

LICENSE AND INDEMNITY AGREEMENT

WITH: PLATFORM HAYDEN TRACT, LLC

FOR: USE OF FIRE AND EMERGENCY LANE EASEMENT

The CITY OF CULVER CITY, hereinafter the "City," hereby grants a license to PLATFORM HAYDEN TRACT, LLC, hereinafter "Licensee," for permission to use the City's fire and emergency lane easement, as described herein (the "Licensed Area"), to satisfy the City's required Condition of Approval No. 18 for the development project located at 8810-8850 Washington Boulevard and 3920 Landmark Street, Culver City and approved by Ordinance No. 2012-007 (the "Development").

The City license granted hereunder shall be referred to as "Agreement" and shall be subject to all the following terms and conditions:

1. LICENSED AREA: The Licensed Area shall consist of that certain fire and emergency lane easement granted to City by Los Angeles County Metropolitan Transportation Authority ("MTA") pursuant to the Fire and Emergency Lane Easement Deed, recorded on _____ by Instrument No. _____ (the "Easement Deed"), described as a portion of Parcel No. (APN) 4312-028-905 and depicted on Exhibits A and B of the Easement Deed. The Easement Deed is attached to this Agreement as Attachment No. 1 and incorporated herein by this reference.
2. TERM: This Agreement shall remain in effect in perpetuity or until no longer required for the stated purpose.
3. USE OF THE LICENSED AREA: Licensee may use the Licensed Area for the sole purpose of Providing emergency egress as well as regular ingress and egress to the Development. Licensee's use of the Licensed Area shall be subject to all terms and conditions of the Easement Deed.
4. MAINTENANCE OF LICENSED AREA: Licensee, at its sole cost and expense, shall maintain the Licensed Area in a manner appropriate and safe for pedestrian use. Prior to conducting any type of maintenance activity requiring a permit(s), Licensee shall obtain from the City such required permit(s) for the closure of the Licensed Area and the completion of such work.
5. INSURANCE: Without limiting any other obligation set forth in this Agreement and prior to use of the Licensed Area, Licensee shall procure and maintain, at Licensee's sole cost and expense and for the duration of this Agreement, insurance coverage as set forth in Attachment No. 2, attached to and incorporated into this Agreement by this reference.
6. INDEMNIFICATION: By and on behalf of Licensee in consideration of the request for and the granting of the license under the terms of this Agreement, it is hereby agreed

Licensee shall and does hereby indemnify, hold harmless and defend City and each of its officers, employees and representatives ("Indemnitees") from any and all liability claims, damages, judgments, demands, including attorney fees and court costs, whatsoever, which may arise against any or all Indemnitees by reason of any real or personal property damage, personal injury or death arising or resulting directly or indirectly from Licensee's use of the Licensed Area.

7. GOVERNING LAW: The terms of this Agreement shall be interpreted according to the laws of the State of California. If litigation occurs, then venue shall be in the Superior Court of Los Angeles County.

8. TAXABLE INTEREST: This License is not intended to create any interest in real property. If it is determined this License creates any taxable interest, including, but not limited to, a possessory interest, then Licensee shall be solely responsible to pay such taxes.

9. LITIGATION FEES: If litigation arises out of this Agreement for the performance thereof, then the court shall award costs and expenses, including attorney's fees, to the prevailing party. In awarding attorney's fees, the court shall not be bound by any court fee schedule, but shall award the full amount of costs, expenses and attorney's fees paid or incurred in good faith.

10. TRANSFERABILITY AND ASSIGNABILITY: This agreement may be transferred or assigned to any subsequent owner of the Development. Any other transfers or assignments require the approval of the City, which approval shall not be unreasonably withheld.

11. NOTICES: All notices given or required to be given pursuant to this Agreement shall be in writing and may be given by personal delivery or by mail. Notice sent by mail shall be addressed as follows:

To City: Charles Herbertson, Public Works Director/City Engineer
City of Culver City
9770 Culver Boulevard
Culver City, California 90232-0507

To Licensee: The Runyon Group
Attention: Joseph Miller
9900 Culver Boulevard, 1A
Culver City, California 90232

12. ENTIRE AGREEMENT: This Agreement constitutes the entire agreement of the parties hereto relating to the subject matter herein and shall supersede prospectively from the date it is entered into any and all prior written or oral negotiations or agreements of the

parties relating to the subject matter herein. This Agreement shall not be modified in any particular manner except by a written amendment duly executed by the parties.

PLATFORM HAYDEN TRACT, LLC

Date: _____

By: _____

Joseph Miller
Principal

CITY:

Date: _____

By: _____

John Nachbar
City Manager

APPROVED AS TO CONTENT:

APPROVED AS TO FORM:

Charles D. Herbertson
Public Works Director/City Engineer

Carol A. Schwab
City Attorney

ATTACHMENT NO. 2

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INSURANCE REQUIREMENTS

A. Policy Requirements.

Licensee shall submit duly executed certificates of insurance for the following:

1. An occurrence based Commercial General Liability ("CGL") policy, at least as broad as ISO Form CG 0001, in the minimum amount of One Million Dollars (\$1,000,000) each occurrence, with not less than Two Million Dollars (\$2,000,000) in annual aggregate coverage.

The CGL Policy shall have the following requirements:

- a. The policy shall provide coverage for personal injury, bodily injury, death, accident and property damage and advertising injury, as those terms are understood in the context of a CGL policy. The coverage shall not be excess or contributing with respect to City's self-insurance or any pooled risk arrangements;
- b. The policy shall provide \$1,000,000 combined single limit coverage for owned, hired and non-owned automobile liability;
- c. The policy shall include coverage for liability undertaken by contract covering, to the maximum extent permitted by law. Licensee's obligation to indemnify the Indemnitees as required under Section 6 of this Agreement;
- d. The Policy shall not exclude coverage for Completed Operations, Hazards or Athletic or Sports Participants; and
- e. **The City of Culver City, members of its City Council, boards and commissions, and its officers, agents, and employees will be named as an additional insureds** in an endorsement to the policy, which shall be provided to the City and approved by the City Attorney.

2. Business Automobile Liability Insurance coverage in the amount of One Million Dollars (\$1,000,000), providing coverage for use of mobile equipment (i.e. heavy mobile equipment or vehicles primarily for use in an off-road environment), to the extent that (1) such mobile equipment will be used within the City limits or on City business, and (2) coverage for mobile equipment is not otherwise covered by the CGL policy listed in subparagraph (a), above.
3. Professional/Negligent Acts, Errors and Omissions Insurance in the minimum amount of One Million Dollars (\$1,000,000) per claim, and shall include coverage for separate "personal injury" alleged to have been committed in the course of rendering professional services, unless such coverage is provided by the CGL policy listed in subparagraph (a), above.
4. Workers' Compensation limits as required by the Labor Code of the State of California with Employers' Liability limits of One Million Dollars (\$1,000,000.00) per accident, if the Agreement will have Licensee employees working within the City limits.

B. Waiver by City.

City may waive one or more of the coverages listed in Section A, above. This waiver must be express and in writing, and will only be made upon a showing by the Licensee that its operations in and with respect to City are not such as to impose liability within the scope of that particular coverage.

C. Additional Insurance Requirements.

1. All insurance listed in Paragraph A 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 Best's Insurance Reports;
2. Licensee shall provide City with at least thirty (30) days prior written notice of any modification, reduction or cancellation of any of the Policies required in Paragraph A, or a minimum of ten (10) days' notice for cancellation due to non-payment.
3. City may increase the scope or dollar amount of coverage required under any of the policies described above, or may require different or additional coverages, upon prior written notice to Licensee.