OWNER PARTICIPATION AGREEMENT

Between

CULVER CITY REDEVELOPMENT AGENCY

as “Agency”

and

FOX HILLS MALL, LP

and

CMF FOX HILLS, LLC

as “Developer”

December ______, 2007

December 14, 2007

WESTFIELD FOX HILLS
OWNER PARTICIPATION AGREEMENT

THIS OWNER PARTICIPATION AGREEMENT (the "**Agreement**") is entered into effective this **_________**day of December, 2007, by and between the **CULVER CITY REDEVELOPMENT AGENCY** (the "**Agency**"), a community redevelopment agency organized and existing under the California Community Redevelopment Law, and **FOX HILLS MALL, LP**, a Delaware limited partnership and **CMF FOX HILLS, LLC**, a Delaware limited liability company (collectively, and jointly and severally, the "**Developer**"), with reference to the following facts:

A. The development that is to be developed pursuant to this Agreement ("**Development**") is a redevelopment and expansion of the retail shopping center currently known as the Fox Hills Mall ("Mall") which currently consists of approximately 844,000 leaseable square feet and which is within the redevelopment project area covered by the Redevelopment Plan for the Culver City Redevelopment Project (the "**Culver City Plan**" and such area is referred to herein as the "**Culver City Project Area**"). City adopted the Plan as amended and restated to merge three existing redevelopment projects into a single project and add a fourth area to the project by Ordinance No. 98-014 and 98-015 adopted on November 23, 1998. The Plan was further amended to reflect changes in certain time limits adopted by the Agency in 2004. Pursuant to the Culver City Plan, Agency has determined that the Culver City Project Area is blighted and warrants the use of Community Redevelopment Law, Health & Safety Code Sections 33000 et seq. powers and financing tools and mechanisms to eliminate the blight on the property and to facilitate its redevelopment. It is the intent of the parties to further redevelop the Development in accordance with the terms of the Culver City Plan and this Agreement.

B. The Development will occur on an approximately 40 acre property known as the Fox Hills Mall ("**Developer Parcel**"), which is owned by the Developer, and that has been proposed for redevelopment. The Development will consist of demolishing the vacant former Robinsons May space and an office building on the site, remodeling the exterior and interior of the existing Mall and constructing new building space to redevelop the Mall with a net addition to the Mall of approximately 167,000 square feet of leasable space, including the New Target Space, merchants, specialty stores, a dining court and restaurants offering indoor and outdoor patio seating.

C. This Agreement sets forth the terms and conditions under which Developer will construct certain improvements in the Development in conformance with the Culver City Plan, as amended pursuant to this Agreement and the Agency will provide certain financial assistance for the Development.

NOW, THEREFORE, in consideration of the foregoing recitals and the covenants and mutual obligations contained in this Agreement, and in reliance on the representations and warranties set forth herein, the Agency and the Developer agree as follows:

1. DEFINITIONS

1.1. The following terms and their derivatives have the meanings set forth below wherever used in this Agreement, attached exhibits, or documents incorporated into this Agreement by reference:

1.1.1. Affiliate. "**Affiliate**" shall mean an entity under the control of or under common control with the Developer or those of its managing members having a collective controlling interest in Developer as of the date of this Agreement.

1.1.2. Agency. The "**Agency**" means the Culver City Redevelopment Agency, a community redevelopment agency organized and existing under the California Community Redevelopment Law (Health and Safety Code Sections 33000, et seq.). Any reference hereafter to "Agency" shall also be deemed to include any successors or assigns of the Culver City Redevelopment Agency.

1.1.3. Agency Approved Tenant. "**Agency Approved Tenant**" shall mean any of the following tenants occupying space within the Mall and open for business which enter into a Lease with a minimum term of ten (10) year with Developer in the Development:

(i) any of the tenants listed on Schedule II attached hereto (the tenants referenced in this clause (i) are hereinafter referred to as "**Pre-Approved Tenants**"); and

(ii) any tenant, who, although not listed on Schedule II, is proposed by Developer and approved by Agency pursuant to this clause (ii) to become added to the list of Pre-Approved Tenants (the Agency approved tenants added to the list of Pre-Approved Tenants on Schedule II pursuant to this clause (ii) are hereinafter referred to as "**Additional Approved Tenants**"). If Developer wishes to obtain approval of an Additional Approved Tenant or Tenants, it shall notify the Agency in writing of the tenant or tenants it wishes to have approved. Within thirty (30) days after such submission, the Agency Executive Director or his designee shall approve or disapprove the proposed tenant or tenants as an Additional Approved Tenant. Agency approval of a proposed tenant or tenants as an Additional Approved Tenant shall not be unreasonably withheld, conditioned or delayed. If Agency reasonably requires any additional information from Developer in order to determine whether any proposed tenant or tenants should be approved as an Additional Approved Tenant, Developer shall provide any such requested and available information to Agency promptly upon request; provided, that, such Agency request for additional information shall be communicated to Developer in writing no more than fifteen (15) business days after receipt by Agency of such Developer request for approval of a proposed Additional Approved Tenant. In the event Agency does not respond to Developer's request for approval of any proposed Additional Approved Tenant within such thirty (30) day period after receipt of said request, the proposed tenant or tenants shall be deemed approved as an Additional Approved Tenant; provided, however, that such "deemed approval" shall only occur if the Developer prominently includes in the submission requesting approval of the Additional Approved Tenant the following phrase in bold capital letters: "**THIS ITEM OR MATTER WILL BE DEEMED APPROVED BY YOU IF NOT DISAPPROVED BY [INSERT ACTUAL DATE OF DEADLINE FOR APPROVAL OR DISAPPROVAL].**".

(iii) any other tenants who, although not initially listed on Schedule II and not thereafter added as an Additional Approved Tenant, are hereafter approved by the Agency as reasonably equivalent to any one or more of the tenants listed on Schedule II (the Agency approved tenants listed in this clause (iii) are hereinafter referred to as "**Equivalent Tenants**"). If Developer wishes to obtain approval of an Equivalent Tenant, it shall notify the Agency in writing of the tenant it wishes to have approved and the Pre-Approved Tenant(s) to which the proposed tenant is reasonably comparable. Within twenty-one (21) days after such submission, the Agency Executive Director or his designee shall approve or disapprove the proposed tenant as an Equivalent Tenant. Such Agency approval or disapproval shall be based upon whether such tenant is reasonably comparable to the identified Pre-Approved Tenant(s) in terms of market recognition, scope of operation, and level of quality of service and product offering. Agency approval of a proposed tenant as an Equivalent Tenant shall not be unreasonably withheld, conditioned or delayed. If Agency reasonably requires any additional information from Developer in order to determine whether a proposed tenant is an Equivalent Tenant, Developer shall provide any such requested and available information to Agency promptly upon request; provided, that, such Agency request for additional information shall be communicated to Developer in writing no more than fifteen (15) business days after receipt by Agency of such Developer request for approval of a proposed Equivalent Tenant. In the event Agency does not respond to Developer's request for approval of a Proposed Equivalent Tenant within such twenty-one (21) day period after receipt of said request, the proposed tenant shall be deemed approved as an Equivalent Tenant; provided, however, that such "deemed approval" shall only occur if the Developer prominently includes in the submission requesting approval of the Equivalent Tenant the following phrase in bold capital letters: "**THIS ITEM OR MATTER WILL BE DEEMED APPROVED BY YOU IF NOT DISAPPROVED BY [INSERT ACTUAL DATE OF DEADLINE FOR APPROVAL OR DISAPPROVAL].**".

Agency approval or disapproval shall only be for purposes of determining whether a specified tenant is an Additional Approved Tenant or an Equivalent Tenant, and, without limiting the obligations of the Developer to comply with the provisions of Section 10.1 hereinbelow, Developer does not need Agency approval of any tenant if the gross leasable square footage of that tenant's space is not being counted towards the Agency Approved Square Footage Threshold. Agency shall not have a general right to approve or disapprove the occupancy of any tenant within the Mall, and, without limiting the obligations of the Developer to comply with the provisions of Section 10.1 hereinbelow, Developer shall have the right to lease to any tenant(s) it deems appropriate whether or not such Tenant is a Pre-Approved Tenant, Additional Approved Tenant, or Equivalent Tenant or otherwise approved by and acceptable to the Agency; provided, that, unless a tenant is an Agency Approved Tenant (because it is either a Pre-Approved Tenant, Additional Approved Tenant added to the Pre-Approved Tenant list, or an Equivalent Tenant), occupancy of such tenant in the Mall shall not constitute Qualifying Occupied Square Footage credited toward satisfaction of the Agency Approved Square Footage Threshold requirement.

The following shall not be included as an Agency Approved Tenant for any purpose under this Agreement:

(a) Target and/or the New Target Space;

(b) Any tenant occupying more than 20,000 square feet of gross leasable area;

(c) Any tenant in the food court;

(d) Any tenant or licensee occupying a kiosk;

(e) Any tenant who occupied or was an occupant of the Mall as of the date of this Agreement and any former tenant of the Mall who has been closed for business for less than one hundred and eighty (180) days, except as to any net new square footage of gross leasable area which exceeds the square footage occupied by the existing tenant as of the date of this Agreement or which exceeds the square footage formerly occupied by the former tenant; and

(f) Any restaurant; provided however that as to the Agency Approved Square Footage Threshold requirement for the first year only as shown on Exhibit J, a maximum of thirty-six thousand (36,000) square feet of gross leasable area and a maximum of four (4) restaurants may count towards such first year requirement.

1.1.4. Agency Assistance. "**Agency Assistance**" shall mean the total amount of the financial assistance provided by the Agency to Developer as described herein in the form of Annual Disbursement Payments.

1.1.5. Agency Assistance Termination Date. "**Agency Assistance Termination Date**" shall mean the first to occur of (i) the expiration date for receipt of tax increment under the Culver City Plan (which is currently July 21, 2024), as such date may be hereafter extended; provided, however, that an amendment extending the date of the Culver City Plan beyond July 21, 2024, shall only extend the Agency Assistance Termination Date beyond said 2024 date if the implementation of such amendment and extension of the Agency Assistance Termination Date do not impose a material adverse financial impact on Agency, or (ii) the date upon which the Agency has disbursed to Developer pursuant to this Agreement an aggregate total Agency Assistance amount having a Net Present Value of at least Ten Million Dollars ($10,000,000).

1.1.6. Agency Funding Amount. The maximum amount that Agency is required to fund, subject to the terms and conditions of this Agreement including, without limitation, Section 5.

1.1.7. Agency Approved Square Footage Threshold. "**Agency Approved Square Footage Threshold**" shall mean those milestones for gross leasable square footage occupied by Agency Approved Tenants within the Mall or minimum percentage of tenants listed on the Pre-Approved Tenant list (Schedule II) that lease stores within the Mall, as set forth in Exhibit J attached hereto for each year of operation of the Mall after the issuance by the Agency of the Release of Construction Covenants for the Developer Parcel Work of Improvements. The milestones set forth in said Exhibit J for the third year of operation shall apply to the third and each subsequent year of operation after the issuance by the Agency of the Release of Construction Covenants for the Developer Parcel Work of Improvements. By way of example, per Exhibit J, in the first year after the Developer Parcel Work of Improvement has been completed, the Agency Approved Square Footage Threshold shall mean at least Ninety Thousand (90,000) square feet of gross leasable area of space within the Mall leased to Agency Approved Tenants, of which at least Twenty Thousand (20,000) square feet of such gross leasable area shall be located in the Existing Mall, or the leasing of stores within the Mall to a minimum of 75% of the tenants listed on the Pre-Approved Tenant list (Schedule II).

1.1.8. "Agency Tenant Requirements" shall mean the requirements set forth in Section 10.1.3.

1.1.9. Annual Disbursement Dates. "Annual Disbursement Date" shall mean the first October 1st following the date on which the Agency issued or was obligated to issue the Release of Construction Covenants for the Developer Parcel Work of Improvement pursuant to Section 4.2, and every October 1st thereafter until the Agency Assistance Termination Date. For example, if the Release of Construction Covenants for the Developer Parcel Work of Improvement is issued May 1, 2008, the first Developer Parcel Annual Disbursement Date shall be October 1, 2008 for the 2007-08 fiscal year or if the Release of Construction Covenants is issued November 1, 2008, the first Developer Parcel Annual Disbursement Date shall be October 1, 2009 for the 2008-09 fiscal year. If Agency receives any Net Developer Parcel Tax Increment attributable to a prior fiscal year after the Annual Disbursement Date for that prior year has occurred (i.e., after the applicable October 1st payment date), then Agency shall also disburse that portion of the Annual Disbursement Payment to Developer within thirty (30) days after receipt by the Agency.

1.1.10. Annual Disbursement Payments. "**Annual Disbursement Payments**" shall mean one hundred percent (100%) of the Net Developer Parcel Tax Increment received by Agency for each prior fiscal year, provided that as to the fiscal year in which the Release of Construction Covenants is issued, the Annual Disbursement Payment shall not include tax increment generated prior to the issuance of the Release of Construction Covenants.

1.1.11. Agreement Affecting Real Property. "**Agreement Affecting Real Property**" shall mean the Agreement Affecting Real Property substantially in the form attached to this Agreement as Exhibit G.

1.1.12. Approved Entity. "**Approved Entity**" has the meaning set forth in Section 1.1.28. .

1.1.13. City. "**City**" means Culver City.

1.1.14. Construction Drawings. "**Construction Drawings**" means those certain construction plans and drawings with respect to the Developer Parcel Work of Improvement, as more particularly set forth in Exhibit F attached hereto.

1.1.15. Culver City Plan. "**Culver City Plan**" has the meaning set forth in Recital A.

1.1.16. Culver City Project Area. "**Culver City Project Area**" has the meaning set forth in Recital A

1.1.17. Developer. The "**Developer**" means Fox Hills Mall, LP, a Delaware limited partnership and CMF Fox Hills, LLC, a Delaware limited liability company, which two entities shall be collectively referred to herein as the Developer and shall be jointly and severally liable for the performance of all of the obligations of Developer under this Agreement. Any reference hereafter to "Developer" shall also be deemed to include any successors to or assigns of Fox Hills Mall, LP, and CMF Fox Hills, LLC, as permitted by this Agreement.

1.1.18. Developer Parcel. "**Developer Parcel**" means that certain approximately 40 acre parcel owned by Developer and more particularly described in Exhibit A. That portion of the Developer Parcel designated in Exhibit A-1 as the "Fox Hills Mall, LP, Parcel" is owned by Fox Hills Mall, LP. That portion of the Developer Parcel designated in Exhibit A-2 as the "CMF Fox Hills, LLC, Parcel" is owned by CMF Fox Hills, LLC.

1.1.19. Developer Parcel Opening. "**Developer Parcel Opening**" shall mean as to each year of operation of the Mall, the first date upon which Mall

Shops occupied by Agency Approved Tenants consisting of not less than the Agency Approved Square Footage Threshold for the applicable year of operation of the Mall, have opened for business to the general public.

1.1.20. Developer Parcel Work of Improvement. "**Developer Parcel Work of Improvement**" or **"Development"** shall mean those improvements shown in the Schematic Design Drawings and the Construction Drawings, which are more particularly described in Exhibit F, and described in the "Description of Developer Work of Improvement (Exhibit C).

1.1.21. Existing Mall. "**Existing Mall**" shall mean that portion of Fox Hills Mall existing as of the date of this Agreement and prior to expansion and improvement by construction of the Developer Parcel Work of Improvement.

1.1.22. Holder. "**Holder**" has the meaning assigned in Section 13.2.

1.1.23. Mall. "**Mall**" shall mean Westfield Fox Hills Mall, or any portion thereof.

1.1.24. Mall Shops. "**Mall Shops**" shall mean the total retail area on the Developer Parcel, excluding New Target Space.

1.1.25. Net Developer Parcel Tax Increment. "**Net Developer Parcel Tax Increment**" shall mean the total ad valorem property tax increment revenue allocated to and received by the Agency in each fiscal year pursuant to Section 33670(b) of the Redevelopment Law, as said statute may be amended from time to time, to the extent attributable to an increase in the assessed value of the Developer Parcel over and above the assessed value established by the Los Angeles County Tax Assessor in the equalized assessment roll for the 2006-07 year, but specifically excluding therefrom all of the following: (a) the portion of such tax increment revenues that is required to be set aside pursuant to Sections 33334.2 et seq. of the Redevelopment Law or any successor law for low-and moderate-income housing purposes (currently 20%); (b) the portion of such tax increment revenues that the Agency is required to pay to any other governmental entities pursuant to any statutorily required pass through payments and County administrative fees as such statutory requirements may be amended from time to time; and (c) the portion of such tax increment revenues which the Agency may hereafter be required by the State to pay or set aside for a specific funding purpose from time to time, including, for example, and without limiting the generality of the foregoing, any payments which the Agency may be required to pay to the Education Revenue Augmentation Fund pursuant to Section 33681 et seq. of the Redevelopment Law. The deductions from Net Developer Parcel Tax Increment shall be limited to only those payments that are mandatory requirements on the Agency which the Agency has no discretion to avoid or which can only be avoided by exercise of discretion in a way that would have a material adverse financial impact on Agency and/or City. Agency covenants that it shall not take any discretionary action that would cause a reduction or loss in the Net Developer Parcel Tax Increment available for payment of Agency Assistance during the term of this Agreement unless not taking such discretionary action would have a material adverse financial impact on Agency and/or City, as set forth above.

1.1.26. Net Present Value. "**Net Present Value**" shall mean net present value of the Agency Assistance measured as of the date of this Agreement, based upon the discount of all Agency Assistance hereafter received by Developer back to that date based upon a discount rate of six percent (6%).

1.1.27. New Target Space. "**New Target Space**" shall mean the new anchor space contemplated for occupancy by Target as shown on Exhibit I attached hereto.

1.1.28. Note. "**Note**" means that certain promissory note entered into between the Agency and the Developer in the form attached hereto as Exhibit E.

1.1.29. Permanent Closure. "**Permanent Closure**" shall mean that all the business operation within the New Target Space has ceased for at least ninety (90) consecutive days, without the prior written consent of the Agency, which consent shall not be unreasonably withheld, conditioned or delayed. The date of Permanent Closure shall be the first day immediately following the expiration of said 90-day period. Notwithstanding the foregoing, time periods during which closure is due to (1) events of repair, alteration, construction, or remodeling, or (2) an Unavoidable Delay, shall not be included in the calculation of said 90-day period; provided, that such exclusion for Unavoidable Delay shall not exceed one hundred and eighty (180) days (*i.e.*, Permanent Closure shall be deemed to have occurred following a closure for two hundred and seventy (270) consecutive days even if attributable to Unavoidable Delay).

1.1.30. Permanent Partial Closure. "**Permanent Partial Closure**" as to any tenant other than the New Target Space shall mean that the business operation of such tenant has ceased for at least ninety (90) consecutive days, without the prior written consent of the Agency in each instance, which consent may not be unreasonably withheld, conditioned or delayed. The date of Permanent Partial Closure shall be the first day immediately following the expiration of said 90-day period. Notwithstanding the foregoing, time periods during which closure is due to (1) events of repair, alteration, demolition, relocation within the Mall, construction, or remodeling, including installation of tenant improvements, or (2) an Unavoidable Delay, shall not be included in the calculation of said 90-day period; provided, however, that such exclusion for Unavoidable Delay shall not exceed one hundred and eighty (180) days (*i.e.*, a Permanent Partial Closure shall be deemed to have occurred following a closure for two hundred and seventy (270) consecutive days even if attributable to Unavoidable Delay).

1.1.31. Permitted Transfer. "**Permitted Transfer**" means any Transfer (i) to any entity listed on Schedule I hereto (an "**Approved Entity**"), (ii) to any partnership, corporation, limited liability company or other entity in which an Approved Entity has a majority or controlling interest, and (iii) any of the following:

(a) Any Transfer arising from or pursuant to any Mortgage and any foreclosure (or deed or assignment in lieu of foreclosure) resulting therefrom.

(b) The granting of easements or dedications to any appropriate governmental or quasi-governmental agency or utility or permits to facilitate the development of the Site.

(c) A Transfer resulting from or in connection with a reorganization as contemplated by the provisions of the Internal Revenue Code of 1986, as amended or otherwise, in which the ownership interests of a corporation or other entity are assigned directly or by operation of law to a Person or Persons which acquires the Control of the voting capital stock of such corporation or other entity or all or substantially all of the assets of such corporation or other entity.

(d) A Transfer between members of the same immediate family, or transfers to a trust, testamentary or otherwise, in which the beneficiaries consist solely of immediate family members of the trustor .

(e) A Transfer between or among Affiliates of Developer.

(f) The execution of any leases or subleases of any portion of the Developer Parcel, or any improvements thereon, for occupancy purposes.

(g) A Transfer, in whole or in part, to any of the following (collectively, "intra-corporate transfers") (1) any entity which as of the date of this Agreement has the power to direct Developer's management and operations, or any entity whose management and operations are controlled by Developer, an Approved Entity or a Westfield Entity; (2) any entity, a majority of whose voting stock is owned by an Approved Entity or a Westfield Entity; or (3) any corporation or entity which as of the date of this Agreement holds a majority of the outstanding shares of voting stock in an Approved Entity or a Westfield Entity.

1.1.32. Schedule of Performance. "Schedule of Performance" means the timetable attached hereto as Exhibit B for the construction of the Developer Parcel Work of Improvement, as amended from time to time, as well as the time periods within which other obligations of Developer hereunder shall be performed; provided, however, that such time periods shall be extended by the period of any Unavoidable Delays.

1.1.33. Schematic Design Plans. "**Schematic Design Plans**" means schematic design plans for the Development as approved from time to time by the City and Agency, including those schematic design plans more particularly described on Exhibit F attached hereto.

1.1.34. Transfer. As used in this Agreement, the term "**Transfer**" shall mean:

1.1.34.1 Any total or partial sale, assignment or conveyance, or creation of any trust or power by deed of trust or otherwise, or any transfer in any other mode or form of or with respect to the Developer Parcel or the Mall or any interest therein, or any contract or agreement to do any of the same, provided, however, the sale or lease of an individual unit within the Mall does not constitute a Transfer;

1.1.34.2 Any transfer of any ownership interest greater than a 20% interest in the Developer, to a single entity or person or group of entities or persons, made for the purposes of effecting a change in the management or control of Developer, provided that for the purposes of the foregoing (a) any transfer of an ownership interest to a non-managing equity member of the Developer shall not be considered included in the definition of "Transfer," and (b) any transfer of the Developer Parcel or of any ownership interest in Developer to an entity that is at least 50% owned and is controlled by Fox Hills GP, LLC, Westfield America Limited Partnership, or Westfield U.S. Holdings, LLC, or any Affiliate thereof (herein a "**Westfield Entity**") shall not be considered a "Transfer" hereunder;

1.1.34.3 Any assignment by Developer of all or any part of this Agreement; or

1.1.34.4 Any merger, consolidation, sale or lease of all or substantially all of the assets of Developer to any entity that is not a Westfield Entity.

1.1.35. Unavoidable Delay means a delay due to war, acts of terrorism, insurrection, strikes, lock-outs, other labor disputes, labor or material shortages, riots, civil disturbances, floods, earthquakes, fires, windstorms, hail, casualties, natural disasters, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation attributable to any of these, acts or failure to act of the other Party, acts or the failure to act of any public or governmental agency or entity (except that acts or failure to act of the Agency or City shall not excuse performance by Agency), legal or governmental restrictions on priority, initiative or referendum, moratoria, processing with governmental agencies other than Agency, unusually severe weather, third party claims or litigation of this Agreement, or any other similar causes beyond the control or without the fault of the Party claiming an extension of time to perform.

2. DEVELOPMENT APPROVALS

Land Use Approvals. Agency's staff will use reasonable efforts to assist Developer in connection with processing and issuance of permits on approvals for all pending applications for the Developer Parcel Work of Improvement, assist the Developer with the filing, processing and issuance of permits and approvals for any additional applications which may be necessary for the Developer Parcel Work of Improvement, and will attempt to facilitate the expeditious processing and consideration thereof by coordinating the procedures therefor with all applicable City departments and/or other bodies who may have jurisdiction over such matters (collectively the **"Land Use Approvals"**); provided, however, that the foregoing shall not constitute a commitment by Agency to cause any approvals to be issued, and provided further that all documents submitted in connection with any applications or other submissions shall be submitted to, reviewed by and approved or rejected by the appropriate planning and building departments of City, pursuant to City's codes, ordinances, rules and regulations. The assistance to be provided by Agency pursuant to this Section 2 shall be given with the objective of obtaining the Land Use Approvals on a timely basis and preserving the financial viability of the Developer Parcel Work of Improvement and compliance with the Schedule of Performance so that the Developer can construct the Developer Parcel Work of Improvement. Nothing in this Agreement shall be deemed to require the City to approve any application for or in connection with the Developer Parcel Work of Improvement.

3. CONSTRUCTION OF THE DEVELOPMENT

3.1. Schematic Design Plans and Construction Drawings

3.1.1. Schematic Design Plans. Developer has, prior to the date of this Agreement, submitted Schematic Design Plans for the Developer Parcel Work of Improvement, as more particularly described in Exhibit F attached hereto.

3.1.2. Construction Drawings. Developer has, prior to the date of this Agreement, submitted construction plans and drawings with respect to the Development, as more particularly set forth in Exhibit F attached hereto (collectively, the "**Construction Drawings**").

3.2. Agency Review and Approval. The Agency has reviewed the Schematic Design Drawings and the Construction Drawings and has approved the same in order to satisfy the Agency's obligation to promote the sound development and redevelopment of the Development, and to promote a high level of design which will impact the surrounding development (in accordance with Section 3.3 below).

3.3. Revisions to Construction Plans. The Agency shall have the right to approve or disapprove in its reasonable discretion any proposed material revisions to the Construction Drawings, only if, in any material respect, (a) the proposed revision to the Construction Drawings does not conform to the approved Schematic Design Plans, or (b) the proposed revision to the Construction Drawings does not conform to the Description of Developer Work of Improvement attached hereto as Exhibit C (the "**Description of Developer Work of Improvement**") or this Agreement. If such Agency approval is required, the Agency Executive Director shall approve or disapprove the proposed change and notify the Developer in writing within 21 days after submission to the Agency. In the event that the Agency Executive Director does not approve or disapprove such proposed change within such 21 day period, the proposed modification to the Construction Drawings shall be deemed approved. Any and all change orders or revisions required by the City and its inspectors which are required under the City's Municipal Code and all other applicable Uniform Codes (e.g. Building, Plumbing, Fire, Electrical, etc.) and under other applicable laws and regulations shall be included by the Developer in its Construction Drawings and completed during the construction of the site improvements and are deemed approved by the Agency. During the preparation of any revisions to the Construction Drawings, staff of the Agency and the Developer shall hold regular progress meetings to coordinate the preparation of, submission to, and review of the revised Construction Drawings by the Agency. The staff of the Agency and the Developer shall communicate and consult informally as frequently as is necessary to ensure that the formal submittal of any documents to the Agency can receive prompt and thorough consideration. The Agency shall designate an Agency employee to serve as the development manager who is responsible for the coordination of the Agency's activities under this Agreement and for expediting the land use approval and permitting process. The Developer, upon receipt of a disapproval based upon powers reserved by the Agency hereunder, shall revise such portions and resubmit to the Agency.

3.4. Defects in Plans. The Agency shall not be responsible either to the Developer or to third parties in any way for any defects in the Construction Drawings, nor for any structural or other defects in any work done according to the approved Construction Drawings, nor for any delays reasonably caused by the review and approval processes which are in accordance with this Agreement (except that times for Developer's performance may be extended as set forth in Section 3.4). The Developer shall hold harmless, indemnify and defend the Agency, the City and their officers, employees, agents and representatives from and against any claims, suits for damages to property or injuries to persons arising out of or in any way relating to defects in the Construction Drawings, including without limitation the violation of any laws, and for defects in any work done according to the Construction Drawings.

3.5. Use of Architectural Plans. Unless the Agency purchases Developer's rights to the Plans, the Agency shall not have the right to use any Construction Drawings which are submitted to the Agency by the Developer pursuant to this Section 3.5, nor shall the Agency confer any rights to use such architectural plans to any person or entity.

3.6. Schedule of Performance. As a material consideration for entering into this Agreement, Developer has committed, and Agency is relying on such commitment, to cause the redevelopment of the Developer Parcel (in accordance with the time periods set forth in this Agreement and the Schedule of Performance), subject only to Unavoidable Delays and cure periods specifically provided hereunder. Except for extension of time due to Unavoidable Delay or cure periods, the time limitations set forth in this Agreement and in the Schedule of Performance for Developer's performance of its covenants, conditions and obligations, are of the essence, and Developer waives any right at law or in equity to tender or complete performance beyond the applicable time period, or to require Agency to accept such performance. Each party shall notify the other party as soon as reasonably possible after a party receives actual knowledge of the occurrence of any event that is causing or is likely to cause a Unavoidable Delay. After execution of this Agreement by the Agency, Developer shall, in accordance with the Schedule of

Performance, cause the construction of the Developer Parcel Work of Improvement to begin and thereafter shall diligently prosecute both the Developer Parcel Work of Improvement to completion, as provided in the Description of Developer Work of Improvement, plans approved for the Developer Parcel Work of Improvement by the City and Agency, all entitlements, all Governmental Approvals, and any applicable requirements of any Governmental Authority. Subject to Unavoidable Delays, failure to commence or to complete construction of either the Developer Parcel Work of Improvement within the respective times provided therefor in the Schedule of Performance shall be a default hereunder. Developer may terminate this Agreement within one hundred eighty (180) days after its execution of this Agreement due to a material adverse or catastrophic economic circumstance.

3.7. Construction of the Development. Developer shall cause construction of the Developer Parcel Work of Improvement subject to the Schedule of Performance, and the terms and conditions of this Agreement, but subject to Unavoidable Delay, in accordance with the Construction Drawings.

3.8. Construction Obligations. Construction of the Developer Parcel Work of Improvement undertaken by Developer shall be in accordance with the Construction Drawings. Developer shall be solely responsible for all aspects of the Developer Parcel Work of Improvement, including, but not limited to, the quality and suitability of the construction plans, the supervision of construction work, and the qualifications, financial conditions, and performance of all architects, engineers, contractors, subcontractors, suppliers, consultants, and property managers. The Developer shall be solely responsible at its own expense for installing any off-site improvements required by the City entitlements in connection with the construction of the Developer Parcel Work of Improvement.

3.9. Development Funding. Developer shall be solely responsible for obtaining funds committed and readily-available for the Developer Parcel Work of Improvement in an amount sufficient to complete development of the Developer Parcel Work of Improvement. Nothing in this Section 3.12 shall alter or amend in any way the duty of the Agency to pay to Developer any amounts of Net Developer Tax Increment required to be paid to Developer pursuant to this Agreement and/or the Note.

3.10. Employment Nondiscrimination. The Developer and its contractors and subcontractors shall not discriminate against any employee or applicant for employment in connection with the use of the Developer Parcel on the basis of race, color, ancestry, national origin, religion, sex, sexual preference, marital status, AIDS or AIDS-related complex, or physical or mental disability. Each of the following activities shall be conducted in a nondiscriminatory manner: hiring; upgrading; demotion and transfers; recruitment and recruitment advertising; layoff and termination; rates of pay and other forms of compensation; and selection for training, including apprenticeship.

3.11. Disabled Access. The Developer shall develop the Developer Parcel Work of Improvement in compliance with all applicable federal, state, and local requirements for access for disabled persons.

3.12. Lead-based Paint. The Developer and its contractors and subcontractors shall not use lead-based paint in the construction of the Developer Parcel Work of Improvement or maintenance of Developer Parcel Work of Improvement units. The Developer shall insert this provision in all contracts and subcontracts for work performed on the Developer Parcel Work of Improvement which involve the application of paint.

3.13. Site Inspections. The Developer shall permit and facilitate observation and inspection of work at the Developer Parcel Work of Improvement site by the Agency's authorized representatives during normal business hours, subject to the indemnity provided in Section 7 hereof.

3.14. Quality of Work. The Developer shall construct the Developer Parcel Work of Improvement in conformance with general industry standards and the Land Use Approvals, and shall employ building materials of a quality suitable for the requirements of the Developer Parcel Work of Improvement. The Developer shall develop the Developer Parcel Work of Improvement in full conformance with applicable local, state, and federal statutes, regulations, and building and housing codes.

3.15. Insurance. The Developer shall cause to have in full force and effect such policies of insurance as are required by the Agency pursuant to Exhibit D which is attached hereto and incorporated herein by this reference.

3.16. Local, State, and Federal Laws; Prevailing Wages. Developer shall carry out development, construction (as defined by applicable law) and operation of the Developer Parcel Work of Improvement on the Developer Parcel, including, without limitation, any and all public works (as defined by applicable law), if any, in conformity with all applicable local, state and federal laws, including, without limitation, all applicable federal and state labor laws (including, without limitation, any applicable requirement to pay state prevailing wages). Developer hereby agrees that Developer shall have the obligation to provide any and all disclosures, representations, statements, rebidding, and/or identifications which may be required by Labor Code Sections 1726 and 1781, as the same may be enacted, adopted or amended from time to time, or any other provision of law. Developer hereby agrees that Developer shall have the obligation to provide and maintain or cause to be provided and maintained any and all bonds to secure the payment of contractors (including the payment of wages to workers performing any public work) which may be required by the Civil Code, Labor Code Section 1781, as the same may be enacted, adopted or amended from time to time, or any other provision of law. Developer shall indemnify, protect, defend and hold harmless Agency Indemnified Parties (as defined in Section 14.1.1.) with counsel reasonably acceptable to Agency and City, from and against any and all loss, liability, damage, claim, cost, expense, and/or "increased costs" (including labor costs, penalties, reasonable attorneys fees, court and litigation costs, and fees of expert witnesses) which, in connection with the development, construction (as defined by applicable law) and/or operation of the Developer Parcel Work of Improvement, including, without limitation, any and all public works (as defined by applicable law), if any, results or arises in any way from any of the following: (1) the noncompliance by Developer of any applicable local, state and/or federal law, including, without limitation, any applicable federal and/or state labor laws (including, without limitation, if applicable, the requirement to pay state prevailing wages); (2) the implementation of Sections 1726 and 1781 of the Labor Code, as the same may be enacted, adopted or amended from time to time, or any other similar law; (3) failure by Developer to provide any required disclosure representation, statement, rebidding and/or identification which may be required by Labor Code Sections 1726 and 1781, as the same may be enacted, adopted or amended from time to time, or any other provision of law; and/or (4) failure by Developer to provide and maintain or cause to be provided and maintained any and all bonds to secure the payment of contractors (including the payment of wages to workers performing any public work) which may be required by the Civil Code, Labor Code Section 1781, as the same may be enacted, adopted or amended from time to time, or any other provision of law. Developer hereby expressly acknowledges and agrees that neither City nor Agency has ever previously affirmatively represented to the Developer or its contractor(s) for the Developer Parcel Work of Improvement in writing or otherwise, that the work to be covered by the bid or contract is not a "public work," as defined in Section 1720 of the Labor Code. It is agreed by the parties that, in connection with the development, construction (as defined by applicable law) and operation of the Developer Parcel Work of Improvement, including, without limitation, any public work (as defined by applicable law), if any, Developer shall bear all risks of payment or non-payment of state prevailing wages and/or the implementation of Labor Code Sections 1726 and 1781, as the same may be enacted, adopted or amended from time to time, and/or any other provision of law. "Increased costs" as used in this Section shall have the meaning ascribed to it in Labor Code Section 1781, as the same may be enacted, adopted or amended from time to time. The foregoing indemnity shall survive termination of this Agreement and shall continue after recordation of the Release of Construction Covenants.

4. COMPLETION

4.1. Completion of Developer Works of Improvement.

4.1.1. Completion. Developer hereby agrees to cause the Developer Parcel Work of Improvement to be completed in substantial accordance with the approved Schematic Design Drawings, Construction Drawings, Description of Developer Work of Improvement, all entitlements, all Governmental Approvals and any applicable requirements of any Governmental Authority and to pay all development costs (hard and soft) to complete the Developer Parcel Work of Improvement as provided in this Agreement.

4.1.2. Completion Procedures. When Developer has received from its architect and from its general contractor a written certification that the Developer Parcel Work of Improvement is complete, and determines that it has completed the Developer Parcel Work of Improvement of Improvement in accordance with subsection 4.1.1, Developer shall immediately take the following actions:

4.1.2.1 Notify the Director of Building and obtain final written inspections and approvals from them and final certificates of occupancy from the City;

4.1.2.2 Notify the Agency in writing and request final inspection of the Developer Parcel Work of Improvement; and

4.1.2.3 Record a Notice(s) of Completion, as referred to in Section 3093 of the California Civil Code, with respect to its Developer Parcel Work of Improvement.

4.1.3. Final Inspection and Punch List. After the Agency receives the notice described in subsection 4.1.2.2. above, the Agency and Developer and their designated agents and representatives may, but are not obligated to, conduct a joint and final inspection of the Developer Parcel Work of Improvement in order to (1) verify that the Developer Parcel Work of Improvement has been completed; (2) determine if Developer is in material default of any provision of this Agreement relating to the Developer Parcel Work of Improvement; and (3) prepare a list of those parts of the Developer Parcel Work of Improvement if any, that remain to be completed, or which need additional work, correction, repair or replacement (the "**Punch List**").

4.1.4. Completion of Punch List. Developer shall use diligent and best efforts to correct and complete all Punch List items, if any, identified pursuant to Section 4.1.3 above, within the earlier of 60 days after receipt of the Punch List or the applicable Scheduled Completion Date, and shall immediately notify the Agency when all Punch List Items are completed. The Agency and its designated representatives may, but are not obligated to, inspect the listed items to verify correction and completion of the Punch List Items.

4.1.5. Bond for Minor Punch List Items. Notwithstanding any remaining uncompleted Punch List items, the Agency nevertheless shall treat the Developer Parcel Work of Improvement as completed if: (1) the Punch List items are limited to minor corrections, modifications and adjustments the existence and completion of which shall not materially interfere with the principal ability to utilize and operate all portions of the Developer Parcel Work of Improvement for their intended purposes; and (2) Developer posts with the Agency a lien and completion bond or letter of credit (or other security reasonably acceptable to the Agency) in an amount representing Agency's reasonable estimate of the cost of the work not yet completed.

4.2. Release of Construction Covenants.

4.2.1. Promptly upon completion of the Developer Parcel Work of Improvement in accordance with this Agreement and satisfaction of the conditions set forth in Section 4.2.2 of this Section, Agency shall issue to Developer a Release of Construction Covenants, in the form attached hereto as Exhibit H, upon written request therefor by Developer. Agency shall not unreasonably withhold or delay issuing the Release of Construction Covenants. Such Release of Construction Covenants shall be, and shall so state, conclusive determination of satisfactory completion of the Developer Parcel Work of Improvement required by this

Agreement, and of full compliance with the terms of this Agreement with respect to such Developer Parcel Work of Improvement. After the recordation of the Release of Construction Covenants, Developer and any party thereafter purchasing, leasing, subleasing, or otherwise acquiring any interest in Developer's interest in the Developer Parcel shall not (because of such purchase, lease, sublease or acquisition) incur any obligation or liability under this Agreement with respect to such Developer Parcel Work of Improvement except as provided in the Agreement Affecting Real Property. Issuance of the Release of Construction Covenants shall not waive any rights or claims that Agency may have against Developer, any general contractor or any architect, or any subcontractors or suppliers for any latent or patent defects in design, construction or similar matters under any applicable law. The Release of Construction Covenants shall be in such form as to permit it to be recorded in the Office of the Recorder of Los Angeles County.

4.2.2. Agency shall not be obligated to issue the Release of Construction Covenants until each of the following has occurred:

4.2.2.1 Final inspection of the Development by or on behalf of Agency and determination by Agency that (a) the Developer Parcel Work of Improvement has been completed in substantial conformance with this Agreement, or (b) only minor Punch List items remain to be completed and Developer has provided the security described in Section 4.1.5 of this Agreement; and

4.2.2.2 Issuance of a certificate of substantial completion by the architect; and

4.2.2.3 Issuance of the final certificate(s) of occupancy by the City for the Developer Parcel Work of Improvement; and

4.2.2.4 Recordation of Notices of Completion, as referred to in Section 3093 of the California Civil Code; and

4.2.2.5 Releases or waivers of all liens or rights to record liens having been obtained from the general contractor and all subcontractors having served valid Preliminary 20-day Notices, and the statutory period for filing liens having expired; and

4.2.2.6 Occurrence of the Developer Parcel Opening.

4.2.3. If the Agency refuses or fails to issue a Release of Construction Covenants after written request from Developer, the Agency shall, within thirty (30) days of the written request, provide Developer with a written statement which details the reasons the Agency refused or failed to issue the Release of Construction Covenants. The statement shall also contain a statement of the actions Developer must take to obtain a Release of Construction Covenants. If the reasons for such refusal is confined to minor Punch List Items as described above, the Agency shall issue the Release of Construction Covenants upon the posting of the security described in subsection 4.1.5. If the Agency fails to provide such written statement within said thirty (30) day period, Developer shall be deemed entitled to the Release of Construction Covenants and shall have the right to legally compel delivery.

4.2.4. Such Release of Construction Covenants shall not constitute evidence of compliance with or satisfaction of any obligation of Developer under any loan documents, or to any other party (other than Agency). Such Release of Construction Covenants is not notice of completion as referred to in Section 3093 of the California Civil Code.

5. AGENCY ASSISTANCE

5.1. Developer Parcel Disbursement.

5.1.1. In consideration of Developer's obligations undertaken pursuant to this Agreement in connection with the Developer Parcel, until the Agency Assistance Termination Date, so long as (1) Developer has satisfied all of the Developer Parcel Conditions Precedent (as defined below); (2) and at all times that the Developer Parcel On-Going Conditions (as defined below) are satisfied, the Agency shall make the Annual Disbursement Payments to Developer on each Annual Disbursement Date in accordance with the provisions of this Section 5 and in accordance with the Note attached hereto as Exhibit E. The Agency shall also make Proportional Annual Disbursement Payments and Accrued Annual Disbursement Payments, if any, to Developer in accordance with Section 5.1.4 below and in accordance with the Note. The Note shall be executed by the Agency on the Effective Date and delivered to Developer concurrently therewith. The Note is evidence of the Agency's obligations in this Agreement and is not a condition to or limitation upon those obligations of Agency expressly set forth herein.

5.1.2. Priority of Obligation. The Agency's obligations hereunder are not, and shall not, be construed as a pledge of tax increment pursuant to Redevelopment Law Section 33671. Agency's obligations hereunder shall be subordinate to any existing bonds which Agency has issued which are secured by tax increment Agency receives from the Redevelopment Project and the refunding or refinancing thereof and any future bonds Agency may issue and the bonded indebtedness incurred in connection therewith; provided, however, that with respect to any future bonds, refunding of existing bonds (to the extent the principal amount and/or interest rate of the refunding bonds exceeds the then outstanding principal balance or then current interest rate of the refunded bonds), refunding of future bonds, or other indebtedness described herein, Agency shall notify Developer not less than thirty (30) days prior to issuance and, concurrent therewith, provide to Developer the fiscal consultant report described below demonstrating that, at the time of issuance, any such issuance and indebtedness will not adversely affect Agency's ability to perform its current and prospective obligations under this Agreement. In connection with any financing for which notice to Developer is required pursuant to the foregoing provision, Agency shall appoint a consultant or firm of such consultants generally recognized in the bond financing marketplace to be well qualified in the field of public finance consulting relating to tax increment financing, bond transactions, and the Community Redevelopment Law who is not a present or past consultant of the Agency and will not be involved in the proposed debt issuance in order to determine whether, in good faith, it can be demonstrated that, at the time of issuance, any such issuance and indebtedness will not adversely affect Agency's ability to perform its current and prospective obligations under this Agreement. Following its selection, the financial consultant shall prepare a report that reasonably demonstrates to Developer whether, following issuance of the proposed debt, sufficient debt service coverage will remain to pay debt service on all obligations currently outstanding and the obligations to Developer under this Agreement as well as the proposed issuance, assuming reasonable and customary debt coverage ratios. Unless it is demonstrated that there will be no adverse impact to Agency's ability to perform its obligations hereunder, such proposed financing shall not proceed. Agency shall consult with Developer as to the qualifications and selection of such consultant or firm of consultants and shall reasonably consider Developer's recommendations with respect to such selection. When required by this section, such report shall be delivered by Agency to Developer concurrently with the above-referenced 30-day notice of intended issuance of debt. The Agency's obligations under this Section 5.1.2 shall terminate on the Agency Assistance Termination Date. Bonded indebtedness includes any indebtedness incurred by the Agency for bonds, notes, interim certificates, debentures, certificates of participation or other obligations issued by the Agency. Nothing herein is intended to, nor shall it, limit the amount of tax increment the Agency currently receives for the Redevelopment Project or otherwise.

5.1.3. Tax Increment Note. The Agency shall evidence its obligation to pay the Developer the Agency Assistance as provided by this Agreement by execution and delivery of the Note in the form attached hereto as Exhibit E. The Agency Assistance shall be paid to the Developer in the form of Annual Disbursement Payments delivered to Developer when and as required by this Agreement. The Note shall provide for the Agency's commitment to pay the Agency Assistance to Developer up to and including the Agency Assistance Termination Date. The Developer shall have the right to commoditize the Note and/or to assign the Note.

5.1.4. Proportional and Accrued Annual Disbursement Payments. In the event the Developer is not entitled to receive an Annual Disbursement Payment on any Annual Disbursement Date because of the absence of a Developer Parcel Opening or the failure of Developer to meet the Agency Approved Square Footage Threshold for the applicable operating period, then (a) the Developer shall receive on such Annual Disbursement Date a payment of a percentage of the Annual Disbursement Payment otherwise payable under the terms of this Agreement reduced in proportion to the percentage of the Agency Approved Square Footage Threshold that Developer has failed to satisfy (**"Proportional Annual Disbursement Payment"**); (b) the Agency shall withhold and set aside the unpaid balance of such Annual Disbursement Payment remaining after such reduced payment, less any applicable Penalty, in an interest bearing account for up to three (3) years from the Annual Disbursement Date on which such reduced Annual Disbursement Payment was made to Developer; and (c) if the Developer fully satisfies the Agency Approved Square Footage Threshold originally applicable to such withheld funds during such 3-year period, then such withheld portion of the Annual Disbursement Payment, less any applicable Penalty, plus interest earned on such withheld funds, shall be paid to Developer within thirty (30) days of such full satisfaction of the Agency Approved Square Footage Threshold for the applicable period (**"Accrued Annual Disbursement Payments"**). In the event the Developer fails to fully satisfy the Agency Approved Square Footage Threshold originally applicable to such withheld funds during such 3-year period, then such withheld funds, plus interest earned on such withheld funds, shall be retained by the Agency as the property of the Agency, together with any applicable Penalty, and shall at no time be paid to Developer.

The investment of any funds withheld by the Agency under this Section 5.1.4 shall be at the sole discretion of the Agency, and the Agency shall not guarantee any particular level of interest earnings nor suffer any liability based on the actual amount of interest earned thereon.

"Penalty" shall mean, for purposes of this Section 5.1.4, an amount equal to ten percent (10%) of any funds withheld under Section 5.1.4(b), which shall be imposed by the Agency only if the Developer fails to meet an Agency Approved Square Footage Threshold in a given year by ten percent (10%) or more of such Agency Approved Square Footage Threshold. Each Penalty shall be retained by the Agency as the property of the Agency and shall at no time be paid to Developer.

The following is an illustrative example of the application of the provisions of this Section 5.1.4. This example is intended to be illustrative only, and in the event of any conflict between this illustration and the provisions of this Section 5.1.4 set forth above, such provisions shall control.

Year 2 of operation

Agency Approved Square Footage Threshhold is 115,000 square feet of Agency Approved Tenants, with 25,000 square feet of Agency Approved Tenants in the Existing Mall, or, 85% of the tenants of the list of Pre-Approved Tenants on Schedule II being open for business in the Mall.

Actual Square Footage of Agency Approved Tenants on the Annual Disbursement Date is 92,000 square feet of which 25,000 square feet are located in the Existing Mall. 70% of the tenants listed on the list of Pre-Approved Tenants on Schedule II are open for business in the Mall.

Developer has only met 80% of the Agency Approved Square Footage Threshhold (92,000 of 115,000 square footage required).

Annual Disbursement Payment available is $1,000,000.

$800,000 is paid to Developer on the Annual Disbursement Date as a Proportional Annual Disbursement Payment.

$200,000 is withheld by the Agency. A Penalty of $20,000 is imposed, and the remaining $180,000 is placed into an interest bearing account. Agency retains the Penalty as its property.

If 115,000 square feet of Agency Approved Tenants are open for business in the Mall within 3 years of the original Annual Disbursement Date involved, then the $180,000 plus interest is paid to Developer within 30 days such condition is satisfied. If not, the $180,000 plus interest is retained by the Agency as its property.

5.2. Conditions Precedent to Developer Parcel Disbursement. The disbursement of the Agency Assistance pursuant to this Agreement is conditioned upon the satisfaction by Developer of the conditions precedent described in this Section 5.2. Such conditions (the "**Developer Parcel Conditions Precedent**") are solely for the benefit of the Agency, and shall be satisfied by Developer (or waived by the Agency in writing in its sole and absolute discretion) within the time periods provided in the Schedule of Performance (if applicable), as such dates may be extended for Unavoidable Delays. If all Developer Parcel Conditions Precedent have not been satisfied or waived by the Agency by December 31, 2008, and if Developer fails to thereafter satisfy such condition after written notice from Agency of the unsatisfied condition within the cure period provided in Section 5.2.5. below, then this Agreement and the Agency's obligation to disburse the Agency Assistance to Developer pursuant to this Agreement shall automatically terminate. The Developer Parcel Conditions Precedent are:

5.2.1. Developer shall have executed this Agreement.

5.2.2. Developer shall have executed the Agreement Affecting Real Property in the form attached hereto as Exhibit G and the Agreement Affecting Real Property shall have been recorded against the Developer Parcel and shall be superior to the lien of any encumbrance or financing; provided, however, that only as to the Existing Mortgage (as defined in Section 11.2.1 below, and only for the period ending on July 11, 2011, the condition precedent required by this Section 5.2.2 may be satisfied by Developer performing all of the following:

(a) Developer shall use commercially reasonable and diligent good faith efforts to obtain reasonably satisfactory documentation of the superiority of the Agreement Affecting Real Property to the Existing Mortgage;

(b) If Developer has not obtained such documentation, and a foreclosure or the conveyance of a deed in lieu of foreclosure occurs with respect to the Existing Mortgage at any time after the date of this Agreement, and concurrently with such foreclosure or conveyance of a deed in lieu of foreclosure there is no assumption of the Developer's obligations under the Agreement Affecting Real Property such that the Agreement Affecting Real Property is then superior to the lien of any encumbrance or financing, then Developer shall repay to Agency any and all Annual Disbursement Payments theretofore paid by Agency to Developer, and no further Annual Disbursement Payments shall be payable by the Agency under this Agreement and/or the Note unless and until (i) the Agreement Affecting Real Property is superior to the lien of any encumbrance or financing, and (ii) there is no uncured default of any of Developer's obligations under this Agreement and/or the Agreement Affecting Real Property; and

(c) Developer shall, on or before August 1, 2011, provide documentation that the Agreement Affecting Real Property is in any event superior to the lien of any encumbrance or financing whatsoever as of July 12, 2011.

5.2.3. Delivery of evidence reasonably satisfactory to the Agency Assistant Executive Director that Developer has spent a minimum of $125,000,000 in verified hard direct construction costs (exclusive of tenant improvements) to complete the Developer Parcel Work of Improvement. Such evidence to be delivered shall include a copy of all relevant construction contracts and change orders, a certification of construction costs from Developer's architect, and a verification of construction costs by an independent qualified construction cost verifier reasonably acceptable to Agency's Assistant Executive Director. Developer shall pay for the cost of such verification.

5.2.4. Developer shall have provided evidence reasonably satisfactory to the Agency that Developer owns fee simple title to the Developer Parcel.

5.2.5. Subject to extensions of time for Unavoidable Delay, Developer shall have completed construction of the Developer Parcel Work of Improvement consistent with the Schematic Design Plans, the Construction Drawings and the Description of Developer Work of Improvement (Exhibit C) within the time set forth in the Schedule of Performance.

5.2.6. The Agency shall have issued, or shall be obligated to issue, a Release of Construction Covenants for the Developer Parcel Work of Improvement pursuant to <u>Section 4.2</u> above.

5.2.7. The Developer Parcel Opening shall have occurred as applicable to each year of operation of the Mall. This pre-condition may be partially satisfied or deferred and Proportional and Accrued Annual Disbursement

Payments may be made in the absence of full satisfaction of this pre-condition in accordance with and subject to the provisions of Section 5.1.4 above.

5.2.8. The Mall shall consist of tenants that have been approved by the Agency for compliance with the Agency Tenancy Requirements.

5.2.9. There shall exist no condition, breach of a covenant, event or act which would constitute a default under this Agreement or the Agreement Affecting Real Property, or which upon the giving of notice or the passage of time or both, would constitute a default hereunder or thereunder.

5.2.10. This Agreement shall not have been terminated as a result of Developer's Uncured Default hereunder or under the Agreement Affecting Real Property.

5.2.11. Developer shall have delivered to Agency a guaranty of Developer's obligations to make the payment required by Section 5.2.2 (b) above, if any, from Developer's parent company or a Westfield Entity or Affiliate reasonably approved by Agency's Assistant Executive Director, the form and substance of which guaranty shall be subject to the reasonable approval of Agency's Assistant Executive Director and General Counsel.

5.3. On-Going Conditions to Developer Parcel Disbursement. The on-going disbursement of the Annual Disbursement Payments is conditioned upon the continuing satisfaction by Developer of the on-going conditions described below. Such conditions (the "**Developer Parcel On-Going Conditions**") are solely for the benefit of the Agency, and shall be satisfied by the Developer as reasonably determined by the Agency's Executive Director or designee (or waived by the Agency in its sole and absolute discretion).

5.3.1. Developer shall use, operate and maintain, or cause the use, operation and maintenance of, the Developer Parcel pursuant to the this Agreement and the Agreement Affecting Real Property with Mall Shops occupied and opened for business by Agency Approved Tenants consisting of not less than the Agency Approved Square Footage Threshold. This condition may be partially satisfied or deferred and Proportional and Accrued Annual Disbursement Payments may be made in the absence of full satisfaction of this condition in accordance with and subject to the provisions of Section 5.1.4 above.

5.3.2. There is no Transfer other than a Permitted Transfer.

5.3.3. Subject to the notice and cure provisions provided herein, there is no default by Developer of its obligations under this Agreement.

5.3.4. Developer shall not have closed all or any portion of the Development.

5.3.5. Developer shall continue to be in compliance with the Agency Tenant Requirements.

5.3.6. Developer shall be in substantial compliance with the Agency-approved master plan and schedule for the Developer Parcel.

5.3.7. Developer shall continue to comply with Section 10.1.7.

5.3.8. This Agreement has not been terminated by Agency because of Developer's Uncured Default hereunder.

5.3.9. The Agency continues to remain legally entitled to receive tax increment from the Developer Parcel pursuant to applicable provisions of law; provided, that, Agency shall take any action reasonably necessary to preserve Agency's right to receive such tax increment as contemplated by this Agreement.

5.3.10. There shall be no Permanent Closure.

5.3.11. There shall not be Permanent Partial Closures (a) to the extent that Agency Approved Tenants open for business in the Mall constitute less than the Agency Approved Square Footage Threshold nor (b) to the extent that there are Permanent Partial Closures involving more than ten percent (10%) of the gross leasable area of the Mall, excluding the New Target Space and the food court. This condition may be partially satisfied or deferred and Proportional and Accrued Annual Disbursement Payments may be made in the absence of full satisfaction of this condition in accordance with and subject to the provisions of Section 5.1.4 above; provided however that notwithstanding the provisions of Section 5.1.4 above with respect to the condition set forth in Section 5.3.11(b) there shall be no Proportional Annual Disbursement Payment and the maximum accrual period for purposes of Accrued Annual Disbursement Payments shall be six (6) months instead of three (3) years.

5.4. Sharing of Sign Revenue. So long as the signs identified on Exhibit K attached hereto remain in operation, Developer shall pay to Agency (i) a base annual payment of Five Hundred Thousand Dollars ($500,000) ("**Base Payment**"); and (ii) an additional payment equal to fifty percent (50%) of the "**Gross Sign Revenue**" received by Developer during each calendar year which is in excess of a base of Two Million Two Hundred Thousand Dollars ($2,200,000.00) per calendar year (**"Additional Payment"**). "**Gross Sign Revenue**" shall mean all gross revenues and credits of any kind whatsoever received by or credited to Developer and/or any Affiliate and/or any Westfield Entity arising in any way from the use or operation of the signage identified on Exhibit J attached hereto. The Base Payment and the Additional Payment shall be paid to Agency on March 1 of each year for the prior calendar year, commencing on the first March 1 following the first calendar year in which the signs identified on Exhibit K attached hereto commence operation.

5.5. Windfall Participation Payments Upon Sale or Refinancing of the Mall or Any Portion Thereof. Developer shall pay to Agency ____ percent (___ %) of the Windfall Amount, if any, received by Developer and/or any Affiliate and/or any Westfield Entity from or in connection with the sale or refinancing of the Mall or any portion thereof (**"Windfall Participation Payment"**). The term **"Windfall Amount"** shall mean for purposes of this Section 5.5 that portion of net sale proceeds and/or net refinance proceeds, if any, received by Developer and/or any Affiliate and/or any Westfield Entity after the date of this Agreement which is in excess of Developer's Preferred Rate of Return on Developer's investment in the Developer Parcel as of the date of any such sale and/or refinancing. The term **"Developer's Preferred Rate of Return"** shall mean for purposes of this Section 5.5 a cumulative annual return to Developer on Developer's investment in the Developer Parcel as of the date of any such sale and/or refinancing of _____ percent (___%).

5.6. Agency and City Legal Costs re Signs. Within ninety (90) days of the date of this Agreement, Developer shall reimburse Agency and City all costs and expenses incurred by the Agency and the City for legal fees and costs and legal services in connection with the Developer's application to construct and operate signs on the Developer Parcel, the research, drafting and approval of the Agency's Design for Development relating to the Developer Parcel and the proposed City Master Sign Program, and any and all legal fees and costs incurred in connection therewith.

6. RELOCATION.

6.1. The relocation of any occupants or businesses, if any, required for construction and operation of the Developer Parcel Work of Improvement, including provisions of relocation assistance and benefits pursuant to Relocation Laws, shall be the sole financial responsibility of Developer. Relocation obligations, if any, which arise from this Agreement shall be administered by the Agency (or its designee, a qualified relocation consultant chosen by the Agency) in conformity with the Relocation Laws and in cooperation with Developer, with such administration paid by Developer. Agency acknowledges and agrees that Developer is working out relocation arrangements or payments to certain tenants and in some cases, such obligation is contractually agreed to or dealt with in tenant leases and Agency agrees to consult with Developer and coordinate with Developer any activities concerning the relocation process and payment of any relocation payments.

6.2. All of the cost and expenses incurred or to be incurred by Developer to cause the vacating of the Developer Parcel and/or relocation of all occupants and businesses from the Developer Parcel for construction and operation of Developer Parcel Work of Improvement (including, but not limited to, payments made to displaced persons and businesses, pre- or post-relocation rental payments, fees and actual expenses of attorneys, relocation consultants and other experts employed to effect the relocation of occupants and businesses, etc.) shall be the sole financial responsibility of Developer. Any costs arising related in any respect to such displacement, such as, but without limitation, claims for loss of business goodwill, payment for furniture, fixtures and equipment, payment for leasehold bonus value, and any other compensable interest under Relocation Laws shall be the sole financial responsibility of Developer and administered and reviewed by the Agency (or its designee), in consultation and cooperation with Developer as provided above.

6.3. Developer hereby covenants and agrees to indemnify, save, protect, hold harmless, pay for and defend the Agency and the Agency Indemnified Parties (as defined in Section 14.1.1.) from and against any and all liabilities, suits, actions, claims, demands, penalties, damages (including, without limitation, penalties, fines and monetary sanctions), losses, costs, or expenses, including, without limitation, reasonable consultants' and reasonable attorneys' fees, or relocation benefits (including, but not limited to, payments made to displaced persons and businesses, pre- or post-relocation rental payments, fees and actual expenses of attorneys, relocation consultants and other experts employed to effect the relocation of occupants and businesses, etc.) claimed or payable under the Relocations Laws which may now or in the future be incurred or suffered by the Agency or the Agency Indemnified Parties by reason of, or resulting from, in full or in part, or in any respect whatsoever from the displacement of businesses or other occupants of the Developer Parcel pursuant to this Agreement. This indemnification shall survive the termination of this Agreement.

6.4. Developer, on behalf of itself and any and all successors and assigns, hereby fully and finally releases the Agency, the City, and their respective past and present elective and appointive boards, commissions, officials, employees, representatives and agents from any and all manner of actions, causes of actions, suits, obligations, liabilities, judgments, executions, debts, claims, and demands of every kind and nature whatsoever, known and unknown, which Developer or any of its successors or assigns may now have or hereafter obtain against the Agency or the City or their respective past and present elective and appointive boards, commissions, officials, employees, representatives and agents by reason of, arising out of, relating to, or resulting from, in full or in part, Developer's election to acquire fee title to the Developer Parcel. The parties agree that, with respect to the release of claims as set forth above, all rights under Section 1542 of the California Civil Code and any similar law of any state or territory of the United States are expressly waived. Section 1542 reads as follows:

> Civil Code Section 1542. Certain claims not affected by general releases. A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release which if known by him must have materially effected his settlement with the debtor.

____
Developer's Initials

7. RIGHTS OF ACCESS.

During the period of construction of the Developer Parcel Work of Improvement, the Agency and its employees, agents, architects, engineers and contractors shall have the right to enter upon the Developer Parcel to inspect the Developer Parcel and the Developer Parcel Work of Improvement at reasonable times, but in no event without forty-eight (48) hour prior written notice of such access, to ensure development and operation in conformance with this Agreement, provided, however, that Agency has no right to enter a portion of the Developer Parcel once Developer has transferred possession of such portion of the Developer Parcel over to the tenant of such space. The Agency shall indemnify, defend and hold the Developer and its officers, agents and employees, harmless from any and all claims, demands, damages, losses, actions, liabilities, causes of action or judgments, including reasonable attorney's fees, which the Developer may incur or be required to pay by reason of entry onto the Developer Parcel and activities thereon by the Agency or the Agency's agents, employees, contractors or consultants, including, without limitation, any damages, injury or death to any person or the Developer Parcel suffered by any person, firm or corporation, except to the extent the same are attributable to the negligence or willful misconduct of the Developer or any person or entity acting on the Developer's behalf or under the Developer's authority. Prior to entry upon the Developer Parcel, the Agency shall deliver to Developer a certificate of insurance evidencing liability insurance coverage of at least Two Million Dollars ($2,000,000.00) naming Developer as an additional insured.

8. HAZARDOUS MATERIALS.

8.1. Hazardous Materials. For purposes of this Agreement, the term "**Hazardous Materials**" shall mean any substances that are toxic, corrosive, inflammable, or ignitable, petroleum and petroleum byproducts, lead, asbestos, any hazardous wastes, and any other substances that have been defined as "hazardous substances, "hazardous materials," "hazardous wastes," "toxic substances," or other terms intended to convey such meaning, including those so defined in any of the following federal statutes, beginning at 15 U.S.C. section 2601, et seq., 22 U.S.C. section 1251, et seq., 42 U.S.C. section 6901, et seq. (RCRA), 42 U.S.C. section 7401, et seq., 42 U.S.C. section 9601, et seq. (CERCLA), 49 U.S.C. section 1801, et seq. (HMTA); or California statutes beginning at California Health and Safety Code section 25100, et seq., section 25249.5, et seq., and 25300, et seq., and California Water Code section 13000, et seq., the regulations and publications adopted and promulgated pursuant to such statutes and any similar statutes and regulations adopted hereafter. Hazardous Materials shall not include substances stored on the Developer Parcel that are stored as part of the normal construction and operation of a retail project.

8.2. Remediation. The Developer shall be solely responsible for all costs of investigation, removal, cleanup, treatment, transportation, disposal, and monitoring of any contamination by Hazardous Materials on the Developer Parcel as required in connection with the Development. The Developer shall be solely responsible for developing, submitting, and implementing any risk assessments or remediation workplans for the Developer Parcel as required by the appropriate regulatory agencies. The Developer hereby waives and releases the Agency from any claims, causes of action, liabilities or costs arising from the presence of or associated with the investigation, monitoring or remediation of any Hazardous Materials contamination on the Developer Parcel as of the date of this Agreement, whether or not such contamination was known as of the date of this Agreement.

8.3. Environmental investigation. The Developer shall have the right to engage its own environmental consultant to make such environmental assessments or investigations of the Agency Parcel with respect to possible contamination by Hazardous Materials as the Developer deems necessary.

8.4. Use and operation of Development. Neither the Developer, nor any agent, employee, or contractor of the Developer, nor any authorized user, occupant, or lessee of the Developer Parcel shall use the Developer Parcel or allow the Developer Parcel to be used for the generation, manufacture, storage, disposal, or release of Hazardous Materials in violation of law following conveyance of title to the Developer Parcel to the Developer.

9. POST-CONSTRUCTION REQUIREMENTS AND COVENANTS.

9.1. Conformance with Culver City Redevelopment Plan. The Developer covenants for itself, its lessees, successors and assigns and every successor in interest to the Developer Parcel that the Developer, its lessees, successors and assigns shall use the Developer Parcel in full conformance with and subject to the requirements of the Culver City Plan, as modified from time to time, for so long as the Culver City Plan is in effect; provided, that no modification of the Culver City Plan that would adversely impact the use of the Developer Parcel for the uses contemplated by this Agreement shall be applicable to the Developer Parcel without Developer's written consent thereto. In satisfaction of the foregoing, Developer shall ensure that language substantially similar to the above is incorporated as covenants running with the land into all leases, rental agreements and grant deeds for the Development.

9.2. Nondiscrimination. The Developer covenants for itself, its heirs, executors, administrators and assigns and all persons claiming under or through them, that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, religion, creed, sex, sexual preference, marital status, ancestry, national origin, AIDS or AIDS-related complex, or disability in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Developer Parcel nor shall Developer or any person claiming under or through Developer 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 in the Developer Parcel. The foregoing covenants shall run with the land. The Developer shall ensure that language substantially similar to the above is incorporated as covenants running with the land into all leases, rental agreements and grant deeds for the Development.

9.3. Maintenance of the Development. Developer, for itself and its successors and assigns, hereby covenants and agrees to maintain and repair or cause to be maintained and repaired the Developer Parcel and all related on-site improvements and landscaping, including, without limitation, buildings, refuse areas, loading areas, parking areas, landscaping, lighting, signs and walls, in a good first class condition and repair, free of rubbish, debris and other hazards to persons using the same, and in accordance with all applicable laws, rules, ordinances and regulations of all federal, state, and local bodies and agencies having jurisdiction over the Development. Such maintenance and repair shall include, but not be limited to, the sweeping and trash removal, and the care and replacement of all shrubbery, plantings, and other landscaping in a healthy condition. In addition, Developer shall be required to maintain the Developer Parcel in such a manner as to avoid the reasonable determination of a duly authorized official of Agency or City that a public nuisance has been created by the absence of adequate maintenance such as to be detrimental to the public health, safety or general welfare or that such a condition of deterioration or disrepair causes appreciable harm or is materially detrimental to property or improvements.

9.4. Agreement Affecting Real Property. The covenants set forth in Sections 9.1, 9.2 and 9.3 shall be included in the Agreement Affecting Real Property to be recorded against the Developer Parcel pursuant to this Agreement. In addition, appropriate provisions shall be included in the Agreement Affecting Real Property as covenants running with the land relating to the performance of Developer's ongoing obligations under Sections 5.4, 5.5, 10.1, 10.2, 10.3, 11.1 and 11.2. Unless otherwise stated below in this Section 9.4, all such covenants shall expire on

December 31, 2034; provided that the non-discrimination covenants shall be binding in perpetuity; the obligation to refrain from certain property tax assessment appeals shall expire on the Agency Assistance Termination Date, the obligation to pay the Base Payment and the Additional Payment from sign operation pursuant to Section 5.4 shall expire when such signs no longer exist; and the following covenants shall expire on December 31, 2024: any Agency Approved Tenant requirements (Section 10.1.3), and restrictions on Transfer (Article 11).

10. USE OF THE DEVELOPER PARCEL.

10.1. Use of the Developer Parcel. For the period referred to in Section 9.4 above, Developer covenants and agrees for itself, its successors, its assigns and every successor in interest to the Developer Parcel, or any portion thereof, that Developer, such successors and such assignees shall:

10.1.1. Develop and construct the Developer Parcel Work of Improvements in substantial accordance with the Description of Developer Work of Improvement, Agency approved plans, this Agreement, the Culver City Plan, the plans approved for the Developer Parcel Work of Improvements by the City, the Schedule of Performance, all entitlements, all Governmental Approvals, and any applicable requirements of any Governmental Authority.

10.1.2. Use the Developer Parcel, or cause the Developer Parcel to be used, solely as a high-quality retail shopping center in substantial accordance with the Culver City Plan, this Agreement (including, without limitation the Scope of Development) and the Agreement Affecting Real Property or other uses reasonably approved in writing by Agency. No change in the use of the Developer Parcel shall be permitted without the prior written approval of the Agency.

10.1.3. Make commercially reasonable good faith efforts to sign Agency Approved Tenants occupying square footage equal to or greater than the Agency Approved Square Footage Threshold. Prior to entering into any lease with any tenant, Developer shall submit to Agency evidence reasonably satisfactory to the Agency's Executive Director demonstrating that such proposed tenant meets the following criteria:

10.1.3.1 After the Developer Parcel Opening the tenant's/subtenant's use is compatible with the existing uses on the Developer Parcel and the use is consistent with the OPA and this Agreement;

10.1.3.2 The tenant/subtenant has or employs managers with appropriate managerial experience in operating the type of business for which tenant/subtenant is attempting to lease/sublease space on the Developer Parcel; and

10.1.3.3 The tenant/subtenant has the financial ability to operate the type of business for which tenant/subtenant is attempting to lease/sublease space on the Developer Parcel.

10.1.4. Comply with the Municipal Code such that neither the Developer Parcel nor any part of it shall be used and no building or other improvements shall be constructed, maintained, or used for any purposes other than that which is allowed by the City's Municipal Code and development permits, if any, issued therefor.

10.1.5. Ensure that no use or operation will be made, conducted or permitted on or with respect to all or any part of the Developer Parcel, which use or operation is obnoxious to or out of harmony with the use of the Developer Parcel as a first-class retail shopping center, including, but not limited to, the following:

(i) Any public or private nuisance (as defined in California Civil Code Section 3479) connected with business operations conducted on the Developer Parcel;

(ii) Any noise or sound that is objectionable due to intermittence, beat, frequency, shrillness or loudness;

(iii) Any obnoxious odor;

(iv) Any noxious materials, and any toxic or caustic, or corrosive fuel or gas in violation of applicable law;

(v) Any dust, dirt or particulate matter in excessive quantities;

(vi) Any unusual fire, explosion, or other damaging or dangerous hazard;

(vii) Any warehouse, other than that which is incidental to the primary commercial use or business operation, and any assembly, manufacturing, distillation, refining, smelting, agriculture, or mining operation;

(viii) Any pawn shop or retail sales operation involving second-hand merchandise;

(ix) Any adult business or facility as defined and regulated in the City's Municipal Code. Such uses include, without limitation, massage establishments, adult news racks, adult bookstores, adult motion picture theaters, and paraphernalia businesses;

(x) Any gun shop or retail sales operation for which the main commercial use or business operation is the sale of guns;

(xi) Any retail sales operation for which the average price of merchandise is $5.00 or less, except that this prohibition shall not apply to (a) any retail sales operation for which the main commercial use or business operation is the sale of food and/or beverages, or (b) kiosks, or (c) an Agency Approved Tenant;

(xii) Any non-retail, non-sales tax generating use, which represents, in the aggregate, more than twenty percent (20%) of the total building area on the Developer Parcel, unless such non-retail, non-sales tax generating uses do not detract from the overall retail orientation of the Development.

10.1.6. Maintain and repair and operate the Developer Parcel and all improvements constructed or to be constructed thereon (including landscaping, lighting and signage), or cause the Developer Parcel and all such improvements to be maintained and repaired and operated in a first-quality condition, free of debris, waste and graffiti, and in compliance with the terms of the Culver City Plan and the following:

10.1.6.1 All improvements on the Developer Parcel shall be maintained in good condition in accordance with the custom and practice generally applicable to comparable first class retail shopping centers in Los Angeles County, and in substantial conformance and substantial compliance with all plans, drawings and related documents approved by the Agency pursuant to this Agreement and the City, all conditions of approval of land use entitlements adopted by the City or the City's planning department or planning commission, including painting and cleaning of all exterior surfaces of all private improvements and public improvements to the curbline.

10.1.6.2 Landscape maintenance shall be consistent with the custom and practice generally applicable to comparable first-class, retail shopping centers in Los Angeles County, including, without limitation, watering/irrigation; fertilization; mowing; edging; trimming of grass; tree and shrub pruning, trimming and shaping of trees and shrubs to maintain a natural and healthy appearance, road visibility, and irrigation coverage; replacement, as needed, of all plant materials; control of weeds in all planters, shrubs, lawns, ground covers, or other planted areas; and staking for support of trees.

10.1.6.3 Clean-up maintenance shall be consistent with the custom and practice generally applicable to comparable first-class, retail shopping centers in Los Angeles County, including, without limitation, maintenance of all sidewalks, paths and other paved areas in a clean and weed-free condition; maintenance of all such areas clear of dirt, mud, trash, debris or other matter which is unsafe or unsightly; removal of all trash, litter and other debris from improvements and landscaping; clearance and cleaning of all areas on which maintenance operations are performed prior to the end of each day to ensure that all cuttings, weeds, leaves and other debris are properly disposed of by maintenance workers.

10.1.7. If the Agency gives written notice to Developer that the maintenance or condition of the Developer Parcel or any portion thereof or any improvements thereon does not comply with this Agreement and such notice describes the deficiencies, Developer shall correct, remedy or cure the deficiency within thirty (30) days following the submission of such notice, unless the notice states that the deficiency is an urgent matter relating to public health and safety in which case Developer shall commence to cure the deficiency within forty-eight (48) hours following the submission of the notice and shall proceed with all due diligence to complete the cure at the earliest possible time thereafter but in no event later than thirty (30) days following the submission of such notice. In the event Developer fails to maintain the Developer Parcel or any portion thereof or any improvements thereon in accordance with this Agreement and fails to cure any deficiencies within the applicable period described above, the Agency shall have, in addition to any other rights and remedies hereunder, the right to maintain the Developer Parcel and the improvements thereon, or portion thereof, or to contract for the correction of any deficiencies, and Developer shall be responsible for payment of all such costs actually and reasonably incurred by the Agency and such payment shall constitute a lien on the Developer Parcel pursuant to California Civil Code Section 2881.

10.1.8. Pay when due all real estate taxes and assessments assessed or levied on the Developer Parcel or any portion thereof or any improvements thereon or any interest therein.

10.1.9. As a material inducement to entering into this Agreement, Agency is relying on Developer to waive and refrain from making any appeal, challenge or contest of or to the validity or amount of any tax assessment, encumbrance or lien on the Developer Parcel; provided, however, that Developer may appeal, challenge or contest (1) the initial assessment of the Developer Parcel following the issuance of the Release of Construction Covenants for the Developer Parcel Work of Improvement by the Agency to the extent that such initial assessment is greater than the development costs of the applicable portion of the improvements; (2) any increase in assessment of the Developer Parcel improperly assessed because of a purported change of ownership where no such change took place; (3) any increase in assessment of the Developer Parcel occurring by reason of a bona fide arms-length sale to the extent such increase in assessment results in an assessment in excess of the purchase price of such bona fide arms-length sale; or (4) any other assessment, so long as such challenge does not attempt to obtain or result in an assessment which is lower than an amount equal to that established by the Los Angeles County Tax Assessor as reflected in the first equalized assessment roll reflecting the completion of the Developer Parcel Work of Improvements, increased by a compounded 2% per year thereafter to the date of challenge; and further provided that, with respect to any such challenge or appeal under the foregoing exceptions, the Developer shall prosecute any such permitted appeal, challenge or contest diligently and in good faith. Developer covenants and agrees to provide the Agency with at least thirty (30) days advance written notice of the filing of any property tax appeal and the basis therefor, and to refrain from objecting in any way to the standing of the Agency to participate in any such appeals.

10.1.10. As a material inducement to entering into this Agreement, Agency is relying on Developer to provide for the Development to be operated, managed and maintained in accordance with the covenants and restrictions set forth in the Agreement Affecting Real Property, attached to this Agreement as Exhibit G.

10.2. Obligation to Refrain from Discrimination. Developer covenants and agrees, in perpetuity, for itself, and shall cause its successors and assigns in interest to the Developer Parcel or any part thereof to covenant, that there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Developer Parcel, nor shall the transferee itself 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, sublessees, subtenants, or vendees of the Developer Parcel.

10.3. Form of Nondiscrimination and Nonsegregation Clauses. The Developer shall refrain from restricting the rental, sale or lease of the property on the basis of sex, sexual orientation, marital status, race, color, creed, religion, ancestry or national origin of any person. All deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

10.3.1. In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

10.3.2. In leases: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee 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, sublessees, subtenants, or vendees in the premises herein leased."

10.3.3. In contracts: "There shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the land, nor shall the transferee itself 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, sublessees, subtenants, or vendees of the land."

11. TRANSFERS AND CHANGES IN DEVELOPER.

11.1. Changes in Ownership or Control of Developer; Transfers. Developer represents and agrees that its undertakings pursuant to this Agreement are for the purpose of redevelopment of the Developer Parcel and not for speculation in land holding. Developer further recognizes that the qualifications and identity of Developer are of particular concern to the City and Agency, in light of the following: (a) the importance of the redevelopment of the Developer Parcel to the general welfare of the community; (b) the public assistance that has been made available by law and by the Agency for the purpose of making such redevelopment possible; and (c) the fact that a change in ownership or control of Developer or any other act or transaction involving or resulting in a significant change in ownership or control of Developer, is for practical purposes a transfer or disposition of the property then owned by Developer. Developer further recognizes that it is because of such qualifications and identity that Agency is entering into the Agreement with Developer. Therefore, no voluntary or involuntary successor in interest of Developer shall acquire any rights or powers under this Agreement except as expressly set forth herein. The provisions of this Article shall no longer apply after July 21, 2024, and, upon such date, all restrictions on transfer set forth in this Agreement or the Agreement Affecting Real Property shall automatically terminate.

11.1.1. Changes in Ownership or Control of Developer.

11.1.1.1 Developer represents and agrees for itself, its officers, members, partners and any successor in interest of itself and each officer, member and partner that following the date of execution of this Agreement by the Agency there shall be no significant change in the general partner of Developer, or with respect to the identity of the parties in control of Developer, by any method or means, except Permitted Transfers or unless pre-approved in writing by the Agency.

11.1.1.2 Developer shall promptly notify the Agency of any and all changes whatsoever in the identity of the parties in control of Developer, of which it or any of its officers, members or partners have been notified or otherwise have knowledge or information.

11.1.1.3 This Agreement may be terminated by the Agency if there is any significant change (voluntary or involuntary) in the management or control of Developer (other than such changes occasioned by the death or incapacity of any individual) following the date of execution of this Agreement by the Agency unless it is a Permitted Transfer or it has been pre-approved in writing by the Agency.

11.1.2. Prohibition against Transfer.

11.1.2.1 Developer represents and agrees for itself, its officers, members, partners and any successor in interest of itself and each officer, member and partner that following the date of execution of this Agreement by the Agency Developer shall not make or permit a Transfer, by any methods or means, except a Permitted Transfer or unless approved in writing by the Agency, which such approval cannot be unreasonably withheld.

11.1.2.2 Developer shall promptly notify the Agency of any and all Transfers of which it or any of its officers, members or partners have been notified or otherwise have knowledge or information.

11.1.2.3 Following the date of execution of this Agreement by the Agency, this Agreement may be terminated by the Agency (following notice to Developer and opportunity to cure) if there is any Transfer (other than a Permitted Transfer) without the prior written approval of Agency, which Agency may not unreasonably withhold.

11.1.3. Agency Consideration of Permitted Transfer or Other Transfer.

11.1.3.1 Permitted Transfers. Developer shall provide the Agency written notice of a Permitted Transfer, which notice shall be accompanied by sufficient evidence demonstrating that the Transfer is, in fact, a Permitted Transfer. The Agency shall provide Developer a written response indicating whether the Agency agrees with Developer that it is a Permitted Transfer. If the Agency does not reasonably agree with Developer and if the Transfer is not in fact a Permitted Transfer, then

Developer shall be obligated to comply with subsection 11.1.3.2 , below. In the absence of a specific written agreement executed by the Agency, no Permitted Transfer, or approval by the Agency of any such Permitted Transfer, shall be deemed to relieve Developer or any other party from any obligations under this Agreement. Notwithstanding anything contained herein to the contrary, the provisions of this Section 11.1 shall not apply to any Permitted Mortgagee, or its successor in interest after a foreclosure or deed-in-lieu of foreclosure.

11.1.3.2 Other Transfers. Developer shall provide the Agency written notice requesting approval of any Transfer other than a Permitted Transfer, which notice shall be accompanied by evidence sufficient to the Agency demonstrating the proposed transferee's operational qualifications and experience and financial commitments and resources, in sufficient detail to allow the Agency to evaluate the proposed transferee pursuant to the criteria set forth in this Agreement and the goals and objectives of the Agency in entering into this Agreement. The Agency shall not unreasonably withhold such approval. In the absence of a specific written agreement executed by the Agency, no Transfer, or approval by the Agency of any such Transfer, shall be deemed to relieve Developer or any other party from any obligations under this Agreement.

11.2. No Encumbrances Except Permitted Mortgages. The following provisions shall be applicable until a Release of Construction Covenants for the Developer Parcel Work of Improvement has been recorded:

11.2.1. Developer may encumber its interests in any portion of the Developer Parcel with a deed of trust or mortgage or other security instrument (referred to herein as a "**Mortgage**") without the consent or approval of the Agency so long as such deed of trust or mortgage or other security instrument is a Permitted Mortgage. A **"Permitted Mortgage"** means (i) any Mortgage meeting all of the criteria set forth in this Section 11.2.1 (it being agreed that no written consent of the Agency is required so long as such criteria are satisfied) and (ii) that certain Fee and Leasehold Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated as of July 11, 2001, given by Developer to Chicago Title Company, for the benefit of UBS Warburg Real Estate Investments Inc., and recorded with the Los Angeles County Recorder's Office, as the same has been or may hereinafter be amended, modified or supplemented from time to time (as amended, the **"Existing Mortgage"**).

11.2.1.1 No such Mortgage shall be binding upon Agency in the enforcement of its rights and remedies herein, unless and until Developer delivers or causes to be delivered to Agency a certified copy of the fully executed original Mortgage bearing the date and recording information and a certified copy of the original note secured by the Mortgage, each certified as true and correct by the Developer, together with written notice of the address of the Mortgagee to which notices may be sent; and in the event of an assignment of such Mortgage, such assignment shall not be binding upon Agency unless and until a copy thereof, bearing the date and recording information together with written notice of the address of the assignee thereof to which notices may be sent, have been delivered to Agency.

11.2.1.2 The Mortgage shall be originated only by a Qualified Lender. For the purposes hereof, the term "**Qualified Lender**" shall consist of:

(i) Any one or a combination of the following lending sources authorized under applicable California law to make mortgage loans and not under any order or judgment of any court or administrative agency restricting or impairing its operation as a lender, and having (together with its affiliates) (i) a net worth in the amount of not less than Twenty-Five Million Dollars ($25,000,000), increased by the percentage increase, if any, in the Consumer Price Index - all Urban Consumers, Los Angeles-Riverside-Orange County, CA from the date of this Agreement to the date of anniversary thereof most recently preceding the date of calculation, and/or (ii) originating in excess of One Hundred Million Dollars ($100,000,000) of mortgage and/or mezzanine loans in the prior twelve (12) month period, including, without limitation: a commercial or savings bank; a trust company; an insurance company; a savings and loan association; a building and loan association; a real estate investment trust; a pension retirement or welfare fund or pension advisory firm; mutual fund; or an endowment fund or foundation authorized to make loans in the State of California; or

(ii) Any other person or company who is generally accepted as a lender or provider of capital in the financing and capital markets, subject to the prior written approval by the Agency Executive Director or designee, which approval may be withheld in its reasonable discretion.

11.2.2. To effectuate this Section, Developer shall timely submit to the Agency Executive Director or designee reasonable information concerning the identity of any proposed lender.

11.2.3. Any extension, modification, change or amendment to a Mortgage that would make such Mortgage no longer meet the requirements of subsection (i), above shall not be effective, or binding upon Agency, unless and until approved by Agency.

11.2.4. A mortgagee of a Permitted Mortgage shall not be bound by any amendment, implementation agreement or modification to this Agreement subsequent to its approval without such lender giving its prior written consent.

11.2.5. In any event, Developer shall promptly notify Agency of any mortgage or deed of trust created or attached to the Developer Parcel whether by voluntary act of Developer or otherwise (other than the Existing Mortgage, for which no additional notification shall be necessary).

11.3. Mortgagee Not Obligated to Construct Works of Improvement. The holder of a Permitted Mortgage (a "**Permitted Mortgagee**") shall not be obligated by the provisions of this Agreement to construct or complete either the Developer Parcel Work of Improvement or to guarantee such construction or completion.

11.4. Notice of Default to Mortgagees; Right of Mortgagee to Cure Defaults. Whenever the Agency shall deliver any notice or demand to Developer with respect to any breach or default by Developer in the completion of the construction of the Improvements, the Agency shall at the same time deliver to each Permitted Mortgagee of record for the applicable parcel a copy of such notice or demand. Each such Permitted Mortgagee shall (insofar as the rights of the Agency are concerned) have the right at its option within one hundred twenty (120) days after the receipt of the notice and any applicable Developer cure period, to cure or remedy, or commence to cure or remedy, any such default and to add the cost thereof to the security interest debt and the lien of its security interest. If such default shall be a default which can only be remedied or cured by such lender upon obtaining possession of the applicable parcel, such Permitted Mortgagee shall seek to obtain possession with diligence and continuity through a receiver or otherwise, and shall remedy or cure such default within one hundred twenty (120) days after obtaining possession; provided that in the case of a default which cannot with diligence be remedied or cured, or the remedy or cure of which cannot be commenced within such one hundred twenty (120) day period, such Permitted Mortgagee shall have such additional time as reasonably necessary to remedy or cure such default with diligence and continuity; and provided further that such Permitted Mortgagee shall not be required to remedy or cure any non-curable default of Developer. Any Permitted Mortgagee who forecloses on its Permitted Mortgage, or is assigned or otherwise succeeds to the Developer Parcel or any portion thereof, shall have the right to undertake or continue the construction or completion of the Improvements upon the parcel acquired by such Permitted Mortgagee upon execution of a written agreement with the Agency by which such Permitted Mortgagee expressly assumes Developer's rights and obligations under this Agreement, approval of which agreement shall not be unreasonably withheld, conditioned or delayed by the Agency. Any such Permitted Mortgagee completing the Developer Parcel Work of Improvement shall be entitled, upon written request made to the Agency, to a Release of Construction Covenants from the Agency for either the Developer Parcel Work of Improvement.

11.5. Failure of Permitted Mortgagee to Complete Works of Improvement. In any case prior to the issuance of the Release of Construction Covenants for the Developer Parcel Work of Improvements by the Agency, where, following notice and an opportunity to cure as provided in this Agreement, neither Developer nor the Permitted Mortgagee has cured a default under this Agreement, the Agency may terminate this Agreement.

11.6. Mortgagee Protections. No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Agreement or the Agreement Affecting Real Property shall defeat or render invalid or in any way impair the lien or charge of any mortgagee, but this Agreement and the Agreement Affecting Real Property and the covenants contained herein and therein shall be senior in priority to any lien on the Developer Parcel except as expressly approved in writing by the Agency and except as otherwise provided as to the

Existing Mortgage only in Section 5.2.2. In the event any Mortgagee or proposed Mortgagee requests any modification or amendment to the lender protection provisions set forth in this Agreement, Agency agrees not to unreasonably withhold its consent to such requested modification or amendment.

12. TERMINATION AND REMEDIES.

12.1. No Fault Termination. Developer may terminate this Agreement if despite diligent and good faith efforts, Developer is unable to obtain the land use approvals required for construction of the Development. If Developer so terminates the Agreement, neither party shall have any rights or obligations under this Agreement.

12.2. Fault of the Agency. Any breach by the Agency of any material provision of this Agreement shall be an "Event of Default" by the Agency under this Agreement.

12.3. Developer Remedies. If an Event of Default on the part of the Agency occurs, the Developer shall first notify the Agency in writing of the purported breach, giving the Agency at least thirty (30) calendar days from receipt of such notice to cure or begin in good faith to cure such breach. If the Agency does not cure or begin to cure the breach within the time period specified, or the Agency does not thereafter diligently and continuously pursue such cure to completion, the Developer may pursue any of the following remedies: (i) terminating this Agreement; (ii) prosecuting an action for damages; (iii) seeking equitable relief from a court of competent jurisdiction, including but not limited to specific performance; or (iv) pursuing any other remedy at law or in equity.

12.4. Fault of the Developer. The occurrence of any of the following events shall be an "Event of Default" by the Developer under this Agreement:

12.4.1. The Developer fails to commence or complete construction of any portion of the Developer Parcel Work of Improvement undertaken by Developer within the times set forth in the Schedule of Performance, for any reason other than Unavoidable Delay.

12.4.2. The Developer voluntarily or involuntarily undertakes or attempts to undertake a Transfer in violation of this Agreement.

12.4.3. Any of the Developer's representations or warranties made in this Agreement, any statements made to the Agency by the Developer, or any certificates, documents, or schedules supplied to the Agency by the Developer were untrue in any material respect when made, or that the Developer concealed or failed to disclose a material fact from the Agency and such misrepresentation or failure to disclose has a material, adverse effect on Developer's ability to perform hereunder.

12.4.4. The Developer, or any partner, managing member, or parent entity of the Developer, files for bankruptcy, dissolution, or reorganization, fails to obtain a full dismissal of any involuntary filing brought by another party under bankruptcy or similar laws before the earlier of final relief or 90 days after filing, makes a general assignment for the benefit of creditors, applies for the appointment of a receiver, trustee, custodian, or liquidator, or fails to obtain a full dismissal of any such involuntary application brought by another party before the earlier of final relief or 90 days after the filing, becomes insolvent, or fails to pay its debts as they become due.

12.4.5. The Developer breaches any other material provisions of this Agreement.

If an Event of Default on the part of the Developer occurs, the Agency shall notify the Developer and any of its lenders for the Development in writing of its purported breach or failure, giving the Developer at least thirty (30) calendar days from receipt of such notice to cure such breach or failure, or, if such breach cannot reasonably be cured within the 30-day period, then the Developer shall not be in default if the Developer commences such cure within such 30-day period and diligently pursues such cure to completion, provided, however that in any event such default shall be cured within ninety (90) days. In the event the Developer does not cure within this time period, the Agency may pursue the remedies set forth below. In addition, if the Event of Default is not cured and this Agreement is terminated, the Developer shall deliver to the Agency all plans, specifications, drawings, studies, surveys, test results, and reports concerning the Development, which shall thereafter become the property of the Agency to the extent of Developer's interest therein, and subject to any restrictions on the use thereof contained in the underlying contracts related thereto.

12.5. Agency Remedies. If an Event of Default by the Developer occurs and the Event of Default is not cured as set forth above, the Agency may pursue any or all of the following remedies: (i) terminating this Agreement; (ii) prosecuting an action for damages; (iii) seeking equitable relief from a court of competent jurisdiction, including but not limited to specific performance; or (iv) pursuing any other remedy at law or in equity.

13. RIGHTS OF MORTGAGE HOLDERS.

13.1. Encumbrance for Development Purposes. The Developer may place, mortgages, deeds of trust, or any other reasonable method of security upon the Developer Parcel before the Development has been completed, for the purpose of securing loans of funds to be used for financing the development of the Development, subject to the terms and conditions of Section 13 hereof. Prior to commencement of the construction of the Development, the Developer shall promptly notify the Agency of any mortgage, deed of trust, sale and lease-back or other financing, conveyance, encumbrance or lien that has been or will be created or attached to the Developer Parcel. Notwithstanding any provision of this Agreement, the rights of the Agency under this Agreement shall not defeat, render invalid, or limit in any way any lien or encumbrance placed on the Developer Parcel for development purposes as authorized under this Agreement or any rights or interest of any holder of such lien or encumbrance, except for any limitations specifically imposed by this Agreement.

13.2. Holder Not Obligated to Construct. The mortgagee of any mortgage, beneficiary of any deed of trust, or holder of any other recorded security interest authorized by this Agreement in any part of the Developer Parcel (a "**Holder**") is not obligated to construct or complete any improvements or to guarantee such construction or completion. However, nothing in this Agreement shall be deemed to permit any Holder to devote the Developer Parcel to any uses, or to construct any improvements thereon, other than those uses or improvements provided for or authorized by this Agreement.

13.3. Notice of Default and Right to Cure. Whenever the Agency pursuant to its rights set forth in Section 4 of this Agreement delivers any notice or demand to the Developer with respect to the commencement, completion, or cessation of the construction of the Development, the Agency shall at the same time deliver to each Holder a copy of such notice or demand. If an Event of Default on the part of the Developer remains uncured after the expiration of the period provided herein for Developer to remedy or cure such default, any Holder shall have the right to remedy, or cause to be remedied, such default the period provided in Section 11.4 above, and the Agency shall accept such performance by or at the insistence of the Holder as if the same had been timely made by the Developer. The Holder shall have the right to add the cost of the cure to its security. Nothing in this Agreement is intended to permit a Holder to construct improvements on the Developer Parcel (beyond the extent necessary to conserve or protect such improvements or construction already made) without first having expressly assumed the Developer's obligations to the Agency herein by written agreement reasonably satisfactory to the Agency. The Holder in that event must agree to complete, in the manner provided in this Agreement, the Development and submit evidence satisfactory to the Agency that it has the qualifications and financial responsibility necessary to perform such obligations. After approval by the Agency, any Holder properly completing the Developer Parcel Work of Improvement shall be entitled, upon written request made to the Agency, to a Release of Construction Covenants as provided for in this Agreement.

13.4. Right of Agency to Cure. By appropriate agreement with a Holder, the Developer shall cause a Holder to provide the Agency with written notice by registered mail of the occurrence of any event of default under the mortgage, deed of trust of other security instrument. In the event of a default or breach by the Developer of a mortgage, deed of trust or other security instrument prior to the completion of the Development, and if the Holder has not exercised its option to complete the Development, the Agency may (but is not required to) cure the default, prior to the completion of any foreclosure. In such event the Agency shall be entitled to reimbursement from the Developer for all costs and expenses incurred by the Agency in curing the default. The Agency shall also be entitled to a lien upon the Developer Parcel to the extent of such costs and disbursements. Any such lien shall be subordinate to mortgages, deeds of trust or other security instruments executed for the purpose of obtaining funds to purchase and develop the Developer Parcel as authorized herein.

13.5. Right of Agency to Satisfy Other Liens. After the conveyance of title to the Developer Parcel and prior to the recordation of a Release of Construction Covenants, and after the Developer has had a reasonable time to challenge, cure or satisfy any liens or encumbrances on the Developer Parcel or any portion thereof, the Agency shall have the right to satisfy any such lien or encumbrances not satisfied by the Developer; provided, however, that nothing in this Agreement shall require the Developer to pay or make provision for the payment of any tax, assessment, lien or charge so long as the Developer in good faith shall contest the validity or amount thereof and so long as the Developer shall provide such reasonable security as may be required by the Agency to insure the payment of such tax, assessment, lien or charge to prevent any sale, foreclosure or forfeiture of the Developer Parcel by reason of such nonpayment. Such security shall be not less than the amount of the contested tax, assessment, lien or charge, including all penalties, fines and interest which can be assessed thereon.

13.6. Transfers by Holder. If any Holder shall acquire the Developer Parcel by foreclosure, deed in lieu of foreclosure or other transfer in satisfaction of debt, such Holder shall have the same rights afforded to Developer to Transfer the Developer Parcel to Permitted Transferees, without being required to assume this Agreement. Further, in the event that any consent of Agency is required in connection with any such Transfer by the Holder, Agency shall not unreasonably withhold its consent to any such Transfer.

14. INDEMNIFICATION AND INSURANCE.

14.1. Environmental Indemnities

14.1.1. In addition to the indemnifications set forth in Section 6, and subsection 15.10 of this Agreement, Developer hereby agrees to indemnify, protect, defend and hold harmless, individually and collectively Agency, the City and their respective elected officials, officers, employees, agents, consultants, contractors, attorneys, and representatives (and the successors to and assignees of such parties' respective interests in either the Development) (collectively, the "**Agency Indemnified Parties**"), and hold Agency Indemnified Parties harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses and claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against Agency Indemnified Parties for, with respect to, or as a direct or indirect result of, the use, generation, storage, release or disposal of Hazardous Materials, on or under the Developer Parcel ("**Subject Hazardous Materials**") by Developer, its tenants, subtenants, employees or agents, or the escape, seepage, leakage, spillage, discharge, emission or release of any Subject Hazardous Materials from the Developer Parcel (including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under CERCLA, any so-called "Superfund" or "Superlien" law, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards of conduct concerning any Hazardous Materials), if caused by, or within the control of Developer, its employees, agents, tenants, subtenants, or their respective successors or assigns (referred to as the "**Claims**"); provided, however, that this indemnity shall not apply to the extent Claims result from the negligence or willful misconduct of an Agency Indemnified Party.

14.1.2. Developer represents that, except as disclosed to the Agency in writing, it has not received any notice of (1) the happening of any event involving the spillage, discharge or cleanup of any Hazardous Materials affecting the Developer Parcel or (2) any complaint, order, citation or notice with regard to air emissions, water discharges, noise emissions or any other environmental, health or safety matter affecting the Developer Parcel ("**Environmental Complaint**") from any person or entity, including, without limitation, the United States Environmental Protective Agency ("**EPA**") which has not been remedied.

14.1.3. Without limitation of the Agency's rights under this Agreement, if Developer fails to remove or cause to be removed or dispose of or caused to be disposed of any Subject Hazardous Materials covered under the Developer's indemnity obligation in this Section, or to take reasonable actions to clean up, remove, resolve or minimize the impact of, or otherwise deal with, any such Subject Hazardous Materials or any Environmental Complaint, upon Developer's receipt of any notice from any person or entity, including without limitation, the EPA, asserting the existence of any such Subject Hazardous Materials or Environmental Complaint on or pertaining to the Developer Parcel which, if true, could result in an order, suit or other action against the Developer or Agency affecting any part of the Developer Parcel by any governmental agency or otherwise which, in the reasonable judgment of the Agency, could jeopardize the Agency's interests under this Agreement, then, after providing reasonable notice to Developer of the alleged failure by Developer under this subsection and providing Developer an opportunity to cure such alleged failure, the Agency shall have the right, but not the obligation, to enter onto the Developer Parcel or take such other actions as the Agency deems necessary or advisable to do so; provided, that no such entry or other actions shall interfere with the work of Developer on the Developer Parcel or Developer's operations thereon or with the use or occupancy of any portion of the Developer Parcel by any tenant of the Developer Parcel.

14.2. Indemnification.

14.2.1. As a material part of the consideration to the Agency, Developer agrees to indemnify, protect, defend and hold harmless, individually and collectively, the Agency and the Agency Indemnified Parties from and against all lawsuits, causes of action, claims, demands, damages, injuries, fines, losses, judgments, liens, encumbrances, charges, obligations, liabilities, costs and expenses (including but not limited to injury or loss of life to persons or damage to or loss of property, and reasonable attorneys' fees, expert witness fees and other costs of defense or of enforcing this indemnity) asserted by a third-party against Agency (collectively "**Agency Claims**") arising out of or relating to any of the following:

14.2.1.1 Any defect in the Developer Parcel Work of Improvement, subject to any limitations in applicable law (including specifically, but without limitation, any statutes of limitations applicable to any action which may be brought respecting alleged defects in the plans, drawings and related documents for the Developer Parcel Work of Improvement);

14.2.1.2 Any act or omission by any person or entity (other than by an Agency Indemnified Party) occurring on the Developer Parcel, in connection with construction of the Developer Parcel Work of Improvement;

14.2.1.3 Any mechanics', materialpersons', vendors', or suppliers' lien claimed by any person, furnishing construction, labor, materials, supplies or services to or for the Developer Parcel, or with respect to the Developer Parcel Work of Improvement (other than to an Agency Indemnified Party), during the construction of the Developer Parcel Work of Improvement (the **"Construction Period"**);

14.2.1.4 Use, possession or development of the Developer Parcel, the existence of any unsafe or dangerous condition on the Developer Parcel, and any accident, injury or damage whatsoever to any person or entity occurring on the Developer Parcel, or with respect to the Developer Parcel Work of Improvement (unless caused by an Agency Indemnified Party) during the Construction Period;

14.2.1.5 The breach or falsity of any material representation or warranty made or given by Developer under this Agreement;

14.2.1.6 Any willful misconduct or negligent act or omission by Developer or its officers, directors, partners, members, employees, agents, tenants, subtenants, or their respective successors or assigns in connection with the construction of the Developer Parcel Work of Improvement;

14.2.1.7 Any assertion, claim or cause of action against the Agency or a Agency Indemnified Party for the payment or performance of any indebtedness or obligation of Developer or its officers, directors, partners, members, employees, agents, tenants, subtenants, or their respective successors or assigns in connection with the development of the Developer Parcel Work of Improvement, whether on account of any theory of relationship, derivative liability, comparative negligence or otherwise; and

14.2.1.8 Any assertion, claim or cause of action against the Agency or a Agency Indemnified Party based on California Health & Safety Code Section 33426.7 in connection with any Agency Assistance to Developer arising out of the opening of the Target store in the Development in relation to the existing Target store on La Cienega Blvd. in Los Angeles.

14.2.2. If the Agency receives notice of an Agency Claim or otherwise has actual knowledge of an Agency Claim, it shall promptly (1) inform Developer of such claim of which it has knowledge and (2) send to Developer a copy of all written materials it receives from the claimant relating to the Agency Claim. Such written material shall consist of copies of any complaint, motion or other documents filed with any court, tribunal or other body before which a proceeding has been filed. Failure of the Agency to so inform Developer or to provide materials shall not, however, waive, cause forfeiture of or limit the remedies available to any Agency Indemnified Party with respect to enforcement of its indemnification rights as stated herein, except to the extent such failure inhibits Developer from taking, or otherwise prejudices Developer's ability to take, corrective action or otherwise defend such Agency Claim.

14.2.3. Developer shall, immediately upon receipt of written notification of any Agency Claim or demand, assume in full the responsibility for the defense of any Agency Claim or demand and pay in connection therewith any loss, damage, deficiency, liability, obligation, cost or expense. In the event of any action or proceeding, in court, arbitration or otherwise, in connection with any Agency Claim or demand, Developer shall have the right and responsibility to assume the defense of any such action, all at Developer's own cost with counsel selected by Agency; and Developer shall immediately satisfy and discharge any final decree or judgment rendered therein. Developer shall fully and regularly inform the Agency of the progress of the defense and any settlement discussions.

14.2.4. The provisions of this Section shall survive the termination of this Agreement and completion of the Developer Parcel Work of Improvement with respect to any Agency Claim arising prior to said completion.

14.3. Obligation to Maintain Insurance. Throughout any construction period, Developer shall procure or cause to be procured and continuously maintain or cause to be maintained such insurance policies as are required under this Section (individually an "**Insurance Policy**" and collectively the "Insurance Policies").

14.3.1. Insurance Policies. During any Construction Period, Developer shall procure or cause to be procured and maintain or cause to be maintained in full force and effect the following Insurance Policies:

14.3.1.1 General Liability Insurance. Commercial general liability insurance, including supplementary coverage of Blanket Contractual Liability (specifically including Developer's indemnity obligations under this Agreement), Broad Form Property Damage, Personal Injury Liability with the "employee" and "contractual" exclusions deleted, Product and Completed Operations Liability, Fire Legal Liability, Business Automobile Bodily Injury and Property Damage Liability extending to owned, non-owned and hired vehicles of Developer or its general contractor used in performance of Developer's obligations hereunder, amended as necessary to comply with Governmental Requirements. Such coverage shall insure on an occurrence basis against claims for "personal injury" and "property damage," including but not limited to bodily injury, death or property damage occurring upon, in or about the Developer Parcel including construction and staging areas, or any adjoining sidewalk, streets and passageways. Such coverage shall take effect and afford protection on or prior to commencement of construction of the Developer Parcel Work of

Improvement. Such coverage shall have an initial minimum coverage limit per occurrence of not less than $3,000,000 with respect to personal injury or death to any one or more persons or damage to property (i.e. combined single limit), and carry a deductible per occurrence of not more than $25,000.

14.3.1.2 Builder's Risk Insurance Throughout any Construction Period, coverage of the type now known as builder's completed value risk insurance, as delineated on an All Risk Builder's Risk 100% Value Non-Reporting Form. Such insurance shall insure against direct physical loss or damage by fire, lightning, wind, storm, explosion, collapse, underground hazards, flood, vandalism, malicious mischief, glass breakage and such other causes as are covered by such form of insurance. Such policy shall include (a) an endorsement for broad form property damage, breach of warranty, demolition costs and debris removal, (b) a "Replacement Cost Endorsement" in amount sufficient to prevent Developer from becoming a co-insurer under the terms of the policy, but in any event in an amount not less than 100% of the then full replacement cost, to be determined at least once annually, and (c) an endorsement to include coverage for budgeted soft costs. The replacement cost coverage shall be for work performed and equipment, supplies and materials furnished to the Developer Parcel or any adjoining sidewalks, streets and passageways, or to any bonded warehouse for storage pending incorporation into the work, without deduction for physical depreciation and with a deductible not exceeding $25,000 per occurrence.

14.3.1.3 Workers' Compensation Insurance. Workers' compensation insurance, to be carried by Developer, its general contractor, and all subcontractors and consultants, in an amount and form sufficient to meet all applicable Governmental Requirements, and employer's liability coverage to a limit of not less than $1,000,000, with respect to personal injury or death to any one or more persons or damage to property. Such policies shall cover all persons providing labor or services to or on behalf of Developer, its general contractor, subcontractors or consultants and all risks to such persons arising out of construction, use or occupancy of the Developer Parcel, repair of or entry onto the Developer Parcel, prior to completion of the Developer Parcel Work of Improvement.

14.3.1.4 Errors and Omissions Insurance. Unless waived by Agency, errors and omissions insurance, specifically and exclusively designated for the Developer Parcel Work of Improvement to be carried by the architect and engineer for the Developer Parcel Work of Improvement. Such insurance shall provide a minimum coverage limit per claim of not less than $500,000, or such lesser amount as Agency may approve, in writing. Such policy may be written on a "claims made" basis provided it commences as to each named insured upon execution of each covered contract, continues until completion of the Developer Parcel Work of

Improvement and includes at least a five-year discovery period after the end of each such policy period for submitting claims. Such policy shall provide coverage against loss or liability arising out of willful, negligent or innocent errors, omissions and misfeasance of the insured party in performing its contractual and professional obligations relating to the design, engineering and construction of the Developer Parcel Work of Improvement or subsequent alteration or work of improvement, as applicable, and shall include such endorsements as reasonably required by Agency.

14.3.2. Requirements Regarding Insurance. Each Insurance Policy required (or the particular Insurance Policies specified below) shall:

14.3.2.1 Be in form and substance as is then standard in California for policies of like coverage;

14.3.2.2 Be issued by insurance carriers qualified and licensed to engage in the insurance business in the State of California and having a current Policyholder's Management and Financial Size Category Rating of not less than "A:X" (other than the Workers' Compensation Insurance, which shall be not less than "A:VII") according to A. M. Best's Insurance Reports Key Rating Guide or if such rating system shall cease, then of recognized financial responsibility reasonably approved by the Agency in writing;

14.3.2.3 Provide coverage on an occurrence basis, except for the errors and omissions Insurance Policies;

14.3.2.4 Provide that the Insurance Policy cannot be canceled, suspended, lapsed or modified upon less than 30 days' prior written notice by registered or certified mail to Agency;

14.3.2.5 With respect to the Insurance Policies described in subsections 14.3.1.1 and 14.3.1.2, (a) name Agency and the City as an additional insured, as their interests appear, (b) provide that the coverage thereof is primary and non-contributory coverage with respect to any insurance maintained by an additional insured, (c) contain a Standard Cross Liability endorsement providing that the insurance (except for aggregate policy limit) applies separately to each insured against whom a claim is filed, and that the policy covers claims or suits by one insured against the other, and (d) provide that the interests and protections of the additional insureds shall not be affected by any misrepresentation, act or omission of a named insured or any breach by a named insured of any provision in the policy which would otherwise result in forfeiture or reduction of coverage;

14.3.2.6 With respect to the Insurance Policies described in subsections 14.3.1.1, 14.3.1.2 and 14.3.1.4 of this Agreement, contain either (a) a waiver by the insurer of the right of subrogation against Agency, the City, Developer, and its board members, commissioners, directors, officers, partners, members, employees, agents and representatives or (b) a statement that the insurance shall not be invalidated should any insured waive in writing its right of recovery or right of subrogation prior to occurrence of a loss covered by the Insurance Policy;

14.3.2.7 With respect to the Insurance Policy described in subsection 14.3.1.4 of this Agreement, contain the right to an assignment of statutory lien for the benefit of and upon request of Agency.

14.4. Delivery of Insurance Policies. Prior commencement of construction of the Developer Parcel Work of Improvement and not less than 30 days prior to the expiration date of each Insurance Policy required under Section 14.3.1. of this Agreement, Developer shall cause to be delivered to the Agency: (a) a complete certified copy of each such Insurance Policy or renewal or replacement Insurance Policy, provided, however, that delivery of a certificate of insurance shall be sufficient for purposes of this clause (a); (b) satisfactory evidence of payment of the premium therefor; and (c) a statement of noncancellation consistent with Section 14.3.2.4 of this Agreement. If Developer has not provided the Agency with the foregoing proof of coverage and payment within ten (10) Business Days after receipt of written request therefor, Agency may, in addition to any other available remedy, without obligation and without further inquiry as to whether such insurance is actually in force, obtain such an Insurance Policy and Developer shall reimburse Agency for the cost thereof upon demand.

14.5. Co-Insurer Liability. If on account of Developer's failure to comply with the provisions of this Article 4, Agency is adjudged to be a co-insurer by an insurance carrier, then any loss or damage it shall sustain by reason thereof shall be borne by Developer and Developer shall immediately pay the same upon receipt of written demand therefor and evidence of such loss or damage.

14.6. No Limit on Liability. Neither Agency nor Developer makes any representation that the limits of liability specified for the Insurance Policies to be carried pursuant to this Article X are adequate to protect Developer against its undertakings under this Agreement, or to protect any general contractor, any architect, any engineer or other consultant against their respective undertakings. In no event shall the limits of any coverage maintained or caused to be maintained limit the liability of any person under this Agreement or limit the liability of any general contractor, any architect, any engineer or other consultant under their respective contracts, warranties, guarantees and indemnities. The Agency shall not be limited to the amount of the insurance premium not paid in the proof of any damages it may claim against any person arising out of or by reason of failure of Developer, any general contractor, any architect, any engineer or other consultant to provide and keep in force the Insurance Policies required by this Article 4; but the Agency shall instead be entitled to recover the full amount of damages available.

15. GENERAL PROVISIONS

15.1. Notices, demands and communications. Formal notices, demands and communications under this Agreement shall be given in writing by any commercially accepted means to the principal offices of a party as follows, or if any such office is relocated, to the new address specified by the relocated party:

DEVELOPER:	Fox Hills Mall, LP c/o Westfield LLC 11601 Wilshire Boulevard, 11th Floor Los Angeles, CA 90025 Attention: John Goodwin, Vice President of Development
	CMF Fox Hills Mall, LLC c/o Westfield, LLC 11601 Wilshire Boulevard, 11th Floor Los Angeles, CA 90025 Attention: John Goodwin, Vice President of Development
WITH A COPY TO:	Fox Hills Mall, LP c/o Westfield, LLC 11601 Wilshire Boulevard, 11th Floor Los Angeles, CA 90025 Attention: Legal Department
AND A COPY TO:	CMF Fox Hills Mall, LLC c/o Westfield, LLC 11601 Wilshire Boulevard, 11th Floor Los Angeles, CA 90025 Attention: Legal Department
AGENCY:	Culver City Redevelopment Agency c/o Culver City 9770 Culver Boulevard Culver City, CA 90232 Attn: Jerry Fulwood, City Manager
	Copy to:
	Agency Counsel c/o Kane, Ballmer & Berkman 515 South Figueroa Street, Suite 1850 Los Angeles, CA 90071 Attn: Murray Kane, Esq., City Attorney

If mailed, the written notice shall be deemed received and shall be effective three (3) business days after deposit in the United States mail in the State of California or upon actual receipt by the addressee if earlier.

15.2. Conflicts of Interest. The Developer warrants and represents, to the best of its present knowledge, that no public official of the Agency who has been involved in the making of this Agreement, or who is a member of an Agency or City board or commission which has been involved in the making of this Agreement, has or will receive a direct or indirect financial interest in this Agreement or the Development in violation of the rules contained in California Government Code Section 1090, et seq., pertaining to conflicts of interest in public contracting. The Developer shall exercise due diligence to ensure that no such official will receive such an interest.

The Developer further warrants and represents, to the best of its present knowledge and excepting any written disclosures as to these matters already made by the Developer to the Agency, that (1) no public official of the Agency who has participated in decision-making concerning this Agreement or the Development or has used his or her official position to influence decisions regarding this Agreement or the Development, has an economic interest in the Developer or the Development, and (2) neither the Development nor this Agreement will have a direct or indirect financial effect on said official, the official's spouse or dependent children, or any of the official's economic interests. The Developer agrees to promptly disclose to the Agency in writing any information it may receive concerning any such potential conflict of interest. The Developer's attention is directed to the conflict of interest rules applicable to governmental decision-making contained in the Political Reform Act (California Government Code Section 87100, et seq.) and its implementing regulations (California Code of Regulations, Title 2, Section 18700, et seq.).

15.3. Nonliability. No member, official, employee, or agent of the Agency or the City shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the Agency or for any amount which may become due to the Developer or successor under the terms of this Agreement.

15.4. Developer's warranties. The Developer represents and warrants: (1) that it has access to professional advice and support to the extent necessary to enable the Developer to fully comply with the terms of this Agreement and otherwise carry out the Development; (2) that there are no pending or threatened actions or proceedings before any court or administrative agency which may substantially affect the financial condition or operation of the Developer, other than those already disclosed to the Agency; (3) that it is duly organized, validly existing and in good standing under the laws of the state of its organization and the laws of the State of California; (4) that the organizational documents it has submitted to the Agency concerning it or its partners or members are true, correct, and complete as of the date of this Agreement; (5) that it has the full power and authority to undertake the Development; and (6) that the persons executing and delivering this Agreement are authorized to execute and deliver such document on behalf of the Developer.

15.5. Litigation. The Developer shall promptly give notice in writing to the Agency of any litigation pending or threatened against the Developer, any of Developer's partners or members, or the Developer's parent entity in which the amount claimed is in excess of five hundred thousand dollars ($500,000).

15.6. Waiver. Any waiver by a party of the any of the other party's obligations in this Agreement must be in writing and executed by an authorized agent of the party against whom the waiver is sought to be enforced. No waiver will be implied from the delay or failure of a party to take action on any breach or event of default by the other party, or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time granted to a party by the other to perform any obligation under this Agreement shall not operate as a waiver or release from any of the relevant party's obligations under this Agreement. Consent by a party shall not be construed as consent to any other act or omission of the other party or to waive any requirement that a party obtain the written consent of the other under this Agreement.

15.7. Inspection of Records. The Agency has the right at all reasonable times to inspect the books, records and all other documentation of the Developer pertaining exclusively to its obligations under this Agreement, but not material that is confidential or a trade secret; provided, however, that Agency shall have the right to inspect and copy all books and records pertaining to Developer's obligations hereunder, including without limitation verified construction costs, sign revenue, qualification of Agency Approved Tenants, square footage measurements. Agency shall exercise its best efforts to maintain the confidentiality of all financial and other proprietary information provided by Developer to Agency in connection with the Development. Agency shall not use, or assist or allow any third party in using, any financial, proprietary or tenanting information provided by Developer to Agency in connection with this Agreement in a manner which adversely affects the Developer or the Development or the achievement of the redevelopment purposes contemplated by this Agreement.

15.8. Governmental Approvals. Should the Developer require the approval of any governmental body or board, the Developer shall bear the sole cost and responsibility for obtaining the approval.

15.9. Real Estate Commissions. Neither party shall be responsible to the other for any real estate commissions or brokerage fees which may arise from this Agreement or otherwise be incurred by the other party.

15.10. Applicable Law. This Agreement shall be governed by the laws of the State of California, except for those provisions preempted by federal law.

15.11. Severability. If any term, provisions, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall continue in full force and effect unless the rights and obligations of the parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

15.12. Time. Time is of the essence in the performance of this Agreement.

15.13. Binding Upon Successors; Covenants to Run With the Land. This Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors, transferees, successors-in-interests and assigns of each of the parties hereto, except that there shall be no transfer of any interest of any of the parties hereto except pursuant to the terms of this Agreement. The term "Developer" as used in this Agreement shall include all such assigns, successors-in-interest, and transferees. The parties intend that the covenants contained in this Agreement shall constitute covenants running with the land and shall bind the Developer Parcel and every person having an interest in the Developer Parcel during the term of this Agreement. The Developer agrees for itself and for its successors that in the event that a court of competent jurisdiction determines that the covenants herein do not run with the land, such covenants shall be enforced as equitable servitudes against the Developer Parcel.

15.14. Relationship of Parties. The relationship of the Developer and the Agency for this Development shall not be construed as a joint venture, equity venture, or partnership. The Agency neither undertakes nor assumes any responsibility or duty to the Developer (except as provided for herein) or any third party with respect to the Development or the Developer Parcel. Except as the Agency may specify in writing, the Developer shall have no authority to act as an agent of the Agency or to bind the Agency to any obligation.

The Developer shall be solely responsible for all aspects of its conduct in connection with construction of the Development, including, but not limited to, the quality and suitability of the plans and specifications, the supervision of construction work, and the qualifications, financial conditions, and performance of all architects, engineers, contractors, subcontractors, suppliers, consultants, and property managers. The Agency is under no duty to review the construction plans or to inspect construction of the Development. Any review or inspection undertaken by the Agency for the Development is solely for the purpose of determining whether the Developer is properly discharging its contractual obligations to the Agency, and should not be relied upon by the Developer or by any third parties as a warranty or representation by the Agency as to the quality of the design or construction of the Development.

15.15. Reasonable Approvals. Except as otherwise expressly provided herein, the approval of a party of any documentation, approvals, consents or submissions herein called for shall not be unreasonably withheld, delayed or conditioned.

15.16. Agency Approvals. Whenever a reference is made herein to an action or approval to be undertaken by the Agency, the Agency Executive Director or his or her designee is authorized to act on behalf of the Agency, unless specifically provided otherwise.

15.17. Execution of Other Documentation. The Agency and the Developer agree to execute any further documentation that may be reasonably necessary to carry out the intent and obligations under this Agreement, provided said documentation does not conflict with this Agreement.

15.18. Amendments. Any amendment to this Agreement must be in writing, must be approved by the Agency Board and must be executed by both the Agency and the Developer.

15.19. Estoppel certificates. Either party to this Agreement shall provide an estoppel certificate to the other as requested from time to time stating that this Agreement has not been modified, or, if modified, stating the nature of such modification, and certifying that this Agreement, as modified, is in full force and effect, certifying that there are no known defaults hereunder (or identifying the same), and certifying such other matters as the other party may reasonably request within thirty (30) days after the other party's written request therefor.

15.20. Integration. This Agreement constitutes the entire understanding and agreement of the parties with respect to the transaction contemplated by this Agreement.

15.21. Execution and Counterparts. This Agreement is executed in three duplicate originals, each of which is deemed to be an original. This Agreement may be signed in multiple counterparts, which, when signed by all parties, shall constitute a binding agreement.

15.22. Exhibits. The following Exhibits are attached to this Agreement and are hereby incorporated into this Agreement by reference:

Schedule I:	Approved Entities
Schedule II:	Agency Approved Tenants
Exhibit A:	Legal Description of Developer Parcel
Exhibit B:	Schedule of Performance
Exhibit C:	Scope of Development
Exhibit D:	Insurance requirements
Exhibit E:	Promissory Note
Exhibit F:	Construction Drawings and Schematic Design Plans
Exhibit G:	Agreement Affecting Real Property
Exhibit H:	Release of Construction Covenants
Exhibit I:	New Target Space
Exhibit J:	Agency Approved Square Footage Threshold
Exhibit K:	Signs Subject to New Sign Revenue Sharing Obligation

[SIGNATURE BLOCKS ON NEXT PAGE]

IN WITNESS WHEREOF, the undersigned parties have executed this Disposition and Development Agreement effective as of the date first above written.

"AGENCY"

THE CULVER CITY REDEVELOPMENT AGENCY,
a community redevelopment agency organized and existing under the California Community Redevelopment Law

By: ____

Approved as to form and legality:
Kane, Ballmer & Berkman

Agency General Counsel

By: ____
Murray O. Kane

"DEVELOPER"

FOX HILLS MALL, LP,
a Delaware limited partnership

By: Fox Hills GP LLC,
a Delaware limited liability company
Its: General Partner

By: Westfield America Limited Partnership,
a Delaware limited partnership
Its: Sole Member

By: Westfield U.S. Holdings, LLC,
a Delaware limited liability company
Its: General Partner

By: ______________________________
Name: ____________________________
Its: _______________________________

CMF FOX HILLS, LLC,
a Delaware limited liability company

By: CMF, Inc.,
a Delaware corporation
Its: Sole Member

By: ______________________________
Name: ____________________________
Its: _______________________________

Schedule I

Approved Entities

The Approved Entities shall include the following entities, and all of their affiliates and subsidiaries:

Fox Hills GP LLC

Westfield America Limited Partnership

Westfield U.S. Holdings, LLC

Schedule II

Pre-Approved Tenants

Exhibit A

Legal Description of Developer Parcel

(attached)

Exhibit B

Schedule of Performance

Exhibit C

Description of Developer Work of Improvement

Exhibit D

Insurance Requirements

I. Insurance requirements during construction

The Developer shall ensure that the general contractor for the Development obtains the following insurance coverage, and maintain such coverage in full force and effect during Development construction. Before issuance of a notice to proceed with the Development, the Developer shall deliver to the Agency certificate(s) of insurance, or a binder followed within 30 days by a certificate of insurance, evidencing the required coverage.

- COMPREHENSIVE GENERAL LIABILITY AND VEHICLE INSURANCE.
  - Minimum coverage: Bodily injury limits of $5,000,000 for each occurrence; property damage limits of $5,000,000 for each occurrence.
  - Policies shall include, at a minimum, but need not be limited to, coverages for bodily injury, property damage, personal injury, broad form property damage, premises and operations, severability of interest, products and completed operations, contractual liability, independent contractors and XCU.
- BROAD FORM PROPERTY DAMAGE (BUILDERS RISK INSURANCE).
  - Minimum coverage: 100% of replacement cost.
  - Deductible: $25,000 maximum deductible per occurrence.
  - Property covered: Structure and all insurable items within the Property (including landscaping and common areas).
  - Perils covered: All risk, or fire and hazardous installation, vandalism and malicious mischief.
  - Builders' risk installation floater for coverage of the contractor's labor, materials and equipment to be used for completion of work performed under the construction contract.
- WORKERS' COMPENSATION.
  - Workers' Compensation as required by the California Labor Code for all persons employed in connection with this Development.
  - Employer's Liability insurance with a limit of no less than $1,000,000 combined single limit per occurrence.
- AUTOMOBILE INSURANCE (if not part of CGL).
  - Minimum coverage: Bodily injury limits of $1,000,000 for each person and $1,000,000 for each accident or occurrence; property damage liability limits of $500,000 for each accident or occurrence

II. Property insurance

The Developer shall obtain property insurance including all risk coverage or standard fire and extended coverage insurance, with vandalism and malicious mischief endorsements to the extent of the full replacement value of the Developer Parcel (which may exclude existing improvements which are to be demolished) for the duration of the term of this Agreement. Coverage amount may be adjusted for fluctuation in replacement values.

III. Insurance requirements for professional services providers

The Developer shall ensure that any architect, design professional, engineer, consultant, and any other professional services provider that the Developer contracts with to perform work on the Development carries professional liability insurance for errors and omissions with a limit of no less than $1,000,000. The Agency may in its discretion waive this requirement on a case-by-case basis. Before any such professional begins work on the Development, the Developer shall deliver to the Agency certificate(s) of insurance, or a binder followed within 30 days by a certificate of insurance, evidencing the required coverage.

IV. General requirements

The aforementioned insurance shall be endorsed and have all the following conditions:

- **Additional Insured**: The Developer shall ensure that the Culver City Redevelopment Agency, Culver City, their respective Councilmembers, directors, officers, agents and employees are named as additional insureds in its comprehensive commercial general liability, professional liability, and automobile liability policies. If the Developer submits the ACORD Insurance Certificate, the additional insured endorsement must be set forth on a CG20 10 11 85 form (or more recent) and/or CA 20 48 - Designated Insured Form (for business auto insurance). A STATEMENT OF ADDITIONAL INSURED ENDORSEMENT ON THE ACORD INSURANCE CERTIFICATE FORM IS INSUFFICIENT AND WILL BE REJECTED AS PROOF OF THE ADDITIONAL INSURED REQUIREMENT;
- **Loss Payee**: The Developer shall ensure that the Culver City Redevelopment Agency, Culver City, their respective Councilmembers, directors, officers, agents and employees are named as Loss Payee in the builders' risk insurance and property insurance. The Developer shall provide appropriate Loss Payee endorsement as proof of meeting this requirement.
- **Cancellation Notice**: 30-day prior written notice of cancellation, termination or material change in coverage.
- Certificate holder is to be the same person and address as indicated in the "Notices" section of this Agreement.
- Insurer shall carry a Best Rating of B+ or greater.

In the case of the breach of any of the insurance provisions of this Agreement, the Agency may, at the Agency's option, take out and maintain at the expense of the Developer such insurance in the name of Developer as is required pursuant to this Agreement.

All endorsements, certificates, forms, coverage and limits of liability referred to herein shall have the meaning given such terms by the Insurance Services Office (ISO) as of the date of this Agreement.

The Developer or its general contractor shall include all subcontractors as insureds under its policies or shall maintain separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all the requirements stated herein. The Agency reserves the right to perform an insurance audit during the course of the Development to verify compliance with requirements.

Any deductible or self-insured retentions greater than $50,000 must be declared to and approved by the Agency. At the option of the Agency, either the insurer shall reduce or eliminate such deductible or self-insured retentions as respects the Agency, the City and their respective Councilmembers, directors, officers, agents, employees and volunteers; or the Developer shall provide a financial guarantee satisfactory to the Agency guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Exhibit E

Form of Promissory Note

FOX HILLS MALL PROMISSORY NOTE

$10,000,000 Net Present Value | Culver City, California

___________, 20__

FOR VALUE RECEIVED, CULVER CITY REDEVELOPMENT AGENCY, a community redevelopment agency organized and existing under the California Community Redevelopment Law (the "**Agency**"), effective as of the effective date of this Note as hereinafter defined (the **"Effective Date")** hereby promises to pay to FOX HILLS MALL, LP, a Delaware limited partnership and CMF FOX HILLS, LLC**,** a Delaware limited liability company (collectively, the "**Developer**") at their offices located at: c/o Westfield, LLC, 11601 Wilshire Boulevard, 11th Floor, Los Angeles, CA 90025, or at such other place as holder hereof may from time to time designate in writing, or registered assigns, in legal tender of the United States of America, a principal sum equal to the amount of TEN MILLION DOLLARS and 00/100 DOLLARS ($10,000,000) measured as of the date of this Note based upon a discount rate of six percent and as more particularly described in the Westfield Fox Hills Owner Participation Agreement (the "OPA") dated as of the date of this Note (the "**Loan**"). Except as otherwise provided herein, the capitalized terms herein used herein shall have the meanings prescribed for those terms in the OPA.

This Note shall become effective only upon the occurrence, if at all, of the Effective Date. For purposes of this Note, the "Effective Date" shall mean the date on which all of the Developer Parcel Conditions Precedent have been satisfied in accordance with Article 5 of the OPA

All payments hereunder shall be payable on the Annual Disbursement Dates commencing on the first October 1st following Agency's issuance of the Release of Construction Covenants for the Developer Parcel Work of Improvement, and every October 1st thereafter until the Agency Assistance Termination Date, subject to and in accordance with the terms and conditions of the OPA.

All payments of by the Agency under this Note shall be from the total ad valorem property tax increment revenue received by the Agency and allocable to a fiscal year pursuant to Section 33670(b) of the Redevelopment Law, as said statute may be amended from time to time, to the extent attributable to an increase in the assessed value of the Developer Parcel over and above the assessed value established by the Los Angeles County Tax Assessor in the equalized assessment roll for the 2006-07 year, but specifically excluding therefrom all of the following: (a) the portion of such tax increment revenues that is required to be set aside pursuant to Sections 33334.2 et seq. of the Redevelopment Law or any successor law for low-and moderate-income housing purposes (currently 20%); (b) the portion of such tax increment revenues that the Agency is required to pay to any other governmental entities pursuant to any statutorily required pass through payments and County administrative fees, as said statutory requirement may be amended from time to time; and (c) the portion of such tax increment revenues which the Agency may hereafter be required by the State to pay or set aside for specified funding purpose from time to time, including, for example, and without limiting the generality of the foregoing, any payments which the Agency may be required to pay to the Education Revenue Augmentation Fund pursuant to Section 33681 et seq. of the Redevelopment Law ("**Net Developer Parcel Tax Increment**"). The deductions from Net Developer Parcel Tax Increment shall be limited to only those payments that are mandatory requirements on the Agency and which the Agency has no discretion to avoid, or which can only be avoided by exercise of discretion in a way that would result in a material financial adverse impact to the Agency. Agency covenants that it shall not take any discretionary action that would cause a reduction or loss in the Net Developer Parcel Tax Increment available for payment of Agency Assistance during the term of this Agreement.

This Note shall be payable solely from Net Developer Parcel Tax Increment and from no other revenue or property of the Agency, it being understood that this instrument is a special limited obligation of the Agency and is payable solely from Net Developer Parcel Tax Increment and only to the extent required to be paid pursuant to the OPA.

This Note may be prepaid, in whole or in part, at any time, without prepayment charge or penalty.

Reference is made to the OPA for a description of the covenants and agreements made by the Agency and Developer with respect to payment of Net Developer Parcel Tax Increment to pay this Note, the nature and extent of the security for this Note, the rights, duties and obligations of the Agency with respect hereto and, the rights of the Developer hereof.

Any provision contained herein or in any other agreement or document delivered in connection with or otherwise relating to the loan evidenced by this Note to the contrary notwithstanding, it is agreed that, upon the occurrence and continuance of any default, Developer shall neither seek nor take any deficiency or monetary judgment against the Agency, and Developer's only recourse is against the Net Developer Parcel Tax Increment funds.

This Note shall be construed and enforced in accordance with the laws of the State of California and Agency consents to personal jurisdiction of the appropriate state or federal court located in Los Angeles County, California.

The Agency's obligations hereunder are not, and shall not, be construed as a pledge of tax increment pursuant to Redevelopment Law Section 33671. Agency's obligations hereunder shall be subordinate to any existing bonds which Agency has issued which are secured by tax increment Agency receives from the Redevelopment Project and the refunding or refinancing thereof and any future bonds Agency may issue and the bonded indebtedness incurred in connection therewith; provided, however, that with respect to any future bonds, refunding of existing bonds (to the extent the principal amount and/or interest rate of the refunding bonds exceeds the then outstanding principal balance or then current interest rate of the refunded bonds), refunding of future bonds, or other indebtedness described herein, Agency shall notify Developer not less than thirty (30) days prior to issuance and, concurrent therewith, provide to Developer the fiscal consultant report described below demonstrating that, at the time of issuance, any such issuance and indebtedness will not adversely affect Agency's ability to perform its current and prospective obligations under this Agreement. In connection with any financing for which notice to Developer is required pursuant to the foregoing provision, Agency shall appoint a consultant or firm of such consultants generally recognized in the bond financing marketplace to be well qualified in the field of public finance consulting relating to tax increment financing, bond transactions, and the Community Redevelopment Law who is not a present or past consultant of the Agency and will not be involved in the proposed debt issuance in order to determine whether, in good faith, it can be demonstrated that, at the time of issuance, any such issuance and indebtedness will not adversely affect Agency's ability to perform its current and prospective obligations under this Agreement. Following its selection, the financial consultant shall prepare a report that reasonably demonstrates to Developer whether, following issuance of the proposed debt, sufficient debt service coverage will remain to pay debt service on all obligations currently outstanding and the obligations to Developer under this Agreement as well as the proposed issuance, assuming reasonable and customary debt coverage ratios. Unless it is demonstrated that there will be no adverse impact to Agency's ability to perform its obligations hereunder, such proposed financing shall not proceed. Agency shall consult with Developer as to the qualifications and selection of such consultant or firm of consultants and shall reasonably consider Developer's recommendations with respect to such selection. When required by this section, such report shall be delivered by Agency to Developer concurrently with the above-referenced 30-day notice of intended issuance of debt. The Agency's obligations under this Note shall terminate on the Agency Assistance Termination Date. Bonded indebtedness includes any indebtedness incurred by the Agency for bonds, notes, interim certificates, debentures, certificates of participation or other obligations issued by the Agency. Nothing herein is intended to, nor shall it, limit the amount of tax increment the Agency currently receives for the Redevelopment Project or otherwise.

Upon the Agency Assistance Termination Date, any amounts then outstanding under this Note shall be forgiven.

CULVER CITY REDEVELOPMENT AGENCY,
a community redevelopment agency organized
and existing under the California Community Redevelopment Law

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Exhibit F

Construction Drawings

Civil Sanitary Force Main set dated 11/22/06
Submitted 11/22/06
File number E07-0162

Civil On-Site set dated 12/11/06
Submitted 12/11/06
File number E07-0160

Civil Off-Site set dated 12/21/06
Submitted 12/21/06
File number E07-0159

Civil LSWPPP set dated 04/13/07, Civil SUSMP set dated 08/09/07 – "NPDES Permit"
Submitted 04/13/07 and 08/09/07, respectively
File number E07-0074

10/07 Design Plans [add specific description] ___________________________________

Bid and Permit set through Addendum 1 dated 03/28/07 - Architecture, Landscape, Structural - "Building"
Submitted 04/02/07
Permit application number 69462

Bid and Permit set through Addendum 1 dated 03/28/07 - Electrical
Submitted 04/02/07
Permit application number 69463

Bid and Permit set through Addendum 1 dated 03/28/07 - Mechanical
Submitted 04/02/07
Permit application number 69464

Bid and Permit set through Addendum 1 dated 03/28/07 - Plumbing
Submitted 04/02/07
Permit application number 69465

Exhibit G

Agreement Affecting Real Property

Exhibit H

Release of Construction Covenants

Exhibit I

New Target Space

Exhibit J

Agency Approved Square Footage Threshold

	Total Square Footage of Agency Approved Tenants Within Mall	Minimum Portion of Square Footage Threshold Located in Existing Mall	% New Tenants from Agency Approved Tenant List
Year 1	90,000	20,000	75%
Year 2	115,000	25,000	85%
Year 3 and subsequent years	140,000	30,000	90%

Exhibit K

Signs Subject to New Sign Revenue Sharing Obligation