DISPOSITION AND DEVELOPMENT AGREEMENT

THIS DISPOSITION AND DEVELOPMENT AGREEMENT ("Agreement") is entered into as of October 25, 2022 by and between the SUCCESSOR AGENCY TO THE FORMER COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF SAN DIMAS, a political subdivision formed pursuant to Health and Safety Code 34173 (the "Owner") and PIONEER SQUARE, LLC, a California limited liability company (the "Developer"). Owner and Developer are occasionally referred to herein jointly as the "parties" and individually as a "party".

R E C I T A L S

A. Owner owns approximately 4.03 acres of land located at 344 West Bonita Avenue (APN: 8386-021-913), and related easements, located within the City of San Dimas's municipal boundaries and more particularly shown and described in Attachment No. 1 hereto ("Site"). Pursuant to that certain Exclusive Negotiation Agreement as amended and extended by Owner, approved by the Owner on August 25, 2020 and fully executed on September 8, 2020 ("ENA"), Owner entered into exclusive negotiations with Developer to reach an agreement for the acquisition of the Site, subject to specified conditions precedent set forth herein.

B. The Site is currently underutilized, falling substantially short of its housing, revenue-generating and job-generating potential. Owner therefore seeks to accomplish the sale and development of the Site to enhance the Site's residential, commercial, retail/restaurant, and hotel uses, thereby providing further residential, economic and employment opportunities on and around the Site, while maintaining high standards of development and environmental protection. Owner seeks to utilize the Site in a manner that will maximize public benefits and welfare, while encouraging the development of a well-planned and thoughtfully designed mixed-use development, subject to compliance with the California Environmental Quality Act (Public Resources Code § 21000 et seq. ("CEQA").

C. The Site fronts Bonita Avenue and is within close proximity to the City of San Dimas's downtown and highest concentration of commercial activity as well as being adjacent to Pioneer Park ("Park"). The Site is located less than a half mile from the proposed San Dimas Station as part of the Metro Foothill Gold Line light rail project from Glendora to Montclair, east of San Dimas Avenue between Bonita Avenue and Arrow Highway, which is currently under construction. The Site also has easy regional access to major freeways including U.S. Highway 57. The Project, as currently proposed, provides for a multi-modal transit integrated village to provide substantial economic growth in the City of San Dimas to the extent the Project (as that term is defined below):

- Provides for a land use and infrastructure plan that will support the creation of a major job center in the City;

- Helps to establish the City as a prime location for boutique hotel, residential, retail and restaurant uses, as such uses are further defined in Attachment No. 2;

- Provides a balanced approach to the City's fiscal viability, revenue generation (e.g. property tax, transient occupancy tax, and sales tax), economic expansion and environmental integrity, as further described in financial information (e.g. project financing plan, pro forma, and other related information), provided by Developer to Owner pursuant to the ENA;

- Improves the City's jobs to housing balance; and

- Provides new, local construction jobs as well as permanent employment opportunities.

- Designates the City as the recipient of any sales taxes related to construction activities.

D. To achieve the above-described goals of enhancing the Site's use, Owner and Developer intend to provide for the design and construction of a mixed-use project (with boutique hotel, restaurant, retail, and residential uses) upon the Site (collectively, the "Project"). It is anticipated that the Project will consist of a concept plan and preliminary development program (to be further refined as part of the related land use entitlement process) of up to 97 for-sale residential dwelling units (townhomes and flats) ("Residential Component"), a boutique hotel (with approximately 60-80 keys) ("Hotel Component"), and approximately 25,000-30,000 square feet of commercial uses which may include retail/restaurants/boutique market uses (collectively, "Commercial Component"), all served by subterranean parking spaces, and Public Open Space, as such term is defined herein, covenanted to be used by the public. The Project concept plan is described further depicted in Attachment No. 1-A (Site Plan and Depiction of Parcels) and described in Attachment No. 2 (Scope of Development). It is anticipated that, as part of the Project's land use entitlement process, the Project will be required to: reflect a high quality of development; adhere to applicable building codes and other applicable standards and requirements; implement appropriate measures, as feasible, to address any identified significant environmental impacts; and incorporate feasible energy efficiency, water conservation, and other sustainability measures (to enhance the Project's efficiency and help reduce greenhouse gas emissions, among other benefits). In addition, it is anticipated that the Project will be designed to utilize and, if required, include any additional necessary street and utility infrastructure needed to serve the Project, to be further considered as part of its entitlement and permitting process.

E. Developer intends to file an application required for City to process the required land use entitlements, approvals, and permits (both ministerial and discretionary), including but not limited to, processing of a tentative and final subdivision map for the Site, a General Plan Amendment to revise the current designation for the Site from a Commercial land use to one authorizing residential and hospitality uses, corresponding zone change and municipal code text amendment to allow for the proposed mixed-use development including a hotel use on the Site, a Tract Map, Development Plan Review and any other discretionary approvals that would be required to authorize the full scope of development and uses proposed for the Project (collectively, "Entitlements"). By entering into this Agreement, City is not committing itself to approve the Entitlements. However, as detailed more fully herein including under Section 500 of this Agreement, City will undertake the steps necessary so that it may properly consider the Entitlements in the future with the full scope of discretion consistent with the City's obligations under this Agreement and applicable law.

F. The City Council, on behalf of the City and Owner, has analyzed the full potential scope of the Project in accordance with CEQA and has concluded, as detailed in the Resolution adopted by the City Council concurrently with the approval of this Agreement, that the Project meets the definition of a Transit Priority Project pursuant to the CEQA "Sustainable Communities Project" exemption ("SCPE") that was enacted as a part of Senate Bill 375, codified at Public Resources Code Sections 21155 et seq., and determined that substantial evidence supports the conclusion that the Project is exempt from CEQA under the SCPE. As such, the City Council adopted the SCPE for the Project concurrently herewith.

G. Owner has given the required notice of its intention to consider this Agreement and has conducted the necessary public hearings thereon. Specifically, on October 25, 2022, the City Council held a duly-noticed public hearing on this matter. After taking testimony and considering the matter, the City Council closed the public hearing, deliberated, and then conducted a review pursuant to Government Code Section 65402 and other applicable laws and regulations.

NOW, THEREFORE, based on the above recitals, which are deemed true and correct and which are incorporated into the terms of this Agreement, and in consideration of the mutual covenants set forth herein, the parties agree as follows:

I. (§ 100) PURPOSE OF THE AGREEMENT.

A. (§ 101) Purpose of the Agreement.

This Agreement is intended to effectuate the sale to Developer of certain real property consistent with the best interests of the Owner which real property is designated herein as the "**Site**" and, subject to compliance with CEQA following Developer's submission, and City's review and processing of, Project Entitlement applications, the development of the "**Project**" thereon (as those terms are defined herein). The development of the Site pursuant to this Agreement is in the best interests of the Owner, City and its residents. The timing of the transfer of the Site in accordance with the terms of this Agreement is important for Owner to achieve in light of the provisions of AB 1225 and AB 1486, which amended the Surplus Lands Act. For the disposition of the Site, as land held by Owner either for sale or future development held in the Community Redevelopment Property Trust Fund and so designated in Owner's long- range property management plan, disposition must be completed by December 31, 2022 to be exempt from the requirements of AB 1486 (Gov. Code §54234(b)(1).) As such, each Party to this Agreement recognizes that any delay or default by it in the performance of the terms of this Agreement will significantly prejudice the Parties' mutual intent to secure development consistent with the defined Project herein. Developer acknowledges that the City imposes a transient occupancy tax of twelve percent (12%) of the rent charged by hotel operator pursuant to Chapter 3.20 of the San Dimas Municipal Code. Developer further acknowledges that the development of the Project with the Hotel Component is a material consideration for the City Council to enter into this Agreement. To this end, Developer has warranted that the Project shall include the Hotel Component and agrees to secure this obligation by approving the Covenant Agreement in the form provided at Attachment No. 5 hereto, which includes the TOT Guarantee with City's option to purchase the Site should Developer fail to develop the Hotel Component or pay the TOT Guarantee. Developer further acknowledges that the approval of the Project was based on the City Council's finding that the Project meets the definition of a Transit Priority Project pursuant to the requirements contained in the SCPE approved as a condition to approval of this Agreement. To this end, Developer shall take reasonably necessary steps to ensure that the Project continues to meet the requirements to qualify for the SCPE and shall further continue to include within the Project design for Entitlements and permits, the Covenant Agreement to operate and maintain the Public Open Space available for public use in accordance with the terms of the Covenant Agreement. Developer's payment of the TOT Guarantee shall not be transferable.

B. (§ 102) Site.

The Site has the meaning ascribed in Recital A above, as more particularly shown and described in Attachment No. 1 and shown in Attachment No. 1-A hereto. Developer seeks to develop the Site with the Project, as described in the Scope of Development, subject to compliance with CEQA and securing the Entitlements and all necessary permits. The Site excludes that certain parcel transferred to the Metro Gold Line Foothill Extension Construction Authority in connection with the Metro Gold Line Foothill Phase 2B project and shown as an attachment as part of Attachment

No. 1-A hereto. The Site shall further include parking, circulation, and open space covenants as necessary to effectuate egress, ingress to the Site, Park and offsite Metro Gold Line Foothill project improvements.

C. (§ 103) No Financial Assistance.

Developer acknowledges that Owner will not be providing financial assistance to Developer in connection with Developer's approvals and development of the Project. Developer shall be solely responsible for all rehabilitation and development costs for the Project. The Project is more particularly described in the Scope of Development.

II. (§ 200) DEFINITIONS.

The following terms as used in this Agreement shall have the meanings given unless expressly provided to the contrary:

A. (§ 201) Agreement.

The term "**Agreement**" shall mean this entire Agreement, including all exhibits, which attachments are a part hereof and incorporated herein in their entirety, and all other documents incorporated herein by reference. The Attachments included with this Agreement include the following:

Attachment No. 1	Legal Description of Site
Attachment No. 1-A	Site Plan and Depiction of Site
Attachment No. 2	Scope of Development
Attachment No. 3	Schedule of Performance
Attachment No. 4	Grant Deed
Attachment No. 5	Covenant Agreement
Attachment No. 6	Certificate of Completion
Attachment No. 7	Depiction of Open Space

B. (§ 202) Approved Future User.

The term "**Approved Future User**" shall have the meaning ascribed in Section 303.2.f.1 herein.

C. (§ 203) City.

The term "**City**" shall mean the City of San Dimas, California.

D. (§ 204) CEQA Consultant.

The term "CEQA Consultant" shall mean Psomas, selected by City to analyze the potential environmental impacts of the Project pursuant to CEQA.

E. (§ 205) CEQA Expenses Deposit.

The term "**CEQA Expenses Deposit**" shall be as defined in Section 502(8).

F. (§ 206) Certificate of Completion.

The term "**Certificate of Completion**" shall mean the document prepared in accordance with Section 513 of this Agreement, in the form attached as Attachment No. 6 which shall confirm that the construction and development of the improvements described in this Agreement have been satisfactorily completed and which shall be recorded in the Official Records of Los Angeles County. The Certificate of Completion shall only be issued upon completion of the Project, except as otherwise provided in Section 513.

G. (§ 207) Closing; Closing Date; Close of Escrow.

The term **"Closing**", "**Closing Date**" or "**Close of Escrow**" shall mean the closing of Escrow for the Site by the Escrow Agent distributing the funds and documents received through Escrow to the party entitled thereto as provided herein, which closing shall occur on or before the dates established in the Schedule of Performance. The parties acknowledge that Close of Escrow must occur no later than December 31, 2022 to assure the sale of the Site remains exempt from the requirements of AB 1486 (Gov. Code §54234(b)(1).).

H. (§ 208) Covenant Agreement and Early Repurchase Option.

The term "**Covenant Agreement**" shall mean the Agreement Containing Covenants Affecting Real Property, Option to Purchase and Declaration of Covenants Running with Land having the form and substance provided Attachment No. 5 hereto requiring Developer to provide for reciprocal access and parking across the Site, pay the TOT Guarantee, maintain the Public Open Space, grant City an option to purchase the Site should Developer fail to develop the Hotel Component or pay the TOT Guarantee in accordance with the terms thereof, and imposing other standard covenants running with the Site, which must be recorded prior to the commencement of the construction of the improvements required by this Agreement**.** City shall be a third-party beneficiary of the Covenant Agreement with the right, but not the duty, to enforce.

1. Early Repurchase Option.

Separate and apart from the option to purchase the Site, should Developer fail to develop the Hotel Component or pay the TOT Guarantee in accordance with the terms of the Covenant Agreement, City shall have the option to purchase the Site under the terms of Section 8 of the Covenant Agreement if, nine (9) months from the Closing Date, Developer has not provided to City, subject to City's review and reasonable satisfaction, any of the following: (i) fully executed operating agreements with proposed development partners, the Zislis Group and Republic Metropolitan, or suitable alternative equity and /or debt (lenders) providers or development partners determined in accordance with Section 303.1 below, who have demonstrated sufficient commitment to the proposed Project and available financial resources and wherewithal to support the development as contemplated under this Agreement, (ii) a financial proforma (including updated opinion of construction cost estimates from qualified contractor source and updated market data/support for revenue assumptions) and/or other information to support the financial viability of the proposed Project, (iii) complete and sufficient updated market data and information on the Hotel Option and Project viability, (iv) updated financial/balance statements of Developer, or (v) statement of any current litigation that could impact Developer's ability to perform the obligations under this Agreement ("Early Repurchase Option"). Under the Early Repurchase Option, the purchase price shall be as set forth in Section 8.6 of the Covenant Agreement, except the price shall exclude City's closing costs for the initial sale of the Property to the Developer. Until the Early Repurchase Option is exercised

by City by delivering a writing to Developer so indicating following the nine-month deadline hereunder, Developer may cure by compliance with this provision.

2. Option for TOT Guarantee Breach.

Separate and apart from the Early Repurchase Option described in Section 208.1 above, City shall have the additional right to purchase the Site as a result of Developer's breach of the TOT Guarantee, defined in the Covenant Agreement as "Owner's TOT Guarantee Breach" in accordance with the provisions Section 8.3 of the Covenant Agreement.

I. (§ 209) Days.

The term "**days**" shall mean calendar days and the statement of any time period herein shall be calendar days, and not working days, unless otherwise specified.

J. (§ 210) Deposit.

The term "**Deposit**" shall mean the sum of Fifty Thousand Dollars ($50,000), which amount includes (i) Twenty-Five Thousand Dollars ($25,000) deposited by Developer into Escrow pursuant to Section 6 of the ENA, plus Twenty-Five Thousand Dollars ($25,000) to be deposited by Developer into Escrow as set forth in the Schedule of Performance and to be distributed in accordance with Section 404.

K. (§ 211) Effective Date.

The term "**Effective Date**" shall mean the date that this Agreement is approved by the Owner Council at a public hearing.

L. (§ 212) Enforced Delay.

The term "**Enforced Delay**" shall mean any delay described in Section 803 caused without fault and beyond the reasonable control of a party, which delay shall justify an extension of time to perform as provided in Section 803.

M. (§ 213) Entitlements.

The term **"Entitlements"** shall mean all governmental permits and approvals for the Project consistent with the Scope of Development attached hereto as Attachment No. 2, which permits and approvals shall include a General Plan Amendment to revise the current designation for the Site from a Commercial land use to one authorizing residential and hospitality uses, a corresponding Zone Change and Municipal Code Text Amendment to allow for the proposed mixed-use Project, a Tract Map, Development Plan Review, and any other discretionary approvals required by the City's Zoning Code to authorize the permitting and construction of the Project.

N. (§ 214) Escrow.

The term "**Escrow**" shall mean the escrow to be established with Fidelity National Title Insurance Company pursuant to this Agreement for the conveyance of title to the Site from Owner to Developer.

O. (§ 215) Escrow Agent.

The term "**Escrow Agent**" shall mean Mary Lou Adame at Fidelity National Title Insurance Company, 21680 Gateway Center Drive, Suite 110, Diamond Bar, CA 91765 (909) 978-3020 Marylou.Adame@fnf.com.

P. (§ 216) Future User.

The term "**Future User**" shall have the meaning ascribed in Section 303.2.f(1).

Q. (§ 217) Grant Deed.

The term "**Grant Deed**" shall mean that Grant Deed in substantially the form attached hereto as Attachment No. 4 by which Owner as Grantor will convey fee title to the Site to Developer as grantee (which Developer shall execute the Certificate of Acceptance to be attached to the deed prior to recordation).

R. (§ 219) Retail Lot Tie Agreement.

The term "**Retail Lot Tie Agreement**" shall mean a lot tie agreement for those certain Retail Lot Parcels (defined in the attached Exhibit which shall include only the ground floor commercial square footage of all commercial and mixed-use buildings, however excluding the building for the Hotel Component in a form acceptable to Owner shall be executed by Developer and recorded together with the filing of a final tract map for the Site).

S. (§ 220) Project.

The term "**Project**" shall mean all of the improvements required to be constructed by Developer on the Site as described in the Scope of Development attached hereto as Attachment No. 2. The Project as defined herein shall not include any modifications to the Scope of Development attached hereto as Attachment No. 2 that would cause the Project to no longer qualify for a "SCPE" statutory exemption from CEQA under Public Resources Code Section 21151.1.

T. (§ 221) Public Open Space.

The term "**Public Open Space**" shall have the meaning ascribed in Section 502.4 and is depicted on Attachment No. 7 hereto.

U. (§ 222) Purchase Price.

The term "**Purchase Price**" means the sum of Two Million Six Hundred Thirty-Five Thousand Six Hundred Dollars ($2,635,600), as determined by the appraisal conducted by Colliers International Valuation and Advisory Services, LLC, which includes a deduction contained within a February 11, 2021 report relating to the storm drain easement that runs through the northwest portion of the site and with further deductions for environmental contamination and other development restrictions on site based upon objective findings and documentation provided by independent consultants whose subsurface investigations over multiple rounds of excavation and borings between May 18 and July 29, 2021, followed by soil laboratory analyses concluded that, despite past efforts at cleaning the Site pursuant to regulatory oversight, the uncovered remaining contamination exceeds both residential and commercial minimum-acceptable levels for subsurface contamination.

Developer acknowledges that the Purchase Price shall be subject to approval by the Los Angeles Fifth District Consolidated Countywide Oversight Board, as further set forth in Section 405.3.c. below.

V. (§ 223) Schedule of Performance.

The term "**Schedule of Performance**" shall mean Schedule of Performance as set forth in Attachment No. 3.

W. (§ 224) Site.

The term "**Site**" shall have the meaning set forth in Section 102.

X. (§ 225) Site Map.

The Project shall be located upon the Site, which is within the City of San Dimas, as shown in the "**Site Map**" attached hereto as Attachment No. 1-A.

Y. (§ 226) Title.

The term "**Title**" shall mean the fee title to the Site which shall be conveyed to Developer pursuant to the Grant Deed.

Z. (§ 227) Title Company.

The term "**Title Company**" shall mean Fidelity National Title Insurance Company.

AA. (§ 228) TOT Guarantee.

The term "**TOT Guarantee**" shall mean the obligation of Developer to pay the City's transient occupancy tax as a guarantee for development of the Hotel Component in the manner and amounts set forth in the Covenant Agreement at Attachment No. 5, which TOT Guarantee shall be secured by the City's Option to Purchase the Site should Developer fail to develop the Hotel Component or pay the TOT Guarantee in accordance with the terms stated therein.

BB. (§ 229) Transfer.

The term "**Transfer"** shall have the meaning set forth in Section 303.

III. (§ 300) PARTIES TO THE AGREEMENT.

A. (§ 301) Owner Identification.

Owner is the Successor Agency to the former Community Redevelopment Agency of the City of San Dimas, a political subdivision formed pursuant to Health and Safety Code 34173. The office of Owner is located at 245 East Bonita Avenue, San Dimas, CA 91773. In accordance with the California State Supreme Court's December 29, 2011 ruling on the constitutional validity of two 2011 legislative budget trailer bills, ABX1 26 (Chapter 5, Statutes of 2011) and ABX1 27 (Chapter 6, Statutes of 2011), all 425 redevelopment agencies in the State of California were dissolved, including the Community Redevelopment Agency of the City of San Dimas. The dissolution procedures under ABX1 26 include a process for the disposition and/or transfer of assets, including property holdings

of former redevelopment agencies. Subsequent legislation, AB 1484 (Chapter 26, Statutes of 2012), which was passed, signed, and enacted on June 28, 2012, made significant changes to the provisions of ABX1 26, including the process for asset management/disposition/transfers, which include preparation and approval of a Long-Range Property Management Plan by Owner and State Department of Finance. As the legal successor in interest to the former San Dimas Community Redevelopment Agency and pursuant to the aforementioned redevelopment dissolution laws, Owner's Oversight Board formed pursuant to Health and Safety Code 34179 submitted Seller's Long-Range Property Management Plan dated October 13, 2014 to the State Department of Finance, which was approved by the Department of Finance pursuant to its letter to the Seller dated February 2, 2015. Nevertheless, the sale of the Site shall be subject to further approval by the Los Angeles Fifth District Consolidated Countywide Oversight Board ("Los Angeles OB"), successor to Owner's Oversight Board. For purposes of this Agreement, references to term Owner shall include the City of San Dimas.

B. (§ 302) Developer.

1. Identification and Developer's Representations.

Developer is Pioneer Square LLC, a California limited liability company and its existing and any future affiliates. Except as may be expressly provided herein below, all of the terms, covenants and conditions of this Agreement shall be binding on, and shall inure to the benefit of, Developer and the permitted successors, assigns and nominees of Developer. Wherever the term "**Developer**" is used herein, such term shall include any permitted successors and assigns of Developer as provided in this Agreement.

2. Qualifications.

The qualifications and identity of Developer are of particular concern to Owner and it is because of such qualifications and identity that Owner has entered into this Agreement with Developer. Owner has undertaken an appropriate marketing program to identify appropriate users for the Site. Owner has considered the experience, financial capability, and product being marketed by Developer and its affiliates, the Site location and characteristics, and the product mix necessary to produce a successful business area. Based upon these considerations, Owner has imposed the restrictions on transfer set forth in this Agreement.

3. Financial Capability

Pursuant to the terms of the ENA, Developer has provided Owner an initial financing plan (including financing sources and methods), financial statements, pro-forma, and/or other information, documenting to Owner's satisfaction, Developer's financial capacity to proceed with the contemplated transaction. Developer represents that it shall not take actions or engage that would negatively affect such financial capability prior to its receipt of the final Certificate of Compliance for the Project. No later than the date set forth in the Schedule of Performance, Developer shall submit updated financing information to the City, which shall include a copy of commitment or commitments obtained by Developer for the lines of credits, loans, grants, or other financial assistance from equity and debt financing sources to assist in financing the construction of the proposed Project. Said financial information shall be subject to the confidentiality provisions of Section 3(K) of the ENA and Section 804.4 herein.

4. Accounting of Agency Expenses Deposit.

Developer represents that, as of the Effective Date, (i) it has received a full accounting from Owner of the costs incurred by Agency/City through the end of the term of ENA of the Agency Expenses Deposit, as such term is described in Section 1.C of the ENA and (ii) there is no further outstanding balance due to Developer of the Agency Expenses Deposit due by Owner to Developer.

C. (§ 303) Restrictions on Transfer.

1. Restrictions Prior to Completion of Project.

"Transfer" means any hypothecation, sale, conveyance commercial and ground lease, assignment or other transfer of Owner's rights to the Property. Transfer as used herein shall mean the transfer to any person or group of persons acting in concert of more than seventy percent (70%) of the present equity ownership and/or more than fifty percent (50%) of the voting control (jointly and severally referred to herein as the "Trigger Percentages") of Owner in the aggregate, taking all transfers into account on a cumulative basis, except Transfers of such ownership or control interest between members of the same immediate family, or transfers to a trust, testamentary or otherwise, in which the beneficiaries are limited to members of the transferor's immediate family, or transfers between or among Affiliates. A Transfer of interests (on a cumulative basis) in the equity ownership and/or voting control of Owner in amounts less than Trigger Percentages shall not constitute a Transfer subject to the restrictions set forth herein. In the event Owner is a corporation or trust, such Transfer shall refer to the Transfer of more than the Trigger Percentages of the issued and outstanding capital stock of Owner, or of the beneficial interests of such trust; in the event that Owner is a limited or general partnership, such Transfer shall refer to the Transfer of more than the Trigger Percentages in the limited or general partnership interest; in the event that Owner is a joint venture, such transfer shall refer to the Transfer of more than the Trigger Percentages of such joint venture, taking all transfers into account on a cumulative basis, or a Transfer per Section 303.2 below. Prior to issuance of the final Certificate of Completion for the Project, Developer shall not Transfer this Agreement or any of Developer's rights hereunder, or any interest in the Site or in the improvements thereon, directly or indirectly (including leasing), voluntarily or by operation of law, except as provided below, without the prior written approval of Owner, and if so purported to be transferred, the same shall be null and void. In considering whether it will grant approval to any assignment by Developer of its interest in the Site before the issuance of the Certificate of Completion, which assignment requires Owner's written approval, Owner shall consider factors such as (i) whether the completion of the Project is jeopardized; (ii) level and sources of funding contributed to the Project; (iii) the financial strength and capability of the proposed assignee to perform Developer's obligations hereunder; (iv) the proposed assignee's experience and expertise in the planning, financing, development, ownership, and operation of similar projects; and (v) how the proposed assignee will complement the other users on the Site and in the area.

In the absence of specific written agreement by Owner, before the issuance of the final Certificate of Completion for the Project, no Transfer by Developer of all or any portion of its interest in the Site or this Agreement (including without limitation an assignment or transfer not requiring Owner approval hereunder) shall be deemed to relieve it or any successor party from any obligations under this Agreement with respect to the completion of the development of the Project. In addition, no attempted Transfer of any of Developer's obligations shall be effective unless and until the successor party executes and delivers to Owner an assumption agreement in a form reasonably approved by Owner assuming such obligations.

2. Exceptions.

The foregoing prohibition on Transfers prior to the Certificate of Completion shall not apply to any of the following:

a. **Mortgage**. Any mortgage, deed of trust or other form of conveyance for financing, as provided in Section 512, but Developer shall notify Owner in advance of any such mortgage, deed of trust or other form of conveyance for financing pertaining to the Site, subject to the prohibition on subordination provided in Section 7.5 of the Covenant Agreement as to the TOT Guarantee.

b. **Financing**. Any mortgage, deed of trust, or other form of conveyance for restructuring or refinancing of any amount of indebtedness described in subsection (a) above, subject to the prohibition on subordination provided in Section 7.5 of the Covenant Agreement as to the TOT Guarantee; provided that the amount of indebtedness incurred in the restructuring or refinancing does not exceed the outstanding balance on the debt incurred to finance the acquisition of and improvements on the Site, including any additional costs of construction, whether direct or indirect, based upon the estimates of architects and/or contractors. The debt (measured at time of origination or at the time of any modification of the loan increasing the amount of principal indebtedness) secured by the applicable property cannot exceed eighty-five percent (85%) of the then fair market value of the applicable property (as determined by the appraisal obtained by the lender under the applicable financing), without the City's consent, which consent shall not be unreasonably withheld, conditioned or delayed; provided all outstanding fees and other payments due and payable to the City by Developer have been made. Such lender shall assume Developer's rights and obligations hereunder accruing from and after the date of any such transfer and agree to be bound under the material terms, conditions and covenants of this Agreement as is customary and standard, and as Owner's Executive Director shall, in cooperation with Developer, determine to be reasonably necessary without formal approval of City Council. Any lender secured for purposes of this exemption shall be qualified to do business in California and meet the criteria specified in Section 512.2.

c. **Public Easements**. The conveyance or dedication of any portion of the Site to the City or other appropriate governmental agencies, or the granting of easements or permits to facilitate the development of the Site.

d. **Reorganization**. A sale or 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 are assigned directly or by operation of law to a person or persons, firm or corporation which acquires the control of the voting capital stock of such corporation or all or substantially all of the assets of such corporation.

e. **Permitted Affiliate Assignee**. A sale or transfer to any limited liability company, partnership or corporation in which Developer retains day to day management control of at least (50.1%) in the capital and profits and in which agrees to hold such majority interest (50.1%) and consistent with the ownership entities disclosed in Developer's Conveyance and Project Implementation Plan, submitted by Developer to Owner pursuant to Section 1.E of the ENA; and further provided that such assignees/transferees

reasonably satisfy Owner's criteria for acceptable levels of professionalism, experience with constructing and/or operating similar projects, available financial capacity and strength, and good moral character. Notwithstanding the foregoing authorization, Developer shall promptly notify the Owner in writing of any and all changes whatsoever in the identity of the business entities or individuals comprising the Developer.

f. **Future User**. Entity(ies) that have specialized expertise in the development and operation of boutique hotel, specialty grocery, and/or retail/restaurant uses, which transfer(s) shall be subject to the following provisions:

(1) Criteria for Approval of Future User. The sale(s) of portion(s) of the Site by Developer to other purchaser(s) of a commercial pad to be developed for the Commercial Component or to any entity that will own and operate the Hotel Component is referred to below as a "Future User". Any Future User shall be subject to Owner's prior written approval, which shall not be unreasonably withheld, conditioned, delayed or denied, and which approval shall be based on the experience, reputation for providing quality goods/services, expertise and financial ability of each said Future User to develop and operate those portions of the Project acquired by each such Future User ("Approved Future User"); provided, however, that Owner's duty to review and consider any such Approved Future User shall require Developer to first deposit sufficient sums with Owner for the review by Owner's third-party advisor. Any financial information of a Future User required by Owner as part of its approval of that Future User, shall be delivered to Owner's third-party advisor, such as Kosmont Real Estate Services (or another third-party consultant reasonably approved by Developer) and subject to the confidentiality provisions of Section 804.3 below. Owner's Executive Director has the authority to issue the required approvals in this Section. Owner's approval of the Future User shall not include Owner's approval of the type of use of the pad for which the Future User was selected by Developer.

(2) Timing for Approval of Future User. To trigger Owner's obligation to review a prospective Future User, Developer shall provide Owner written notice with the information described above and the deposit to cover Owner's third-party advisor fees, which notice shall trigger a 30 day review period by Owner ("First Notice"). If after thirty (30) days, Owner has failed to deliver to Developer written notice of disapproval of a Future User stating the express reasons for disapproval, Developer may issue a follow-up notice to Owner explaining that, should Owner not respond to the initial notice or disapprove the Future User, the Future User shall be deemed approved thirty (30) days after Owner sends such written notice ("Second Notice"). Should Owner fail to respond to such Second Notice with express reasons for disapproval within such thirty (30) days after Developer has submitted its Second Notice, the identified Future User shall be conclusively deemed to be Owner's approval of the Future User. The First and Second Notices to Owner shall be by certified mail and commencement of timing shall be upon receipt by Owner and Owner's Third-Party advisor.

3. Termination of Restrictions on Transfer after Completion of Project.

The transfer restrictions of this Section 303 shall terminate when the final Certificate of Completion has been issued for the Project.

IV. (§ 400) ACQUISITION AND DISPOSITION OF THE SITE.

A. (§ 401) Approval of Site Conditions.

Within the Due Diligence Period set forth in the ENA, Owner, based on the knowledge of current City staff involved with this Site and based on a diligent search, provided Developer all documents related to the Site which it has in its possession and control, which included, without limitation, all documents relating to, regarding or addressing existing subsurface hazardous material contamination at the Site ("**Due Diligence Documents**"), which list of Due Diligence Documents Developer has been described in electronic communications on December 26 and 31, 2019 and September 30, 2020 from Owner to Developer and Developer hereby confirms receipt of same. Developer has had an opportunity to review the Due Diligence Documents, inspect the physical condition of the Site for the Project and conduct and review such surveys, engineering, feasibility studies, soils tests, environmental studies, geologic, soils tests and other investigations and studies of the Site as Developer, in its sole discretion, desired to permit Developer to determine the suitability of the Site for the uses permitted by this Agreement. Developer has further had the opportunity to make an examination of all licenses, permits, authorizations, approvals and governmental regulations which affect the Site, including zoning and land use issues and conditions imposed upon the Site by governmental agencies. By entering into this Agreement, Developer confirms that it has undertaken the studies, reports and analysis as determined appropriate by Developer to allow it to develop the Project concept/site plan, Project designs and financing plans necessary to undertake the Project. Developer represents that it accepts the condition of the Site subject to the terms and requirements applicable to Owner under this Agreement and approves the results of its investigations.

City has disclosed and Developer is aware that the Site is constrained by easements, as more thoroughly described in the August 4, 2020 Preliminary Report from FNTG Builder Services, a copy of which was provided to Developer, that easements exist on the Site, including but not limited to the San Jose Ranch Company and other parties and their successors for the right to lay pipe or make ditches, a storm drain easement, and an easement to the Metro Gold Line Foothill Construction Authority along Bonita Avenue and Cataract Avenue encompassing approximately 17.597 feet. Developer acknowledges and understands that the easements granted herein, and in particular the Metro Gold Line Foothill Construction Authority easement could impact or impair access to the Site.

B. (§ 402) Conveyance; Covenant Agreement.

a. **Conveyance.** In accordance with and subject to all the terms, covenants and conditions of this Agreement, Owner shall convey the Site to Developer subject to the terms of the Grant Deed, and Developer specifically agrees to accept the Site in an AS-IS condition and subject to the covenants to develop the Site for the uses consistent with the Scope of Development and the permissible uses as further described in Section 601 and in the Grant Deed.

b. **Covenant Agreement.** The Covenant Agreement in the form and substance provided at Attachment No. 5 shall be recorded against the Site prior to the commencement of construction.

C. (§ 403) Escrow.

Escrow shall be opened for the Site specified in the Schedule of Performance with the Deposit delivered to Escrow. This Agreement shall constitute the joint escrow instructions of Owner and Developer to Escrow Agent, and a duplicate original of this Agreement shall be delivered to Escrow Agent upon the opening of Escrow. Escrow Agent is empowered to act under the instructions in this Agreement. Owner and Developer shall promptly prepare, execute, and deliver to Escrow Agent such additional escrow instructions (including Escrow's standard general provisions) consistent with the terms herein as shall be reasonably required by Escrow Agent. No provision of any additional escrow instructions shall be deemed to modify this Agreement without specific written approval of the modification(s) by both Developer and Owner.

D. (§ 405) Conditions to Close of Escrow.

1. Developer's Conditions to Closing.

Developer's obligation to acquire the Site and to close Escrow, shall, in addition to any other conditions set forth herein in favor of Developer, be conditioned and contingent upon the satisfaction or written waiver by Developer, of each and all of the following conditions (collectively the "**Developer's Conditions to Closing**") within the time provided in the Schedule of Performance:

a. Title Company is committed to issue the Developer's Title Policy insuring title to the is vested in Developer Site subject to conditions and exceptions specified in Section 407.6(i).

b. Owner shall have deposited into Escrow a certificate ("**FIRPTA Certificate**") in such form as may be required by the Internal Revenue service pursuant to Section 1445 of the Internal Revenue Code.

c. Owner shall have deposited the executed Grant Deed into Escrow.

d. The Site will be delivered at Closing free and clear of any tenants or rights of possession of any other persons or entities (except for Approved Future User entered into by Developer).

e. Owner shall have deposited or caused to be deposited into Escrow all the documents required under Section 406.

f. Owner is not in breach or default of this Agreement.

Any waiver of the foregoing conditions must be express and in writing pursuant to this Agreement.

2. Owner's Conditions to Closing.

Owner's obligation to deliver the Site and to close Escrow, shall, in addition to any other conditions set forth herein in favor of Owner, be conditioned and contingent upon the satisfaction or written waiver by Owner, of each and all of the following conditions (collectively the "**Owner's Conditions to Closing**") within the time provided in the Schedule of Performance:

a. Title Company is committed to issue the Developer's Title Policy insuring title to the Site is vested in Developer subject to conditions and exceptions specified in Section 407.6(i).

b. Developer shall have deposited into Escrow the Purchase Price and all other funds required under this Agreement.

c. Developer has deposited the Acceptance of Grant Deed into Escrow to be attached to such Grant Deed prior to recordation.

d. Developer shall have deposited or caused to be deposited into Escrow all the documents required under Section 406.4.

e. Owner shall have deposited into Escrow the fully executed Covenant Agreement in the form and substance provided at Attachment No. 5.

f. Developer is not in breach or default of this Agreement.

Any waiver of the foregoing conditions must be express and in writing in accordance with this Agreement.

3. Both Parties' Conditions to Closing.

a. Prior to the Closing Date, Developer and Owner shall execute and deliver a certificate ("**Taxpayer ID Certificate**") in such form as may be required by the IRS pursuant to Section 6045 of the Internal Revenues Code or the regulations issued pursuant thereto, certifying to the Site, date of Closing, the Purchase Price and taxpayer identification numbers as required by law.

b. Prior to the Closing, Developer and Owner shall cause to be delivered to the Escrow Agent such other items, instruments and documents, and the parties shall take such further actions, as may be necessary or desirable in order to complete the Closing.

c. Prior to Closing, Owner shall seek approval of this Agreement, or written verification that no approval is required, by the Los Angeles OB. The Owner shall use its best efforts to obtain such approval or verification. If such approval or verification is not obtained, Agency/City and Developer shall negotiate in good faith to modify the Agreement for a period of sixty (60) days after receipt of notice of disapproval to attempt to reach an agreement that will be satisfactory to Owner, Developer and the Los Angeles OB.

E. (§ 406) Conveyance of the Site.

1. Time for Conveyance.

Escrow shall close after satisfaction (or waiver by the benefited party) of the conditions to close of Escrow, but not later than the date specified in the Schedule of Performance, unless extended by the mutual agreement of the parties or any Enforced Delay. Possession of the Site shall be delivered to Developer concurrently with the conveyance of fee title free of all tenancies and occupants except for Approved Future Users.

2. Escrow Agent to Advise of Costs.

On or before the date set in the Schedule of Performance, Escrow Agent shall advise Owner and Developer in writing of the fees, charges, and costs necessary to clear title and close Escrow, and of any documents which have not been provided by said party and which must be deposited in Escrow to permit timely Closing.

3. Deposits by Owner Prior to Closing.

On or before, but not later than two (2) business days prior to the date set for the Closing in the Schedule of Performance, Owner shall deposit into Escrow the fully executed (i) the Grant Deed executed and acknowledged by Owner; (ii) an estoppel certificate certifying that Developer has completed all acts, other than as specified, necessary for conveyance; (iii) the Covenant Agreement (with the legal descriptions completed); (iv) the Taxpayer ID Certificate; and (v) payment of Owner's share of costs as set forth in Section 409.

4. Deposits by Developer Prior to Closing.

On or before, but not later than two (2) business days prior to the date set for the Closing in the Schedule of Performance, Developer shall deposit into Escrow (i) an estoppel certificate certifying that Owner has completed all acts, other than as specified, necessary to conveyance; (ii) forms of Retail Lot Tie Agreement and covenants, conditions and restrictions, and reciprocal easements to be recorded against the lots comprising the Commercial Component together with the filing of a final tract map for the Site, which shall also be a condition of approval of the preliminary tract map; (iii) the Taxpayer ID Certificate; (iv) the Covenant Agreement; and (v) payment to Escrow Agent of Developer's share of costs in accordance with Section 409.

5. Recordation and Disbursement of Funds.

Upon the completion by Owner and Developer of the required deliveries and actions prior to Closing, Escrow Agent is authorized to pay any transfer taxes and recording fees under applicable law, and thereafter cause to be recorded in the appropriate official records of Los Angeles County, California, in the following order: (i) the Grant Deed with the Certificate of Acceptance attached; (ii) the Covenant Agreement; and (iii) any other appropriate instruments delivered through this Escrow, if necessary or proper to vest title of the Site in Developer in accordance with the terms of this Agreement but excluding the Retail Lot Tie Agreement and covenants, conditions and restrictions, and reciprocal easements, which shall be recorded together with the final tract map for the Site.

Immediately following Closing, Escrow Agent shall deliver the Title Policy to Developer (with a copy to Owner) insuring title and conforming to the requirements of Section 407. Following recordation, Escrow Agent shall deliver conformed copies of all recorded documents to both Developer and Owner. In addition, after deducting any sums specified in this Agreement, Escrow Agent shall disburse funds to the party entitled thereto.

F. (§ 407) Title Matters.

1. Condition of Title. Owner shall convey to Developer fee title of the Site subject only to: (i) this Agreement as referenced in the Grant Deed; (ii) current taxes, a lien not yet payable; (iii) utility, public alley and public street easements of record approved by Developer, which approval shall not be unreasonably withheld; (iv) covenants, conditions and restrictions, reciprocal easements, and other encumbrances and title exceptions approved by Developer; and (v) any matters caused or created by Developer (including any Approved Future Users). Owner shall convey title to Developer pursuant to the Grant Deed.

2. Owner Not to Encumber Site. Owner hereby warrants to Developer that it has not and will not, from the Effective Date of this Agreement through close of Escrow, transfer, sell, hypothecate, pledge, or otherwise encumber the Site without express written permission of Developer. Prior to or at close of Escrow, Owner shall be required to satisfy and cause the release

of any mortgage, deed of trust, tax, or mechanic's lien placed on or encumbering the Site (or any portion thereof) (collectively, "**Monetary Encumbrances**").

3. Approval of Title Exceptions. On or before the date in the Schedule of Performance, Owner shall deliver a preliminary report for the Site, to Developer including copies of all documents referenced therein ("**Title Report**"). Prior to the date in the Schedule of Performance ("**Title Approval Date**"), Developer shall deliver to Owner written notice, with a copy to Escrow Agent, specifying in detail any exception disapproved and the reason therefor. Prior to the date in the Schedule of Performance, Owner shall deliver written notice to Developer as to whether Owner will or will not cure the disapproved exceptions. If Owner elects not to cure the disapproved exceptions, Developer may terminate this Agreement without any liability of Owner to Developer, or Developer may withdraw its earlier disapproval. If Owner elects to cure the disapproved exceptions, Owner shall do so on or before the close of Escrow. If, after the Title Approval Date, Developer receives a supplement to the Title Report from the Title Company setting forth any new matter of record encumbering the Site which was not set forth on the original Title Report (or any previous supplement thereto) and of which Developer was not otherwise aware as of the Title Approval Date ("**New Title Matter**"), Developer may, on or prior to 5:00 p.m. P.S.T. on the tenth (10th) business day following Developer's receipt of notice of such New Title Matter ("**New Matter Approval Date**"), object to such New Title Matter by sending written notice thereof to Owner and Escrow Holder; provided, however, Owner shall remove all Monetary Encumbrances which constitute New Title Matters regardless of whether Developer timely objects to such Monetary Encumbrances. Developer's failure to object in writing to any New Title Matter on or prior to the New Matter Approval Date shall be automatically deemed to be Developer's approval of such New Title Matter and such New Title Matter shall thereafter be deemed to be a permitted encumbrance. If Developer delivers written objection to any New Title Matter on or prior to the New Matter Approval Date applicable thereto, and Owner does not deliver as of 5:00 p.m. P.S.T. on the fifth (5^{th}) business day following the New Matter Approval Date ("**Owner Response Date**") written notice that Owner covenants and agrees to remove prior to the Closing such New Title Matter objected to by Developer, then Developer may terminate this Agreement by delivery of written notice thereof to Owner and Escrow Holder on or before 5:00 p.m. P.S.T. on the fifth (5th) business day following the Owner Response Date ("**New Matter Termination Date**") and have the Deposit returned to Developer and any unused balance of the CEQA Expenses Deposit and Agency Expense Deposit. Developer's failure to terminate this Agreement in writing as a result of any New Title Matter on or prior to the New Matter Termination Date shall constitute Developer's waiver of its right to terminate this Agreement as a result of such New Title Matter.

4. Title Policy. At the Closing, Title Company shall issue to Developer an ALTA non-extended owner's policy of title insurance ("**Developer's Title Policy**") with title to the Site vested in Developer with an insured amount equal to the Purchase Price, containing (i) only those exceptions approved by Developer pursuant to the foregoing section; (ii) the Grant Deed; (iii) Covenant Agreement. and (iii) any exceptions caused or created by Developer (including any Approved Future Users). The Developer's Title Policy shall include any available additional title insurance, extended coverage or endorsements that Developer may reasonably request. Owner shall pay only for that portion of the Developer's Title Policy insurance premium attributable to the ALTA non-extended coverage policy in the amount of the Purchase Price. Developer shall pay for the premium for any extended owner's policy and special endorsements to the Developer's Title Policy.

G. (§ 408) Condition of Site; AS-IS Acquisition.

1. AS-IS Acquisition.

DEVELOPER ACKNOWLEDGES AND AGREES THAT OWNER IS CONVEYING THE SITE TO DEVELOPER IN "AS-IS" CONDITION WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND EXCEPT THOSE SPECIFICALLY ENUMERATED HEREIN AND SHALL NOT BE RESPONSIBLE FOR ANY HAZARDOUS MATERIALS OR CONDITIONS ON THE SITE. OWNER CONFIRMS THAT IT HAS VALID TITLE TO THE SITE AND CAN FREELY TRANSFER IT, SUBJECT TO LOS ANGELES COUNTY OVERSIGHT BOARD APPROVAL. OWNER HAS FURTHER PROVIDED A DISCLOSURE MEMO TO OWNER OF ALL DOCUMENTATION IT HAS DELIVERED WITHIN ITS POSSESSION TO DEVELOPER, AS DESCRIBED IN SECTION 401 ABOVE.

2. Site Assessment and Remediation.

Developer shall be responsible for conducting assessments of the Site and for any required remediation if the Developer accepts the Site pursuant to the terms of this Agreement. Owner shall be entitled to review but shall have no approval rights regarding any remedial workplan prepared for the Site. Owner is conveying the Site in an "AS-IS" condition and shall not be responsible for any Hazardous Materials or hazardous conditions on the Site. Developer acknowledges that the provisions of this Section 408 is material to Owner's entering into this Agreement.

3. Disclaimer of Warranties.

Upon the Close of Escrow, Developer shall acquire the Site in its "AS-IS" condition and shall be responsible for any defects in the Site, whether patent or latent, including, without limitation, the physical, environmental and geotechnical condition of the Site, and the existence of any contamination, Hazardous Materials, vaults, debris, pipelines, abandoned wells or other structures located on, under or about the Site. Owner makes no representation or warranty concerning the physical, environmental, geotechnical or other condition of the Site, the suitability of the Site for the Project, or the present use of the Site, and specifically disclaims all representations or warranties of any nature concerning the Site made by them, the Owner and their employees, agents and representatives. The foregoing disclaimer includes, without limitation, topography, climate air, water rights, utilities, present zoning soil, subsoil, existence of Hazardous Materials or similar substances, the purpose for which the Site is suited, or drainage. Owner makes no representation or warranty concerning the compaction of soil upon the Site, nor of the suitability of the soil for construction.

4. Right to Enter Site; Indemnification.

Subject to compliance with the requirements set forth below, Owner grants to Developer, its agents and employees a limited license to enter upon the Site for the purpose of conducting further engineering surveys, soil tests, investigations or other studies reasonably necessary to evaluate the condition of the Site, which studies, surveys, reports, investigations and tests shall be done at Developer's sole cost and expense.

Prior to entering the Site, Developer shall obtain Owner's written consent which shall not be unreasonably withheld or delayed provided Developer complies with all the following requirements. Developer shall (i) notify Owner prior to each entry of the date and the purpose of intended entry and provide to Owner the names and affiliations of the persons entering the Site; (ii) conduct all studies in a diligent, expeditious and safe manner and not allow any dangerous or hazardous conditions to occur on the Site during or after such investigation; (iii) comply with all applicable laws and governmental regulations (including issuance of City permits); (iv) allow an employee of Owner/City to be present at all times; (v) keep the Site free and clear of all materialmen's liens, lis pendens and other liens or encumbrances arising out of the entry and work performed under this paragraph; (vi) maintain or assure maintenance of workers' compensation insurance (or state approved self-

insurance) on all persons entering the Site in the amounts required by the State of California; (vii) provide to Owner prior to initial entry a certificate of insurance evidencing that Developer has procured and paid premiums for an all-risk public liability insurance policy written on a per occurrence and not claims made basis in a combined single limit of not less than TWO MILLION DOLLARS ($2,000,000) which insurance names Owner as additional insured; and other requirements specified in Section 506; (viii) repair all material damage to the Site resulting from Developer's entry and investigation of the Site and leave the Site in a safe condition; (ix) provide Owner copies of all studies, surveys, reports, investigations and other tests derived from any inspection without representation or warranty but with the right of Owner to use the report without further consent from or payment to the issuer; and (x) take the Site at Closing subject to any title exceptions caused by Developer exercising this license to enter.

Developer agrees to indemnify, defend and hold Owner free and harmless from and against any and all losses, damages (whether general, punitive or otherwise), liabilities, claims, causes of action (whether legal, equitable or administrative), judgments, court costs and legal or other expenses (including reasonable attorneys' fees) which Owner may suffer or incur as a consequence of Developer's exercise of the license granted pursuant to this Section or any act or omission by Developer, any contractor, subcontractor or material supplier, engineer, architect or other person or entity acting by or under Developer (except Owner/City and its agents) with respect to the Site; provided, however, that Developer's obligations under this paragraph shall not apply to liability arising out of the mere discovery of a pre-existing environmental or physical condition at the Site or arising out of the gross negligence or willful misconduct of Owner; and provided further, however, that Developer shall not be liable for any indirect, consequential, exemplary or punitive damages that are not caused by Developer's (or Developer's representative's, employee's, agent's and independent contractor's) gross negligence or willful misconduct.

Notwithstanding termination of this Agreement for any reason, the obligations of Developer under this Section as well as any agreement for early entry which may be entered into by Owner and Developer prior to the Effective Date shall remain in full force and effect.

5. <u>Hazardous Materials; Release of Owner</u>.

Developer understands and agrees that in the event Developer incurs any loss or liability concerning Hazardous Materials (as hereinafter defined) and/or oil wells and/or underground storage tanks and/or pipelines whether attributable to events occurring prior to or following the Closing, then Developer may look to any prior owners of the Site, but under no circumstances shall Owner (which term includes Owner's predecessor being the San Dimas Community Redevelopment Agency or their respective governing boards) be liable directly or indirectly regarding Hazardous Materials and/or oil wells and/or underground storage tanks and/or pipelines. (In the event that Owner has indemnified any prior owner, Developer may not recover any such amounts from that Owner to the extent that such owner will seek recovery from Owner; Owner shall provide reasonable notice of any such indemnity agreements with prior owners.) Developer, and each of the entities constituting Developer, if any, from and after the Closing, hereby waives, releases, remises, acquits and forever discharges Owner, its directors, officers, share-holders, employees, and agents, and their respective heirs, successors, personal representatives and assigns, of and from any and all Environmental Claims, Environmental Cleanup Liability and Environmental Compliance Costs, as those terms are defined below, and from any and all actions, suits, legal or administrative orders or proceedings, demands, actual damages, punitive damages, loss, costs, liabilities and expenses, which concern or in any way relate to the physical or environmental conditions of the Site, the existence of any Hazardous Material thereon, or the release or threatened release of Hazardous Materials therefrom, whether existing prior to, at or after the Closing. It is the intention of the parties pursuant to this release that any and all responsibilities and obligations of Owner, and any and all rights, claims,

rights of action, causes of action, demands or legal rights of any kind of Developer, its successors, assigns or any affiliated entity of Developer, against Owner arising by virtue of the physical or environmental condition of the Site, the existence of any Hazardous Materials thereon, or any release or threatened release of Hazardous Material therefrom, whether existing prior to, at or after the Closing, are by this Release provision declared null and void and of no present or future force and effect as to the parties; provided, however, that no parties shall be deemed third party beneficiaries of such release. In connection therewith, Developer and each of the entities constituting Developer, expressly agree to waive any and all rights which said party may have under Section 1542 of the California Civil Code which provides as follows:

> **"A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."**

DEVELOPER'S INITIALS: _____

Developer further agrees that in the event Developer obtains, from former or present owners of the Site or any other persons or entities, releases from liability, indemnities, or other forms of hold harmless relating to the subject matter of this section, Developer shall use its diligent efforts to obtain for Owner the same releases, indemnities and other comparable provisions. Without limiting the foregoing, Developer agrees not to initiate any legal process against the Owner, and hereby fully releases the Owner, in connection with any Environmental Claims, Environmental Cleanup Liability or Environmental Compliance Costs.

For purposes of this Section 408, the following terms shall have the following meanings:

a. "**Environmental Claim**" means any claim for personal injury, death and/or property damage made, asserted or prosecuted by or on behalf of any third party, including, without limitation, any governmental entity, relating to the Site or its operations and arising or alleged to arise under any Environmental Law.

b. "**Environmental Cleanup Liability**" means any cost or expense of any nature whatsoever incurred to contain, remove, remedy, clean up, or abate any contamination or any Hazardous Materials on or under all or any part of the Site, including the ground water thereunder, including, without limitation, (A) any direct costs or expenses for investigation, study, assessment, legal representation, cost recovery by governmental agencies, or ongoing monitoring in connection therewith and (B) any cost, expense, loss or damage incurred with respect to the Site or its operation as a result of actions or measures necessary to implement or effectuate any such containment, removal, remediation, treatment, cleanup or abatement.

c. "**Environmental Compliance Cost**" means any cost or expense of any nature whatsoever necessary to enable the Site to comply with all applicable Environmental Laws in effect. "Environmental Compliance Cost" shall include all costs necessary to demonstrate that the Site is capable of such compliance.

d. "**Environmental Law**" means any federal, state or local statute, ordinance, rule, regulation, order, consent decree, judgment or common-law doctrine, and provisions and conditions of permits, licenses and other operating authorizations relating to (A) pollution or protection of the environment, including natural resources, (B) exposure of persons, including employees, to Hazardous Materials or other products, raw materials, chemicals

or other substances, (C) protection of the public health or welfare from the effects of by-products, wastes, emissions, discharges or releases of chemical sub-stances from industrial or commercial activities, or (D) regulation of the manufacture, use or introduction into commerce of chemical substances, including, without limitation, their manufacture, formulation, labeling, distribution, transportation, handling, storage and disposal.

e. "**Hazardous Material**" is defined to include any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of California, or the United States Government. The term "**Hazardous Material**" includes, without limitation, any material or substance which is: (A) petroleum or oil or gas or any direct or derivate product or byproduct thereof; (B) defined as a "hazardous waste," "extremely hazardous waste" or "restricted hazardous waste" under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140, of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law); (C) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act); (D) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Sections 25501(j) and (k) and 25501.1 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory); (E) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances); (F) "used oil" as defined under Section 25250.1 of the California Health and Safety Code; (G) asbestos; (H) listed under Chapter 11 of Division 4.5 of Title 22 of the California Code of Regulations, or defined as hazardous or extremely hazardous pursuant to Chapter 10 of Division 4.5 of Title 22 of the California Code of Regulations; (I) defined as waste or a hazardous substance pursuant to the Porter-Cologne Act, Section 13050 of the California Water Code; (J) designated as a "toxic pollutant" pursuant to the Federal Water Pollution Control Act, 33 U.S.C. § 1317; (K) defined as a "hazardous waste" pursuant to the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq. (42 U.S.C. § 6903); (L) defined as a "hazardous substance" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq. (42 U.S.C. § 9601); (M) defined as "Hazardous Material" pursuant to the Hazardous Materials Transportation Act, 49 U.S.C. § 5101 et seq.; or (N) defined as such or regulated by any "Superfund" or "Superlien" law, or any other federal, state or local law, statute, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning Hazardous Materials and/or oil wells and/or underground storage tanks and/or pipelines, as now, or at any time here-after, in effect.

Notwithstanding any other provision of this Agreement, Developer's release and indemnification as set forth in the provisions of this Section, as well as all provisions of this Section shall survive the termination of this Agreement and shall continue in perpetuity.

H. (§ 409) Costs of Escrow.

1. Allocation of Costs.

Escrow Agent is directed to allocate costs as follows: Owner shall pay the cost of an ALTA non-extended owner's title policy while Developer shall pay premiums for any endorsements or extended coverage. Developer shall pay the cost of the recording fees for the Grant Deed. Owner shall pay any documentary transfer taxes. Developer and Owner shall each pay one-half (1/2) of all

Escrow and similar fees, except that if one party defaults under this Agreement, the defaulting party shall pay all Escrow fees and charges as well as any title cancellation fees.

2. Prorations and Adjustments.

Ad valorem taxes and assessments on the Site and insurance for the current year shall be prorated by Escrow Agent as of the date of Closing with Developer responsible only for those assessed after Closing. If the actual taxes are not known at the date of Closing, the proration shall be based upon the most current tax figures. When the actual taxes for the year of Closing become known, Developer and Owner shall, within thirty (30) days thereafter, re-prorate the taxes which shall be promptly paid to the appropriate party.

3. Extraordinary Services of Escrow Agent.

Escrow fees and charges contemplated by this Agreement incorporate only the ordinary services of Escrow Agent as listed in this Agreement. In the event that Escrow Agent renders any service not provided for in this Agreement, or that Escrow Agent is made a party to, or reasonably intervenes in, any litigation pertaining to this Escrow or the subject matter thereof, then Escrow Agent shall be reasonably compensated for such extraordinary services and reimbursed for all costs and expenses occasioned by such default, controversy or litigation.

4. Escrow Agent's Right to Retain Documents.

Escrow Agent shall have the right to retain all documents and/or other things of value at any time held by it hereunder until such compensation, fees, costs and expenses are paid. The parties jointly and severally promise to pay such sums upon demand.

I. (§ 410) Termination of Escrow and Agreement.

1. Termination.

Escrow (and this Agreement) may be terminated by demand of a party which shall have performed its obligations hereunder if:

(a) The Conditions to Closing for the benefit of a party have not occurred or have not been approved, disapproved, or waived as the case may be, by the benefitted party by the date established herein for the occurrence of such Condition, including any grace period pursuant to this Section; or

(b) The other party is in breach of the terms and conditions of this Agreement.

In the event of the foregoing, the terminating party may, in writing, demand return of its money, papers, or documents from the Escrow Agent and shall deliver a copy of such demand to the non-terminating party. No demand shall be recognized by the Escrow Agent until thirty (30) days after the Escrow Agent shall have mailed copies of such demand to the non-terminating party, and if no objections are raised in writing to the terminating party and the Escrow Agent by the non-terminating party within the thirty (30) day period; provided that such timeline shall be shortened as necessary to assure escrow may close by December 30, 2022. In the event of such objections, the opportunity to cure shall be provided as stated below in Subsection 2 of this Section. In addition, the Escrow Agent is authorized to hold all money, papers, and documents until instructed in writing by both Developer and Owner or, upon failure thereof, by a court of competent jurisdiction; provided that after expiration of the cure period provided in Subsection 2

of this Section, and if said condition has not been cured, the Deposit shall be retained by Owner as liquidated damages or the Deposit shall be disbursed to the party entitled to the Deposit as set forth in this Agreement. If no such demands are made, the Escrow shall be closed as soon as possible and neither party shall have any further liability to the other.

2. Opportunity to Cure.

Prior to Closing, in the event any of the Conditions to Closing are not satisfied or waived by the party with the power to approve said Conditions (the "**approving party**"), then such party shall explain in writing to the other party (the "**non-approving party**") the reason for the disapproval. Thereafter, the non-approving party shall have an additional thirty (30) days to satisfy any such Condition to Closing, and only if such Conditions still cannot be satisfied may the approving party terminate the Escrow; provided that such timeline shall be shortened as necessary to assure escrow may close by December 30, 2022. In the event Escrow is not in a condition to close because of a default by any party, and the performing party has made demand as stated in Subsection 1 of this Section, then upon the non-performing party's delivering its objection to Escrow Agent and the performing party within the above thirty (30) day period, or such shorter time to assure escrow closes by December 30, 2022, the non-performing party shall have the right to cure the default in accordance with and in the time provided in Section 701.1.

3. No Monetary Damages for Developer's Failure to Close.

Owner waives any and all claims and rights to monetary damages or other cost recovery against Developer resulting from escrow failing to close.

J. (§ 411) Responsibility of Escrow Agent.

1. Deposit of Funds.

All funds received in Escrow shall be deposited by Escrow Agent in a special Escrow account with any state or national bank doing business in the State of California and may not be combined with other Escrow funds of Escrow Agent or transferred to any other general Escrow account or accounts.

2. Notices.

All communications from Escrow Agent shall be directed to the addresses and in the manner provided in Section 801 of this Agreement for notices, demands and communications between Owner and Developer.

3. Sufficiency of Documents.

Escrow Agent is not to be concerned with the sufficiency, validity, correctness of form, or content of any document prepared outside of Escrow and delivered to Escrow. The sole duty of Escrow Agent is to accept such documents and follow Developer's and Owner's instructions pursuant to this Agreement.

4. Exculpation of Escrow Agent.

Escrow Agent shall not be liable for the failure of any of the Conditions to Closing of this Escrow, forgeries or false personation, unless such liability or damage is the result of negligence or willful misconduct by Escrow Agent.

5. Responsibilities in the Event of Controversies.

If any controversy documented in writing arises between Developer and Owner or with any third party with respect to the subject matter of this Escrow or its terms or conditions, Escrow Agent shall not be required to determine the same, to return any money, papers or documents, or take any action regarding the Site prior to settlement of the controversy by a final decision by an arbitrator, by a court of competent jurisdiction, or by written agreement of the parties to the controversy, as the case may be. Escrow Agent shall be responsible for timely notifying Developer and Owner of the controversy. In the event of such a controversy, Escrow Agent shall not be liable for interest or damage costs resulting from failure to timely close Escrow or take any other action unless such controversy has been caused by the failure of Escrow Agent to perform its responsibilities hereunder.

V. (§ 500) DEVELOPMENT OF THE SITE.

A. (§ 501) Scope of Development.

The Site shall be developed by Developer as provided in the Scope of Development, Developer's Basic Concept Drawings, and the plans and permits approved by City pursuant to Section 502. Notwithstanding any other provision set forth in this Agreement to the contrary, in the event of any conflict between the narrative description of the Project in this Agreement (including the Scope of Development) and the approved plans and permits, the approved plans and permits shall govern.

B. (§ 502) Development Plans, Final Building Plans, Environmental Review.

1. Proposed Development's Consistency with Plans and Codes; No Assurances regarding Entitlements.

Developer and Owner shall cooperate to assure that the proposed Project, including development and operation, complies with all applicable governmental requirements and regulations, including but not limited to, standard reviews and approvals, Site Plan Review, any zoning change, if applicable, and review and approval of the Entitlements and CEQA. Notwithstanding the foregoing, Developer specifically understands that Owner makes no representations or warranties with respect to approvals required by any governmental entity or with respect to approvals hereinafter required from City, City reserving full police power authority over the Project. However, Owner shall reasonably cooperate with Developer in procuring its approval of the Entitlements, subject to Owner's discretion over the final design of the Project under its Development Plan Review authority and its general Police Power authority to impose reasonable conditions of approval on the Project to ensure its construction and operation proceed in an appropriate and responsible manner in accordance with all applicable laws and policies of the City, state and federal government, which conditions of approval shall be determined by Owner in its sole and absolute discretion, subject to all applicable legal limitations. Nothing in this Agreement shall be deemed to be a prejudgment or commitment with respect to such items or a guarantee that such approvals or permits will be issued within any particular time or with or without any particular conditions. However, Owner has reviewed the proposed development program for the Project as set forth and defined in this Agreement, and hereby confirms it is supportive of the mix of uses, scale and density of the Project, and finds the Project to be consistent with the RFP issued by the City for the development of the Property. Owner further finds the Project, as proposed herein, is consistent with the City's

pending vision and plans for the downtown area, which will call for increased development and density in locations such as the Property defined as high quality transit areas within walking distance of the San Dimas Gold Line Station.

Developer understands that Owner is not making any assurance to Developer regarding approval of Entitlements or approvals required for the Project. Developer is aware that, notwithstanding current zoning for the Site, zoning and other laws can change in the future following the approval, permitting and construction of the Project. Developer is purchasing the Site with full knowledge that the Project will be subject to the standard approval process as required by the San Dimas Municipal Code and applicable law, and it is Developer's responsibility to ensure it adheres to the procedural and substantive requirements of said code and laws in seeking any and all such approvals including, without limitation, the approval of the Entitlements. Developer expressly acknowledges that it understands and, if it elects to purchase the Site, is knowingly accepting the foregoing risks. Developer agrees to indemnify Owner with respect to all challenges by any other third party (i) to the legality, validity or adequacy of the General Plan, Specific Plan or equivalent, development approvals including, without limitation, the Entitlements, this Agreement, or other actions of Owner or City pertaining to the Project, (ii) seeking damages against City as a consequence of the foregoing actions or for the taking or diminution in value of their property, or in any other manner, or (iii) for any tort claim or action against Owner or City arising in connection with Developer's construction of the Project, all in accordance with the following Indemnification Procedures:

(a) The City shall promptly notify Developer in writing of any claim or threatened claim and cooperate with Developer; (b) Developer shall immediately take control of the defense and investigation of such claim and shall employ counsel reasonably satisfactory to the City to handle and defend the same at Developer's sole cost and expense; provided, that the City shall have the right to participate in such proceedings. In the event of a conflict of interest between the Developer and City, the City shall be also entitled to retain, at Developer's expense, separate counsel as required by the applicable rules of professional conduct with respect to such matter: (c) Developer shall not settle any claim in a manner that adversely affects the rights of the City without the City's prior written consent, which shall not be unreasonably withheld or delayed; (d) In circumstances in which Developer fails to perform the obligations in this Section or the indemnity agreements provided for in this Section are unavailable or insufficient, for any reason, to hold harmless the City party in respect of any losses arising thereunder, Developer, in order to provide for just and equitable contribution, shall pay to the City the amount paid or payable by the City as a result of such losses in proportion to the relative fault of the parties, taking into consideration the parties' relative intents, knowledge, access to information and opportunity to correct or prevent such losses, and any other equitable considerations appropriate in the circumstances; and (e) Notwithstanding anything to the contrary in this Agreement, Developer is not obligated to indemnify or defend the City against any claim (whether direct or indirect) if such claim or corresponding losses directly result from the gross negligence or willful misconduct of the City or its Representative. **This provision shall survive termination of this Agreement.**

2. <u>Evolution of Development Plan</u>.

Concurrently with the approval of this Agreement, City has approved Developer's Basic Concept Drawings. On or before the date set forth in the Schedule of Performance, Developer shall submit to the City drawings and specifications for the development of the Site in accordance with the Scope of Development, and all in accordance with the City's requirements for discretionary entitlement approvals. The term drawings shall be deemed to include site plans, building plans and elevations, and if applicable, grading plans, landscaping plans, parking plans, material sheets, and

may include a description of anticipated structural, mechanical, and electrical systems, and all other plans, drawings and specifications. Said plans, drawings and specifications shall be consistent with the Scope of Development and the various Entitlement approvals referenced hereinabove, except as such items may be amended by City (if applicable) and by mutual consent of City and Developer. Plans (concept, preliminary and construction) shall be progressively more detailed and will be approved if a logical evolution of plans, drawings or specifications previously approved.

3. Right to Develop In Phases; Commercial Component Priority.

Developer shall be authorized to develop the separate components of the Project (Residential, Commercial and Hotel Components) in separate phases, provided the overall timing of the Project meets the deadlines set forth in the Schedule of Performance. Notwithstanding the foregoing, Developer acknowledges that the City Council selected Developer based on Developer's ability to deliver the Hotel Component as a priority and the Commercial Component as a second priority for the City Council and community. As such, should Developer proceed to develop the Project in phases, Developer shall provide a phasing plan and schedule to the City for its review and approval, which shall not be unreasonably denied, delayed, conditioned or withheld; provided it prioritizes development of the Hotel Component. Should the phasing plan and schedule not prioritize the development of the Hotel Component, City shall be authorized to delay issuance of any building permit, occupancy permit or other approval until Developer implements a phasing plan and schedule approved in writing by the City Manager that prioritizes the Hotel Component. As used herein, the term "prioritizing the Hotel Component" shall mean that any phasing plan must call for substantial progress on vertical construction of the Hotel Component, at the latest, prior to the issuance of the first Certificate of Occupancy, temporary or otherwise for the Commercial or Residential Components of the Project.

4. Public Open Space Component.

Developer acknowledges that the Project has been analyzed in accordance with CEQA, as detailed in the Resolution adopted by the City Council concurrently with the approval of this Agreement, pursuant to which the City Council found that the Project meets the definition of a Transit Priority Project and otherwise qualifies for the adoption of a SCPE. As such, the City Council, on behalf of the City and Agency, approved the SCPE as part of its consideration of this Agreement. Consistent with that determination and a material requirement of the SCPE for the Project to contain open space usable by the general public, Developer agrees and, pursuant to the Covenant Agreement, covenants to maintain the Public Open Space available for use by the general public so long as the Project is in operation, and not just the occupants of the Project or portions thereof. Prior to obtaining the first Certificate of Occupancy for the Project, the Developer shall submit to the City Manager for approval a Project Public Open Space Operations Plan that is consistent with the requirements of this Agreement, which details the goals of the Project's public open space, the operations team including any third party vendors, contacts, details regarding operational planning and strategies to fulfill ongoing maintenance obligations, security, funding mechanisms, days and hours of operation, and other relevant information requested by the City Manager, the approval of which the City Manager shall not unreasonably withhold; provided the plan meets the goals and objectives of the Public Open Space, as described in this Agreement and Covenant Agreement and Developer's original Project proposal, which may include installation and operation of various courtyard and paseos, kiosks, a stage and a pop jet water feature for children. The Public Open Space will serve as a venue for year-round seasonal events and the opportunity to capitalize upon San Dimas beautiful evening breezes and sunsets. City resident community outings to be hosted within the Public Open Space may include but are not limited to, movies in the park and hosting local farmers market, and family activities. Developer shall further agree in the Covenant Agreement to

properly maintain the Public Open Space in a good condition and in accordance with all applicable laws.

5. Developer Efforts to Obtain Approvals.

Developer shall exercise its best efforts to timely submit all documents and information necessary to obtain all Entitlements and building permit approvals from the City in a timely manner, and Owner shall reasonably cooperate with Developer in connection therewith. Not by way of limitation of the foregoing, in developing and constructing the Project, Developer shall comply with all applicable development standards in City's Municipal Code and shall comply with all applicable building codes, landscaping, signage, and parking requirements, except as may be permitted through approved variances and modifications. Developer's obtaining such approvals is not a contingency to the Closing of Escrow. Developer shall secure approval of remediation plan from Department of Toxic and Substances Control and any other applicable government agency with jurisdiction over the remediation, and City will cooperate with such efforts. Developer shall further secure written approval, and provided a copy of such approval to City and any other governmental agency with jurisdiction over the Premises, approving the plan for remediation of any contamination or other Hazardous Materials on the Premises.

6. Owner's Reasonable Assistance.

Subject to Developer's compliance with (i) the applicable City development standards for the Site, and (ii) all applicable laws and regulations governing such matters as public hearings, site plan review and environmental review, Owner agrees to provide reasonable assistance to Developer, at no cost to Owner, which may require Developer to deposit with Owner sufficient fees to cover Owner's cost, in the expeditious processing of Developer's submittals required under this Section in order that Developer can obtain a final City action on such matters within the time set forth in the Schedule of Performance. City's failure to provide necessary approvals or permits within such time periods, after and despite Developer's reasonable efforts to submit the documents and information necessary to obtain the same, shall constitute an Enforced Delay.

7. Disapproval.

City shall approve or disapprove any submittal made by Developer pursuant to this Agreement within thirty (30) days after such submittal unless otherwise specified in this Agreement or applicable state and local law. All submittals made by Developer shall note the thirty (30) day time limit or as otherwise provided in this Agreement, and specifically reference this Agreement and this section. Any disapproval shall state in writing in reasonable detail the reason for the disapproval and the changes which City requests be made. Developer shall make the required changes and revisions and resubmit for approval as soon as is reasonably practicable but no more than thirty (30) days of the date of disapproval. Thereafter, City shall have an additional ten (10) business days for review of the resubmittal, but if City disapproves the resubmittal, then the cycle shall repeat, until City's approval has been obtained. If the changes and revisions disapproved are substantial and reasonably requirement more than the ten (10) business days for review, the City shall have an additional thirty (30) business days for review of the resubmittal. The foregoing periods may be shortened if so specified in the Schedule of Performance and by mutual agreement of the Parties.

8. CEQA and CEQA Expenses Deposit.

Owner, through City, shall be responsible for obtaining the approval of this Agreement and the Project as required to be consistent with the SCPE approved by City and Owner concurrently with the approval of this Agreement. Owner shall promptly commence same after Opening of Escrow

and diligently process same. Upon Owner's request, Developer agrees to supply information and otherwise to assist City to make a final determination regarding the applicability of the SCPE to the Project. Without limitation of the foregoing, Developer specifically acknowledges and agrees that Developer shall satisfy all conditions necessary to ensure that the Project conforms to all applicable CEQA requirements.

Within five (5) days of the Effective Date of this Agreement, Developer shall pay the CEQA Expenses Deposit to City, which shall be used solely to reimburse City for all third-party consultant costs incurred by City to complete all documents, reports and studies for its CEQA review of the Project. Such CEQA Expenses Deposit may be increased as necessary to pay for the actual costs incurred and charged by the CEQA Consultant to Owner, upon thirty (30) days' prior written notice to and approval of Developer of said anticipated increase and reasonable documentation thereof. To this end, Owner shall provide Developer with a written report and accounting of expenditures from the Agency Expenses Deposit on a monthly basis and also upon the expiration or termination of this Agreement, which reasonably documents said time, costs and expenses.

At any time the balance of the Agency Expenses Deposit is less than Ten Thousand Dollars ($10,000), Owner may request that Developer deposit additional funds with Owner as is necessary to pay for the CEQA Expenses, in which case Developer shall make such additional deposit(s) no later than thirty (30) days of its receipt of any such written request in order to replenish the CEQA Expenses Deposit in a sufficient amount to meet any such additional reasonably anticipated costs. Should Developer not pay any deposits required by this Section, then Owner may temporarily halt further processing of the Entitlements pending resolution of the amount of any additional CEQA Expenses required to complete the CEQA analysis of the Project; upon such resolution, Owner shall immediately re-commence processing of the Entitlements and complete the Project's CEQA analysis. The CEQA Expenses Deposit shall be separate from the deposits made by Developer under Section 6 below and not applicable to any portion of the Purchase Price.

To the extent Owner has a remaining balance in the CEQA Expenses Deposit following completion of the CEQA Consultant's services, and Developer is not in breach of this Agreement (after any applicable notice and cure period has elapsed), Owner shall return that portion of the CEQA Expenses Deposit for which Owner has not incurred costs along with an accounting of the costs incurred by Owner therefor.

9. <u>Construction Sales and Use Tax Allocation to City; Business Licenses</u>.

Developer shall register with the California Department of Tax and Fee Administration to allocate all applicable construction sales and use taxes to the City so that City receives the benefit of any sales and use taxes paid for construction activities and purchases of related equipment and materials. Developer shall ensure that any and all entities performing work within the City limits shall obtain and maintain valid business licenses.

C. (§ 503) <u>Costs</u>.

The cost of developing the Site and rehabilitating the on-site and off-site improvements, if applicable, at or about the Site required to be constructed for the Project shall be borne solely by Developer. Developer shall comply with all applicable laws including prevailing wages (if applicable) and shall defend and hold Owner and City harmless from and against any and all increase in construction costs, or other liability, loss, damage, costs, or expenses (including reasonable attorneys' fees and court costs) arising from or as a result of any action or determination that Developer was subject to prevailing wages in connection with the construction of the Project.

D. (§ 504) Schedule of Performance; Progress Reports.

1. Developer to Pursue Project Diligently.

Developer shall begin and complete all plans, reviews, construction and development specified in the Scope of Development within the times specified in the Schedule of Performance or such reasonable extensions of said dates as may be mutually approved in writing by the parties.

Once construction is commenced, it shall be diligently pursued to completion, and shall not be abandoned for more than thirty (30) consecutive days, except when due to an Enforced Delay. Developer shall keep Owner informed of the progress of construction and submit to Owner written reports of the progress of the construction when and in the form requested by Owner. Developer shall promptly inform Owner in writing when the progress of construction has or will be abandoned or reasonably delayed and the reason for such delay when such delay may materially impact the Schedule of Performance.

2. Boutique Hotel Feasibility Study.

Pursuant to the ENA and before the Effective Date, Developer provided Owner with a study evaluating the feasibility of establishing a boutique hotel at the Site. This study analyzes market conditions, economic and demographic factors, and site conditions of establishing a boutique hotel in the City at the Site. A copy of such study has been provided to Owner and confirms the feasibility of the operation of a Boutique Hotel, which Developer shall construct and operate as part of the Project, as further described in the Scope of Development. In the case of a material change in conditions and factors supporting feasibility of establishing or operating a boutique hotel occurs, Developer shall provide an updated feasibility study to the Owner within sixty (60) days of Developer's knowledge of such material change.

3. Public Outreach Plan.

Pursuant to the ENA and before the Effective Date, Developer provided Owner with a Public Outreach Plan that describes Developer's anticipated plan and approach on educating and informing the public about the Project. Said plan shall be subject to further review and approval by the City and shall be revised, as requested by City, to show detail, as appropriate, specific outreach efforts and methods, including public meetings and/or individual contacts, to communicate with and receive input from local stakeholders, which shall include, but are not limited to, residents and business and property owners in the San Dimas community.

4. Leasing Activity Reports.

Pursuant to the ENA, Developer has provided and hereby agrees that it shall continue to provide Owner with a bi-monthly leasing activity report each sixty (60)-day period of the Term of this Agreement until the Project is fully leased that reasonably documents the interest of potential commercial and restaurant/retail users of the Commercial Component for Developer's proposed Project. All such reports shall be subject to the Section 804.4 confidentiality requirements.

E. (§ 505) Indemnification During Construction.

During construction on the Site, including the Street Improvements, and until such time as Owner has issued a Certificate of Completion, Developer agrees to and shall indemnify and hold Owner and City harmless from and against all liability, loss, damage, costs, or expenses (including reasonable attorneys' fees and court costs) arising from or as a result of the death of any person or

any accident, injury, loss, or damage whatsoever caused to any person or to the property of any person which shall occur on the Site and which shall be directly or indirectly caused by any acts done thereon or any errors or omissions of Developer or its agents, servants, employees, or contractors. Developer shall not be responsible for (and such indemnity shall not apply to) any acts errors or omissions of Owner or City or its respective agents, servants, employees or contractors. Neither Owner nor City shall be responsible for any acts, errors or omissions of any person or entity except its own agents, servants, employees or contractors subject to any and all statutory and other immunities.

F. (§ 506) Bodily Injury, Property Damage and Workers' Compensation Insurance.

1. Types of Insurance.

Prior to the entry of Developer on the Site and the commencement of any construction by or on behalf of Developer or its affiliates (including without limitation any site preparation work such as soil and engineering tests and grading), Developer shall procure and maintain (or cause to be procured and maintained), at its sole cost and expense, in a form and content reasonably satisfactory to Owner, during the entire term of such entry or construction, the following policies of insurance:

(a) **Garage Liability or Commercial General Liability Insurance (collectively "CGL")**. Developer shall keep or cause to be kept in force for the mutual benefit of Owner, City, and Developer CGL insurance against claims and liability for personal injury or death arising from the use, occupancy, disuse or condition of the Site, improvements or adjoining areas or ways, affected by such use of the Site or for property damage, providing protection of at least Four Million Dollars ($4,000,000) for bodily injury or death in the aggregate, at least Two Million Dollars ($2,000,000) for any one accident or occurrence, and at least One Million Dollars ($1,000,000) for property damage.

(b) **Builder's Risk Insurance.** Developer shall procure and shall maintain (or cause to be procured and maintained) in force "all risks" builder's risk insurance including vandalism and malicious mischief, covering improvements in place and all material and equipment at the job site furnished under contract, but excluding contractor's, subcontractor's, and construction manager's tools and equipment and property owned by contractor's or subcontractor's employees, with limits in accordance with subsection (a) above.

(c) **Workers' Compensation.** Developer shall also furnish or cause to be furnished to Owner evidence reasonably satisfactory to it that any contractor with whom Developer has contracted for the performance of any work for which Developer is responsible hereunder carries workers' compensation and employer's liability insurance as required by law, but not less than $1,000,000.

(d) **Automobile Insurance.** Developer shall also furnish automobile liability insurance, including coverage for owned, hired and non-owned automobiles. The limits of liability shall not be less than $1,000,000 combined single limit each accident for bodily injury and property damage. Developer shall further require its construction contractors and subcontractors to include in their liability insurance policies coverage for automobile contractual liability.

(e) **Property Insurance**. Developer shall maintain property insurance covering all risks of loss including earthquake (if required) and flood (if required) for 100% of the replacement value of the Project with deductible, if any, in an amount acceptable to City, naming City as loss payee as its interests may appear.

(f) **Contractors and Subcontractors Insurance**. Developer shall ensure that its contractors, subcontractors, and any other party involved with the project who is brought onto or involved in the project by Developer, maintains insurance coverage and endorsements required of Developer that are appropriate for the risks involved with their services. Developer shall monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of the insurance section outlined in the agreement between the developer and its contractors and/or subcontractors.

(g) **Other Insurance.** Developer shall also procure and maintain any insurance reasonably required by Owner after notice to Developer.

2. Policy Form, Content and Insurer.

All insurance required by express provisions hereof shall be carried only by insurance companies authorized to do business by California, rated "A-" or better in the most recent edition of Best Rating Guide, and only if they are of a financial category Class VIII or better. All such property policies shall contain language, to the extent obtainable, to the effect that (i) any loss shall be payable notwithstanding any act of negligence of Owner, or Developer that might otherwise result in the forfeiture of the insurance, (ii) Developer waives the right of subrogation against Owner and against Owner's agents and representatives; (iii) the policies are primary and noncontributing with any insurance that may be carried by Owner; and (iv) the policies cannot be canceled or materially changed except after thirty (30) days' written notice by the insurer to Owner or Owner's designated representative. Developer shall furnish Owner with certificates evidencing the insurance as well as full copies of the policies, and Developer shall continue to submit renewal policies no less than thirty (30) days prior to expiration of any existing policies. Owner shall be named as additional insureds on all policies of insurance required to be procured by the terms of this Agreement other than workers' compensation insurance.

3. Failure to Maintain Insurance and Proof of Compliance.

Developer shall deliver to Owner, in the manner required for notices, copies of certificates of all insurance policies together with a copy of the policies required hereunder within the following time limits:

(a) For insurance required above, prior to entry of Developer on the Site and the commencement of any construction by or on behalf of Developer.

(b) For any renewal or replacement of a policy already in existence, simultaneously with the expiration or termination of the existing policy.

If Developer fails or refuses to procure or maintain insurance as required hereby or fails or refuses to furnish Owner with required proof that the insurance has been procured and is in force, such failure shall be a default hereunder, subject to the applicable cure period.

G. (§ 507) City and Other Governmental Agency Permits.

Before commencement of construction or development of any buildings, structures, or other work on the Site, including the Street Improvements, which are Developer's responsibility under the Scope of Development, Developer shall at its own expense secure or cause to be secured any and all permits which may be required by City or any other governmental agency affected by such construction, development or work. Developer shall not be obligated to commence construction if any such permit is not issued despite good faith effort by Developer. If there is delay beyond the usual time for obtaining any such permits due to no fault of Developer, the Schedule of Performance shall be extended to the extent such delay prevents any action which could not legally or would not in accordance with good business practices be expected to occur before such permit was obtained. Developer shall pay all normal and customary fees and charges applicable to such permits and any fees or charges hereafter imposed by City which are standard for and uniformly applied to similar projects in the City.

H. (§ 508) Rights of Access by Owner.

Representatives of Owner shall have the reasonable right of access to the Site at any time during normal construction hours during the period of construction with reasonable advance written notice, for the purpose of assuring compliance with this Agreement, including, but not limited to, the inspection of the construction work being performed by or on behalf of Developer. Such representatives of Owner shall be those who are so identified in writing by the Executive Director of Owner. Each such representative of Owner shall identify himself or herself at the job site office upon his or her entrance to the Site, and shall provide Developer, or the construction superintendent or similar person in charge on the Site, a reasonable opportunity to have a representative accompany him or her during the inspection. Owner shall indemnify, defend, and hold Developer harmless from any injury or property damage caused or liability arising out of Owner's exercise of this right of access. Nothing in this Agreement shall restrict or prohibit access by the Owner or its representatives to enforce any other authority under federal, state or local law or regulation. This includes, but is not limited to, code enforcement response to possible violations, law enforcement access in exigent circumstances, etc.

I. (§ 509) Applicable Laws.

Developer shall carry out the construction of the improvements to be constructed by Developer in conformity with all applicable federal, state, and local law, statute, ordinance, code, rule, regulation, order or decree, including but not limited to labor laws in place at time of Agreement execution and thereafter.

J. (§ 510) Anti-discrimination during Construction.

Developer, for itself and its successors and assigns, agrees that in the construction of the improvements to be constructed by Developer, it shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, marital status, ancestry, national origin, or any other protected class as defined by federal, state or local law.

K. (§ 511) Taxes, Assessments, Encumbrances and Liens.

Developer shall pay, when due, all real estate taxes and assessments assessed or levied subsequent to conveyance of the Site, if any. Until the date Developer is entitled to the issuance of a Certificate of Completion (as defined in Section 513) executed by Owner, Developer shall not place or allow to be placed thereon any mortgage, trust deed, encumbrance or lien (except mechanic's

liens prior to suit to foreclose the same being filed) prohibited by this Agreement. Developer shall remove or have removed any levy or attachment made on the Site, or assure the satisfaction thereof, within a reasonable time, but in any event prior to a sale to any third party, subject to the terms of this Agreement. Nothing herein contained shall be deemed to prohibit Developer from contesting the validity or amounts of any tax, assessment, encumbrance or lien, nor to limit the remedies available to Developer in respect thereto.

L. (§ 512) Rights of Holders of Approved Security Interests in Site.

1. Definitions.

As used in this Section, the term "**mortgage**" shall mean a leasehold mortgage and include any mortgage, deed of trust, or other security interest, or sale and lease-back, or any other form of conveyance for financing. The term "**holder**" shall include the holder of any such mortgage, deed of trust, or other security interest, or the lessor under a lease-back, or the grantee under any other conveyance for financing.

2. No Encumbrances except Mortgages to Finance the Project.

Notwithstanding the restrictions on transfer in Section 303, mortgages required for any reasonable method of financing of the construction of the improvements are permitted before issuance of a Certificate of Completion but only for the purpose of securing loans of funds used or to be used for financing the acquisition of the Site, for the construction of improvements thereon, and for any other expenditures necessary and appropriate to develop the Site under this Agreement, or for restructuring or refinancing any of same, and Development shall demonstrate in its written notice evidence that the City can confirm that such financing institution consists of commercially acceptable institutional quality credit and/or rating, and not subject to federal or state sanction and/or prohibition. Developer (or any entity permitted to acquire title under this Section) shall notify Owner in advance of any mortgage if Developer or such entity proposes to enter into the same before issuance of the Certificate of Completion. Developer or such entity shall not enter into any such conveyance for financing without the prior written approval of Owner, which approval shall not be unreasonably withheld or delayed. Owner shall respond within ten (10) business days of receiving notification of any such lender proposed, Owner's failure to respond within such time period shall result in such lender being deemed approved, and Owner shall bear its own costs associated with its review of proposed lenders. Any lender approved by Owner or deemed approved shall not be bound by any amendment, implementation, or modification to this Agreement subsequent to its approval without such lender giving its prior written consent thereto. In any event, Developer shall promptly notify Owner of any mortgage, encumbrance, or lien that has been created or attached thereto prior to issuance of a Certificate of Completion, whether by voluntary act of Developer or otherwise. Other than the notification requirement herein, Developer shall have the same right to encumber its right, title and interest under this Agreement and the Site that Developer would have after closing that it would absent this Agreement, pursuant to one or more mortgages, provided that any such Mortgage adheres to the requirements of this provision and the Covenant Agreement, including but not limited to, the TOT Guarantee and Option as described therein, that such mortgage be only for financing the acquisition, construction and other expenditures reasonably necessary for the development of the Site with the Project.

3. Developer's Breach Shall Not Defeat Mortgage Lien.

Developer's breach of any of the covenants or restrictions contained in this Agreement shall not defeat or render invalid the lien of any mortgage made in good faith and for value as to the Site, or any part thereof or interest therein, but unless otherwise provided herein, the terms, conditions,

covenants, restrictions, easements, and reservations of this Agreement shall be binding and effective against the holder of any such mortgage of the Site whose interest is acquired by foreclosure, trustee's sale or otherwise.

4. Holder Not Obligated to Construct or Complete Improvements.

The holder of any mortgage shall in no way be obligated by the provisions of this Agreement to construct or complete the improvements or to guarantee such construction or completion. Nothing in this Agreement shall be deemed or construed to permit or authorize any such holder to devote the Site or any portion thereof to any uses, or to construct any improvements thereon, other than those uses or improvements provided for or authorized by this Agreement. Should the holder who has obtained the Site by way of foreclosure elect to complete the construction of the Project under this Agreement, the period of foreclosure shall stay the deadlines set forth in this Agreement for the completion of the Project.

5. Notice of Default to Mortgagee, Deed of Trust or Other Security Interest Holders.

Whenever Owner shall deliver any notice or demand to Developer with respect to any breach or default by Developer hereunder, Owner shall at the same time deliver a copy of such notice or demand to each holder of record of any mortgage who has previously made a written request to Owner therefor, or to the representative of such lender as may be identified in such a written request by the lender. No notice of default shall be effective as to the holder unless such notice is given.

6. Modification of Article; Conflicts

Owner hereby agrees to cooperate in including in this Agreement by suitable amendment from time to time any provision which may reasonably be requested by any proposed holder for the purpose of allowing such holder reasonable means to protect or preserve the lien and security interest of the mortgage hereunder as well as such other documents containing terms and provisions customarily required by holders (taking into account the customary requirements of their participants, syndication partners or ratings agencies) in connection with any such financing; provided that no changes shall be required that eliminate the benefits to City provided in this Agreement or Covenant Agreement. With the exception of Minor Amendments, as defined below, Developer further acknowledges that any such changes would require City Council approval. Owner agrees to execute and deliver (and to acknowledge, if necessary, for recording purposes) any agreement necessary to effectuate any such amendment; provided, however, that any such amendment shall not in any way materially adversely affect any rights of either Party under this Agreement. If there is any conflict between this Article 6 and any other provision contained in this Agreement, this Article 6 shall control.

7. Entitlement to Written Notice of Default

The holder of a mortgage or beneficiary of a deed of trust encumbering the Property, or any part thereof, and their successors and assigns shall, upon written request to Owner, be entitled to receive from Owner written notification of any default by Developer of the performance of Developer's obligations under this Agreement which has not been cured within sixty (60) days following the date of default. Notwithstanding the foregoing, Owner's failure to comply with this section shall not constitute a default, or grounds for termination. Developer shall reimburse Owner for its actual costs, reasonably and necessarily incurred, to prepare this notice of default.

8. Right to Cure.

Each holder (insofar as the rights of Owner are concerned) shall have the right, at its option, within ninety (90) days after the receipt of the notice, to:

a. Obtain possession, if necessary, and to commence and diligently pursue said cure until the same is completed, and

b. Add the cost of said cure to the security interest debt and the lien or obligation on its security interest;

provided that in the case of a default which cannot with diligence be remedied or cured within such ninety (90) day period, such holder shall have additional time as reasonably necessary to remedy or cure such default.

In the event there is more than one such holder, the right to cure or remedy a breach or default of Developer under this Section shall be exercised by the holder first in priority or as the holders may otherwise agree among themselves, but there shall be only one exercise of such right to cure and remedy a breach or default of Developer under this Section.

No holder shall undertake or continue the construction or completion of the improvements (beyond the extent necessary to preserve or protect the improvements or construction already made) without first having expressly assumed Developer's obligations to Owner by written agreement satisfactory to Owner with respect to the Site or any portion thereof in which the holder has an interest. The holder must agree to complete, in the manner required by this Agreement, the improvements to which the lien or title of such holder relates, and submit evidence satisfactory to Owner that it has the qualifications and financial responsibility necessary to perform such obligations. Any holder properly completing such improvements shall be entitled, upon written request made to Owner, to a Certificate of Completion from Owner.

9. Owner's Rights upon Failure of Holder to Complete Improvements.

In any case where one hundred ninety (90) days after default by Developer in completion of construction of improvements under this Agreement, the holder of any mortgage creating a lien or encumbrance upon the Site or improvements thereon has not exercised the option to construct afforded in this Section or if it has exercised such option and has not proceeded diligently with construction, Owner may, after ninety (90) days' notice to such holder and if such holder has not exercised such option to construct within said ninety (90) day period, purchase the mortgage, upon payment to the holder of an amount equal to the sum of the following:

a. The unpaid mortgage debt plus any accrued and unpaid interest (less all appropriate credits, including those resulting from collection and application of rentals and other income received during foreclosure proceedings, if any);

b. All expenses, incurred by the holder with respect to foreclosure, if any;

c. The net expenses (exclusive of general overhead), incurred by the holder as a direct result of the ownership or management of the Site, such as insurance premiums or real estate taxes, if any;

d. The costs of any improvements made by such holder, if any; and

e. An amount equivalent to the interest that would have accrued on the aggregate of such amounts had all such amounts become part of the

mortgage debt and such debt had continued in existence to the date of payment by Owner.

In the event that the holder does not exercise its option to construct afforded in this Section, and Owner elects not to purchase the mortgage of holder, upon written request by the holder to Owner, Owner agrees to use reasonable efforts to assist the holder selling the holder's interest to a qualified and responsible party or parties (as determined by Owner), who shall assume the obligations of making or completing the improvements required to be constructed by Developer, or such other improvements in their stead as shall be satisfactory to Owner. The proceeds of such a sale shall be applied first to the holder of those items specified in subparagraphs (i) through (iv) hereinabove, and any balance remaining thereafter shall be applied as follows:

(i) First, to reimburse Owner, on its own behalf and on behalf of the Owner, for all costs and expenses actually and reasonably incurred by Owner, including but not limited to payroll expenses, management expenses, legal expenses, and others.

(ii) Second, to reimburse Owner, on its own behalf and on behalf of the Owner, for all payments made by Owner to discharge any other encumbrances or liens on the Site or to discharge or prevent from attaching or being made any subsequent encumbrances or liens due, to obligations, defaults, or acts of Developer, its successors or transferees.

(iii) Third, to reimburse Owner, on its own behalf and on behalf of the Owner, for all costs and expenses actually and reasonably incurred by Owner, in connection with its efforts assisting the holder in selling the holder's interest in accordance with this Section.

(iv) Fourth, any outstanding balance of fees, TOT Guarantee, or other fees, charges, taxes, and assessments owed to the Owner, City, and/or other governmental agency.

(v) Fifty, any balance remaining thereafter shall be paid to Developer.

10. <u>Right of Owner to Cure Mortgage, Deed of Trust or Other Security Interest; Default</u>.

In the event of a default or breach by Developer (or entity permitted to acquire title under this Section) of a mortgage prior to the issuance by Owner of a Certificate of Completion for the Site or portions thereof covered by said mortgage, and the holder of any such mortgage has not exercised its option to complete the development, Owner may cure the default prior to completion of any foreclosure. In such event, Owner shall be entitled to reimbursement from Developer or other entity of all costs and expenses incurred by Owner in curing the default, including legal costs and attorneys' fees, which right of reimbursement shall be secured by a lien upon the Site to the extent of such costs and disbursements. Any such lien shall be subject to:

a. Any mortgage for financing permitted by this Agreement; and

b. Any rights or interests provided in this Agreement for the protection of the holders of such mortgages for financing;

provided that nothing herein shall be deemed to impose upon Owner any affirmative obligations (by the payment of money, construction or otherwise) with respect to the Site in the event of its enforcement of its lien.

11. Right of Owner to Satisfy Other Liens on the Site After Conveyance of Title.

After the conveyance of title and prior to the recordation of a Certificate of Completion for construction and development, and after Developer has had a reasonable time to challenge, cure, or satisfy any liens or encumbrances on the Site or any portion thereof, Owner shall have the right to satisfy any such liens or encumbrances; provided, however, that nothing in this Agreement shall require Developer to pay or make provision for the payment of any tax, assessment, lien or charge so long as Developer in good faith shall contest the validity or amount thereof, and so long as such delay in payment shall not subject the Site or any portion thereof to forfeiture or sale.

12. Minor Amendments.

Owner's Executive Director shall be authorized to approve and execute minor non-substantive amendments to this Agreement as may be requested by Developer's lender in relation to the protection of such lender's security interest in the Site, or to execute a separate exhibit or agreement related to the same, without requiring formal approval of City Council; provided that any such revisions shall not diminish or remove any Owner or City benefits provided in this Agreement or Covenant Agreement. "Minor non-substantive amendments" shall mean changes to the Project that are otherwise substantially consistent with the Project as described herein and approved as part of the Entitlements, and which do not result in a change in the type of use, an increase in density or intensity of use, increased height or reduced setbacks of buildings, significant new or increased environmental impacts that cannot be mitigated, or violations of any applicable health and safety regulations in effect at the time of the proposed change Nothing in this section shall restrict the Owner's Executive Director from seeking City Council approval if, in the Owner's Executive Director's determination, requested amendments are not minor.

M. (§ 513) Certificate of Completion.

Upon the completion of all construction required to be completed by Developer on the Site pursuant to the terms of this Agreement (including opening of operations as specified in Section 601) and the opening of Developer's business, Owner shall furnish Developer with the Certificate of Completion for the Site in the form of Attachment No. 6 upon written request therefor by Developer. The Certificate of Completion shall be executed and notarized and recorded in the Office of the Recorder of Los Angeles County.

After the issuance of a Certificate of Completion, any party then owning or thereafter purchasing, leasing or otherwise acquiring any interest in the Site shall not (because of such ownership, purchase, lease, or acquisition) incur any obligation or liability under this Agreement, except that such party shall be bound by the covenants, encumbrances, and easements contained in the Grant Deed and the Covenant Agreement.

Upon request of Developer, the Owner shall not unreasonably withhold a Certificate of Completion. If Owner refuses or fails to furnish a Certificate of Completion within thirty (30) days after written request from Developer or any entity entitled thereto, Owner shall provide a written statement of the reasons Owner refused or failed to furnish a Certificate of Completion. The statement shall also contain Owner's opinion of the action Developer must take to obtain a Certificate of Completion. If the reason for such refusal is confined to the immediate availability of specific items or materials

for landscaping, or other minor so-called "punch list" items, Owner will not reasonably withhold issuing its Certificate of Completion upon the posting of a bond or other security reasonably acceptable to Owner by Developer with Owner in an amount representing one hundred fifty percent (150%) of the fair value of the work not yet completed at prevailing wage rates or other assurance reasonably satisfactory to Owner.

A Certificate of Completion shall not constitute evidence of compliance with or satisfaction of any obligation of Developer to any holder of a mortgage, or any insurer of a mortgage securing money loaned to finance the improvements, or any part thereof. Such Certificate of Completion is not notice of completion as referred to in the California Civil Code Section 3093. Nothing herein shall prevent or affect Developer's right to obtain a certificate of occupancy from the Owner before the Certificate of Completion is issued.

N. (§ 5I4) Estoppels and SNDA's.

At the request of Developer or any holder of a mortgage or deed of trust, Owner shall, from time to time and upon the request of such holder, timely execute and deliver to Developer or such holder a written statement of Owner that no default or breach exists (or would exist with the passage of time, or giving of notice or both) by Developer under this Agreement, if such be the fact, and certifying as to whether or not Developer has at the date of such certification complied with any obligation of Developer hereunder as to which Developer or such holder may inquire. At the request of Developer or any holder of a mortgage or deed of trust, Owner shall, from time to time and upon the request of such holder, but after Close of Escrow, timely execute and deliver to Developer or such holder a written statement of subordination, attornment and non-disturbance (SNDA), subject to the prohibition on subordination provided in Section 7.5 of the Covenant Agreement as to the TOT Guarantee. The form of any estoppel letter or SNDA shall be prepared by the holder or Developer and shall be at no cost to Owner, including any reasonable cost for the Owner to provide review by competent Counsel. The Owner's Executive Director shall be expressly authorized to execute any such SNDA or estoppel document. Such written statements requested by Developer and issued by Owner shall not waive Owner's obligation to consider in future requests any such prior default or prior breach for which could not have been known to Owner at the time any such written statement of no default or breach was previously issued by Owner.

O. (§ 5I5) Partial Releases.

Owner agrees to remove this DDA and the applicable covenants in the Grant Deed from a legal parcel (under the new commercial parcel map) provided all the following requirements are satisfied:

i. Developer provides a written notice to Owner under this provision;

ii. Developer is not in breach of this DDA;

iii. The Covenant Agreement has been recorded against the Site;

iv. Developer has completed all off-site improvements required by the approved subdivision map or subdivision improvement agreement, as applicable, and constructed all parking areas within the Project; and

v. A specific parcel is being sold to an owner/user consistent with the use restrictions in this Agreement as evidenced by documentation reasonably acceptable to Owner.

P. (§ 5I6) Ownership of Site Evaluation Documents.

Should the Parties be unable to secure approval of this Agreement, or written verification that no approval is required, by the Los Angeles Oversight Board or any modification to this Agreement approved by the Parties (despite the Owner's and Developer's best efforts per Section 405.3.c above), then Developer shall provide Owner a copy of the Phase II environmental site assessments and geotechnical soils report at no cost to Owner.

VI. (§ 600) USES OF THE SITE.

A. (§ 601) Uses.

Developer covenants to devote the Site for the uses specified in the Grant Deed and this Agreement unless Owner otherwise agrees in writing.

B. (§ 602) Obligation to Refrain from Discrimination.

There shall be no discrimination against, or segregation of, any persons, or group of persons, on account of race, color, creed, religion, sex, marital status, national origin or ancestry, or any other protected class as defined by federal, state and/or local law in the rental, sale, lease, sublease, transfer, use, occupancy, or enjoyment of the Site, or any portion thereof, 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 of the Site or any portion thereof. The nondiscrimination and non-segregation covenants contained herein shall remain in effect in perpetuity.

C. (§ 603) Form of Nondiscrimination and Non-Segregation Clauses.

Developer shall refrain from restricting the rental, sale, or lease of any portion of the Site on the basis of race, color, creed, religion, sex, marital status, ancestry, national origin or any other protected class as defined by federal, state and/or local law of any person. All such deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or non-segregation clauses:

1. Deeds.

In Deeds the following language shall appear: "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 race, color, creed, religion, sex, marital status, national origin, ancestry, or any other protected class as defined by federal, state and/or local law in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land herein conveyed, nor shall the grantee, or any persons claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the land herein conveyed. The foregoing covenants shall run with the land."

2. Leases.

In Leases the following language shall appear: "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 race, color, creed, religion, sex, marital status, national origin, ancestry, or any other protected class as defined by federal, state and/or local law in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the premises herein leased nor shall the lessee, 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."

3. Contracts.

Any contracts which Developer or, Developer's heirs, executors, administrators, or assigns propose to enter into for the sale, transfer, or leasing of the Site shall contain a nondiscrimination and non-segregation clause substantially as set forth in Section 602 and in this Section. Such clause shall bind the contracting party and subcontracting party or transferee under the instrument.

D. (§ 604) Maintenance of Improvements.

Developer covenants and agrees for itself, its successors and assigns, and every successor in interest to the Site or any part thereof, that, after Owner's issuance of its Certificate of Completion, Developer shall be responsible for maintenance of all improvements on the Site from time to time (including without limitation buildings, landscaping, parking lots, lighting, signs, and walls) as well as parkway landscaping and sidewalks on the adjacent pubic right of way, in first class condition and repair of comparable properties to the extent practical considering the age of the building, and shall keep the Site free from any accumulation of debris or waste materials. Developer shall also maintain all landscaping required pursuant to Developer's approved landscaping plan in a healthy condition, including prompt replacement of any dead or diseased plants or trees. The foregoing maintenance obligations shall run with the land and thereby become the obligations of any transferee of the Site or any portion thereof. Developer's further obligations to maintain the Site and Owner's remedies in the event of Developer's default in performing such obligations are set forth in the Grant Deed and the Covenant Agreement. Developer (for itself and its successor and assigns) waives any notice, public hearing, and other requirements of the public nuisance laws and ordinances of the Owner that would otherwise apply.

(§ 605) Beneficiary and Third-Party Beneficiary.

City is a beneficiary of the terms and provisions of this Agreement and of the restrictions and those covenants running with the land provided in the Grant Deed and Covenant Agreement for and in its own right for the purposes of protecting the interests of the community in whose favor and for whose benefit the covenants running with the land have been provided. The covenants in favor of City under this Agreement shall run without regard to whether City has been, remains or is an owner of any land or interest therein in the Site. City shall have the right, if any of the covenants set forth in this Agreement which are provided for its benefit are breached, to exercise all rights and remedies and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it may be entitled. With the exception of Owner and City, which is a third-party beneficiary of this Agreement and the covenants in the Grant Deed, no other person or entity shall have any right to enforce the terms of this Agreement under a theory of third-party beneficiary or otherwise. Although the City is a third-party beneficiary, City has no personal liability for any of the obligations of Owner to Developer. The covenants running with the land and their duration are set forth in the Grant Deed and Covenant Agreement.

VII. (§ 700) DEFAULTS, REMEDIES, TERMINATION, AND LITIGATION.

A. (§ 701) Defaults, Right to Cure and Waivers.

Subject to any Enforced Delay, failure or delay by either party to timely perform any covenant of this Agreement constitutes a default under this Agreement, but only if the party who so fails or delays does not commence to cure, correct or remedy such failure or delay within thirty (30) days after receipt of a written notice specifying such failure or delay, and does not thereafter prosecute such cure, correction or remedy with diligence to completion.

The injured party shall give written notice of default to the party in default, specifying the default complained of by the injured party. Except as required to protect against further damages, the injured party may not institute proceedings against the party in default until thirty (30) days after giving such notice. Failure or delay in giving such notice shall not constitute a waiver of any default, nor shall it change the time of default.

Except as otherwise provided in this Agreement, waiver by either party of the performance of any covenant, condition, or promise, shall not invalidate this Agreement, nor shall it be considered a waiver of any other covenant, condition, or promise. Waiver by either party of the time for performing any act shall not constitute a waiver of time for preforming any other act or an identical act required to be performed at a later time. The delay or forbearance by either party in exercising any remedy or right as to any default shall not operate as a waiver of any default or of any rights or remedies or to deprive such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

B. (§ 702) Legal Actions.

1. Institution of Legal Actions.

In addition to any other rights or remedies, and subject to the requirements of Section 701, either party may institute legal action to cure, correct or remedy any Default, to recover damages for any Default, including those obligations subject to the Covenant Agreement, or to obtain any other remedy consistent with the terms of this Agreement, subject to the limitation of damages set forth in Section 410 for Developer's failure to acquire the Site. Legal actions must be instituted and maintained in the Superior Court of the County of Los Angeles, State of California, in any other appropriate court in that county, or in the Federal District Court in the Eastern Division of the Central District of California.

2. Applicable Law and Forum.

The internal laws of the State of California shall govern the interpretation and enforcement of this Agreement, without regard to conflict of law principles.

3. Acceptance of Service of Process.

In the event that any legal action is commenced by Developer against Owner, service of process on Owner shall be made by personal service upon the Executive Director or Secretary of Owner, or in such other manner as may be provided by law.

In the event that any legal action is commenced by Owner against Developer, service of process on Developer shall be made in such manner as may be provided by law and shall be valid whether made within or without the State of California.

C. (§ 703) Rights and Remedies are Cumulative.

Except as otherwise expressly stated in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by either party of one or more of its rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

D. (§ 704) Waiver.

Except as otherwise provided in this Agreement, waiver by either party of the performance of any covenant, condition, or promise shall not invalidate this Agreement, nor shall it be considered a waiver of any other covenant, condition, or promise. Waiver by either party of the time for performing any act shall not constitute a waiver of time for performing any other act or an identical act required to be performed at a later time. The delay or forbearance by either party in exercising any remedy or right as to any default shall not operate as a waiver of any default or of any rights or remedies or to deprive such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

E. (§ 705) Specific Performance.

In addition to any other remedies permitted by this Agreement, if Owner defaults hereunder by failing to perform any of its obligations herein, Owner agrees that Developer shall be entitled to the judicial remedy of specific performance, and Owner agrees (subject to its reserved right to contest whether in fact a default does exist) not to challenge or contest the appropriateness of such remedy. In this regard, Developer specifically acknowledges that Agency is entering into this Agreement for the purpose of assisting in the redevelopment of the Site and not for the purpose of enabling Developer to speculate with land.

F. (§ 706) Construction and Environmental Covenants.

In addition to any other remedies permitted by this Agreement, the parties shall execute and record Construction Covenants against the Site requiring Developer to comply with the terms of this Agreement and Conditions of Approval, which provisions include, in accordance with their terms, monetary penalties on Developer for any failure to complete certain components of the Project required by this Agreement within the time limits therein described. The Parties herein acknowledge and agree that deed restrictions, covenants, or other encumbrances may be required by an environmental oversight agency as a condition of site closure following Site remediation, that the recordation of such a deed restriction, covenant, or other encumbrance shall not be considered a breach of this Agreement, and the Parties herein shall cooperate in good faith and take all reasonable actions to ensure any such deed restriction, covenant, or other encumbrance is properly issued and recorded.

G. (§ 707) Attorney's Fees.

If either party to this Agreement is required to initiate or defend any action or proceeding in any way arising out of the parties' agreement to, or performance of this Agreement, or is made a party to any action or proceeding by Escrow Agent or other third party, such that the parties hereto are adversarial, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees from the other. As used herein, the **"prevailing party"** shall be the party determined as such by a court of law pursuant to the definition in Code of Civil Procedure Section 1032(a)(4), as it may be subsequently amended. Attorney's fees shall include attorney's fees on any appeal, and in addition a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such

litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

VIII. (§ 800) GENERAL PROVISIONS.

A. (§ 801) Notices, Demands and Communications between the Parties.

Except as expressly provided to the contrary herein, any notice, consent, report, demand, document or other such item to be given, delivered, furnished or received hereunder shall be deemed given, delivered, furnished, and received when given in writing and personally delivered to an authorized agent of the applicable party, or upon delivery by the United States Postal Service, first-class registered or certified mail, postage prepaid, return receipt requested, or by a national "overnight courier" such as Federal Express, at the time of delivery shown upon such receipt; in either case, delivered to the address, addresses and persons as each party may from time to time by written notice designate to the other and who initially are:

To Owner:
City of San Dimas
245 East Bonita Avenue
San Dimas, CA 91773
Attention: Executive Director

With a Copy to:
Aleshire & Wynder, LLP
18881 Von Karman Avenue, Suite 1700
Irvine, CA 92612
Attention: Jeff Malawy, Esq.

To Developer:
Pioneer Square, LLC
8800 Venice Blvd, Suite 316
Los Angeles, CA 90034
Attention: Michael Dieden

191 W 4th Street
Pomona, CA 91766
Attention: Gerald Tessier

With a Copies to:
Jeffrey Graham, Esq.
654 Milwood Ave
Venice, CA 90291

Jerry Neuman
Andrew Brady
DLA Piper, LLP
550 S. Hope St., Suite 2400
Los Angeles, CA 90071

To Escrow Holder:
Fidelity National Title Insurance Company
21680 Gateway Center Drive, Suite 110
Diamond Bar, CA 91765
MaryLou Adame, Escrow Officer

B. (§ 802) Non-Liability of Owner Officials and Employees; Conflicts of Interest;

Commissions.

1. Personal Liability.

No member, official, employee, agent or contractor of Owner shall be personally liable to Developer in the event of any default or breach by Owner or for any amount which may become due to Developer or on any obligations under the terms of the Agreement; provided, it is understood that nothing in this Section 802 is intended to limit Owner's liability. No member, official, employee, agent or contractor of Developer shall be personally liable to Owner in the event of any default or breach by Developer or for any amount which may become due to Owner or on any obligations under the terms of the Agreement; provided, it is understood that nothing in this Section 802 is intended to limit Developer's liability.

2. Conflict of Interest, Warranty, and Representation of Non-Collusion.

No official, officer, or employee of Owner has any financial interest, direct or indirect, in this Agreement, nor shall any official, officer, or employee of Owner participate in any decision relating to this Agreement which may affect his/her financial interest or the financial interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any State or municipal statue or regulation. The determination of "financial interest" shall be consistent with State law and shall not include interest found to be "remote" or non "interest" pursuant to California Government Code Sections 1091 and 1091.5. Developer warrants and represents that (s)he/it has not paid or given, and will not pay or give, to any third party including, but not limited to, any Owner official, officer, or employee, any money, consideration, or other thing of value as a result or consequence of obtaining or being awarded this Agreement. Developer further warrants and represents that (s)he/it has not engaged in any act(s), omission(s), or other conduct or collusion that would result in the payment of any money, consideration, or other thing of value to any third party including, but not limited to, any Owner official, officer, or employee, as a result or consequence of obtaining or being awarded any agreement. Developer is aware of and understands that any such act(s), omission(s) or other conduct resulting in the payment of money, consideration, or other thing of value will render this Agreement void and of no force or effect.

3. Commissions.

Owner represents it has engaged Kosmont Real Estate Services in connection with the sale of the Site and the transaction contemplated hereunder. Developer agrees to hold Owner harmless from any claim by any other broker, agent, or finder retained by Developer in connection with this transaction. Owner shall pay a real estate commission fee to Kosmont Real Estate Services consistent with the Exclusive Authorization to Sell Agreement between Owner and Kosmont Real Estate Services. Developer's indemnification obligations set forth in this Section shall survive the termination or expiration of this Agreement for a period of five (5) years from the Effective Date.

C. (§ 803) Enforced Delay: Extension of Times of Performance.

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

Notwithstanding the foregoing, in addition to specific provisions of this Agreement, performance by either party hereunder shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; supernatural causes; acts of the public enemy; epidemics; quarantine restrictions; freight

embargoes; lack of transportation; subsurface conditions on the Site and unknown soils conditions; governmental restrictions or priority litigation actually impacting the Project; unusually severe weather; inability to secure necessary labor, materials or tools after demonstrating diligent effort to procure such; acts of the other party; acts or the failure to act of a public or governmental Owner or entity (except that acts or the failure to act of Owner shall not excuse performance by Owner); a national recession or depression as commonly defined by the governing Federal Agency commencing subsequent to the sale and close of Escrow on the Site; any time periods required for Developer to obtain approval of a cleanup plan, conduct remediation of existing subsurface contamination at the Site to required regulatory cleanup targets, and obtain a land use covenant from the applicable oversight authority allowing the proposed use of the Property by the Project, when such time period extends beyond the amount of time provided in Attachment 2 for the Project to obtain building permits for the construction of the Project, provided the commencement of such site cleanup activities occurs subject to Attachment 2 and Developer thereafter pursues the cleanup activities with commercially reasonable diligence; any third-party lawsuits challenging the approval of the Entitlements, CEQA SCPE, or challenging any other discretionary or ministerial agency approval issued by the City or other agency for the Project; or any other causes beyond the reasonable control or without the fault of the party claiming an extension of time to perform. In the event of such a delay (herein "**Enforced Delay**"), the party delayed shall continue to exercise reasonable diligence to minimize the period of the delay. An extension of time for any such cause shall be limited to the period of the Enforced Delay and shall commence to run from the time of the commencement of the cause, provided notice by the party claiming such extension is sent to the other party within ten (10) days of the commencement of the cause. Failure to provide such notice shall constitute a waiver of the claim.

The following shall not be considered as events or causes beyond the control of Developer, and shall not entitle Developer to an extension of time to perform: (i) Developer's failure to obtain financing for the Project, (ii) Developer's failure to secure approvals for the Project not caused by a Forced Delay; (iii) Developer's failure to negotiate agreements with prospective users for the Project or the alleged absence of favorable market conditions for such uses; or (iv) fluctuations in the business and real estate market environment which may negatively impact pricing of labor, materials or tools and/or potential return on investment of any lease or property sale when such fluctuations do not impair the financial viability of completing the Project.

Times of performance under this Agreement may also be extended by mutual written agreement by Owner and Developer. The Executive Director of Owner shall have the authority on behalf of Owner to approve extensions of time not to exceed one hundred eighty (180) days. Other than as specified for an Enforced Delay, nothing shall obligate the Executive Director of Owner to grant an extension or to prohibit the Executive Director of Owner from seeking City Council approval of the requested extension prior to approval.

D. (§ 804) Books and Records.

1. Developer to Keep Records.

Developer shall prepare and maintain all books, records and reports necessary to substantiate Developer's compliance with the terms of this Agreement or reasonably required by Owner.

2. Right to Inspect.

Either party shall have the right, upon not less than seventy-two (72) hours' notice, at all reasonable times, to inspect the books and records of the other party pertaining to the Site as

pertinent to the purposes of this Agreement. The books and records shall be stored in a manner and location to allow the other party to conduct such inspection within a convenient physical distance and in an environment comfortable and commensurate with an office location. Either party can request duplication and presentation of physical representations of the books and records and the party in possession of such books and records shall provide them in a reasonable timeframe and at a cost borne by the requestor. Either party can provide parties electronic versions of books and records at no cost to the other party. Nothing in this section waives the confidentiality of said books and records as specified elsewhere in this Agreement or as allowed by law.

3. Ownership of Documents.

Copies of all drawings, specifications, reports, records, documents and other materials pertaining to the condition of the Site prepared by Developer, its employees, agents and subcontractors, in the performance of this Agreement, which documents are in the possession of Developer and are not confidential, except as provided in Section 804.4 below, shall be delivered to Owner upon request in the event of a termination of this Agreement, and Developer shall have no claim for additional compensation as a result of the exercise by Owner of its rights hereunder. Owner shall have no rights of reliance thereon, and (ii) Developer makes no warranty or representation regarding the completeness, accuracy or sufficiency of such documents, and Developer shall have no liability therefor or in connection therewith. Notwithstanding the foregoing, Owner shall not have any right to sell, license, convey or transfer the documents and materials to any third party, or to use the documents and materials for any other site, except in the case of a termination of this Agreement due to default of Developer, as otherwise specified in this Agreement, or as mutually agreed by the parties.

4. Confidentiality.

Owner agrees, to the maximum extent permitted by the California Public Records Act (Government Code Section 6253 et seq.) or other applicable local, state or federal disclosure laws (collectively, "Public Disclosure Laws"), to keep confidential all proprietary financial and other information submitted by Developer to Owner in connection with Developer's satisfaction of its obligations under this Agreement (collectively, "Confidential Information"). Notwithstanding the preceding sentence, City may disclose Confidential Information to its officials, employees, agents, attorneys and advisors, but only if and to the extent necessary to carry out the purpose for which the Confidential Information was disclosed consistent with the rights and obligations provided for hereunder.

Developer acknowledges that Owner has not made any representations or warranties that any Confidential Information Owner receives from Developer will be exempt from disclosure under any Public Disclosure Laws. In the event the Owner's City Attorney determines that the release of any Confidential Information is required by Public Disclosure Laws, or by order of a court of competent jurisdiction, Owner shall promptly notify Developer in writing of Owner's intention to release the Confidential Information so that Developer has the opportunity to evaluate whether to object to said disclosure and/or to otherwise take whatever steps it deems necessary or desirable to prevent disclosure, provided that Owner shall not be liable for any damages, attorneys' fees and costs for any alleged failure to provide said notice. If Owner's City Attorney, in his or her discretion, determines that only a portion of the requested Confidential Information is exempt from disclosure under the Public Disclosure Laws, Owner may redact, delete or otherwise segregate the Confidential Information that will not be released from the non-exempt portion to be released.

E. (§ 805) Assurances to Act in Good Faith.

Owner and Developer agree to execute all documents and instruments and to take all action, including deposit of funds in addition to such funds as may be specifically provided for herein, and as may be reasonably required in order to consummate conveyance and development of the Site as herein contemplated, and shall use their commercially reasonable efforts, to accomplish the Closing and subsequent development of the Site in accordance with the provisions hereof. Owner and Developer shall each diligently and in good faith pursue the satisfaction of any conditions or contingencies subject to their approval.

F. (§ 806) Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply. The section headings are for purposes of convenience only and shall not be construed to limit or extend the meaning of this Agreement. This Agreement includes all attachments attached hereto, which are by this reference incorporated in this Agreement in their entirety. This Agreement also includes the Redevelopment Plan and any other documents incorporated herein by reference, as though fully set forth herein.

G. (§ 807) Entire Agreement, Waivers and Amendments.

This Agreement integrates all of the terms and conditions mentioned herein, or incidental hereto, and this Agreement supersedes all negotiations and previous agreements between the parties with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement, unless specified otherwise herein, must be in writing and signed by the appropriate authorities of Owner or Developer, as applicable, and all amendments hereto must be in writing and signed by the appropriate authorities of Owner and Developer.

H. (§ 808) Severability.

In the event any term, covenant, condition, provision or agreement contained herein is held to be invalid, void or otherwise unenforceable, by any court of competent jurisdiction, such holding shall in no way affect the validity or enforceability of any term, covenant, condition, provision or agreement contained herein.

I. (§ 809) Time for Acceptance of Agreement by Owner.

This Agreement, when executed by Developer and delivered to Owner, must be authorized, executed and delivered by Owner, not later than the time set forth in the Schedule of Performance or this Agreement shall be void, except to the extent that Developer shall consent in writing to further extensions of time for the authorization, execution, and delivery of this Agreement. After execution by Developer, this Agreement shall be considered an irrevocable offer until such time as such offer shall become void due to the failure of Owner to authorize, execute and deliver the Agreement in accordance with this Section.

J. (§ 810) Execution.

1. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and such counterparts shall constitute one and the same instrument.

2. Owner represents and warrants that: (i) by proper action of Owner, Owner has been duly authorized to execute and deliver this Agreement, acting by and through its duly authorized

officers; and (ii) the entering into this Agreement by Owner does not violate any provision of any other agreement to which Owner is a party.

3. Developer represents and warrants that: (i) it is duly organized and existing under the laws of the State of California; (ii) by proper action of Developer, Developer has been duly authorized to execute and deliver this Agreement, acting by and through its duly authorized officers; and (iii) the entering into this Agreement by Developer does not violate any provision of any other agreement to which Developer is a party.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date of execution by Owner.

REMINDER:

Developer must initial Sections 402.b, 408(5) & 410(3).
Owner must initial Section 410(3).

DEVELOPER:

PIONEER SQUARE, LLC

By: _____

Name:_____

Title:_____

By: _____

Name:_____

Title:_____

OWNER:

CITY OF SAN DIMAS, a municipal corporation

By: _____
Emmett Badar, Mayor

_____, 2022

ATTEST:

_____
Debra Black,
Secretary

ACCEPTED:

ESCROW HOLDER:

Accepted and agreed to:

By: _____
MaryLou Adame, Escrow Officer

Dated: _____, 2022

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

By: _____
Jeff Malawy, Agency Counsel

ATTACHMENT NO. 1-A

PIONEER SQUARE DDA

LEGAL DESCRIPTION OF SITE

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN DIMAS IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

Portion of APN 8386-021-913

That portion of the north half of Block 11 of replat of a portion of the Town of San Dimas, in the City of San Dimas, County of Los Angeles, State of California, as per map recorded in Book 37, page 31 of Miscellaneous Records, in the Office of the County Recorder of said County described as follows:

Beginning at the Northwest corner of said Block 11, said point being the **TRUE POINT OF BEGINNING**, thence easterly along said northerly line of said Block 11, North 89°43'50" East, 310.23 feet to an angle point therein; thence continuing easterly along said northerly line North 83°39'51" East, 269.82 feet; thence South 45°15'33" East, 31.05 feet to the easterly line of said Block 11; thence southerly along the easterly line of said block South 00°14'56" East, 277.28 feet to the southerly line of said north half of Block 11; thence westerly along said southerly line South 89°43'52" West, 600.17 feet to the westerly line of said Block 11; thence Northerly along said westerly line of said block North 00°15'32" West, 330.27 feet to the **TRUE POINT OF BEGINNING**.

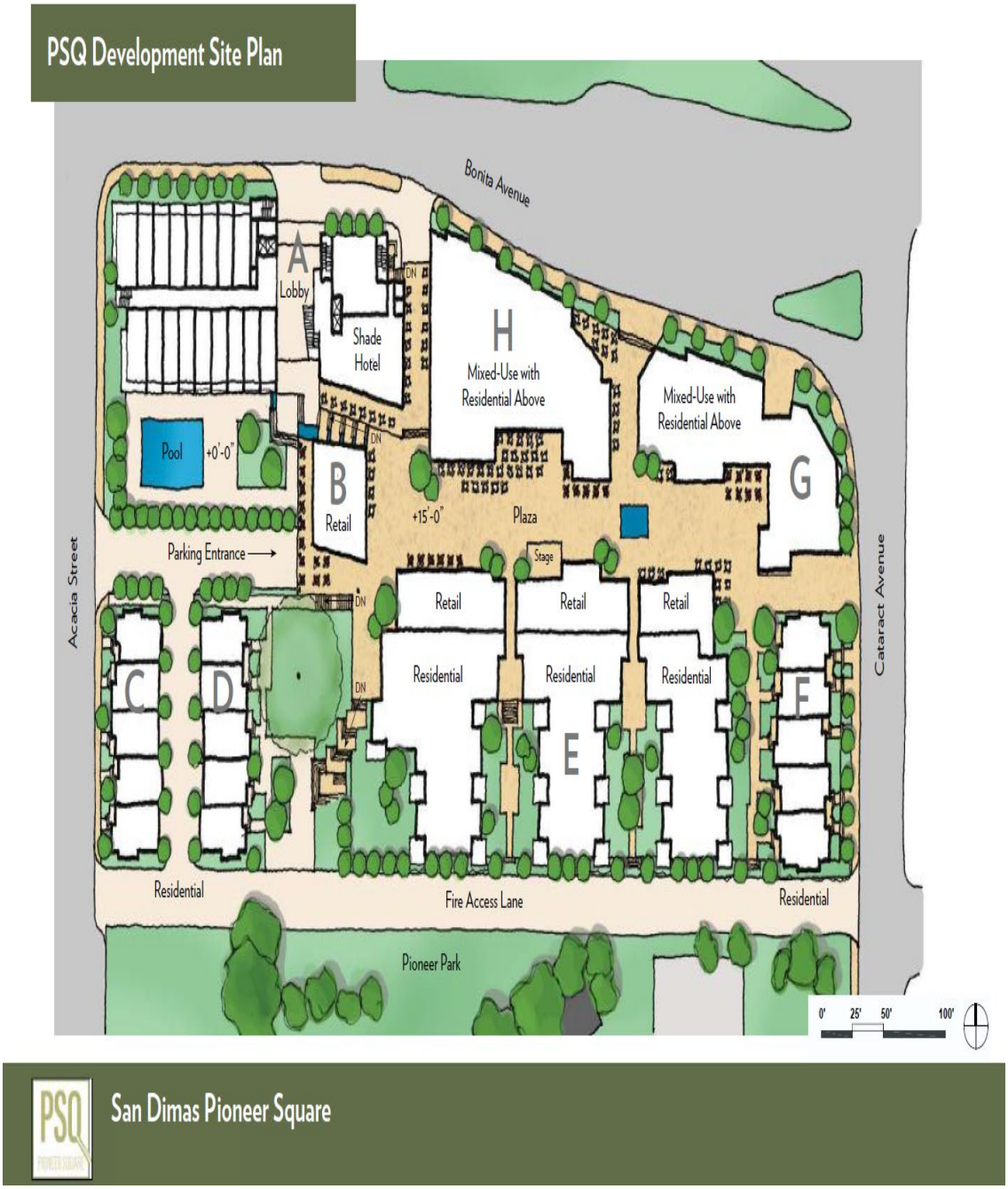
Except that portion of Block 11 of replat of a portion of the Town of San Dimas, in the City of San Dimas, County of Los Angeles, State of California, as per map recorded in Book 37, page 31 of Miscellaneous Records, in the Office of the County Recorder of said County, more particularly described as follows:

Commencing at the northwest corner of said Block 11; thence easterly along the north line of said block 11 North 89°54'56" East 129.42 feet to the **TRUE POINT OF BEGINNING**; thence continuing along said north line North 89°54'56" East 180.81 feet; thence leaving said north line South 83°17'47" East 269.82 feet; thence South 45°42,52" East 31.05 feet to the east line of said Block 11, thence southerly along said east line South 00°04'20" East 79.13 feet to a point of cusp with a curve concave to the southwest having a radius of 45.00 feet and to which point a radial line bears North 89°55'40" East; thence leaving said east line, northwesterly along said curve 63.11 feet through a central angle of 80°21'23"; thence North 80°25'43" West 157.31 feet to the beginning of a tangent curve concave to northeast having a radius of 564.01 feet; thence northwest 121.67 feet along said curve through a central angle of 12°21'37" to the beginning of a non-tangent curve concave to the southwest having a radius of 459.58 feet, a radial line through said beginning bears North 22°00'56" East; thence northwesterly 26.81 feet along said curve through a central angle of 03°20'32" to the beginning of a compound curve concave to the southwest having a radius of 235.00 feet; thence northwesterly 76.94 feet along said curve through a central angle of 18°45'28"; thence South 89°54'56" West 60.86 feet; thence North 00°04'56" West 7.00 feet to the **TRUE POINT OF BEGINNING**.

Contains approximately 4.03 acres, more or less.

ATTACHMENT NO. 1-A

PIONEER SQUARE DDA CONCEPTUAL SITE PLANS



ATTACHMENT NO. 2

PIONEER SQUARE DDA

SCHEDULE OF PERFORMANCE

	ITEM TO BE PERFORMED	TIME FOR PERFORMANCE
1.	Developer executes and delivers 3 copies of DDA and Covenant Agreement to Owner together with the Deposit.	At least 7 days before the scheduled City Council meeting (Event 2).
2.	Owner holds public hearing on DDA and approves or disapproves DDA.	On or before October 11, 2022.
3.	Owner submits DDA to Oversight Board for consideration for November 10, 2022 meeting.	After Owner approval and before October 20, 2022.
4.	Escrow is opened with Owner delivering an executed copy of DDA and Covenant Agreement and Developer delivers the Deposit to Escrow ("**Opening of Escrow**").	Within 2 business days of Oversight Board approval
5.	Developer deposits 2nd $25,000 portion of Deposit into Escrow.	Within 5 business days of Event 2
6.	Developer deposits the CEQA Expenses Deposit with City	Within 5 business days of Event 2
7.	Title Company delivers Preliminary Report to Developer for Site.	Within 10 days after Opening of Escrow.
8.	Developer approves or disapproves title exceptions and public easements on Preliminary Report.	Within 10 days after Event 8.
9.	Owner notifies Developer whether Owner will cure any disapproved exceptions.	Within 15 days of Event 9.
10.	[omitted]	
11.	[omitted]	
12.	[omitted]	
13.	[omitted]	
14.	Escrow Agent gives notice of fees, charges, costs and documents to close Escrow.	Within 30 business days prior to Closing

	ITEM TO BE PERFORMED	TIME FOR PERFORMANCE
15.	Deposits into Escrow by Owner:	
	a) Grant Deed	At least 1 business day prior to Closing Date
	b) Estoppel Certificate	At least 1 business day prior to Closing Date
	c) Taxpayer ID Certificate	At least 1 business day prior to Closing Date
	d) Owner's Certificate	At least 1 business day prior to Closing Date
	e) Covenant Agreement	As set forth in Event 1.
16.	Deposits into Escrow by Developer:	See below
	a) Estoppel Certificate	At least 1 business day prior to Closing Date
	b) Certificate of Acceptance	At least 1 business day prior to Closing Date
	c) The remaining amount of the Purchase Price due	At least 1 business day prior to Closing Date
	d) Payment of Developer's Share of Escrow Costs	At least 1 business day prior to Closing Date
	e) Taxpayer ID Certificate	At least 1 business day prior to Closing Date
	f) Covenant Agreement	As set forth in Event 1.
17.	Owner or Developer, as case may be, may cure any condition to closing disapproved or waived; or may cure any default.	Within 30 days after date established therefore, or date of breach, as the case may be
18.	Escrow to close.	Not later than December 19, 2022.
19.	Developer prepares and submits all Entitlement applications sufficient to allow the City to deem the applications complete, as well as the Architectural and Project Design Package to City which shall include preliminary plans, drawings and specifications in general accordance with Concept Drawings and Proposed Site Plan, including architectural theme and treatment for the entire Site.	Within 180 days of Oversight Board and State of California Department of Finance (as may be required) approval of the DDA, but no later than June 1, 2023.
20.	City approves reviews and considers governmental approvals, Architectural and Project Design.	Within 180 days of Event 19.

	ITEM TO BE PERFORMED	TIME FOR PERFORMANCE
21.	Developer shall submit proof of financing to the City, which shall include a copy of commitment or commitments obtained by Developer for the lines of credits, loans, grants, or other financial assistance from equity and debt financing sources to assist in financing the construction of the proposed Project.	60 days prior to the commencement of Project construction or 30 days after receipt of preliminary construction loan term sheet from lender.
22.	Developer diligently pursues application for building permits.	Within 360 days of Close of Escrow or Final Project Entitlements, whichever is later.
23.	Developer to enter into Voluntary Cleanup Agreement for investigation and remediation of Project site and obtain approval of Cleanup Plan from DTSC.	Within 45 days of Close of Escrow.
24.	City will issue all necessary permits and approvals and Developer will submit insurance documentation to Owner.	Within 180 days of Event 22.
25.	City provides accounting and return of any balance of CEQA Expenses Deposit to Developer.	Within 30 days of Event 23
26.	Construction commences and Developer diligently pursued to completion.	Not later than 3 months from the date building permits are pulled
27.	Developer completes construction of improvements.	Within 24 months of commencement of construction, which timeline can be extended for Enforced Delay as specified in Section 803
28.	Authority issues Certificate of Completion.	Within 15 days of Developer's request after satisfactory completion of all improvements.

It is understood that the foregoing Schedule of Performance is subject to all of the terms and conditions set forth in the Agreement. The summary of the items of performance in this Schedule of Performance is not intended to supersede or modify the more complete description in the text of the Agreement; in the event of any conflict or inconsistency between this Schedule of Performance and the text of the Agreement, the text shall govern.

The time periods set forth in this Schedule of Performance may be altered or amended only by written agreement signed by both Developer and Owner. A failure by either party to enforce a breach of any particular time provision shall not be construed as a waiver of any other time provision. Additionally, should any regulatory agency with jurisdiction over the issuance of any permit required for the Project cause a delay in the time periods set forth in this Schedule of Performance, the applicable time shall be extended commensurate with such delay.

ATTACHMENT NO. 3

PIONEER SQUARE DDA

SCOPE OF DEVELOPMENT

A. General

Developer agrees that the Site shall be developed and improved in accordance with the provisions of this Agreement including all attachments, and the plans, drawings, and related documents approved by City pursuant hereto. Developer, its supervising architect, engineers, and contractor shall work with City staff to coordinate the overall design and improvements. Any questions or issues regarding the Scope of Development not included or addressed herein or in this Agreement shall be resolved in accordance with the San Dimas Municipal Code.

B. Project Concept:

A multi-modal transit integrated village combining hospitality, residential and commercial uses (retail, entertainment, restaurants) including and surrounding a public plaza that creates a sense of place and engagement, thereby intended to attract future Metro and Foothill Transit commuters, and also patrons from throughout San Gabriel Valley. Developer may have some reasonable flexibility, provided Developer shows reasonable evidence therefor, supporting the alteration of a design feature herein, subject to the City's approval; however, features described below may not be eliminated or reduced (unless otherwise agreed in writing by City/Owner). The following Future Uses shall be subject to approval by Owner pursuant to Section 303.2.f.1 of this DDA:

1. The Residential Component will include up to approximately 97 dwelling units, having a variety of for-sale housing types at diverse price points to be located on the preliminary site plan delivered by Developer. Parking will be provided with 2 spaces per unit, with guest parking to be satisfied within the commercial parking envelope.

2. The Retail Component may include commercial uses such as a bookstore, dining, a small grocer, creative office space and health & exercise uses among others, which comprise approximately twenty-five thousand (25,000) to thirty thousand (30,000) useable square feet of retail and commercial service uses. It is understood that any dining facility as part of the Retail Component shall not authorize any fast-food chain restaurant, except as expressly approved by the Owner. Parking with the minimum spaces described below will be provided. As may be necessary, retail/commercial parking to be managed by a professional parking company.

3. The Hotel Component will comprise of an Upscale or higher quality boutique hotel as defined by the August 2022 Smith Travel Research Hotel Classification list, with a minimum of 60 and a maximum of 80 rooms, located on the NW corner of the property lot at Bonita and Acacia. The hotel will have a lobby with restaurant, which shall not be a fast-food chain, providing a full assortment of food and drinks which is normal and customary of a restaurant and bar services, a pool, and a roof-top bar with views of the San Gabriel Mountains and the Metro. Hotel guests and visitors are to be parked in a 3-tandem space only valet garage managed by the hotel operator.

A parking program will be agreed upon by the Owner/City and Developer under which the parking will be sustainable both economically and environmentally. The parking facility will be sub and semi-subterranean estimated to contain a maximum of 381 onsite parking spaces.

The Project will prioritize the pedestrian experience, with buildings and spaces designed to be inviting to pedestrians, cyclists and motorists.

The Project will make for an inviting access and relationship to Pioneer Park located immediately adjacent to the Project.

The Project will provide multi-modal connections to adjacent developments and facilities in the area.

The Project will seek to achieve a high sustainability standard that will include water-wise landscaping that complements the various architectural styles and themes of the project, which may include water conservation in the landscape as not only a short-term response to the current drought but also as a long-term sustainability practice.

Developer will offer a project phasing program, subject to approval by the Owner, with the goal of holding construction inconvenience to a minimum to the neighborhood and street system.

B. Design Criteria

Within the times set forth in the Schedule of Performance, Developer shall submit a complete package of plan and zoning amendments; site, parking, building designs and supporting documents as may be required by the City's Planning Department that ensure the City can approve the plan and zoning changes with full knowledge and approval of the site, parking, and building designs. To this end, Developer shall further comply with the following requirements:

1. **Design Guidelines.** The rehabilitation of the building(s) shall be consistent with the City's approved guidelines, incorporated herein by this reference and on file in the office of the City's Director of Community Development and with the design theme of the area.

2. **Architectural Quality.** The building(s) shall have high quality architectural design, both individually and in terms of the context of the total complex. Open and landscaped areas shall be designed with the same degree of quality. The building materials will be consistent with a first class high quality mixed-use development and that the architectural design, building massing and architectural treatments are consistent with the integrity of the San Dimas downtown and that the development will create a place for the community to live, work and recreate in an attractive and desirable development.

3. **Site Plan.** The Site Plan shall be substantially consistent with the Concept Plans as may be revised and approved by the City. Developer acknowledges that the City retains ultimate discretion in its consideration and approval of the architectural and design plans, consistent with City's land use authority.

C. Site Work

Developer shall not start any construction until it has acquired the Site.

Developer shall be responsible for rehabilitation and installation of all Site improvements. Developer's improvements are currently designed to include, but may not be limited to the following:

1. Developer shall grade the Site, install all necessary infrastructure as determined by the City, complete a parking lot, and create pads for the above uses and such other uses as approved by City.

2. Parking area(s) shall be provided on-site. The design and construction, as well as the number of parking spaces provided shall be in accordance with the San Dimas Municipal Code. Construction of the parking areas shall include installation of necessary drainage system(s) (including connections within the public right-of-way), paving, installation of required landscaping and irrigation, striping and labeling, all in accordance with the San Dimas Municipal Code and approved plans.

3. Paved area(s) shall be provided on-site designed to accommodate on site customer and employee parking.

4. On-site landscaping and automatic irrigation system shall be installed and maintained per approved plans consistent with the San Dimas Municipal Code.

5. On-site lighting shall be installed in a manner consistent with the approved lighting and electrical plans.

D. Public Improvements

Pursuant to a technical analysis, Developer shall construct any and all public improvements, including, but not limited to, traffic/circulation improvements identified in the technical analysis and, to the extent the Project requires shared use of City facilities as specifically agreed upon by City, shall be documented through a shared use agreement between Developer and City.

E. Landscaped Yards

Landscaped areas shall be maintained with landscaping and automatic irrigation. The irrigation system shall be installed so that it can be operated both as a part of the Site.

E. Trash and Recycling Storage

Trash storage areas shall be provided of sufficient size to ensure containment of all solid waste, recycling and organic materials generated from the Site. The size of the enclosure shall be determined by Authority staff based upon the size and nature of the facility proposed but shall not be less than the size required per the then applicable City's standards. The trash enclosure shall be constructed of solid masonry walls and shall not be less than five (5) feet in height with solid metal panel gates equipped with self-closing devices. Adequate access shall be provided to the enclosure for refuse pickup.

F. Signs

All signs shall be installed by Developer. A sign program shall be submitted to the City for approval prior to commencing construction. Building and, where necessary, electrical permits shall be obtained prior to installation, painting or erection of signs. Signs shall be consistent with the plans approved by the San Dimas Planning Commission.

G. Undergrounding Utilities

Any new utilities servicing the Site shall be installed underground, including connections to facilities within the public right-of-way.

H. Mechanical Equipment

On-site mechanical equipment, whether roof or ground mounted, shall be completely screened from public view. Screening material shall be constructed of materials which coordinate with the overall architectural theme. Where public visibility will be minimal, the Director of Community Development may permit use of landscaping to screen ground mounted equipment. No mechanical equipment, including electrical transformers shall be located in any required setback area.

I. Applicable Codes

All improvements shall be constructed in accordance with the California Building Code (with San Dimas modifications), the County of Los Angeles Fire Code (with San Dimas modifications), the San Dimas Municipal Code and current City standards.

ATTACHMENT NO. 4

PIONEER SQUARE DDA

GRANT DEED

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

SUCCESSOR AGENCY TO FORMER
SAN DIMAS REDEVELOPMENT AGENCY
245 East Bonita Avenue
San Dimas, CA 91773

Attn: Executive Director

APN: 8386-021-913

(Space above This Line for Recorder's Office Use Only)
(Exempt from Recording Fee per Gov. Code § 6103)

GRANT DEED

FOR A VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, the SUCCESSOR AGENCY TO THE FORMER COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF SAN DIMAS, a political subdivision formed pursuant to Health and Safety Code 34173 ("**Grantor**") hereby grants to PIONEER SQUARE LLC, a California limited liability company ("**Grantee**"), the real property in the City of San Dimas, County of Los Angeles, State of California, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference ("**Property**").

As conditions of this conveyance, Grantee covenants by and for itself and any successors-in-interest for the benefit of Grantor as follows:

1. Governing Documents. The Property is being conveyed pursuant to that certain Disposition and Development Agreement entered into by and between Grantor and Grantee dated _____, 2022 ("**DDA**"). The DDA is part of public records on file in the office of the City Clerk of the City of San Dimas ("**City**"), located at 245 East Bonita Avenue, San Dimas, CA 91773 , and are incorporated herein by this reference. Any capitalized terms not defined herein shall have the meanings ascribed to them in the DDA. Grantee covenants and agrees for itself and its successors and assigns to rehabilitate the Property in accordance with the DDA and thereafter to use, operate and maintain the Property in accordance with this Deed. The Property is also conveyed subject to easements and rights-of-way of record and other matters of record. In the event of any conflict between this Deed and the DDA, the provisions of the DDA shall control.

2. Development.

(a) Covenant Agreement. Pursuant to the DDA, the fully executed Agreement Containing Covenants Affecting Real Property, Option to Purchase and Declaration of Covenants Running with Land (Covenant Agreement) for the Project in the form set forth in Attachment No. 5 to the DDA shall be recorded against the Property.

3. Uses. Grantee shall have no right to subdivide, separate, or partition the Property, except upon prior written consent of Grantor. Breach of the terms, covenants, conditions, and

provisions of the DDA shall be a material breach of the covenants in this Deed. Grantee shall require that the businesses conducted on the Property be conducted in a prudent manner, exercising customary business practices and hours of operation, to maximize sales and enhance the reputation and attractiveness of the business and the Project.

4. Term of Restrictions.

(a) Grantee hereby covenants and agrees for itself, its successors, its assigns, and every successor-in-interest to the Property that Grantee, such successors and such assigns, shall develop, operate, maintain and use the Property in accordance with the terms and conditions of the DDA and this Deed (unless expressly waived in writing by Grantor) for the term of thirty (30) years from the date of recordation of the Certificate of Completion (as defined in the DDA); provided, however, the covenants contained in Sections 8 and 9 shall remain in effect in perpetuity, and the Covenant Agreement shall continue for the term set forth therein.

(b) Grantee may request that City release the covenants in this Deed (except Sections 8 and 9) if (i) the Certificate of Completion has been recorded, and (ii) the obligations for uses and maintenance in this Deed are contained in the Covenant Agreement and City has the right to enforce such provisions in the Covenant Agreement. Upon satisfaction of the foregoing conditions, City shall execute and acknowledge an appropriate document releasing the applicable covenants which shall be recorded in the Official Records of Los Angeles County.

5. Transfer Restrictions. Grantee covenants that prior to the recordation of the Certificate of Completion, Grantee shall not transfer or encumber the Property or any of its interests therein except as provided in Section 303 of the DDA.

6. Reservation of Existing Streets. Grantor excepts and reserves any existing street, proposed street, or portion of any street or proposed street lying outside the boundaries of the Property which might otherwise pass with a conveyance of the Property.

7. Non-Discrimination. Grantee covenants that there shall be no discrimination against, or segregation of, any persons, or group of persons, on account of race, color, creed, religion, sex, marital status, age, ancestry, national origin, or any other protected class as defined by federal, state and/or local law in the rental, sale, lease, sublease, transfer, use, occupancy, or enjoyment of the Property, or any portion thereof, nor shall Grantee, or any person claiming under or through Grantee, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the Property or any portion thereof. The nondiscrimination and non-segregation covenants contained herein shall remain in effect in perpetuity.

8. Form of Nondiscrimination Clauses in Agreements. Grantee shall refrain from restricting the rental, sale, or lease of any portion of the Property on the basis of race, color, creed, religion, sex, marital status, age, ancestry, national origin, or any other protected class as defined by federal, state and/or local law of any person. All such deeds, leases, or contracts shall contain or be subject to substantially the following nondiscrimination or non-segregation clauses:

(a) Deeds: In deeds the following language shall appear: "The grantee herein covenants by and 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, creed,

religion, sex, marital status, age, ancestry, national origin or any other protected class as defined by federal, state and/or local law in the sale, lease, rental, sublease, transfer, use, occupancy, tenure, or enjoyment of the land herein conveyed, nor shall the grantee itself, or any persons claiming under or through it, 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 land herein conveyed. The foregoing covenants shall run with the land."

(b) **Leases:** In leases the following language shall appear: "The lessee herein covenants by and for itself, its heirs, executors, administrators, successors, and assigns, and all persons claiming under or through them, 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 race, color, creed, religion, sex, marital status, age, ancestry, national origin or any other protected class as defined by federal, state and/or local law in the leasing, subleasing, renting, transferring, use, occupancy, tenure, or enjoyment of the land herein leased nor shall the lessee itself, or any person claiming under or through it, 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 land herein leased."

(c) **Contracts:** In contracts pertaining to conveyance of the realty the following language shall appear: "There shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, age, ancestry, national origin or any other protected class as defined by federal, state and/or local law in the sale, lease, rental, sublease, transfer, use, occupancy, tenure, or enjoyment of the land, nor shall the transferee itself, or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the land."

The foregoing covenants shall remain in effect in perpetuity.

9. **Mortgage Protection.** No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Deed shall defeat or render invalid or in any way impair the lien or charge of any mortgage, deed of trust or other financing or security instrument permitted by and approved by Grantor pursuant to the DDA; provided, however, that any successor of Grantee to the Property shall be bound by such remaining covenants, conditions, restrictions, limitations and provisions, whether such successor's title was acquired by foreclosure, deed in lieu of foreclosure, trustee's sale or otherwise. The foregoing shall limit any rights of holders of any mortgage, deed of trust, or other financing or security instrument set forth in the DDA.

10. **Covenants to Run With the Land.** The covenants contained in this Deed shall be construed as covenants running with the land and not as conditions which might result in forfeiture of title, and shall be binding upon Grantee, its heirs, successors and assigns to the Property, whether their interest shall be fee, easement, leasehold, beneficial or otherwise.

IN WITNESS WHEREOF, Grantor and Grantee have caused this instrument to be executed on their behalf by their respective officers or agents hereunto as of _____, 2022.

GRANTOR:

SUCCESSOR AGENCY TO THE FORMER COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF SAN DIMAS, a political subdivision formed pursuant to Health and Safety Code 34173

By: _____
Emmett Badar, Mayor

_____, 20__

ATTEST:

_____
Debra Black,
City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

By: _____
Jeff Malawy, City Attorney

ACKNOWLEDGEMENT OF ACCEPTANCE

By its acceptance of this Grant Deed, Grantee hereby agrees as follows:

1. Grantee expressly understands and agrees that the terms of this Grant Deed shall be deemed to be covenants running with the land and shall apply to all of the Grantee's successors and assigns (except as specifically set forth in the Grant Deed).

2. The provisions of this Grant Deed are hereby approved and accepted.

Date:_____, 20__

"DEVELOPER"

PIONEER SQUARE LLC, a California limited liability company

By: _____

Its: _____

EXHIBIT "A" OF ATTACHMENT NO. 4

LEGAL DESCRIPTION OF PROPERTY

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN DIMAS IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

Portion of APN 8386-021-913

That portion of the north half of Block 11 of replat of a portion of the Town of San Dimas, in the City of San Dimas, County of Los Angeles, State of California, as per map recorded in Book 37, page 31 of Miscellaneous Records, in the Office of the County Recorder of said County described as follows:

Beginning at the Northwest corner of said Block 11, said point being the **TRUE POINT OF BEGINNING**, thence easterly along said northerly line of said Block 11, North 89°43'50" East, 310.23 feet to an angle point therein; thence continuing easterly along said northerly line North 83°39’51" East, 269.82 feet; thence South 45°15'33" East, 31.05 feet to the easterly line of said Block 11; thence southerly along the easterly line of said block South 00°14'56" East, 277.28 feet to the southerly line of said north half of Block 11; thence westerly along said southerly line South 89°43'52" West, 600.17 feet to the westerly line of said Block 11; thence Northerly along said westerly line of said block North 00°15’32" West, 330.27 feet to the **TRUE POINT OF BEGINNING**.

Except that portion of Block 11 of replat of a portion of the Town of San Dimas, in the City of San Dimas, County of Los Angeles, State of California, as per map recorded in Book 37, page 31 of Miscellaneous Records, in the Office of the County Recorder of said County, more particularly described as follows:

Commencing at the northwest corner of said Block 11; thence easterly along the north line of said block 11 North 89°54'56" East 129.42 feet to the **TRUE POINT OF BEGINNING**; thence continuing along said north line North 89°54’56" East 180.81 feet; thence leaving said north line South 83°17'47" East 269.82 feet; thence South 45°42,52" East 31.05 feet to the east line of said Block 11, thence southerly along said east line South 00°04’20" East 79.13 feet to a point of cusp with a curve concave to the southwest having a radius of 45.00 feet and to which point a radial line bears North 89°55'40" East; thence leaving said east line, northwesterly along said curve 63.11 feet through a central angle of 80°21'23"; thence North 80°25'43" West 157.31 feet to the beginning of a tangent curve concave to northeast having a radius of 564.01 feet; thence northwest 121.67 feet along said curve through a central angle of 12°21'37" to the beginning of a non-tangent curve concave to the southwest having a radius of 459.58 feet, a radial line through said beginning bears North 22°00'56" East; thence northwesterly 26.81 feet along said curve through a central angle of 03°20'32" to the beginning of a compound curve concave to the southwest having a radius of 235.00 feet; thence northwesterly 76.94 feet along said curve through a central angle of 18°45'28"; thence South 89°54’56" West 60.86 feet; thence North 00°04’56" West 7.00 feet to the **TRUE POINT OF BEGINNING**.

Contains approximately 4.03 acres, more or less.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On _____, 2022 before me, _____, a notary public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Notary Public

SEAL:

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On _____, 2022 before me, _____, a notary public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Notary Public

SEAL:

ATTACHMENT NO. 5

PIONEER SQUARE DDA

AGREEMENT CONTAINING COVENANTS AFFECTING REAL PROPERTY, OPTION TO PURCHASE AND DECLARATION OF COVENANTS RUNNING WITH LAND

FREE RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:

CITY OF SAN DIMAS
245 East Bonita Avenue
San Dimas, CA 91773

Attn: City Manager

APN: 8386-021-913

(Space above This Line for Recorder's Office Use Only)
(Exempt from Recording Fee per Gov. Code § 6103)

AGREEMENT CONTAINING COVENANTS AFFECTING REAL PROPERTY, OPTION TO PURCHASE AND DECLARATION OF COVENANTS RUNNING WITH LAND

THIS AGREEMENT CONTAINING COVENANTS AFFECTING REAL PROPERTY, OPTION TO PURCHASE AND DECLARATION OF COVENANTS RUNNING WITH LAND ("Covenant Agreement" or "Agreement") is made and entered into this _____ day of _____, 2022 ("Effective Date"), by and between the CITY OF SAN DIMAS, a California municipal corporation ("City"), and PIONEER SQUARE, LLC, a California limited liability company ("Owner").

R E C I T A L S:

A. Pursuant to a Disposition and Development Agreement by and between Owner and the Successor Agency to the Former Community Redevelopment Agency of the City of San Dimas ("Agency"), dated October 25, 2022, ("DDA"), Owner secured a contractual right to purchase that certain property in the City of San Dimas, County of Los Angeles, located at 344 West Bonita Avenue (APN: 8386-021-913), and related easements and more particularly described in Exhibit A hereto ("Property") on the condition that it execute and record against such Property title this Covenant Agreement.

B. Pursuant to the DDA, the parties thereto have opened that certain escrow no. 30052173 at Fidelity National Title Insurance Company ("Acquisition Escrow").

C. City and Owner now desire to place restrictions upon the use and operation of the Property in order to ensure that the Project, as such term is defined in the DDA, shall be operated in accordance with the requirements set forth in the DDA and herein.

D. It is the intent of the parties that this Covenant Agreement shall be recorded on title to the Property in the Office of the County Recorder for the County of Los Angeles, and that the terms hereof shall be binding on the Owner and its successors in interest in the Property for so long as the Covenant Agreement shall remain in effect.

A G R E E M E N T:

NOW, THEREFORE, the Owner and City declare, covenant and agree, by and for themselves, their heirs, executors, administrators and assigns, and all persons claiming under or through them, that the Property shall be held, transferred, encumbered, used, sold, conveyed, leased and occupied, subject to the covenants and restrictions hereinafter set forth, all of which are declared to be in furtherance of a common plan for the sale, improvement and operation of the Property, and are established expressly and exclusively for the use and benefit of City, the residents of the City of San Dimas, and every person leasing, licensing or buying an interest in the Property.

1. MAINTENANCE.

1.1 General Maintenance Obligation. Owner, for itself and its successors and assigns, hereby covenants and agrees to maintain and repair or cause to be maintained and repaired the Property and all related on-site improvements and landscaping thereon, including, without limitation, buildings, parking areas, lighting, signs and walls in a quality 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, at Owner's sole cost and expense. Such maintenance and repair shall include, but not be limited to, the following: (i) sweeping and trash removal; (ii) the care and replacement of all shrubbery, plantings, and other landscaping in a healthy condition; and (iii) the reasonable repair, replacement and restriping of asphalt or concrete paving using the same type of material originally installed, to the end that such pavings at all times be kept in a level and smooth condition. In addition, Owner shall be required to maintain the Property or cause the Property to be maintained in such a manner as to avoid the reasonable determination of a duly authorized official of the 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 within one thousand (1,000) feet of such portion of the Property.

1.2 Public Open Space. Owner acknowledges and agrees that the Project has been analyzed in accordance with CEQA, as detailed in the Resolution adopted by the City Council concurrently with the approval of the DDA, pursuant to which the City Council found that the Project meets the definition of a Transit Priority Project and qualifies for a CEQA "Sustainable Communities Project" exemption ("SCPE"), enacted as a part of Senate Bill 375 and codified at Public Resources Code Sections 21155 et seq. As such, the City Council, on behalf of the City and Agency, adopted the SCPE as part of its consideration and approval of the DDA. Consistent with that determination and a material requirement of the SCPE for the Project to contain open

space usable by the general public ("Public Open Space"), Owner hereby agrees and covenants to maintain the Public Open Space, as shown on Exhibit B attached hereto, available for use by the general public so long as the Project is in operation, and not just the occupants of the Project Owner shall further maintain all access to such Public Open Space unrestricted to the general public in for so long as the Project is operation. Prior to obtaining the first Certificate of Occupancy for the Project, the Developer shall submit to the City Manager for approval a Project Public Open Space Operations Plan that is consistent with the requirements of this Agreement, which details the goals of the Project's public open space, the operations team including any third party vendors, contacts, details regarding operational planning and strategies to fulfill ongoing maintenance obligations, security, funding mechanisms, days and hours of operation, and other relevant information requested by the City Manager, the approval of which the City Manager shall not unreasonably withhold. Owner shall further maintain the Open Space, including all improvements required as part of the entitlements issued by the City for the Project consistent with the maintenance obligations of Section 1.1 herein. The parties anticipate that the Public Open Space may include installation and operation of various courtyard and paseos, kiosks, a stage and a pop jet water feature for children. The Public Open Space will serve as a venue for year-round seasonal events and the opportunity to capitalize upon San Dimas beautiful evening breezes and sunsets. City resident community outings to be hosted within the Public Open Space may include, but are not limited to movies in the park and hosting local farmers market, and family activities

1.3 Environmental Maintenance Obligation. Owner, for itself and its successors and assigns, hereby covenants and agrees to comply with the requirements of the any remediation orders and guidance, as required by DTSC.

1.4 Parking and Driveways. The driveways and traffic aisles on the Property shall be kept clear and unobstructed at all times. No vehicles or other obstruction shall project into any of such driveways or traffic aisles. Vehicles associated with the operation of the Property, including delivery vehicles, vehicles of employees and vehicles of persons with business on the Property shall park solely on the Property.

1.5 Tenant Compliance. All commercial lease agreements shall be in writing and shall contain provisions which acknowledge the tenant is subject to the terms and conditions of this Covenant Agreement.

1.6 Right of Entry. In the event Owner, or its successor or assign, fails to maintain the common area of the Property in the above-described condition, and satisfactory progress is not made in correcting the condition within thirty (30) days from the date of written notice from City, City may, at its option, and without further notice to Owner, declare the unperformed maintenance to constitute a public nuisance. Thereafter, City, its employees, contractors or agents, may cure Owner's default by entering upon the Property and performing the necessary landscaping and/or maintenance. City shall give Owner reasonable notice of the time and manner of entry, and entry shall only be at such times and in such manner as is reasonably necessary to carry out this Covenant Agreement. The Owner, or its successor and assign owing the

affected portion of the Property, shall pay such costs as are reasonably incurred by City for such maintenance, including attorneys' fees and costs.

1.7 Lien. If such costs incurred by City pursuant to Section 1.6 above are not reimbursed within sixty (60) days after Owner's, or such successor's, receipt of notice thereof, the same shall be deemed delinquent, and the amount thereof shall bear interest thereafter at a rate equal to the lesser of ten percent (10%) simple interest per annum or the legal maximum until paid. Any and all delinquent amounts, together with said interest, costs and reasonable attorney's fees, shall be an obligation of the Owner or such successor as well as a lien and charge upon the property interests of Owner or such successor, and the rents, issues and profits of such property. City may bring an action at law against Owner or such successor obligated to pay any such sums or foreclose the lien against Owner's or such successor's property interests. Any such lien shall be created by recordation of a Notice of Claim of Lien against the affected portion of the Property, which Lien must be recorded with ninety (90) days after Owner's payment becomes delinquent pursuant to this provision, and may be enforced by sale by the City following recordation of a Notice of Default of Sale given in the manner and time required by law as in the case of a deed of trust; such sale to be conducted in accordance with the provisions of Section 2924, et seq., of the California Civil Code, applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted by law.

Any monetary lien provided for herein shall be subordinate to any bona fide mortgage or deed of trust covering an ownership interest or leasehold or subleasehold estate in and to the Property or the applicable portion thereof, and any purchaser at any foreclosure or trustee's sale (as well as the transferee under any deed or assignment in lieu of foreclosure or trustee's sale) under any such mortgage or deed of trust shall take title free from any monetary lien created by this Covenant Agreement, but otherwise subject to the provisions hereof; provided that, after the foreclosure of any such mortgage and/or deed of trust, all other assessments provided for herein to the extent they relate to the expenses incurred subsequent to such foreclosure and are assessed hereunder to the purchaser at the foreclosure sale, as Owner of the Property after the date of such foreclosure sale, shall become a lien upon the affected portion of the Property upon recordation of a Notice of Claim of Lien as hereinabove provided.

2. MANAGEMENT.

2.1 Project Management. Subject to the terms and conditions contained hereinbelow, Owner shall at all times during the operation of the Project located on the Property pursuant to this Covenant Agreement provide or retain an entity to perform the management and/or supervisory functions ("Project Manager") with respect to the operation of the common areas of the Project including day-to-day administration, maintenance and repair. Subject to any regulatory or licensing requirements of any other applicable governmental agency, the Management Contract may be for a term of up to fifteen (15) years and may be renewed for successive terms in accordance with its terms. Any Management Contract shall also provide that the Project Manager shall be subject to termination for failure to meet project maintenance and operational standards set forth

herein or in other agreements between Owner and City. Owner shall promptly terminate any Project Manager which commits or allows such failure, unless the failure is cured within a reasonable period in no event exceeding sixty (60) days from Project Manager's receipt of notice of the failure from Owner or City. Notwithstanding anything to the contrary in this Section, the Commercial Component may be self-managed by Owner or any successor or assign of Owner.

3. COMPLIANCE WITH LAWS/DDA.

3.1 State and Local Laws. Owner or its successors and assigns shall comply with all ordinances, regulations and standards of the State, City applicable to the Property. Owner or its successors and assigns shall comply with all rules and regulations of any assessment district of the City with jurisdiction over the Property.

3.2 DDA Conformance. Owner shall comply with the terms of the DDA in the development of the Property and Project thereon. This includes, but is not limited to, developing the Project, and required parking for the separate improvements thereon, in a manner consistent with the Scope of Development set forth in the DDA. No entitlement shall be sought or processed in a manner that substantially deviates from the Scope of Development without the City's express approval.

4. INSURANCE.

Owner covenants and agrees for itself, and its assigns and successors-in-interest in the Property, that during construction of the Project, Owner or such successors and assigns shall procure and keep in full force and effect or cause to be procured and kept in full force and effect for the mutual benefit of Owner, Agency and City, and shall provide City and Agency evidence reasonably acceptable to the City Manager, or designee, of the existence of, insurance policies meeting the requirements of Section 506 of the DDA.

5. OBLIGATION TO REPAIR.

5.1 Obligation to Repair and Restore Damage Due to Casualty Covered by Insurance. If a portion of the Project shall be totally or partially destroyed or rendered wholly or partly uninhabitable by fire or other casualty, Owner, or its successor with respect to the affected portion of the Project, shall either (i) promptly proceed to obtain any available insurance proceeds and take all steps necessary to begin reconstruction and, upon receipt of insurance proceeds, to promptly and diligently commence and to thereafter pursue the repair or replacement of the affected portion of the Project to substantially the same condition as existed prior to such damage or destruction, or (ii) if Owner, or such successor with respect to the affected portion of the Property, elects not to restore or replace such improvements, such Owner or successor shall promptly remove all debris from the affected portion of the Property and place the affected portion of the Property in a clear and secure condition. City shall cooperate with Owner, at no expense to City, in obtaining any governmental permits required for the repair, replacement, or restoration of any improvements. Following any such event of damage or destruction, Owner, or its successor with respect to the affected portion of the

Property, may also reconstruct such other improvements on the Property as are consistent with applicable land use regulations provided it shall obtain all legally required approvals from the City and other governmental agency or agencies with jurisdiction with respect to those improvements.

5.2 Continued Operations. During any period of repair, operation of the Project shall continue to the extent reasonably practicable from the standpoint of prudent business management.

6. LIMITATION ON TRANSFERS OF PROPERTY. Owner covenants and agrees that is shall not Transfer its interests, rights and obligations in the Property without the prior written consent of the City consistent with the terms of Section 303 of the DDA.

7. TOT GUARANTEE.

7.1 TOT Guarantee Obligation. Owner intends to develop an high quality Upscale or higher boutique hotel as defined by the August, 2022 Smith Travel Research Hotel Classification list) with a minimum of 60 and a maximum of 80 keys ("Hotel Component") on the Property ("Project"), which is expected to generate substantial future transient occupancy tax ("TOT") for the benefit of City in accordance with the TOT imposed by the City pursuant to Chapter 3.20 of the San Dimas Municipal Code imposing a twelve percent (12%) TOT on rent charged by hotel operators within the City of San Dimas. As a material incentive to the Agency entering into the DDA with Owner, Owner has guaranteed the development of the Hotel Component on the Property. To guarantee the development of the Hotel Component, Owner hereby guarantees to City that should such Hotel Component not be constructed and operational within the times provided in Section 7.2 below, Owner shall pay the following lost TOT revenues to City upon the times and in the amounts described in Section 7.2 (each payment described in Sections 7.2 a., b. and c. below shall collectively be referred to as "TOT Guarantee"). Owner hereby agrees and acknowledges that the TOT Guarantee, totaling a maximum amount of Twelve Million Dollars ($12,000,000), represents a reasonable estimate of the lost TOT revenues to the City should Owner fail to develop the Hotel Component within the times set forth in Section 7.2 below. Owner further hereby agrees and acknowledges that the twenty (20)-year term of the TOT Guarantee is a reasonable time to address the City's damages should Owner fail to develop the Hotel Component at the Property.

7.2 Payments of TOT Guarantee. Owner shall pay to City the following payments of the TOT Guarantee in the amounts and times described below, which amounts shall be deemed independent payment obligations such that the payments below shall be cumulative:

a. Entitlement Application TOT Payment. If Owner does not submit all the necessary Entitlement applications to City for the Project by 5:00 p.m. on April 1, 2023, as is reasonably sufficient for City to deem the applications complete ("Complete Hotel Application"), Owner shall pay to City One Hundred Thousand Dollars ($100,000) ("Application TOT Payment") annually beginning by no later than April 1, 2024 and continuing on each anniversary of April 1st for each year thereafter in which Owner

fails to submit the Complete Hotel Application, or the prorated amount of such Application TOT Payment until Owner submits the Complete Hotel Application. The Application TOT Payment obligation shall continue for nineteen (19) additional years until Owner submits the Complete Hotel Application, for a total potential Application TOT Payment of Two Million Dollars ($2,000,000). The twenty (20)-year term shall be extended consistent with any extension as a result of any period of delay under Sections 7.3 through 7.6, above.

b. Building TOT Payment. If Owner does not secure building permits from City by 5:00 p.m. on the date that is twelve (12) months from the date in which the City issues the Entitlements, as that term is defined in the DDA, for the Hotel Component ("Building Permits Deadline"), Owner shall pay to City, in addition to and not in lieu of any payment obligation of the Application TOT Payment, Two Hundred Thousand Dollars ($200,000) ("Building Permits TOT Payment") annually beginning by no later than ten (10) days after the Building Permits Deadline and continuing on each anniversary of the Building Permits Deadline another Building Permits TOT Payment for each year thereafter in which Owner fails to secure the building permits for the Hotel Component, or the prorated amount of such Building Permits TOT Payment until Owner secures the building permits from City. The Building Permits TOT Payment obligation shall continue for nineteen (19) additional years from the date of the Building Permits Deadline until Owner secures the building permits for the Hotel Component, for a total potential Building Permits TOT Payments of Four Million Dollars ($4,000,000).

c. Construction TOT Payment. If Owner does not commence construction of the Hotel Component by the date that is six (6) months from the earlier of (i) the date of securing building permits from the City, or (ii) the Building Permits Deadline described in Section 7.2 b. above, ("Commencement of Construction Deadline"), Owner shall pay to City, in addition to and not in lieu of any payment obligation of the Application TOT Payment and the Building Permits TOT Payment, Three Hundred Thousand Dollars ($300,000) ("Construction TOT Payment") annually beginning by no later than ten (10) days after the Commencement of Construction Deadline and continuing on each anniversary of the Commencement of Construction Deadline another Construction TOT Payment for each year thereafter in which Owner fails to commence construction of the Hotel Component, or the prorated amount of such Construction TOT Payment until Owner commences construction of the Hotel Component. Should Owner fail to commence construction within two (2) years of the Commencement of Construction Deadline, the Construction TOT Payment obligation shall be imposed upon Owner's failure to complete construction of the Hotel Component, measured at the time the Hotel Component is eligible for a certificate of occupancy, ("Completion Deadline") such that the Construction TOT payment shall continue to apply until completion of construction, as described herein, rather than upon the Commencement of Construction Deadline. The Construction TOT Payment shall continue for nineteen (19) additional years from the date of the Commencement of Construction Deadline until Owner completes construction of the Hotel Component, as described herein, for a total potential Construction TOT Payments of Six Million Dollars ($6,000,000).

Illustration of TOT Guarantee payments: The following is an illustrative example of how the TOT Guarantee payments described in this Section 7.2 could be applied.

Assumptions: Owner delays submission of the Complete Hotel Application beyond the April 1, 2023 deadline and instead submits the Complete Hotel Application on April 1, 2024. Thereafter, Owner fails to make the Building Permits Deadline and instead secures building permits from City 18 months after the date in which the City issues the Entitlements (6 months delayed). Thereafter, Owner commences construction 3 years after the Commencement of Construction Deadline and completes construction 1 years later.

Calculation: Owner shall pay City $800,000, calculated based on the $100,000 Application TOT Payment for the 1 year in which the Complete Hotel Application was delayed beyond the deadline, PLUS $100,000 representing the Building Permits TOT Payment, prorated to the half-year delay in meeting the Building Permits Deadline, PLUS the $300,000 Construction Payment TOT due to Owner's failure to meet the Commencement of Construction Deadline, PLUS another $300,000 payable due to Owner's failure to meet the Commencement of Construction Deadline until completion of construction, measured by the at the time the Hotel Component is eligible for a certificate of occupancy.

7.3 Delay by City. Should City unreasonably delay any action which actually and demonstrably delays Owner in achieving any of the payment deadlines described in Sections 7.2 a., b. or c. above, Owner shall not be relieved of any of the payment deadlines provided therein unless Owner has provided the City written notice of such delay ("Delay Notice") no later than ten (10) days from the date of the alleged delay. The Delay Notice provided by Owner shall be supplemented with documentary proof of the City's actual delay. Upon receipt of the Delay Notice, the parties shall meet to discuss the delay and determine whether any extension to the above deadlines are warranted. Any disagreement on such extension, if any, shall be decided by the City's City Manager and his/her decision shall constitute a final agency action on the matter. Should an extension be approved, this Covenant Agreement shall be amended to reflect the City-approved extension and the parties will cooperate in preparing a recording such amendment.

7.4 Delay Caused By Environmental Cleanup. If, through the exercise of commercially reasonable diligence, Owner is unable to finalize the required environmental investigation, cleanup, and regulatory closure of the Site in accordance with applicable cleanup targets adopted by an appropriate regulatory agency, and the same actually and demonstrably delays Owner in achieving any of the payment deadlines described in Sections 7.2 a., b. or c. above, Owner shall not be relieved of any of the payment deadlines provided therein unless Owner has provided the City written Delay Notice no later than ten (10) days from the date of the alleged delay, as said time is calculated under Section 803 of the DDA relating to Forced Delays. The Delay Notice

provided by Owner shall be supplemented with documentary proof of the actual delay. Upon receipt of the Delay Notice, the parties shall meet to discuss the delay and determine in good faith whether any extension to the above deadlines are warranted. If proof is provided that Owner has exercised commercially reasonable diligence in pursuing the cleanup and closure of the Site but that finalizing said cleanup has delayed Owner's ability to comply with the payment deadlines described in Sections 7.2 a., b. or c. above, the City shall not refuse to grant an extension of time sufficient to enable the environmental remediation and regulatory closure of the Site to be completed.

7.5 Delay Caused by Third Party Litigation. Any third-party lawsuits challenging the approval of the Entitlements, CEQA SCPE, or challenging any other discretionary or ministerial agency approval issued by the City or other agency for the Project shall automatically toll all deadlines described in Sections 7.2 a., b. or c. until such time as any such litigation is subject to a final resolution.

7.6 Forced Delay. For clarity, any Forced Delay under Section 803 of the DDA shall automatically toll all deadlines described in Sections 7.2 a., b. or c. until such time as the Forced Delay ends.

7.7 Default by Owner; Security. Should Owner fail to meet the deadlines provided in Sections 7.2 a., b. or c. above toward development of the Hotel Component and complete the Hotel Component by April, 2026, or pay the TOT Guarantee, or any portion thereof by the times set for in said Sections 7.2 a., b. or c., owner shall be deemed in breach ("Owner's TOT Guarantee Breach") thereby triggering City's Option to purchase the Property pursuant to Section 8 below. Owner hereby agrees and acknowledges that the Option in favor of City is reasonable to secure Owner's obligations to develop the Hotel Component or pay the TOT Guarantee. The Owner's TOT Guarantee Breach deadline listed above shall be extended by any period of delay under Sections 7.3 through 7.6, above.

7.8 TOT Guarantee and Early Repurchase Option Not Subject to Subordination. City's rights to the TOT Guarantee and Early Repurchase Option under this Agreement, including without limitation City's rights to receive the payments of the Application TOT Payment, Building Permits TOT Payment or Construction TOT Payment, as provided in Section 7.2, shall not be subordinated to the rights of any person or entity of any kind ("Person") holding an encumbrance, lien, or other interest in the Property of any type or any kind (collectively, "Encumbrance"). Notwithstanding any other provision of this Agreement, Owner shall not enter into any agreement with any Person granting an Encumbrance that would affect the rights or interests of the City to the TOT Guarantee or Early Repurchase Option under the terms of this Agreement. For the avoidance of doubt, the City's rights in the event of default, termination or expiration, the City's rights to payment, and Owner's obligation to maintain the TOT Guarantee and Early Repurchase Option will remain superior in interest to that of any Person under any and all sets of circumstance, including without limited, any case or proceeding involving Owner under the United States Bankruptcy Code, 11 U.S.C. sections 101 et seq. and any action to enforce any agreement to which Owner is a party.

8. OPTION TO PURCHASE.

8.1 Grant of Option to Purchase. Immediately as of the recordation of the Grant Deed, as such term is defined in the DDA, Owner grants, subject to the terms and conditions stated in this Section 8, to City the exclusive, irrevocable right and option to purchase (the "Option") all of Owner's right, title and interest in and to the Property, together with all improvements thereon and all privileges, easements and appurtenances of every kind relating thereto subject to the terms of this provision.

8.2 Option Consideration. As of the Effective Date of the DDA, Owner has secured the rights to purchase the Property, which right the parties hereby acknowledge and agree constitute adequate and satisfactory consideration for the grant of the Option and Early Repurchase Option, as applicable, by Owner to City pursuant to this Covenant Agreement.

8.3 Option Term, Expiration & Termination.

a. Option Term. The Option shall be exercisable by City commencing on the first day upon an Owner's TOT Guarantee Breach, as defined in Section 7.7 above, and ending on the date that is two (2) years from the date of commencement of such breach ("Option Term").

b. Expiration of Option Term. The Option Term shall expire at 11:59 p.m. of the last day of the Option Term, unless the last day is a weekend or holiday recognized in the California Government Code, in which event the Option Term shall be automatically extended to the next following business day and shall expire at 11:59 p.m. on such day.

c. Termination of Option Term. City shall have the right to terminate during the inspection and contingency period as provided in Section 8.19. b. [Inspection & Contingency Period] of this Covenant Agreement, City may, at its election and in its sole discretion, terminate the Option during the Option Term, by delivering a written notice to Owner and recording a release of all of City's unexercised Option rights under this Covenant Agreement. In such event, Escrow and/or Owner shall refund the Option Consideration to City within thirty (30) days of City's notice of termination.

8.4 Early Repurchase Option. Separate and apart from the Option to purchase the Property pursuant to Section 8.3 above, City shall have the option to purchase the Site if, nine (9) months from the Closing Date, ("Early Repurchase Term") Developer has not provided to City, subject to City's review and reasonable satisfaction, any of the following: (i) fully executed operating agreements with proposed development partners, the Zislis Group and Republic Metropolitan, or suitable alternative equity and /or debt (lenders) providers or development partners determined in accordance with Section 303.1, below, who have demonstrated sufficient commitment to the proposed Project and available financial resources and wherewithal to support the development as contemplated under this Agreement, (ii) a financial proforma (including updated opinion of construction cost estimates from qualified contractor source and updated market

data/support for revenue assumptions) and/or other information to support the financial viability of the proposed Project, (iii) complete and sufficient updated market data and information on the Hotel Option and Project viability, (iv) updated financial/balance statements of Developer, or (v) statement of any current litigation that could impact Developer's ability to perform the obligations under this Agreement ("Early Repurchase Option"). Under the Early Repurchase Option, the purchase price shall be as set forth in Section 8.6, except the price shall exclude City's closing costs for the initial sale of the Property to the Developer. Until the Early Repurchase Option is exercised by City by delivering a writing to Developer so indicating following the nine-month deadline hereunder, Developer may cure by compliance with this provision.

8.5 Option Exercise. The Option or Early Repurchase Option shall be exercisable by City, in the manner provided herein, as to the Property from time to time, during the then current Option Term or Early Repurchase Option, respectively. The City may exercise the Option or Early Repurchase Option at any time during the then current Option Term or Early Repurchase rights, respectively, by delivering written notice (the "Notice of Exercise") to Owner stating that the City elects to exercise the Option or Early Repurchase Option, as applicable. The Notice of Exercise shall specify the time and date when the recording of the transfer of the Property from Owner to City shall take place ("Closing"), which date shall be not more than thirty (30) days after the date of the Notice of Exercise. The Parties shall deposit with Escrow at the Notice of Exercise a Purchase & Sale Agreement ("Acquisition PSA") or other transfer document to facilitate and memorialize the conveyance of the Property.

8.6 Option Purchase Price. The purchase price for the Property to be paid by City to Owner pursuant to the Option or Early Repurchase Option ("Purchase Price") shall be calculated at the lower of the following amounts, plus escrow costs for the purchase from Agency to Owner: (i) the actual purchase price paid by Owner for the Property under the DDA ($2,635,600), or (ii) the appraised fair market value using an appraiser selected by City, as reduced by the $2,104,400 amount used as an offset for environmental remediation and storm drain relocation costs. Owner acknowledges that the Purchase Price is not intended to include all costs or expenses Owner incurred relative to the Property. To this end, no other costs or expenses incurred by Owner in the negotiation of the DDA, or any other agreement, financing, architectural, permitting, entitlement, construction or any other costs or expenses of any kind shall be included in the Purchase Price.

8.7 Owner's Obligations During Option Term.

a. No Clouds to Title. During the Option Term or Early Repurchase Term, Owner shall take no action to cloud title to the Property, or any portion thereof, and shall not place, permit, or suffer any lien, judgment, or other encumbrance to attach to the Property, or portion thereof, or convey or otherwise transfer any right, title, or interest in the Property, or portion thereof, that would frustrate, impair, restrict, or prohibit the operation or enforcement of City's rights under Section 8 of this Covenant Agreement.

b. Authority to Contract. Owner represents, warrants, and covenants that, as of the Effective Date of this Covenant Agreement, Owner is the sole owner of each of the Property, and has full power and authority to enter into this Covenant Agreement and to convey all right, title and interest to the Property to City and that there is no contract, lease, option, agreement, instrument, or other agreement that would frustrate, impair, restrict, or prohibit the operation or enforcement of Section 8 of this Covenant Agreement.

8.8 Closing of Acquisition PSA. City shall promptly notify Owner of the closing under the Acquisition PSA and provide copies of the recorded Acquisition Deed (as defined in the Acquisition PSA).

8.9 Approvals under Acquisition PSA. Any approvals or waivers which City is required to provide under the Acquisition PSA, as such term is defined in Section 8.5 above, (including, but not limited to, title review, natural hazard disclosure review, due diligence review, etc.), City shall provide notice to Owner which shall have a right to have input on the applicable decisions regarding issuing approvals or waivers. Owner shall cooperate promptly with City with respect to all such obligations under the Acquisition PSA.

8.10 Memorandum of Option. Prior to the close of the Acquisition Escrow and recordation of the Acquisition Deed, Owner and City shall execute and acknowledge a memorandum of option in the form of Exhibit C attached hereto ("Option Memorandum"). Promptly following recordation of the Acquisition Deed, Owner shall record the Option Memorandum in the Official Records of Los Angeles County.

8.11 Termination of Option.

a. Owner Termination. Owner may not terminate the Option or Early Repurchase Option for any reason after the Effective Date and prior to the termination of the Option Term or Early Repurchase Option, respectively. City may, in its sole discretion, elect to terminate the Option or Early Repurchase Option any time during the Option Term or Early Repurchase Option, respectively, by delivering written notice of such election to Owner. If City does not exercise the Option or Early Repurchase Option within the Option Term or Early Repurchase Term, the Option or Early Repurchase Option, respectively, shall terminate automatically terminate.

b. Termination of Option by Completion of the Project. The Option shall automatically terminate upon the receipt by City of the first TOT Payment from commencement of Hotel Component operations on the Project. This shall not relieve Owner of any obligation to make TOT Payments pursuant to Section 7.1 for any delays by Owner consistent with the provisions of Section 7.1. This provision is intended to be self-executing without the need for any further action by the Parties, though the Parties shall ensure the filing of Termination Documents under Subsection c., below when this provision is triggered.

c. Termination Documents. If the Option or Early Repurchase Option is terminated after recordation of the Option Memorandum, City shall promptly deliver to Owner an executed and acknowledged document to terminate the Option Memorandum in a form acceptable to a reputable title company ("Option Termination Agreement").

8.12 Option Escrow.

a. Opening of Escrow. Within three (3) business days following delivery of the Notice of Exercise, Owner and City shall deliver a copy of this executed Covenant Agreement and the Acquisition PSA to an escrow company ("Escrow Holder"), selected by City, with the consent of Owner, which consent shall not be unreasonably withheld. For purposes of this Covenant Agreement, the escrow shall be deemed opened on the date Escrow Holder shall have received said executed Covenant Agreement. In addition, Owner and City agree to execute, deliver and be bound by any reasonable or customary supplemental escrow instructions of Escrow Holder or other instruments as may reasonably be required by Escrow Holder or City in order to consummate the transaction contemplated by this Covenant Agreement. Any such supplemental instructions shall not conflict with, amend or supersede any portions of this Covenant Agreement. If there is any inconsistency between such supplemental instructions and this Covenant Agreement, this Covenant Agreement shall control.

b. Close of Escrow. City's Notice of Exercise shall specify the time and date when the recording of the transfer of the Property from Owner to City shall take place ("Closing or "Close of Escrow"). The date for the Closing shall not be more than thirty (30) days after the date of the Notice of Exercise.

8.13 Option Title.

a. Title Policy. Owner shall cause a national title company ("Title Company") selected by City with the consent of Owner, which consent Owner shall not unreasonably withhold, to issue its standard ALTA Owner's Title Insurance Policy ("Title Policy") in the amount of the Purchase Price, showing good and marketable title to the Property as of the Closing subject only to the exceptions to title permitted under Section 8.13. a. and b. below.

b. Preliminary Title Report. Within ten (10) days from the Notice to Exercise, Owner shall, at its sole cost, provide City with a Preliminary Title Report ("PTR") reflecting the current status of title to the Property including copies of all Schedule B documents and a parcel map(s) plotting all easements. City shall notify Owner in writing ("Title Notice") of City's approval of all matters contained in the PTR or of any title objections ("Disapproved Exceptions") other than those exceptions specified in Section 8.13 b.[Conditions of Title] of this Covenant Agreement within thirty (30) calendar days after City's receipt of the PTR ("Approval of Title Period"). If City fails to deliver City's Title Notice within Approval of Title Period, City shall be conclusively deemed to have disapproved the PTR and all matters shown therein unless a time extension to this provision has been approved in writing amongst the Parties. Owner's

failure to provide City with a PTR pursuant to this Section shall automatically toll the Approval of Title Period one day for each day, or partial day, beyond the ten (10) calendar days described above that Owner fails to satisfy its obligations set forth in this Section. Upon the issuance of any amendment or supplement to the PTR which adds additional exceptions, the foregoing right of review and approval shall also apply to said amendment or supplement, provided, however, that Owner's initial period of review and approval or disapproval of any such additional exceptions shall be limited to ten (10) calendar days following receipt of notice of such additional exceptions. Nothing to the contrary herein withstanding, City shall be deemed to have automatically objected to all deeds of trust, mortgages, judgment liens, estate taxes, federal and state income tax liens, delinquent general and special real property taxes and assessments and similar monetary encumbrances affecting the Property, and Owner shall discharge any such non-permitted title matter of record prior to or concurrently with the Close of Escrow.

c. Conditions of Title. Owner shall convey to City fee simple title to the Property by Deed which is free and clear of all liens and encumbrances except:

(1) The effect of this Covenant Agreement;

(2) Any easement, right-of-way or other encumbrance for public streets, highways, utilities, or for other public purposes;

(3) Any lien for current taxes and assessments not yet due and payable for taxes and assessments accruing subsequent to recordation of the deed; and

(4) Those title exceptions reflected in a Preliminary Title Report to which City has not objected or waives its objection pursuant to Section 8.13 b. [Preliminary Title Report] of this Covenant Agreement.

d. Vesting. City, in its sole and absolute discretion shall have the unimpeded right to vest title in its or other designee's name.

8.14 Owner's Deliveries.

Prior to the Close of Escrow as to the Property pursuant to the Option or Early Repurchase Option, Owner shall deposit or cause to be deposited into Escrow for delivery to City at closing the following:

a. A duly executed and acknowledged grant deed(s) in a form satisfactory to City;

b. The ALTA Title Policy insuring fee title to the Property in the full amount of the applicable Purchase Price.

8.15 City's Deliveries. Prior to the Close of Escrow, City shall deposit or cause to be deposited into escrow, to be delivered to Owner any cash amount required in accordance with Section 8.6 [Payment of Purchase Price].

8.16 Authorization to Record Documents and Disburse Funds.

a. Escrow Holder is hereby authorized and directed to record the documents and disburse the funds and documents called for hereunder, provided each of the following conditions have been, or will concurrently with the Close of Escrow, be fulfilled:

(1) Title Company has committed to issue to City, or its designee a title insurance policy with liability equal to the Purchase Price, in accordance with Section 8.13 above.

(2) Owner shall have deposited into escrow the grant deed(s) and the funds, if any, required of it hereunder.

b. City shall deposit into escrow the documents and funds required of City under this Covenant Agreement.

c. Escrow Holder is authorized to record any instrument delivered through this escrow if necessary or proper for the issuance of the Title Policy referred to above.

d. City has approved in writing the condition to Title of the Property on or before the date set forth in Section 8.13 of this Covenant Agreement.

e. City has approved in writing, within the time set forth in Section 8.19. a, Inspection and Contingency Period, all investigations, due diligence, entitlement processing, approvals, etc.

f. Owner shall remove any debris or improvements from the Property to the satisfaction of City.

8.17 Costs and Expenses. The cost and expense of the Title Policy and Natural Hazard Disclosure Report (NHD) shall be paid by City. The escrow fee of Escrow Holder shall be borne by the City. City shall pay all documentary transfer taxes payable in connection with the recordation of any grant deed. City shall pay recording and miscellaneous charges in accordance with the standard custom and practice in Los Angeles County.

8.18 Tax Prorations. Real property taxes, special taxes, and assessments shall be prorated as of the Close of Escrow. Owner shall be responsible for all taxes, special taxes and assessments levied against the Property that are due and payable before the Close of Escrow.

8.19 Condition of the Property.

a. Inspection and Contingency Period. Upon the commencement of the Option Term or Early Repurchase Term, as applicable, and continuing thereafter for a period of twenty-four months (24) thereafter ("Inspection and

Contingency Period"), City shall have the right to make an analysis of the Property including of such engineering, feasibility studies, economic analyses, soils tests, environmental studies and other investigations as City in its sole discretion may desire, to permit City to determine the suitability of the Property for City's contemplated uses and to conduct such other review, investigation, and entitlement processing which City deems appropriate to satisfy itself to acquire the Property. City shall further have the right to make an examination of all permits, approvals and governmental regulations which affect the Property, including zoning and land use issues and conditions imposed upon the Property by governmental agencies. If necessary, Owner shall execute any documents as the owner of the Property to effectuate the inspections and or entitlement processing.

b. Furthermore, City is authorized to conduct inspections, testing, sampling, and studies in order for City to determine the presence or absence of any Hazardous Substances, as that term is defined in Section 8.21 f., any geologic hazard, any environmental condition, including the presence of any listed, threatened or endangered species of plant or animal or its habitat, and whether the Property are suitable for the intended purpose. If City determines, in its sole and absolute discretion, that the Property is inadequate for the use intended, detects the presence of any Hazardous Substances, geologic hazard, environmental problem or other condition affecting the use of the Property, then City may terminate the Option or Early Repurchase Option and the Escrow Holder shall release back to City all consideration deposited and the Option or Early Repurchase Option, as applicable, shall be terminated. The Purchase Price shall become non-refundable and inure to the benefit of Owner the first business day following the expiration of the Inspection and Contingency Period.

c. Due Diligence Items. Owner shall make available to City all pertinent information and documents relating to the Property in Owner's possession and control, within ten (10) business days, the following:

(1) Copies of all contracts entered into by Owner, including but not limited to management agreements, unrecorded easements and CC&Rs, leases, leasing commission agreements, and service contracts.

(2) For any improvements on the Property, final approved "as-built" plans and specifications, to the extent available, including soils reports and structural, mechanical and electrical calculations.

d. Copies of any and all reports and studies relating to environmental, soils, geological and ground water conditions or the presence or use of any toxic or Hazardous Substances, as that term is defined in Section 8.21. f. on the Property and any wetlands or endangered species reports.

e. Copies of all use permits, building permits, certificates of occupancy, and other similar kinds of governmental approvals or permits, if any.

f. Copies of any insurance policies attaching to the Property, and any claims or losses filed against said policies.

g. Listing of any personal property that would be included in the transaction, if any.

Owner and acknowledges and agrees that City, at City's discretion, may disclose and provide to third parties copies of the foregoing information and documents, as well as any other information documents related to this Covenant Agreement.

8.20 Approval of Due Diligence, Inspection and Notification to Owner. City shall notify Owner in writing ("City's Due Diligence Notice") on or before the expiration of the Inspection and Contingency Period of City's approval or disapproval of the condition of the Property and City's investigations with respect thereto which approval may be withheld in City's sole and absolute discretion. City's failure to deliver City's Due Diligence Notice on or before the expiration of the Inspection and Contingency Period shall be conclusively deemed City's disapproval thereof.

8.21 Owner's Representations and Covenants.

a. In consideration of City entering into this Covenant Agreement as to the Option and Early Repurchase Option and as an inducement to City to purchase the Property, Owner makes the following representations, each of which (i) is a condition to Close of Escrow, (ii) is true as of the Effective Date, and (iii) is material and is being relied upon by City:

b. Authority. Owner has full power and authority to enter into this Covenant Agreement and to consummate the transactions contemplated herein without obtaining the consent or approval of any other person, entity or governmental authority. The persons whose names are set forth below hereby personally represent and warrant that they have full power and authority to sign the name of Owner to this Covenant Agreement and to cause this Covenant Agreement to be a binding obligation of Owner.

c. Third Party Consents. No consents or waivers of or by any third party are necessary to permit the consummation by Owner of the transaction contemplated pursuant to the Option or Early Repurchase Option under this Covenant Agreement.

d. Compliance With Laws. Owner shall provide to City within five (5) days of receipt of any notice or actual knowledge of any violation of applicable law, ordinance, rule, regulation or requirement of any governmental agency, body or subdivision affecting or relating to the Property, including, without limitation, any subdivision, building, use or environmental law, ordinance, rule, requirement or regulation.

e. Governmental Notices. Owner shall deliver to City each and every notice or communication Owner receives from any governmental body other than City relating to the Property or any portion thereof upon Owner's receipt of the same.

f. Hazardous Substances. Owner shall not cause, allow or suffer any (i) Hazardous Substances, as that term is defined below, to be deposited or to

exist on or below the surface of the Property, including, without limitation, contamination of the soil, subsoil or ground water, which constitute a violation of any law, rule or regulation of any government entity having jurisdiction thereof or which expose Owner or City to liability to third parties, or (ii) underground fuel or chemical storage tanks to be located on the Property, and (iii) generation, treatment, storage or disposal of Hazardous Substances, or other condition or use that could result in or cause a discharge of any Hazardous Substances on or below the Property. The term "Hazardous Substances" shall mean (i) any substance, product, waste or other material of any nature whatsoever which is or becomes listed, regulated, or for which liability arises for misuse, pursuant to the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), 42 U.S.C. §9601, *et seq.;* the Hazardous Materials Transportation Act, 49 U.S.C. §1801, *et seq.;* the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §6901, *et seq.;* the Toxic Substances Control Act, 15 U.S.C.S. §2601, *et seq.;* the Clean Water Act, 33 U.S.C. § 1251, *et seq.;* the Insecticide, Fungicide, Rodenticide Act, 7 U.S. C. § 136, *et seq.;* the Superfund Amendments and Reauthorization Act, 42 U.S.C. §6901, *et seq.;* the Clean Air Act, 42 U.S.C. §7401, *et seq.;* the Safe Drinking Water Act, 42 U.S.C. §300f, *et seq.;* the Solid Waste Disposal Act, 42 U.S.C. §6901, *et seq.;* the Surface Mining Control and Reclamation Act, 30 U.S.C. § 1201, *et seq.;* the Emergency Planning and Community Right to Know Act, 42 U.S. C. §11001, *et seq.;* the Occupational Safety and Health Act, 29 U.S.C. §§656 and 657; the Hazardous Waste Control Act, California Health and Safety Code ("H.&S.C.") §25100, *et seq.;* the Hazardous Substance Account Act, H.&S.C. §25330, *et seq.;* the California Safe Drinking Water and Toxic Enforcement Act, H.&S.C. §25249.5, *et seq.;* the Underground Storage of Hazardous Substances, H.&S.C. §25280, *et seq.;* the Carpenter-Presley-Tanner Hazardous Substance Account Act, H.&S.C. §25300, *et seq.;* the Hazardous Waste Management Act, H.&S.C. §25170.1, *et seq.;* the Hazardous Materials Response Plans and Inventory, H.&S.C. §25001, *et seq.;* the Porter-Cologne Water Quality Control Act, Water Code §13000, *et seq.,* all as they may from time to time be amended; (ii) any substance, product, waste or other material of any nature whatsoever which is or becomes listed, regulated, *or* for which liability for misuse arises pursuant to any other federal, state or local statute, law, ordinance, resolution, code, rule, regulation, order or decree due to its hazardous, toxic or dangerous nature; (iii) any petroleum, crude oil or any substance, product, waste, or other material of any nature whatsoever which contains gasoline, diesel fuel or other petroleum hydrocarbons other than petroleum and petroleum products contained within regularly operated motor vehicles; and (iv) polychlorinated biphenyls (PCB), radon gas, urea formaldehyde, asbestos, and lead.

g. Environmental Violations. Owner shall not cause, allow or suffer any condition or use of the Property that constitutes, or if unremedied, with the passage of time would constitute, a violation of any federal or California law controlling or regulating the use or condition of land, water or air (including the California Environmental Quality Act) or any federal or California laws or regulations relating to use of or conservation of wetlands or other natural topographical conditions. Further, Owner shall provide to City within fifteen (15) days of receipt any notification, warning or citation regarding any violation, or potential or pending violation, of any such laws or regulations.

h. Work and Materials Furnished. All bills for work done and materials furnished with respect to the Property shall be paid in full by Owner or be discharged and paid in full by Owner by the date of Closing.

8.22 City's Representations.

City has full power and authority to enter into this Covenant Agreement as to the Option and Early Repurchase Option and to consummate the transactions contemplated herein without obtaining the consent or approval of any other person, entity or governmental authority. The persons whose names are set forth below hereby personally represent and warrant that they have full power and authority to sign the name of City to this Covenant Agreement as to the Option and to cause this Covenant Agreement as to the Option and Early Repurchase Option to be a binding obligation of City.

8.23 Owner's Default. In the event that Owner shall fail to perform Owner's obligations hereunder, City shall have the option to: (i) seek specific performance and/or damages for Owner's breach, (ii) extend the Closing for such time as City chooses to allow Owner to remedy such default, (iii) waive such default in writing, (iv) proceed to Closing and deduct from the Purchase Price such amount as required to cure Owner's default hereunder; or (v) terminate this Covenant Agreement as to the Option and Early Repurchase Option by written notice to Owner prior to cure of the default. In the event of termination of the Covenant Agreement as to the Option and Early Repurchase Option pursuant to this Section 8.23 or otherwise as a result of Owner's default, the parties shall be discharged from any further obligations and liabilities hereunder, except that City shall be entitled to damages arising from Owner's default and the resulting termination of this Covenant Agreement as to the Option and Early Repurchase Option .

8.24 Brokers' Commissions. If any claims for brokers' or finders' fees for the consummation of this Covenant Agreement arise, then City and Owner agree to indemnify, save harmless and defend the other from and against such claims if they shall be based upon any statement or representation or agreement by City or Owner respectively.

8.25 Assignment. City may, without consent of Owner assign, transfer or convey its rights or obligations under this Covenant Agreement as to the Option or Early Repurchase Option.

8.26 Owner's Use of the Property. From and after the date of Owner's execution hereof, Owner shall not violate, or allow the violation of any law, ordinance, rule or regulation affecting the Property. Owner shall do or cause to be done all things reasonably within its control to preserve intact and unimpaired any and all easements, grants, appurtenances, privileges and licenses in favor of or constituting any portion of Property. Further, Owner agrees to pay, as and when due, all payments on any liens or encumbrances presently affecting the Property and any and all taxes, assessments and levies in respect of the Property through the Closing Date.

8.27 Survival and Conditions Precedent. Agreements, representations, covenants and warranties contained in this Covenant Agreement or any amendment or supplement hereto shall survive Closing and delivery of deed(s) hereunder and shall not be merged thereby, and, in addition to any effect any of the same have in law or in equity, all of the same will be deemed to be conditions precedent to City's obligations hereunder, whether so expressed or not. Owner acknowledges that all of the conditions to this Covenant Agreement which are for the sole benefit of City may unilaterally be waived in writing by City.

8.28 Indemnification. Owner agrees to protect, defend, indemnify and hold City harmless from and against any claims, losses, demands, liabilities, suits, costs and damages, including consequential damages and attorneys' fees and other costs of defense, incurred, arising against or suffered by City as a direct or indirect consequence of (i) any breach of any representation, warranty, covenant or indemnification made in this Covenant Agreement by Owner, whether discovered before or after the closing, or (ii) any facts, circumstances or occurrences existing or occurring with regard to the Property prior to the Close of Escrow, except such as are caused by City.

9. ENFORCEMENT.

In the event Owner defaults in the performance or observance of any covenant, agreement or obligation of Owner pursuant to this Covenant Agreement, and if such default remains uncured for a period of thirty (30) days after written notice thereof shall have been given by Agency, or, in the event said default cannot reasonably be cured within said time period, Owner has failed to commence to cure such default within said thirty (30) days and thereafter fails to diligently prosecute said cure to completion, then Agency shall declare an "Event of Default" to have occurred hereunder, and, at its option, may take one or more of the following steps:

9.1 By mandamus or other suit, action or proceeding at law or in equity, require Owner to perform its obligations and covenants hereunder or enjoin any acts or things which may be unlawful or in violation of this Covenant Agreement; or

9.2 Take such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants and agreements of Owner hereunder; or

9.3 Enter the Property and cure the Event of Default.

Except as otherwise expressly stated in this Covenant Agreement, the rights and remedies of the parties are cumulative, and the exercise by any party of one or more of its rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by another party.

10. NONDISCRIMINATION.

There shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, creed, religion, sex, marital status, national origin, ancestry or any other protected class as defined by federal, state and/or local law in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, or any part thereof, nor shall Owner, or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Property, or any part thereof (except as permitted by this Covenant Agreement).

11. COVENANTS TO RUN WITH THE LAND.

Owner hereby subjects the Property to the covenants, reservations, and restrictions set forth in this Covenant Agreement. City and Owner hereby declare their express intent that all such covenants, reservations, and restrictions shall be deemed covenants running with the land and shall pass to and be binding upon Owner's successors in title to the Property; provided, however, that on the termination of this Covenant Agreement said covenants, reservations and restrictions shall expire. All covenants without regard to technical classification or designation shall be binding for the benefit of City, and such covenants shall run in favor of City for the entire term of this Covenant Agreement, without regard to whether City is or remains an owner of any land or interest therein to which such covenants relate. Each and every contract, deed or other instrument hereafter executed covering or conveying the Property or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations, and restrictions, regardless of whether such covenants, reservations, and restrictions are set forth in such contract, deed or other instrument.

City and Owner hereby declare their understanding and intent that the burden of the covenants set forth herein touch and concern the land. City and Owner hereby further declare their understanding and intent that the benefit of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Project by the intended beneficiaries of such covenants, reservations, and restrictions, and by furthering the public purposes for which the City was formed.

Owner, in exchange for Agency entering into the DDA, hereby agrees to hold, sell, and convey the Property subject to the terms of this Covenant Agreement. Owner also grants to City the right and power to enforce the terms of this Covenant Agreement against the Owner and all persons having any right, title or interest in the Property or any part thereof, their heirs, successive owners and assigns.

All covenants, if any, set forth herein concerning construction and development of any improvements on the Property, the insurance requirements set forth in Section 4.1 (but not the Environmental Insurance Requirements of Section 4.3), the restrictions on Transfer set forth in Section 6, and any rights of City or Agency to satisfy liens shall cause and terminate upon issuance of a Final Certificate of Completion pursuant to Section 3.03. 3 of the DDA. The covenants against discrimination set forth herein shall remain in effect in perpetuity.

12. Third Party Litigation.

Owner agrees to indemnify and defend City and/or Agency and its elected boards, commissions, officers, agents and employees and will hold and save them and each of them harmless from any and all actions, suits, claims, liabilities, losses, damages, penalties, obligations and expenses (including but not limited to attorneys' fees and costs) against the City and/or Agency for any Claims or Litigation which arise during the term of this Covenant Agreement. This obligation shall include providing defense costs that fall in the retention levels of the Environment Insurance Policy. Agency shall promptly provide Owner with notice of the pendency of any such Claims or Litigation and request that Owner defend the same. If Agency fails promptly to notify Owner of any such Claims or Litigation or if City or Agency fails to cooperate fully in the defense thereof, Owner shall not, thereafter, be responsible to defend, indemnify, or hold harmless City and/or Agency or their elected boards, commissions, officers, agents and employees. Owner may utilize the Agency Attorney's office or use legal counsel of Owner's choosing, but shall reimburse Agency for any necessary legal cost incurred by Agency. If Owner fails to do so, Agency may defend the Claims or Litigation and Owner shall pay the cost thereof, but if Agency chooses not to defend the Claims or Litigation, it shall have no liability to Owner. Owner's obligation to pay the defense cost shall extend until judgment and thereafter through any appeals. In the event of an appeal, or a settlement offer, the Parties will confer in good faith as to how to proceed and the resolution of any such appeal and the Parties' response to any such settlement offer shall require the consent of both Parties, which consent shall not be unreasonably withheld. Notwithstanding the foregoing however, Agency shall have the unilateral right to settle such Claims or Litigation brought against it in its sole and absolute discretion at any time after the elapse of two (2) years from the filing of any Claims or Litigation and Owner shall remain liable hereunder for the Claims and Litigation provided that (i) if the settlement would reduce the density or intensity of the potential development on the Property by ten percent (10%) or more, and (ii) Owner opposes the settlement, then if Agency still unilaterally determines to settle such Claims or Litigation, then Agency and City shall be responsible for their own litigation expenses and shall promptly reimburse Owner for reasonable litigation costs actually paid by Owner (with the burden on Owner to document and prove such costs) but shall bear no other liability to Owner.

13. INDEMNIFICATION.

Owner, while in possession of the Property, and each successor or assign of Owner while in possession of the Property, shall remain fully obligated for the payment of any property taxes and assessments applicable to its interest in the Property. Owner, and its successors and assigns, shall indemnify, defend and hold harmless Agency and City from and against any loss, liability, claim or judgment arising from their breach of the foregoing covenant. The foregoing indemnification, defense, and hold harmless agreement shall only be applicable to and binding upon the party then owning the Property or applicable portion thereof.

14. ATTORNEYS' FEES.

In the event that a party to this Covenant Agreement brings an action against the other party hereto by reason of the breach of any condition, covenant, representation or warranty in this Covenant Agreement, or otherwise arising out of this Covenant Agreement, the prevailing party in such action shall be entitled to recover from the other reasonable expert witness fees, and its reasonable attorney's fees and costs. Attorney's fees shall include attorney's fees on any appeal, and in addition a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, including the conducting of discovery.

15. AMENDMENTS.

This Covenant Agreement shall be amended only by a written instrument executed by the parties hereto or their successors in title, and duly recorded in the real property records of the County of Los Angeles.

16. NOTICE.

Any notice required to be given hereunder shall be made in writing and shall be given by personal delivery, certified or registered mail, postage prepaid, return receipt requested, at the addresses specified below, or at such other addresses as may be specified in writing by the parties hereto:

To City:
City of San Dimas
245 East Bonita Avenue
San Dimas, CA 91773
Attention: Executive Director

With a Copy to:
Aleshire & Wynder, LLP
18881 Von Karman Avenue, Suite 1700
Irvine, CA 92612
Attention: Jeff Malawy, Esq.

To Owner:
Pioneer Square, LLC
8800 Venice Blvd, Suite 316
Los Angeles, CA 90034
Attention: Michael Dieden

191 W 4th Street
Pomona, CA 91766
Attention: Gerald Tessier

With a Copy to:
Jeffrey Graham, Esq.
654 Milwood Ave
Venice, CA 90291

The notice shall be deemed given three (3) business days after the date of mailing, or, if personally delivered, when received.

17. SEVERABILITY/WAIVER/INTEGRATION/LENDER PROTECTION.

17.1 Severability. If any provision of this Covenant Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.

17.2 Waiver. A waiver by either party of the performance of any covenant or condition herein shall not invalidate this Covenant Agreement nor shall it be considered a waiver of any other covenants or conditions, nor shall the delay or forbearance by either party in exercising any remedy or right be considered a waiver of, or an estoppel against, the later exercise of such remedy or right.

17.3 Integration. This Covenant Agreement contains the entire Agreement between the parties and neither party relies on any warranty or representation not contained in this Covenant Agreement.

17.4 Owner's Breach Does Not Defeat Mortgage Lien. Owner's breach of any of the covenants or restrictions contained in this Covenant Agreement shall not defeat or render void or invalid the lien of any mortgage, deed of trust or other security interest encumbering the Property made in good faith and for value but, unless otherwise provided herein, the terms, covenants, conditions, restrictions, easements and reservations of this Covenant Agreement shall be binding and effective against the holder of such encumbrance whose interest is acquired by foreclosure, trustee's sale, deed or assignment in lieu thereof, or otherwise.

18. FUTURE ENFORCEMENT.

The parties hereby agree that should the Agency cease to exist as an entity at any time during the term of this Covenant Agreement, the City of San Dimas shall have the right to enforce all of the terms and conditions herein.

19. GOVERNING LAW.

This Covenant Agreement shall be governed by the laws of the State of California.

20. COUNTERPARTS.

This Covenant Agreement may be executed in any number of counterparts, each of which shall constitute one original and all of which shall be one and the same instrument.

[END -- SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the Owner has executed this Covenant Agreement by duly authorized representatives on the date first written hereinabove.

OWNER:

PIONEER SQUARE, LLC

By: _____

Name:_____

Title:_____

By: _____

Name:_____

Title:_____

CITY:

CITY OF SAN DIMAS, a municipal corporation

By: _____
Emmett Badar, Mayor

_____, 2022

ATTEST:

_____,
Debra Black, City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

By: _____
Jeff Malawy, City Attorney

[END OF SIGNATURES]

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On _____, before me, _____, personally appeared

_____

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

_____
Notary Public

[SEAL]

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On _____, before me, _____, personally appeared

_____

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

_____
Notary Public

[SEAL]

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On _____, before me, _____, personally appeared

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personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

_____
Notary Public

[SEAL]

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On _____, before me, _____, personally appeared

_____

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

_____
Notary Public

[SEAL]

EXHIBIT "A" TO ATTACHMENT NO. 5

LEGAL DESCRIPTION OF PROPERTY

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN DIMAS IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

Portion of APN 8386-021-913

That portion of the north half of Block 11 of replat of a portion of the Town of San Dimas, in the City of San Dimas, County of Los Angeles, State of California, as per map recorded in Book 37, page 31 of Miscellaneous Records, in the Office of the County Recorder of said County described as follows:

Beginning at the Northwest corner of said Block 11, said point being the **TRUE POINT OF BEGINNING**, thence easterly along said northerly line of said Block 11, North 89°43'50" East, 310.23 feet to an angle point therein; thence continuing easterly along said northerly line North 83°39'51" East, 269.82 feet; thence South 45°15'33" East, 31.05 feet to the easterly line of said Block 11; thence southerly along the easterly line of said block South 00°14'56" East, 277.28 feet to the southerly line of said north half of Block 11; thence westerly along said southerly line South 89°43'52" West, 600.17 feet to the westerly line of said Block 11; thence Northerly along said westerly line of said block North 00°15'32" West, 330.27 feet to the **TRUE POINT OF BEGINNING**.

Except that portion of Block 11 of replat of a portion of the Town of San Dimas, in the City of San Dimas, County of Los Angeles, State of California, as per map recorded in Book 37, page 31 of Miscellaneous Records, in the Office of the County Recorder of said County, more particularly described as follows:

Commencing at the northwest corner of said Block 11; thence easterly along the north line of said block 11 North 89°54'56" East 129.42 feet to the **TRUE POINT OF BEGINNING**; thence continuing along said north line North 89°54'56" East 180.81 feet; thence leaving said north line South 83°17'47" East 269.82 feet; thence South 45°42,52" East 31.05 feet to the east line of said Block 11, thence southerly along said east line South 00°04'20" East 79.13 feet to a point of cusp with a curve concave to the southwest having a radius of 45.00 feet and to which point a radial line bears North 89°55'40" East; thence leaving said east line, northwesterly along said curve 63.11 feet through a central angle of 80°21'23"; thence North 80°25'43" West 157.31 feet to the beginning of a tangent curve concave to northeast having a radius of 564.01 feet; thence northwest 121.67 feet along said curve through a central angle of 12°21'37" to the beginning of a non-tangent curve concave to the southwest having a radius of 459.58 feet, a radial line through said beginning bears North 22°00'56" East; thence northwesterly 26.81 feet along said curve through a central angle of 03°20'32" to the beginning of a compound curve concave to the southwest having a radius of 235.00 feet; thence northwesterly 76.94 feet along said curve through a central angle of 18°45'28"; thence South 89°54'56" West 60.86 feet; thence North 00°04'56" West 7.00 feet to the **TRUE POINT OF BEGINNING**.

Contains approximately 4.03 acres, more or less.

EXHIBIT "B" TO ATTACHMENT NO. 5

DEPICTION OF OPEN SPACE

The Project would need to provide at least 61,419 square feet of public open space, or 1.41 acres. As shown in the Figure below, which shows the Project proposes 55 percent, or approximately 2.43 acres, of the Project site as open space

ATTACHMENT NO. 6

PIONEER SQUARE DDA

CERTIFICATE OF COMPLETION

FREE RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:

PIONEER SQUARE, LLC
_____
_____
Attn _____

APN: 8386-021-913 (Space above This Line for Recorder's Office Use Only)

CERTIFICATE OF COMPLETION

Pursuant to that certain Disposition and Development Agreement dated _____, 2022 ("**DDA**") by and between the SUCCESSOR AGENCY TO THE FORMER COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF SAN DIMAS, a political subdivision formed pursuant to Health and Safety Code 34173 ("Agency") and PIONEER SQUARE, LLC, a California limited liability company ("Developer"), Developer has agreed to develop that certain real property situated in the City of San Dimas, California, described on Exhibit "A" attached hereto and made a part hereof ("**Property**").

RECITALS:

A. As referenced in the DDA, City is required to furnish Developer with a Certificate of Completion upon completion of construction and development and the opening of the business on the Property, which certificate shall be in such form as to permit it to be recorded in the Official Records of Los Angeles County, California.

B. The DDA provides for certain covenants to run with the land, which covenants were incorporated in the Grant Deed (as defined in the DDA) or in that certain Declaration of Covenants, Conditions and Restrictions recorded as Instrument No. _____ of the Official Records of the Los Angeles County ("**Declaration**").

C. This Certificate of Completion shall constitute a conclusive determination by City of the satisfactory completion by Developer of the construction and development required by the DDA and of Developer's full compliance with the terms of the DDA with respect to such construction and development, but not of the Grant Deed nor the Declaration, the provisions of which shall continue to run with the land pursuant to their terms.

D. Authority has conclusively determined that the construction and development on the real property described in Exhibit "A" required by the DDA has been satisfactorily completed by Developer in full compliance with the terms of the Agreement and that the business has opened.

NOW, THEREFORE,

1. The improvements required to be constructed have been satisfactorily completed and the business has opened in accordance with the provisions of the DDA.

2. This Certificate of Completion shall constitute a conclusive determination of satisfaction of the agreements and covenants contained in the DDA with respect to the obligations of Developer, and its successors and assigns, to construct the improvements and the dates for the beginning and completion thereof.

3. This Certificate of Completion shall not constitute evidence of Developer's compliance with the Grant Deed or the Declaration, the provisions of which shall continue to run with the land.

4. This Certificate of Completion shall not constitute evidence of compliance with or satisfaction of any obligation of Developer to any holder of a mortgage or any insurer of a mortgage, securing money loaned to finance the improvements or any part thereof.

5. This Certificate of Completion is not a Notice of Completion as referred to in California Civil Code Section 3093.

6. Except as stated herein, nothing contained in this instrument shall modify in any way any other provisions of the DDA or any other provisions of the documents incorporated therein.

IN WITNESS WHEREOF, Agency has executed this Certificate of Completion this ____ day of _____, 2022.

"AGENCY"

SUCCESSOR AGENCY TO THE FORMER COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF SAN DIMAS, a political subdivision formed pursuant to Health and Safety Code 34173

By: _____

_____, Mayor

ATTEST

By:_____

_____, City Clerk

APPROVED AS TO FORM

ALESHIRE & WYNDER, LLP

By: _____

Jeff Malawy, City Attorney

CONSENT TO RECORDATION

PIONEER SQUARE, LLC, a California limited liability company, as the Developer (defined herein) and the owner of the fee title to the real property legally described herein, hereby consents to the recordation of this Certificate of Completion against the Property (defined herein).

Date: _____, 2022

"DEVELOPER"

PIONEER SQUARE, LLC, a California limited liability company

By: _____

Its: _____

EXHIBIT "A" TO ATTACHMENT NO. 6

PIONEER SQUARE DDA

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN DIMAS IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

Portion of APN 8386-021-913

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Contains approximately 4.03 acres, more or less.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On _____, 2022 before me, _____, a notary public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Notary Public

SEAL:

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On _____, 2022 before me, _____, a notary public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Notary Public

SEAL:

ATTACHMENT NO. 7

PIONEER SQUARE DDA

DEPICTION OF OPEN SPACE

The Project would need to provide at least 61,419 square feet of public open space, or 1.41 acres. As shown in the Figure below, which shows the Project proposes 55 percent, or approximately 2.43 acres, of the Project site as open space