds   |
|                                     | Asphalt/Tar Roofing   | 1 cubic yard | = 2,919 pounds |
|                                     | Wood Shake Shingle Roofing                                      | 1 cubic yard | = 435 pounds   |
|                                     | Metals  | 1 cubic yard | = 906 pounds   |
|                                     | Sheetrock   | 1 cubic yard | = 394 pounds   |
|                                     | Yard Trimmings  | 1 cubic yard | = 108 pounds   |

#### Other Salvaged Items

| Salvaged Items                                   | Estimated Pounds<br>÷ 2000 | = | Tons |
|--|----------------------------|---|------|
| Example: Cabinets, doors, windows, toilets, etc. | 100 lbs. ÷ 2000            | = | .05  |

If you believe you have justification for using a different conversion than above, please explain below.

\_\_\_\_\_



# REPUBLIC SERVICES

Date

Customer Name

Customer Address

City, State Zip Code

- SAMPLE -

Re: Asphalt Pavement Recycling

Dear Name,

Sunshine Canyon Landfill accepts asphalt pavement for beneficial use, complying with the waste reduction mandates of the Integrated Waste Management Act - AB939. Under 27 CCR Section 20686, the California Department of Resources Recycling and Recovery (CalRecycle) states that the beneficial uses of appropriate solid wastes at a solid waste facility can include road base, wet weather operations pads and access road. At Sunshine Canyon Landfill, appropriate solid wastes for these purposes are construction and demolition (C&D) materials and asphalt pavement material.

On Date(s) Customer name delivered X tons of asphalt pavement that may be considered recycling and qualifies for diversion credits. This material will be utilized for road base, wet weather operations pad and access roads.

Should you have any question regarding this matter, please do not hesitate to contact me at 818-362-2092.

Best regards,



# **REPUBLIC**

## **SERVICES**

---

Larry Bressman

Division Manager

Sunshine Canyon Landfill

# CITY OF LOS ANGELES

CALIFORNIA



ERIC GARCETTI  
MAYOR

December 27, 2016

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TEL: (213) 485-2260  
FAX: (213) 485-3671  
EMAIL: SRCRD@lacity.org  
www.lacitysan.org

ELECTRONIC MAIL, CERTIFIED MAIL

Mr. Larry Metter, Vice President  
Downtown Diversion  
9081 Tujunga Avenue.  
Sun Valley, CA 91352

Attention: Mr. Larry Metter, Vice President

**SUBJECT: CERTIFIED PROCESSOR CERTIFICATION FOR THE AB 939  
PROCESSOR CERTIFICATION PROGRAM (C&D)**

Your facility has received Certification as a City of Los Angeles AB 939 Certified Processor for Mixed Construction and Demolition Waste (C&D). The Certification will be effective from January 1, 2017 through December 31, 2017 and is subject to re-evaluation at any time during the effective period.

The City adopted the "Zero Waste LA" Ordinance in 2014, which authorized the City to issue contracts for the collection of solid waste from commercial establishments. The City continues to progress in the implementation of that ordinance and will provide certified processors with additional information on the new reporting requirements at a later date. For more information about Zero Waste LA, go to [www.lacitysan.org](http://www.lacitysan.org) and enter "Zero Waste LA - Franchise" in the search field.

As a City Certified Processor, you must abide by the Processor Requirements and Terms and Conditions listed in the Certified Processor-Application/Renewal form and program requirements contained in letters and certification notices. Please read them carefully; failure to abide by these requirements may result in decertification.

Furthermore, your facility must remain in good standing with your CalRecycle Local Enforcement Agency ("LEA") Operating Permits and Local Entitlements. If your facility has more than 5 Violations reported in LEA Facility Inspection Reports within any consecutive six-month period, your facility shall be decertified.

*zero waste • one water*

AN EQUAL EMPLOYMENT OPPORTUNITY - AFFIRMATIVE ACTION EMPLOYER

Recyclable and made from 100% recycled waste



As part of reporting requirements, you must submit the following required forms within fifteen (15) days following the end of each calendar quarter: 1.) send the form entitled "Certified Processor - Quarterly Report To Permitted Hauler" to all Permitted Private Solid Waste Haulers that used your facility and 2.) Submit to the City the form entitled "Certified Processor - Quarterly Rebate and Diversion Report to the City".

All City Certified Processors are also required to complete and sign a Certified Processor-Application/Renewal form by December first of each year; failure to complete, sign, and return the renewal application will result in the invalidation of your facility's City Certification.

The abovementioned forms are available on the City's website located at: [www.lacitysan.org](http://www.lacitysan.org) and enter 'Waste Hauler Permit Program'. A list of permitted private solid waste haulers is also available on the City's website.

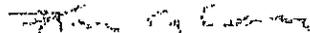
Based on the information submitted in your quarterly diversion reports along with site inspections performed by City staff, your facility has a recycling rate of 77.08% for C&D.

Incoming source separated = 2,799.09 tons  
Incoming mixed waste = 186,270.61 tons  
Outgoing waste = 42,696.06 tons  
Outgoing recycling = 151,982.33 tons  
Material unaccounted for = -5,608.69 tons  
Recycling rate\* = 0.7708  
Recycling percentage = 77.08%

\*Recycling Rate Formula = 
$$\frac{\text{Incoming mixed waste} - \text{Outgoing waste}}{\text{Incoming mixed waste}}$$

Please direct any questions regarding your certification requirements to Carol Parker at (213)485-3872 or Marina Castaneda at (213)485-3639.

Sincerely,



KAREN A. COCA, Division Manager  
Solid Resources Citywide Recycling Division  
LA Sanitation

KAC/SW/JCH/CAP:mc  
c: Carol A. Parker, LASAN  
Shufan Wei, LASAN  
Joan C. Huang, LASAN  
Marina B. Castañeda, LASAN  
Than Win, LASAN  
Hauler File

# LINCOLN PROPERTY COMPANY

8777 Washington Blvd Abatement project

## Martha E. Villegas

Implemented pest management program, for control of commensal rodents as part of construction project with the purpose to reduce rodent displacement or colonization in surrounding areas.

Orkin Pest Control

1053 Crenshaw Blvd Los  
Angeles CA 90019

Martha Villegas  
Account manager  
818-294-1132



PEST  
CONTROL  
DOWN  
TO A  
SCIENCE.™

7/11/2017

Orkin was contacted by Cara McCoy Property Administrator at Black Welder to assist in a rodent abatement program prior and during the demolition/construction taking place at 8777 Washington Blvd Los Angeles, CA 90232.

Rodents can be dispersed and quickly colonize the work site and surrounding areas because of exposed soil, debris and fence lines. Orkin recommends that rodent control is implemented throughout the work duration and until all equipment and materials are removed.

Pre-construction/demolition survey of rodent activity and sanitation of the proposed work site and at least 1,000 linear feet of the surrounding areas was performed on Tuesday July 11th 2017. We put together a program tailored to the specific needs of the site.

Implement Pest Management program:

- The abatement project is pre-scheduled to start on July 2017
- 20 interior rodent devices will be placed to start trapping before the demolition project begins.
- 50 rodent bait stations will be placed around the perimeter and trailer/storage locations.
- Subsurface baiting may be necessary in some areas.
- Rodent stations in bordering streets will be placed if safe and necessary.
- Each station will be checked daily for 5 days then weekly for 8 weeks
- After the construction begins the stations will be moved to new areas along the fence lines placed by the construction crew.
- After the 8<sup>th</sup> week the service will be performed twice per month
- The stations will contain a single feed bait consider a fast kill bait.
- The bait will be changed according to the level of infestation recorded by the technician as construction goes on.

For maximum efficacy, the following is required from the contractor and construction team:

Proper site sanitation, use of rodent-proof refuse containers, daily site cleanup, properly contain refuse, remove unnecessary debris piles and control weeds and other undesirable vegetation.

| Exterior Rodent Devices | Frequency  | Interior Rodent traps | Frequency  | Ongoing Service  |
|-------------------------|--|-----------------------|--|--|
| 50                      | Weekly for eight weeks.<br>Bi-monthly for the first year after that. | 20                    | Weekly at for at least 2 week prior to the project start date. | Exterior rodent devices will be serviced twice per month for the first year<br>Program will be re-evaluated after a year to determine if adjustments to frequency and quantity are needed. |

**Initial cost including equipment is \$3,800.00**

**Ongoing Monthly Fee \$500.00 (service to be performed semi-monthly)**

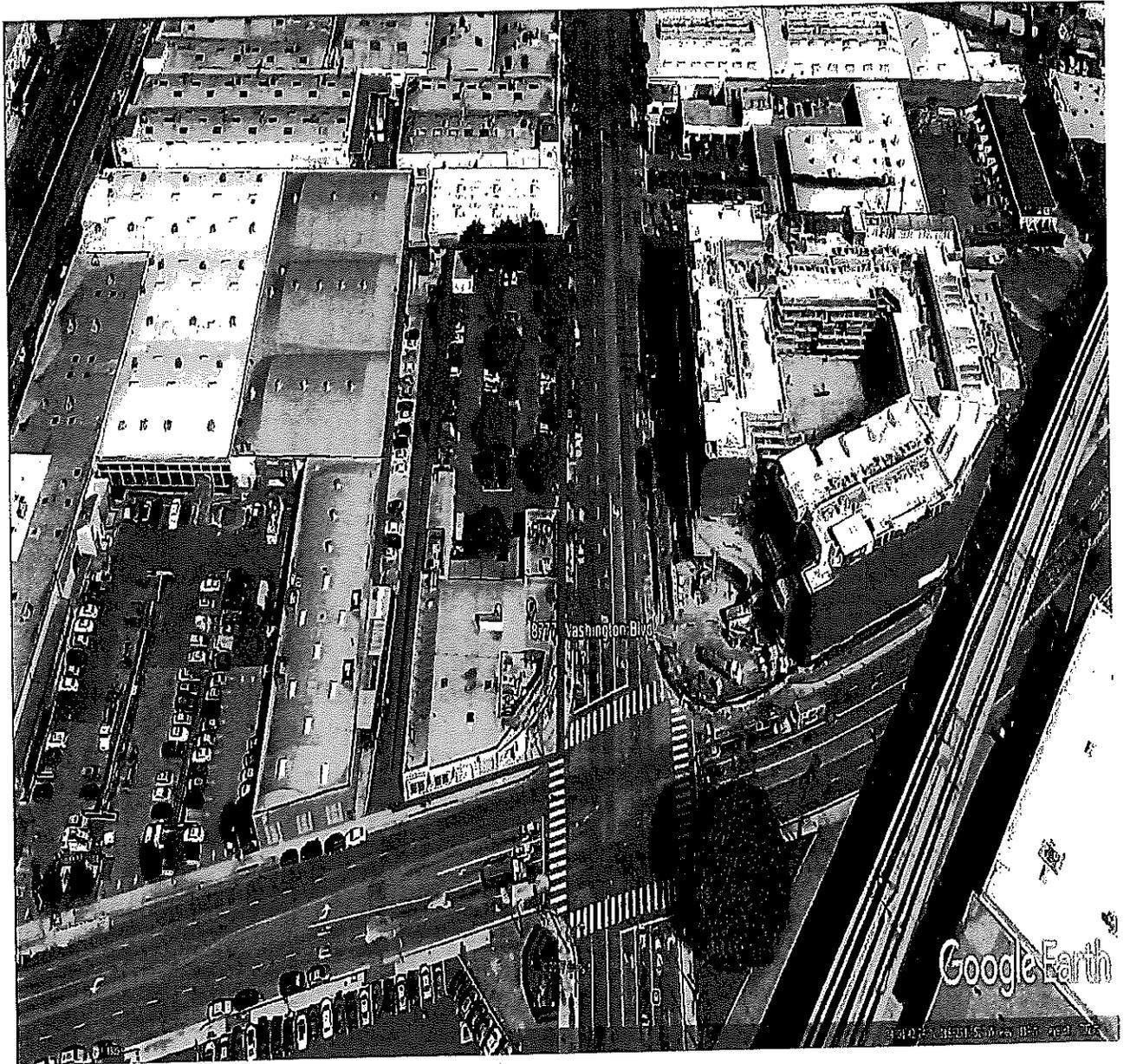


Figure 1 The marked area is to be protected with rodent devices to prevent rodent dispersing and colonizing into adjacent business.



Prepared by  
American General Constructors

# Concept Construction Management Plan

8777 WASHINGTON BLVD  
CULVER CITY

American General Constructors  
245 S Los Robles Ave Suite 100  
Pasadena, CA 91101  
(626) 304-0800  
[www.agd-agc.com](http://www.agd-agc.com)

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## 1.0 Introduction

### 1.1 Purpose

This Concept Construction Management Plan has been documented to anticipate how the Project Management team shall implement and conduct its site management responsibilities during the Construction phase of the "8777 Washington" Project (the Project).

The aim of this Plan is to describe the scope and anticipated scheduling of construction as a means of ensuring and facilitating an integrated and coordinated construction phase and informative framework for public education of the objectives of the Project.

This concept plan is included as part of the 8777 Washington Comprehensive Plan.

### 1.2 Scope

This Plan provides a holistic approach that:

- anticipates how the project management team will comply with requirements relating to construction;
- defines the project objectives and targets of particular relevance to the construction phase;
- describes constraints specific to the construction phase and the project in general;
- details the proposed strategy for the construction phase, with particular regard to establishment resourcing, site organization and construction controls.

### 1.3 Program

The proposed program will require the construction of:

- 3 Subterranean Levels in concrete
- 1 Podium Level in concrete
- Commercial Office 2-story in concrete
- Residential 4-story in wood

### 1.4 Site Location

The proposed development site (see Figure 1) is located at 8777 Washington Blvd in Culver City and is bounded by Washington Blvd to the south, National Blvd to the west, and private commercial properties to the north and east. The site is known as "8777 Washington".

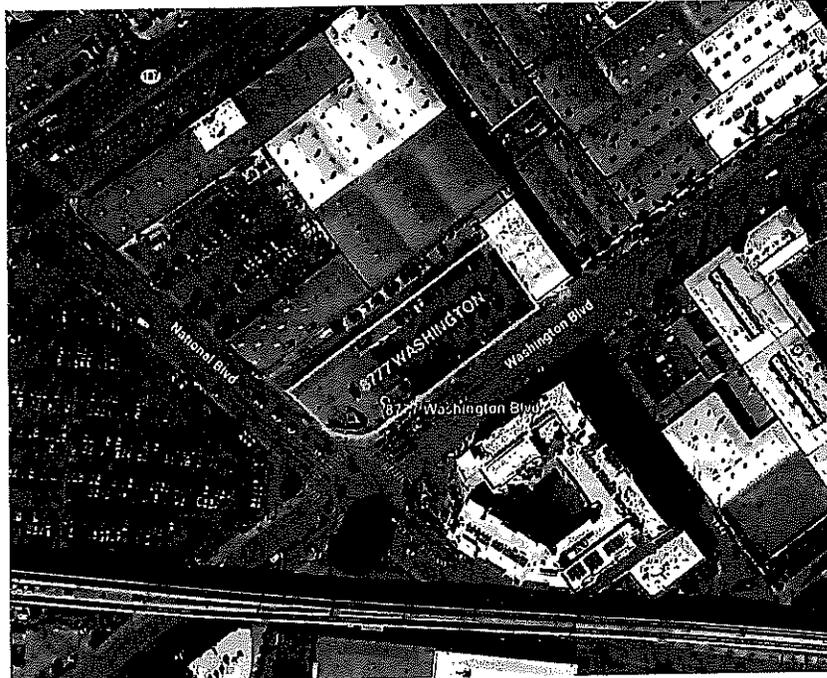


Figure 1 – Site Location

The site area is approximately .98 ac and is located within Culver City's Transportation Oriented Development district in close proximity to Metro's Expo Line Culver City Station.

- End of Section 1 -

## 2.0 Construction Management

### 2.1 External Considerations

The major external constraints on the project are:

- Maintaining smooth vehicular, bicycle, and pedestrian traffic flow with minimal disruptions to the surrounding streets.
- Minimizing impact on traffic during peak hours.
- Ensuring continued use of right turn to National from Washington.
- Minimizing impact on neighbors.
- Coordination with neighboring construction projects in order to minimize impacts from parallel construction processes on community.

Upon commencement, our project team's anticipated tasks will be:

- Locate a project office, site accommodation and facilities.
- Implement an offsite parking plan for construction workers with shuttle service to and from project site.
- Confirm the locations of existing services and obtain all necessary permits and approvals.
- Arrange for the installation of temporary services – power, water and sewer to service the project during construction

### 2.2 Anticipated Approvals

A series of permits will be required for project phases including demolition, excavation, subterranean and above ground construction.

We foresee that these approvals may include contingencies requiring additional design and submittals that must be approved before work can begin. Some anticipated items requiring further approval might include, but not be limited to:

- Final Construction Management Plan;
- Erosion and Sediment Control Plan; and
- Shoring and Excavation Plan

Before any lane closures and/or other temporary modifications to traffic are implemented, further approvals will be required from Culver City Public Works Traffic Management Division and/or other pertinent city departments. These items might include, but will not be limited to:

- Traffic Control Plan including, but not limited to vehicular, bicycle, and pedestrian traffic routing.
- Off-site Civil work including lighting, signage, landscape, paving, and striping.
- After Hours Application

### 2.3 Site Security

The site will be secured using appropriate fences and/or hoardings, with access gates manned with qualified security guards/traffic control officers. Entry will be controlled and will be limited to approved personnel and equipment. The site will be secured after hours and patrolled by qualified security guards. All visitors to the site will be required to sign in at the site office.

# Construction Management



## 2.4 Public / Worker Safety

All site staff and subcontractors will be required to complete a site specific orientation before beginning work on site. The orientation will cover aspects relating to health, safety, and onsite practice standards. Specific items may include, but will not be limited to site access, emergency evacuation procedures, location of first aid facilities, location of amenities, site hours, material handling, noise and dust policies and environmental management.

An onsite certified Safety Administrator will be appointed during the early stages of the project. The administrator will conduct regular inspections of the project site, and will be actively involved in ensuring compliance with Cal/OSHA and/or other safety standards, reviewing Safety Management Plans, and making recommendations with regard to health and safety issues.

### 2.4.1 Hoarding

The installation of hoarding is anticipated as a means of ensuring the safety and wellbeing of members of the community. (Refer to Appendix 2 for anticipated location of hoarding). Hoarding construction will consist of timber hoarding. Where work will be required at hoarding boundaries, temporary fencing or other barriers will be used. Gates will be used on all access points onto the site. Hoarding installation will be subject to city approval.

### 2.4.2 Covered Walkways

Use of a protective covered walkway is anticipated over the sidewalk adjacent to the existing building during the demolition phase and after the excavation phase. Pedestrian traffic will be routed across the street from the project site at either the Wesley St or National Blvd crosswalks on Washington Blvd as the excavation phase nears completion. (See Section 2.4.3 for description of detours). The design and location of covered walkways will be subject to city approval.

### 2.4.3 Pedestrian Detours

Use of the sidewalks on Washington Blvd and National Blvd for pedestrian use is anticipated to continue throughout the Demolition and Excavation phases. Flagmen stationed at construction vehicle entry and exit points will ensure safety of pedestrians crossing these points. As the site is readied for the subsequent phases, the sidewalk at Washington only is expected to be closed. The sidewalk on National will continue to be usable. Pedestrians approaching the site on the north sidewalk of Washington will be detoured to the south sidewalk by use of the crosswalks at the National and Wesley intersections. (Figure 2)

When preparations for the offsite work are set to commence, the sidewalk on National will also be closed. (See Section 3.7 for description of offsite work.) Pedestrians approaching the site on the east sidewalk on National will be detoured to the opposing sidewalk via the closest crosswalks at the Washington and Venice intersections for an estimated 1 week period. Signs will be placed indicated detour.

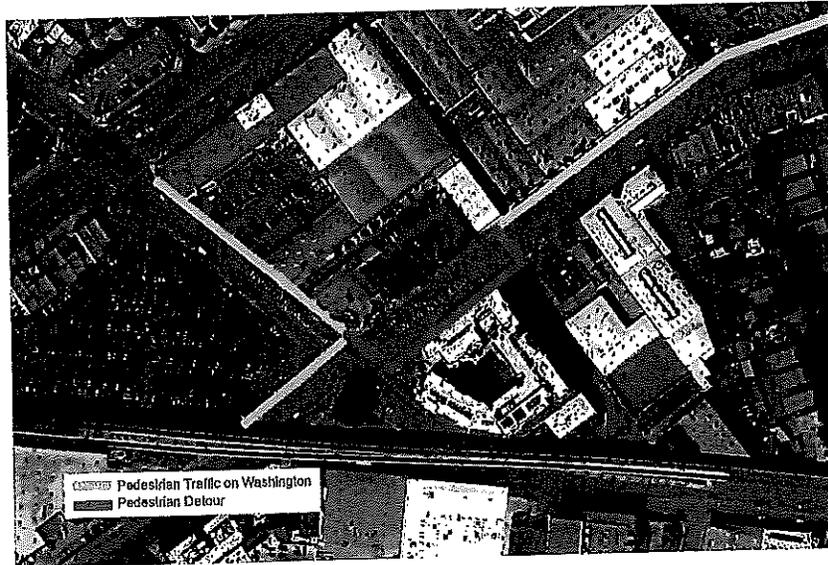


Figure 2 – Pedestrian Detour

## 2.4.4 Bicycle Detours

Use of the bicycle lanes in front of the project site on Washington Blvd is anticipated to continue throughout the Demolition and Excavation phases. Flagmen stationed at construction vehicle entry and exit points will ensure safety of cyclists crossing these points.

As the site is readied for the subsequent phases, the sidewalk and both the parking and bicycle lanes in front of the project site on Washington Blvd will be closed for the remainder of construction. Cyclists approaching the TOD using the northbound bicycle path will be detoured to an alternate route that deviates from the Wesley to Washington / National section to the east sidewalk on National until the detour meets the existing path. Signs will be placed indicating detour. The southbound path is anticipated to not be effected. Westbound cyclists approaching the site on Washington with the intention of joining the bike path will need to cross the street at Wesley and then cross again at Washington and National before joining the bike path. (Figure 3)

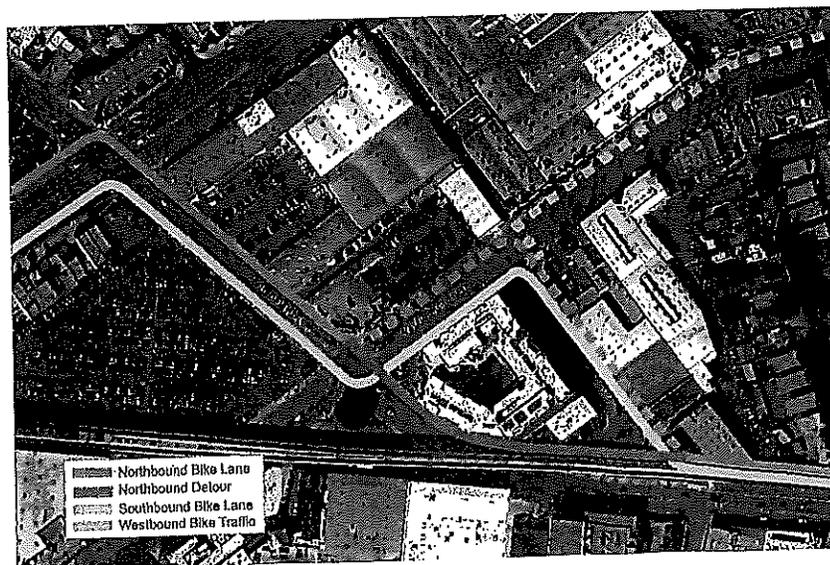


Figure 3 – Bicycle Detour

## 2.5 Community Notification

The construction will have several distinct phases that will require different material handling strategies to optimize scheduling and minimize impact to surrounding streets, neighbors, and other potential stakeholders.

Where an impact from material handling and/or construction planning is anticipated, stakeholders and authorities will be consulted before implementation.

To this end, the construction management team, in conjunction with the developer, will work with pertinent stakeholders to develop an email notification list as a means of notifying said parties of potential construction impacts at least 2 days prior to commencing actions.

## 2.6 General Onsite Administration

The Project Construction Manager will maintain an office at the project site if required. The Project Construction Manager and field staff will be responsible for implementing and maintaining procedures and policies.

### 2.5.1 Construction Hours

- General Construction

The project will comply with Culver City's allowable construction hours of:

- *Monday-Friday*: 8:00 AM through 8:00 PM
- *Saturdays*: 9:00 AM through 7:00 PM
- *Sundays and National holidays (temporary in nature, if required)*: 10:00 AM through 7:00 PM  
*(Will require city approval)*

- Hauling and/or Material Delivery/Removal

Dirt hauling and construction material deliveries or removal will not be allowed during morning (7:00 AM – 9:00 AM) and afternoon (4:00 PM – 6:00 PM) peak traffic periods. It should be noted that this requirement will have the effect of prolonging overall construction time.

- Lane Closures

Every effort will be made to minimize the need for lane closures. Should lane closures be required, neighbors and city officials will be notified via the email notification system set up at the commencement of construction. Lane closures, if required, will occur only between the hours of 9:00 AM – 3:00 PM. Such event will be coordinated with neighboring construction projects.

- End of Section 2 -

# Construction Methodology



## 3.0 Construction Methodology

### 3.1 Demolition and Excavation (246 work days)

The site is currently a commercial property that includes a one story commercial building, a small storage structure, and surface parking.

Existing services within the site will be located and either capped if redundant or modified if they are to be used as temporary services for construction.

*Demolition is expected to take 15 work days with impact to traffic from debris hauling occurring over the course of 10 days with an estimated 4 truckloads being hauled each day.*

Trucks will enter the site from Washington Blvd and move to a designated loading area where they will be loaded with material before exiting on Washington Blvd. (Figure 4). Where required, curb ramps will be placed at entry/exit points to mitigate damage to curbs. Flagmen will be stationed at entry and exit points to ensure safety.

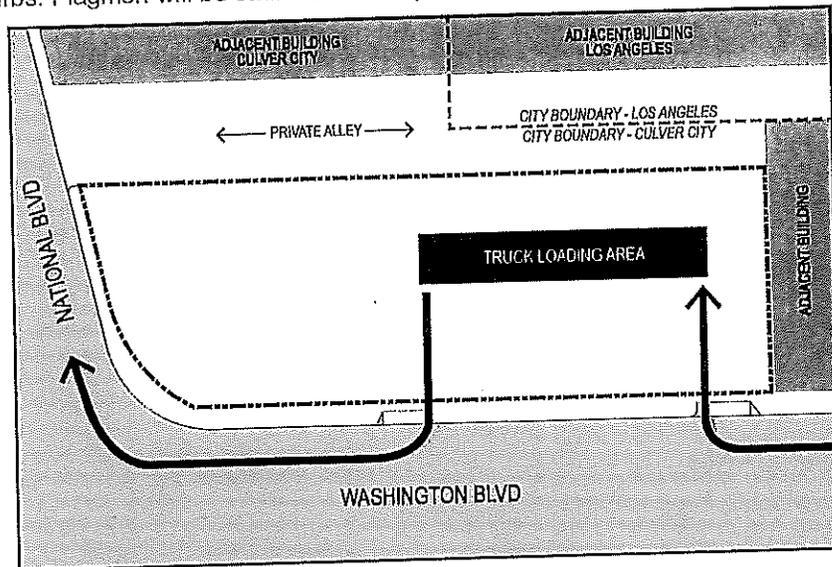


Figure 4 – Staging during Demolition

During excavation, a shoring system will be required to support the site walls. Shoring will begin with placement of soldier piles along the site's perimeter. This process is estimated to take approximately 30 days. Lagging spanning between soldier piles will be placed in coordination with the excavation of the site. As the site is excavated, there will be a need to provide bracing to further support the shoring system. This will occur over two separate time frames during which time excavation of earth will cease. This is anticipated to take an additional 24 days.

The project will require the excavation of 37 FT of earth below street level with an expected time frame 89 days. *Dirt hauling is anticipated to occur over 45 nonconsecutive days within the 89 day excavation period. 95 dump trucks per day will be required to haul the estimated volume of dirt from the site.* Per Culver City's Municipal Code, dirt hauling is prohibited during the morning (7:00 AM to 9:00 AM) and afternoon (4:00 PM to 6:00 PM) peak traffic periods. Trucks will enter the site from Washington Blvd and exit onto National Blvd (Figure 5). Where required, curb ramps will be placed at entry/exit points to mitigate damage to curbs. Flagmen will be stationed at entry and exit points to ensure safety.

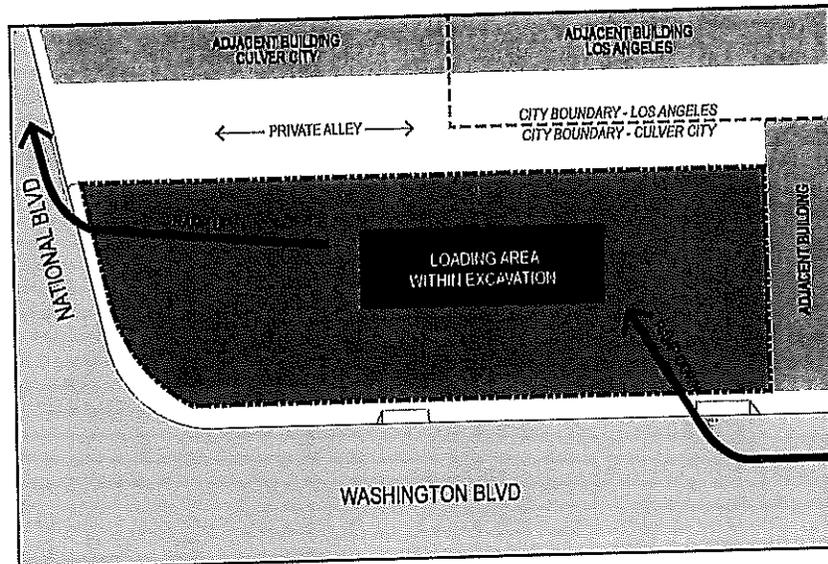


Figure 5 – Staging during Excavation

## 3.2 Subterranean Work

Based on the geotechnical report, the structure will require a mat foundation. In order to facilitate its and future construction, we foresee the installation of a tower crane adjacent to the building core.

The tower crane will be erected as soon as the area it is to be located has been excavated. The crane will assist in various tasks that would otherwise interfere with traffic flow on Washington Blvd. These tasks will include, but are not limited to the removal of the last of the excavation where it may otherwise be uneconomical to be done by other means and the movement of material into the excavated site for subterranean level work.

Given the size of the site and the nature of the project's program, the site will be divided into zones so that concurrent activities can occur. As excavation is completed, in-ground services will be installed followed by preparation of the ground to receive the structural mat foundation that will be cast in concrete.

Because of the desire to minimize impacts on the flow of traffic on Washington and National, we propose the use of a series of separate placing booms for the placing of concrete. These booms will be located within the project site and will mitigate the potential for traffic congestion that come with use of a truck-mounted concrete boom pump. The use of this proposed system is anticipated for all onsite concrete construction.

Following the placement of the mat foundation and its subsequent topping slab, the upper basement levels will be cast in zones, so that multiple work fronts will be created. Different formwork systems will be considered and taken into account in the design of the structure to ensure the time frame can be met.

As with the mat foundation, concrete will be cast to the lower level slabs and columns using a pump and separate placing booms in order to minimize the impact on traffic on the adjacent streets.

## 3.3 Concrete Construction (425 work days)

The concrete construction of the project will encompass three subterranean parking levels, one ground level, one podium level, a second office level, and the office roof. The time frame required to complete the concrete portions of the project is anticipated to take approximately 425 work days. Included within this time-frame is the assembly of shoring to support formwork; construction/assembly of the required formwork for floor slabs, columns, and walls; placement of steel reinforcement for those structural components; and the placement and finishing of concrete.

*Concrete placement is expected to occur over 57 nonconsecutive days within the 425 day concrete*

# Construction Methodology



*construction period. A daily average of 30 concrete trucks is anticipated over the concrete placement period.* Construction material deliveries will occur outside the morning (7:00 AM to 9:00 AM) and afternoon (4:00 PM to 6:00 PM) peak traffic periods. Concrete delivery trucks will enter and exit the hoarded site staging area on Washington Blvd (Figure 6). Flagmen will be stationed at entry and exit points to ensure safety.

The concrete trades will be supported by, but not limited to, a tower crane for lifting of materials and equipment, separate placing booms to place concrete, and perimeter guardrail systems to provide fall protection.

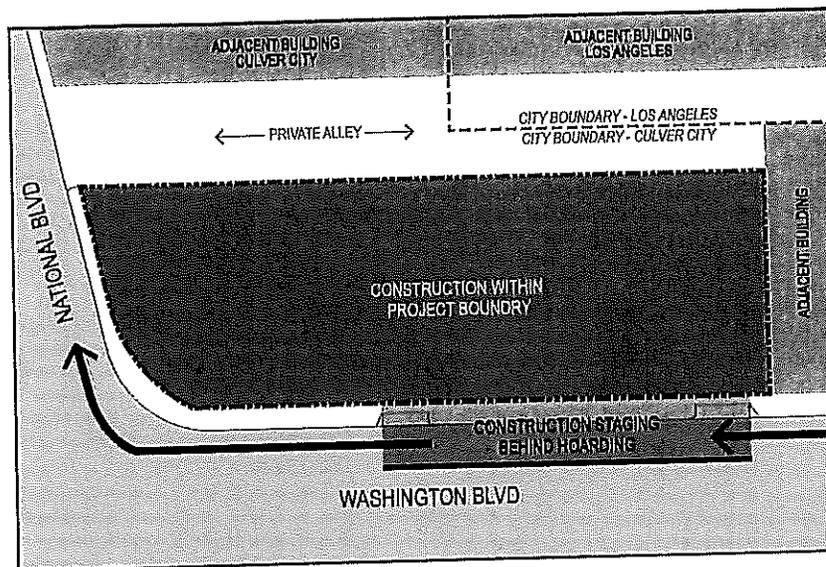


Figure 6 – Staging during Construction (see Appendix 2)

### 3.4 Wood Construction (215 work days running concurrent with concrete construction)

The wood construction of the project will encompass 80 units contained to four levels sitting on the concrete podium level. The time frame required to complete the wood portions of the project is anticipated to take approximately 215 work days. This phase of construction will commence once the concrete podium deck has been built and will then run concurrent to the construction of the remaining concrete office levels. Included within this time-frame is the construction of the wood structural system, installation of the building's services, and the fitting out of the interiors. This period is also anticipated to include the building out of the private and common amenity areas.

The wood construction will require periodic delivery of material and removal of waste material. The impact to traffic on the adjacent streets will be minimal at this phase of construction. Delivery Trucks will enter and exit the hoarded site staging area on Washington Blvd (Figure 6). Flagmen will be stationed at entry and exit points to ensure safety.

The framing and other trades will be supported by, but not limited to, a tower crane for lifting of materials and equipment and perimeter guardrail systems that provide fall protection prior to construction of the exterior walls.

### 3.5 Building Enclosure

The glass enclosure for the office and ground level commercial spaces will be erected as soon as practical to commence sealing floors so that finishes and fit out, if required, can commence. The scheduling of the enclosure installation has been factored in to the time frame allotted to concrete construction.

The enclosure of the residential wood component of the building is described in Section 3.6.

# Construction Methodology



## 3.6 Services and Finishes

For the concrete commercial and subterranean portions of the building, the installation of the services will commence as each of slabs are cast and the formwork is stripped.

Similarly, as each level of the residential wood component of the project has been constructed to a point allowing construction of the next level, the trades installing the required services will begin their installation work.

The installation of services will be organized in several passes, with the first pass termed as "rough in of services". This typically includes all services that can be installed without needing the protection of the building façade.

Exterior finishes typically begin after the building envelope has been installed. In the concrete commercial part of the project this is usually after the enclosure has been installed. For the residential wood part of the building, after the exterior walls on the wood portion of the project have been constructed, they will be layered with waterproofing, fireproofing, and ultimately finished with the required finish material.

The scheduling of the service and finish installations has been factored in to the time frame allotted to both concrete and wood construction.

## 3.7 Offsite Work (42 work days running concurrent with completion of interior fit-out)

Offsite work is expect to begin as soon as the building envelope is installed. The hoarding and covered walkways will be removed to allow for the offsite improvements to begin.

Offsite work will consist of, but may not be limited to, replacement of sidewalk along the street facing sides of the project perimeter; installation/relocation of street lighting and signage; placement of landscaping, trees, public seating, and bicycle parking as prescribed by Culver City's Streetscape Master Plan; and the paving and striping of the project's half of Washington Blvd and National Blvd.

Every effort will be made to minimize the impact on vehicle traffic flow by keeping staging activities to the parking and bicycle lanes on Washington Blvd. We do foresee the need for temporary lane closures when repaving those portions of Washington Blvd and National Blvd required of this project. In order to alleviate the effects on traffic, we anticipate scheduling lane closures required for certain activities to evening after the peak traffic hours. Those activities that will be performed during daytime hours will be scheduled to take place after the morning peak traffic hours.

**The anticipated time frame for all offsite improvements is 42 work days.** This period will include approximately 2 days for concrete placement for sidewalk and gutter construction. This will require the nonconcurrent temporary closure of the parking and bicycle lanes on Washington and one lane on National for this purpose.

Repaving activities will require the sequential closing of the westbound lanes on Washington and the northbound lanes of National within a 2-3 day period, outside of peak traffic hours, to allow for milling the existing pavement. This will be followed by alternating single lane closures for approximately 2 days to allow for repaving activities to occur outside of peak traffic hours.

## 3.8 Construction Sequence and Planning

As the scope of work is further detailed in the later design phases of the project, this concept construction management plan will also require modification.

Based on the building's pre-entitlement design, the project's construction will be divided into 3 distinct phases requiring respective logic to construct the building efficiently and minimize impact on surrounding streets and neighbors. These phases are:

- Phase 1. Demolition / Shoring / Excavation / Drainage with Waterproofing  
*Estimated Start Date: 06/05/17*  
*Duration: 246 work days / 287 calendar days*



# Construction Methodology

---

Phase 2. Foundations / Concrete Structure / Wood Construction / Enclosure / Finishes  
*Estimated Start Date: 12/06/17*  
*Duration: 640 work days / 803 calendar days*

Phase 3. Offsite Improvements / Landscaping  
*Estimated Start Date: 06/29/19*  
*Duration: 42 work days / 50 calendar days*

*Estimated Date of Completion: 09/06/19*

*Note:* Each phase will not happen in isolation. All phases will overlap with 2 and 3 occurring simultaneously once the structure is sufficiently complete to allow the finish trades to begin work.

- End of Section 3 -



## 4.0 Environmental

### 4.1 General

The objective of this section is to identify the proposed methods that will be employed to minimize potential impacts of noise, vibration, and air quality in the vicinity of the development.

### 4.2 Noise and Vibration Management

Normal work hours will occur within Culver City's allowable construction hours of 8:00 AM to 8:00 PM, Monday-Friday. There will be some Saturday work that will occur within the allowable hours of 9:00 AM to 7PM. While not anticipated, Sunday work hours may be required in order to keep to the construction schedule. If Sunday work is needed, it will occur within the allowable hours of 10:00 AM to 7PM after approval by city officials.

All subcontractors will be responsible for managing noise and vibration in accordance with their project specific Management Plans. Some mitigating measures will be:

- Requiring all construction equipment to be operated with an exhaust muffler and sound control devices that meet or exceed those provided on the original equipment.
- Requiring proper maintenance of construction equipment to minimize noise emissions.
- Staging of construction material deliveries behind hoarding to minimize noise emitting from idling vehicles.
- Requiring stationary source equipment to be located the greatest distance from the public right-of-way.
- Requiring construction workers to be respectful of the surrounding neighborhood and keep non-construction related noise to a minimum prior to, during, and after allowed construction hours.

After hours work may be required for specific tasks in order to minimize impacts to pedestrians, vehicular traffic or in the interest of safety. Proposed work to occur outside of normal working hours include the following:

- Hoarding and covered walkway construction
- Tower Crane erection and dismantling
- Milling of existing road pavement

All after hour's work will be subject to the Communication Management Plan. Consultation with pertinent Culver City departments will occur prior to any works being scheduled. Businesses and surrounding residents will be given notification via email of the proposed after hours work prior to the starting said work including details of the work to be performed with an anticipated time required to undertake each activity.

We do not foresee significant vibration generated by the construction that might impact adjoining properties.

### 4.3 Dust Management and Erosion Control

Dust and Erosion control measures will be implemented as required, and will comply with SCAQMD and Culver City regulations for controlling fugitive dust and Erosion. Measures that may be employed include:

- *Site Perimeter:* Erection of a 6 ft. high fence with attached windscreen at the site's perimeter under which sand bags and/or straw wattles will be placed
- *Demolition:* All trucks removing materials from site will be loaded within the site perimeter and will be required to cover loads as deemed necessary for dust control.

- *Excavation:* Rumble strips at truck entry/exit ways, watering down working of stockpiles and surfaces as required, covering of stocks while minimizing piling of material, and use of street sweepers to maintain adjacent roadways.
- Construction – Maintain a high level of housekeeping to minimize likelihood of windblown dust

- End of Section 4 -

## 5.0 Appendices

- 5.1 Appendix 1 – Proposed Construction Traffic Route
- 5.2 Appendix 2 – Proposed Construction Staging Locations
- 5.3 Appendix 3 – Proposed Construction Staging Area Detail

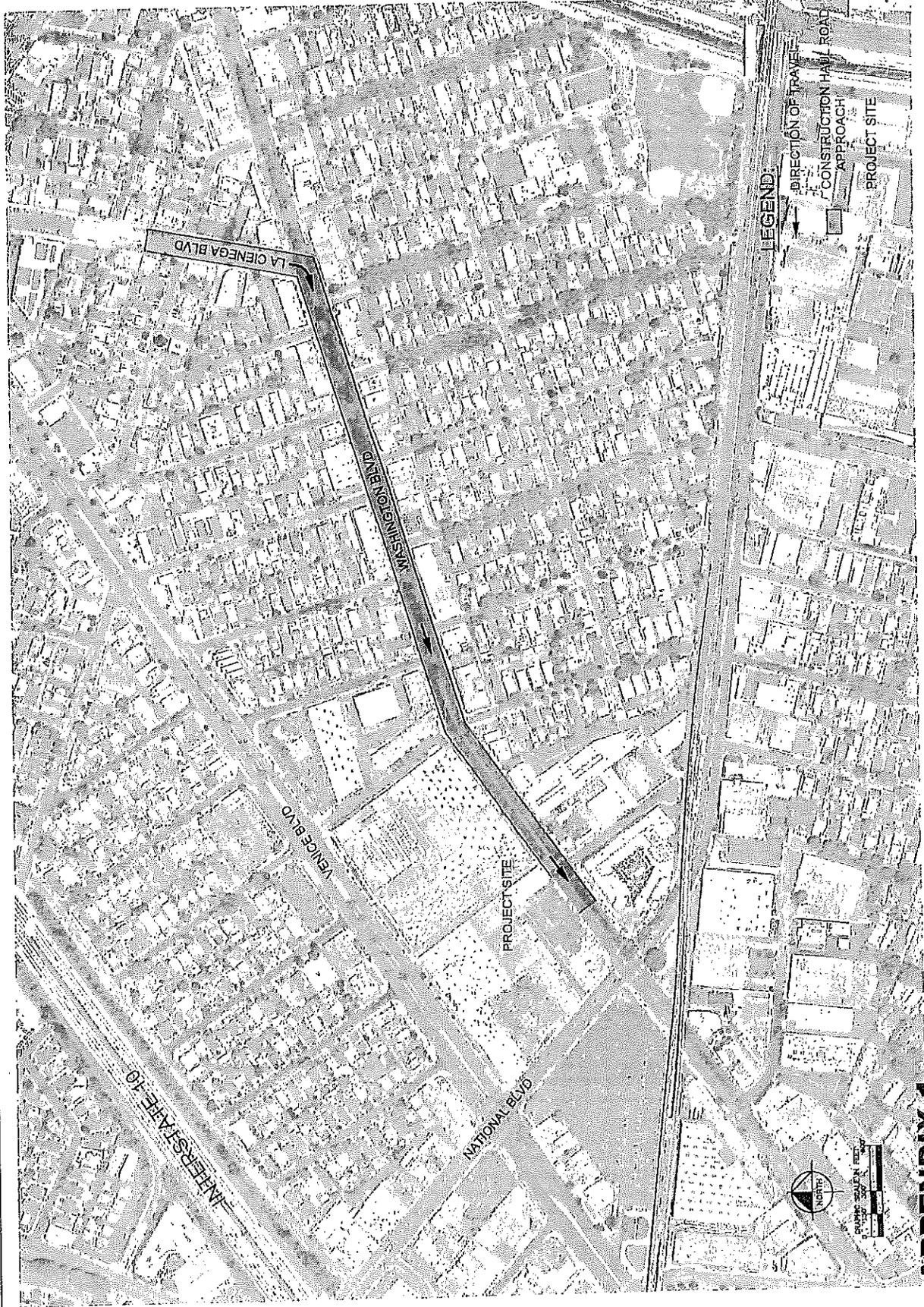
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**Kimley»Horn**  
 650 SOUTH PAVANIA STREET, SUITE 5000  
 LOS ANGELES, CA 90017  
 (310) 241-4013 www.kimley-horn.com

NHA PROJECT  
 DATE: 8/24/2015  
 SCALE: AS SHOWN  
 DESIGNED BY: A.  
 DRAWN BY: A.  
 CHECKED BY: CC

8777 WASHINGTON BLVD  
 CONSTRUCTION HAUL ROUTE EXHIBIT

CONSTRUCTION HAUL ROUTE EXHIBIT  
 APPROACH ROUTE  
 SHEET NUMBER: \_\_\_\_\_



**APPENDIX 1**

Plotted by Link Smith. Small Scale. Layout/Approach. August 03, 2015 09:56:00am. K:\107\_102V\0925001 - 8777 Washington Blvd\Drawings\CADD\Exhibits\Approach\_Exhibit.dwg  
 This document is prepared for the project and is not to be used for any other purpose. It is the property of Kimley-Horn and Associates, Inc. and is not to be distributed, copied, or reproduced in any form without the written permission of Kimley-Horn and Associates, Inc.

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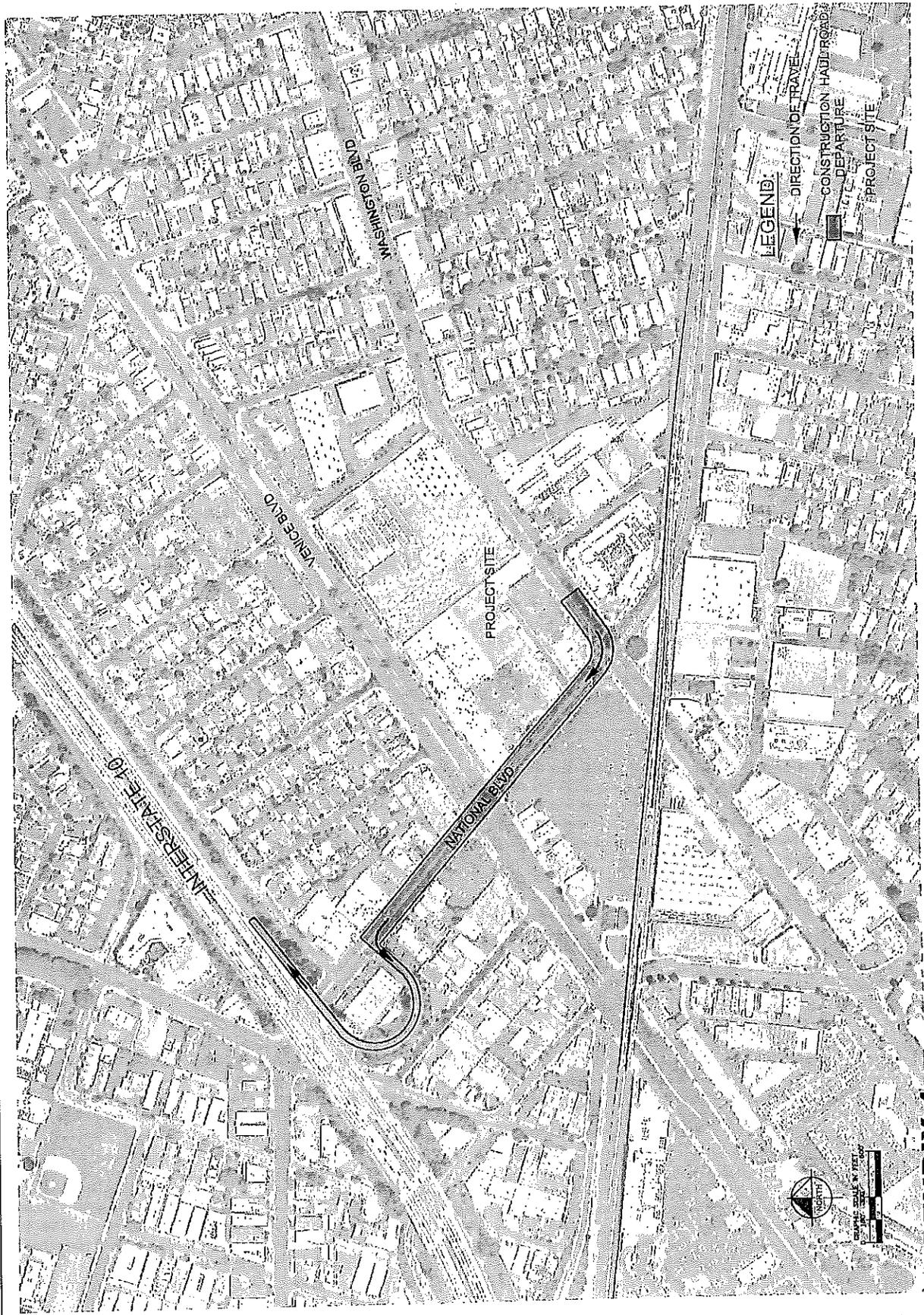
**Kimley»Horn**  
 450 SOUTH PAVANIA STREET, SUITE 2000  
 LOS ANGELES, CA 90017  
 (310) 261-0100 www.kimley-horn.com

| KHA PROJECT |
|-------------|
| DATE        |
| 08/27/2016  |
| SCALE       |
| AS SHOWN    |
| DESIGNED BY |
| L           |
| DRAWN BY    |
| L           |
| CHECKED BY  |
| CC          |

8777 WASHINGTON BLVD

CONSTRUCTION HAUL  
 ROUTE EXHIBIT  
 DEPARTURE ROUTE

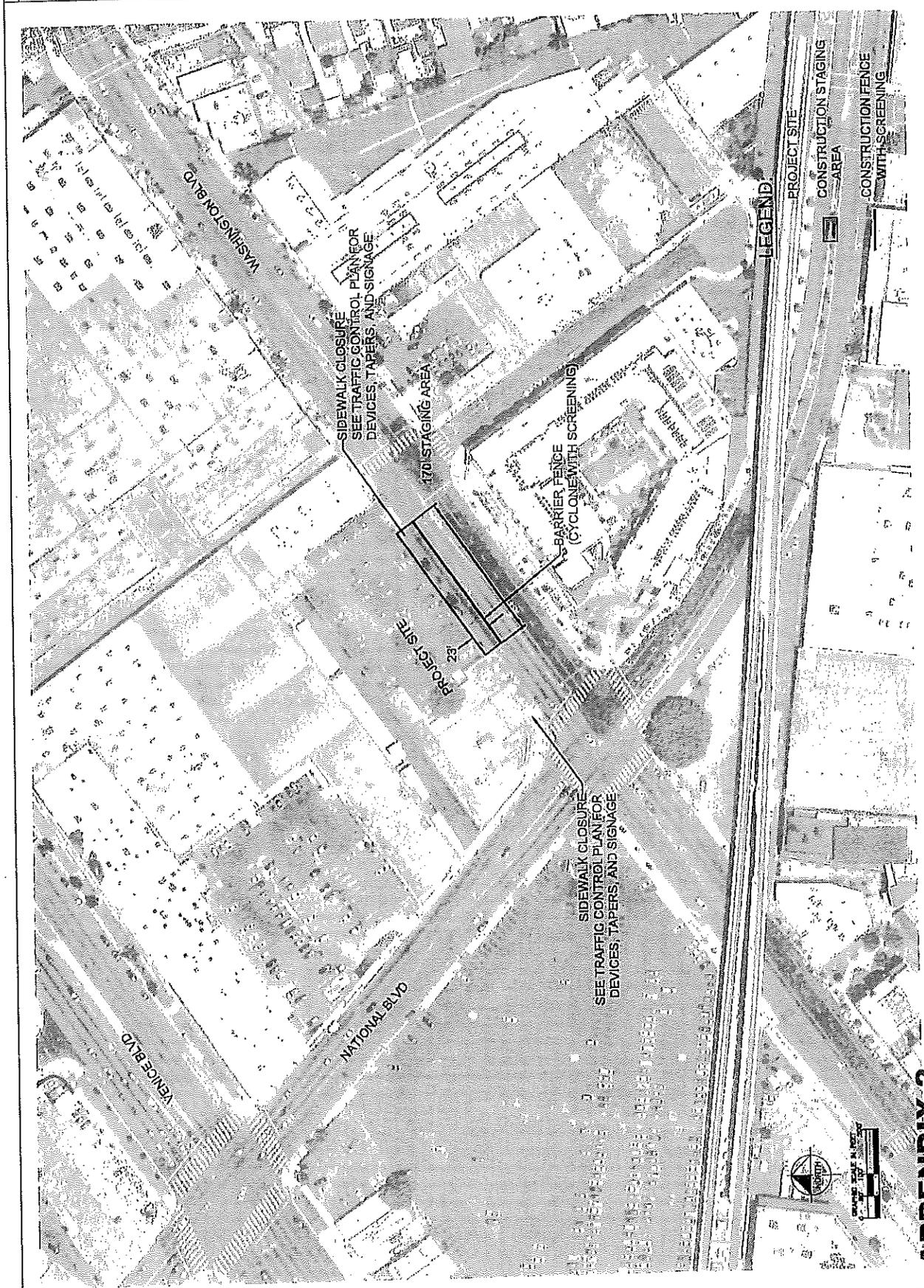
SHEET NUMBER



**APPENDIX 1**

Kimley-Horn, Inc. shall retain the copyright and other proprietary rights, as the inventor of such, in the project and shall not be bound by any other agreement, written or oral, that purports to assign, license, or otherwise transfer any of the project or the project's results, in whole or in part, to any other party. The project shall remain the property of Kimley-Horn, Inc. and shall not be used for any other purpose without the prior written consent of Kimley-Horn, Inc. 8777 Washington Blvd, Los Angeles, CA 90017. Project No. 1601-1001-001. Appendix 1. August 03, 2016. 08:56:09am. K:\1601-1001-001\Appendix 1\Appendix 1.dwg

|              |  |  |  |                      |  |   |  |   |  |                                      |  |
|--------------|--|--|--|----------------------|--|---|--|---|--|--------------------------------------|--|
| SHEET NUMBER |  | CONSTRUCTION HAUL ROUTE EXHIBIT STAGING AREA |  | 8777 WASHINGTON BLVD |  | MVA PROJECT<br>DATE 8/23/2018<br>DRAWN BY<br>CHECKED BY<br>NUMBER BY<br>DESIGNED BY |  | Kimley»Horn<br>400 NORTH MARSHALL STREET, SUITE 2000<br>CHARLOTTE, NC 28202<br>(704) 381-0000 |  | No. _____<br>DATE _____<br>REVISIONS |  |
|--------------|--|--|--|----------------------|--|---|--|---|--|--------------------------------------|--|



Plotted By: Lkh, Jmtr. Sheet Scaling Layout: Staging Area August 23, 2018 09:35:18pm. H:\07\_18\05\0575001 - 8777 Washington Blvd\Design\04P\Staging Exhibit.dwg. H:\07\_18\05\0575001 - 8777 Washington Blvd\Design\04P\Staging Exhibit.dwg. This document, including title block, sheets and design presented herein, are the property of Kimley-Horn and Associates, Inc. and are to be used only for the specific project and client for which it was prepared. Any other use without written permission and signature of Kimley-Horn and Associates, Inc. is prohibited. We warrant the data to whom these drawings were originally prepared.

## 5.0 Exhibit A

- 5.1 Exhibit A.1 – Temporary Fencing Plan During Demo and Excavation
- 5.2 Exhibit A.2 – Temporary Fencing Plan During Concrete and Finishes
- 5.3 Exhibit A.3 – Use of Public Right of Way
- 5.4 Exhibit A.4 – Pedestrian Routing
- 5.5 Exhibit A.5 – Bicycle Routing
- 5.6 Exhibit A.6 – Excavation Truck Access
- 5.7 Exhibit A.7 – Concrete Pumping
- 5.8 Exhibit A.8.1 – Site Logistics
- 5.9 Exhibit A.8.2 – Site Logistics with Tower Crane
- 5.10 Exhibit A.9 – Haul Route to Jobsite
- 5.11 Exhibit A.10 - Haul Route from Jobsite
- 5.12 Exhibit A.11 – Construction Parking
- 5.13 Exhibit A.12 – Sample Signage
- 5.14 Exhibit A.13 – Schedule

EXHIBIT A.5



Existing Bicycle Routing

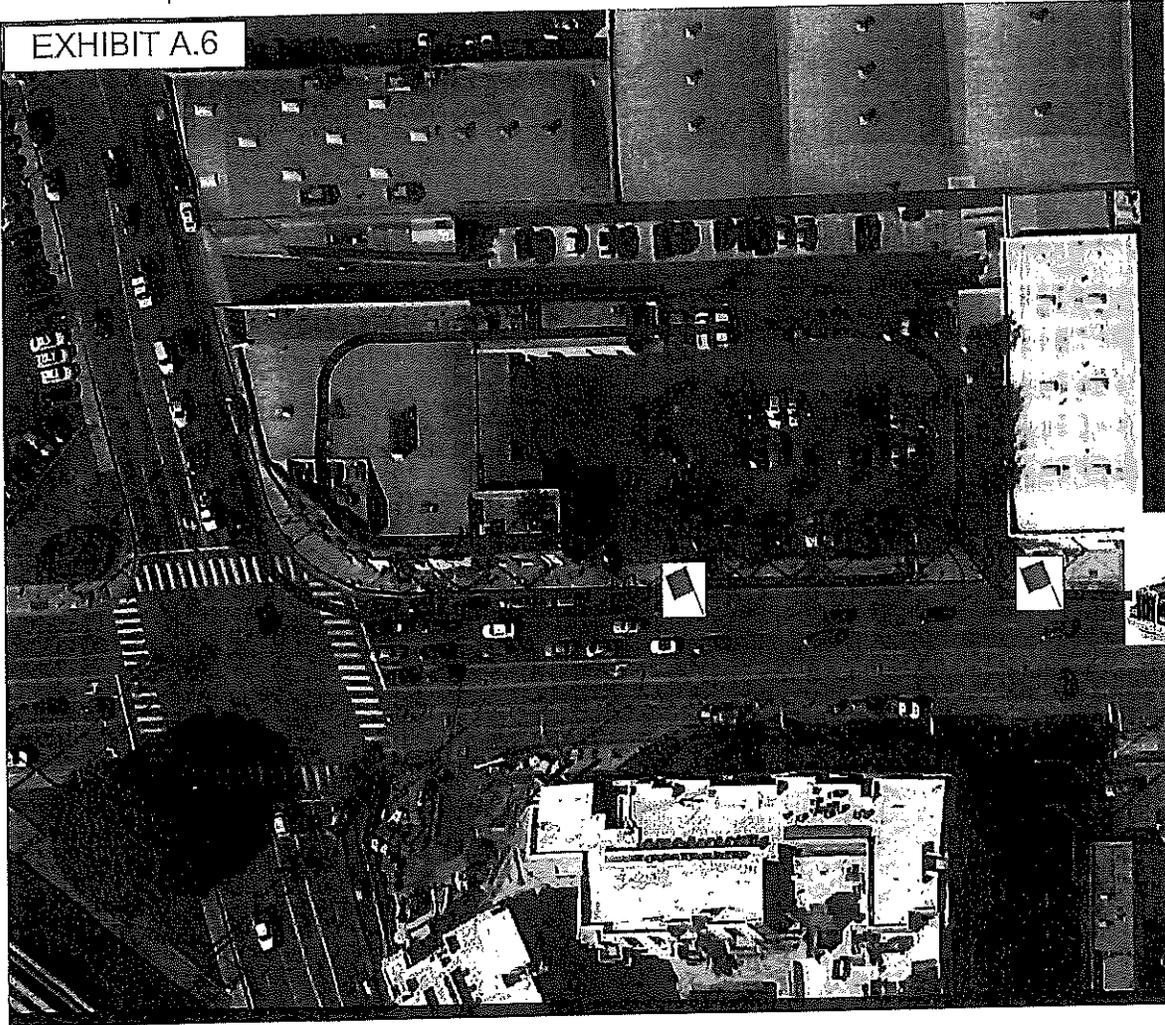
Re-Routing Bicycles

Temporary bicycle signage to be submitted to Public Works separately for approval.

**MORLEY BUILDERS**

Bicycle Routing

EXHIBIT A.6



**MORLEY BUILDERS**

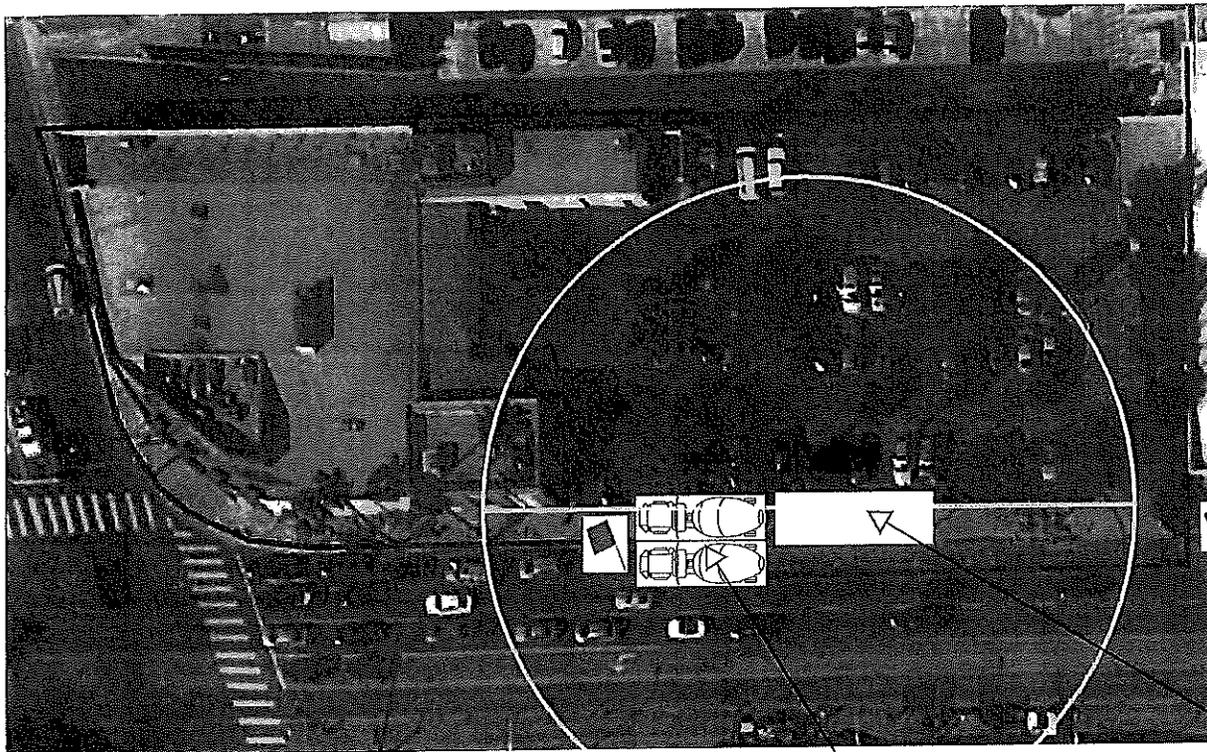
Excavation Truck Access



FLAGMAN



EXHIBIT A.7



**MORLEY BUILDERS**  
Concrete Truck & Pumping

FLAGMAN

Concrete Pump

Ready Mix Trucks

EXHIBIT A.8.1

**MORLEY BUILDERS**  
Site Logistics

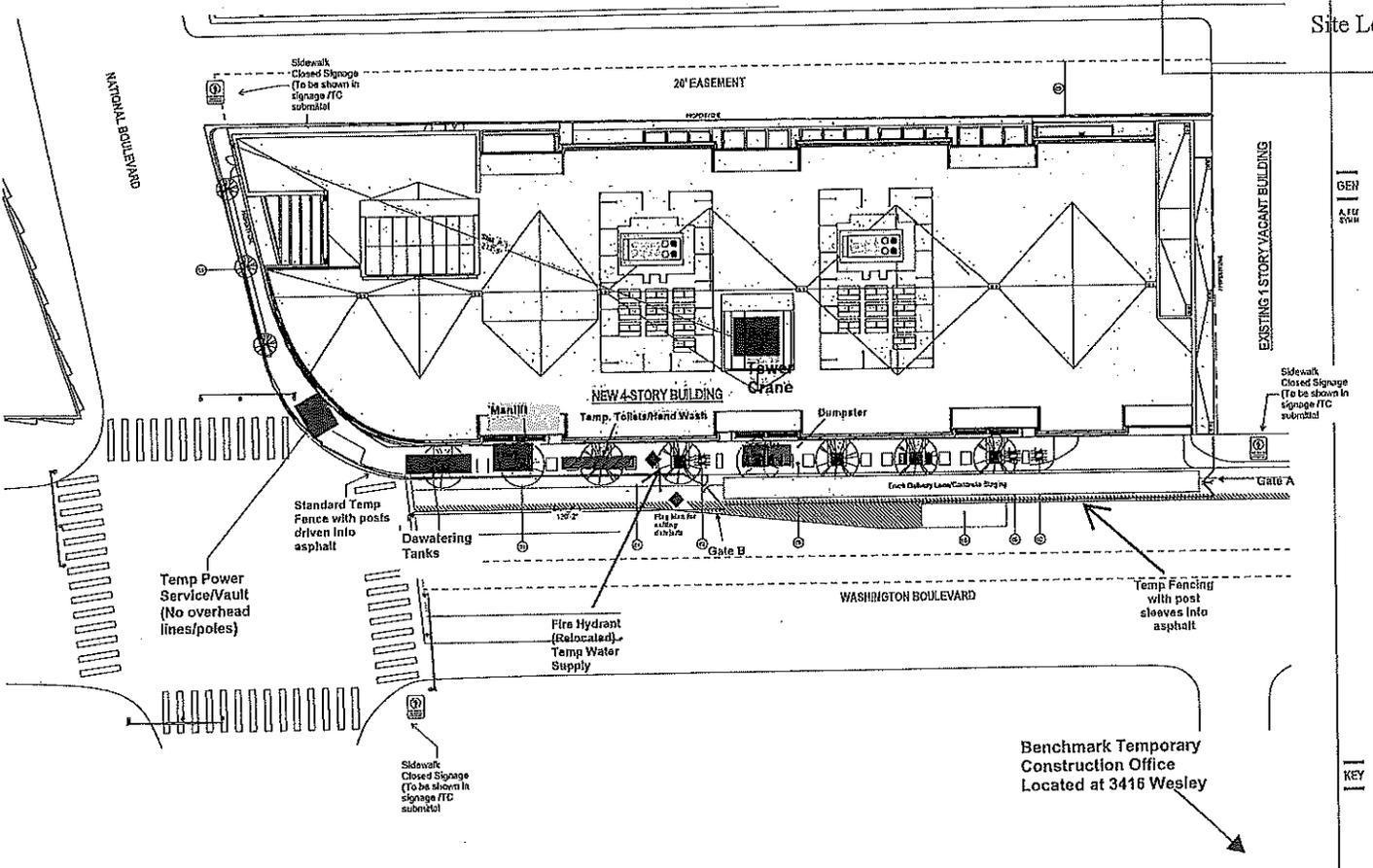
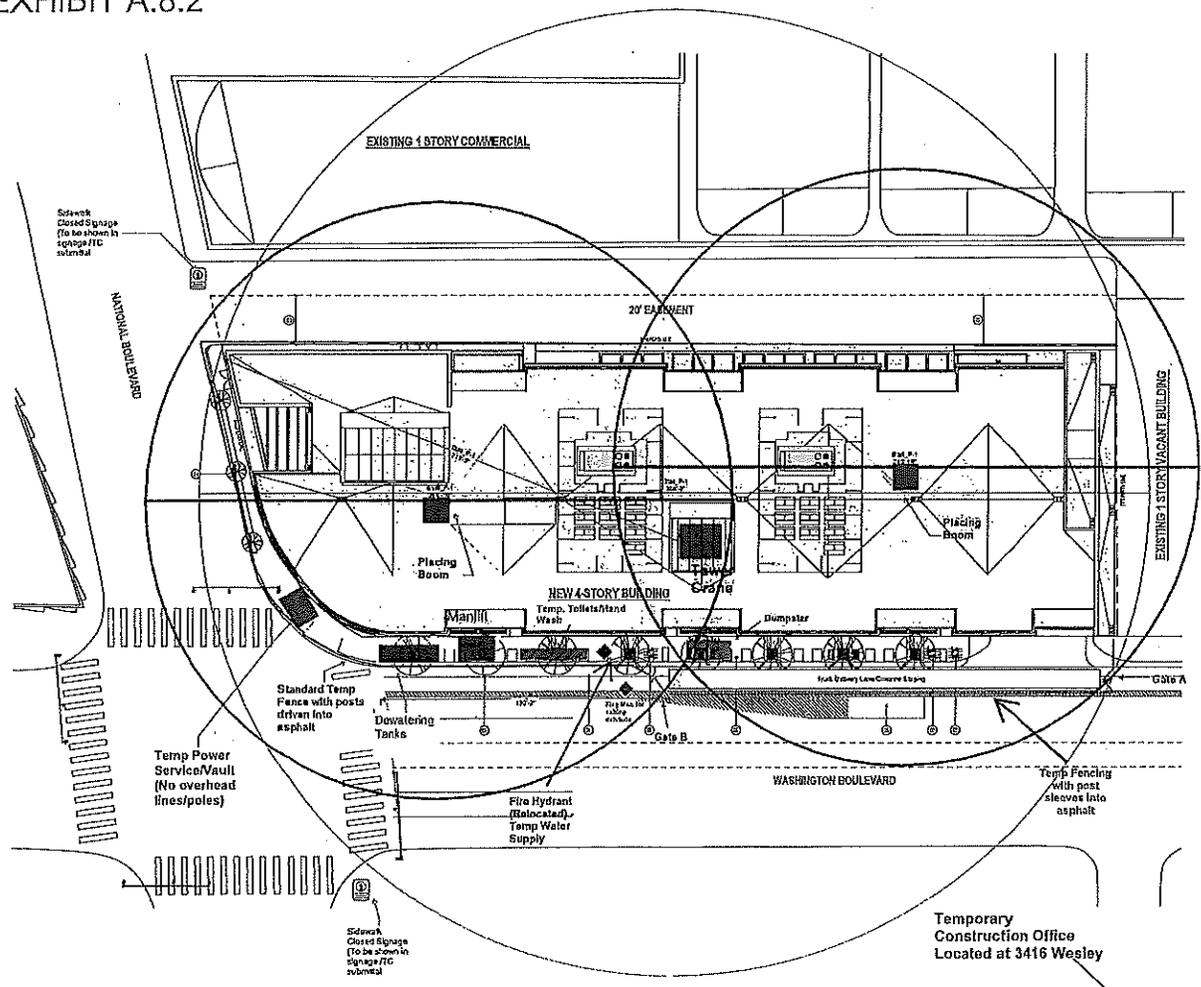


EXHIBIT A.8.2

**MORLEY BUILDERS**  
 Site Logistics with Hoisting



GENERAL NOTES

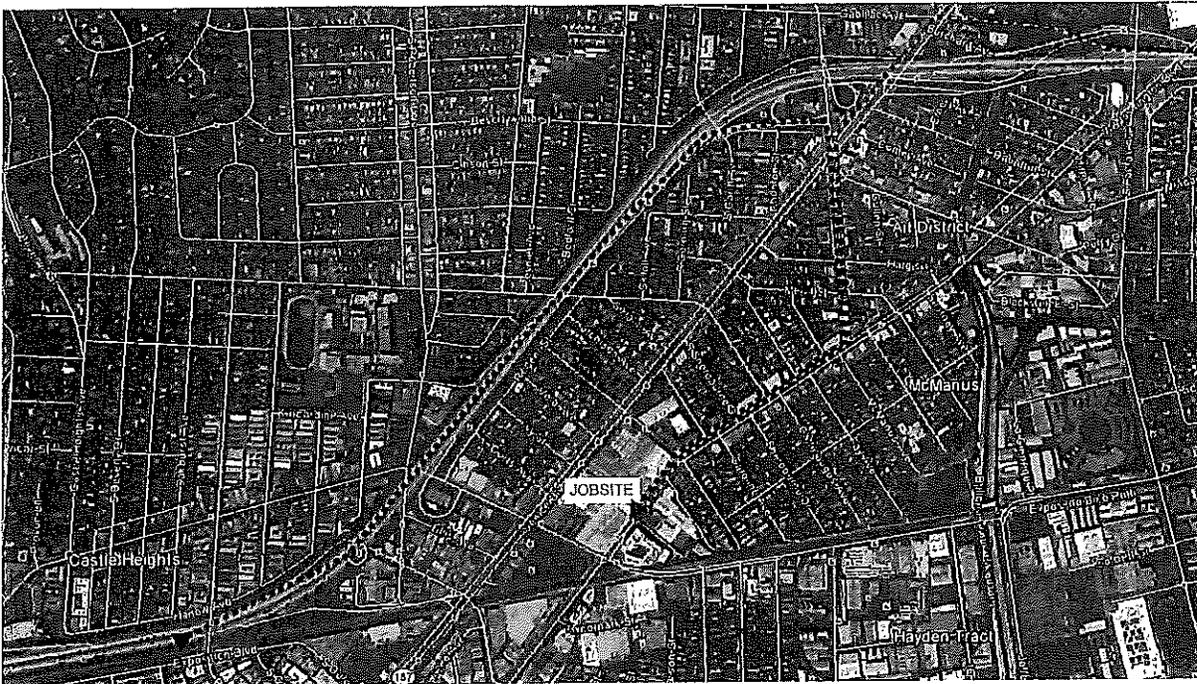
A. UTILITIES SHALL BE SHOWN IN THE ITC SUBMITTAL

Sewer Closed Signage (To be shown in signage/ITC submittal)

KEY PLAN

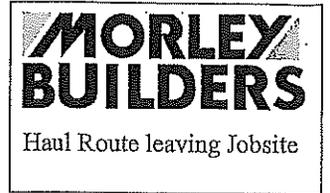
EXHIBIT A.9

**MORLEY BUILDERS**  
Haul Route to Jobsite



- > Trucking coming to job site coming Eastbound on I-10
- > Trucking coming to job site coming Westbound on I-10

EXHIBIT A.10



-----> Trucking leaving job site headed Eastbound on I-10

-----> Trucking leaving job site headed Westbound on I-10

EXHIBIT A.11

Construction Parking

Properties highlighted in red below have been identified as areas for construction parking. NO construction parking is permitted on surrounding neighborhood streets. The individual garages in use may change based upon supply within the facility and based upon demand during the applicable construction phase.

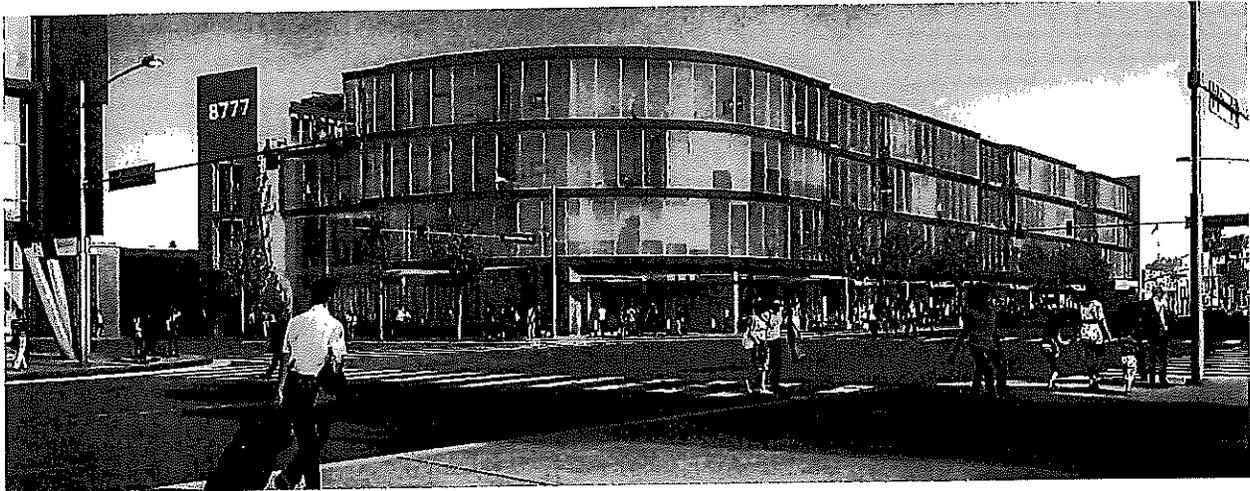
**MORLEY  
BUILDERS**

Construction Parking



# WORK IN PROGRESS: MIXED USE

PROJECT: 8777 WASHINGTON BLVD. PROJECT



**MORLEY  
BUILDERS**

**CONTRACTOR:**  
Morley Builders  
3330 Ocean Park Blvd.  
Santa Monica, CA 90405  
Ph#: (310)-399-1600  
After Hours (714)-308-5720  
Contact: Eric Cronin

**ANTICIPATED  
COMPLETION:**  
OCTOBER 2019

**REGULAR CONSTRUCTION  
HOURS OF OPERATION**

MON-FRI: 8am - 8pm  
SAT: 9am - 7pm  
SUN: 10am - 6pm

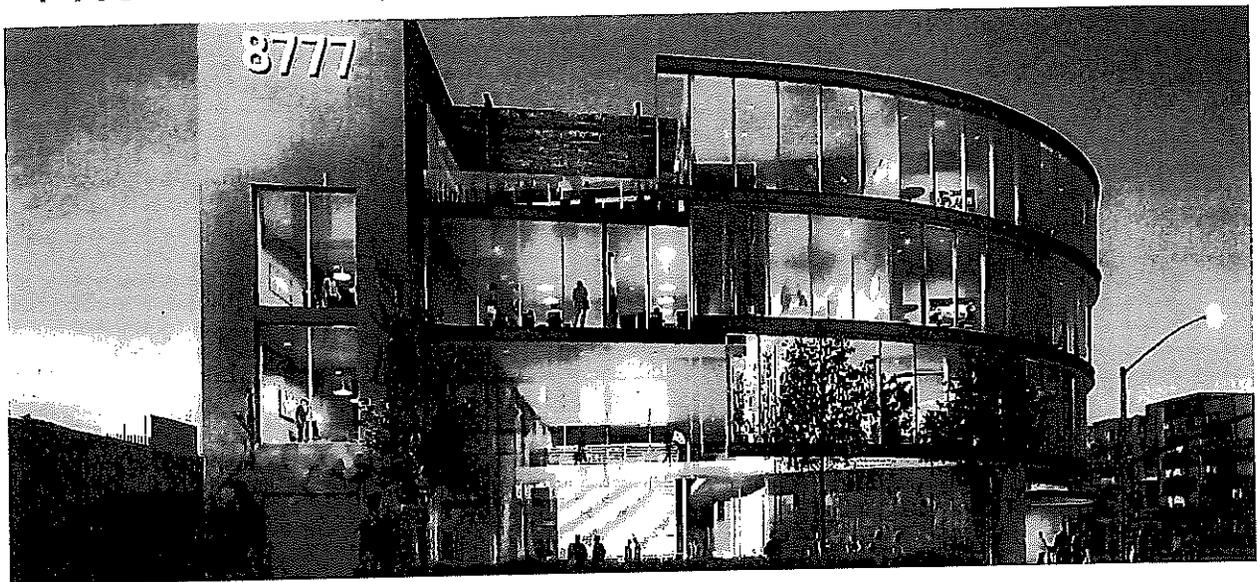
**Gensler**

**PROPERTY OWNER:**  
CLPF - 8777 Washington, L.P.  
3129-B S La Cienega Blvd.  
Los Angeles, CA 90016

**PROJECT WEBSITE:**  
[www.8777washington.com](http://www.8777washington.com)

# WORK IN PROGRESS: MIXED USE

PROJECT: 8777 WASHINGTON BLVD. PROJECT



**MORLEY  
BUILDERS**

**CONTRACTOR:**  
Morley Builders  
3330 Ocean Park Blvd.  
Santa Monica, CA 90405  
Ph#: (310)-399-1600  
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Contact: Eric Cronin

**ANTICIPATED  
COMPLETION:**  
OCTOBER 2019

**REGULAR CONSTRUCTION  
HOURS OF OPERATION**

MON-FRI: 8am - 8pm  
SAT: 9am - 7pm  
SUN: 10am - 6pm

**Gensler**

**PROPERTY OWNER:**  
CLPF - 8777 Washington, L.P.  
3129-B S La Cienega Blvd.  
Los Angeles, CA 90016

**PROJECT WEBSITE:**  
[www.8777washington.com](http://www.8777washington.com)

| 8777 Washington - Current                       |                   |             | Balance to Finish |      |     |   |   |     |   |   |     |   |     |     | 2018 |     |     |     |    |     |    |    |     |    |     |     | 2019 |     |     |     |    |     |    |    |  |  |  |  |
|---|-------------------|-------------|-------------------|------|-----|---|---|-----|---|---|-----|---|-----|-----|------|-----|-----|-----|----|-----|----|----|-----|----|-----|-----|------|-----|-----|-----|----|-----|----|----|--|--|--|--|
| Activity Name                                   | Original Duration | Start       | Finish            | 2017 | Jul | A | S | Oct | N | O | Jan | F | Mar | Apr | M    | Jun | Jul | Aug | S  | Oct | N  | O  | Jan | F  | Mar | Apr | M    | Jun | Jul | Aug | S  | Oct | N  | O  |  |  |  |  |
|   |                   |             |                   |      | -1  | 1 | 2 | 3   | 4 | 5 | 6   | 7 | 8   | 9   | 10   | 11  | 12  | 13  | 14 | 15  | 16 | 17 | 18  | 19 | 20  | 21  | 22   | 23  | 24  | 25  | 26 | 27  | 28 | 29 |  |  |  |  |
| <b>8777 Washington - Current</b>                |                   | 14-Apr-17 A | 26-Nov-19         |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| <b>PRECONSTRUCTION</b>                          | 684               | 14-Apr-17 A | 26-Nov-19         |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| <b>Milestones</b>                               | 589               | 14-Jul-17   | 26-Nov-19         |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| Start of Early Work (Demolition and Dewatering) | 0                 | 04-Aug-17   |                   |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| Start of Shoring and Excavation                 | 0                 | 18-Sep-17   |                   |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| Landlord Base Building                          | 542               | 14-Jul-17   | 05-Sep-19         |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| HBO Deadline for Secondary TI Elements          | 0                 |             | 14-Jul-17         |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| Landlord Base Building Substantial Completion   | 0                 |             | 14-Aug-19         |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| Landlord Base Building Final Completion         | 0                 |             | 05-Sep-19         |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| Interior TI Build-Out                           | 15                | 04-Nov-19   | 26-Nov-19         |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| Interior TI Substantial Completion              | 0                 |             | 04-Nov-19         |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| Interior TI Final Completion                    | 0                 |             | 26-Nov-19         |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| <b>Landlord Base Building Design</b>            | 172               | 31-May-17 A | 05-Feb-18         |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| Design Development Design                       | 25                | 31-May-17 A | 07-Jul-17         |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| 100% DD's                                       | 25                | 31-May-17 A | 07-Jul-17         |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| <b>Construction Documents</b>                   | 145               | 10-Jul-17   | 05-Feb-18         |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| 50% CD's  | 40                | 10-Jul-17   | 01-Sep-17         |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| 100% CD's                                       | 40                | 05-Sep-17   | 30-Oct-17         |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| 50% CD's Issued for GMP                         | 0                 | 05-Sep-17   |                   |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| Issue IFC Drawings                              | 0                 | 05-Feb-18   |                   |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| <b>Interior TI Design &amp; Permitting</b>      | 346               | 14-Apr-17 A | 24-Aug-18         |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| Interiors Schematic Design                      | 66                | 14-Apr-17 A | 07-Jul-17         |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| Interiors SD Pricing and HBO Approval           | 44                | 10-Jul-17   | 08-Sep-17         |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| Interiors Design Development                    | 66                | 09-Aug-17   | 09-Nov-17         |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| Interiors DD Pricing and HBO Approval           | 44                | 13-Nov-17   | 17-Jan-18         |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| Interiors Construction Documents                | 66                | 15-Dec-17   | 19-Apr-18         |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| Interiors - City Approval / Permitting          | 68                | 20-Apr-18   | 23-Aug-18         |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| Interiors Permit Issued                         | 0                 | 24-Aug-18   |                   |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| <b>Landlord Base Building Permitting</b>        | 172               | 31-May-17 A | 05-Feb-18         |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| Demolition Only Permit                          | 25                | 20-Jun-17 A | 18-Jul-17         |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| Demolition City Approval                        | 25                | 20-Jun-17 A | 18-Jul-17         |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| Demolition Permit Issued                        | 0                 | 18-Jul-17   |                   |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| Shoring Only Permit                             | 25                | 20-Jun-17 A | 31-Jul-17         |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| Shoring City Approval                           | 26                | 20-Jun-17 A | 31-Jul-17         |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| Shoring Permit Issued                           | 0                 | 31-Jul-17   |                   |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| <b>Grading and Excavation</b>                   | 45                | 30-Jun-17   | 05-Sep-17         |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| Grading City Review and Approval                | 45                | 30-Jun-17   | 01-Sep-17         |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| Grading/Excavation Permit Issued                | 0                 | 05-Sep-17   |                   |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| Foundation/Garage Only Permitting               | 84                | 31-May-17 A | 27-Sep-17         |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| Foundation Only Package Preparation             | 40                | 31-May-17 A | 26-Jul-17         |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |
| Foundation Only City Review and Approval        | 44                | 28-Jul-17   | 27-Sep-17         |      |     |   |   |     |   |   |     |   |     |     |      |     |     |     |    |     |    |    |     |    |     |     |      |     |     |     |    |     |    |    |  |  |  |  |



EXHIBIT A.13 - page 1 of 5









**Exhibit T**

**Water Sub-Meter Requirements**

Water Submeter Requirements - Contractor to coordinate directly with American Water representative. The documents are included as Exhibit T:

ARB® UTILITY MANAGEMENT SYSTEMS™

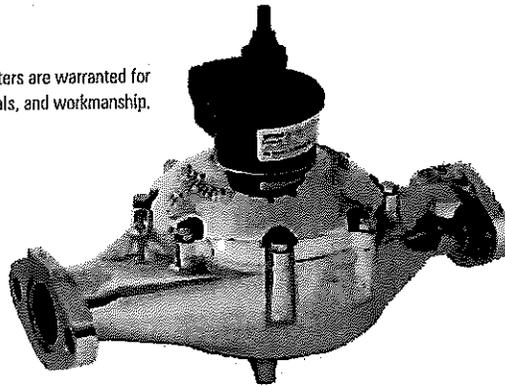


# T-10 METER

SIZES: 1 1/2" and 2"



T-10 water meters are warranted for performance, materials, and workmanship.



Every T-10 water meter meets or exceeds the latest AWWA C700 Standard. Its nutating disc, positive displacement principle has been time-proven for accuracy and dependability since 1892, ensuring maximum utility revenue.

CONSTRUCTION

The T-10 water meter consists of three major assemblies: a register, a lead free high copper alloy maincase, and a nutating disc measuring chamber.

The T-10 meter is available with a variety of register types. For reading convenience, the register can be mounted in one of four positions on the meter.

The corrosion-resistant lead free high copper alloy maincase will withstand most service conditions: internal water pressure, rough handling, and in-line piping stress.

The innovative floating chamber design of the nutating disc measuring element protects the chamber from frost damage while the unique chamber seal extends the low flow accuracy by sealing the chamber outlet port to the maincase outlet port. The nutating disc measuring element utilizes corrosion-resistant materials throughout and a thrust roller to minimize wear.

WARRANTY

Neptune provides a limited warranty with respect to its T-10 water meters for performance, materials, and workmanship.

When desired, maintenance is easily accomplished either by replacement of major assemblies or individual components.

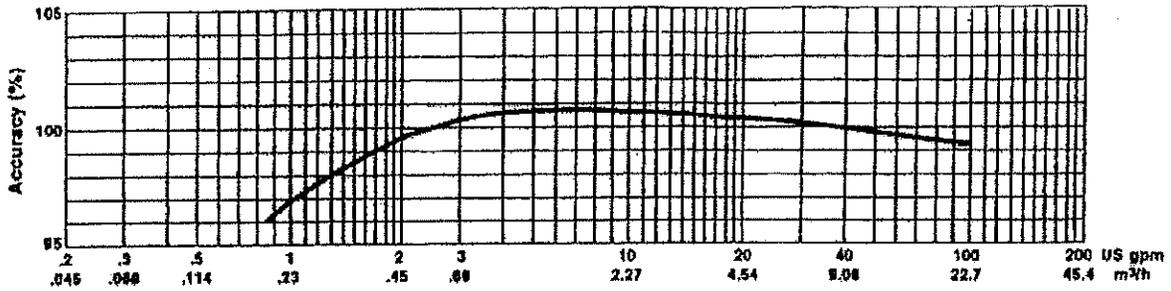
KEY FEATURES

- Register
  - Magnetic drive, low torque registration ensures accuracy
  - Impact-resistant register
  - High resolution, low flow leak detection
  - Bayonet style register mount allows in-line serviceability
  - Tamperproof seal pin deters theft
  - Date of manufacture, size, and model stamped on dial face
- Lead Free Maincase
  - Made from lead free high copper alloy
  - NSF/ANSI 61 Certified, Annex G and Annex F compliant
  - Lifetime guarantee
  - Resists internal pressure stresses and external damage
  - Handles in-line piping variations and stresses
  - Lead free high copper alloy provides residual value vs. plastic
  - Electrical grounding continuity
- Nutating Disc Measuring Chamber
  - Positive displacement
  - Widest effective flow range for maximum revenue
  - Proprietary polymer materials maximize long term accuracy
  - Floating chamber design is unaffected by meter position or in-line piping stresses

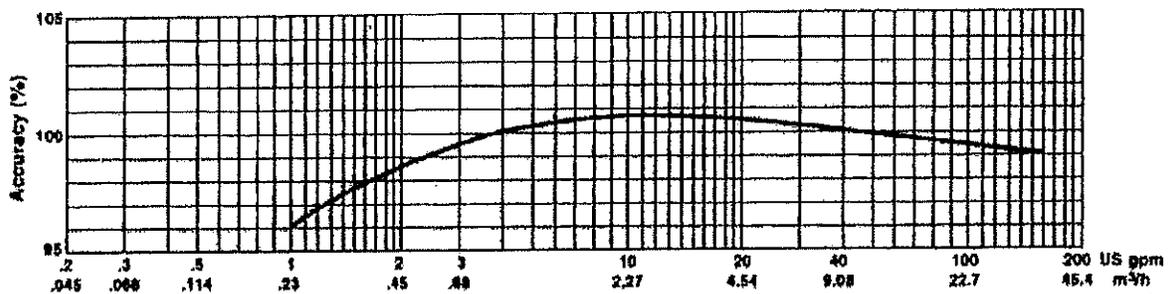
SYSTEMS COMPATIBILITY

Adaptability to all present and future systems for flexibility is available only with Neptune's ARB® Utility Management Systems™.

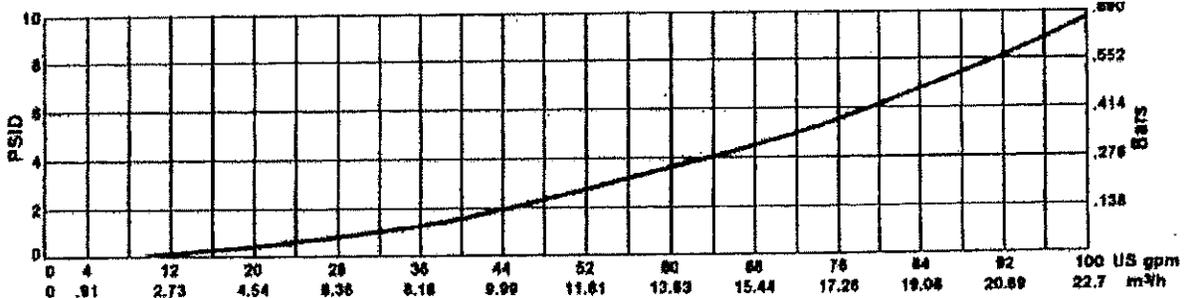
### 1 1/2" ACCURACY



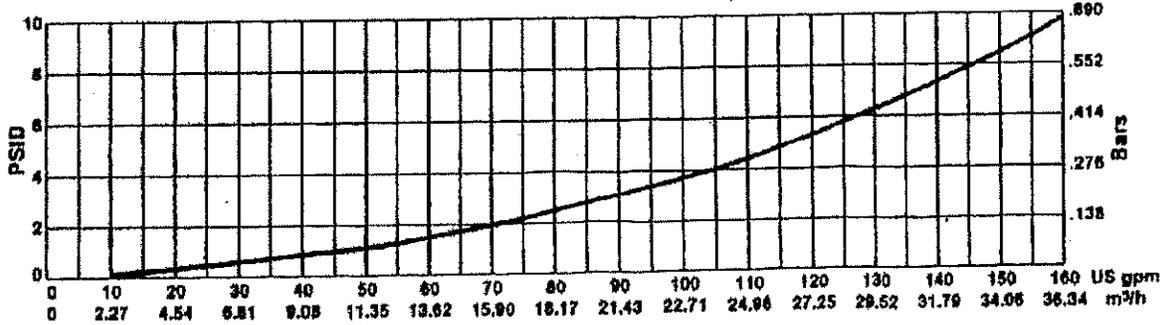
### 2" ACCURACY



### 1 1/2" PRESSURE LOSS



### 2" PRESSURE LOSS



*These charts show typical meter performance. Individual results may vary.*

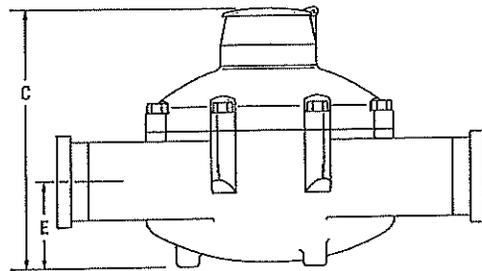
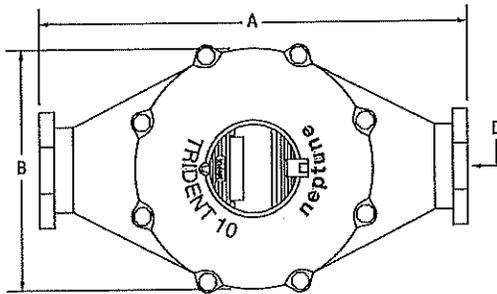
### OPERATING CHARACTERISTICS

| Meter Size | Normal Operating Range<br>@100% Accuracy ( $\pm 1.5\%$ ) | AWWA Standard                                    | Low Flow<br>@ 95% Accuracy           |
|------------|--|--|--------------------------------------|
| 1 1/2"     | 2 to 100 US gpm<br>0.46 to 22.73 m <sup>3</sup> /h       | 5 to 100 US gpm<br>1.1 to 22.7 m <sup>3</sup> /h | 3/4 US gpm<br>0.17 m <sup>3</sup> /h |
| 2"         | 2 1/2 to 160 US gpm<br>0.57 to 36.36 m <sup>3</sup> /h   | 8 to 160 US gpm<br>1.8 to 36.3 m <sup>3</sup> /h | 1 US gpm<br>0.23 m <sup>3</sup> /h   |

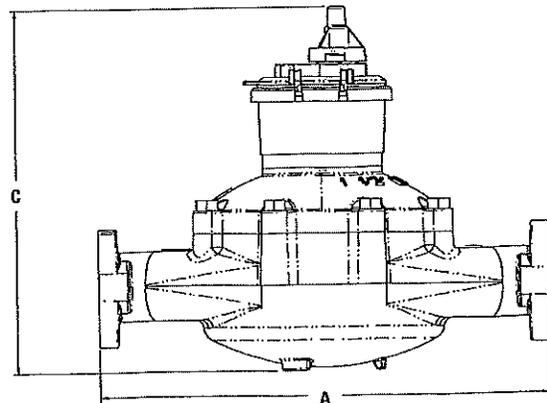
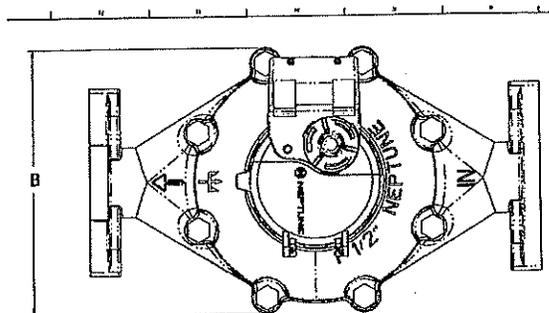
### DIMENSIONS

| Meter Size            | A<br>in/mm    | B<br>in/mm   | C-Std.<br>in/mm | C-ARB<br>in/mm | C-E-Coder)<br>R9007™<br>in/mm | D-Threads<br>per inch | D-Thread<br>Type | E<br>in/mm  | Weight<br>lbs/kg |
|-----------------------|---------------|--------------|-----------------|----------------|-------------------------------|-----------------------|------------------|-------------|------------------|
| 1 1/2"<br>Screw End   | 12 5/8<br>321 | 8 1/8<br>205 | 8 1/8<br>206    | 8 1/8<br>220.3 | 10 1/8<br>225.4               | 11 1/2                | 1 1/2<br>NPT     | 2 5/8<br>65 | 31<br>14.1       |
| 1 1/2"<br>Flanged End | 13<br>330     | 8 1/8<br>205 | 8 1/8<br>206    | 8 1/8<br>220.3 | 10 1/8<br>225.4               | —                     | —                | 2 5/8<br>65 | 35<br>15.9       |
| 2"<br>Screw End       | 15 1/4<br>387 | 9 3/8<br>240 | 9 3/8<br>237    | 9 1/8<br>248.4 | 11 3/8<br>289                 | 11 1/2                | 2"<br>NPT        | 3 1/2<br>79 | 40<br>18.1       |
| 2"<br>Flanged End     | 17<br>432     | 9 3/8<br>240 | 9 3/8<br>237    | 9 1/8<br>248.4 | 11 3/8<br>289                 | —                     | —                | 3 1/2<br>79 | 44<br>20.0       |

### T-10 WITH STANDARD REGISTER



### T-10 WITH E-CODER)R9007/PIT REGISTER



### GUARANTEED SYSTEMS COMPATIBILITY

All T-10 meters are guaranteed adaptable to our ARB®V, ProRead™ (ARB VI), E-Coder® (ARB VII), E-Coder|R900i™, TRICON®/S, TRICON/E®3, and Neptune ARB Utility Systems without removing the meter from service.

### REGISTRATION

| ProRead Registration<br>(per sweep hand revolution) |        |    |  |
|---|--------|----|--|
|   | 1 1/2" | 2" |  |
| 100 US Gallons                                      | ✓      | ✓  |  |
| 100 Imperial Gallons                                | ✓      | ✓  |  |
| 10 Cubic Feet                                       | ✓      | ✓  |  |
| 1 Cubic Metre                                       |        | ✓  |  |
| 0.1 Cubic Metre                                     | ✓      |    |  |
| Register Capacity                                   |        |    |  |
| ProRead & E-Coder                                   |        |    |  |
|   | 1 1/2" | 2" |  |
| 100,000,000 US Gallons                              | ✓      | ✓  |  |
| 100,000,000 Imperial Gallons                        | ✓      | ✓  |  |
| 10,000,000 Cubic Feet                               | ✓      | ✓  |  |
| 100,000 Cubic Metres                                | ✓      | ✓  |  |
| E-Coder High Resolution<br>(8-digit reading)        |        |    |  |
|   | 1 1/2" | 2" |  |
| 1 US Gallons  | ✓      | ✓  |  |
| 1 Imperial Gallons                                  | ✓      | ✓  |  |
| .01 Cubic Feet                                      | ✓      | ✓  |  |
| 0.001 Cubic Metres                                  | ✓      | ✓  |  |

### SPECIFICATIONS

- Certification: NSF/ANSI 61, Annex G and Annex F
- Application: cold water measurement of flow in one direction
- Maximum operating water pressure: 150 psi (1034 kPa)
- Maximum operating water temperature: 80°F
- Measuring chamber: rotating disc technology design made from proprietary synthetic polymer

### OPTIONS

- Sizes:
  - 1 1/2" flanged or threaded end
  - 2" flanged or threaded end
- Units of measure: U.S. gallons, imperial gallons, cubic feet, cubic metres
- Register types:
  - Direct reading: Bronze box and cover (standard)
  - Remote reading: ProRead Absolute Encoder, E-Coder, E-Coder|R900i, TRICON/S, TRICON/E3
  - Reclaim
- Measuring chamber: synthetic polymer
- Companion flanges: cast iron or lead free high copper alloy
- Environmental Conditions:
  - Operating temperature: 33°F to 149°F (0°C to 65°C)
  - Storage temperature: 33°F to 158°F (0°C to 70°C)
- Test Ports: 1"

Neptune engages in ongoing research and development to improve and enhance its products. Therefore, Neptune reserves the right to change product or system specifications without notice.

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Tallahassee, AL 36078  
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Delegación Miguel Hidalgo  
11570 México, Distrito Federal  
Tel: (525) 55203 5294 / (525) 55203 5708  
Fax: (525) 55203 6503



# FLEXIBLE AXIS METER FAM

5/8" x 3/4"



## PATENTED DESIGN FOR EXCLUSIVE GO ANYWHERE PERFORMANCE

Master Meter's Flexible Axis Meters boldly go where few other meters can — and save you money in the process. Ideal for residential applications, these accurate and quiet operating meters, fit challenging inside sets — under counters, between studs, along pipes run against walls. Regardless of pipe angle, our patented design ensures the measuring chamber can always be positioned horizontally for maximum performance and accuracy. Retrofit without costly re-plumbing and discover submetering is a practical reality in locations where installation costs were previously thought to be cost-prohibitive.

## REMOTE READ FOR ANY SITUATION

Flexible installs give way to flexible data collection options. Choose the optional DIALOG 3G® Integrated AMR Register and put our ConnectionFree™ AMR Technology to work for you. 3G delivers powerful results with 4,000 read data logging, capable of providing detailed usage profiles, and vigilant Revenue Impact Alerts™ monitoring for leaks, theft (backflow), tamper, and zero consumption. Our submetering read solution provides simultaneous support for fixed network reads along with handheld and mobile read collection, while integrating data with virtually any Read Bill and Collect (RBC) company's system.

### READ:

- \* Direct Read/Manual
- \* Proximity/Wand Read - 2G
- \* Mobile Drive-By AMR - 3G
- \* FixedLinx™ Fixed Network AMI Solution - Utilizes the 3G technology backbone with simultaneous Mobile AMR and Fixed Network AMI data collection capabilities.

## FEATURES & BENEFITS:

- \* 360° Angle Installation Flexibility
- \* Fits Tight Inside Space Challenges
- \* Flushing or Testing Plug Eliminates Need for Jumper Tubes
- \* Sustained Accuracy for Maximum Revenue Over Time
- \* Engineered for Efficient Flow Patterns with Minimal Head Loss
- \* Quiet Operation Ideal for Inside Residential Use
- \* Meets All Applicable AWWA Standards; Optional NSF-61 Certification
- \* AMR/AMI Capable

### With Optional 3G Integrated Register:

- \* Rich 4,000 Read Data Logging Capabilities (scalable / customer defined resolution)
- \* Revenue Impact Alerts - Leak, Tamper, Theft (backflow), and Zero Consumption
- \* Deploy District Metering Areas or Zones (DMA/DMZ) Advanced Infrastructure Leak Management Programs.
- \* Supports Conservation Program Enforcement.

## 4,000 READ DATA LOGGING

- \* AccuLinx™ 8-Wheel Absolute Encoder (also available with integrated DIALOG 3G)
- \* DIALOG 3G Integrated AMR Register DIALOG 2G® Pit
- \* DIALOG 2G Indoor
- \* 3-Dial Electrical Output Register designed for indoor placement. Available with 10-pulse count per-gallon (GPC) (5/8" size) Direct Read

Easy Install | 360° Angle Flexibility | Ideal for Submetering |  
Quiet for Inside Set | AMR/AMI Capable



## TECHNICAL SPECIFICATIONS:

**AWWA Standard** - Meets or exceeds all sections of Standard ANSI/AWWA C708, most recent revision for cold water multi-jet meters with AWWA bronze main cases.

**NSF/ANSI Standard 61** - Master Meter's advanced polymer pressure vessel design is inherently free of any metallic compounds. Optional EnviroBrass unleaded main case available.

**Design/Operation** - The flow tube provides a straight run of pipe upstream and downstream of the measuring element, conditioning flow for maximum accuracy. Installation flexibility allows the measuring chamber to always be positioned horizontally for high accuracy and long-life operation. A precision engineered measurement chamber and measuring elements deliver virtually noise-free operation critical for inside-set meters.

**Flow Tube** - Polymer: Corrosion resistant lead-free construction consisting of proven tough, 40% glass-reinforced nylon rated polymer with burst resistance to 750 psi. Threaded and unthreaded meter coupling provides simple, effective installation options. EnviroBrass: Optional unleaded EnviroBrass Flow tubes are available.

**Main Case** - The Flexible Axis Meter main case is constructed of lead-free, corrosion-resistant 50% glass-reinforced nylon.

**Register** - Standard Direct Read, DIALOG 2G and DIALOG 3G AMR System registers are available. Six wheel odometers are standard. Optional 8-wheel resolution AccuLink Absolute Encoder available. Together, an integrated and migratable technology environment is attained; direct, proximity (wand), mobile AMR, and Fixed Network AML.

**Register Sealing** - All Direct read and DIALOG® registers are IP-68 rated, permanently sealed with a scratch resistant glass lens, stainless steel base and wrap-around gasket to prevent intrusion of dirt or moisture.

**Register Units** - Registration available in either U.S. gallons, cubic feet or cubic meters.

**Magnetic Drive** - A reliable, direct magnetic drive provides linkage between measurement element and register. No intermediate gearing is required; no gearing is exposed to water.

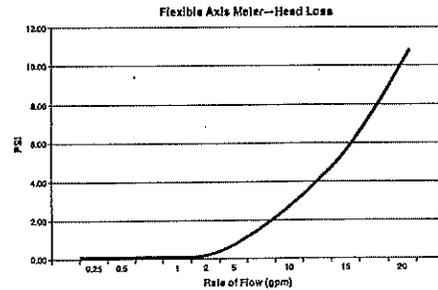
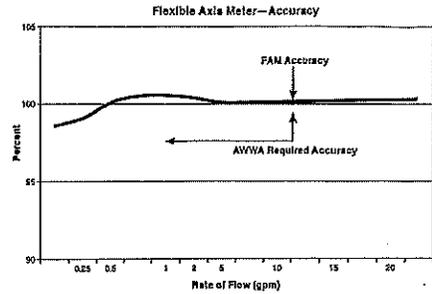
**Test Circle** - Large center sweep hand with one hundred (100) clearly marked gradations on the periphery of the dial face.

**Low Flow/Leak Indicator** - All DIALOG and Direct Read registers have a Center mounted indicator with high sensitivity resulting from direct one-to-one linkage to the measuring element.

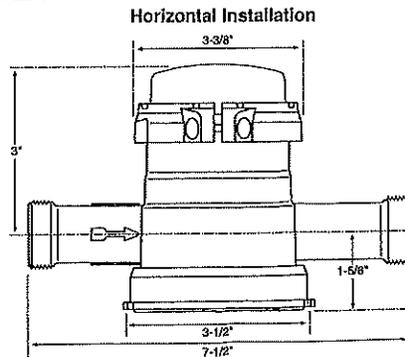
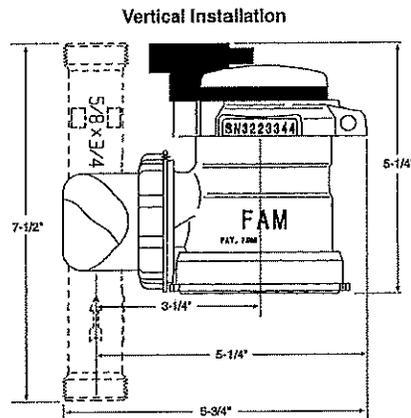
## PERFORMANCE AND MATERIALS

| CHARACTERISTIC                          | Flexible Axis Meter<br>5/8" x 3/4"              | AWWA C-708<br>5/8" x 3/4"        |
|---|---|----------------------------------|
| Operating Capacity                      | 20 gpm  | 20 gpm                           |
| Maximum Rate for Continuous Duty        | 15 gpm  | 10 gpm                           |
| Maximum Pressure Loss at Maximum Flow   | 10.9 psi  | 15 psi                           |
| Normal Flow Range (± 1-1/2%)            | 1 - 20 gpm                                      | 1 - 20 gpm                       |
| Minimum Flow (± 3%)                     | 1/4 gpm   | 1/4 gpm                          |
| Maximum Working Pressure                | 150 psi   | 150 psi                          |
| Maximum Working Temperature             | 120° F  | 105° F                           |
| Meter Casing Spuds, Nominal Thread Size | 1"  | 1"                               |
| Nominal Pipe Size                       | 3/4"  | 3/4"                             |
| Weight                                  | 2.2 lbs.  | Not specified                    |
| Materials:                              |   |                                  |
| Main Case                               | Glass-reinforced Nylon                          | Copper alloy, Minimum 75% copper |
| Measuring Chamber                       | Glass-reinforced Nylon                          | 85% copper or engineered plastic |
| Register Construction                   | Glass lens, stainless steel case, rubber gasket | Not specified                    |

## PERFORMANCE CURVES



## DIMENSIONS



**Master Meter, Inc.**  
 101 Regency Parkway, Mansfield, TX 76063  
 Toll Free: 800-765-6518 • Main Line: 817-842-8000 • FAX: 817-842-8100  
[www.mastermeter.com](http://www.mastermeter.com)



©2010 Master Meter, Inc. All rights reserved. DIALOG and Master Meter are registered trademarks of Master Meter, Inc. Master Meter reserves the right to make modifications to the products described herein at any time and without notice. U.S. Patent Nos. 6,176,816; 6,386,029; other patents pending.

Water Meter Sub metering  
(X) Coordinate w/ Vendor Directly  
1.10. General Code

## G-UR.2. Installation Requirements.

**G-UR.2.1. Installation.** — A device shall be installed in accordance with the manufacturer's instructions, including any instructions marked on the device. A device installed in a fixed location shall be installed so that neither its operation nor its performance will be adversely affected by any characteristic of the foundation, supports, or any other detail of the installation.

**G-UR.2.1.1. Visibility of Identification.** — Equipment shall be installed in such a manner that all required markings are readily observable.

(Added 1978)

**G-UR.2.2. Installation of Indicating or Recording Element.** — A device shall be so installed that there is no obstruction between a primary indicating or recording element and the weighing or measuring element; otherwise there shall be convenient and permanently installed means for direct communication, oral or visual, between an individual located at a primary indicating or recording element and an individual located at the weighing or measuring element. [See also G-UR.3.3.]

**G-UR.2.3. Accessibility for Inspection, Testing, and Sealing Purposes.** — A device shall be located, or such facilities for normal access thereto shall be provided, to permit:

- (a) inspecting and testing the device;
- (b) inspecting and applying security seals to the device; and
- (c) readily bringing the testing equipment of the weights and measures official to the device by customary means and in the amount and size deemed necessary by such official for the proper conduct of the test.

Otherwise, it shall be the responsibility of the device owner or operator to supply such special facilities, including such labor as may be needed to inspect, test, and seal the device, and to transport the testing equipment to and from the device, as required by the weights and measures official.

(Amended 1991)

## G-UR.3. Use Requirements.

**G-UR.3.1. Method of Operation.** — Equipment shall be operated only in the manner that is obviously indicated by its construction or that is indicated by instructions on the equipment.

**G-UR.3.2. Associated and Nonassociated Equipment.** — A device shall meet all performance requirements when associated or nonassociated equipment is operated in its usual and customary manner and location.

(Added 1976)

**G-UR.3.3. Position of Equipment.** — A device or system equipped with a primary indicating element and used in direct sales, except for prescription scales, shall be positioned so that its indications may be accurately read and the weighing or measuring operation may be observed from some reasonable "customer" and "operator" position. The permissible distance between the equipment and a reasonable customer and operator position shall be determined in each case upon the basis of the individual circumstances, particularly the size and character of the indicating element.

(Amended 1974 and 1998)

**G-UR.3.4. Responsibility, Money-Operated Devices.** — Money-operated devices, other than parking meters, shall have clearly and conspicuously displayed thereon, or immediately adjacent thereto, adequate information detailing the method for the return of monies paid when the product or service cannot be obtained. This information shall include the name, address, and phone number of the local responsible party for the device. This requirement does not apply to devices at locations where employees are present and responsible for resolving any monetary discrepancies for the customer.

(Amended 1977 and 1993)

### 3.36. Water Meters

**T.1.1. Repeatability.** – When multiple tests are conducted at approximately the same flow rate, each test shall be within the applicable tolerances and the range of test results shall not exceed the values shown in Table T.1.1. Repeatability.

(Added 2002) (Amended 2010)

| <b>Table T.1.1.<br/>Repeatability</b> |                        |                            |
|---------------------------------------|------------------------|----------------------------|
|                                       | <b>Batching Meters</b> | <b>Utility-Type Meters</b> |
| <b>Normal Flow Rates</b>              | 0.6 %                  | 0.6 %                      |
| <b>Intermediate Flow Rates</b>        | 0.6 %                  | 2.0 %                      |
| <b>Minimum Flow Rate</b>              | 1.3 %                  | 4.0 %                      |

(Table Added 2010)

### **UR: User Requirements**

#### **UR.1. Batching Meters Only.**

**UR.1.1. Strainer.** – A filter or strainer shall be provided if it is determined that the water contains excessive amounts of foreign material.

**UR.1.2. Siphon Breaker.** – An automatic siphon breaker or other effective means shall be installed in the discharge piping at the highest point of outlet, in no case below the top of the meter, to prevent siphoning of the meter and permit rapid drainage of the pipe or hose.

**UR.1.3. Provision for Testing.** – Acceptable provisions for testing shall be incorporated into all meter systems. Such provisions shall include a two-way valve, or manifold valving, and a pipe or hose installed in the discharge line accessible to the proper positioning of the test measure.

**UR.2. Accessibility of Customer Indication.** – An unobstructed standing space of at least 76 cm (30 in) wide, 91 cm (36 in) deep, and 198 cm (78 in) high shall be maintained in front of an indication intended for use by the customer to allow for reading the indicator. The customer indication shall be readily observable to a person located within the standing space without necessity of a separate tool or device.

(Added 2008)



**AMERICAN WATER & ENERGY SAVERS**

*"Your building's greatest liquid asset" SM*

## **New Construction Installation Guidelines For California as of 2018**

1. Water submeters that currently meet California Weights & Measures Guidelines, are comprised of two categories. If the tenant is unable to easily read the water submeter where it is to be installed, a secondary water sub meter readout device will be required. This secondary readout device will be connected to the water submeter via a low voltage 22/4 gauge wire, which is explained in more detail below. Water submeters for this type of application will require a **pulse output** from the water submeter register head. Water submeters that meet this criteria and are California approved are as follows:

- For a 3/4" water line, we spec the Master Meter FAM water sub meter (Pulse Type Output).
- For 1" water lines, we spec the Badger M40 water sub meter (Pulse Type Output).

Water submeters installed in locations that are easily readable (this includes an outdoor meter box) by the tenant and do not require a secondary meter readout device are as follows:

- For 3/4" and 1" water lines, we spec a Neptune T10 E-Coder water sub meter (Encoder Type).
- For 1-1/2" & 2" water lines, we spec a Neptune T10 E-Coder water sub meter (Encoder Type).

**All 1 1/2" and 2" water meters MUST be installed either at a maximum height of 5' or in a meter pit.**

**NOTE:** We will require a list of all the water submeters needed in the various sizes for the project. The list of water submeters will need to be clearly marked as to whether they will require a secondary meter readout device. These meters will then be shipped to the appropriate county Weights and Measures Department for testing.

2. Once testing is complete, American Water & Energy Savers (AWES) will facilitate having the meters delivered to the site superintendent.
3. Installation of the water meter should be in accordance with the manufactures instructions.
4. ***The meter should be located in an easily accessible area. If located above a dropped ceiling, the meter must be able to be read while standing on an 8' ladder. (This is the county inspectors requirement)***
5. In the event a water submeter is to be set into a pit, the pit lid must be made of a COMPOSITE material for the wireless radio signal to operate properly. Note, water submeters in pits, will not require secondary meter readouts.

6. The location of the meter should be identified with a sign or label on the ceiling tile if above the grid.

7. If the water submeter is being installed in a location higher than 5' a secondary meter readout must be used. This is for the tenants viewing of their water usage. A low voltage, 22/4 gauge wire will need to be pulled from where the meter is located to a location that is suitable to have a secondary meter readout device installed. An area near the circuit breaker panel is usually good or in the restroom can also work. This wire should come out of the wall between 4' and 5' off the floor or hang down from the ceiling near the wall. Max run length for low voltage wire is 300'. When running the low voltage wire (does not need conduit) please be sure to leave an extra four to five feet of wire on each end for ease of connections by AWES.

8. During the construction process, AWES will send a tech to the site to install the secondary meter readouts along with the automated meter reading equipment (Hexagram wireless transmitters).  
**Note: The low voltage wires must already be in place.**

9. During this visit, a Data Collection Unit (DCU) will also be installed in a central and common area that is secured. The DCU requires a 110-volt (NON GFI) outlet. The DCU may not be installed below ground level and is recommended to be installed as high as possible for better radio reception. There is also an option available for a self-contained roof top DCU unit that is solar powered and runs off a cellular connection. Specific installation requirements for this type of unit (solar powered) will be provided upon request. The DCU (both versions) communicates to the billing center via a cellular connection. The cellular service with required data plan is provided by AWES and billed back to the property on a monthly basis of \$65.00 per month.

NOTE: It is recommended that the DCU be mounted within a close proximity to an exterior wall in the event the DCU antenna needs to be mounted outside for reception purposes.

Please don't hesitate to call with any questions. 1-800-950-9058

Thanks,

**American Water & Energy Savers**

**Recordall® Cold  
Water Thermoplastic  
Disc Meter**

Size 1" (DN 25mm)  
ANSI/NSF Standard  
61 Certified, Annex G

**Technical  
Brief**

**DESCRIPTION**

Badger Meter offers a Recordall® disc meter line that has been certified to comply with ANSI/NSF Standard 61, Annex G. All components within the thermoplastic meter, i.e., disc, chamber, housing, o-rings, etc., comprise the certified system.

**APPLICATIONS:** For use in measurement of potable cold water in residential, commercial and industrial services where flow is in one direction only.

**OPERATION:** Water flows through the meter's strainer and into the measuring chamber where it causes the disc to nutate. The disc, which moves freely, nutates on its own ball, guided by a thrust roller. A drive magnet transmits the motion of the disc to a follower magnet located within the permanently sealed register. The follower magnet is connected to the register gear train. The gear train reduces the disc nutations into volume totalization units displayed on the register dial face.

**OPERATING PERFORMANCE:** The Badger® Recordall Disc meters meet or exceed registration accuracy for the low flow rates (95%), normal operating flow rates (100 ± 1.5%), and maximum continuous operation flow rates as specifically stated by AWWA Standard C710.

**CONSTRUCTION:** Badger Recordall Disc meter construction, which complies with ANSI/AWWA standard C710, consists of three basic components: meter housing, measuring chamber, and permanently sealed register. The water meter is thermoplastic with externally-threaded spuds. A corrosion-resistant thermoplastic material is used for the measuring chamber.

To simplify maintenance, the register, measuring chamber, and strainer can be replaced without removing the meter housing from the installation. No change gears are required for accuracy calibration. Interchangeability of parts among like-sized meters also minimizes spare parts inventory investment.

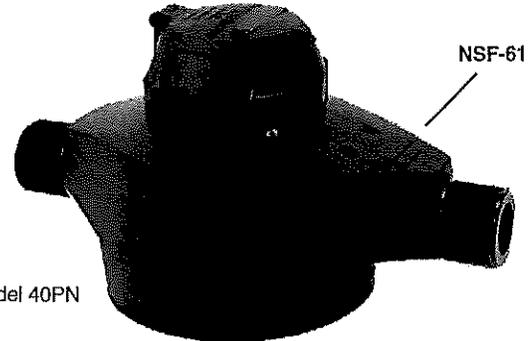
**MAGNETIC DRIVE:** Direct magnetic drive, through the use of high-strength magnets, provides positive, reliable and dependable register coupling for straight-reading, remote or automatic meter reading options.

**SEALED REGISTER:** The standard register consists of a straight-reading odometer-type totalization display, 360° test circle with center sweep hand and flow finder to detect leaks. Register gearing consists of self-lubricating thermoplastic gears to minimize friction and provides long life. Permanently sealed; dirt, moisture, tampering and lens fogging problems are eliminated. Multi-position register simplifies meter installation and reading. Generator-type remote reading and automatic meter reading systems are available for all Recordall Disc meters. All reading options are removable from the meter without disrupting water service.

**TAMPER-PROOF FEATURES:** Customer removal of the register to obtain free water can be prevented when the optional tamper detection seal wire screw or TORX® tamper resistant seal screw is added to the meter. Both can be installed at the meter site or at the factory.

**MAINTENANCE:** Badger Recordall Disc meters are designed and manufactured to provide long-term service with minimal maintenance. When maintenance is required, it can be performed easily either at the meter installation or at any other convenient location. As an alternative to repair by the utility, Badger offers various maintenance and meter component exchange programs to fit the needs of the utility.

**CONNECTIONS:** Tailpieces/Unions for installations of meters on various pipe types and sizes, including misaligned pipes, are available as an option.



Model 40PN

**SPECIFICATIONS**

|  |   |
|--|---|
| <b>Typical Operating Range (100% ± 1.5%)</b>         | 3/4-50 GPM (.17 m³/hr to 11.3 m³/hr)  |
| <b>Low Flow (Min. 95%)</b>                           | 3/8 GPM (.085 m³/hr)  |
| <b>Maximum Continuous Operation</b>                  | 25 GPM (5.7 m³/hr)  |
| <b>Pressure Loss at Maximum Continuous Operation</b> | 3.1 PSI at 25 GPM (.21 bar at 5.7 m³/hr)  |
| <b>Maximum Operating Temperature</b>                 | 80°F (26°C)   |
| <b>Maximum Operating Pressure</b>                    | 150 PSI (10 bar)  |
| <b>Measuring Element</b>                             | Nutating disc, positive displacement  |
| <b>Register Type</b>                                 | Straight reading, permanently sealed magnetic drive standard. Remote reading or Automatic Meter Reading units optional. |
| <b>Register Capacity</b>                             | 10,000,000 Gallons, 1,000,000 Cubic Feet, 100,000 m³. 6 odometer wheels.  |
| <b>Meter Connections</b>                             | Available in bronze and thermoplastic to fit 1" (DN 25mm) spud thread bore diameter sizes. See table below.             |

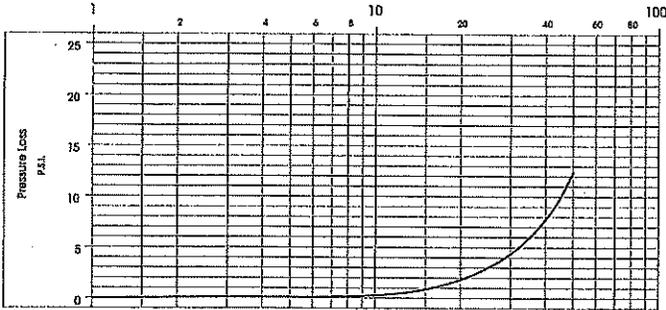
**METER SPUD AND CONNECTION SIZES**

| Size Designation | x | "L" Laying Length | "B" Bore Dia. | Coupling Nut and Spud Thread | Tailpiece Pipe Thread (NPT) |
|------------------|---|-------------------|---------------|------------------------------|-----------------------------|
| 1"               | x | 10 3/4"           | 1"            | 1 1/4" (1")                  | 1"                          |

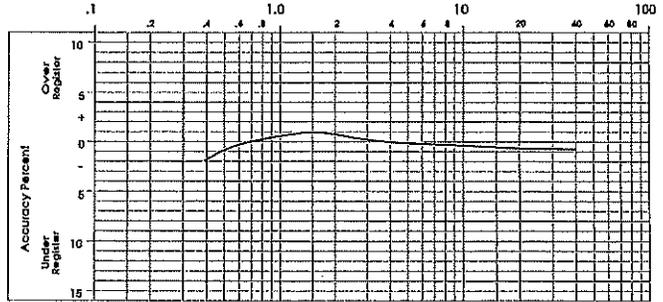
**MATERIALS**

|                             |                         |
|-----------------------------|-------------------------|
| <b>Meter Housing</b>        | Thermoplastic           |
| <b>Housing Bottom Plate</b> | Thermoplastic           |
| <b>Measuring Chamber</b>    | Thermoplastic           |
| <b>Disc</b>                 | Thermoplastic           |
| <b>Strainer</b>             | Thermoplastic           |
| <b>Disc Spindle</b>         | Stainless Steel         |
| <b>Magnet</b>               | Ceramic                 |
| <b>Magnet Spindle</b>       | Stainless Steel         |
| <b>Register Shroud</b>      | Thermoplastic           |
| <b>Register Lid</b>         | Thermoplastic or Bronze |
| <b>Generator Housing</b>    | Thermoplastic           |

**PRESSURE LOSS CHART**  
Rate of Flow, In Gallons per Minute

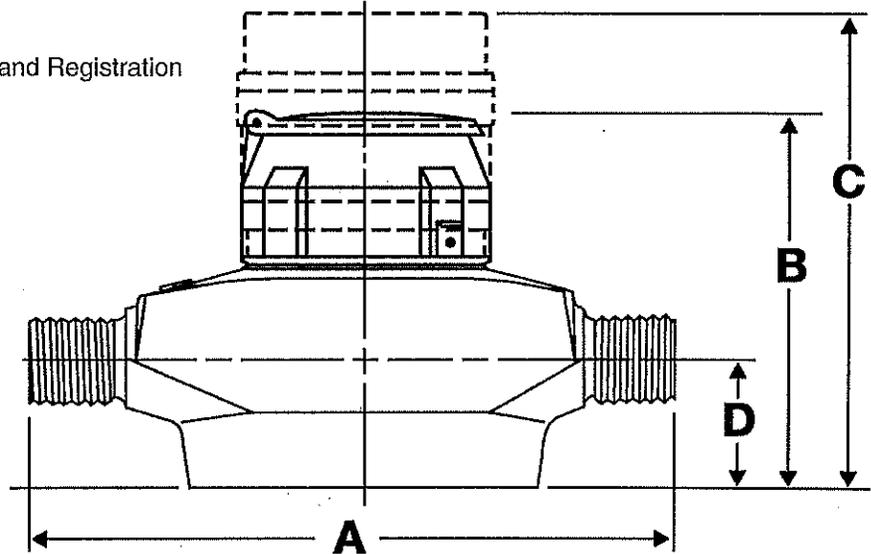
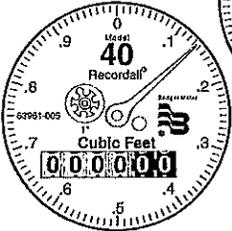
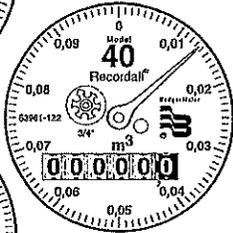
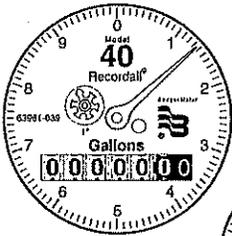


**ACCURACY CHART**  
Rate of Flow, In Gallons per Minute



| METER SIZE | METER MODEL | A LAYING LENGTH                          | B HEIGHT REG. / RTR                     | C HEIGHT GEN.                            | D CENTERLINE BASE                        | WIDTH                                     | APPROX. SHIPPING WEIGHT |
|------------|-------------|--|---|--|--|---|-------------------------|
| 1" (25mm)  | 40PN        | 10 <sup>3</sup> / <sub>4</sub> " (273mm) | 5 <sup>3</sup> / <sub>4</sub> " (146mm) | 7 <sup>3</sup> / <sub>16</sub> " (183mm) | 1 <sup>15</sup> / <sub>16</sub> " (49mm) | 5 <sup>15</sup> / <sub>16</sub> " (151mm) | 5 lb. (2.3kg)           |

Sweep Hand Registration



Badger®, RTR® and Recordall® are registered trademarks of Badger Meter, Inc.  
TORX® is a registered trademark of Camcar, Division of Textron, Inc.

Due to continuous research, product improvements and enhancements, Badger Meter reserves the right to change product or system specifications without notice, except to the extent an outstanding bid obligation exists.



Please see our website at  
[www.badgermeter.com](http://www.badgermeter.com)  
for specific contacts.



**Badger Meter**

P.O. Box 245036, Milwaukee, WI 53224-9536

(800) 876-3837 / Fax: (888) 371-5982

[www.badgermeter.com](http://www.badgermeter.com)

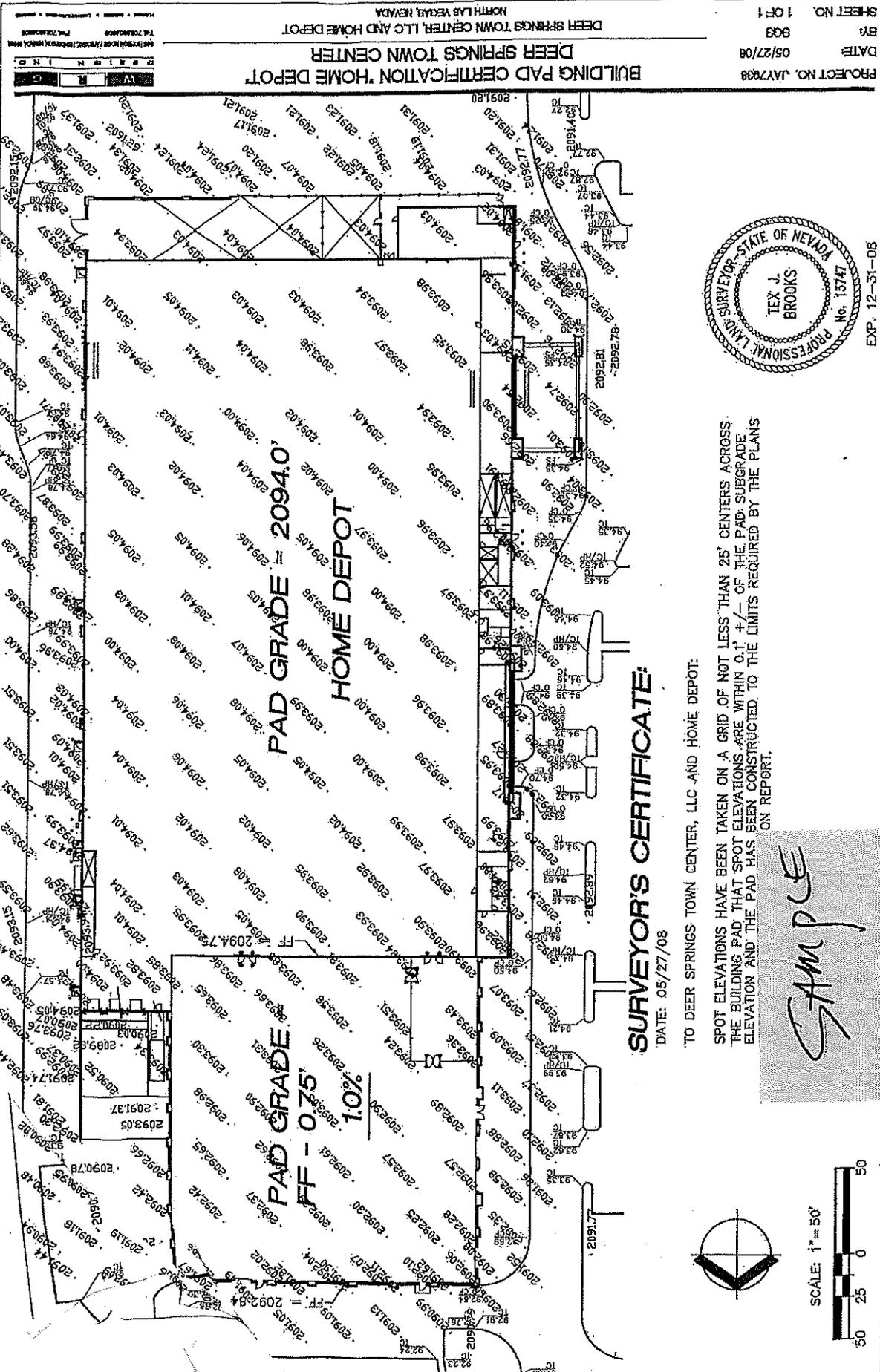
## Exhibit U

### **Pad Certificate Endorsements**

Pad Certificate Endorsements - Contractor to coordinate directly with each required consultant for signature/execution. The documents are included as Attachment U:

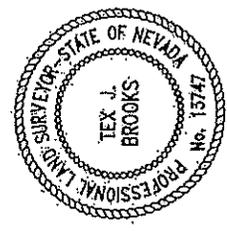
1. General Contractor to secure all consultants certification and confirmation for building pad certification.
2. General Contractor to provide asbuilts with the following information
  - a. Properly define/identify the limits of the pad certification;
  - b. For each building elevation, define the distance from the building to the nearest utility(s), property line and easement.
  - c. Contractor to provide survey points with a 30' on center grid for site A
  - d. Contractor to provide survey points front to back for site B





BUILDING PAD CERTIFICATION HOME DEPOT  
 DEER SPRINGS TOWN CENTER, LLC AND HOME DEPOT  
 NORTH LAS VEGAS, NEVADA

PROJECT NO. JAV7938  
 DATE 05/27/08  
 BY: 908  
 SHEET NO. 1 OF 1



EXP. 12-31-08

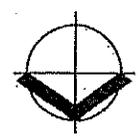
**SURVEYOR'S CERTIFICATE:**

DATE: 05/27/08

TO DEER SPRINGS TOWN CENTER, LLC AND HOME DEPOT:

SPOT ELEVATIONS HAVE BEEN TAKEN ON A GRID OF NOT LESS THAN 25' CENTERS ACROSS THE BUILDING PAD THAT SPOT ELEVATIONS ARE WITHIN 0.1' +/- OF THE PAD SUBGRADE ELEVATION AND THE PAD HAS BEEN CONSTRUCTED TO THE LIMITS REQUIRED BY THE PLANS ON REPORT.

*SAMPLE*



## RIDER TO CONTRACT

This Rider to Contract (this “**Rider**”) is attached to and incorporated in that certain Lump Sum Contract for Construction of Culver Public Market (the “**Agreement**”) dated \_\_\_\_\_, 2019, by and between CULVER PUBLIC MARKET, LLC, a Delaware limited liability company (the “**Developer**”) and ED GRUSH GENERAL CONTRACTOR, INC., a California corporation (the “**Contractor**”). This Rider shall form an integral part of the Agreement, and the provisions set forth below shall be controlling notwithstanding anything to the contrary in the Agreement. Wherever possible, the provisions of this Rider and the Agreement shall be construed consistently so that each is given application to the fullest extent possible consistent with its intent. All defined terms used in this Rider and not otherwise defined herein, shall have the meaning prescribed for such term in the Agreement.

1. The Contractor hereby agrees that, with respect to the work and/or services to be performed by the Contractor for the proposed public parking improvements (and not for any portion of the private project improvements) under the Agreement (such work and/or services shall hereinafter be referred to as the “**Public Improvements Services**”), the City of Culver City, a municipal corporation (the “**City**”), shall be an express third party beneficiary of the Agreement, including, without limitation, a third party beneficiary of all guaranties, warranties, indemnitees, defend and hold harmless provisions and remedies provided to the Developer pursuant to the terms of the Agreement. Loss, waiver or other limitation on such rights as to the Developer shall not affect or impact the City’s rights under those provisions, nor shall any such loss, waiver or other limitation on such rights as to the City affect or impact the Developer’s rights under such provisions. Nothing herein shall limit the Contractor’s right to require the Developer’s timely performance of any duties or obligations of the Developer in accordance with the terms of the Agreement. Nothing in this Section 1 shall modify the provisions of the Agreement requiring and/or providing for the Contractor to take direction from or obtain the approvals of the Developer, and the Contractor shall rely and act upon such directions and approvals from the Developer in accordance with the provisions of the Agreement.

2. Without limiting Section 1 above, the Contractor specifically acknowledges that, with respect to the Public Improvements Services, the City shall be an express third party beneficiary of the indemnities by the Contractor of the Developer set forth in the Agreement. The Contractor further acknowledges and agrees that the Contractor’s indemnity obligations under those provisions to the City are not limited by the insurance coverages that the Contractor is required to maintain.

3. The City shall also be named as an additional insured in an endorsement to the insurance policies required by the Agreement. The Contractor shall furnish the City with evidence that such insurance has been obtained upon execution of this Rider by the Contractor, the Developer and the City.

4. The Contractor acknowledges that it is acting as an independent contractor in performing its obligations under the Agreement and that, notwithstanding anything in the Agreement, the Contractor shall in no event be considered an agent or employee of the City, and in no event shall the Contractor or any of its employees have any right to participate in any pension plan, insurance, bonus, worker’s compensation or similar benefits the City provides for its employees. The Contractor shall be responsible to pay and hold the City harmless from any and all

payroll and other taxes and interest thereon and penalties therefor which may become due as a result of any obligations, services or other matters performed by the Contractor or its agents or employees pursuant to the Agreement.

5. The City neither undertakes nor assumes nor will it have any responsibility or duty to the Contractor or to any employee or agent of the Contractor to review, inspect, supervise, pass judgment upon or inform the Contractor or any such third party of any matter in connection with the design, development or construction of the public parking improvements, whether regarding (i) the quality, adequacy or suitability of the plans, whether or not approved by the City, (ii) any labor, service, equipment or material furnished to or used in connection with the Public Improvements Services, (iii) any person furnishing the same or (iv) other like matters. The Contractor and all employees and agents of the Contractor shall rely upon their own judgment regarding such matters, and any review, inspection, supervision, exercise of judgment or information supplied to the Contractor or to any such third party by the City in connection with such matters is for the public purpose of redeveloping the site, and neither the Contractor nor any third party is entitled to rely thereon. Nothing contained in this Rider shall abrogate, supersede or nullify any right the Developer has to approve documents produced by the Contractor as set forth in the Agreement.

6. Any notices to the City pursuant to the Agreement shall be delivered to the City in the manner provided in the Agreement at the address set forth below. For purposes of this Section 6, a general business day on which the Culver City City Hall is closed shall not constitute a business day:

To City: City of Culver City  
Attn: Mr. Sol Blumenfeld, Community Developer Director  
9770 Culver Boulevard  
Culver City, CA 90232-0507

With a Copy to: City of Culver City  
Attn: Carol Schwab, Esq., City Attorney  
9770 Culver Boulevard  
Culver City, CA 90232-0507

With a Copy to: Kane, Ballmer & Berkman, City Special Counsel  
Attn: Todd C. Mooney, Esq.  
515 South Figueroa Street, Suite 780  
Los Angeles, CA 90071

7. For the benefit of the City as well as the Developer, the Contractor shall comply with all applicable laws, ordinances, rules, regulations and requirements governing the public parking improvements, including, without limitation, current California state laws regarding water consumption and stormwater and waste water retention and discharge. The Contractor shall also, at its expense, procure and maintain all permits, licenses and certificates which may be required at any time in connection with the performance of any work or services performed by or through the Contractor pursuant to the Agreement, including, without limitation, a Culver City business tax certificate. Without limitation of the foregoing, the Contractor specifically acknowledges and agrees that it shall be responsible for complying with all prevailing wage requirements applicable to the Contractor's services under California Labor Code Section 1720 *et seq.*, including any work

performed by employees, agents or contractors of the Contractor pursuant to the Agreement, and including, without limitation, complying with applicable requirements of California Senate Bill No. 854 signed into law on June 20, 2014.

8. To the extent that applicable Public Improvements Services have been paid for under the Agreement, the Contractor specifically acknowledges and agrees that, with respect to the work performed and prepared by the Contractor or caused to be performed and prepared by the Contractor in the Contractor's performance of the Public Improvements Services, if any, the City shall also have the right to exercise and enjoy the benefits of the irrevocable, nonexclusive license described therein, including the right to copy, retain and use all computations, plans, drawings, studies, specifications, design documents and any other instruments, data, computer media and materials prepared by the Contractor or caused to be prepared by the Contractor in the Contractor's performance of the Public Improvements Services, if any, at no further cost to the City, and without cost, expense or obligation to the Contractor, the Developer or any third party, and whether or not the Agreement is terminated for any reason, and whether the public parking improvements are developed or not. All such work product shall be transmitted or caused to be transmitted to the City by the Contractor within ten (10) calendar days after a written request therefor is made by the City, and all such requests must be transmitted to the Contractor through the Developer, and it shall be the Developer's responsibility to obtain the requested information from the Contractor. The City shall also have the right to exercise and enjoy the benefits of such an irrevocable, nonexclusive license, including the right to copy, retain and use all such design or other work product produced by any third party contractor whose services are retained by the Contractor for the public parking improvements, and the Contractor shall deliver such work product to the City within the timeframe described in this Section 8 when the City provides the Contractor a written request for such work product. Any reuse of such drawings, specifications and other documents by the City for a purpose other than for the public parking improvements, or any portion thereof, without the written agreement of the Contractor shall be at the City's risk and expense, and without any liability or exposure to the Contractor; and the City shall indemnify and hold harmless the Contractor from any and all third party claims, damages, losses and expenses arising out of or resulting therefrom.

9. In maintaining its records of Public Improvements Services and reimbursable expenses, the Contractor shall maintain sufficiently detailed records of the Public Improvements Services performed by or on behalf of the Contractor and resulting work that are attributable to the public parking improvements so that the calculations and resulting costs and expenses attributable to the portion of the Contractor's Public Improvements Services shall be separately identified and distinguished from the remaining scope of work performed by or on behalf of the Contractor pursuant to the Agreement.

10. The Contractor acknowledges and agrees that by virtue of its execution and delivery of this Rider the Contractor shall have no rights or remedies against the City for any payments due by the Developer to the Contractor under the Agreement or for the performance of any of the Developer's obligations under the Agreement, and the City's execution of this Rider shall not be construed or interpreted in any way as the City's agreement or consent to be subject to the Developer's obligations under the Agreement or to be a guarantor for the performance of the Developer's obligations under the Agreement. Except as expressly provided in the last sentence of Section 8 above, the City shall have no liability whatsoever to the Contractor due to the City's execution of this Rider or otherwise.

11. In connection with performance and implementation of the Agreement, the Contractor agrees that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin or ancestry. Without limitation of the foregoing, the Contractor further certifies and agrees that all persons employed or applying for employment by it and all of its subcontractors, sub-consultants, bidders and vendors, are and will be treated equally by it without regard to, or because of race, color, religion, ancestry, national origin, sex, age, sexual orientation, pregnancy, childbirth or related medical condition, medical condition (cancer related) or physical or mental disability, and in compliance with Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000 *et seq.*, the Federal Equal Pay Act of 1963, 29 U.S.C. Section 206(d), the Age Discrimination in Employment Act of 1967, 29 U.S.C. Section 621 *et seq.*, the Immigration Reform and Control Act of 1986, 8 U.S.C. Section 1324b *et seq.*, 42 U.S.C. Section 1981, the California Fair Employment and Housing Act, Cal. Government Code Section 12900 *et seq.*, the California Equal Pay Law, Cal. Labor Code Section 1197.5, Cal. Government Code Section 11135, the Americans with Disabilities Act, 42 U.S.C. Section 12101 *et seq.* and all other antidiscrimination laws and regulations of the United States and the State of California as they now exist or may hereafter be amended. The Contractor shall allow representatives of the Developer and the City access to its employment records related to the Agreement and this Rider during regular business hours to verify compliance with these provisions when so requested by the Developer or the City.

12. In connection with performance and implementation of the Agreement, the Contractor agrees to reasonably coordinate its performance of the Public Improvements Services as necessary with other consultants or contractors retained by the Developer or the City for the public parking improvements.

13. There shall be no modification, waiver or other alteration or change to the provisions of this Rider without the written consent of all of the parties hereto. In order to evidence their agreement to the provisions of this Rider and their incorporation into the Agreement in accordance with the terms above, the Contractor, the Developer and the City have separately executed this Rider below.

*[Remainder of the Page Intentionally Left Blank]*

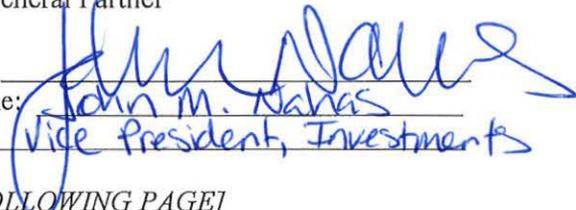
IN WITNESS WHEREOF, the Developer, the City and the Contractor have caused this Rider to be executed as of the date first set forth above.

**“DEVELOPER”**

CULVER PUBLIC MARKET, LLC,  
a Delaware Limited Liability Company

By: Regency Centers, L.P.,  
a Delaware limited partnership,  
its Managing Member

By: Regency Centers Corporation,  
a Florida corporation,  
its General Partner

By:   
Name: John M. Nakas  
Its: Vice President, Investments

*[SIGNATURES CONTINUE ON FOLLOWING PAGE]*

“CITY”

CITY OF CULVER CITY,  
a municipal corporation

By: \_\_\_\_\_  
John M. Nachbar  
City Manager

APPROVED AS TO CONTENT:

By: \_\_\_\_\_  
Sol Blumenfeld  
Community Development Director

ATTEST:

By: \_\_\_\_\_  
Jeremy Green  
City Clerk

APPROVED AS TO FORM:

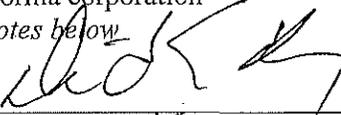
By: \_\_\_\_\_  
Carol Schwab  
City Attorney

By: \_\_\_\_\_  
KANE, BALLMER & BERKMAN  
City Special Counsel

*[SIGNATURES CONCLUDE ON FOLLOWING PAGE]*

“CONTRACTOR”

Ed Grush General Contractor, Inc.  
a California corporation  
*\*see notes below*

By:   
Name: DAVID KARIAN  
Title: VICE-PRESIDENT

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\*Notes: This document must be executed by the Corporation’s Chief Executive Officer, President or Vice-President, on the one hand, and the Corporation’s Chief Financial Officer, Treasurer, Assistant Treasurer or Secretary on the other hand.

# EXHIBIT W

ED GRUSH GENERAL CONTRACTOR, INC.  
Culver Public Market

4/11/2019

## PROJECT STAFF CONTACT LIST:

### **SUPERINTENDENT (onsite full time)**

Joe Mejia                    [joem@edgrush.com](mailto:joem@edgrush.com)                    562/212-7938

### **GENERAL SUPERINTENDENT (onsite weekly)**

Don Evans                    [dome@edgrush.com](mailto:dome@edgrush.com)                    562/773-2302

### **SENIOR PROJECT MANAGER (onsite weekly)**

John Vega                    [johnv@edgrush.com](mailto:johnv@edgrush.com)                    310/505-7055

### **PROJECT ENGINEER**

TBD

### **VP PM/ESTIMATING**

David Karian                    [davidk@edgrush.com](mailto:davidk@edgrush.com)                    562/426-9526

### **PRINCIPAL**

Bob Grush                    [bobg@edgrush.com](mailto:bobg@edgrush.com)                    310/293-5094

# EXHIBIT X

**Culver Public Market – Site A and Site B**

| Base Bid Line Items                         | Site A - Parking Structure | Site A - Retail Bldg | Site A Stework     | Site B - Bldg      | Site B Stework   | Off-Site Breakout  | Total               | Comments |
|---|----------------------------|----------------------|--------------------|--------------------|------------------|--------------------|---------------------|----------|
| Division 01 – General Requirements          | \$35,1395                  | \$299,336            | \$90,000           | \$90,000           | \$40,000         | \$161,030          | \$1,031,761         |          |
| Division 02 – Demolition                    | \$0                        | \$0                  | \$0                | \$0                | \$0              | \$64,300           | \$64,300            |          |
| Division 02 – Siterwork/Concrete            | \$540,992                  | \$0                  | \$540,993          | \$0                | \$185,000        | \$505,000          | \$1,371,985         |          |
| Division 02 – Siterwork/Landscape           | \$108,660                  | \$0                  | \$139,748          | \$0                | \$115,000        | \$119,231          | \$482,659           |          |
| Division 02 – Siterwork/Paving              | \$40,736                   | \$0                  | \$124,065          | \$0                | \$59,966         | \$92,200           | \$316,977           |          |
| Division 02 – Underground Utilities:        | \$134,484                  | \$0                  | \$395,415          | \$0                | \$270,000        | \$0                | \$799,899           |          |
| Division 02 – Sanitary Sewer                | \$0                        | \$0                  | \$0                | \$0                | \$0              | \$0                | \$0                 |          |
| Division 02 – Storm Drains                  | \$0                        | \$0                  | \$0                | \$0                | \$0              | \$0                | \$0                 |          |
| Division 02 – Fire/Domestic Water           | \$0                        | \$0                  | \$0                | \$0                | \$0              | \$0                | \$0                 |          |
| Division 02 – Gas                           | \$0                        | \$0                  | \$0                | \$0                | \$0              | \$0                | \$0                 |          |
| Division 02 – Site Electrical/Lighting      | \$0                        | \$0                  | \$0                | \$0                | \$0              | \$29,800           | \$29,800            |          |
| Division 02 – SCE Electrical                | \$0                        | \$0                  | \$0                | \$0                | \$0              | \$0                | \$0                 |          |
| Division 03 – Concrete                      | \$5,465,244                | \$334,906            | \$0                | \$138,738          | \$0              | \$0                | \$4,938,888         |          |
| Division 04 – Masonry                       | \$281,510                  | \$594,969            | \$24,000           | \$151,126          | \$12,000         | \$0                | \$773,605           |          |
| Division 05 – Metals                        | \$117,905                  | \$376,918            | \$24,000           | \$200,000          | \$50,000         | \$0                | \$594,823           |          |
| Division 06 – Woods & Plastics              | \$0                        | \$94,300             | \$45,000           | \$200,000          | \$15,000         | \$0                | \$354,300           |          |
| Division 07 – Thermal & Moisture Protection | \$239,495                  | \$969,170            | \$30,000           | \$338,000          | \$5,000          | \$0                | \$1,581,665         |          |
| Division 08 – Doors, Frames & Hardware      | \$162,876                  | \$431,394            | \$0                | \$256,229          | \$0              | \$0                | \$851,499           |          |
| Division 09 – Finishes                      | \$13,000                   | \$1,815,751          | \$0                | \$499,950          | \$0              | \$0                | \$2,268,701         |          |
| Division 10 – Specialties                   | \$53,300                   | \$147,865            | \$30,000           | \$7,000            | \$10,000         | \$41,000           | \$239,165           |          |
| Division 11 – Equipment                     | \$0                        | \$12,000             | \$0                | \$0                | \$0              | \$0                | \$12,000            |          |
| Division 12 – Furnishings                   | \$0                        | \$0                  | \$0                | \$0                | \$0              | \$0                | \$0                 |          |
| Division 13 – Special Construction          | \$0                        | \$0                  | \$0                | \$0                | \$0              | \$0                | \$0                 |          |
| Division 14 – Elevators                     | \$177,900                  | \$0                  | \$0                | \$0                | \$0              | \$0                | \$177,900           |          |
| Division 15 – Plumbing                      | \$0                        | \$999,808            | \$0                | \$176,000          | \$0              | \$0                | \$775,808           |          |
| Division 15 – Fire Protection Systems       | \$90,590                   | \$46,310             | \$0                | \$0                | \$0              | \$0                | \$136,900           |          |
| Division 15 – HVAC                          | \$175,060                  | \$699,940            | \$0                | \$0                | \$0              | \$0                | \$875,000           |          |
| Division 16 – Electrical                    | \$940,441                  | \$413,504            | \$220,000          | \$211,100          | \$70,000         | \$147,250          | \$2,002,295         |          |
| Division 16 – Low-Voltage                   | \$0                        | \$0                  | \$0                | \$0                | \$0              | \$0                | \$0                 |          |
| Sub-total                                   | \$7,694,588                | \$6,546,111          | \$1,679,241        | \$2,208,143        | \$831,596        | \$1,159,811        | \$20,119,490        |          |
| Insurance                                   | \$120,036                  | \$82,370             | \$55,944           | \$34,447           | \$12,973         | \$18,093           | \$311,863           |          |
| Fee (Overhead and Profit)                   | \$307,784                  | \$256,849            | \$92,165           | \$88,326           | \$35,264         | \$46,592           | \$804,780           |          |
| Sub-total                                   | \$427,820                  | \$339,219            | \$128,109          | \$122,773          | \$46,237         | \$64,485           | \$1,118,643         |          |
| <b>Total</b>                                | <b>\$8,122,408</b>         | <b>\$6,875,330</b>   | <b>\$1,807,350</b> | <b>\$2,330,916</b> | <b>\$877,833</b> | <b>\$1,224,296</b> | <b>\$21,238,133</b> |          |

Contractor to provide subtotals for the five categories above with bid submittal. A full detailed breakdown per the above line items will be required within 3 days of bid submittal.

Contractor will be required to cooperate with Regency Centers to develop a comprehensive breakdown of all costs as required to satisfy City requirements.

Contractor to provide substantial completion of Site A – Bldgs

Contractor to provide substantial completion of Site B – Bldgs

Contractor to provide Final completion of Site A – Siterwork

Contractor to provide Final completion of Site B – Siterwork

EXHIBIT Y  
CONTRACTOR QUALIFICATIONS

EXCLUSIONS:

Unforeseen concealed conditions, all third party testing & inspections, tenant signage/pylon signs, security watchman, security cameras/ CCTV, low voltage systems & cabling, pay on foot machine systems, parking control equipment and directional lighting, dewatering, rubberized asphalt waterproofing, EV chargers, art component, AISC certification, lime treatment of soil, MRL elevator specifications, public water scope, fire water booster bump if required, temp fire access road, impact of adverse weather in excess of 18 days, governmental/utility company delays not caused by Contractor, Schindler Elevator escalation & cancellation fees resulting from project start delay or cancellation, offsite traffic calming improvements at Colonial Avenue driveway.

QUALIFICATIONS:

Contract is based upon award of entire project concurrently, project scope is as defined on plans and reasonably inferable therefrom. Contract includes: alternate manufacturers of glass roll-up doors, gas piping per code in lieu of specifications, door P201 included as 30' wide, Schindler standard specification elevators.

|             |  |
|-------------|--|
| 23 31 19    | HVAC Casings   |
| 23 33 00    | Air Duct Accessories                                 |
| 23 33 13    | Dampers  |
| 23 34 16    | Centrifugal HVAC Fans                                |
| 23 36 00    | Air Terminal Units                                   |
| 23 37 13    | Diffusers, Registers and Grilles                     |
| 23 39 13    | Kitchen Ventilation Systems                          |
| 23 39 16    | Kitchen Exhaust System Pollution Control Unit        |
| 23 41 00    | Particulate Air Filtration                           |
| 23 81 13.16 | Packaged Terminal Air-Conditioners (Heat-Pump Units) |
| 23 81 26    | Split System Air Conditioning Unit                   |
| 23 82 16    | Air Coils  |

#### DIVISION 26 – ELECTRICAL

|          |   |
|----------|---|
| 26 00 00 | Summary of Electrical Work                            |
| 26 05 00 | Common Work Results for Electrical                    |
| 26 05 19 | Low-Voltage Electrical Power Conductors and Cables    |
| 26 05 26 | Grounding and Bonding for Electrical Systems          |
| 26 05 29 | Hangers and Supports for Electrical Systems           |
| 26 05 33 | Raceway and Boxes for Electrical Systems              |
| 26 05 43 | Underground Ducts and Raceways for Electrical Systems |
| 26 05 53 | Identification for Electrical Systems                 |
| 26 05 73 | Overcurrent Protective Device Coordination Study      |
| 26 09 23 | Lighting Control Devices                              |
| 26 22 00 | Low-Voltage Transformers                              |
| 26 24 13 | 480 Volt Front-Accessible Main Switchboards           |
| 26 24 16 | Panelboards   |
| 26 24 19 | Motor-Control Centers                                 |
| 26 27 26 | Wiring Devices  |
| 26 28 16 | Enclosed Switches and Circuit Breakers                |
| 26 51 00 | Interior Lighting                                     |

#### DIVISION 28 – FIRE AND LIFE SAFETY

|          |                            |
|----------|----------------------------|
| 28 31 11 | Low-Rise Fire Alarm System |
|----------|----------------------------|

#### DIVISION 31 – EARTHWORK-SEE CIVIL DRAWINGS

#### DIVISION 32 – EXTERIOR IMPROVEMENTS

|          |   |
|----------|---|
| 32 17 23 | Parking Area Striping and Markings - Parking      |
| 32 17 26 | Surface Applied Detectable Warning Mats - Parking |
| 32 84 00 | Landscape Irrigation                              |
| 32 92 00 | Landscape Planting                                |

**Exhibit N**

**City Logo License Agreement**

[behind this page]

**CITY LOGO LICENSE AGREEMENT**

("Culver" Sign)

(City Contract No. 2018-029)

This CITY LOGO LICENSE AGREEMENT (this "**Agreement**") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ (the "**Effective Date**"), by and between the CITY OF CULVER CITY, a municipal corporation (the "**City**"), and CULVER PUBLIC MARKET, LLC, a Delaware limited liability company (the "**Developer**"). The City and the Developer are also referred to herein individually as a "**Party**" and collectively as the "**Parties**". The Parties hereby agree as follows:

**RECITALS**

The following Recitals are a substantive part of this Agreement.

A. The Successor Agency to the Culver City Redevelopment Agency, a public entity existing under the laws of the State of California and successor-in-interest to the former Culver City Redevelopment Agency (the "**Successor Agency**") and the Developer entered into that certain Disposition and Development Agreement dated as of October 8, 2018, a public record on file in the office of the City Clerk (the "**DDA**"), relating to, among other things, the conveyance, development, operation and use of the "Property". "DDA" as used herein shall mean, refer to and include the DDA, as well as any riders, exhibits, addenda, implementation agreements, amendments and attachments thereto or other documents expressly incorporated by reference in the DDA. Any capitalized term not herein defined shall have the same meaning as set forth in the DDA.

B. Pursuant to the terms and conditions of the DDA, the Successor Agency will convey (i) the Site to the Developer and (ii) Site A-1 to the City.

C. Pursuant to the terms and conditions of the DDA, the Developer will Develop and Cause Construction of the Project on the Site.

D. Pursuant to the terms and conditions of that certain Development and Construction Contract, dated as of \_\_\_\_\_, 20\_\_\_\_, by and between the City and the Developer (the "**DCC**"), the Developer will Develop and Cause Construction of the Public Parking Improvements on Site A-1.

E. In connection with the 2003 renovation of the Kirk Douglas Theater located at 9820 Washington Boulevard, the historic scripted "Culver" lettering (the "**Sign**") located above the Culver Theater marquee was removed and placed into storage, pursuant to Resolution No 2003-R061 (the "**Resolution**"), attached hereto at Exhibit A and incorporated herein by this reference.

F. The Developer desires to display the Sign at the Project on the Site.

G. This Agreement sets forth the terms and conditions for the Developer's receipt, storage, restoration, relocation, display, preservation, removal and return of the Sign as well as the Developer's use of the City's IP (as defined below) in connection with the marketing of the Project.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Sign License. The City hereby grants the Developer a revocable license (the "**Sign License**") for the receipt, storage, restoration, relocation, display, preservation, removal and return of the Sign upon the following terms and conditions:

A. Resolution. The Developer shall receive, store, restore, relocate, display, preserve, remove and return the Sign in accordance with the Resolution.

B. Work Plan. As a condition precedent to the Developer's receipt of the Sign, the Developer shall have submitted, and the City shall have approved (such approval not to be unreasonably withheld, conditioned, or delayed) a work plan (the "**Work Plan**") setting forth the actions to be carried out by or on behalf of the Developer in connection with the receipt, storage, restoration, relocation, display and preservation of the Sign. The City acknowledges that it is the Developer's intention that the Sign be installed and displayed upon the roof of the Project.

C. Insurance. As a condition precedent to the Developer's receipt of the Sign, the Developer shall furnish to the City evidence satisfactory to the City that (i) the Developer has obtained reasonable property insurance for the Sign (or that the Sign is or will be covered under the Developer's property and casualty insurance for the Project), and (ii) the Developer or its contractors are carrying comprehensive liability insurance in a commercially reasonable amount which shall protect the City and the Successor Agency from claims or suits for, and damages to, property and injuries to persons, including accidental death (including attorneys' fees and costs), which may be caused by any of the Developer's activities under the Sign License, whether such activities or performance thereof be by the Developer or anyone directly or indirectly employed or contracted with by the Developer and whether such damage shall accrue or be discovered before or after the termination of the Sign License.

D. Automatic Revocation of Sign License. The Sign License shall be revoked upon written notice from the City delivered, if at all, prior to the date upon which the default or occurrence referenced in the following clauses (i), (ii), or (iii) is cured or otherwise ceases to occur: (i) a violation by the Developer of the Resolution or the Work Plan that is not cured within 30 days after notice from the City; (ii) the Developer's failure to maintain the insurance coverage described in Section 1.C. above which failure is not cured within 10 days after notice from the City; or (iii) the Project on the Site permanently closing for business or changing to a materially different use.

E. Other Revocation of Sign License. The Sign License may also be revoked upon one years' notice from the City to the Developer.

F. Return of Sign. Upon any revocation of the Sign License, the Developer shall return the Sign to the City within 180 days, in a manner consistent with the Resolution and the Work Plan.

G. No Cost to City. The Developer's compliance with the terms of the Sign License shall be borne by the Developer.

H. No Liens. The Developer shall not permit any lien or security interest to be placed upon the Sign, and if so placed, the Developer shall cause such lien or security interest to be expeditiously removed, at the Developer's sole cost and expense.

I. Inspection. The City and its representatives, employees, agents or independent contractors may inspect the Sign at any time and from time to time at reasonable times to verify the Developer's compliance with the terms and conditions of the Sign License.

2. IP License. The intellectual property consists of (i) the script lettering on the Sign and (ii) the City's registered Service Mark logo (the "**Logo**") identified on Exhibit B, attached hereto and incorporated herein by this reference (collectively, the "**IP**"). The City hereby grants the Developer a nonexclusive, nontransferable, nonassignable, nonsublicensable, personal license (the "**IP License**") for the use of the IP in connection with the marketing of the Project, upon the following terms and conditions:

A. Restricted Use. The Developer shall use the IP only in connection with the marketing of the Project and not for any other purpose whatsoever, without the prior written consent of the City.

B. Developer Only. The Developer shall not permit any other entity (including any parent, subsidiary, affiliated entity, or third party) to access or use the IP.

C. Proprietary Markings. The Developer shall not remove, modify or tamper with any of the proprietary markings that the City has placed or places on the Logo.

D. Automatic Revocation of IP License. The IP License shall be revoked upon written notice from the City delivered, if at all, prior to the date upon which the default or occurrence referenced in the following clauses (i) or (ii) is cured or otherwise ceases to occur: (i) a violation by the Developer of Section 2.A, 2.B, or 2.C above that is not cured within 30 days after notice from the City; or (ii) the Project on the Site permanently closing for business or changing to a materially different use.

E. Other Revocation of IP License. The IP License may also be revoked upon one-years' notice from the City to the Developer.

F. Destruction of Data. Within 10 days after any revocation of the IP License, the Developer shall cause the all Logo data received from the City to be appropriately destroyed and such destruction to be confirmed and certified in writing to the City.

G. No Cost to City. The Developer's compliance with the terms of the IP License shall be borne by the Developer.

H. Audit. During the term of the IP License and until six months after its revocation, the Developer shall maintain accurate records regarding its use of the IP. Upon 10-days' prior written notice, the City shall have the right to audit these records during normal business hours. The purpose of this audit is to ensure that the Developer is utilizing the IP in accordance with the terms and conditions of the IP License.

I. Proprietary Rights. The IP License is a limited license, and the City retains all rights, title and interest in and to the IP, including, without limitation, the underlying Service Mark, including any modifications or enhancements thereto or derivatives thereof, and the exclusive right to file for patents, copyrights and trademarks thereon.

J. License Fees. No license fees or royalties are due to be paid to the City from the Developer for the IP License. The Parties agree that increased exposure of City branding in association with the Developer's marketing of the Project is of valuable and sufficient consideration.

K. Delivery. The City will deliver the Logo in the form and format determined by the City at a time mutually agreeable to the Parties.

3. Compliance with Law. The Developer shall comply with all federal, state and local laws, statutes and ordinances in connection with this Agreement.

4. Indemnification. The Developer shall defend (at the Developer's sole expense, with legal counsel approved by the City), indemnify and hold harmless the City, members of its City Council, its boards and commissions, officers, directors, employees, agents, servants, successors, assigns and subsidiaries (collectively, the "**City Indemnified Parties**"), from and against any and all losses, damages, liabilities, demands, claims, causes of action, suits, costs, expenses and reasonable attorneys' fees and judgments arising out of or in any manner related to this Agreement, including, without limitation, loss or damage to persons or property, arising out of or in any way related to the Developer use of the Sign and/or the IP. The Developer agrees that this obligation to indemnify, defend and hold harmless extends to liability and/or claims arising from City Indemnified Parties' active or passive negligence. Notwithstanding the foregoing, nothing herein shall be construed to require the Developer to indemnify a City Indemnified Party from any claim to the extent arising from the City's breach or violation of this Agreement and/or from the negligence or willful misconduct of that City Indemnified Party. The duty to defend referenced herein is wholly independent from the duty to indemnify, arises upon written notice by the City to the Developer of a claim within the potential scope of this indemnification provision, and exists regardless of any determination of the ultimate liability of the Developer, the City or any City Indemnified Party.

5. Further Assurances. Each of the Parties shall execute and deliver any and all additional papers, documents and other assurances, and shall do any and all acts and things reasonably necessary in connection with the performance of their obligations hereunder and to carry out the intent and agreements of the Parties.

6. Governing Law. The terms of this Agreement shall be interpreted according to the laws of the State of California. Should litigation occur, venue shall be in the Superior Court of Los Angeles County.

7. Attorneys' Fees. In the event of a dispute between the Parties with respect to the terms or conditions of this Agreement, the prevailing party shall be entitled to collect from the other its reasonable attorneys' fees as established by the judge or arbitrator presiding over such dispute.

8. Notices.

A. All notices, demands, requests, elections, approvals, disapprovals, consents or other communications given under this Agreement shall be in writing and shall be given by personal delivery, certified mail, return receipt requested, or overnight guaranteed delivery service and addressed as follows:

To City: City of Culver City  
Attn: Mr. Sol Blumenfeld, Community Development Director  
9770 Culver Boulevard  
Culver City, California 90232-0507

Copy to: City of Culver City  
Attn: Carol Schwab, Esq., City Attorney  
9770 Culver Boulevard  
Culver City, California 90232-0507

Copy to: Kane, Ballmer & Berkman  
Attn: Todd C. Mooney, Esq.  
515 S. Figueroa Street, Suite 780  
Los Angeles, California 90071

To Developer: Culver Public Market, LLC  
c/o Regency Centers Corporation  
915 Wilshire Boulevard, Suite 2200  
Los Angeles, California 90017  
Attn: Mr. John Nahas

Copy to: Culver Public Market, LLC  
c/o Regency Centers Corporation  
One Independent Drive, Suite 114  
Jacksonville, Florida 32202-5019  
Attn: Legal Department

B. Any notice shall be deemed received immediately if delivered by hand, upon receipt if delivered by reputable private courier service (e.g., Federal Express), and shall be deemed received on the fifth day from the date it is postmarked if delivered by certified or registered United State Mail.

9. Interpretation; Captions. This Agreement shall be interpreted as a whole and in accordance with its fair meaning and as if each Party participated in its drafting. Captions are for reference only and are not to be used in construing meaning.

10. No Amendment; Entire Agreement. No modification, rescission, waiver, release or amendment of any provision of this Agreement shall be made except by a written agreement executed by the Parties. This Agreement merges all negotiations, stipulations and provisions relating to the subject matter.

11. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute an original, but all of which, when taken together, shall constitute but one and the same instrument.

12. Damages. Neither Party shall have any right to indirect or consequential or punitive damages against the other, and each Party hereby waives the right to claim the same against the other.

13. Authority. The individual(s) executing this Agreement on behalf of each Party is (are) authorized to execute this Agreement on behalf of said Party. Each Party has taken all actions required by law to approve the execution of this Agreement. The City further represents and warrants to the Developer that (i) the City has full ownership and control of the Sign, free and clear from any liens, licenses, or rights of any third parties whatsoever in and to the use, receipt, storage, restoration, relocation, display, preservation, removal and return of the Sign, and (ii) no consent or approval of any third party is required in connection with the City's licensing of the Sign to the Developer for the Developer's receipt, use, storage, restoration, relocation, display, preservation, removal and return thereof.

*[Signatures on Following Page]*

*[Remainder of Page Intentionally Left Blank]*

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first set forth above.

**“DEVELOPER”**

CULVER PUBLIC MARKET, LLC,  
a Delaware limited liability company

By: Regency Centers, L.P.,  
a Delaware limited partnership,  
its Managing Member

By: Regency Centers Corporation,  
a Florida corporation,  
its General Partner

By: \_\_\_\_\_  
Name: John Nahas  
Its: Vice President, Investments

*[Signatures Conclude on Following Page]*

**“CITY”**

CITY OF CULVER CITY,  
a municipal corporation

By: \_\_\_\_\_  
John M. Nachbar  
City Manager

APPROVED AS TO CONTENT:

By: \_\_\_\_\_  
Sol Blumenfeld  
Community Development Director

ATTEST:

By: \_\_\_\_\_  
Jeremy Green  
City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Carol Schwab  
City Attorney

By: \_\_\_\_\_  
KANE, BALLMER & BERKMAN  
City Special Counsel

**EXHIBIT A**

Resolution

[behind this page]

RESOLUTION NO 2003 - R 061

1  
2  
3 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CULVER  
4 CITY CALIFORNIA, OVERTURNING A DECISION TO DENY A  
5 CERTIFICATE OF APPROPRIATENESS AND APPROVING A  
6 CERTIFICATE OF APPROPRIATENESS TO ALLOW THE REMOVAL  
7 AND STORAGE OR RELOCATION OF THE 'CULVER SIGN LOCATED  
8 ABOVE THE MARQUEE OF THE KIRK DOUGLAS THEATRE  
9 LOCATED AT 9820 WASHINGTON BOULEVARD

10 WHEREAS, the Kirk Douglas Theatre, previously known as the Culver Theater,  
11 is designated as a City 'Landmark' structure on the Culver City Historically Designated  
12 Properties, and

13 WHEREAS on June 11 2001 the Culver City Redevelopment Agency  
14 approved a Disposition and Development Agreement (DDA) with Center Theatre Group for  
15 the renovation and reuse of Culver Theater for live theatrical performances, and

16 WHEREAS on May 27 2003, pursuant to the provisions of Chapter 15 05  
17 Historic Preservation Program an Administrative Certificate of Appropriateness, HPCA P-  
18 2003024, was approved for Center Theatre Group for the rehabilitation of Kirk Douglas  
19 Theatre, which renovation includes minor changes to the building exterior, and

20 WHEREAS by letter dated June 23, 2003 Center Theatre Group requested  
21 approval of a Certificate of Appropriateness to allow removal of the scripted 'Culver' lettering  
22 located above both sides of the marquee due to their concern that "patrons to the theater will  
23 confuse the historic scripted "Culver" with the new name of the theater, which is the Kirk  
24 Douglas Theatre, and with the name of the performance which also will appear on the  
25 marquee and

26 WHEREAS, City staff determined that the request to remove the Culver  
27 lettering which has been identified as a character-defining feature of this building by the  
28 licensed historic architect for the project, was a major change to the exterior of this landmark  
structure and therefore subject to Planning Commission review, and,

///

///

1           WHEREAS on July 9 2003 the Planning Commission considered and denied  
2 this application for Certificate of Appropriateness HPCA P-2003034 after fully considering  
3 the application, plans staff reports environmental information and all testimony presented  
4 The Planning Commission s bases for denial included concerns regarding the adequacy of  
5 the findings presented and the timing of the Planning Commission approval and,

6           WHEREAS, on July 11 2003, Center Theatre Group submitted a letter  
7 appealing the denial of the application by the Planning Commission and

8           WHEREAS, in accordance with the California Environmental Quality Act, the  
9 environmental impacts of the project were reviewed in an Addendum to the Culver City  
10 Redevelopment Plan Amendment and Merger Certified Final Program Subsequent  
11 Environmental Impact Report which was adopted by the City Council on June 11, 2001  
12 therefore no further environmental action is required and

13           WHEREAS, a new Initial Study was prepared with no adverse findings, and,

14           WHEREAS, following conclusion of the public discussion and thorough  
15 deliberation of the subject matter, the City Council determined that a Certificate of  
16 Appropriateness should be conditionally approved as set forth herein below

17           NOW THEREFORE THE CITY COUNCIL OF THE CITY OF CULVER CITY  
18 CALIFORNIA RESOLVES AS FOLLOWS

19           1 Pursuant to the foregoing recitations and the provisions of Culver City  
20 Municipal Code (CCMC) Chapter 15, Historic Preservation Program, Section 15.05.035 B  
21 Certificate of Appropriateness, the following finding is hereby made  
22

- 23           1 The proposed alteration will not detrimentally change,  
24           destroy or adversely affect any exterior feature or  
25           appurtenance of the landmark or significant structure upon  
26           which the work would be done because the request to  
27           remove the script "Culver letters from the marquee of the  
28           Kirk Douglas Theatre (Culver Theater) will not  
              detrimentally change the building, its exterior features nor  
              the letters, which will be put into storage and/or restored  
              and relocated in an historically appropriate manner to be  
              determined consistent with the requirements of the  
              Secretary of Interior s Standards The John Ash Historic

RKDT  
(lp)  
A03  
00601

1 Feature Report prepared in support of the original  
2 Development and Disposition Agreement includes the  
3 "Culver lettering as an element of the historic feature  
4 (marquee canopy) and the marquee will not be  
5 detrimentally changed destroyed or adversely affected by  
6 the removal of the 'Culver" lettering The change is  
7 necessary to permit the renaming of the theater and  
8 facilitate its adaptive reuse It has been determined by the  
9 consultant for this project, a licensed historic architect that  
10 the loss of this element of the character-defining feature of  
11 the Culver Theater can comply with the Secretary of  
12 Interior's Standards by providing for appropriate  
13 documentation prior to the removal, storage, and/or  
14 relocation of the letters If the letters are stored, it will  
15 allow for their replacement in their original condition and  
16 their original location above the theater marquee at a  
17 future date

18 2 Pursuant to the foregoing recitations and finding, the City Council of the City  
19 of Culver City, California hereby approves Resolution 2003-\_\_ approving a Certificate of  
20 Appropriateness subject to the following conditions

- 21 1 The Culver Theater marquee with the "Culver" letters  
22 affixed shall be documented to Historic American Survey  
23 Photo Standards prior to their temporary removal A  
24 photographer with previous HABS photo experience shall  
25 be retained and the photos shall be submitted to a suitable  
26 repository for the storage of archival photographs
- 27 2 The Culver letters shall be stored within the theater  
28 building in a storage area designated for them until such  
time as the letters are either restored to their original  
location or relocated to another location in an appropriate  
historical manner consistent with the Secretary of Interior's  
Standards
- 3 The new panaflex panels shall be installed over the  
existing marquee lettering grid which shall remain in place

26 ///

27 ///

28 ///

- 1  
2  
3  
4 Any future modifications of the marquee or future signage  
or murals of the building shall be in conformance with the  
5 Secretary of the Interior Standards  
6 5 All conditions described in Certificate of Appropriateness  
#HPAC-P-2003024 issued on May 27 2003 shall be  
7 incorporated herein and remain in full force and effect  
8

9 APPROVED and ADOPTED this 21st day of July 2003

10  
11 

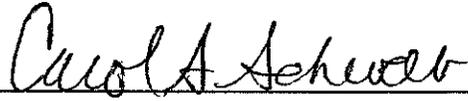
12 ALAN B. CORLIN, MAYOR  
13 City of Culver City, California  
14

15  
16 ATTEST

17 APPROVED AS TO FORM

18  
19 

20 CHRISTOPHER ARMENTA  
City Clerk  
21

22  
23 

24 CAROL A. SCHWAB,  
25 City Attorney  
26  
27  
28

**EXHIBIT B**

Logo

*Culver* CITY

**Exhibit O**

**Calculation of City Fee Waiver**

[behind this page]

### Culver Public Market Permit Fee Waivers by City

| Permits                              | Fee Amount          |
|--------------------------------------|---------------------|
| County Fees                          | Unknown             |
| New Development Impact Fee           | N/A                 |
| In-Lieu Parkland Fee                 | N/A                 |
| Building Permit                      | \$100,479.00        |
| Demo Fee                             | N/A                 |
| Commercial / Industrial Tax          | \$118,111.14        |
| Plan Check Fee                       | \$75,359.25         |
| Art in Public Places Fee             | \$81,224.09         |
| School Fees (Commercial)             | \$43,873.64         |
| Technology Surcharge                 | \$16,898.48         |
| Seismic Fees (Commercial)            | \$2,274.27          |
| Additional Plan Check Fee            |                     |
| Other Fees                           |                     |
| Condominium Tax                      | \$1,000             |
| Inspection Fee (after regular hours) |                     |
| Re-inspection Fee                    |                     |
| Other Planning Fees                  |                     |
| Temporary Certificate of Occupancy   |                     |
| Work Permit Issuance Fee             | \$140.50            |
| <b>TOTAL</b>                         | <b>\$439,360.37</b> |

**Exhibit P**

**Site A-1 Memorandum of Right of First Offer**

[behind this page]

OFFICIAL BUSINESS

Document entitled to free recording  
per Government Code Section 27383

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

CULVER PUBLIC MARKET, LLC  
c/o Regency Centers Corporation  
915 Wilshire Blvd., Suite 2200  
Los Angeles, CA 90017  
Attn: Mr. John Nahas

---

SPACE ABOVE THIS LINE FOR RECORDING USE

**MEMORANDUM OF RIGHT OF FIRST OFFER**

This Memorandum of Right of First Offer (this “**Memorandum**”), dated as of \_\_\_\_\_, 2019, is entered into by and between the CITY OF CULVER CITY, a municipal corporation (the “**City**”), and CULVER PUBLIC MARKET, LLC, a Delaware limited liability company (the “**Developer**”), relating to that certain real property located in the City of Culver City, County of Los Angeles, State of California and legally described in Exhibit A attached hereto and incorporated herein by this reference (“**Site A-1**”), and that certain condominium unit to be created upon Site A-1 which shall include the portion of the improvements constructed upon Site A-1 that are devoted to parking uses (the “**Site A-1 Public Parking Condominium**”).

Pursuant to Sections 12.0 through 12.5 of that certain Development and Construction Contract for Public Improvements, dated [\_\_\_\_\_], 2019, by and between the City and the Developer (the “**DCC**”), the City granted to the Developer the right of first offer to purchase Site A-1 and/or the Site A-1 Public Parking Condominium, or the subject portion thereof, at a price and under the terms and conditions described in detail in the DCC, the terms of which bind the heirs, successors, and assigns of the City. The right of first offer referenced in the immediately preceding sentence shall terminate in accordance with the terms set forth therefor in Section 12.4 of the DCC.

[remainder of page intentionally left blank]

**IN WITNESS WHEREOF**, the parties hereto have executed this Memorandum as of the date first written above.

**“DEVELOPER”**

CULVER PUBLIC MARKET, LLC,  
a Delaware limited liability company

By: Regency Centers, L.P.,  
a Delaware limited partnership,  
its Managing Member

By: Regency Centers Corporation,  
a Florida corporation,  
its General Partner

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: John Nahas  
Vice President, Investments

[signatures conclude on following page]

**“CITY”**

CITY OF CULVER CITY, a California municipal corporation

Date: \_\_\_\_\_

By: \_\_\_\_\_  
John M. Nachbar  
City Manager

APPROVED AS TO CONTENT:

By: \_\_\_\_\_  
Sol Blumenfeld  
Community Development Director

ATTEST:

By: \_\_\_\_\_  
Jeremy Green  
City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Carol Schwab  
City Attorney

By: \_\_\_\_\_  
KANE, BALLMER & BERKMAN  
City Special Counsel

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of Los Angeles )

On \_\_\_\_\_, before me, \_\_\_\_\_, a Notary Public, 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 \_\_\_\_\_

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of Los Angeles )

On \_\_\_\_\_, before me, \_\_\_\_\_, a Notary Public, 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 \_\_\_\_\_

EXHIBIT A

LEGAL DESCRIPTION OF SITE A-1

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

IN THE CITY OF CULVER CITY, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, BEING PARCEL 1 OF PARCEL MAP NO. 74999 AS PER MAP FILED IN BOOK 402, PAGES 47 AND 48 OF PARCEL MAPS, IN THE OFFICE OF THE REGISTRAR – RECORDER/COUNTY CLERK OF SAID COUNTY.

THIS DESCRIPTION WAS PREPARED BY ME, OR UNDER MY SUPERVISION, IN CONFORMANCE WITH THE PROFESSIONAL LAND SURVEYORS' ACT.

  
\_\_\_\_\_  
PASCAL R. APOTHELOZ P.L.S. 7734                      05/17/19



**Exhibit Q**

**Guaranty**

[behind this page]

## GUARANTY

This Guaranty (this “**Guaranty**”) is made and entered into by REGENCY CENTERS CORPORATION, a Florida corporation (the “**Guarantor**”), to and for the benefit of the CITY OF CULVER CITY, a municipal corporation (the “**City**”), and its successors and assigns, effective as of \_\_\_\_\_, 2019.

## RECITALS

A. CULVER PUBLIC MARKET, LLC, a Delaware limited liability company (the “**Developer**”) and the City entered into that certain Development and Construction Contract for Public Improvements, dated as of \_\_\_\_\_, 2019 (the “**DCC**”). All of the terms and provisions of the DCC are fully incorporated herein by this reference as though fully set forth herein. The “**DCC**” as used herein shall mean, refer to and include the DCC, as well as any riders, exhibits, addenda, implementation agreements, amendments and attachments thereto or other documents expressly incorporated by reference in the DCC. Any capitalized term not herein defined shall have the same meaning ascribed to such term in the DCC.

B. The Guarantor is an affiliate of the Developer, and it will directly benefit should the Developer develop the Public Parking Improvements on Site A-1, in the manner and in accordance with the terms of the DCC. The Guarantor acknowledges that this Guaranty is required by the City as a condition precedent and as an inducement to the City to carry out its obligations in accordance with the terms of the DCC.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration given by the City to the Developer and the Guarantor, the receipt and sufficiency of which are hereby acknowledged, and in further consideration of and to induce the City to perform its obligations under the DCC, the Guarantor does hereby irrevocably warrant, guarantee and agree, as follows:

1. The Guarantor acknowledges receipt of a copy of the DCC and all of the instruments described therein and/or attached thereto.

2. If for any reason, other than acts or omissions of the City, the Developer should fail to perform any of its construction obligations under the DCC (in accordance with the Schedule of Performance therefor, which has been or may be revised or extended from time to time) including, without limitation, failure to complete its construction of the Public Parking Improvements on or before the date required by the DCC in all respects and in accordance with and in the manner set forth in the DCC and the approved plans and specifications (which obligations are hereinafter referred to collectively as the “**Performance Obligations**”), then the City, at its option, and upon 30 calendar days’ prior written notice to the Guarantor, shall have the right to call upon the Guarantor, and the Guarantor shall assume each and all of the outstanding obligations of the Developer constituting the Performance Obligations and shall promptly commence and diligently prosecute to completion all such Performance Obligations in accordance with the terms of the DCC.

3. If for any reason, other than acts or omissions of the City, the Developer fails to pay any amounts for which the Developer may become liable under the DCC, including, without limitation, the costs of development, construction and construction management of the Public Parking Improvements, other than the City’s obligation to pay the Maximum Public Parking Improvements Contribution and any obligations which the City may incur under Section 2.6(b) or any other provisions of the DCC (which Developer obligations are collectively and hereinafter

referred to as the “**Payment Obligations**”), then the City, at its option, and upon 30 calendar days’ prior written notice to the Guarantor, shall call upon the Guarantor, and the Guarantor shall assume each and all of the outstanding financial obligations of the Developer constituting the Payment Obligations, and promptly pay each and all of the outstanding balances of the Payment Obligations in accordance with the terms of the DCC as they become due and payable.

4. The Guarantor’s performance of the Performance Obligations may be excused during periods of delay caused by the City or by the occurrence of events described in Section 10.18 of the DCC.

5. To the full extent of the Developer’s responsibility therefor under the DCC, the Guarantor shall pay and discharge all mechanic’s and materialmen’s liens or claims therefor imposed against Site A-1 and/or the Public Parking Improvements.

6. This Guaranty is a present, absolute and continuing Guaranty during the term hereof as set forth in Section 16 below; the City’s performance of its obligations under the DCC shall conclusively evidence the reliance by the City upon this Guaranty and the obligations and agreements of the Guarantor as set forth herein.

7. The Guarantor waives (i) any right to require that any action be brought against the Developer or any other person or to require that resort be first had to any security for the performance of the Developer’s obligations prior to the enforcement of this Guaranty by the City, and (ii) any right to pursue any remedy in the Developer’s power whatsoever, and if any right of action shall accrue to the City by reason of the failure of the Developer to perform any of the Performance Obligations or pay any of the Payment Obligations required of the Developer pursuant to the DCC then, unless such default shall be cured by the Guarantor as aforesaid, the City, at its election, may proceed against (A) the Guarantor, together with the Developer, (B) the Guarantor and the Developer, severally, or (C) the Guarantor only, in each case, without having commenced any action or having obtained any judgment against the Developer and whether or not the Developer is a party in any such action.

8. The obligations of the Guarantor shall not be discharged, impaired or otherwise affected by (i) any sale, transfer, assignment, pledge, surrender, indulgence, forbearance, alteration, substitution, exchange, change in, amendment, revision, modification or other disposition of the DCC, (ii) the acceptance by the City of any security for or other guarantors with respect to the Performance Obligations and/or the Payment Obligations guaranteed hereunder (collectively, the “**Guaranteed Obligations**”), (iii) any failure, negligence or omission on the part of the City to enforce the terms of the DCC, or (iv) the release by the City of any security for the performance of the Guaranteed Obligations or the release by the City of any person (including any other guarantor) from liability for the Guaranteed Obligations; it being expressly understood and agreed that the undertakings, liabilities and obligations of the Guarantor shall not be affected, discharged, impaired or varied by any act, omission or circumstance whatsoever (whether or not specifically enumerated herein) except the due and punctual performance of the Guaranteed Obligations.

9. The Guarantor hereby expressly waives (i) notice of acceptance of this Guaranty, (ii) all notices to which the Guarantor might otherwise be entitled, except as required herein, (iii) any defense arising (A) by reason of any disability of the Developer or (B) by reason of the cessation from any cause whatsoever (except a defense available to the Developer under the DCC) of the liability of the Developer other than full performance of the Guaranteed Obligations, (iv) diligence in enforcement and any and all formalities which might otherwise be legally required to charge the Guarantor with liability, and (v) all diligence in collection or

protection and all presentment, demand, protest and notice of protest, notice of dishonor and notice of default.

10. In the event that the Guarantor should fail to fully perform the Guaranteed Obligations promptly as herein provided, the City shall have the following remedies:

(a) at its option and without any obligation so to do, but upon 30 calendar days' prior written notice to the Guarantor, proceed to perform and/or pay on behalf of the Guarantor any and all of the Guaranteed Obligations, and the Guarantor shall, upon demand, pay to the City all such sums expended by the City in such performance on behalf of the Guarantor; and

(b) from time to time and without first requiring full performance of any of the Guaranteed Obligations by the Developer and without being required to exhaust any or all security held by the City, to require (subject to Section 4 hereof) performance by the Guarantor of all of the Guaranteed Obligations (or any part thereof) pursuant to the terms hereof, by action at law or in equity or both, and further to collect in any such action compensation for all loss, cost, damage, injury and expense sustained or incurred by the City as a consequence of such breach.

11. This Guaranty is a guarantee of the performance and payment of certain obligations contained and provided for herein by the Guarantor, and the Guarantor shall be personally liable for any claims by the City against the Developer with respect to the Guaranteed Obligations. Nothing contained herein shall limit or otherwise impair the Guarantor's obligation to pay to the City, upon demand, all actual, reasonable, out-of-pocket fees and costs (including, without limitation, attorneys' fees and disbursements) incurred by the City in instituting and/or maintaining any action for damages against the Guarantor pursuant to the terms of this Guaranty.

12. As of the date of execution of this Guaranty, (i) the Guarantor warrants that it has full authority to execute this Guaranty and comply with its terms, and (ii) the Guarantor declares to and covenants with the City and its successors and assigns, that the Guarantor knows of no defense whatsoever to any action, suit or proceeding, at law or otherwise, that may be instituted on this Guaranty.

13. No failure on the part of the City to pursue any remedy hereunder or under the DCC shall constitute a waiver on its part of the right to pursue said remedy on the basis of the same or a subsequent breach.

14. The Guarantor shall promptly advise the City in writing of any material adverse change in its business or financial condition.

15. Until the Guaranteed Obligations have been performed in full, the Guarantor shall have no right of subrogation, and hereby waives any right to enforce any remedy that the City now has or may hereafter have against the Developer and waives the benefit of, and any right to participate in, any security now or hereafter held by the City from the Developer, except to the extent such security remains after full performance of the Guaranteed Obligations.

16. This Guaranty shall terminate upon the later of (i) the Completion of the Public Parking Improvements, and (ii) the date of full payment by the Developer of the financial obligations constituting the Payment Obligations accrued in connection with the Developer's Completion of the Public Parking Improvements.

17. This Guaranty shall be binding upon the Guarantor and its successors and assigns.

18. Each reference herein to "City" shall be deemed to include the City and each of its successors and assigns, and all of the provisions of this Guaranty shall run in favor of said named City and its said successors and assigns.

19. The Guarantor agrees that it shall reimburse the City for all actual, reasonable, out-of-pocket expenses, including reasonable attorneys' fees (including the reasonable value of the services of in-house counsel), incurred by the City in enforcing the Developer's performance of the Guaranteed Obligations or incurred by the City in the enforcement of this Guaranty. Any sums required to be paid by the Guarantor to the City pursuant to the terms hereof shall bear interest at the rate of 3% over the Bank of America reference rate (up to the maximum rate permitted by law) on the due date from the date said sums shall be due to the City until the same shall have been paid in full.

20. This Guaranty shall be governed by and construed in accordance with the laws of the State of California.

21. In addition to any other rights or remedies, the parties hereto may institute legal action to cure, correct or remedy any default, to recover damages for any default, or to obtain any other remedy consistent with the purpose of this Guaranty. Such legal actions must be instituted in the Superior Court of the County of Los Angeles, State of California, in any other appropriate court of that county, or in the Federal District Court in the Central District of California. Notwithstanding anything herein, no party, however, shall have any right to indirect or consequential or punitive damages against another, and each party hereby waives the right to claim the same against the other.

22. In the event that any legal action is commenced by the Guarantor against the City, service of process on the City shall be made by personal service upon the City Manager of the City, or in such other manner as may be provided by law. In the event that such legal action is commenced by the City against the Guarantor, service of process on the Guarantor shall be made by personal service upon the registered agent in California for the Guarantor and shall be valid whether made within or without the State of California, or in such manner as may be provided by law.

23. Time is of the essence of every part hereof.

24. If any term, provision, covenant or condition hereof or any application thereof should be held by a court of competent jurisdiction to be invalid, void or unenforceable, then all terms, provisions, covenants and conditions hereof, and all applications thereof not held invalid, void or unenforceable, shall continue in full force and effect and shall in no way be affected, impaired or invalidated thereby.

25. This Guaranty may be executed by the parties hereto in any number of counterparts, each of which shall be deemed to be an original and all of which together shall constitute but one and the same instrument. The parties specifically agree that signatures on this Guaranty transmitted electronically or by facsimile shall be legally binding and that each party is entitled and authorized to rely on such electronic or facsimile signature of the other parties hereon as if it were an original signature. Original signatures of the Guarantor shall also be provided to the City for its records.

[Signatures on Following Page]

IN WITNESS WHEREOF, the Guarantor has executed this Guaranty as of the date first above written.

**“GUARANTOR”**

REGENCY CENTERS CORPORATION,  
a Florida corporation

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

*[Signatures Continue on Following Page]*

The City hereby accepts this Guaranty in accordance with the terms and conditions contained herein.

**“CITY”**

CITY OF CULVER CITY,  
a municipal corporation

Date: \_\_\_\_\_

By: \_\_\_\_\_  
John M. Nachbar  
City Manager

APPROVED AS TO CONTENT:

By: \_\_\_\_\_  
Sol Blumenfeld  
Community Development Director

ATTEST:

By: \_\_\_\_\_  
Jeremy Green  
City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Carol Schwab  
City Attorney

By: \_\_\_\_\_  
KANE, BALLMER & BERKMAN  
City Special Counsel