

35328
CONVEYANCE AGREEMENT

BETWEEN

CITY OF LONG BEACH

AND

PLENARY PROPERTIES LONG BEACH LLC

(PACIFIC SITE)

CONVEYANCE AGREEMENT

THIS CONVEYANCE AGREEMENT ("Agreement") is entered into on April 15, 2016, between the CITY OF LONG BEACH ("City"), a California municipal corporation, and PLENARY PROPERTIES LONG BEACH LLC, a Delaware limited liability company ("Developer"). City and Developer may be referred to individually as a "Party" or collectively as the "Parties." The Parties agree as follows:

1. SUBJECT OF AGREEMENT

1.1 Project Agreement

The Parties have executed, or intend to execute shortly after execution of this Agreement, that certain Project Agreement for the Design, Construction, Financing, Operation, and Maintenance of the New Long Beach City Hall, New Main Library, Port of Long Beach Headquarters Building and Revitalized Lincoln Park (the "Project Agreement"). Capitalized terms not defined herein shall have the meanings set forth in the Project Agreement.

Pursuant to the Project Agreement, Developer will provide certain services to City, including, among other things, the design, construction, and operation of new public improvements on land owned by City. In addition, Developer will have the right to undertake certain private development on two Private Development Sites referred to as the "Pacific Site" and the "Mid-Block Site," as described in the Project Agreement.

The purpose of this Agreement is to define the timing and conditions of conveyance of the Pacific Site (defined as the "Site," below) and the scope of development thereon.

1.2 The Site

The Pacific Site, referred to herein as the "Site," is a portion of the land owned by City that is the subject of the Project Agreement shown as the shaded area on the "Site Map" which is incorporated and attached to this Agreement as Attachment No. 1, and commonly known as the SW corner of Third Street & Pacific Avenue, Long Beach, California with an Assessor's Parcel Number of 7280-022-914. A legal description of the Site is incorporated and attached to this Agreement as Attachment No. 2. "Intangible Property" shall mean City's right, title and interest, if any, in all assets, rights, materials and/or claims against third parties used, owned or held in connection with the use, management, development or enjoyment of the Site, including, without limitation: (i) all entitlements, subdivision agreements and other agreements relating to the development of the Site; (ii) all available plans, specifications, maps, drawings and other renderings relating to the Site; (iii) all warranties, claims and any similar rights against third parties relating to and benefiting the Site or the assets transferred hereby; (iv) all goodwill benefiting the Site; (v) all development rights benefiting the Site; (vi) all third party contractor claims benefiting the Site; (vii) all personal property of City located on the Site; (viii) all rights, claims, counterclaims, defenses, indemnities or actions, whether at common law, or pursuant to any other applicable federal, state or other laws which City may have against any third party with respect to the Site. The Parties acknowledge and agree that the City will, pursuant to Section 2.4.3.a(2), assign the Intangible Property in its capacity as property owner only, and not in its capacity as

regulatory agency, and that such assignment shall not in any way obligate the City, acting in its regulatory capacity, to issue or approve any entitlements, permits or other agreements relating to the development of the Site.

1.3 Parties to the Agreement

1.3.1 City

City is a California municipal corporation. The principal office of City is located at City Hall, 333 West Ocean Boulevard, Long Beach, California 90802.

1.3.2 Developer

Developer is a Delaware limited liability company. The address of Developer, for purposes of this Agreement, is: 10100 Santa Monica Boulevard, Suite 410, Los Angeles, California 90067.

2. DISPOSITION OF THE SITE

2.1 Conveyance of the Site

In accordance with and subject to all the terms, covenants and conditions of this Agreement, City agrees to convey the Site to Developer, its Affiliates, or a transferee approved pursuant to Section 3.8 (an "**Approved Assignee**").

2.2 Conditions Precedent for the Benefit of City to Conveyance of the Site

City shall not be obligated to convey the Site until City has determined that the following conditions have been satisfied:

- a. Governmental Approval of the Site Master Plan has been received.
- b. A title company acceptable to Developer or Approved Assignee has irrevocably committed to issue an ALTA standard coverage title policy insuring that fee title to the Site will be vested in Developer or Approved Assignee subject only to known and recorded encumbrances and other agreed upon exceptions to title as provided in Section 2.7.
- c. Developer or Approved Assignee has approved in its sole and absolute discretion, the environmental, geological and soils condition of the Site, including any mitigation measures and monitoring requirements that may be required for the Site pursuant to the certified Downtown Plan Program EIR (State Clearinghouse (SCH) # 2009071006), including the 2015 Supplemental EIR dated August 4, 2015 (SCH # 2015041054) ("**2015 Supplemental EIR**"), or otherwise.
- d. Developer shall not be in default under the Exclusive Negotiation Agreement dated January 5, 2015, as amended (the "**ENA**"), the Project Agreement (if applicable) or this Agreement.

e. Developer or Approved Assignee shall have executed and delivered the Affordable Housing Regulatory Agreement attached as Attachment No. 4 (the "**Regulatory Agreement**") to Escrow Agent in recordable form.

f. The Project Agreement has been executed by the Parties.

Within five (5) business days after receipt from Developer or Approved Assignee of a written statement that all of the above conditions precedent to conveyance have been satisfied (or waived in writing by City), City shall either notify Developer and Approved Assignee (if applicable) that it will proceed with conveyance of the Site, or deliver a written statement setting forth those conditions precedent which City submits have not been satisfied or waived. The failure by City to respond to Developer's or Approved Assignee's statement that the conditions precedent have been satisfied or waived shall not be deemed to constitute a waiver by City of the conditions precedent set forth above.

2.3 Conditions Precedent for the Benefit of Developer or Approved Assignee (if applicable) to Conveyance of the Site

Developer or Approved Assignee (if applicable) shall not be obligated to accept conveyance of the Site until Developer or Approved Assignee (if applicable) has determined that the following conditions have been satisfied:

a. Developer or Approved Assignee (if applicable) has approved in its sole and absolute discretion, the environmental, geological and soils condition of the Site, including any mitigation measures and monitoring requirements that may be required for the Site pursuant to the certified Downtown Plan Program EIR, including the 2015 Supplemental EIR, or otherwise.

b. Developer or Approved Assignee (if applicable) has confirmed City's General Plan and City's Zoning Ordinance, as they affect the Site, remain unchanged from the date this Agreement is executed by Developer.

c. A title company acceptable to Developer or Approved Assignee (if applicable) has irrevocably committed to issue an ALTA standard coverage title policy insuring that fee title to the Site will be vested in Developer or Approved Assignee (if applicable) subject only to known and recorded encumbrances and other agreed upon exceptions to title as provided in Section 2.7.

d. City shall have executed and delivered the Grant Deed and the Regulatory Agreement to Escrow Agent each in recordable form.

e. City shall not be in default under the ENA, the Project Agreement or this Agreement.

f. City shall have caused all of the following to be done with reference to that certain Cost Sharing and Reimbursement Agreement dated December 1, 2015 (the "**Cost Sharing Agreement**") by and between City and PPF AmlI 245 West Broadway, LLC (the

"**Adjacent Owner**") (terms used in this section 2.3(f) below and not otherwise defined in this Agreement are defined in the Cost Sharing Agreement):

(1) City shall obtain the written consent of Adjacent Owner, in form and substance satisfactory to Approved Assignee, to City's assignment of its rights under the Cost Sharing Agreement, including, without limitation, the rights to and benefits of Adjacent Owner's indemnity obligations thereunder, to Approved Assignee on a non-exclusive basis (the "**Cost Sharing Agreement Assignment**"); provided, however, that Approved Assignee shall thereafter take no action under the Cost Sharing Agreement which causes City to incur additional costs under the Cost Sharing Agreement without City's prior approval.

(2) City shall deliver the fully executed Cost Sharing Agreement Assignment into Escrow.

(3) City shall cause a Cost Sharing Agreement Estoppel (in form and substance reasonably acceptable to Approved Assignee) to be delivered to Approved Assignee.

g. City Council of the City of Long Beach has certified the 2015 Supplemental EIR and approved the Civic Center Master Plan, which together are necessary entitlements required to develop the Site as proposed by Developer and Approved Assignee. Without limiting the foregoing, the Site has received entitlements necessary to allow the development of the Site with a maximum of 200 residential units located in up to 235,000 gross square feet (exclusive of the garage), and all applicable statutes of limitations have passed without the filing of an administrative appeal or judicial challenge, or, if an administrative appeal or judicial challenge has been filed, such administrative appeal or judicial challenge has been finally resolved in a manner acceptable to Developer in its reasonable discretion. The Parties acknowledge that the applicable statute of limitations period to challenge the 2015 Supplemental EIR was a period of thirty (30) days after the filing and posting of a notice of determination by City with the County Clerk for the County of Los Angeles, which was filed and posted on December 16, 2015. The parties acknowledge and agree that after conveyance of the Site, the Developer or Approved Assignee will need to secure a Site Plan Review Permit to define the specific details of the development of the Site within the constraints contained in the Civic Center Master Plan entitlement and the City may impose additional Site-specific conditions of approval.

h. City shall have affirmatively terminated, and provided evidence reasonably satisfactory thereof to Developer or Approved Assignee (if applicable) thereof, any and all leases or similar agreements related to or affecting the Site, including without limitation, the Parking Agreement between the Redevelopment Agency of the City of Long Beach and the First Congregational Church dated April 24, 2000.

i. Intentionally omitted.

j. The only conditions of approval from the Civic Center Master Plan entitlements that apply to the Site and are to be satisfied by the ultimate developer of the Site shall be those listed in the Attachment No. 10 of this Agreement and all remaining conditions of approval are to be satisfied by Developer.

k. The City shall have caused to be recorded in the Official Records of Los Angeles County ("**Official Records**") one (1) or more quitclaim deed(s) and/or other termination agreements (collectively, the "**Quitclaim**") sufficient to relinquish all right, title and interest of City and its related entities in and to, the following title matters: (1) the rights, if any, of City and/or its related entities to preserve a public easement in Pacific Avenue and alley known as Park Court as the same was vacated by the document recorded May 4, 1979 as Instrument No. 79-487013 of Official Records, (2) an easement for storm drains and incidental purposes in the document recorded May 4, 1979 as Instrument No. 79-487013 of Official Records, and (3) that certain sidewalk encroachment along the eastern boundary of the Site, as depicted in that certain A.L.T.A./A.C.S.M. Land Title Survey dated January 6, 2016, prepared by Hahn & Associates, Inc., Job No. 0019-15-0050B.

l. The City shall have removed all identified underground storage tanks located on the Site as of the date of this Agreement and obtained, at City's sole cost and expense, a letter from the Certified Unified Permitting Agency (CUPA) or such other jurisdictionally appropriate regulatory agency ("**Regulatory Agency**") confirming that the assessment and remediation work relating to the removal of such storage tanks and all hazardous substances related to such storage tanks (collectively, the "**Existing Materials**") have been completed such that no further action is required due to such Existing Materials (the "**NFA Letter**").

m. The Financial Close shall have occurred under the Project Agreement prior to or concurrently with the conveyance of the Site to Developer or Approved Assignee (as applicable).

Developer or Approved Assignee (if applicable) shall not deliver to City a request to proceed until all of the above conditions precedent have been satisfied or waived by Developer or Approved Assignee (if applicable).

2.4 **Escrow**

Within two (2) business days after this Agreement is executed by both Parties, City shall open an escrow ("**Escrow**") with First American Title Insurance Company, 18500 Von Karman Avenue, Ste. 600, Irvine, CA 92612 Attention: Patty Beverly, Escrow Officer ("**Escrow Agent**"), by delivering an executed copy of this Agreement to Escrow Agent ("**Opening of Escrow**"). This Agreement constitutes the joint escrow instructions of City and Developer. City and Developer will provide mutually approved additional escrow instructions as will be necessary and consistent with this Agreement and financing requirements. The City Manager is authorized to provide additional escrow instructions on City's behalf. Escrow Agent is empowered to act under this Agreement.

2.4.1 **Escrow Fees**

Developer or Approved Assignee (if applicable) will pay in escrow to Escrow Agent the following fees, charges and costs promptly after Escrow Agent has notified Developer and Approved Assignee (if applicable) of the amount of the fees, charges, and costs:

- a. The escrow fee;

- b. The premium for the title insurance policy as stated in Section 2.8;
- c. Recording fees as appropriate;
- d. Notary fees; and
- e. Any State, County or City documentary stamps or transfer tax.

2.4.2 Approved Assignee. If in its agreement with Developer, the Approved Assignee (if applicable) is not responsible for the foregoing costs, then Developer will remain responsible to the City for such costs.

2.4.3 Documents to be Delivered to Escrow.

a. City. No later than 1:00 p.m. (PST) on the date two (2) business days prior to the Closing Date, City shall duly execute and acknowledge as appropriate and deliver to Escrow Agent the following:

(1) A grant deed ("**Grant Deed**") conveying the Site to Developer or Approved Assignee in the form attached to this Agreement as Attachment No. 3;

(2) A general assignment and bill of sale with respect to the Intangible Property ("**General Assignment**") in the form attached to this Agreement as Attachment No. 9;

(3) A Non-foreign Entity Affidavit ("**Affidavit**");

(4) Such documents and instruments as Escrow Agent or Title Insurer may reasonably require to evidence the due authorization and execution of the documents and instruments to be delivered by City under this Agreement and to issue the Title Policy;

(5) The Regulatory Agreement, generally in the form attached as Attachment No. 4;

(6) The Quitclaim; and

(7) The NFA Letter.

The obligations of City to deliver documents and instruments into Escrow in accordance with this Section 2.4.3.(a) are separate, independent covenants of City and shall not be conditioned upon Developer's or Approved Assignee's deliveries in accordance with Section 2.4.3.(b).

b. Developer. No later than 1:00 p.m. (PST) on the date two (2) business days prior to the Closing Date, Developer or Approved Assignee (if applicable) shall duly execute and acknowledge as appropriate and deliver to Escrow Agent the following:

(1) A Change of Ownership Statement, as required by Title Insurer or Escrow Agent;

(2) The Regulatory Agreement, generally in the form attached as Attachment No. 4; and

(3) Such documents and instruments as Escrow Agent or Title Insurer may reasonably require to evidence the due authorization and execution of the documents and instruments to be delivered by Developer or Approved Assignee (if applicable) under this Agreement and to issue the Title Policy.

The obligations of Developer or Approved Assignee (if applicable) to deliver funds, documents and instruments into Escrow under this Section 2.4.3.(b) shall be separate, independent covenants of Developer or Approved Assignee (if applicable) and shall not be conditioned upon City's deliveries in accordance with Section 2.4.3.(a).

2.4.4 Escrow Agent Responsibilities. Escrow Agent is authorized to:

a. Pay and charge Developer or Approved Assignee (if applicable) for any fees, charges and costs payable under this Section 2.4. Before payments are made, Escrow Agent will notify Developer or Approved Assignee (if applicable) of the fees, charges and costs necessary to clear title and close the Escrow;

b. Record the Grant Deed, the Quitclaim and the Regulatory Agreement, in that order, in the Official Records. The date the Grant Deed, the Quitclaim and the Regulatory Agreement are recorded in the Official Records is referred to as the "Close of Escrow"; and

c. Deliver the executed General Assignment and the NFA Letter to Developer or Approved Assignee (if applicable).

All funds received in this escrow will be deposited by Escrow Agent with other escrow funds of Escrow Agent in a general escrow account or accounts with any state or national bank doing business in the State of California. The funds may be transferred to any other general escrow account or accounts. All disbursements will be made on the basis of a thirty (30) day month.

If this Escrow is not in condition to close on or before April 20, 2016 (or such earlier date as the parties may agree, the "Closing Date"), either Party who then will have fully performed the acts to be performed before the conveyance of title may, in writing, demand the return of its money, papers, or documents from Escrow Agent. No demand for return will be recognized until ten (10) days after Escrow Agent will have mailed copies of the demand to the other Party or Parties at the address of its principal place of business. Objections, if any, will be raised by written notice to Escrow Agent and to the other Party within the ten (10)-day period, in

which event Escrow Agent is authorized to hold all money, papers and documents until instructed by a mutual agreement of the Parties or by a court of competent jurisdiction. If no demands are made, the escrow will be closed as soon as possible.

Escrow Agent will not be obligated to return any money, papers or documents except on the written instructions of both City and Developer, or until the Party entitled to any money, papers or documents has been determined by a final decision of a court of competent jurisdiction.

Any amendment to these escrow instructions will be in writing and signed by both City and Developer. At the time of any amendment Escrow Agent will agree to carry out its duties as escrow agent under the amendment.

All communications from Escrow Agent to City or Developer will be directed to the addresses and in the manner established in Section 6.1 for notices, demands, and communications.

The liability of Escrow Agent under this Agreement is limited to performance of the obligations imposed on it under this Section 2.4.

2.4.5 Application of Funds.

Any funds received and held by the Escrow Agent in the escrow account in accordance with this Agreement will be promptly transferred, after payment of approved fees and costs, in accordance with Section 12.1(D)(1) of the Project Agreement which is reprinted and attached as Attachment No. 6 and incorporated herein by reference, whether or not the Project Agreement is executed by the respective parties as of the Close of Escrow.

2.5 Conveyance of Title and Delivery of Possession

Possession of the Site will be delivered to Developer or Approved Assignee (if applicable) concurrently with conveyance of title in conformity with the provisions of Section 2.7. Developer will accept title and possession on conveyance by City.

2.6 Form of Grant Deed

City will convey to Developer or Approved Assignee (if applicable) title to the Site in the condition provided in Section 2.7 by grant deed in form as attached hereto as Attachment No. 3. and title to the Intangible Property by general assignment in form as attached hereto as Attachment No. 9.

2.7 Condition of Title

Prior to the execution of this Agreement, City delivered to Developer a preliminary title report for the Site from First American Title Company (the "Title Company") dated December 22, 2015, Order Number NCS-769151-SA1 ("PTR") together with underlying documents. Developer hereby agrees that those exceptions to title shown as numbers 1 through 12, 14 and 20 to Schedule B of the PTR are permitted exceptions to title, together with all

exceptions created by the Grant Deed, the Regulatory Agreement and that certain Temporary Construction Easement recorded in the Official Records in connection with the Cost Sharing Agreement (the "**TCE**", and collectively, the "**Permitted Exceptions**"). Possessory rights and all monetary liens, other than taxes not yet due and payable and other than those resulting from the actions of Developer, are not Permitted Exceptions. In addition, title to the Site shall be subject to easements and other matters of record that do not interfere with development, and to the exclusion therefrom (to the extent now or hereafter validly excepted and reserved by the parties named in existing deeds, leases, and other documents of record) of all oil, gas, hydrocarbon substances and minerals of every kind and character lying more than 500 feet below the surface, together with the right to drill into, through, and to use and occupy all parts of the Site lying more than 500 feet below the surface thereof for any and all purposes incidental to the exploration for and production of oil, gas, hydrocarbon substances or minerals from the Site but without, however, any right to use either the surface of the Site or any portion thereof within 500 feet of the surface for any purpose or purposes therefor whatsoever. At the Close of Escrow, Developer or Approved Assignee (if applicable) will obtain from Title Company an updated ALTA owner's policy of title insurance insuring fee simple to the Site, subject only to the Permitted Exceptions, in the amount determined by Developer or Approved Assignee (if applicable) in accordance with Section 2.8 (the "**Title Policy**").

2.8 Title Insurance

Concurrently with recordation of the Grant Deed conveying title to the Site, City shall cause Title Company to deliver to Developer or Approved Assignee (if applicable) a title insurance policy issued by Title Company insuring that the title to the Site is vested in Developer or Approved Assignee (if applicable) in the condition required by Section 2.7. City will also cause Title Company to provide City with a copy of the title insurance policy. The Title Policy for the Site will be in an amount reasonably determined by Developer or Approved Assignee (if applicable).

Subject to any agreement between Developer and Approved Assignee (if applicable), Developer will pay the title insurance premium with respect to ALTA standard title insurance on the Site in the amount set forth in this Section 2.8 as well as any additional premiums for extended coverage or special endorsements requested by Developer.

2.9 Taxes and Assessments

Ad valorem taxes, possessory interest tax, and assessments outstanding as of the Close of Escrow, if any, on the Site, will be paid by City through escrow.

2.10 Occupants of the Site

Title to the Site will be conveyed by City to Developer or Approved Assignee (if applicable) free of any possession or right of possession.

2.11 Condition of the Site

2.11.1 AS-IS.

Except for City's obligation to enter into and complete the work required under the Cost Sharing Agreement, and subject to City's express representations and warranties set forth in this Agreement, DEVELOPER (ON ITS OWN BEHALF AND ON BEHALF OF ITS SUCCESSORS AND ASSIGNS) SPECIFICALLY ACKNOWLEDGES AND AGREES THAT CITY IS SELLING AND DEVELOPER OR APPROVED ASSIGNEE (IF APPLICABLE) IS PURCHASING THE SITE ON AN "AS IS WITH ALL FAULTS" BASIS AND THAT, DEVELOPER AND APPROVED ASSIGNEE (IF APPLICABLE) IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM CITY OR ITS AGENTS AS TO ANY MATTERS CONCERNING THE SITE OTHER THAN CITY'S EXPRESS REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS AGREEMENT, INCLUDING WITHOUT LIMITATION: (i) the quality, nature, adequacy and physical condition and aspects of the Site, (ii) the quality, nature, adequacy, and physical condition of soils, geology and any groundwater, (iii) the existence, quality, nature, adequacy and physical condition of utilities serving the Site, (iv) the development potential of the Site, and the Site's use, habitability, merchantability, or fitness, or the suitability, value or adequacy of the Site for any particular purpose, (v) the zoning or other legal status of the Site or any other public or private restrictions on use of the Site, (vi) the compliance of the Site with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions and restrictions of any governmental or quasi-governmental entity or of any other person or entity, (vii) the presence of Hazardous Substances (as defined below) on, under or about the Site or the adjoining or neighboring property, and (viii) the condition of title to the Site.

a. **"Hazardous Substance(s)"** means any substance or material that is described as a toxic or hazardous substance, waste or material or a pollutant or contaminant or infectious waste, or words of similar import, in any local, state or federal environmental laws, and includes asbestos, petroleum or petroleum products (including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel, or any mixture thereof), polychlorinated byphenyls, urea formaldehyde, radon gas, radioactive matter, medical waste, and chemicals which may cause cancer or reproductive toxicity.

2.11.2 Environmental Disclosures.

City represents and warrants that the environmental information listed in Attachment No. 7 is all the environmental information in its possession regarding the Site as of the date of this Agreement, and covenants to promptly provide any further information it discovers before the Closing Date; however, City makes no representations or warranties as respects the suitability of the soils for the use or uses to which the Site will be put. It is Developer's or Approved Assignee (if applicable) sole responsibility, at its expense, to determine the suitability of the Site for the proposed development. If the structural, geological or environmental conditions of the Site, or any portion thereof, are not in all respects entirely suitable for the use or uses to which the Site will be put, then it is the obligation of Developer or Approved Assignee (if applicable) to take such actions and pay such costs as may be necessary to place the Site in a condition entirely suitable for the development thereof. Notwithstanding the preceding sentence, City shall be responsible for taking such actions as may be necessary to place the Site in a condition entirely suitable for development thereof to the extent any deficiencies arise from the work associated with the Cost Sharing Agreement.

2.11.3 Natural Hazards Disclosures.

Without limiting Section 2.11.1, City and Developer acknowledge that the Disclosure Statutes (as defined below) provide that a seller of real property must make certain disclosures regarding certain natural hazards potentially affecting the Site, as more particularly provided in the Disclosure Statutes. As used in this Agreement, "**Disclosure Statutes**" means, collectively, California Government Code Sections 8589.3 (special flood hazard area), 8589.4 (area of potential flooding) and 51183.5 (very high fire hazard), California Public Resources Code Sections 2621.9 (earthquake fault zone), 2694 (seismic hazard zone) and 4136 (state responsibility area) and any other California statutes that require City to make disclosures concerning the Site. At least fifteen (15) days prior to the Closing Date City shall cause Escrow Agent to deliver to Developer or Approved Assignee (if applicable) all natural hazard disclosure reports (the "**Reports**") required by the Disclosure Statutes. Upon acceptance of conveyance of the Site, Developer or Approved Assignee (if applicable) agrees as follows with respect to the Disclosure Statutes and the Reports:

- a. It has received all Reports and they satisfy all obligations and requirements of City under the Disclosure Statutes.
- b. It has had an opportunity to review all Reports and to investigate the disclosures and information
- c. City shall not be liable for any error or inaccuracy in, or omission from, the information in the Reports.
- d. The Reports are provided by City for purposes of complying with the Disclosure Statutes and shall not be deemed to constitute a representation or warranty by City as to the presence or absence in, at or around of the Site of the conditions that are the subject of the Disclosure Statutes.

2.11.4 Site Remediation Prior to Close of Escrow.

In the event that prior to the Close of Escrow, the environmental, soils or geological conditions of the Site, or any part of it, are not suitable, or the Site contains contaminants in excess of permissible levels, for the use or uses to which the Site will be put, as determined by Developer (or Approved Assignee (if applicable)) in its reasonable discretion, Developer or Approved Assignee (if applicable) may terminate this Agreement prior to the Close of Escrow by written notice to City. Neither City nor Developer nor Approved Assignee (if applicable) will have any further rights against or liability to the other under this Agreement with respect to the Site.

2.11.5 Developer Responsibility After Close of Escrow.

After the Close of Escrow, and whether or not City has provided any of the disclosures set forth above, it shall be Developer's or Approved Assignee (if applicable) responsibility to remedy such environmental, soil or geologic condition at its cost.

2.11.6 Limited Release.

Without limiting Sections 2.11.1 through 2.11.5, and except as provided below regarding Non-Released Claims, Developer on behalf of itself and its successors and assigns including any Approved Assignee (if applicable) waives its right to recover from, and forever releases and discharges City and its affiliates, and the directors, officers, attorneys, employees and agents of each of them, and their respective successors and assigns, from any and all demands, claims, legal or administrative proceedings, losses, liabilities, damages, penalties, fines, liens, costs or expenses whatsoever (including, without limitation, attorneys' fees and costs), whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way be connected with the Site including, without limitation, the physical or environmental condition of the Site or any law or regulation applicable thereto (collectively, "**Claims**"). With respect to the waiver and release set forth herein relating to unknown and unsuspected Claims, Developer hereby acknowledges that such waiver and release is being made after obtaining the advice of counsel and with full knowledge and understanding of the consequences and effects of such waiver, and that such waiver is made with the full knowledge, understanding and agreement that California Civil Code Section 1542 provides as follows, and that the protections afforded by said code section are hereby waived:

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

This Section 2.11.6 shall be effective as of the Close of Escrow.

The release provided in this Section 2.11.6 shall not apply to any Claims arising from or related to (i) a breach of City's express representations and warranties set forth in this Agreement or (ii) the Cost Sharing Agreement, including without limitation, the work to be performed thereunder (collectively, the "**Non-Released Claims**"). City hereby indemnifies and holds Developer and Approved Assignee harmless from any and all demands, claims, legal or administrative proceedings, losses, liabilities, damages, penalties, fines, liens, costs or expenses whatsoever (including, without limitation, attorneys' fees and costs), whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way be connected with any Non-Released Claim. The Non-Released Claims under clause (ii) above shall be released in accordance with the provisions of this Section 2.11.6 upon the later of (a) "Completion" (as defined in the TCE in effect as of the date of this Agreement and expressly without any amendment thereto not approved in writing by Assignee) of all work required under the Cost Sharing Agreement and recordation of a quitclaim deed terminating all rights and interests in the Site granted by the TCE, and (b) the expiration of the statutory period within which any contractor providing materials or performing work on the Relocation Project (as defined in the Cost Sharing Agreement) may file a lien or claim against the Site.

2.12 Preliminary Work by Developer

Prior to the conveyance of title to the Site to Developer, representatives of Developer will have the right of access to the Site in accordance with that certain Access and Due

Diligence Agreement dated January 8, 2015. Developer hereby indemnifies and holds City harmless from any injury or damages arising out of any activity of Developer, its agents, employees and contractors, performed and conducted on the Site pursuant to this Section.

3. DEVELOPMENT OF THE SITE

3.1 Development of the Site

The development of the Site shall be subject to the following:

(1) development on the Site shall conform to the Downtown Plan/PD-30 Zoning Code, the Downtown Program EIR and Supplemental EIR and the conditions of approval set forth in Attachment No. 10 to this Agreement, as the same may be amended with the approval of the City and the fee owner of the Site at the time of such amendment;

(2) any residential development located on the Site must provide moderate income restricted units in accordance with the Regulatory Agreement;

(3) any hotel/hospitality uses on the Site shall require the execution of a labor peace agreement between Developer (or operator of the hotel) and a union in the Long Beach area representing hospitality industry employees. No such agreement shall be required for a residential development; and

(4) any development located on the Site shall contribute to a minimum LEED ND Gold Certification for the Project as required by the Project Agreement; provided, however, in no event shall such development located on the Site be obligated to independently comply with LEED ND Gold Certification. In addition, the development must meet City's Sustainable City Action Plan's requirements for sustainable development in effect as of the Closing Date.

3.2 City Approval of Plans, Drawings and Related Documents

For the development of the Site, Developer or Approved Assignee (if applicable) shall comply with City's Design Review Process. City will have the right of architectural review of all plans and submissions, including review of any subsequent changes to those plans or submissions occurring after approval. City, after approval of the Site Master Plan, in its regulatory capacity shall not impose subsequent conditions of approval on the site that materially alter the quantity of residential dwelling units or gross square feet of developable area approved in the Site Master Plan nor shall City require changes to the height of the project that differ materially from those indicated in the approved Site Master Plan. In the event City imposes offsite infrastructure improvements on the Site, then the costs of such off-site work may be creditable to Developer or Approved Assignee (if applicable) against any related impact fees as provided under Chapter 18 of the Long Beach Municipal Code.

3.3 City and Other Governmental Permits

Before commencement of the demolition and clearance of any buildings and improvements on the Site or construction or development of any building, structures or other work

of improvement on or with the Site, Developer or Approved Assignee (if applicable) will at its own expense secure or cause to be secured any and all permits which may be required by City or any other federal, state, county or local governmental agency having jurisdiction over such demolition, clearance, construction, development or work. City will provide all reasonable assistance to Developer or Approved Assignee (if applicable) in securing these permits. City does not expect any additional environmental documents under the California Environmental Quality Act will be required with respect to the development under this Agreement provided the development is within the confines of the Site Master Plan, but retains the right to require such additional documentation if and to the extent reasonably necessary to comply with the California Environmental Quality Act. To the extent that any environmental document under the California Environmental Quality Act is required with respect to the development under this Agreement, City will prepare such documents at Developer's or Approved Assignee's (if applicable) expense. Developer or Approved Assignee (if applicable) agrees to provide all information, assistance and cooperation necessary to prepare the document.

Nothing contained herein shall be deemed to entitle Developer or Approved Assignee (if applicable) to any City permit or other City approval necessary for the development of the Site, or waive any applicable City requirements relating thereto. This Agreement does not (a) grant any land use entitlement to Developer or Approved Assignee (if applicable) (except that which is contained in the approved Site Master Plan), (b) supersede, nullify or amend any condition which may be imposed by City in connection with approval of the development described herein, (c) guarantee to Developer or any other party any profits from the development of the Site, or (d) amend any City laws, codes or rules. This is not a Development Agreement as provided in Government Code Section 65864. City shall provide appropriate technical assistance to Developer in connection with Developer's or Approved Assignee's (if applicable) obtaining all necessary entitlements, permits and approvals for the construction of any improvements on the Site and Developer or Approved Assignee shall pay all generally applicable, scheduled fees and charges in the City related thereto.

3.4 Construction Costs

The cost of developing the Site and constructing all improvements, including costs associated with implementing mitigation measures as required to comply with the California Environmental Quality Act, as listed in the 2015 Supplemental EIR, will be borne by Developer or Approved Assignee (if applicable).

3.5 Rights of Access

Representatives of City shall have the reasonable right of access to the Site without charge or fees, at normal construction hours, during the period of construction for the purposes of this Agreement, including, but not limited to, the inspection of the work being performed in constructing the improvements. City agrees to and shall indemnify, defend and hold harmless Developer or Approved Assignee (if applicable) from any and all injuries or damages arising out of the negligence of City's representative(s) while on the Site.

3.6 Local, State and Federal Laws

Developer or Approved Assignee (if applicable) shall carry out the construction of the improvements on the Site in conformity with all applicable laws, including all applicable federal and state labor standards. City acknowledges and agrees that (i) the City is not providing any monetary compensation or financing for the development of the Site; (ii) the City has authorized through the Project Agreement that the Developer conduct an open and competitive bidding process to find a buyer for the Site; and (iii) Developer has confirmed that it conducted an open and competitive bidding process and that fair market value was paid by Approved Assignee for the Site. City is not independently requiring that any labor standards, including those under California Labor Code Section 1720, apply to the development of the Site but the foregoing does not relieve Developer or Approved Assignee (if applicable) from the foregoing obligations to comply with laws. Developer hereby indemnifies and holds City harmless from any injury or damages arising out of Developer's failure to comply with any applicable federal and state labor laws.

3.7 Nondiscrimination During Construction

Developer for itself, its successors and assigns, agrees that in the construction of the improvements on the Site provided for in this Agreement, Developer will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, sexual orientation, AIDS, AIDS-related condition, age, marital status, disability or handicap, or Vietnam Era veteran status.

3.8 Transfers

Developer may, at any time between the date of this Agreement and the issuance of a Certificate of Occupancy with respect to the improvements constructed on the Site, with consent of City, transfer, convey, or assign the whole or any part of the Site or the buildings or structures on the Site (subject to the Long Beach Municipal Code), or Developer's right to acquire the Site in whole or in part under this Agreement. Except as provided in this Section 3.8, no transfer or assignment will be deemed to relieve Developer or any other party from any obligations under this Agreement. City hereby approves as an assignee of Developer's rights under this Agreement to acquire the Site each of (i) Sares Regis Group, SRG Acquisition, LLC and DTLB Pacific LLC (collectively, "**SRG**"), (ii) an entity that is controlled by, controls, or is under common control with SRG, or (iii) an entity in which SRG (a) holds a majority equity interest or (b) is the general partner or managing member and holds a minority equity interest. In addition, notwithstanding anything to the contrary contained in this Agreement, following both the acquisition of the Site by SRG or its affiliate ("**Buyer**") and the issuance of a certificate of occupancy for the development on the Site, no change in ownership of the Site or direct or indirect change in ownership of Buyer or any encumbrance of the Site shall be subject to any City approval. City agrees that if requested by Buyer's lender, City will specifically subordinate this Agreement to the lien of the deed of trust securing such lender's loan.

It is not City's intent to prohibit the conveyance of the Property, but instead to ensure that a transferee is qualified to complete the proposed development on the Site. In determining whether to give its approval, City may consider the financial capability, relevant

experience and other factors relating to the proposed transferee's ability to develop and complete an approved project on the Site. All conditions and provisions included in this Agreement that relate to the development or conveyance of the Site and which relate to a period after the transfer shall transfer to the transferee with the Site, subject to the transferee's assumption of Developer's obligations in respect thereof. No assignment pursuant to this Section 3.8 shall release the Project Company from any of its obligations under the Project Agreement.

Provided that Developer has complied with the procedures herein, Developer shall be released from its obligations and liabilities under this Agreement that arise from and after the transfer with respect to that portion of the Site transferred or assigned (and such transferee shall thereafter constitute a "**Developer**" under this Agreement with respect to the Site or such transferred portion thereof), and any subsequent default or breach with respect to the transferred rights and/or obligations shall not constitute a default or breach with respect to the retained rights and/or obligations under this Agreement, provided that (i) Developer has provided to City written notice of such transfer, (ii) City has consented to such transfer, and (iii) the transferee executes and delivers to City a written agreement in which (a) the name and address of the transferee is set forth and (b) the transferee expressly and unconditionally assumes all of the obligations of Developer under this Agreement with respect to that portion of the Site transferred and that arise from and after the date of the transfer. Upon any approved transfer of any portion of the Site and the express assumption of Developer's obligations under this Agreement by such transferee, City agrees to look solely to the transferee for compliance by such transferee with the provisions of this Agreement as such provisions relate to the portion of the Site acquired by such transferee and to the extent such obligations arise from and after the date of the transfer. A default by any transferee shall only affect that portion of the Site owned by such transferee and shall not cancel or diminish in any way Developer's rights hereunder with respect to any portion of the Site not owned by such transferee.

City shall have no approval rights hereunder with respect to transfers of the Site after issuance of a certificate of occupancy for the Site.

4. USE OF THE SITE

4.1 Maintenance of Site

City agrees that the Site, prior to the Close of Escrow, shall be maintained in a clean and attractive condition and free from all hazards at all times. Developer agrees that the Site, after the Close of Escrow, shall be maintained in accordance with the Regulatory Agreement.

4.2 Obligation to Refrain from Discrimination

Developer covenants and agrees for itself, its successors and its assigns in interest to the Site or any part thereof, that there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code or Vietnam Era veteran status, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the land, nor shall the transferee itself or any person claiming

under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the land. Developer and its Approved Assignee agree that the Site's compliance with the Americans with Disabilities Act ("ADA") shall be its sole responsibility and shall defend, indemnify and hold harmless City for any liability arising from the Site's failure to comply therewith.

4.3 Form of Nondiscrimination and Nonsegregation Clause

Developer shall not restrict the rental, sale or lease of the Site on the basis of sex, sexual orientation, marital status, race, color, creed, religion, ancestry or national origin of any person. All deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

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

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

That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, or Vietnam Era veteran status, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased."

c. In contracts: "There shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, or Vietnam Era veteran status, in the sale, lease,

sublease, transfer, use, occupancy, tenure, or enjoyment of the land, nor shall the transferee itself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the land."

5. DEFAULTS AND REMEDIES

5.1 Defaults – General

Subject to the extensions of time stated in Section 6.5, failure or delay by either Party to perform any term or provision of this Agreement constitutes a default under this Agreement. A Party who so fails or delays must immediately commence to cure, correct, or remedy the failure or delay, and will complete the cure, correction or remedy with reasonable diligence.

The injured Party will 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, and except as otherwise expressly provided in this Agreement, the injured Party may not institute proceedings against the Party in default until thirty (30) days after giving notice. Delay in giving notice will not constitute a waiver of any default, nor will it change the time of default.

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

5.2 Legal Actions

5.2.1 Institution of Legal Actions

In addition to any other rights or remedies, either Party may institute legal action to cure, correct, or remedy any default, to recover damages for any default, or to obtain any other remedy consistent with the purpose of this Agreement. These legal actions must be instituted in the Superior Court of the County of Los Angeles, State of California, in any appropriate court in that county, or in the Federal District Court in the Central District of California.

5.2.2 Applicable Law

The laws of the State of California will govern the interpretation and enforcement of this Agreement.

5.2.3 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 these rights or remedies will 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.

of this Agreement, then in that event, the prevailing Party in such action or dispute, whether by final judgment or out of court settlement, shall be entitled to have and recover of and from the other Party all reasonable costs and expenses of suit, including actual attorneys' fees. Any judgment or order entered in any final judgment shall contain a specific provision providing for the recovery of all reasonable costs and expenses of suit, including actual attorneys' fees (collectively "**Costs**") incurred in enforcing, perfecting and executing such judgment. For the purposes of this Section 6.2, Costs shall include, without limitation, reasonable attorneys' fees, costs and expenses incurred in (i) post judgment motions, (ii) contempt proceeding, (iii) garnishment, levy, and debtor and third Party examination, (iv) discovery, and (v) bankruptcy litigation.

6.3 Conflict of Interests

No member, official or employee of City will have any financial interest, direct or indirect, in this Agreement, nor will any member, official or employee participate in any decisions relating to this Agreement which affects his or her financial interests or the interests of any corporation, partnership or association in which he or she is, directly or indirectly, financially interested.

Developer warrants that it has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Agreement except as provided in the Project Agreement.

6.4 Nonliability of City Officials and Employees

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

6.5 Enforced Delay: Extension of Times of Performance

In addition to specific provisions of this Agreement, performance by either Party will not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; litigation; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor, subcontractor or supplier; acts of the other Party; acts or failure to act of the City of Long Beach or any other public or governmental agency or entity (other than the acts or failure to act of City, which will not excuse performance by City) or any other causes beyond the control or without the fault of the Party claiming an extension of time to perform.

6.6 Real Estate Commissions

City shall not be liable for any real estate commissions, brokerage fees or finder's fees which may arise from this Agreement. City represents that it has not engaged any broker, agent or finder in connection with this transaction. Developer has engaged a broker in connection

with this transaction and is solely responsible for the payment of any fees that become due to the broker. In the event of any claims for brokers' or finders' fees or commissions in connection with the negotiation, execution or consummation of this Agreement, then Developer shall indemnify, save harmless and defend City from and against such claims. City shall indemnify, save harmless and defend Developer from and against any claims for brokers' or finders' fees or commissions claimed by any broker or finder retained by City.

6.7 Representations and Warranties

6.7.1 Representations and Warranties of Developer

6.7.1.1 Developer represents and warrants to City that, as of the date this Agreement is executed and as of the Closing Date: (i) Developer is a limited liability company, duly existing under the laws of the State of its incorporation; (ii) Developer has full right, power and authority to execute and deliver this Agreement and to perform the undertakings of Developer contained in this Agreement; (iii) this Agreement constitutes valid and binding obligations of Developer that are legally enforceable in accordance with its terms (except to the extent that such enforcement may be limited by applicable bankruptcy, moratorium and other principles relating to or limiting the right of contracting Parties generally); and (iv) to the best of Developer's knowledge, none of the undertakings of Developer contained in this Agreement violates any applicable statute, law, regulation or ordinance or any order or ruling of any court or governmental entity or conflicts with or constitutes a breach or default under, any agreement by which Developer is bound or regulated.

6.7.1.2 Developer will implement and cause its contractors and subcontractors to implement the procedures outlined in Attachment No. 8 to secure favorable sales tax allocations for City.

6.7.2 Representations and Warranties of City

City represents and warrants to Developer that, as of the date this Agreement is executed, and as of the Closing Date: (i) City is a municipal corporation duly formed and validly existing under the laws of the State of California; (ii) City is not insolvent; (iii) this Agreement and all the documents executed by City which are to be delivered to Developer at the Closing are duly authorized, executed and delivered by City and constitute legal, valid and binding obligations of City enforceable against City in accordance with their respective terms (except to the extent that such enforcement may be limited by applicable bankruptcy, moratorium and other principles relating to or limiting the right of contracting Parties generally); and (iv) to the best of City's knowledge, the undertakings of City under this Agreement do not violate any provision of any agreement to which City is a Party or to which it is subject.

City further represents and warrants that from the date this Agreement is executed and through the Closing Date, City shall: (i) maintain the Site and prohibit the introduction of any hazardous materials onto the Site; (ii) immediately notify Developer if any notices, claims or suits arise between execution of this Agreement and the Closing Date; (iii) prohibit any changes to the uses at the Site except as expressly contemplated in this Agreement; (iv) not enter into any lease or license to occupy all or a portion of the Site with a term that extends beyond the Closing Date;

(v) not enter into or allow the creation of any easements on the Site; (vi) not market or offer to sell the Site to any party other than Developer; (vii) pay all bills, including utility bills, for services provided to the Site; and (viii) not enter into any agreements with any person or entity that would materially and adversely affect the value of the Site.

6.8 Successors and Assigns

The provisions of this Agreement shall be binding upon and shall inure to the benefit of the Parties, any subsequent owner of all or any portion of the Site and their respective successors and assignees.

7. CONDEMNATION, DAMAGE AND DESTRUCTION

7.1 Condemnation

If, between the date of this Agreement and the Closing Date, condemnation or eminent domain proceedings affecting any portions of the Site are initiated or are threatened to be initiated by any entity, including City or its agencies, then, Developer shall have the right to either: (i) affirm this Agreement, which shall remain in full force and effect and City shall assign to Developer upon the Closing Date all of City's rights to any condemnation awards by depositing an assignment of said award with Escrow Agent; or (ii) subject to and conditioned on Developer's compliance with the remaining provisions of this Section 7.1, terminate this Agreement and Escrow Agent or City, as applicable, shall return any sums deposited by Developer into Escrow, less pro rata share of Escrow Agent's and Title Insurer's normal escrow and title insurance cancellation fees as allocated in this Agreement; and neither Party shall have any further obligations or liabilities to each other. City shall not propose or institute any condemnation of all or any part of the Site prior to the Close of Escrow.

7.2 Damage and Destruction

If, between the date of this Agreement and the Closing Date, any portion of the Site is materially damaged or destroyed to such an extent that it would prevent Developer's anticipated use of the Site, then Developer shall have the option by written notice to City to: (i) terminate this Agreement and Developer shall have no obligation to purchase the Site and City shall have no obligation to sell the Site to Developer and Escrow Agent or City, as applicable, shall return any sums deposited by Developer into Escrow, less pro rata share of Escrow Agent's and Title Insurer's normal escrow and title insurance cancellation fees as allocated under this Agreement; or (ii) affirm this Agreement, which shall remain in full force and effect without delaying the Closing Date.

8. ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS

This Agreement is executed in multiple duplicate originals, each of which is deemed to be an original.

This Agreement integrates all of the terms and conditions mentioned or incidental to it, and supersedes all negotiations or previous Agreements between the Parties with respect to all or any part of the subject matter of this Agreement.

All waivers of the provisions of this Agreement must be in writing by the appropriate authorities of City or Developer, and all amendments must be in writing by the appropriate authorities of City and Developer. This Agreement and any provisions may be amended by mutual written agreement by Developer and City.

The provisions of Sections 2.3.f., 2.11 and 2.12 and Sections 3, 4, 5 and 6 (in their entirety) shall survive the Close of Escrow.

9. TERM

This Agreement will have no further force or effect from and after City shall have issued a certificate of occupancy for the Site.

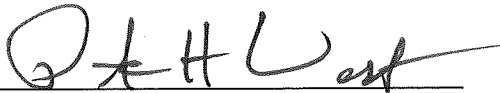
[Signature pages following]

CITY AND DEVELOPER have executed this Agreement as of the dates set opposite their signatures.

CITY:

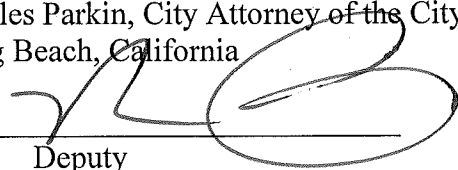
CITY OF LONG BEACH, a municipal corporation

4/12, 2016

By: 
Patrick H. West
City Manager

Approved as to form this 12 day of
April, 2016.

Charles Parkin, City Attorney of the City of
Long Beach, California

By: 
Deputy

DEVELOPER:

PLENARY PROPERTIES LONG BEACH LLC,
a Delaware limited liability company

_____, 2016

By: _____
Name: _____
Its: _____

CITY AND DEVELOPER have executed this Agreement as of the dates set opposite their signatures.

CITY:

CITY OF LONG BEACH, a municipal corporation

_____, 2016

By: _____
Patrick H. West
City Manager

Approved as to form this ____ day of _____, 2016.


Charles Parkin, City Attorney of the City of Long Beach, California

By: _____
Deputy

DEVELOPER:

PLENARY PROPERTIES LONG BEACH LLC,
a Delaware limited liability company

APRIL 20TH, 2016

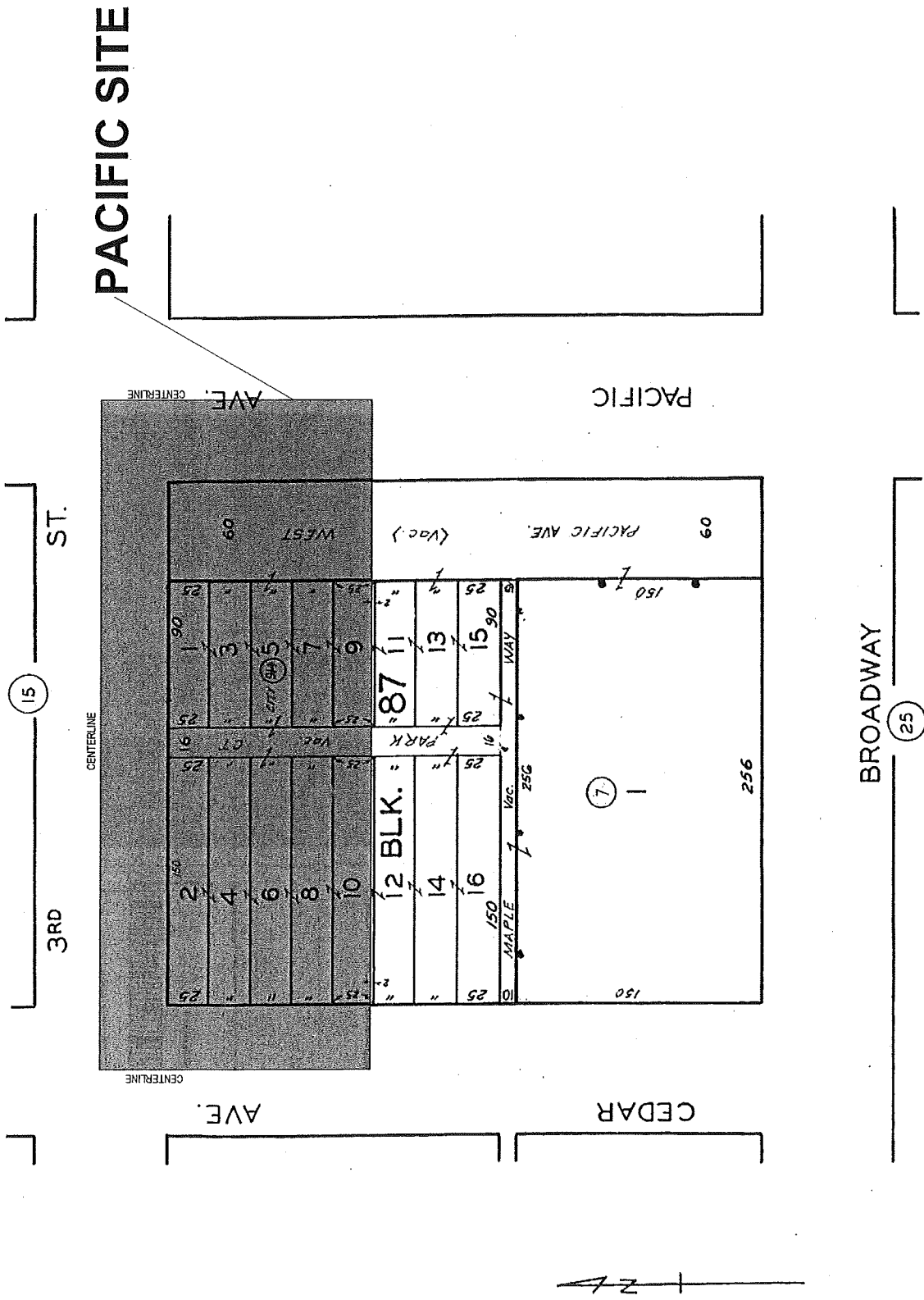
By: 
Name: STUART MARKS
Its: SENIOR V.P.

ATTACHMENT NO. 1

SITE MAP

(ATTACHED)

APPENDIX 3 - PRIVATE DEVELOPMENT



ATTACHMENT NO. 2

LEGAL DESCRIPTION OF THE SITE

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

PARCEL 1:

LOTS 2, 4, 6 AND 8 IN BLOCK 87 OF THE TOWNSITE OF LONG BEACH, IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 19 PAGE 91, ET SEQ., OF MISCELLANEOUS RECORDS OF SAID COUNTY, TOGETHER WITH THE WEST HALF OF PARK COURT, AS SHOWN ON THE MAP OF SAID TRACT, ADJOINING SAID LOTS ON THE EAST, LYING BETWEEN THE EASTERLY PROLONGATION OF THE NORTH LINE OF SAID LOT 2 AND THE EASTERLY PROLONGATION OF THE SOUTH LINE OF SAID LOT 8.

EXCEPTING AND RESERVING, ALL OIL, GAS, HYDROCARBON SUBSTANCES AND MINERALS OF EVERY KIND AND CHARACTER LYING MORE THAN FIVE HUNDRED (500) FEET BELOW THE SURFACE OF SAID LAND, TOGETHER WITH THE RIGHT TO DRILL INTO, THROUGH, AND TO USE AND OCCUPY ALL PARTS OF SAID LAND LYING MORE THAN FIVE HUNDRED (500) FEET BELOW THE SURFACE THEREOF FOR ANY AND ALL PURPOSES INCIDENTAL TO THE EXPLORATION FOR AND PRODUCTION OF OIL, GAS, HYDROCARBON SUBSTANCES OR MINERALS FROM SAID OR OTHER LANDS, BUT WITHOUT, HOWEVER, ANY RIGHT OF USE EITHER THE SURFACE OF SAID LAND OR ANY PORTION OF SAID LAND WITHIN FIVE HUNDRED (500) FEET OF THE SURFACE FOR ANY PURPOSE OR PURPOSES WHATSOEVER, AS SET OUT IN DEED RECORDED OCTOBER 7, 1977 AS INSTRUMENT NO. 77-1111402, OF OFFICIAL RECORDS.

PARCEL 2:

LOT 1, 3, 5, 7, 9 AND 10 IN BLOCK 87 OF THE TOWNSITE OF LONG BEACH, IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 19 PAGE 91, ET SEQ., OF MISCELLANEOUS RECORDS OF SAID COUNTY.

TOGETHER WITH THOSE PORTIONS OF THE ABUTTING VACATED STREETS WHICH WOULD PASS BY OPERATION OF LAW WITH THE CONVEYANCE OF SAID LAND.

EXCEPT THEREFROM THAT PORTION OF SAID LAND DESCRIBED IN GRANT DEED RECORDED OCTOBER 2, 1979 AS INSTRUMENT NO. 79-1096324, OF OFFICIAL RECORDS.

EXCEPTING AND RESERVING, ALL OIL, GAS, HYDROCARBON SUBSTANCES AND MINERALS OF EVERY KIND AND CHARACTER LYING MORE THAN FIVE HUNDRED (500) FEET BELOW THE SURFACE OF SAID LAND, TOGETHER WITH THE RIGHT TO DRILL INTO, THROUGH, AND TO USE AND OCCUPY ALL PARTS OF SAID LAND

LYING MORE THAN FIVE HUNDRED (500) FEET BELOW THE SURFACE THEREOF FOR ANY AND ALL PURPOSES INCIDENTAL TO THE EXPLORATION FOR AND PRODUCTION OF OIL, GAS, HYDROCARBON SUBSTANCES OR MINERALS FROM SAID OR OTHER LANDS, BUT WITHOUT, HOWEVER, ANY RIGHT OF USE EITHER THE SURFACE OF SAID LAND OR ANY PORTION OF SAID LAND WITHIN FIVE HUNDRED (500) FEET OF THE SURFACE FOR ANY PURPOSE OR PURPOSES WHATSOEVER, AS SET OUT IN DEED RECORDED NOVEMBER 9, 1977 AS INSTRUMENT NO. 77-1240526, OF OFFICIAL RECORDS.

ATTACHMENT NO. 3
FORM OF GRANT DEED

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Transaction is exempt from Documentary Transfer Tax
pursuant to R&T Code Section 11922.

GRANT DEED

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, the CITY OF LONG BEACH, a municipal corporation ("**Grantor**") hereby grants to DTLB PACIFIC, LLC, a Delaware limited liability company ("**Grantee**"), all that certain real property located in the County of Los Angeles, State of California, more particularly described on Exhibit A, attached hereto and incorporated herein by this reference.

This grant and conveyance is made and accepted subject to:

1. All general and special real property taxes and assessments that are not delinquent, including supplemental taxes assessed as a result of this conveyance;
2. All other covenants, conditions and restrictions and other encumbrances, easements, limitations, reservations, rights, charges, equitable servitudes and other matters of record that were recorded prior to the recordation of this Grant Deed in the Office of the Los Angeles County Recorder; and
3. Except as expressly otherwise provided in any other written agreement by and between Grantor and Plenary Properties Long Beach LLC with respect to Non-Released Claims (as defined therein), Grantee, on behalf of itself and its successors and assigns, hereby waives its right to recover from, and forever releases and discharges Grantor and its affiliates, and the directors, officers, attorneys, employees and agents of each of them, and their respective successors and assigns, from any and all demands, claims, legal or administrative proceedings, losses, liabilities, damages, penalties, fines, liens, costs or expenses whatsoever (including, without limitation, attorneys' fees and costs), whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way be connected with the Site including,

without limitation, the physical or environmental condition of the Site or any law or regulation applicable thereto.

IN WITNESS WHEREOF, this Grant Deed has been executed this ___ day of _____, 2016.

GRANTOR:

CITY OF LONG BEACH, a municipal corporation

By: _____
Patrick H. West
City Manager

GRANTEE:

DTLB PACIFIC, LLC,
a Delaware limited liability company

By: _____

EXHIBIT A

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

PARCEL 1:

LOTS 2, 4, 6 AND 8 IN BLOCK 87 OF THE TOWNSITE OF LONG BEACH, IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 19 PAGE 91, ET SEQ., OF MISCELLANEOUS RECORDS OF SAID COUNTY, TOGETHER WITH THE WEST HALF OF PARK COURT, AS SHOWN ON THE MAP OF SAID TRACT, ADJOINING SAID LOTS ON THE EAST, LYING BETWEEN THE EASTERLY PROLONGATION OF THE NORTH LINE OF SAID LOT 2 AND THE EASTERLY PROLONGATION OF THE SOUTH LINE OF SAID LOT 8.

EXCEPTING AND RESERVING, ALL OIL, GAS, HYDROCARBON SUBSTANCES AND MINERALS OF EVERY KIND AND CHARACTER LYING MORE THAN FIVE HUNDRED (500) FEET BELOW THE SURFACE OF SAID LAND, TOGETHER WITH THE RIGHT TO DRILL INTO, THROUGH, AND TO USE AND OCCUPY ALL PARTS OF SAID LAND LYING MORE THAN FIVE HUNDRED (500) FEET BELOW THE SURFACE THEREOF FOR ANY AND ALL PURPOSES INCIDENTAL TO THE EXPLORATION FOR AND PRODUCTION OF OIL, GAS, HYDROCARBON SUBSTANCES OR MINERALS FROM SAID OR OTHER LANDS, BUT WITHOUT, HOWEVER, ANY RIGHT OF USE EITHER THE SURFACE OF SAID LAND OR ANY PORTION OF SAID LAND WITHIN FIVE HUNDRED (500) FEET OF THE SURFACE FOR ANY PURPOSE OR PURPOSES WHATSOEVER, AS SET OUT IN DEED RECORDED OCTOBER 7, 1977 AS INSTRUMENT NO. 77-1111402, OF OFFICIAL RECORDS.

PARCEL 2:

LOT 1, 3, 5, 7, 9 AND 10 IN BLOCK 87 OF THE TOWNSITE OF LONG BEACH, IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 19 PAGE 91, ET SEQ., OF MISCELLANEOUS RECORDS OF SAID COUNTY.

TOGETHER WITH THOSE PORTIONS OF THE ABUTTING VACATED STREETS WHICH WOULD PASS BY OPERATION OF LAW WITH THE CONVEYANCE OF SAID LAND.

EXCEPT THEREFROM THAT PORTION OF SAID LAND DESCRIBED IN GRANT DEED RECORDED OCTOBER 2, 1979 AS INSTRUMENT NO. 79-1096324, OF OFFICIAL RECORDS.

EXCEPTING AND RESERVING, ALL OIL, GAS, HYDROCARBON SUBSTANCES AND MINERALS OF EVERY KIND AND CHARACTER LYING MORE THAN FIVE HUNDRED (500) FEET BELOW THE SURFACE OF SAID LAND, TOGETHER WITH THE RIGHT TO DRILL INTO, THROUGH, AND TO USE AND OCCUPY ALL PARTS OF SAID LAND LYING MORE THAN FIVE HUNDRED (500) FEET BELOW THE SURFACE THEREOF FOR ANY AND ALL PURPOSES INCIDENTAL TO THE EXPLORATION FOR AND

PRODUCTION OF OIL, GAS, HYDROCARBON SUBSTANCES OR MINERALS FROM SAID OR OTHER LANDS, BUT WITHOUT, HOWEVER, ANY RIGHT OF USE EITHER THE SURFACE OF SAID LAND OR ANY PORTION OF SAID LAND WITHIN FIVE HUNDRED (500) FEET OF THE SURFACE FOR ANY PURPOSE OR PURPOSES WHATSOEVER, AS SET OUT IN DEED RECORDED NOVEMBER 9, 1977 AS INSTRUMENT NO. 77-1240526, OF OFFICIAL RECORDS.

ATTACHMENT NO. 4
FORM OF REGULATORY AGREEMENT
(ATTACHED)

RECORDING REQUESTED BY)
AND WHEN RECORDED MAIL TO:)
)
City of Long Beach)
333 W. Ocean Blvd., 3rd Floor)
Long Beach, CA 90802)
Attn: Mary Torres)

(Space above for Recorder's Use Only)

This document is exempt from the payment of a recording fee pursuant to Government Code Section 6103.

AFFORDABLE HOUSING REGULATORY AGREEMENT

THIS AFFORDABLE HOUSING REGULATORY AGREEMENT (“**Regulatory Agreement**”) dated for identification purposes only as of April 20, 2016, by and between the **CITY OF LONG BEACH**, a California municipal corporation (“**City**”) and **DTLB Pacific, LLC**, a Delaware limited liability company (“**Developer**”).

RECITALS

Capitalized terms used in these recitals and not otherwise defined shall have the meaning set forth in Section 1 of this Regulatory Agreement.

A. City is a California municipal corporation interested in increasing, improving and preserving the community's supply of decent, safe, sanitary, and affordable housing for low and moderate income households.

B. The Developer is a residential developer and owner whose purpose is to acquire, construct, operate and manage the Project (as hereinafter defined).

C. Plenary Properties Long Beach LLC (“**Project Company**”) and City have executed, or will execute substantially concurrently herewith, a project agreement providing for the development of a new civic center on City-owned property adjacent to the Property and for the execution of a conveyance agreement pursuant to which the Property shall be transferred from City to either Project Company or Developer (“**Conveyance Agreement**”). The execution of this Regulatory Agreement is a requirement of the Conveyance Agreement and constitutes part of the consideration for transfer of the Property by City.

D. Developer intends to develop a project, including the construction of residential multifamily units, with the unit count to be ultimately based on an approved Site Plan Review, pursuant to Long Beach Municipal Code section 21.25.501 *et seq.* (“**Site Plan Review**”).

E. The City has adopted a Housing Element to its General Plan pursuant to Government Code § 65580, *et seq.*, which sets forth the City's policies, goals and objectives to provide housing to all economic segments of the community, including the preservation and development of housing affordable to very low, low and moderate income households.

F. In furtherance of the City's affordable housing goals and activities and in accordance with the Project Agreement, City has agreed to convey to the Developer that certain real property more particularly described in Exhibit A attached hereto and incorporated herein by reference (the "Property").

G. As a condition to the conveyance of the Property from City to Developer, Developer has agreed to develop, maintain and operate the Project in accordance with certain covenants, conditions and restrictions as set forth in this Regulatory Agreement. This Regulatory Agreement is intended to ensure that Developer, its successors and assigns, and every successor in interest to the Property or any part thereof, shall develop, use, maintain and operate the Property in accordance with the terms and conditions of this Regulatory Agreement.

H. The conveyance of the Property to Developer and the development, completion and operation of the Property pursuant to the terms and conditions of this Regulatory Agreement are in the vital and best interests of City and the health, safety and welfare of its residents, and are in accord with the public purposes and provisions of applicable state and local laws.

NOW, THEREFORE, the foregoing recitals are a substantive part of this Regulatory Agreement and in consideration of their mutual covenants and conditions, the Parties hereto agree as follows:

1. DEFINITIONS

The following terms of this Regulatory Agreement shall have the meanings set forth below. Any capitalized terms not defined below shall have the meaning set forth in the Conveyance Agreement:

"Affordability Period" means the period commencing upon the recordation of the issuance of C of O for all of the Affordable Units and terminating on the later to occur of (i) the fifty-fifth (55th) anniversary of issuance of the C of O; or (ii) upon sale of the Units as condominiums during the time period described in sub-clause (i), the forty-fifth (45th) anniversary of the date of sale of each Affordable Unit.

"Affordable Housing Cost" means the cost to a Qualified Buyer for an Affordable Unit which would result in a Purchase Housing Cost equal to not more than thirty-five percent (35%) times one hundred and ~~ten~~twenty percent (1~~1~~20%) of AMI adjusted for family size appropriate to the Unit. This is considered a Moderate Income Household, as defined herein. The term "adjusted for family size appropriate to the Unit" shall have the meaning set forth in Health and Safety Code Section 50052.5(h). Notwithstanding the foregoing, "Affordable Housing Cost" shall have the meaning set forth in and be interpreted in accordance with Section 50052.5 of the California Health and Safety Code or its successor statute(s).

"Affordable Housing Price" means that purchase price which, after deduction of (i) the down payment made by the Qualified Buyer, and (ii) the principal amount of any deferred payment "silent second" assistance obtained by Buyer (including assistance provided by City, if any), would result in an Affordable Housing Cost for a Moderate Income Household. Notwithstanding the foregoing, Affordable Housing Price shall be determined in accordance with all applicable Governmental Regulations.

"Affordable Rent" means the amount of monthly rent, including a reasonable utility allowance, that does not exceed the lesser of the maximum allowable rent to be charged by Developer and paid by a Moderate Income Household (120% of AMI adjusted for family size) occupying the Affordable Units as determined pursuant to (i) Health and Safety Code § 50053(b), and the regulations promulgated pursuant to or incorporated therein, including without limitation, any applicable regulations promulgated pursuant to health and Safety Code § 50093, (ii) applicable regulations pursuant to any other source of financing secured for, and continuing to be secured by, the Project, or (iii) if applicable, any effective Section 8 Program regulations as to any Affordable Unit occupied by a holder of a Rental Voucher or Rental Certificate evidencing participation in the Section 8 Program. The tenant utility allowance shall be as published by the Long Beach Housing Authority from time to time. Subject to Developer's compliance with applicable Governmental Regulations, nothing in this Regulatory Agreement imposes any additional requirements on the Developer to accept Section 8 participants as tenants, nor does it obligate Developer to enroll in the Section 8 program. In addition, nothing in this Regulatory Agreement prohibits Developer from obtaining tax credit or bond financing.

"Affordable Units" means the 10% of total units constructed, which shall be (i) available to, occupied by or held vacant for occupancy exclusively by Qualified Tenants at an Affordable Rent; or (ii) upon sale of the Affordable Units as condominiums, available to, occupied by or held for sale exclusively to Qualified Buyers at an Affordable Housing Price. In the event that 10% of the total units is not a whole number, the total number of Affordable Units required will be increased by one (1) Affordable Unit.

"AMI" or "Area-wide Median Income" means the median family income (adjusted for family size) for the Los Angeles County area promulgated and published annually by the California Department of Housing and Community Development ("**HCD**") pursuant to Title 25, § 6932 of the California Code of Regulations. If HCD ceases annually to publish median incomes, the Parties will agree upon an adequate substitute manner for determining Area-wide Median Income.

"City" means the City of Long Beach, a California municipal corporation.

"City Indemnitees" means the City and its boards, officers, employees, representatives and agents.

"City Manager" means the City Manager of the City or his/her designated representative.

"C of O" means the issuance of the temporary certificate of occupancy, or the first temporary certificate of occupancy if the Project is phased, or a permanent certificate of occupancy issued by the City for the Project, whichever is issued first.

"Community Redevelopment Law" means California Health and Safety Code § 33000, *et seq.*

"Compliance Period" means the period commencing upon the issuance of the C of O and ending upon the earlier to occur of (i) the expiration of the Affordability Period, or (ii) the sale of the Affordable Units as condominiums.

“Condominium Marketing Plan” means the plan for marketing the sale of the Affordable Units, which shall meet the requirements of Section 3.8.5.

“County” means the County of Los Angeles, California.

“Developer” means DTLB Pacific, LLC, a Delaware limited liability company, and any permitted successors and assigns.

“Environmental Laws” means any and all present and future federal, state and local laws (whether under common law, statute, ordinance, rule, regulation or otherwise), court or administrative orders or decrees, requirements of permits issued with respect thereto, and other requirements of governmental authorities relating to the environment or to any Hazardous Substance or Hazardous Substance Activity (including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9601, *et seq.*), as heretofore or hereafter amended from time to time (“**CERCLA**”), and the applicable provisions of the Health and Safety Code and the Water Code, and any and all successor statutes and regulations, orders, decrees, guidelines, or pronouncements promulgated thereunder).

“Event of Default” means the material failure of a party to perform any material action or covenant required by this Regulatory Agreement within the time periods provided in the applicable instrument following notice and opportunity to cure.

“Force Majeure” means natural disasters, acts of war or armed conflict, terrorism, lockouts or other organized labor disputes, public health emergencies, riots, lack of availability of utilities, moratorium on building permits, or other acts of God of regional impact beyond the control of Developer.

“Governmental Regulations” means any local, state, and federal laws, ordinances, rules, requirements, resolutions, policy statements and regulations (including, without limitation, those relating to land use, subdivision, zoning, environmental, labor relations, prevailing wage, notification of sale to employees, Hazardous Substance, occupational health and safety, water, earthquake hazard reduction and building and fire codes) bearing on the demolition, alteration, replacement, repair, refurbishing, improvement, construction, maintenance, management, use, or operation of the Project.

“Hazardous Substance” means any substance, material, or waste which is or becomes regulated by any local governmental authority, the State of California, or the United States Government, including, but not limited to, any material or substance which is (i) defined as a “hazardous waste”, “acutely hazardous waste”, “extremely hazardous waste”, or “restricted hazardous waste” under Section 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), (ii) 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), (iii) defined as a “hazardous material”, “hazardous substance”, or “hazardous waste” under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), (iv) 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), (v) petroleum, petroleum based products and petroleum additives and derived substances, (vi) asbestos and lead based paint, (vii) polychlorinated byphenyls, (viii) listed under Article 9 or defined as “hazardous” or “extremely hazardous” pursuant to Article 11 of Title 22 of the California Code of Regulations, Chapter 20, (ix) designated as “hazardous substances” pursuant to Section 311 of the Clean Water Act (33 U.S.C. Section 1317), (x) defined as a “hazardous waste” pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 *et seq.* (42 U.S.C. Section 6903), (xi) defined as “hazardous substances” pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 *et seq.*, (xii) methyl-tert butyl ether, (xiii) mold, fungi, viruses and bacterial matter, or (xiv) any other toxic substance, whether in the form of a solid, liquid, gas or any other form whatsoever, which by any Governmental Regulations either requires special handling in its use, transportation, generation, collection, storage, handling, treatment or disposal, or is defined as “hazardous” or harmful to human health or the environment.

“Hazardous Substance Activity” means any actual, proposed or threatened storage, holding, existence or suspected existence, release or suspected release, emission, discharge, generation, processing, abatement, removal, disposition, treatment, handling or transportation of any Hazardous Substance from, under, into, on, above, or across the Property or surrounding property or any other use of or operation on the Property or the surrounding property that creates a risk of Hazardous Substance contamination of the Property.

“Household” means one or more persons occupying an Affordable Unit.

“Homebuyer Education Class” means a homebuyer education class reasonably acceptable to City.

“HUD” means the United States Department of Housing and Urban Development.

“City Indemnitees” means City and its boards, officers, employees, representatives and agents.

“Management Plan” means the plan for the management of the Project described in Section 4.3.

“Marketing Plan” means the plan for the marketing the rental or lease of the Affordable Units as described in Section 5.2.

“Market Unit” means any Unit that is not an Affordable Unit.

“Moderate Income Household” means a Household which qualifies as a “Moderate Income Household” with an AMI of 120% of AMI as adjusted for family size, and otherwise as required by Health and Safety Code Section 50093 or any successor statute(s).

“Monitoring Fee” means a fee paid to the City per Affordable Unit established by the City Council of the City from time to time, which shall be imposed solely on the Affordable Units. The current fee is \$140 per Affordable Unit.

“Notice” means a notice in the form prescribed by Section 12.

“**Parties**” means the City and Developer; “**Party**” means the City or the Developer.

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

“**Project**” means the development and construction of residential multifamily Units with the number of Units not to exceed 200 based upon the Site Plan Review approval issued by the City (of which at least ten percent (10%) shall be Affordable Units), a parking structure, a leasing office, and community amenities. Developer is not obligated to provide retail space for the Project.

“**Project Loan**” means a loan secured by an encumbrance on the Property, the Project, or any portion thereof.

“**Property**” means that certain real property described in the property legal description set forth in Exhibit A hereto.

“**Property Manager**” means the manager of the Project, as defined in Section 4.3.

“**Purchase Housing Cost**” means a monthly cost that includes all of the following associated with the Affordable Unit, estimated or known as of the date of the proposed purchase of the Affordable Unit: (i) principal and interest payments on a mortgage loan(s) including any rehabilitation loans and any loan insurance fees associated therewith (a first lien mortgage loan is required hereunder to bear a fixed rate of interest and require level payments throughout its term); (ii) property taxes and assessments; (iii) fire and casualty insurance covering replacement value of property improvements; (iv) any homeowner association fees; and (v) a reasonable utility allowance.

“**Qualified Buyer(s)**” means a Household (a) whose income does not exceed the income set forth herein for a Moderate Income Household; and (b) whose members meet the other requirements set forth herein for buyers of an Affordable Unit, including, without limitation, the requirement that the buyer(s) agree to restrict the sale of the Affordable Unit to Eligible Buyers at an Affordable Housing Price for the Affordability Period.

“**Qualified Tenant**” shall mean those Households seeking to rent an Affordable Unit which satisfy all of the following requirements:

1. Upon execution of a lease with Developer pursuant to this Regulatory Agreement, each member of the Household will occupy the Affordable Unit as its principal residence, and each member intends to thereafter continuously occupy such Affordable Unit as its principal residence.
2. The Household qualifies as a Moderate Income Household.
3. The Household has been selected in accordance with the tenant selection criteria set forth in the Management Plan.

“**Regulatory Agreement**” means this Affordable Housing Regulatory Agreement.

“Rent Schedule” means a schedule of rents for the Affordable Units by Household type and Unit size, as prepared by Developer and approved by City, and as may be amended from time to time.

“Rental Covenant Period” means the period from the date of the issuance of a certificate of occupancy for the Units until such date as is required by Section 6 of this Regulatory Agreement. During such period, the Units shall be rented to third parties until such time as the Units are sold as condominiums pursuant to Section 3.8.

“Site Plan Review” means the approval issued pursuant to Long Beach Municipal Code section 21.25.501 *et seq.* The Project density and components will be determined through the issuance of the Site Plan Review approval.

“Unit” or **“Units”** means the number of multi-family residential units ultimately constructed within the Project and operated by the Developer on the Property, in accordance with the terms and conditions of this Regulatory Agreement.

2. OBLIGATION TO CONSTRUCT, MAINTAIN, REPAIR AND REBUILD

2.1. **[Intentionally Omitted]**.

2.2. **Construction Contracts.**

During construction of the Project, to the extent not prohibited by any applicable Governmental Regulations, Developer shall use reasonable efforts to provide, and shall encourage its contractors and their subcontractors to use reasonable efforts to provide opportunities to the lower income residents of the City for training and employment arising in connection with the development of the Project. In addition, Developer shall use reasonable efforts to provide, and encourage its contractors and their subcontractors to use reasonable efforts to provide opportunities for residents of the City to contract for work to be performed in connection with construction of the Project, to business concerns which are located in or owned in substantial part by residents of the City and to persons displaced, if any, as a result of the development of the Project. Developer shall include the language required by this paragraph to be included in any contract with the general contractor for the Project and shall require the general contractor to include such language in all subcontract agreements.

To assist Developer in complying with this Section, Developer shall use reasonable efforts to utilize the services of the City’s Pacific Gateway Workforce Investment Network (the **“Network”**) as provided in this Section. The Network administers Job Training Programs pursuant to state and federal law which programs provide opportunities to local residents and contractors to apply and/or bid for work on projects developed within the City (the **“Network Services”**). Prior to the commencement of construction, Developer shall meet with the executive director of the Network (or designee) in order to notify the Network of anticipated workforce or subcontractor needs. Thereafter, Developer shall provide to the Network notice of opportunities for training, employment or bidding for contracts in order that the Network may provide local residents and contractors with the ability to apply and/or bid for work on the Project. Developer shall in good faith and as practicable encourage its contractors and subcontractors to utilize the Network Services in their hiring programs in connection with the development of the Project. The

ultimate determination of employment or contracting, however, shall remain with Developer and its contractors and subcontractors in their sole discretion. If requested by the City Manager, prior to issuance of a C of O for the Project, Developer shall deliver a written report to the City Manager addressing compliance with the requirements of this section 2.2 of this Regulatory Agreement.

2.3. **Labor Standards.** City, in its proprietary capacity, is not requiring that any labor standards apply to the Project other than those of general application required by the Long Beach Municipal Code, as the same may hereafter be amended. City makes no representation or warranty whether other labor standards or laws, whether state or federal, may independently apply to the Project. Developer shall carry out the construction of the improvements on the Property in conformance with all applicable laws, including all applicable federal and state labor standards. Developer shall indemnify and hold the City Indemnitees and City Indemnitees harmless from and against any and all claims, damages, demands, causes of action, obligations, liabilities, costs and expenses, including reasonable attorneys' fees, that may be asserted against or incurred by City Indemnitees with respect to or in any way arising from Developer's compliance with or failure to comply with all applicable laws, including all applicable federal and state labor standards, including, without limitation, the requirements of Labor Code § 1720. City acknowledges and agrees that (i) no component or element of the Project shall be paid for in whole or in part out of public funds; (ii) the City is not providing any public funds to Developer concerning the development, construction or operation of the Project; and (iii) the City will not be leasing any of the Units or any other portion of the Project, and thus, the Project is not subject to any prevailing wage requirements pursuant to Labor Code § 1720.

2.4. **Compliance with Governmental Regulations.** Developer shall carry out the design, construction and operation of the Project in conformity with applicable Governmental Regulations, including without limitation, all applicable labor standards, City zoning and development standards, building, plumbing, mechanical and electrical codes, and all other provisions of the City Municipal Code, and all applicable disabled and handicapped access requirements, including without limitation the Americans With Disabilities Act, 42 U.S.C. § 12101, *et seq.*, as currently exists or as may be amended from time to time, Government Code § 4450, *et seq.*, as currently exists or as may be amended from time to time, Government Code § 11135, *et seq.*, as currently exists or as may be amended from time to time, and the California Building Standards Code, Health and Safety Code § 18900, *et seq.* as currently exists or as may be amended from time to time.

2.5. **Maintenance and Replacement.**

2.5.1. Prior to commencement of construction, Developer shall keep the Property free from graffiti and from any accumulation of debris or waste materials and shall maintain the landscaping, if any, in good condition. Developer shall maintain the Property and all of the improvements thereon, if any, in good condition and in accordance with the City of Long Beach Municipal Code. Developer shall not maintain, cause to be maintained, or allow to be maintained on or about the Property any public or private nuisance, including without limitation, the conduct of criminal activities set forth in the nuisance abatement provisions of the Uniform Controlled Substances Act (Health and Safety Code §§ 11570, *et seq.*) or the Street Terrorism Enforcement and Prevention Act (Penal Code §§ 186.22 *et seq.*) or any successor statute or law.

2.5.2. During and after construction, during Developer's ownership of the Property, Developer shall, at its sole cost and expense, maintain and repair the Property keeping the same in good condition and in a safe, decent and sanitary condition, including the Units, walkways, driveways and landscaping, and from time to time make all necessary and proper repairs, renewals and replacements as they may be required by this Regulatory Agreement and by all applicable Municipal Code and Uniform Code provisions. During construction, Developer shall maintain in good condition, free from graffiti, a fence around the Property and shall not permit any access to the construction site except as needed to construct the Project. Developer shall construct, manage and maintain the Project in accordance with all applicable housing quality standards and local code requirements, concerning marketing, operation, maintenance, repair, security, rental policy and method of selection of tenants.

2.6. **Rental Covenant.** Developer covenants and agrees that it shall cause the Units to be rented or leased during the Rental Covenant Period, until such time that Developer determines to sell the Units in accordance with Section 3.8.

2.7. **Interior Maintenance.** Developer shall construct and maintain the interior of buildings, including carpet, drapes and paint, in clean and habitable condition. During the Rental Covenant Period, the Affordable Units shall be maintained in the same manner and condition as the Market Units.

2.8. **Exterior Building Maintenance.** Developer shall maintain the Property including the immediately surrounding area to the curb line, in a clean and attractive condition at all times.

2.9. **Landscaping.** All landscaped parcels and all front and side-yard setback areas that are not buildings, driveways or walkways shall be adequately and appropriately landscaped.

2.10. **Rights of Access.** For purposes of assuring compliance with this Regulatory Agreement, representatives of City shall have the right of access to the Property, without charges or fees, during normal business hours so long as City representatives comply with all safety rules, and so long as, upon Developer's request, representatives of Developer are permitted to accompany the City representative. City representatives shall, except in emergency situations, notify the Developer in writing three full business day prior to exercising its rights pursuant to this Section. In the event of an emergency, an City representative may immediately enter upon the Property.

2.11. **Right To Enter To Cure.** If at any time the Developer fails to maintain the Property in accordance with this Section 2 and such condition is not corrected within (i) ten days after written notice from City with respect to graffiti, debris, waste material, broken windows, and general maintenance, or (ii) thirty (30) days after written notice from City with respect to landscaping and building improvements, then City, in addition to whatever remedies it may have at law or at equity, shall have the right to enter upon the Property and perform all acts and work necessary to protect, maintain, and preserve the improvements and landscaped areas on the Property, and to attach a lien upon the Property, or to assess the Property, in the amount of the expenditures arising from such acts and work of protection, maintenance, and preservation by City and/or costs of such cure, including a ten percent (10%) administrative charge, which amount shall be promptly paid by the Developer upon demand.

2.12. **Damage and Destruction; Developer's Duty to Rebuild.** If all or any portion of the Property and the improvements thereon is damaged or destroyed by fire or other casualty, it shall be the duty of the Developer to rebuild, repair or construct said portion of the Property and/or the improvements in a timely manner which will restore it to Long Beach Municipal or Building Code compliance condition as approved by the City, unless Developer is prevented from rebuilding, repairing or constructing the Project due to force majeure.

2.13. **Time Limitation.** Upon damage to the Property or the improvements thereon, the Developer shall be obligated to (i) proceed with all due diligence hereunder and commence reconstruction within eighteen (18) months after the damage occurs and complete reconstruction with due diligence, or (ii) if appropriate, to demolish and vacate the Property, unless prevented by force majeure.

3. USE RESTRICTIONS

3.1. **Permitted Uses.** Developer covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property or any part thereof, that Developer, and such successors and assigns, shall use, maintain and operate the Property during the Affordability Period as a multi-family housing development containing at least ten percent (10%) Affordable Units, a parking structure, leasing office, and community amenities.

All uses undertaken by Developer on the Property shall conform to this Regulatory Agreement and to all applicable provisions of the Long Beach Municipal Code and Governmental Regulations. During the Affordability Period, none of the Affordable Units on the Property shall at any time be utilized on a transient basis, i.e., rented for a period of less than 30 days, nor shall the Property or any portion thereof ever be used as a hotel, motel, dormitory, fraternity or sorority house, rooming house, hospital, nursing home, sanitarium or rest home. All uses of, the Property or any portion thereof, shall be governed by the Site Plan Review approval. This Regulatory Agreement does not prohibit Developer from processing and obtaining a condominium map at any time, at the sole discretion of Developer, subject to the provisions of Section 3.8 of this Regulatory Agreement, which establishes requirements for converting the Affordable Units to Condominium Units.

3.2. **Affordable Housing.** Commencing upon and throughout the Compliance Period, Developer covenants and agrees that all of the Affordable Units in the Project shall be operated and maintained for affordable housing purposes available (i) for occupancy exclusively to Qualified Tenants at an Affordable Rent, or (ii) for sale exclusively to Qualified Buyers at an Affordable Housing Price in accordance with the provisions of this Regulatory Agreement. Without imposing any additional obligations on the Developer, it is the intent of City that the Affordable Units qualify as replacement housing and inclusionary housing pursuant to Section 33413 of the Community Redevelopment Law in furtherance of City's affordable housing goals and objectives and the requirements resulting from anticipated projects including demolition and new construction in the City.

3.3. **Income Requirements for Leasing or Rental.** Ten percent (10%) of the Units shall be designated as Affordable Units and shall be restricted to rentals at an Affordable Rent to Qualified Tenants. Notwithstanding the foregoing, if 10% of the number of Units is not a whole

number, the number of Units shall increase by one (1) affordable Unit, which would result in slightly greater than 10% of the Units being Affordable Units. The Affordable Units shall be composed of any combination of unit mix reasonably proposed by Developer, including all of the same type of unit (e.g., all studio units). The location of the Affordable Units shall not be overly-concentrated in any given area of the Project. Notwithstanding the foregoing, the Affordable Units may “float” (i.e., be moved from one Unit to another) throughout the Project during such period as the Units are rented, provided that if the location of an Affordable Unit is moved, the replacement Unit shall be of the same type of the Unit it replaces. The finishes and build quality of the Affordable Units will be equivalent to the Market Units. Prior to renting or leasing an Affordable Unit, Developer, at its sole expense, shall certify the eligibility of each tenant applicant as a Moderate Income Household. The Developer shall, upon request by City, complete such certification on forms provided by City. Developer shall submit such income certification and such additional information as may reasonably be required in the future by City, the State of California or HUD. Such supporting documentation shall include copies of income tax returns from the tenant applicant certified by the tenant applicant as true for the most recent tax year in which a return was filed and at least one of the following:

1. two (2) paycheck stubs from the tenant’s two (2) most recent pay periods;
2. an income verification certification from the tenant’s employer;
3. an income verification certification from the Social Security Administration and/or the California Department of Social Services if the tenant receives assistance from such agencies, or
4. an alternate form of income verification reasonably requested by City if none of the above forms of verification is available to Developer.

3.4. **Determination of Affordable Rent.** All Affordable Units shall be rented at an Affordable Rent until the earlier to occur of (i) the expiration of the Affordability Period, or (ii) the sale of the Affordable Units to Qualified Buyers at an Affordable Housing Price.

3.4.1. **Rent Schedule and Utility Allowance.** Developer shall annually submit to City a rent schedule for the Affordable Units. A monthly allowance for utilities and services will be used by the Developer in calculating Affordable Rent and shall be set forth on the Rent Schedule. Developer shall rent the Affordable Units at an Affordable Rent. The maximum monthly rent must be recalculated and submitted in the form of a Rent Schedule by Developer and approved by City in accordance with applicable Governmental Requirements annually.

3.4.2. **Increases in Tenant Income.** A Household which qualifies as a Moderate Income Household prior to occupancy of an Affordable Unit shall be deemed to continue to be so qualified until such time as recertification of such Household’s income demonstrates that such Household no longer qualifies as a Moderate Income Household.

If a Household occupying an Affordable Unit experiences an increase in income such that the Household’s income exceeds the qualifying income for a Moderate Income Household, the Unit shall no longer qualify as an Affordable Unit under this Regulatory Agreement, subject to the provisions of the lease entered into between the Developer and the Qualified Tenant. Upon

termination or expiration of the lease between the Developer and the Qualified Tenant, whose Household no longer qualifies as a Moderate Income Household, Developer shall hold for rent and rent the next available vacant Unit comparable to the noncompliant Unit (in number of bedrooms and square footage) to a Qualified Tenant at an Affordable Rent. Developer may take any action it deems appropriate with respect to the tenants of the Unit which no longer qualifies as an Affordable Unit, provided that such action is in accordance with all Governmental Regulations, including, without limitation, providing the Household with written notice that the rent is being raised to market rent.

The standard rental agreement/lease agreement used by Developer shall state that occupation of the Affordable Unit is subject to the income restrictions described in this Regulatory Agreement and annual certification of the tenant's income.

3.4.3. **Adjustment of Affordable Rent.** Affordable Rent may change in accordance with the Health and Safety Code as changes in the applicable gross rent amounts, the income adjustments, or the monthly allowance for utilities and services warrant. Any increase in rents is subject to the provisions of outstanding leases. Developer must provide Households occupying the Affordable Units not less than thirty (30) days prior written notice before implementing any rent increase.

3.5. **Qualified Tenant Protections.** The provisions of this Section 3.5 only apply to leases between the Developer and Qualified Tenants.

3.5.1. **Qualified Tenant Rental Agreement/Lease.** The Developer shall execute or cause to be executed a written rental agreement/lease with each Household occupying an Affordable Unit identifying by name all permitted occupants. The rental agreement/lease must be in a form approved by the City and must be for not less than one year, unless otherwise mutually agreed by the tenant and the Developer. The standard rental agreement/lease shall state that occupation of the Affordable Units is subject to the income restrictions described herein. The standard lease agreement shall not be amended without prior City approval.

3.5.2. **Qualified Tenant Prohibited Rental Agreement/Lease Terms.** The rental agreement/lease shall not contain any of the following provisions:

A. **Agreement to be sued.** Agreement by the Qualified Tenant to be sued, to admit guilt, or to a judgment in favor of the Developer in a lawsuit brought in connection with the lease;

B. **Treatment of property.** Agreement by the Qualified Tenant that the Developer may take, hold, or sell personal property of household members without notice to the Qualified Tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the Unit after the Qualified Tenant has moved out of the Unit. The Developer may dispose of this personal property in accordance with state law;

C. **Excusing Developer from responsibility.** Agreement by the Qualified Tenant not to hold Developer or Developer's agents legally responsible for any action or failure to act, whether intentional or negligent;

D. Waiver of notice. Agreement of the Qualified Tenant that the Developer may institute a lawsuit without notice to the Qualified Tenant;

E. Waiver of legal proceedings. Agreement by the Qualified Tenant that the Developer may evict the Qualified Tenant or household members without instituting a civil court proceeding in which the Qualified Tenant has the opportunity to present a defense, or before a court decision on the rights of the parties;

F. Waiver of a jury trial. Agreement by the Qualified Tenant to waive any right to a trial by jury;

G. Waiver of right to appeal court decision. Agreement by the Qualified Tenant to waive the Qualified Tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease; and

H. Qualified Tenant chargeable with cost of legal actions regardless of outcome. Agreement by the Qualified Tenant to pay attorneys' fees or other legal costs even if the Qualified Tenant wins in a court proceeding by the owner against the Qualified Tenant. The Qualified Tenant, however, may be obligated to pay attorneys' fees and other legal costs if the Qualified Tenant loses.

3.5.3. **Qualified Tenant Background Checks.** In connection with its Qualified Tenant selection process, Developer agrees to undertake a credit check and may use other tenant evaluation processes, in Developer's sole discretion.

3.6. **Termination of Qualified Tenancy.** Except as set forth in Subsection 3.4.2. above, any termination or refusal to renew must be preceded by not less than thirty (30) days written notice or such longer notice period as required by any applicable Governmental Regulations.

3.7. **Qualified Tenant Selection.** Developer must comply with the written tenant selection criteria included in the Management Plan which shall include the following:

1. Are consistent with the purpose of providing housing for Moderate Income Households;
2. Are reasonably related to the applicants' ability to perform the obligations of the lease; and
3. Provide for:
 - (i) The selection of Qualified Tenants from a written waiting list generated by Developer in the chronological order of their application, insofar as is practicable; and
 - (ii) The prompt written notification to any rejected applicant of the grounds for any rejection.

4. In its sole discretion, Developer may require a prospective Qualified Tenant to authorize the Developer to obtain a credit report on the prospective Qualified Tenant, and the Qualified Tenants must meet minimum reasonable standards set by Developer.

3.8. Sale of Units as Condominiums.

3.8.1. Covenants. At any time during the Rental Covenant Period, Developer may sell the Units as condominiums, provided that (i) any and all conditions set forth herein are satisfied, and (ii) Developer shall not convert less than all of the Units to Condominiums. Notwithstanding the foregoing, Developer, in its sole discretion, may offer the Units for sale in phases, under either of the following approaches: (a) a pro rata number of Affordable Units is offered for sale in each phase until all Units are sold; or (b) Developer may convert Units in any number or order as it chooses, as long as the number and type of Affordable Units specified in this Regulatory Agreement is maintained. Developer covenants and agrees for itself, its successors, its assigns, and every successor in interest to the Property or any part thereof, that upon the sale of the Units as condominiums and thereafter, the Property shall remain subject to the uses specified in, and otherwise comply with the terms and conditions of, this Regulatory Agreement. All uses conducted on the Property, including, without limitation, all activities undertaken by the Developer pursuant to this Regulatory Agreement, shall conform to all applicable provisions of the Long Beach Municipal Code.

Developer covenants and agrees that it shall submit to City and obtain City's written approval on the condominium plan to be submitted to the Department of Real Estate prior to its submission thereto relating to the Affordable Units. The condominium plan shall designate the specific Units which shall constitute the Affordable Units. Developer covenants and agrees that it shall not offer for sale or sell any Unit until City has approved the condominium plan designating the Affordable Units.

No later than ninety (90) days prior to the proposed sale of any of the Units, Developer shall form a non profit mutual benefit corporation and a home owners' association ("HOA") for the Project and purchasers of the Units in accordance with the Davis-Stirling Common Interest Development Act (California Civil Code Sections 1350 through 1376) and any successor statutes (collectively, the "CID Law"). Developer shall obtain City's written approval of the Conditions, Covenants and Restrictions ("CC&Rs"), and shall include such covenants and restrictions therein as may be reasonably requested by City. The City's approval authority over the CC&Rs shall be limited to provisions of the CC&Rs which solely affect the sale of the Affordable Units. Thereafter, Developer shall submit the CC&Rs to the Department of Real Estate and otherwise comply with the CID Law and all other applicable Governmental Regulations in connection with the formation of the HOA. Developer shall amend or cause to be amended the CC&Rs as required by the CID Law upon transfer of the Units to HOA or the third party purchasers thereof, respectively. Developer shall not amend the CC&R provisions affecting the sale of the Affordable Units without the prior written approval of City. The CC&Rs shall require that all Affordable Units be owner-occupied.

3.8.2. Sale of Units. All costs associated with the initial sale of the Units as condominiums shall be the sole financial responsibility of Developer. Each buyer of an Affordable

Unit shall execute a recordable document pursuant to which such buyer covenants that he, she or they will occupy the Affordable Unit as their primary residence. Each buyer of an Affordable Unit shall represent that he, she or they meet the requirements of a Qualified Buyer and will execute a recordable document pursuant to which such buyer covenants that he, she or they agree to restrict the sale of the Affordable Unit to Eligible Buyers at an Affordable Housing Price for the Affordability Period.

3.8.3. **Affordable Units.** Developer covenants and agrees to (i) make available and sell at Affordable Housing Price to Qualified Buyers the Affordable Units upon initial sale of the Units as condominiums consistent with applicable requirements of this Regulatory Agreement and all applicable Governmental Regulations, and (ii) require such Qualified Buyers to agree in writing that subsequent sales of Affordable Units will comply with the requirements of this Regulatory Agreement.

3.8.4. **Sales Price.** Developer covenants and agrees to sell the Affordable Units at an Affordable Housing Price. Prior to marketing the Affordable Units for sale, Developer shall submit to City for its approval a calculation of Affordable Housing Price for each Affordable Unit. Such calculation shall be made and approved in accordance with all applicable Governmental Regulations. The sales price for each Affordable Unit shall not exceed the Affordable Housing Price.

3.8.5. **Number of Affordable Units; Marketing Plan.** Developer covenants and agrees to reserve for sale and to make available and sell exclusively to Qualified Buyers the Affordable Units. The number and type of Affordable Units to be reserved for sale and to be sold will be the number and type of Affordable Units specified in Section 3.2 of this Regulatory Agreement.

At least one (1) month prior to the proposed marketing for the sale of any Unit, Developer shall submit for approval by City a plan for marketing the sale of the Affordable Units (the “**Condominium Marketing Plan**”). The Condominium Marketing Plan shall include affirmative marketing procedures and requirements for reaching Qualified Buyers. The Condominium Marketing Plan shall include a plan for publicizing the availability of the Affordable Units within the City in a manner which gives notice to existing residents, including notices in City sponsored newsletters, newspaper advertising in local newspapers and notices in City offices and community centers. Developer agrees not to advertise the sale of the Units prior to City’s approval of any advertisements and/or the Condominium Marketing Plan. City’s approval right shall not be unreasonably withheld or delayed and shall be limited to the accuracy of any advertising of the sale of the Affordable Units.

3.8.6. **Selection of Buyers.** Developer shall be responsible for the selection of buyers for the Units constructed on the Property. Developer shall develop and submit to the City a written procedure for selection of Qualified Buyers for the Affordable Units which, upon approval by City, shall be implemented by the Developer. To the extent permitted by law, preference shall be given first to buyers who currently reside or are employed in the City of Long Beach. Developer shall submit a marketing and outreach program to City approval. Developer shall use commercially reasonable best efforts to sell the Affordable Units in accordance with the approved marketing and outreach program and the approved home buyer selection program.

Developer shall also ensure that the Affordable Units are sold to Qualified Buyers in compliance with the income eligibility set forth below.

3.8.7. **Income of Buyers.** At least thirty (30) days prior to the proposed close of escrow for the sale of any Affordable Unit, Developer shall submit to City a completed income computation and certification form from the prospective buyer of the Affordable Unit, together with a copy of all back-up supporting information, in such form as may be requested by City. Developer shall not transfer title to the Affordable Unit to the prospective buyer until City has confirmed that the buyer is a Qualified Buyer and Developer has obtained City's written approval of the completed income computation and certification and supporting documentation. Developer shall obtain a certification from each buyer purchasing an Affordable Unit demonstrating that such buyer is a Moderate Income Household and meets the eligibility requirements established for the Affordable Unit such that the buyer qualifies as a Qualified Buyer. Developer shall submit to City a computation demonstrating that the Affordable Unit will be sold to the prospective buyer at an Affordable Housing Price resulting in an Affordable Housing Cost to the buyer. Developer shall verify the income certifications and computations as set forth below.

Developer shall obtain at least one of the following, as appropriate to the Household of the proposed buyer:

1. two (2) paycheck stubs from the proposed purchaser's two (2) most recent pay periods (and the same from any other adult member of the Household);
2. a true copy of an income tax return from the proposed purchaser for the most recent tax year in which a return was filed (and the same from any other adult member of the Household);
3. an income verification certification from the employer of the proposed purchaser and any other adult member of the Household;
4. an income verification certification from the Social Security Administration and/or the California Department of Social Services if the proposed purchaser or any other adult member of the Household receives assistance from such agencies; or
5. an alternate form of income verification reasonably requested by City if none of the above forms of verification is available to Developer.

3.8.8. **Financial Terms of Purchase.** Subject to the requirements of all applicable Governmental Regulations, upon the sale of the Affordable Units any proposed Qualified Buyer must (i) put down a down payment in an amount not less than five percent (5%) nor more than twenty percent (20%) of the Affordable Housing Cost; and (ii) have sufficient credit worthiness to qualify for and obtain first trust deed financing in an amount not to exceed ninety five percent (95%) of the Affordable Housing Cost; and (iii) must have a minimum credit as

provided in the Condominium Marketing Plan. The proposed buyer must be legally residing in the United States and have appropriate documentation demonstrating such legal residence.

3.8.9. **Disclosures to Home Buyers.** Developer shall make all disclosures required by applicable Governmental Regulations to all buyers of the Units. Developer shall disclose to each buyer of an Affordable Unit that each Affordable Unit must be owner-occupied, and Developer must obtain a written confirmation from the buyers of each Affordable Unit of such disclosure. Developer must disclose to all prospective and actual buyers of the Affordable Units that the Unit will be restricted to resale to Eligible Buyers at an Affordable Housing Price for forty five (45) years from the date of purchase of the Affordable Unit.

3.9. **Compliance with Use and Occupancy Laws.** Developer agrees that for each lease, the Developer shall comply with all applicable state and local laws, statutes, ordinances, rules and regulations, which in any way restrict the use and occupancy and resale of the Property.

3.10. **Nondiscrimination.** Developer covenants and agrees that there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of any Unit or the Property nor shall the Developer establish or permit any such practice or practices of discrimination or segregation with reference to the location, subtenants, or vendees of any Unit or in connection with the employment of persons for the construction, operation and management of the Property.

Notwithstanding the foregoing paragraph, with respect to familial status, the foregoing paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the foregoing paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the foregoing paragraph.

All deeds, rental agreements, leases, subcontracts or contracts made or entered into by the Developer as to the Units or the Property or any portion thereof, shall be subject to and contain nondiscrimination and non-segregation clauses, substantially in the following form:

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

occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.”

Notwithstanding the foregoing paragraph, with respect to familial status, the foregoing paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the foregoing paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the foregoing paragraph.

3.10.2. **In leases:** “The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased.”

Notwithstanding the foregoing paragraph, with respect to familial status, the foregoing paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the foregoing paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the foregoing paragraph.

3.10.3. **In contracts:** “There shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in connection with the performance of this contract nor shall the contracting party himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, sublessees, subtenants, contractors, subcontractors or vendees with respect to the premises.”

Notwithstanding the foregoing paragraph, with respect to familial status, the foregoing paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the foregoing paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360

of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the foregoing paragraph.

The covenants established in this Regulatory Agreement shall, without regard to technical classification and designation, be binding on Developer and any successor in interest to the Property, or any part thereof, for the benefit and in favor of City and its successors and assigns. The covenants against discrimination shall run with the land and remain in effect in perpetuity.

3.11. **Women and Minority Business Requirements.** Developer shall comply with Title VI of the Civil Rights Act of 1964 (Public Law 88-352), and the City's Women and Minority Business Enterprise Program with regard to equal employment opportunities.

3.12. **No Nuisance.** Developer shall not maintain, cause to be maintained, or allow to be maintained on or about the Property any public or private nuisance, including, without limitation, the conduct of criminal activities set forth in the nuisance abatement provisions of the Uniform Controlled Substances Act (Health and Safety Code § 11570, *et seq.*) as currently exists or as may be amended from time to time, or the Street Terrorism Enforcement and Prevention Act (Penal Code § 186.22, *et seq.*), as currently exists or as may be amended from time to time. Notwithstanding the foregoing, upon Developer's sale of all of the Units as condominiums, or transfer of management responsibility to the HOA, Developer shall be released from all of the obligations created in this Section.

3.13. **No Hazardous Substance Activity.** Developer shall not engage in any Hazardous Substance Activity in violation of Environmental Laws and shall comply with all Governmental Regulations in connection with the development and operation of the Project.

In addition, Developer shall take all necessary precautions to prevent the release into the environment of any Hazardous Substances which are located in, on or under the Property in violation of Environmental Laws. Such precautions shall include compliance with all Governmental Regulations with respect to any Hazardous Substance. In addition, Developer shall install and utilize such equipment and implement and adhere to such procedures as are consistent with commercially reasonable standards with respect to the disclosure, storage, use, removal and disposal of Hazardous Substances. Notwithstanding the foregoing, this Regulatory Agreement shall not prohibit the use of such products in quantities as are customarily used in the construction, maintenance, rehabilitation or management of residential developments or associated buildings and grounds, or used in residential activities in a manner typical of other comparable residential developments, or substances commonly ingested by a significant population living within the Project including without limitation alcohol, aspirin, tobacco and saccharine.

4. OPERATION AND MANAGEMENT OF THE PROJECT

4.1. **Compliance with Agreement.** Developer, or any successor in interest, shall comply with all of the terms, conditions and provisions of this Regulatory Agreement and all applicable Governmental Regulations in the operation and management of the Project. Notwithstanding the foregoing, upon Developer's sale of all of the units as condominiums, or transfer of management responsibility to the HOA, Developer or its successors and assigns shall be released from all of the obligations created in this Regulatory Agreement.

4.2. **Taxes and Assessments.** Developer shall pay all real and personal property taxes, assessments and charges and all franchise, income, employment, withholding, sales, and other taxes assessed against it, or payable by it, at such times and in such manner as to prevent any penalty from accruing, or any lien or charge from attaching to the Property; provided, however, that the Developer shall have the right to contest in good faith, any such taxes, assessments, or charges. In the event the Developer exercises its right to contest any tax, assessment, or charge against it, Developer, on final determination of the proceeding or contest, shall immediately pay or discharge any decision or judgment rendered against it, together with all costs, charges and interest.

4.3. **Operation and Management.** Developer shall manage, operate and maintain the Project at its sole cost in good condition and in accordance with professional property management standards for similar properties in the Southern California area and shall maintain or cause to be maintained the interiors and exteriors of the Units in a decent, safe and sanitary manner. The Units shall be maintained in accordance with the requirements of the City's Municipal Code and the requirements of all applicable Governmental Regulations.

Property Manager. The parties acknowledge that City is interested in the long term management and operation of the Project and in the qualifications of any person or entity retained by the Developer for that purpose (the "**Property Manager**"). Developer may contract with a private or public entity for the performance of services or duties required pursuant to this Regulatory Agreement or Developer may provide such services itself. In its sole discretion, Developer shall determine the amount of any management fee. Developer shall require that the Property Manager rents or leases the Affordable Units in accordance with this Regulatory Agreement. However, such a contractual arrangement shall not relieve Developer of any responsibility for proper performance of all management duties described herein. In the Event of Default by the Property Manager of the requirements set forth in this Regulatory Agreement, City shall provide notice to Developer of such default and Developer shall use its best efforts to correct such default. During such period as the Affordable Units are rented or leased, upon the second failure by the Property Manager and/or Developer to cure the second default within thirty (30) days of written notice by City, City shall have the right to require Developer to immediately remove and replace the Property Manager with another property manager or property management company who is reasonably acceptable to City and who has not less than five (5) years' experience in property management, including experience managing affordable housing and multifamily residential developments of the size, quality and scope of the Project. These default provisions only are applicable to defaults related to the provision and operation of the Affordable Units.

Any contract executed pursuant to the immediately preceding paragraph shall contain a provision that the contract shall be subject to termination by Developer, without penalty, upon not more than thirty (30) days prior written notice. In the event the Property Manager fails to perform its services in accordance with this Regulatory Agreement, at the written request of City, Developer shall exercise such right of termination forthwith and shall make immediate arrangements for the continuing management, repair and maintenance of the Property satisfactory to City, in its discretion.

Management Plan. Prior to rental of the Property by Developer, Developer shall have submitted for the reasonable approval of the City, a "**Management Plan,**" solely applicable to the

rental of Affordable Units, which sets forth in detail the identity and the duties of the Property Manager, affirmative marketing practices, leasing procedures, the tenant selection criteria, the tenant selection and income certification processes, a security system and crime prevention program, the procedures for the collection of rent, the procedures for monitoring of occupancy standards, the standards and procedures for termination and eviction of tenants, the rules of tenant conduct and the procedures for establishing and/or amending such rules and manner of enforcement, maintenance and management procedures, a standard lease form, and other matters relevant to the management of the Project. The Management Plan shall only apply to the management of the Affordable Units. The Developer may from time to time submit amendments and modifications to the Management Plan for the reasonable approval of the City. The management of the Project following the issuance of the C of O, and during each year of the Compliance Period shall be in compliance with the approved Management Plan.

4.4. **Anti-Crime Program.** Throughout the Affordability Period, Developer covenants and agrees to reasonably participate in the City of Long Beach Crime Free Multi-Housing Program administered by the Long Beach Police Department, or any successor program.

4.5. **Inspection of Records.** Developer shall maintain the following records for a term of not less than five (5) years for inspection by City:

1. Initial and annual tenant income certifications;
2. Records which demonstrate compliance with the tenant protections as specified in this Regulatory Agreement;
3. Records which verify that the Project continues to meet unit affordability requirements as provided herein; and
4. Any other records reasonably required by City to verify that Developer is in compliance with the provisions of this Regulatory Agreement.

4.6. **Right of Entry For Inspection.** Representatives of City shall be entitled to enter the Property, upon at least seventy-two (72) hours written notice during normal business hours, to monitor compliance with this Regulatory Agreement, to inspect the records of the Project with respect to the Affordable Units, and to conduct an independent audit of such records. Developer may require a representative of Developer to accompany the City representative conducting such inspection. Developer agrees to cooperate with City in making the Property available for such inspection. If for any reason City is unable to obtain the Developer's consent to such an inspection, Developer understands and agrees that City may obtain at Developer's expense an administrative inspection warrant or other appropriate legal order to obtain access to such records. Developer agrees to maintain records in a business-like manner on the Property or at a location approved in writing by the Director and to make such records available to City upon twenty-four (24) hours' notice. Unless City otherwise approves, such records shall be maintained throughout the Affordability Period.

4.7. **Costs of Operations.** All costs of operating the Affordable Units, shall be the sole responsibility of Developer, including without limitation, the following costs and expenses:

1. All costs in connection with common area utilities (Unit utilities are paid by the tenants), real estate taxes and assessments, and liability, fire, and hazard insurance;
2. Payments of interest and principal, fees and other fees and charges in accordance with a Project Loan or any other loans made to Developer; and
3. All other expenses and operating costs incurred, including without limitation estimated expenses and funding of reserves.

4.8. **Annual Reports.** The books and accounts of the Affordable Units shall be kept in conformity with cash basis accounting principles consistently applied in multifamily apartment communities with Affordable Units. The fiscal year for the Affordable Units shall be from January 1 to December 31. As a part of the monitoring and compliance with this Regulatory Agreement, Developer shall annually use all reasonable efforts to cause each Household occupying an Affordable Unit in the Project to complete an income certification in accordance with Section 3.3 of this Regulatory Agreement. City relies upon the information contained in such certifications to satisfy its reporting and record keeping requirements pursuant to applicable requirements of the Community Redevelopment Law. In the event the Developer fails to submit to City all of the documentation required by this Regulatory Agreement within ninety (90) days of demand therefor, Developer shall be in default of this Regulatory Agreement. Upon failure by the Developer to cure such default within thirty (30) days of written notice by City, City shall provide a second notice of default. Upon failure by Developer to cure such default within thirty (30) days of issuance of the second written notice by the City, City may seek all available remedies as set forth in this Regulatory Agreement.

Other Reports. No later than April 1 of each calendar year and until the Affordable Units are sold as condominiums, Developer shall file with City the following reports for the previous calendar year in a form satisfactory to City and verified by the signatures of appropriate officers of Developer:

1. A Certification of Continuing Program Compliance in the form attached hereto as Exhibit D which provides a report on occupancy for the prior year which states or provides:
 - (i) The number of units vacated (or which cease to qualify as Affordable Units) and re-rented;
 - (ii) A rent roll of Affordable Units or other report which identifies the income level of each tenant household and the rent being charged for that household's unit;
2. A certification, signed by the appropriate officers of Developer, that Developer is not in violation or default under this Regulatory Agreement.

Audit Rights of City. Developer shall maintain accurate records with respect to all operations of the Affordable Units in accordance with the terms of this Regulatory Agreement. City may, upon no less than thirty (30) days prior written notice to Developer and not more than

once each twelve (12) month period, cause an independent Certified Public Accountant to inspect the records of Developer during normal business hours reasonably related to the requirements of this Regulatory Agreement. The fees and expenses charged by such Certified Public Accountant in connection with such inspection shall be paid by City.

4.9. **Maintenance.** Developer shall maintain the Project, including the Affordable Units, in good working order and in compliance with all applicable Governmental Requirements at its sole cost and expense. During the period the Affordable Units are rented, the Affordable Units shall be maintained in the same condition and manner as the Market Units. All services made available to occupants of the Market Units included in their rental payments shall be made available to the Affordable Units at no additional cost to the occupants of the Affordable Units.

4.10. **Monitoring Fee.** On or before April 1 of each year, commencing on the issuance of a C of O for the Project, until the expiration of the Affordability Period, Developer covenants and agrees to pay to City the Monitoring fee, prorated for any partial year. The Monitoring Fee shall only be imposed on the Affordable Units.

5. MISCELLANEOUS PROJECT REQUIREMENTS

5.1. **Equal Opportunity.** No person shall be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity funded in whole or in part with a subsidy from the City.

5.2. **Marketing Plan.** Developer shall adopt marketing procedures and requirements for the rental or lease of the Affordable Units. These must include:

1. Methods for informing the public;
2. Procedures used by Developer to inform and solicit applications from persons in the housing market area who are not likely to apply without special outreach;
3. Records that will be kept for a period of three (3) years describing actions taken by Developer to market units and records to assess the results of these actions; and
4. A description of how the Developer will assess the success of affirmative marketing actions and what corrective actions will be taken where affirmative marketing requirements are not met.

Prior to leasing the Affordable Units after completion of construction, Developer shall submit for the approval by City and City, which approval shall not unreasonably be withheld, a plan for marketing the rental or lease of the Affordable Units (the "**Marketing Plan**"). To the extent not prohibited by any applicable Governmental Regulations, the Marketing Plan shall include a plan for publicizing the availability of the Affordable Units within the City in a manner which gives notice first to Moderate Income Households currently living within the City, with a goal of targeting notices in any City sponsored newsletter, newspaper advertising in local newspapers and notices in City offices.

5.3. **Conflict of Interest.** Developer will hereby comply with all requirements set forth regarding conflict of interest provisions as they apply under any applicable Governmental Regulation.

5.4. **Ad Valorem Tax Assessment.** The "Taxable Assessed Value" (as that term is defined by Section 95 of the California Revenue and Taxation Code) for the Project (which includes the land and all improvements thereon) shall be determined by the Los Angeles County Tax Assessor ("Assessor") after issuance of the C of O, and Developer may challenge or appeal the initial determination of value by the Assessor in accordance with applicable laws and regulations. After final determination of Taxable Assessed Value as described in the immediately preceding sentence, Developer and its successor in interests to the Project agree that neither Developer nor any successor in interest to the Project shall protest, appeal, or otherwise attempt to lower the Taxable Assessed Value of the Project for a period of ten (10) years. The provisions of this Section 5.4 shall be null and void if (a) the Project is materially destroyed by casualty, (b) any portion of the Project or the Property is condemned, or (c) the aforementioned ten-year period has expired.

6. **COVENANTS**

6.1. **Release of Regulatory Agreement.** The provisions of this Regulatory Agreement shall apply to the Property throughout the Affordability Period. Notwithstanding the foregoing, provided that conditions, covenants and restrictions in such form as are acceptable to City are recorded against each Affordable Unit upon the sale of each Affordable Unit (which such covenants shall include a covenant of the buyer of the Affordable Unit to restrict the sale of the unit to Eligible Buyers at an Affordable Housing Price for forty five (45) years from the date of the first sale of each Affordable Unit), City shall release this Regulatory Agreement as to each Affordable Unit upon the sale of each Affordable Unit to a Qualified Buyer at an Affordable Housing Price. Upon execution by a transferee of an assumption agreement or similar document satisfactory to City, Developer shall be released of its obligations and liabilities under the Regulatory Agreement upon a sale of the Property which is approved by City. This Regulatory Agreement shall bind any successor, heir or assign of the Developer, whether a change in interest occurs voluntarily or involuntarily, by operation of law or otherwise, with or without the approval of City, except as expressly released by the City.

6.2. **Covenants to Run with the Land.** City and Developer hereby declare their express intent that the covenants and restrictions set forth in this Regulatory Agreement shall run with the land, and shall bind all successors in title to the Property. Each and every contract, deed or other instrument hereafter executed covering or conveying the Property or any portion thereof shall be held conclusively to have been executed, delivered and accepted subject to such covenants and restrictions, regardless of whether such covenants or restrictions are set forth in such contract, deed or other instrument, unless City expressly releases such conveyed portion of the Property from the requirements of this Regulatory Agreement.

7. RESTRICTIONS ON TRANSFER

7.1. **Successors and Assigns.** All of the terms, covenants and conditions of this Regulatory Agreement shall be binding upon Developer and the permitted successors and assigns of Developer. Developer shall have the right to transfer all or any portion of the Property and this Regulatory Agreement at any time. In the case of any such transfer or assignment, Developer shall provide the City with written notice thirty (30) days after the transfer or assignment has been completed. Upon assignment of all of Developer's interest in the Property, the City shall release Developer from all of its future obligations under this Agreement.

8. DEFAULTS

The occurrence of any of the following, whatever the reason therefore, shall constitute an “**Event of Default**” hereunder by Developer:

8.1. Developer fails to perform any obligation for the payment of money under this Regulatory Agreement, and such failure is not cured within thirty (30) days after Developer’s receipt of written notice that such obligation was not performed when due; or

8.2. Developer fails to perform any material covenant or obligation (other than obligations described in 8.1, above) under this Regulatory Agreement, and such failure is not cured within thirty (30) days after Developer’s receipt of written notice that such obligation was not performed; provided that, if cure cannot reasonably be effected within such thirty (30) day period, such failure shall not be an event of default so long as Developer commences to cure, and thereafter diligently and continuously prosecutes such cure to completion; or

8.3. Developer is enjoined or otherwise prohibited by any governmental agency (other than City) from developing, occupying, maintaining or operating all or any portion of the Property and such injunction or prohibition continues unstayed for ninety (90) days or more for any reason; unless Developer is diligently and continuously attempting to have such injunction or prohibition stayed or lifted and Developer demonstrates, to the reasonable satisfaction of the City Manager, that such stay or lifting will occur within a reasonable time; or

8.4. Developer, or any managing member of Developer, is the subject of an order for relief for a bankruptcy court, or is unable or admits its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors; or Developer applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or any part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of Developer and the appointment continues undischarged or unstayed for ninety (90) days; or Developer institutes or consents to any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, custodianship, conservatorship, liquidation, rehabilitation or similar proceeding relating to it or any part of its property; or any similar proceeding is instituted without the consent of Developer and continues undismissed or unstayed for ninety (90) days; or any judgment, writ, warrant of attachment or execution, or similar process is issued or levied against the Property and is not released, vacated or fully bonded within ninety (90) days after its issue or levy.

9. ENFORCEMENT AND REMEDIES

9.1. **Remedies.** The remedies specified in this Section 9 shall be triggered upon Developer's second event of default or breach. Subject to the notice and cure rights of the Developer set forth in Section 8 above, in the event of default or breach of any of the terms or conditions of this Regulatory Agreement by Developer, its heirs, executors, administrators or assigns, City may pursue the remedy thereof by any and all means of enforcement, both in equity and at law, as provided by the laws of the State of California, including, but not limited to, injunctive relief and/or specific performance.

9.2. **Rights of the City.** This Regulatory Agreement does not in any way infringe on the right or duties of the City to enforce any of the provisions of the Municipal Code including, but not limited to, the abatement of dangerous buildings. In addition to the general rights of enforcement, the City shall have the right, through its agents and employees, to enter upon any part of the Property for the purpose of enforcing the Vehicle Code, and the ordinances and other regulations of the City, and for maintenance and/or repair of any or all publicly owned utilities.

9.3. **Jurisdiction and Venue.** To the extent permitted by law, legal actions must be instituted and maintained in the Superior Court of the County of Los Angeles, State of California. Developer specifically waives any rights provided to it pursuant to Code of Civil Procedure § 394 or state statutes or judicial decisions of like effect.

9.4. **Nuisance.** The result of every act or omission whereby any of the covenants contained in this Regulatory Agreement are violated in whole or in part is hereby declared to be and constitutes a nuisance, and every remedy allowable at law or equity, against a nuisance, either public or private, shall be applicable against every such result and may be exercised by any owner or its successors in interest, without derogation of the City's rights under law.

9.5. **Right of Entry.** Upon providing Developer within 72 hours' written notice, City has the right of entry at reasonable hours, and upon and after reasonable attempts to contact Developer, to effect emergency repairs or maintenance which the Developer has failed to perform. Subsequent to seven (7) days written notice to the Developer specifically outlining the noncompliance, the City shall have the right of entry at reasonable hours to enforce compliance with this Regulatory Agreement which the Developer has failed to perform.

9.6. **Costs of Repair.** The costs borne by the City of any such repairs or maintenance emergency and/or non-emergency, shall become a charge for which Developer shall be responsible; and may, if unpaid, be assessed as a lien against the Property.

9.7. **Cumulative Remedies.** The remedies herein provided for breach of the covenants contained in this Regulatory Agreement shall be deemed cumulative, and none of such remedies shall be deemed exclusive.

9.8. **Failure to Enforce.** The failure to enforce any of the covenants contained in this Regulatory Agreement shall not constitute a waiver of the right to enforce the same thereafter.

10. HOLD HARMLESS

Developer agrees to defend and to hold City and its respective officers, agents, employees, representatives, elected and appointed boards and officials (collectively, the “**Indemnified Parties**”) harmless from liability for damage or claims for any type of damage including, but not limited to, personal injury and claims for property damage, which may arise from the activities of Developer or those of Developer’s contractors, subcontractors (collectively, “**Liability Claim**”), agents, employees or other persons acting on Developer’s behalf which relate to the Project, unless such Liability Claim for damage is due in part to the intentional act or gross negligence of any Indemnified Party. Developer agrees to and shall defend at its cost City and its respective officers, agents, employees, representatives, elected and appointed boards and officials from any action for damages caused or alleged to have been caused by reason of Developer’s activities in connection with the Project, including without limitation any performance of or failure to perform the obligations of Developer set forth in this Regulatory Agreement.

11. ASSIGNMENT OF AGREEMENT

This Regulatory Agreement shall be binding upon Developer, and its permitted executors, administrators, successors and assigns and all persons claiming under or through Developer. Wherever this Regulatory Agreement employs the term “**Developer**”, it shall be deemed to include Developer, and its permitted executors, administrators, successors and assigns and all persons claiming under or through Developer. Developer shall have the right to voluntarily assign all of its rights or obligations under this Regulatory Agreement to any affiliate or successors except as set forth herein in Section 7 and any purported assignment made without such compliance shall be null and void for all purposes.

12. THIRD PARTY BENEFICIARIES

This Regulatory Agreement is made and entered into for the sole protection and benefit of City, and its successors and assigns, and Developer, and its permitted successors and assigns, and no other person or persons shall have any right of action hereon, except as required by law.

13. RECORDATION

Developer agrees that this Regulatory Agreement and any amendment or cancellation hereof shall be recorded in the official records of Los Angeles County by Developer within ten (10) days after any amendment or cancellation hereof.

14. NOTICE

Any approval, disapproval, demand, document or other notice (“**Notice**”) required or permitted under this Regulatory Agreement must be in writing and may be given by personal delivery, certified mail, return receipt requested, or overnight guaranteed delivery service to the party to whom the Notice is directed at the address of the party as set forth below, or at any other address as that party may later designate by Notice.

To City: City of Long Beach
333 W. Ocean Blvd., 3rd Floor
Long Beach, CA 90802
Attention: Housing Services Bureau Manager

With a copy to: Office of the City Attorney
City of Long Beach
333 West Ocean Avenue, 11th Floor
Long Beach, California 90802
Attention: Richard F. Anthony, Esq.

To Developer: DTLB Pacific, LLC
18802 Bardeen Avenue
Irvine, CA 92612-1521
Attention: Christopher Payne

With copy to: Allen Matkins
1900 Main Street
Fifth Floor
Irvine, CA 92614
Attention: John Condas, Esq.

Any Notice shall be deemed received immediately if delivered by hand and shall be deemed received on the third day from the date it is postmarked if delivered by registered or certified mail, return receipt requested.

15. WAIVER

Failure by a party to insist upon the strict performance of any of the provisions of this Regulatory Agreement by the other party or the failure by the party to exercise its rights under or upon a default by the other party herein shall not constitute a waiver of such party's right to demand strict compliance from such other party in the future.

16. SUBORDINATION

This Regulatory Agreement and the covenants contained herein shall not be subordinate to any liens recorded against the Property, including any construction loan or permanent loan deed of trust.

17. SEVERABILITY

If any one or more of the provisions contained in this Regulatory Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Regulatory Agreement, and this Regulatory Agreement shall be construed as if such invalid, illegal or unenforceable provision(s) had never been contained herein.

18. CAPTION AND PRONOUNS

The captions and headings of the various sections of this Regulatory Agreement are for convenience only, and are not to be construed as confining or limiting in any way the scope or intent of the provisions hereof. Whenever the context requires or permits, the singular shall include the plural, the plural shall include the singular, and masculine, feminine and neuter shall be freely interchangeable.

19. ATTORNEYS' FEES

In any action to interpret or enforce any provision of this Regulatory Agreement, the prevailing party shall be entitled to its costs and reasonable attorneys' fees. As used herein, the terms "attorneys' fees" or "attorneys' fees and costs" means the fees and expenses of counsel to the parties hereto (including, without limitation, in-house or other counsel employed by City) which may include printing, duplicating and other expenses, air freight charges, and fees billed for law clerks, paralegals and others not admitted to the bar but performing services under the supervision of an attorney. The terms "attorneys' fees" or "attorneys' fees and costs" shall also include, without limitation, all such fees and expenses incurred with respect to appeals, arbitrations and bankruptcy proceedings, and whether or not any action or proceeding is brought with respect to the matter for which said fees and expenses were incurred.

20. MODIFICATION OF AGREEMENT

This Regulatory Agreement may be modified or amended by mutual consent of the Developer and City provided that all amendments are in a writing signed by City and Developer.

21. SOLE AND ONLY AGREEMENT

This Regulatory Agreement and all of the attachments thereto and incorporated therein integrate all of the terms and conditions mentioned herein or incidental hereto, and supersede all negotiations or previous agreements between the parties with respect to all or any part of the Property or the Project.

City and Developer acknowledge and agree that neither of them has made any representation with respect to the subject matter of this Regulatory Agreement or any representations inducing the execution and delivery, except representations set forth herein, and each party acknowledges that it has relied on its own judgment in entering into this Regulatory Agreement. City and Developer further acknowledge that all statements or representations that heretofore may have been made by either of them to the other are void and of no effect, and that neither of them has relied thereon in its dealings with the other.

[Signatures On Next Page]

IN WITNESS WHEREOF, the Parties hereto have executed this Regulatory Agreement as of the date set forth above.

“City”

CITY OF LONG BEACH, a California municipal corporation

By: _____
Its: _____

[SIGNATURE PAGE TO REGULATORY AGREEMENT]

[PAGE 1 OF 2]

“Developer”

DTLB PACIFIC, LLC,
a Delaware limited liability company

By: SRG DTLB Group, L.P.,
a Delaware limited partnership

By: SRG Investors, LLC,
a Delaware limited liability company
Its: General Partner

By: _____
Its: _____

[SIGNATURE PAGE TO REGULATORY AGREEMENT]

[PAGE 2 OF 2]

EXHIBIT A

LEGAL DESCRIPTION

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

PARCEL 1:

LOTS 2, 4, 6 AND 8 IN BLOCK 87 OF THE TOWNSITE OF LONG BEACH, IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 19 PAGE 91, *ET SEQ.*, OF MISCELLANEOUS RECORDS OF SAID COUNTY, TOGETHER WITH THE WEST HALF OF PARK COURT, AS SHOWN ON THE MAP OF SAID TRACT, ADJOINING SAID LOTS ON THE EAST, LYING BETWEEN THE EASTERLY PROLONGATION OF THE NORTH LINE OF SAID LOT 2 AND THE EASTERLY PROLONGATION OF THE SOUTH LINE OF SAID LOT 8.

EXCEPTING AND RESERVING, ALL OIL, GAS, HYDROCARBON SUBSTANCES AND MINERALS OF EVERY KIND AND CHARACTER LYING MORE THAN FIVE HUNDRED (500) FEET BELOW THE SURFACE OF SAID LAND, TOGETHER WITH THE RIGHT TO DRILL INTO, THROUGH, AND TO USE AND OCCUPY ALL PARTS OF SAID LAND LYING MORE THAN FIVE HUNDRED (500) FEET BELOW THE SURFACE THEREOF FOR ANY AND ALL PURPOSES INCIDENTAL TO THE EXPLORATION FOR AND PRODUCTION OF OIL, GAS, HYDROCARBON SUBSTANCES OR MINERALS FROM SAID OR OTHER LANDS, BUT WITHOUT, HOWEVER, ANY RIGHT OF USE EITHER THE SURFACE OF SAID LAND OR ANY PORTION OF SAID LAND WITHIN FIVE HUNDRED (500) FEET OF THE SURFACE FOR ANY PURPOSE OR PURPOSES WHATSOEVER, AS SET OUT IN DEED RECORDED OCTOBER 7, 1977 AS INSTRUMENT NO. 77-1111402, OF OFFICIAL RECORDS.

PARCEL 2:

LOT 1, 3, 5, 7, 9 AND 10 IN BLOCK 87 OF THE TOWNSITE OF LONG BEACH, IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 19 PAGE 91, *ET SEQ.*, OF MISCELLANEOUS RECORDS OF SAID COUNTY.

TOGETHER WITH THOSE PORTIONS OF THE ABUTTING VACATED STREETS WHICH WOULD PASS BY OPERATION OF LAW WITH THE CONVEYANCE OF SAID LAND.

EXCEPT THEREFROM THAT PORTION OF SAID LAND DESCRIBED IN GRANT DEED RECORDED OCTOBER 2, 1979 AS INSTRUMENT NO. 79-1096324, OF OFFICIAL RECORDS.

EXCEPTING AND RESERVING, ALL OIL, GAS, HYDROCARBON SUBSTANCES AND MINERALS OF EVERY KIND AND CHARACTER LYING MORE THAN FIVE HUNDRED (500) FEET BELOW THE SURFACE OF SAID LAND, TOGETHER WITH THE RIGHT TO DRILL INTO, THROUGH, AND TO USE AND OCCUPY ALL PARTS OF SAID LAND

LYING MORE THAN FIVE HUNDRED (500) FEET BELOW THE SURFACE THEREOF FOR ANY AND ALL PURPOSES INCIDENTAL TO THE EXPLORATION FOR AND PRODUCTION OF OIL, GAS, HYDROCARBON SUBSTANCES OR MINERALS FROM SAID OR OTHER LANDS, BUT WITHOUT, HOWEVER, ANY RIGHT OF USE EITHER THE SURFACE OF SAID LAND OR ANY PORTION OF SAID LAND WITHIN FIVE HUNDRED (500) FEET OF THE SURFACE FOR ANY PURPOSE OR PURPOSES WHATSOEVER, AS SET OUT IN DEED RECORDED NOVEMBER 9, 1977 AS INSTRUMENT NO. 77-1240526, OF OFFICIAL RECORDS.

EXHIBIT B

[INTENTIONALLY OMITTED]

EXHIBIT C

INTENTIONALLY OMITTED

EXHIBIT D

CERTIFICATION OF CONTINUING PROGRAM COMPLIANCE

20 CERTIFICATION OF CONTINUING PROGRAM COMPLIANCE

(To be filled annually on your letterhead)

Witnessed that on this ____ of _____, _____, the undersigned, having executed that certain Affordable Housing Regulatory Agreement (“Regulatory Agreement”) (recorded in the Official Records of Los Angeles County as Instrument No. [____]) in connection with the development and management of a residential project located at _____ (the “Project”), does hereby certify that such Project is in continuing compliance with the Regulatory Agreement, and that to the knowledge of the undersigned no default exists under the Regulatory Agreement. Specifically, it is hereby confirmed that each Moderate Income Household has completed an income verification form and qualifies as such. All capitalized terms used herein without definition shall have the meanings given them in the Regulatory Agreement.

As of the date of this Certification, the following percentages of completed residential units in the Project (i) are occupied by Qualified Tenants at Affordable Rents, or (ii) are currently vacant and being held available for such occupancy:

| Status | Income Level | No. of Units | Percent Units |
|----------|---------------|--------------|---------------|
| Occupied | Moderate | | |
| Vacant | | | |
| | TOTAL: | | |

A current rent roll (as of the date of this Certification) is attached to this Certification.
[SIGNATURE BLOCK]

ACKNOWLEDGMENT

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

State of California)
County of _____)

On _____, before me, _____,
(insert name of notary)

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

ATTACHMENT NO. 5
COST SHARING AGREEMENT
(ATTACHED)

COST SHARING AND REIMBURSEMENT AGREEMENT

THIS COST SHARING AND REIMBURSEMENT AGREEMENT (this "Agreement") is made and entered into as of December 1, 2015 (the "Effective Date"), by and between PPF AMLI 245 WEST BROADWAY, LLC, a Delaware limited liability company ("Owner"), and the CITY OF LONG BEACH, a municipal corporation (the "City").

Recitals

A. Owner is the owner of that certain real property consisting of unimproved land located in the City of Long Beach, County of Los Angeles, State of California, more particularly described in Exhibit A hereto (the "Property").

B. A storm drain owned by Los Angeles County (the "County") runs beneath the Property and certain real property owned by the City adjacent to the Property in the City of Long Beach, County of Los Angeles, State of California, more particularly described in Exhibit B hereto ("City Property").

C. As part of Owner's development of the Property, Owner and City desire to relocate the storm drain from underneath the Property and the City Property into the City right-of-way (the "Relocation Project"), as more particularly described on Exhibit C attached hereto and incorporated herein by this reference.

D. The Relocation Project work is estimated to commence on or around November 2015.

E. The parties desire that Owner, as owner of the Property, undertake and complete the Relocation Project.

F. Owner and the City wish to share certain costs, and provide for certain reimbursement rights for Owner, with respect to the Relocation Project, on the terms and conditions set forth in this Agreement.

Agreement

NOW, THEREFORE, in consideration of the covenants and agreements set forth in this Agreement, the parties agree as follows:

1. RELOCATION PROJECT WORK

1.1 Performance of Relocation Project Work. Owner intends to undertake the completion of the Relocation Project work, including, without limitation, designing, permitting, construction, and entering into all contracts with contractors for the work, subject to the City's reimbursement as set forth in this Agreement. Once Owner commits to undertaking the Relocation Project, Owner shall have the sole right to control, manage and complete the Relocation Project, including, the approval of any change orders (subject to Section 1.2 below), the application of any funds received from the City, and the hiring and firing of vendors and contractors, all subject to the rights of the City as set forth in this Agreement. All Relocation Project work shall be completed

in accordance with the specifications set forth in Exhibit D attached hereto and incorporated herein, which have been approved by the City and County ("Specifications"); provided, however, that the removal of the existing storm drain pipe from the Property and the City Property is not part of the Relocation Project even though such removal may be indicated in the Specifications. Nothing herein, shall obligate Owner to undertake any work or obligation except as provided in this Agreement.

1.2 Change Orders. In the event of any modification to (a) the Specifications, (b) the Bid, or (c) the Construction Contract (as defined below) in excess of \$30,000 (a "Change Order"), Owner shall seek the approval of the City for such Change Order, which approval shall not be unreasonably withheld or delayed. If the City fails to approve a Change Order within two (2) business days of its receipt of a request for such approval, the City shall be deemed to have approved the Change Order. Owner shall not be required to obtain the City's approval to a Change Order in the event that an Emergency Condition arises in connection with the Relocation Project. "Emergency Condition" means a condition that threatens or endangers life, property, or public safety, or an act of government, such as a declaration that requires the stoppage of construction.

1.3 Bids. Owner shall solicit bids for the Relocation Project work and timely submit to the City all bids it has received, including Owner's recommendation for the lowest qualified bid received (the "Bid"). Solely to the extent the City reasonably determines that the costs and estimates set forth on the Bid are unreasonable based on the then current market rate for comparable work in the City of Long Beach, the City shall have ten (10) business days from the date of its receipt of the Bid to notify Owner of its objections to the Bid, if any. If no such objection notice is received by Owner within such time period, the City shall be deemed to have approved such Bid, all of the cost estimates set forth therein, and Owner's engagement of the contractor of such Bid ("Contractor") for the Relocation Project pursuant to a construction contract (the "Construction Contract"), containing terms and conditions reasonably approved by Owner. Owner shall provide the City with a copy of the Construction Contract once it has been executed by the parties. If the City timely notifies Owner of its objections to the Bid in accordance with the foregoing, then within fifteen (15) business days thereafter, the parties shall meet and confer in good faith to discuss the Bid and either mutually agree upon the Bid or to consider another bid, in which case the parties shall comply with the same submission and approval process set forth above in this Section 1.3.

1.4 Time of Completion. Owner shall commence the Relocation Project work on or before April 16, 2016 and shall use commercially reasonable efforts to complete all work by August 30, 2016, subject to any "Unavoidable Delay", which includes, but is not limited to, actions or failures to act by the City, the County of Los Angeles, Los Angeles County Metropolitan Transportation Authority, strikes, acts of God, fire, earthquake, floods, explosion, actions of the elements, other accidents or casualty, declared or undeclared war, riots, mob violence, inability to procure or a general shortage of labor, equipment, facilities, energy, materials or supplies in the open market, failure of transportation, lockouts, tenant delays, actions of labor unions, condemnation, court orders, laws, rules, regulations or orders of governmental authorities, or other cause beyond the reasonable control of Owner (other than a delay in permitting in its ordinary course). Time is of the essence hereunder. The City will suffer damage if the work is not completed within the time stated, but those damages would be difficult or impractical to determine. Accordingly, Owner shall pay to the City, as liquidated damages, the amount of Three Hundred

Thirty-Three Dollars Thirty-Three Cents (\$333.33) per calendar day that Owner exceeds the specified time of completion, subject to any Unavoidable Delay.

1.5 Reimbursement by the City. The City shall reimburse Owner for the City's pro rata share of the costs incurred by Owner in connection with the Relocation Project, including, without limitation, design fees, permitting costs and administration costs (collectively, the "Costs"), as and when due pursuant to the terms and conditions set forth in Article 2 below.

1.6 Prevailing Wages. Owner shall cause all work performed in connection with construction of the Relocation Project work to be performed in compliance with all applicable federal and state labor standards, including the prevailing wage provisions of sections 1770 *et seq.* of the California Labor Code. Owner shall indemnify, defend and hold the City, its Boards, Commissions, and their officials, employees and agents ("Indemnified Parties") harmless from any and all claims, causes of action or liabilities that may be asserted against or incurred by Indemnified Parties with respect to or in any way arising from the Relocation Project work's compliance with or failure to comply with applicable federal and state labor requirements including, without limitation, the requirements of California Labor Code section 1770 *et seq.*

1.7 Indemnification. Owner shall indemnify, hold harmless, and protect Indemnified Parties from and against any and all demands, liability, loss, suit, claim, action, cause of action, damage, cost, judgment, settlement, decree, arbitration award, stop notice, penalty, loss of revenue, and expense (including, but not limited to, any fees of accountants, attorneys, experts or other professionals, and costs of investigation, mediation, arbitration, litigation and appeal), in law or in equity, of every kind and nature whatsoever, arising out of or in connection with, resulting from or related to, or claimed to be arising from Owner's breach of this Agreement or the Relocation Project work performed by Owner, or any of its officers, agents, employees, subcontractors of any tier, material suppliers, or any person for whose acts any of them may be liable, regardless of whether such claim, suit or demand is caused, or alleged to be caused, in part, by an Indemnified Party.

2. REIMBURSEMENTS AND GENERAL TERMS

2.1 Reimbursement of Owner. The City shall reimburse Owner for the Costs, in accordance with the following terms and conditions:

2.1.1 Pro Rata Share. All reimbursements required to be made to Owner from the City shall be based on the City's pro rata share of the Costs, which is as follows:

- (a) City: 45%
- (b) Owner: 55%

2.1.2 Notification of Amounts. No later than fifteen (15) business days after Completion of the Relocation Project, Owner agrees to notify the City in writing the Costs incurred for completing the Relocation Project work. Payment requests made by Owner shall be accompanied by copies of evidence of payment and reconciled against the project budget. Any use of the contingency shall be identified against the line item to which it has been applied.

2.1.3 Reimbursement Payment. Upon Completion of the Relocation Project, Owner shall, in addition to the submission of materials described in Section 2.1.2 above, submit to the City copies of final lien waivers from all contractors, subcontractors and suppliers to be paid by Owner with respect to the Relocation Project. Within thirty (30) days after receipt of such materials and lien waivers, the City shall pay Owner the City's proportionate share of the amount of such invoices. Owner shall certify on the payment request that Completion of the Relocation Project has occurred in full conformance with this Agreement and Owner is entitled to receive payment. "Completion" shall mean that the City and the County of Los Angeles have inspected the Relocation Project and Owner has provided certificates from the applicable Design Professionals stating that, to the best of such Design Professional's knowledge, (1) the Relocation Project (A) has been substantially completed in accordance with the Specifications, (B) is structurally sound (the certification as to structural soundness to be made by the structural engineer only), and (C) is available for use by the City and Owner, and (2) the Relocation Project, as so completed, complies with all applicable laws. "Design Professional" shall mean, collectively, the Owner's civil engineer and other design professionals relating to the Relocation Project.

2.2 Specifications & Budget/Records.

2.2.1 Specifications & Budget. As of the date of this Agreement, the Specifications have been completed and are approved by both the County of Los Angeles and the City. The permit required by the County for the Relocation Project needs to be re-issued, having previously expired. The permit required by the City can be re-issued by Owner, subject to the payment of the appropriate fees, which shall be paid and included as part of the budget for the Relocation Project.

2.2.2 The project budget may contain a contingency line item of up to ten percent (10%) of total costs. Solely to the extent the City reasonably determines that the construction plans and the project budget are materially inconsistent with the Bid or the Specifications, the City shall have the right, within ten (10) business days following the City's receipt thereof, to notify Owner of its objections to the construction plans and the project budget. In the event the City does not timely submit to Owner written comments on the construction plans and budget within such ten (10) business days, the construction plans and project budget shall be deemed approved by the City. In the event the City timely objects to the construction plans and project budget in accordance with the foregoing provisions of this Section 2.2.2 with specificity in writing, the parties shall meet and confer in good faith within fifteen (15) business days of the date of Owner's receipt of the City's written objections to attempt to resolve the objections. If the parties cannot in good faith resolve the issues after meeting and conferring within such fifteen (15) day period, then either party may elect the dispute to be resolved pursuant to the alternative dispute resolution method described in Section 2.4 below. In the event any governmental agency requests revisions to the construction plans after approval or deemed approval thereof by the City or Owner proposes to make any material changes to the construction plans or the project budget, Owner shall re-submit such revisions to the City for the City's approval in accordance with the mechanism set forth above in this Section 2.2.2. Notwithstanding any contrary provision of this Agreement, any increases in the project budget resulting from requirements imposed by any governmental agency and/or unforeseen conditions only relative to the City Property, including, without limitation, strikes, casualties, governmental restrictions or priority, and other causes beyond the reasonable control of Owner shall be a part of the Costs subject to reimbursement by the City.

2.2.3 The City's reimbursement obligation shall be initially limited to \$1,700,000; provided, however, that the City shall seek additional funding from the City Council immediately upon notice from Owner that the City's share of costs is reasonably likely to exceed \$1,700,000. City Staff shall take all reasonable steps to forward a request for additional funding to the City Council and shall recommend the approval of such funding. The City Council shall take all necessary and legal actions to approve increased funding for the City's share of additional costs. Owner has the right to stop work in the event Owner notifies City of the likely increase in costs and City takes no action in response thereto and any stoppage of work shall not constitute a default on the part of Owner .

2.3 City's Inspection Rights: Acceptance of the Relocation Project. The City shall have the right, upon reasonable advance notice, to inspect the Relocation Project to ensure that such work is proceeding in compliance with the construction plans approved (or deemed approved) by the City. Owner shall have the right to be present at each such inspection. Upon Completion, the City shall accept the Relocation Project.

2.4 Dispute Resolution. If any dispute or difference of any kind (a "Dispute") arises between the City and Owner in connection with, or arising out of, this Agreement, the City and Owner within the time set forth in the applicable provision attempt to settle such Dispute in the first instance through discussions. The designated representatives of the City and Owner will promptly confer and exert their best efforts in good faith to reach a reasonable and equitable resolution of such Dispute. If the parties are unable to resolve the Dispute within the applicable period of time, either party may elect to refer the Dispute to non-binding mediation, to be conducted by a mutually acceptable mediator in Los Angeles, California within 30 days after the referral, with each party equally sharing the costs and expenses of the mediator.

3. TERM

The term of this Agreement shall commence on the Effective Date and expire upon the Completion of the Relocation Project and the City's payment of all amounts required to be reimbursed by the City under this Agreement with respect to the Relocation Project (the "Term").

4. DEFAULTS AND REMEDIES

4.1 Defaults. The occurrence of any one or more of the following events shall constitute a material default and breach of this Agreement by the non-performing party (the "Defaulting Party"):

4.1.1 The failure to make any payment required to be made hereunder within ten (10) business days after the due date; provided, however, Owner shall have provided the City a second written notice after such due date referencing this Section of the Agreement and the City shall have failed to make any such payment within three (3) business days after such second notice.

4.1.2 The failure to observe or perform any of the covenants, conditions or obligations of this Agreement, other than as described in Section 5.1.1 above, within thirty (30) business days after the issuance of a written notice by another party (the "Non-Defaulting Party") specifying the nature of the default claimed.

4.2 Remedies.

4.2.1 Remedies in General. Each Non-Defaulting Party shall have the right to prosecute any proceedings at law or in equity against any Defaulting Party hereto violating or attempting to violate or defaulting upon any of the provisions contained in this Agreement, and to recover damages for any such violation or default. All of the remedies permitted or available to a party under this Agreement or at law or in equity shall be cumulative and not alternative, and the invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right or remedy.

5. COOPERATION

The City agrees to reasonably cooperate with Owner in connection with Owner Construction of the Relocation Project. Without limiting the generality of the foregoing, the City, in its role as the owner of the City Property, agrees not to oppose, raise objections to or otherwise attempt to restrict, hinder or delay Owner's Completion of the Relocation Project, as long as such work is consistent with the Specifications. If, in addition to the easement granted pursuant to that certain Temporary Easement Agreement between Owner and City, executed as of the date hereof (the "Temporary Easement Agreement"), any temporary or permanent easements or licenses on, under, over or otherwise with respect to any real property owned by the City for access, grading, utilities, overhangs, encroachments, or facilities are identified during the performance of the Relocation Project that are reasonably necessary for the Relocation Project, and that do not materially interfere with the City's improvements or future development and/or the use of the City Property, the City agrees to cooperate in good faith promptly upon request to prepare and execute all such easements and licenses in order to complete the Relocation Project in accordance with the Specifications. All such easements shall be granted without compensation and contain commercially reasonable provisions concerning construction, maintenance and repair.

6. COVENANT AGAINST ASSIGNMENT

Neither the City nor Owner shall assign its rights or delegate its duties under this Agreement, or any interest in this Agreement, or any portion of it, without the prior approval of the other party; except that Owner may assign this Agreement to any affiliate or subsidiary of AMLI Residential Partners, LLC. In the event that the City assigns its rights under this Agreement to a third-party buyer of the City Property, Owner shall not unreasonably withhold its consent to such assignment, but in the event of any approved assignment City shall remain liable to Owner for the reimbursement obligations set forth in Section 2.1.3 of this Agreement and the right to record the Quitclaim Deed (as defined below) set forth in Section 8 of this Agreement. Any other attempted assignment or delegation shall be void, and any assignee or delegate shall acquire no right or interest by reason of an attempted assignment or delegation.

7. ESTOPPEL CERTIFICATE

7.1 Agreement to Provide. Each party agrees that upon written request (which shall not be more frequent than three (3) times during any calendar year) of the other party but only in connection with a sale or financing of the Property or a direct or indirect equity investment in a party, it will issue within fifteen (15) business days after receipt of such request to such party,

or its prospective mortgagee or successor, an estoppel certificate stating to the best of the issuer's knowledge as of such date:

7.1.1 Whether it knows of any default under this Agreement by the requesting party, and if there are known defaults, specifying the nature thereof in reasonable detail.

7.1.2 Whether this Agreement has been assigned, modified or amended in any way by it, and, if so, then stating the nature thereof in reasonable detail.

7.1.3 Whether this Agreement is in full force and effect.

7.1.4 Whether any amounts are owed (whether due or not) from the requesting party to the party giving such estoppels certificate.

7.2 Binding Effect. Such estoppel certificate shall act to estop the issuer from asserting a claim or defense against a bona fide encumbrancer or purchaser for value to the extent that such claim or defense is based upon facts known to the issuer as of the date of the estoppel certificate which are contrary to the facts contained therein, and such bona fide purchaser or encumbrancer has acted in reasonable reliance upon such estoppel certificate without knowledge of facts to the contrary. The issuance of an estoppel certificate shall in no event subject the issuer to any liability for the negligent or inadvertent failure of the issuer to disclose correct and/or relevant information, nor shall such issuance be construed to waive any rights of the issuer under this Agreement or to challenge acts committed by other party for which approval was required but not sought or obtained.

8. QUITCLAIM DEED

The City desires the release of the Temporary Easement Agreement promptly upon the expiration of the Term. Accordingly, Owner, within five (5) business days of the recordation of the Temporary Easement Agreement, shall execute and deliver that certain Quitclaim Deed in the form attached hereto as Exhibit E (the "Quitclaim Deed"), subject only to the inclusion of the recording information for the Temporary Easement Agreement. City shall hold the Quitclaim Deed until the expiration of the Term, upon which date City is authorized to record the Quitclaim Deed in the Official Records of the County Los Angeles in order to release the Temporary Easement Agreement. If City records the Quitclaim Deed prior to the expiration of the Term, the City acknowledges and agrees that Owner shall suffer irreparable harm and damages (whether actual, consequential or exemplary) if Owner loses access to the City Property and is unable to complete the Relocation Project. City and Owner agree that money damages alone would not be an adequate remedy for breach of this Section 8. Accordingly, in addition to any other remedies Owner may have under the laws of the State of California, Owner shall be entitled to specific performance, injunctive and/or other equitable relief as a remedy or remedies for any breach of the confidentiality and other obligations of this Agreement.

9. NEGATION OF PARTNERSHIP/JOINT VENTURE

None of the terms or provisions of this Agreement shall be deemed to create a partnership between or among the parties in their respective businesses or otherwise, nor shall it cause them to be considered joint venturers or members of any joint enterprise. Each party shall be considered

a separate owner, and no party shall have the right to act as an agent for another party, unless expressly authorized to do so herein or by separate written instrument signed by the party to be charged.

10. MISCELLANEOUS

10.1 Notices.

10.1.1 All notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly delivered (a) upon the delivery (or refusal to accept delivery) by messenger or overnight express delivery service (or, if such date is not on a business day, on the business day next following such date), or (b) on the third (3rd) business day next following the date of its mailing by certified mail, postage prepaid, at a post office maintained by the United States Postal Service, or (c) upon the receipt by facsimile transmission as evidenced by a receipt transmission report (followed by delivery by one of the other means identified in (a)-(b)), or (d) on the date and time shown on the sender's e-mail caption if the sender does not receive a failed delivery notification from its email software application of network server, addressed as follows:

OWNER:

PPF AMLI 245 WEST BROADWAY, LLC
1945 Vaughn Road
Kennesaw, GA 30144
Attn: Mr. Philip N. Tague
Facsimile: (770) 281-3310
Email: ptague@amli.com

and

PPF AMLI 245 WEST BROADWAY, LLC
3090 Bristol Street
Suite 260
Costa Mesa, CA 92626
Attn: Mr. Jason Armison
Facsimile: (714) 850-6574
Email: jarmison@amli.com

With copy to:

Holland & Knight LLP
400 South Hope Street, 8th Floor
Los Angeles CA 90071
Attention: Douglas A. Praw, Esq.
Facsimile: (213) 896-2540
Email: doug.praw@hklaw.com

THE CITY:

City of Long Beach
Public Works Department
333 W. Ocean Blvd., #9
Long Beach, CA 90802
Attention: Director of Public Works
Facsimile: (562) 570-6012
Email: ara.maloyan@longbeach.gov

With a copy to:

City of Long Beach
City Attorney
333 W. Ocean Blvd., #9
Long Beach, CA 90802
Attention: Principal Deputy City Attorney
Facsimile: (562) 436-1579
Email: cityattorney@longbeach.gov

Upon at least ten (10) business days prior written notice, each party shall have the right to change its address to any other address within the United States of America.

10.2 Construction and Interpretation.

10.2.1 This Agreement and the Exhibits hereto contain all the representations and the entire agreement between the parties with respect to the subject matter hereof. Any prior negotiations, correspondence, memoranda or agreements are superseded in total by this Agreement and the Exhibits attached hereto. This Agreement has been fully negotiated at arms-length between the signatories hereto, and after advice by counsel and other representatives chosen by such parties, and such parties are fully informed with respect thereto; no such party shall be deemed the scrivener of this Agreement; and, based on the foregoing, the provisions of this Agreement and the Exhibits hereto shall be construed as a whole according to their common meaning and not strictly for or against any party.

10.2.2 The captions preceding the text of each article and section of this Agreement are included only for convenience of reference. Captions shall be disregarded in the construction and interpretation of this Agreement. Capitalized terms are also selected only for

convenience of reference and do not necessarily have any connection to the meaning that might otherwise be attached to such term in a context outside of this Agreement.

10.2.3 Invalidation of any of the provisions contained in this Agreement, or of the application thereof to any Person by judgment or court order, shall in no way affect any of the other provisions hereof or the application thereof to any other Person and the same shall remain in full force and effect.

10.2.4 This Agreement may be amended by, and only by, a written agreement signed by all of the parties.

10.2.5 This Agreement may be executed in several counterparts, each of which shall be deemed an original. The signatures to this Agreement may be executed and notarized on separate pages, and when attached to this Agreement shall constitute one (1) complete document.

10.3 Not a Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Property to the general public, or for any public use or purpose whatsoever. Except as herein specifically provided, no right, privileges or immunities of any party hereto shall inure to the benefit of any third-party person or entity, nor shall any third-party person or entity be deemed to be a beneficiary of any of the provisions contained herein.

10.4 Time is of the Essence. Time is of the essence of this Agreement and each and every provision thereof.

10.5 No Waiver. The failure of any party to insist upon strict performance of any of the terms, covenants or conditions hereof shall not be deemed a waiver of any rights or remedies which that party may have hereunder, at law or in equity, and shall not be deemed a waiver of any subsequent breach or default in any of such terms, covenants or conditions. No waiver by any party of any default under this Agreement shall be effective or binding on such party unless made in writing by such party and no such waiver shall be implied from any omission by a party to take action in respect to such default. No express written waiver of any default shall affect any other default or cover any other period of time other than any default and/or period of time specified in such express waiver. One (1) or more written waivers of any default under any provision of this Agreement shall not be deemed to be a waiver of any subsequent default in the performance of the same provision or any other term or provision contained in this Agreement.

10.6 Further Actions. Each of the parties agrees to execute and deliver all further documents and to take all further actions reasonably necessary to effectuate the purposes of this Agreement; provided that such further documents or actions do not impose upon the parties any obligations, duties, liabilities or responsibilities which are not expressly provided for in this Agreement.

10.7 Discretion Retained By City. After the approval by the City Council of this Agreement, provided that there are no material changes to the Relocation Project, any additional approvals required of the City, as called for in various sections of this Agreement, shall be delegated to the Director of Public Works for the City or its designee, and shall not require any further public hearings or additional discretionary approvals from the City; provided, however,

that nothing contained in this Section 10.7 shall be construed as allowing the City to delegate its legislative authority or providing treatment to Owner that is more favorable than otherwise granted to the general public.

10.8 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

[Signatures appear on the following page.]

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by their duly authorized representatives as of the Effective Date.

OWNER:


PPF AMLI 245 WEST BROADWAY, LLC,
a Delaware limited liability company

By: PPF AMLI DEVCO, LLC,
a Delaware limited liability company
Its: sole member

By: PPF AMLI Development, LLC,
a Delaware limited liability company,
Its: manager

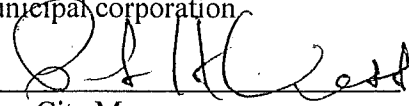
By: AMLI Residential Properties, L.P.,
a Delaware limited partnership,
Its: manager

By: AMLI Residential Partners LLC,
a Delaware limited liability company,
Its: general partner

By: 
Name: Jason Armison
Title: Authorized Person

THE CITY:

CITY OF LONG BEACH,
a municipal corporation

By: 
Its: City Manager
Name: Patrick H. West

APPROVED AS TO FORM:

By: _____
City Attorney

APPROVED AS TO FORM

1-4, 2016
CHARLES PARKIN, City Attorney

By: 
RICHARD ANTHONY
DEPUTY CITY ATTORNEY

EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY

PARCEL 1:

LOT 1 OF LONG BEACH DEPOT TRACT, IN THE CITY LONG BEACH, AS PER MAP RECORDED IN BOOK 83 PAGES 91 AND 92 OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, AND THAT PORTION OF THE TOWNSITE OF LONG BEACH, IN SAID CITY, COUNTY AND STATE, AS PER MAP RECORDED IN BOOK 19 PAGES 91 TO 96 INCLUSIVE OF MISCELLANEOUS RECORDS, IN SAID RECORDER'S OFFICE, DESCRIBED AS A WHOLE AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 16 IN BLOCK 87 OF SAID TOWNSITE OF LONG BEACH, THENCE EASTERLY, ALONG THE SOUTHERLY LINE OF SAID LOT 16 (AND ITS EASTERLY PROLONGATION) TO THE SOUTHWEST CORNER OF LOT 15 IN SAID BLOCK 87, THENCE EASTERLY ALONG THE SOUTHERLY LINE OF SAID LOT 15 (AND ITS EASTERLY PROLONGATION) TO THE EASTERLY LINE OF PACIFIC AVENUE WEST (60 FEET WIDE) SHOWN ON SAID MAP OF TOWNSITE OF LONG BEACH, AS PACIFIC AVENUE, ADJOINING SAID LOT 15 ON THE EAST, THENCE SOUTHERLY ALONG SAID EASTERLY LINE OF SAID PACIFIC AVENUE WEST TO THE EASTERLY PROLONGATION OF THE SOUTHERLY LINE OF SAID LOT 1 OF LONG BEACH DEPOT TRACT, THENCE WESTERLY ALONG SAID LAST MENTIONED PROLONGATION AND ALONG SAID SOUTHERLY LINE OF LOT 1 TO THE SOUTHWEST CORNER OF SAID LOT 1, THENCE NORTHERLY ALONG THE WESTERLY LINE OF SAID LOT 1 (AND ITS NORTHERLY PROLONGATION) TO THE POINT OF BEGINNING.

EXCEPT THEREFROM ALL OIL, GAS, HYDROCARBON SUBSTANCES AND MINERALS OF EVERY KIND AND CHARACTER LYING MORE THAN TWO HUNDRED (200) FEET BELOW THE SURFACE OF SAID LAND, TOGETHER WITH THE RIGHT TO DRILL INTO, THROUGH, AND TO USE AND OCCUPY ALL PARTS OF SAID LAND LYING MORE THAN TWO HUNDRED (200) FEET BELOW THE SURFACE THEREOF FOR ANY AND ALL PURPOSES INCIDENTAL TO THE EXPLORATION FOR AND PRODUCTION OF OIL, GAS, HYDROCARBON SUBSTANCES OR MINERAL FROM SAID OR OTHER LANDS, BUT WITHOUT, HOWEVER, ANY RIGHT TO USE EITHER THE SURFACE OF SAID LAND OR ANY PORTION OF SAID LAND WITHIN TWO HUNDRED (200) FEET OF THE SURFACE FOR ANY PURPOSE OR PURPOSES WHATSOEVER.

ALSO EXCEPT ALL OIL AND GAS AS RESERVED BY DWIGHT ARNOW LANE AND KAY LANE IN DEED TO CITY OF LONG BEACH RECORDED JANUARY 2, 1976 AS INSTRUMENT NO. 245; AND

ALSO EXCEPT ALL OIL AND GAS AS RESERVED BY A' DOCK DECKER, AS TRUSTEE UNDER THE WILL OF ELIZABETH B. DECKER, DECEASED, IN DEED TO CITY OF LONG BEACH RECORDED DECEMBER 1, 1975 AS INSTRUMENT NO. 30.

PARCEL 2:

LOTS 11, 12, 13, 14, 15, 16 AND PORTIONS OF LOTS 9 AND 10, IN BLOCK 87 OF THE TOWNSITE OF LONG BEACH IN THE CITY OF LONG BEACH, AS PER MAP RECORDED IN BOOK 19 PAGES 91 TO 96 INCLUSIVE OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF LOS ANGELES, TOGETHER WITH THE ABUTTING STREET AND ALLEY, AND LYING WITHIN THE FOLLOWING DESCRIBED BOUNDARY LINE:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 16 OF SAID BLOCK 87, 1 HENCE NORTHERLY ALONG THE WESTERLY LINE OF LOTS 16, 14, 12 AND 10 OF SAID BLOCK TO A LINE THAT IS PARALLEL WITH AND DISTANT 2 FEET NORTHERLY, MEASURED AT RIGHT ANGLES, FROM THE SOUTHERLY LINE OF SAID LOT 10, THENCE EASTERLY ALONG SAID PARALLEL LINE AND ITS EASTERLY PROLONGATION TO THE EASTERLY LINE OF PACIFIC AVENUE WEST, SAID EASTERLY LINE BEING THE WESTERLY LINE OF "LIBRARY BLOCK" AS SHOWN ON SAID MAP OF THE TOWNSITE OF LONG BEACH, THENCE SOUTHERLY ALONG SAID EASTERLY LINE OF PACIFIC AVENUE WEST TO THE INTERSECTION WITH THE EASTERLY PROLONGATION OF THE SOUTHERLY LINE OF SAID LOT 16, THENCE WESTERLY ALONG SAID PROLONGATION AND SOUTHERLY LINE TO THE POINT OF BEGINNING.

EXCEPT THEREFROM ALL OIL GAS, HYDROCARBON SUBSTANCES AND MINERALS OF EVERY KIND AND CHARACTER LYING MORE THAN FIVE HUNDRED (500) FEET BELOW THE SURFACE OF SAID LAND, TOGETHER WITH THE RIGHT TO DRILL INTO, THROUGH AND TO USE AND OCCUPY ALL PARTS OF SAID LAND LYING MORE THAN FIVE HUNDRED (500) FEET BELOW THE SURFACE THEREOF FOR ANY AND ALL PURPOSES INCIDENTAL TO THE EXPLORATION FOR AND PRODUCTION OF OIL, GAS, HYDROCARBON SUBSTANCES OR MINERALS FROM SAID OR OTHER LANDS, BUT WITHOUT, HOWEVER ANY RIGHT TO USE EITHER THE SURFACE OF SAID LAND OR ANY PORTION OF SAID LAND WITHIN FIVE HUNDRED (500) FEET OF THE SURFACE FOR ANY PURPOSE OF PURPOSES WHATSOEVER.

ALSO EXCEPT THEREFROM, WITH RESPECT TO SAID LOTS 14 AND 16, ALL OIL, GAS, HYDROCARBON SUBSTANCES AND MINERALS OF EVERY KIND AND CHARACTER, LYING MORE THAN FIVE HUNDRED (500) FEET BELOW THE SURFACE OF SAID LAND, TOGETHER WITH THE RIGHT, TO DRILL INTO THROUGH AND TO USE AND OCCUPY ALL PARTS OF SAID LAND LYING MORE THAN FIVE HUNDRED (500) FEET BELOW THE SURFACE THEREOF FOR ANY AND ALL PURPOSES INCIDENTAL TO THE EXPLORATION FOR AND PRODUCTION OF OIL, GAS, HYDROCARBON SUBSTANCES OR MINERALS FROM SAID OR OTHER LANDS, BUT WITHOUT, HOWEVER, ANY RIGHT TO USE EITHER THE SURFACE OF SAID LAND OR ANY PORTION OF SAID LAND WITHIN FIVE HUNDRED (500) FEET OF THE SURFACE FOR ANY PURPOSE OR PURPOSES WHATSOEVER, AS SET OUT IN DEED

EXHIBIT B
LEGAL DESCRIPTION OF THE CITY PROPERTY

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

LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9 AND 10 IN BLOCK 87 OF THE CITY OF LONG BEACH, AS PER MAP RECORDED IN BOOK 19 PAGE 91, ET SEQ., OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, TOGETHER WITH THAT PORTION OF PARK COURT (VACATED) AS SHOWN ON THE MAP OF SAID TRACT, ADJOINING LOTS 1, 3, 5, 7, AND 9 ON THE WEST AND ADJOINING LOTS 2, 4, 6, 8 AND 10 ON THE EAST, AND ALSO TOGETHER WITH THAT PORTION OF THE STREET FORMERLY KNOWN AS PACIFIC AVENUE WEST (VACATED) ADJOINING LOTS 1, 3, 5, 7 AND 9 ON THE EAST.

EXCEPTING THEREFROM ALL OF THAT LAND AS DESCRIBED IN THE DEED TO THE STATE OF CALIFORNIA DATED MARCH 20, 1979 AND RECORDED OCTOBER 2, 1979 AS INSTRUMENT NO. 79-1096324 OF OFFICIAL RECORDS OF SAID COUNTY.

EXCEPTING AND RESERVING ALL OIL GAS, HYDROCARBON SUBSTANCES AND MINERALS OF EVERY KIND AND CHARACTER LYING MORE THAN FIVE HUNDRED (500) FEET BELOW THE SURFACE OF SAID LAND, TOGETHER WITH THE RIGHT TO DRILL INTO, THROUGH AND TO USE AND OCCUPY ALL PARTS OF SAID LAND LYING MORE THAN FIVE HUNDRED (500) FEET BELOW THE SURFACE THEREOF FOR ANY AND ALL PURPOSES INCIDENTAL TO THE EXPLORATION FOR AND PRODUCTION OF OIL, GAS, HYDROCARBON SUBSTANCES OR MINERALS FROM SAID OR OTHER LANDS, BUT WITHOUT, HOWEVER ANY RIGHT TO USE EITHER THE SURFACE OF SAID LAND OR ANY PORTION OF SAID LAND WITHIN FIVE HUNDRED (500) FEET OF THE SURFACE FOR ANY PURPOSE OR PURPOSES WHATSOEVER.

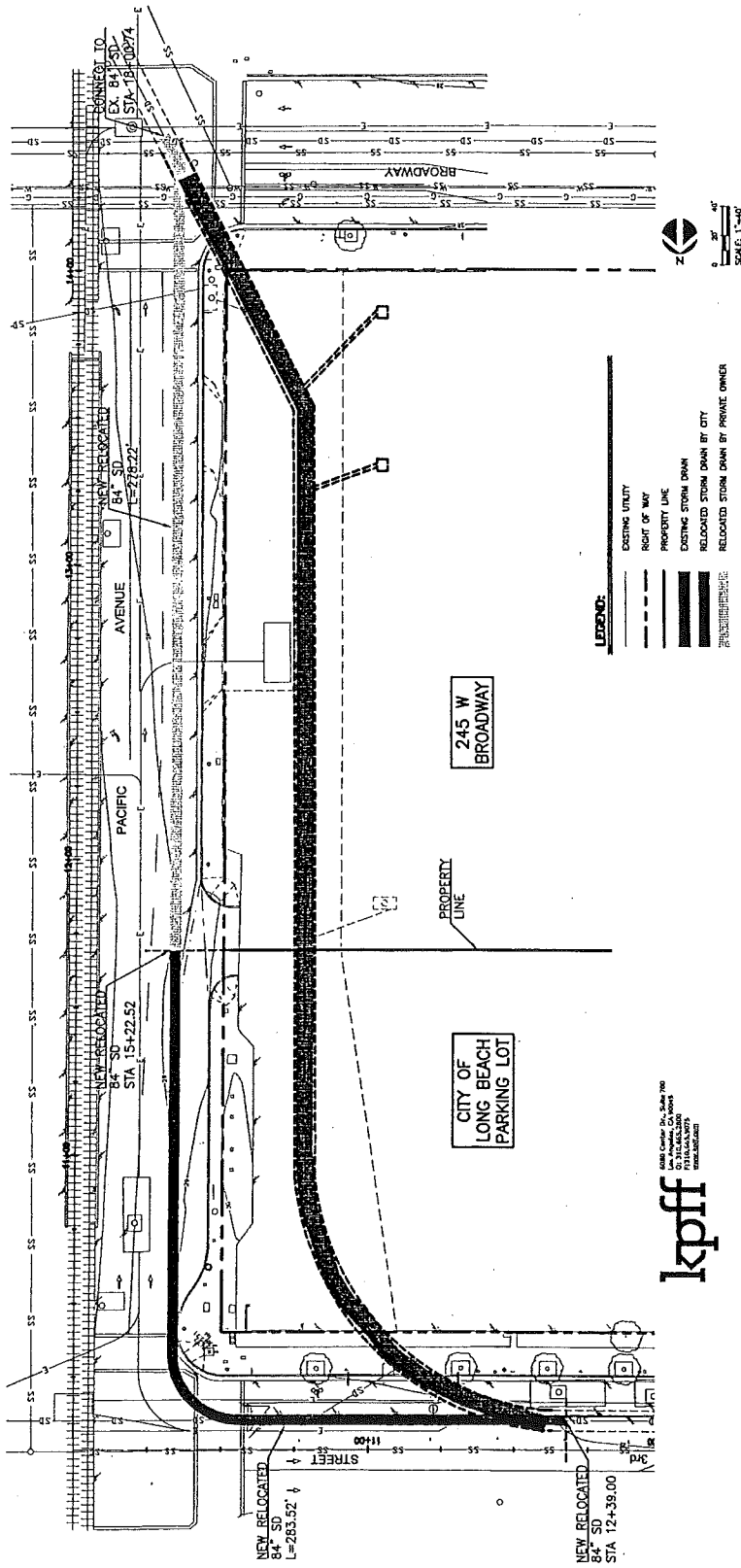
APN: 7280-022-914

END OF LEGAL DESCRIPTION

EXHIBIT C
DESCRIPTION OF THE RELOCATION PROJECT WORK

[Please see attached]

APPROVED STORM DRAIN PLAN



STORM DRAIN LENGTH SUMMARY
 CITY LOT FRONTAGE = 283.52 FT
 AMLI LOT FRONTAGE = 278.22 FT
 TOTAL FRONTAGE = 561.74 FT

EXHIBIT D
SPECIFICATIONS

[Please see attached]

Sheet No.

Sheet Name

Plan Date

CITY OF LONG BEACH PLANS

| | | |
|----|---|----------|
| 1 | STREET AND STORM DRAIN IMPROVEMENTS 3rd STREET, PACIFIC AVE, AND BROADWAY - TITLE SHEET | 5/6/2015 |
| 2 | STREET AND STORM DRAIN IMPROVEMENTS 3rd STREET, PACIFIC AVE, AND BROADWAY - GENERAL NOTES | 5/6/2015 |
| 3 | STREET AND STORM DRAIN IMPROVEMENTS 3rd STREET, PACIFIC AVE, AND BROADWAY - DEMOLITION PLAN | 5/6/2015 |
| 4 | STREET AND STORM DRAIN IMPROVEMENTS 3rd STREET, PACIFIC AVE, AND BROADWAY - STREET AND STORM DRAIN PLAN | 5/6/2015 |
| 5 | STREET AND STORM DRAIN IMPROVEMENTS 3rd STREET, PACIFIC AVE, AND BROADWAY - STORM DRAIN LATERAL PROFILES & TYPICAL STREET SECTION | 5/6/2015 |
| 6 | TRAFFIC SIGNAL MODIFICATION PHASE 1 PACIFIC AVENUE AND 3RD STREET | 5/6/2015 |
| 7 | TRAFFIC SIGNAL MODIFICATION PHASE 1 PACIFIC AVENUE AND 3RD STREET | 5/6/2015 |
| 8 | TRAFFIC SIGNAL MODIFICATION PHASE 1A PACIFIC AVENUE AND 3RD STREET | 5/6/2015 |
| 9 | TRAFFIC SIGNAL MODIFICATION PHASE 1A PACIFIC AVENUE AND 3RD STREET | 5/6/2015 |
| 10 | TRAFFIC SIGNAL MODIFICATION PHASE 2 BROADWAY AND PACIFIC AVE | 5/6/2015 |
| 11 | TRAFFIC SIGNAL MODIFICATION PHASE 2 PACIFIC AVENUE AND 3RD STREET | 5/6/2015 |
| 12 | TRAFFIC SIGNAL MODIFICATION PHASE 2 PACIFIC AVENUE AND 3RD STREET AND OCEAN AVENUE | 5/6/2015 |
| 13 | TRAFFIC SIGNAL MODIFICATION PHASE 2A BROADWAY AND PACIFIC AVE | 5/6/2015 |
| 14 | TRAFFIC SIGNAL RESTORATION PACIFIC AVENUE AND 3RD STREET | 5/6/2015 |
| 15 | TRAFFIC SIGNAL RESTORATION PACIFIC AVENUE AND 3RD STREET | 5/6/2015 |
| 16 | TRAFFIC SIGNAL RESTORATION PACIFIC AVENUE AND BROADWAY | 5/6/2015 |
| 17 | TEMPORARY SIGNING AND STRIPING PHASE: 1 PACIFIC AVENUE AND 3RD STREET | 5/6/2015 |
| 18 | TEMPORARY SIGNING AND STRIPING PHASE: 1A PACIFIC AVENUE AND 3RD STREET | 5/6/2015 |
| 19 | TEMPORARY SIGNING AND STRIPING PHASE: 2 PACIFIC AVENUE AND 3RD STREET | 5/6/2015 |
| 20 | TEMPORARY SIGNING AND STRIPING PHASE: 2A PACIFIC AVENUE AND 3RD STREET | 5/6/2015 |
| 21 | SIGNING AND STRIPING RESTORATION PACIFIC AVENUE AND 3RD STREET | 5/6/2015 |

SHORING PLANS

| | | |
|---|--|------------|
| 1 | PROJECT 132 LINE C SEASIDE STORM DRAIN REALIGNMENT STATION 12+44.96 TO 17+88.14 TEMPORARY EXCAVATION SYSTEM CASE 1 | 7/30/2014 |
| 2 | PROJECT 132 LINE C SEASIDE STORM DRAIN REALIGNMENT STATION 12+44.96 TO 17+88.14 TEMPORARY EXCAVATION SYSTEM CASE 1 | 7/30/2014 |
| 1 | PROJECT 132 LINE C SEASIDE STORM DRAIN REALIGNMENT STATION 12+44.96 TO 17+88.14 TEMPORARY EXCAVATION SYSTEM CASE 2 | 11/22/2014 |
| 2 | PROJECT 132 LINE C SEASIDE STORM DRAIN REALIGNMENT STATION 12+44.96 TO 17+88.14 TEMPORARY EXCAVATION SYSTEM CASE 2 | 11/22/2014 |
| 3 | PROJECT 132 LINE C SEASIDE STORM DRAIN REALIGNMENT STATION 12+44.96 TO 17+88.14 TEMPORARY EXCAVATION SYSTEM CASE 2 | 11/22/2014 |
| 4 | PROJECT 132 LINE C SEASIDE STORM DRAIN REALIGNMENT STATION 12+44.96 TO 17+88.14 TEMPORARY EXCAVATION SYSTEM CASE 2 | 11/22/2014 |
| 1 | PROJECT 132 LINE C SEASIDE STORM DRAIN REALIGNMENT STATION 12+44.96 TO 17+88.14 TEMPORARY EXCAVATION SYSTEM CASE 3 | 11/23/2014 |
| 2 | PROJECT 132 LINE C SEASIDE STORM DRAIN REALIGNMENT STATION 12+44.96 TO 17+88.14 TEMPORARY EXCAVATION SYSTEM CASE 3 | 11/23/2014 |
| 3 | PROJECT 132 LINE C SEASIDE STORM DRAIN REALIGNMENT STATION 12+44.96 TO 17+88.14 TEMPORARY EXCAVATION SYSTEM CASE 3 | 11/23/2014 |

LOS ANGELES COUNTY FLOOD CONTROL DISTRICT PLANS

| | | |
|---|--|-----------|
| 1 | PROJECT 132 LINE C SEASIDE STORM DRAIN AND INTERCEPTOR STORM DRAIN REALIGNMENT STATION 12+44.96 TO 17+88.14 - TITLE SHEET | 5/27/2014 |
| 2 | PROJECT 132 LINE C SEASIDE STORM DRAIN AND INTERCEPTOR STORM DRAIN REALIGNMENT STATION 12+44.96 TO 17+88.14 - PLAN PROFILE OF PROPOSED SD REALIGNMENT - THIRD ST. | 5/27/2014 |
| 3 | PROJECT 132 LINE C SEASIDE STORM DRAIN AND INTERCEPTOR STORM DRAIN REALIGNMENT STATION 12+44.96 TO 17+88.14 - PLAN PROFILE OF PROPOSED SD REALIGNMENT - PACIFIC AVE. | 5/27/2014 |
| 4 | PROJECT 132 LINE C SEASIDE STORM DRAIN AND INTERCEPTOR STORM DRAIN REALIGNMENT STATION 12+44.96 TO 17+88.14 - DETAILS | 5/27/2014 |

EXHIBIT E
FORM OF QUITCLAIM DEED

RECORDATION REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Long Beach
333 W. Ocean Blvd., 3rd Floor
Long Beach, CA 90802
Attn: Mary Torres

Free Recording Requested Under Government Code
Section 6103, Document Necessary Due to City Interest

QUITCLAIM DEED

For valuable consideration, receipt of which is hereby acknowledged, **PPF AMLI 245 WEST BROADWAY, LLC**, a Delaware limited liability company (“Grantor”), hereby quitclaims and releases to [OWNERSHIP ENTITY OF RECORD] (“Grantee”), all of its rights and interests, without any warranty or representation, in and to that certain real property in the City of Long Beach, County of Los Angeles, State of California, as described on the attached Exhibit “A”, incorporated by reference, including without limitation rights granted by that certain Temporary Easement Agreement dated as of December 1, 2015 and recorded in the Official Records of Los Angeles County as Instrument No. 2016_____.

[SIGNATURE BLOCK ON FOLLOWING PAGE]

ATTACHMENT NO. 6

EXCERPT FROM PROJECT AGREEMENT SECTION 12.1 (D) (1)

(D) Use of Funds Received for Conveyance.

(1) Pacific Site.

(a) if the conveyance of the Pacific Site occurs prior to the date of Financial Close, the Project Company shall deposit the net proceeds (as determined in accordance with the Pacific Site Conveyance Agreement) into an escrow account held by the City (the "**Pacific Site Escrow Account**"). To the extent that the net proceeds are less than \$8,000,000, the Project Company shall contribute funds or post a letter of credit issued by a Qualified Commercial Bank such that \$8,000,000 is deposited to the Pacific Site Escrow Account. Of the funds in the Pacific Site Escrow Account, \$8,000,000 shall be transferred to the Collateral Agent at Financial Close, and any amounts in excess of \$8,000,000 shall be transferred to a separate account for use in respect of the Project (the "**Pacific Site Excess Account**") as required, which shall be held by a Qualified Commercial Bank and be subject to a security interest in favor of the City. Amounts in the Pacific Site Escrow Account may not be disbursed by the Collateral Agent for any reason other than to construct the Project without the City's consent. If Financial Close does not occur, all amounts in the Pacific Site Escrow Account (other than any letter of credit as described above, which letter of credit shall be returned to the Project Company) and the Pacific Site Excess Account (if any) shall be remitted to the City.

(b) if the conveyance of the Pacific Site has not occurred by the date of Financial Close, the Project Company shall contribute funds or post a letter of credit issued by a Qualified Commercial Bank in the amount of \$8,000,000 to the Collateral Agent as a condition to achieving Financial Close. To the extent that net proceeds from the conveyance of the Pacific Site exceed \$8,000,000, any amounts in excess of \$8,000,000 shall be transferred to the Pacific Site Excess Account, which shall be held by a Qualified Commercial Bank and be subject to a security interest in favor of the City. Amounts in the Pacific Site Escrow Account may not be disbursed by the Collateral Agent for any reason other than to construct the Project without the City's consent.

(c) amounts held in the Pacific Site Excess Account may be invested in Permitted Investments at the discretion of the Project Company.

ATTACHMENT NO. 7

ENVIRONMENTAL INFORMATION DOCUMENTS

Items provided by City

- Preliminary Title Report dated December 3rd, 2013 (order number 00011748-994-X59)
- Will Serve Letter from Long Beach Gas and Oil dated February 18, 2015
- Will Serve Letter from Long Beach Gas and Oil dated February 25, 2015

Other 3rd Party reports

- Will Serve Letter from Southern California Edison dated March 19, 2015
- ALTA land survey by Hahn & Associates dated July 30, 2015
- Phase 1 Environmental Report by Amec Foster Wheeler dated February 27, 2015
- Phase 2 Environmental Report by Amec Foster Wheeler dated July 13, 2015
- Phase I/II Environmental Report by California Environmental dated February 25, 2016

ATTACHMENT NO. 8

SALES TAX DOCUMENTATION

During construction of the initial buildings to be constructed on the Site:

1. In order to enable the City to optimize local Tax revenues allowable under the applicable State Board of Equalization ("BOE") Guidelines for Local Tax Allocation, to the extent such guidelines apply to the Developer, contractor or the subcontractors constructing the Project, the Developer shall require the contractor or subcontractors to (a) obtain necessary sales/use Tax jobsite sub-permit(s), (b) comply with associated reporting requirements, and (c) procure tangible personal property when commercially reasonable in a manner that directs the local Tax to the City. Such procurement procedures include but are not limited to the Developer ordering purchases from its vendors' and suppliers' sales offices located in the City if commercially reasonable. The Developer agrees to require its contractors and subcontractors that are subject to sales/use Tax in an amount equal to or greater than \$500,000 for any individual purchases of materials consumed or fixtures sold in the City, to follow the BOE guidelines to enable the contractor or subcontractor to make a direct allocation to the City of sales/use tax, if commercially reasonable and applicable law so permits. The Developer further agrees to include in each construction contract, if the construction contract meets the minimum contract amount threshold required by the State Board of Equalization, to comply with the State Board of Equalization jobsite sub-permitting, reporting requirements and procurement procedures set forth in this paragraph so as to assist the City in optimizing its local Tax revenue allowable under California law. The Developer or the Approved Assignee shall be liable to City hereunder for its contractors' and/or subcontractors' failure to comply with the requirements of this Attachment No. 8; and
2. Sales/use Tax, if any, on engineering and/or construction services and on tangible personal property provided under or pursuant to this Agreement by the Developer, the Developer's contractors, or any subcontractor shall be remitted to the State of California on a timely basis and shall be reported to the City on a periodic basis. It is the Developer's responsibility to familiarize itself with the taxation of services and tangible personal property covered under this Agreement and under California law. The Developer shall cause the Developer's contractors and any subcontractor to comply with the requirements of this paragraph, and shall include or cause to be included in each contract or subcontract that no contractor or subcontractor shall bring any claim against the City for reimbursement of Taxes. The Developer shall require its contractors or any subcontractor to separately identify all sales/use Tax that qualifies per the BOE guidelines for Local Tax Allocation, to be paid by such contractor or subcontractor for services and tangible personal property related to the Site or the Developer.
3. The Developer shall identify classifications of major tangible personal property components (materials, fixtures, and machinery/equipment) to be furnished by the Developer pursuant to this Agreement. The Developer shall issue a resale certificate to vendors of tangible personal property classified as fixtures and machinery/equipment to the extent that they qualify under the BOE guidelines and are allowable by law. The

Developer shall require all of its contractors, and shall cause contractors to require all subcontractors, to issue resale certificates to vendors of tangible personal property classified as fixtures and machinery/equipment to the extent that they qualify under the BOE guidelines and are allowable by law.

4. Any penalties imposed or interest due as a result of Developer's late payment, nonpayment or incorrect payment of sales/use Tax will be the responsibility of and for the account of the Developer.

ATTACHMENT NO. 9

GENERAL ASSIGNMENT AND BILL OF SALE

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the City of Long Beach, a municipal corporation ("Seller"), hereby sells, assigns, transfers and conveys to DTLB PACIFIC, LLC, a Delaware limited liability company ("Developer"), all personal property, located or used at that certain real property in Long Beach, California, legally described in Exhibit 1 attached hereto (the "Personal Property"). The Personal Property includes, without limitation, accounts, deposit accounts, contracts, chattel paper, goods, general intangibles, inventory, investment property, other semi-intangibles, machinery, furniture, fixtures and other equipment, leasehold improvements, and government licenses and permits.

Seller covenants, warrants and represents to Developer that: Seller is the lawful owner of the Personal Property; Seller has the right to transfer and convey the Personal Property; Seller has good and marketable title to the Personal Property; and the Personal Property is free from all liens, claims, encumbrances, or security interests. Developer acknowledges that, subject to the foregoing representations and warranties, Developer shall be acquiring the Personal Property "as is" with all faults and defects, and in its existing condition.

Dated as of _____, 2016.

Seller:

CITY OF LONG BEACH,
a municipal corporation

By: _____
Patrick H. West
City Manager

EXHIBIT 1 TO ATTACHMENT NO. 9

LEGAL DESCRIPTION

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

PARCEL 1:

LOTS 2, 4, 6 AND 8 IN BLOCK 87 OF THE TOWNSITE OF LONG BEACH, IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 19 PAGE 91, ET SEQ., OF MISCELLANEOUS RECORDS OF SAID COUNTY, TOGETHER WITH THE WEST HALF OF PARK COURT, AS SHOWN ON THE MAP OF SAID TRACT, ADJOINING SAID LOTS ON THE EAST, LYING BETWEEN THE EASTERLY PROLONGATION OF THE NORTH LINE OF SAID LOT 2 AND THE EASTERLY PROLONGATION OF THE SOUTH LINE OF SAID LOT 8.

EXCEPTING AND RESERVING, ALL OIL, GAS, HYDROCARBON SUBSTANCES AND MINERALS OF EVERY KIND AND CHARACTER LYING MORE THAN FIVE HUNDRED (500) FEET BELOW THE SURFACE OF SAID LAND, TOGETHER WITH THE RIGHT TO DRILL INTO, THROUGH, AND TO USE AND OCCUPY ALL PARTS OF SAID LAND LYING MORE THAN FIVE HUNDRED (500) FEET BELOW THE SURFACE THEREOF FOR ANY AND ALL PURPOSES INCIDENTAL TO THE EXPLORATION FOR AND PRODUCTION OF OIL, GAS, HYDROCARBON SUBSTANCES OR MINERALS FROM SAID OR OTHER LANDS, BUT WITHOUT, HOWEVER, ANY RIGHT OF USE EITHER THE SURFACE OF SAID LAND OR ANY PORTION OF SAID LAND WITHIN FIVE HUNDRED (500) FEET OF THE SURFACE FOR ANY PURPOSE OR PURPOSES WHATSOEVER, AS SET OUT IN DEED RECORDED OCTOBER 7, 1977 AS INSTRUMENT NO. 77-1111402, OF OFFICIAL RECORDS.

PARCEL 2:

LOT 1, 3, 5, 7, 9 AND 10 IN BLOCK 87 OF THE TOWNSITE OF LONG BEACH, IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 19 PAGE 91, ET SEQ., OF MISCELLANEOUS RECORDS OF SAID COUNTY.

TOGETHER WITH THOSE PORTIONS OF THE ABUTTING VACATED STREETS WHICH WOULD PASS BY OPERATION OF LAW WITH THE CONVEYANCE OF SAID LAND.

EXCEPT THEREFROM THAT PORTION OF SAID LAND DESCRIBED IN GRANT DEED RECORDED OCTOBER 2, 1979 AS INSTRUMENT NO. 79-1096324, OF OFFICIAL RECORDS.

EXCEPTING AND RESERVING, ALL OIL, GAS, HYDROCARBON SUBSTANCES AND MINERALS OF EVERY KIND AND CHARACTER LYING MORE THAN FIVE HUNDRED

(500) FEET BELOW THE SURFACE OF SAID LAND, TOGETHER WITH THE RIGHT TO DRILL INTO, THROUGH, AND TO USE AND OCCUPY ALL PARTS OF SAID LAND LYING MORE THAN FIVE HUNDRED (500) FEET BELOW THE SURFACE THEREOF FOR ANY AND ALL PURPOSES INCIDENTAL TO THE EXPLORATION FOR AND PRODUCTION OF OIL, GAS, HYDROCARBON SUBSTANCES OR MINERALS FROM SAID OR OTHER LANDS, BUT WITHOUT, HOWEVER, ANY RIGHT OF USE EITHER THE SURFACE OF SAID LAND OR ANY PORTION OF SAID LAND WITHIN FIVE HUNDRED (500) FEET OF THE SURFACE FOR ANY PURPOSE OR PURPOSES WHATSOEVER, AS SET OUT IN DEED RECORDED NOVEMBER 9, 1977 AS INSTRUMENT NO. 77-1240526, OF OFFICIAL RECORDS.

ATTACHMENT NO. 10
CONDITIONS OF APPROVAL APPLICABLE TO THE SITE

Long Beach Civic Center

Conditions of Approval Allocation

Draft 2.17.16

The following table allocates the portion of the development that will be responsible for clearing master plan conditions of approval under the SEIR. As a matter of process Civic Center conditions would be cleared by the time certificate of occupancy is reached for the civic center. The Pacific conditions and Mid-Block conditions will be restated for those parcels at the time site plans are approved for those parcels. Standard conditions would be expected to apply to each parcel. Where conditions are specified for more than one parcel each parcel shall be responsible for clearing relative to the improvements on that parcel.

| Special Conditions: | Applies to | | |
|---|--------------|---------|-----------|
| | Civic Center | Pacific | Mid-Block |
| 1. Approved under this permit are Certification of Supplemental EIR 02-15 and a Site Plan Review in conjunction with the new Long Beach Civic Center project, a four-block development consisting of a new City Hall, a new Port Building for Harbor Department administration, a new Main Library, a redeveloped Lincoln Park, and a private residential building, and two commercial mixed-use buildings. The six-building development also includes three parking garages, public street extensions of Chestnut and Cedar Avenues, related infrastructure and landscaping, and the demolition of the former Long Beach Courthouse and existing City Hall and Main Library buildings. | Yes | Yes | Yes |
| 2. Final floor layouts of all City Hall and Port Building floor levels shall be subject to City Manager review and approval prior to the issuance of any tenant improvement permits for each respective building. The Port Building floor layouts shall be subject to an additional review by the Chief Executive Officer. In the event the required approvals for final floor layouts are not received within the time frames stipulated in the Project Agreement, final floor layouts submitted for approval shall be deemed approved under this special condition. | Yes | No | No |

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| <p>3. Mock-ups of exterior City Hall, Port Building, and Main Library building elements shall be subject to Director of Development Services, Chief Executive Officer, and Director of Library Services review and approval prior to the issuance of any post-core and shell Civic Center building permits. Items to be included in any mock-up shall include:</p> <ul style="list-style-type: none"> • Curtain wall, panel, and shadowbox color and design • Glass frit pattern • Outdoor paving and joints <p>Mock-ups of interior City Hall, Port Building, and Main Library building elements shall be subject to Director of Development Services, Chief Executive Officer, and Director of Library Services review and approval prior to the issuance of any tenant improvement permits for the elements' respective building. Items to be included in any mock-up shall include:</p> <ul style="list-style-type: none"> • Terrazzo • Millwork within public areas • Polished interior concrete • Glulam beams and column connections • Council Chamber materials (flooring, seating, walls, dais) <p>In event the required approvals for any mock-up is not received within the time frames stipulated in the Project Agreement, mock-ups submitted for approval shall be deemed approved under this special condition.</p> | Yes | No | No |
| <p>4. The rooftops of the City Hall, Port Building, and Main Library shall be outfitted with photovoltaic (solar) installations. Final installation size, arrangement, capacity, and production shall be subject to Building Official review and approval prior to the issuance of any electrical permits for the installations' respective building.</p> | Yes | No | No |
| <p>5. A comprehensive plan identifying the location, copy, and design of Civic Block wayfinding signage shall be subject to Director of Development Services review and approval prior to the issuance of any Civic Center tenant improvement permit.</p> | Yes | No | No |
| <p>6. A lighting plan identifying the location and design of all new light poles and fixtures and their</p> | Yes | No | No |

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| | proposed illuminance shall be subject to Director of Development Services review and approval prior to the issuance of any Civic Center tenant improvement permit. | | | |
| 7. | Locations of new and relocated bus stops, their shelters, and any associated turnout areas within or adjacent to the project site shall be subject to Long Beach Transit and Director of Development Services review and approval prior to the issuance of any Public Works permit for related work within the public right-of-way. | Yes | Yes | Yes |
| 8. | Raised planters, benches, and other hardscape elements in Lincoln Park, the Civic Block plaza, and other publicly-accessible areas of the project site shall be designed with notches or be fitted with attractively designed and tamper-resistant skateboard deterrent devices to the satisfaction of the Directors of Development Services and Parks, Recreation & Marine. In the event the required approvals for any raised planters, benches, and other hardscape elements are not received within the time frames stipulated in the Project Agreement, the raised planters, benches, and other hardscape elements submitted for approval shall be deemed approved under this special condition. | Yes | No | No |
| 9. | A comprehensive Civic Block plaza drainage plan, compliant with all applicable provisions of the low impact development ordinance and best practices for stormwater management, shall be subject to Building Official review and approval prior to the issuance of any Civic Block building permits, including site grading. | Yes | No | No |
| 10. | Soil compaction in softscape areas throughout the project site shall not exceed 90-percent density unless required by the General Superintendent of the Department of Development Services' Building Bureau. | Yes | No | No |
| 11. | The location of the Harbor Department's fleet office within the Civic Block garage and the specifics of garage valet parking operations shall | Yes | No | No |

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| <p>be subject to Harbor Department Executive Director and Director of Development Services review and approval prior to the issuance of any Civic Block building permit beyond a foundation-to-grade permit. In the event the required approvals for the Harbor Department's fleet office location and specifics of garage valet parking operations are not received within the time frames stipulated in the Project Agreement, the fleet office location and specifics of garage valet parking operations submitted for approval shall be deemed approved under this special condition.</p> | | | |
| <p>12. Final security call-box and gate locations for Civic Block garage access from Chestnut Avenue and Magnolia Avenue shall be subject to Director of Public Works, Director of Security at the Port, and Director of Development Services review and approval. These fixtures shall be in locations which minimize the potential for obstruction of Chestnut Avenue pedestrian and vehicle movements while satisfying the security requirements identified by the Security Division of the Port during detailed design development. A written narrative detailing delivery vehicle access protocol to this entrance shall be approved by the aforementioned department heads prior to the issuance of any Civic Block certificates of occupancy. In the event required approvals for the security call-box and gate locations, and the written narrative detailing delivery vehicle access protocol, are not received within the time frames stipulated in the Project Agreement, the final security call-box and gate locations, and the written narrative detailing delivery vehicle access protocol, submitted for approval shall be deemed approved under this special condition.</p> | Yes | No | No |
| <p>13. Final location of the relocated Police and Fire Memorial within the Civic Block plaza or Lincoln Park shall be to the satisfaction of the Chiefs of the Long Beach Police and Fire Departments. In the event the required approvals for the Police and Fire Memorial relocations are not received within the time frames stipulated in the Project Agreement, the final Police and Fire Memorial</p> | Yes | No | No |

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| | relocations submitted for approval shall be deemed approved under this special condition. | | | |
| 14. | Final location of the relocated bicycle sculpture within the Civic Block plaza or Lincoln Park shall be to the satisfaction of the Director of Development Services. In the event the required approvals for the bicycle sculpture relocation are not received within the time frames stipulated in the Project Agreement, the final bicycle sculpture relocation submitted for approval shall be deemed approved under this special condition. | Yes | No | No |
| 15. | Existing on-site trees removed as a result of project-related demolition and construction activities shall be replaced at a 2:1 ratio. Existing street trees removed as a result of project-related demolition and construction activities shall be replaced at a 1.5:1 ratio. Final species selections of new and replacement trees, shrubs, and groundcover in the project area shall be identified on a comprehensive landscape plan that shall be subject to Director of Development Services review and approval as part of the site plan submission prior to the issuance of any Civic Center building permit beyond site grading. Additionally, Lincoln Park trees, shrubs, and groundcover shall be subject to Director of Parks, Recreation and Marine review and approval. | Yes | Yes | Yes |
| 16. | Speed bumps, speed humps, and other forms of raised pavement serving the purpose of traffic calming shall be prohibited on all public right-of-ways within and surrounding the project area unless so directed by the Director of Public Works. | Yes | Yes | Yes |
| 17. | A plan identifying the interim parking arrangement for City staff parking temporarily displaced from Lincoln Garage or the City's VIP parking area shall be subject to City Manager (or their designee) review and approval prior to the issuance of any Library-Lincoln Park Block building permits, including site grading for the new Main Library. | Yes | No | No |
| 18. | A minimum of three shadow box color options for the Port Building's window system shall be | Yes | No | No |

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| | provided by the design team for review. Final color selections shall be subject to Chief Executive Officer and Development Services Director review and approvals prior to the issuance of any Port Building building permits beyond core and shell. In the event the required approvals for final color selections are not received within the time frames stipulated in the Project Agreement, the final color selections submitted for approval shall be deemed approved under this special condition. | | | |
| 19. | The timing and phasing of traffic signals on public right-of-ways within and adjacent to the project site shall be to the satisfaction of the City Traffic Engineer. | Yes | Yes | Yes |
| 20. | An automobile access gate and/or access control shall be installed at the entrance of the Library-Lincoln Park Block's B2 garage level to prevent unauthorized access to this area. Method and design of access gate and/or access control shall be subject to Director of Development Services review and approval prior to the issuance of any garage-related Library-Lincoln Park Block building permit. | Yes | No | Yes |
| 21. | A reciprocal access agreement, to which the City and the developer are party, that covers parking, loading, and delivery access through the subterranean tunnel connecting the extension of Chestnut Avenue to the garage on the Library-Lincoln Park Block shall be recorded with the County of Los Angeles prior to Site Plan Review approval of any Center Block development. | No | No | Yes |
| 22. | Final design of the Lincoln Park restroom facility shall be subject to Directors of Development Services and Parks, Recreation & Marine review and approval prior to issuance of a Lincoln Park grading permit. | Yes | No | No |
| 23. | Bollards within the Civic Block and Library-Lincoln Park Block pedestrian paths shall be K-12 rated and their size and location subject to Director of Development Services review and approval prior to installation. | Yes | No | No |

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| 24. All Transportation Demand Management measures stipulated in Chapter 21.64 of the Long Beach Municipal Code shall be instituted into project design and function to the satisfaction of the Director of Development Services. | Yes | Yes | Yes |
| 25. A temporary construction staging and equipment plan shall be subject to Building Official and Director of Public Works review and approval prior to the commencement of any demolition and construction activities. | Yes | Yes | Yes |
| 26. Prior to issuance of a grading permit, the developer shall submit a proposed haul route for all construction truck trips to the Director of Development Services and the City Engineer for review. The Director of Development Services and/or City Engineer may modify this proposed haul route as they deem necessary throughout the entirety of project construction. | Yes | Yes | Yes |
| 27. Specific design of the project's three private development buildings, beyond that which is included herein, shall be subject to future, separate Site Plan Review fees and permits, including review and approval by the Planning Commission. | Yes | Yes | Yes |
| 28. An effort shall be made by the City to relocate the original Lincoln Park cannon back into Lincoln Park, with the final cannon location subject to review and approval by the Director of Development Services and the Director of Parks, Recreation & Marine. | Yes | No | No |
| 29. Public outreach shall continue through the remaining development phases of the project to the satisfaction of the Director of Development Services. | Yes | Yes | Yes |
| 30. The Department of Public Works submits the following requirements for the development of the proposed Long Beach Civic Center Master Plan. For additional information regarding off-site improvements, contact the Plan Check | | | |

| | | | | |
|---|---|-----|-----|-----|
| Coordinator, Jorge Magana, at (562) 570-6678. | | | | |
| General Requirements | | | | |
| a. | Prior to the start of any on-site/off-site construction, the Developer shall submit a construction plan for pedestrian protection, street lane closures, construction staging, shoring excavations and the routing of construction vehicles (excavation hauling, concrete and other deliveries, etc.). | Yes | Yes | Yes |
| Public Right-of-Way | | | | |
| b. | The project shall include dedication of 80-feet, with fee interest, for public street and sidewalk purposes along Chestnut Avenue and Cedar Avenue, and improve the rights-of-way within the project boundary as depicted in Attachment 1. Rights-of-way improvements shall be constructed per plans reviewed and approved to the satisfaction of the Director of Public Works. | Yes | No | No |
| c. | The Developer shall construct all off-site improvements needed to provide full ADA accessibility compliance for the newly dedicated rights-of-way and within the current public rights-of-way immediately adjacent to the development site to the satisfaction of the Director of Public Works. If a dedication of additional right-of-way is necessary to satisfy ADA requirements during construction plan review, the right-of-way dedication shall be provided. | Yes | Yes | Yes |
| d. | The Developer shall provide for any storm drain easements, if required, on the land under its control to the County of Los Angeles and provide a copy to the Director of Public Works for our records. | Yes | Yes | Yes |
| Engineering Bureau | | | | |
| e. | The Developer shall improve the sidewalks within the project boundaries as depicted in Attachment 1 along Broadway, Ocean Boulevard, Pacific Avenue and Magnolia Avenue with new street trees, parkways, and parkway landscaping per plans reviewed and approved by Public Works and to the satisfaction of the Director of Public Work. | Yes | No | Yes |

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| <p>f. The Developer shall construct the new roadway, sidewalks, curb and curb gutters, wheelchair ramps and parkways as needed to complete the Chestnut and Cedar Avenue rights-of-way within the project boundaries as depicted in Attachment 1; from Broadway to Ocean Boulevard to the satisfaction of the Director of Public Works. The existing sidewalk, roadway and parkways along Chestnut Avenue within the project boundaries depicted in Attachment 1 shall be demolished and reconstructed to satisfy the new development requirements. All undersized storm drains within the adjacent rights-of-way shall be improved as required to accommodate any net increase of drainage flow generated by the project, per plans reviewed and approved by Public Works and to the satisfaction of the Director of Public Works.</p> | Yes | No | Yes |
| <p>g. All public utilities fixtures including power/transmission line poles, streetlights, fire hydrants and any public utility fixture needed for public utility needs within the public rights-of-way immediately adjacent to the development site shall be installed, relocated, and/or replaced to the satisfaction of the Director of Public Works.</p> | Yes | Yes | Yes |
| <p>h. The Developer shall provide for new tree wells, and street trees with root barriers and irrigation along Chestnut Avenue and Cedar Avenue adjacent to the development site within the project boundaries as depicted in Attachment 1 per the requirements of Long Beach Municipal Code Section 21.42.050. The Developer and/or successors shall privately maintain all street trees, landscaping and sprinkler systems required in connection with this project to the satisfaction of the Director of Public Works.</p> | Yes | No | Yes |
| <p>i. The Developer shall submit a drainage plan for off-site improvements for approval by Public Works prior to issuance of a building permit.</p> | Yes | Yes | No |

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|--|-----|-----|-----|
| <p>j. The Developer shall upgrade the existing storm drain system(s) in connection with this development as required to accommodate any net increase in drainage flow generated by the Project. Storm drain plans shall be submitted to Public Works for review and approval. An excavation permit issued by the Department of Public Works is required for all excavation work in the public right-of-way. Contact Russ Caveness for information about excavation permits at (310) 570-6530. If applicable, the storm drain system(s) must be reviewed and approved and accepted for operations and maintenance by the County of Los Angeles Department of Public Works. The Developer shall contact Los Angeles Department of Public Works at (626) 458-4921 to initiate plan review. The Developer shall also provide said plans to the Director of Public Works for review prior to County approval.</p> | Yes | Yes | Yes |
| <p>k. The Developer shall prepare a street lights study for this project under the supervision and approved (stamped) by a registered Engineer in the State of California to determine the off-site and interior street lighting requirements. The Developer shall submit street lighting system plans with lighting calculations for review and approval by Public Works prior to approval of any construction permit for work within the public rights-of-way.</p> | Yes | Yes | Yes |
| <p>l. The Developer shall provide for the approved street lights and standard underground street lighting conduit within the public streets adjacent to the site within the project boundaries depicted in Attachment 1.</p> | Yes | Yes | Yes |
| <p>m. The Developer shall be responsible for the maintenance of the off-site improvements during construction of the on-site improvements. All off-site improvements found damaged as a result of construction activities, including the truck routes used for</p> | Yes | Yes | Yes |

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| | construction deliveries, shall be reconstructed or replaced by the Developer to the satisfaction of the Director of Public Works. | | | |
| n. | The Developer shall remove unused driveways within the project boundaries depicted in Attachment 1 and replace with full-height curb, curb gutter and sidewalk to the satisfaction of the Director of Public Works. Sidewalk improvements shall be constructed with Portland cement concrete. Sidewalk removal limits shall consist of entire panel replacements, from joint line to joint line. | Yes | Yes | Yes |
| o. | Public sidewalk, curbs, curb gutters and storm drain improvements shall be constructed with Portland Cement Concrete, and public roadways improvements with Asphalt concrete in accordance with Public Works Standards per approved plans and to the satisfaction of the Director of Public Works. All sidewalk improvement, curb and curb gutter removal and/or current to new sidewalk tie-in limits shall consist of entire panel replacements from joint line to joint line. | Yes | Yes | Yes |
| p. | The Developer shall repair the cracked, and uplifted section of sidewalk pavement within the project boundaries depicted in Attachment 1 along Magnolia Avenue, Ocean Boulevard and Pacific Avenue. Sidewalk improvements shall be constructed with Portland cement concrete to the satisfaction of the Director of Public Works. All sidewalk removal limits shall consist of entire panel replacements (from joint line to joint line). | Yes | No | Yes |
| q. | The Developer shall provide for the resetting to grade of existing manholes, pullboxes, and meters affected by the required off-site improvements to the satisfaction of the Director of Public Works. | Yes | Yes | Yes |
| r. | The Developer shall contact the Street Tree Division of the Department of Public Works, | Yes | Yes | Yes |

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| | at (562) 570-2770, prior to beginning the tree planting, landscaping, and irrigation system work. The Street Tree Division will assist with the size, type and manner in which the street trees are to be installed in accordance with the approved plans. | | | |
| s. | Prior to approving an engineering plan, all projects greater than 1 acre in size must demonstrate coverage under the State Construction General NPDES Permit. To meet this requirement, the applicant must submit a copy of the letter from the State Water Resource Control Board acknowledging receipt of the Notice of Intent (NOI) and a certification from the developer or engineer that a Storm Water Pollution Prevention Plan (SWPPP) has been prepared. Should you have any questions regarding the State Construction General NPDES Permit or wish to obtain an application, please call the State Regional Board Office at (213) 266-7500 or visit their website for complete instructions at www.waterboards.ca.gov/stormwtr/construction.html Left-click on the Construction General Permit 99-08-DWQ link. | Yes | No | Yes |
| t. | Public improvements shall be constructed in accordance with approved plans. Detailed off-site improvement plans shall be submitted to the Department of Public Works for review and approval. | Yes | Yes | Yes |
| u. | The Developer's site plan proposes a future commercial development on the south side 3 rd Street, west of Pacific Avenue. With no specific details on this current site plan Public Works reserves the right to condition off-site improvements when a more detailed site plan have been submitted. | No | Yes | No |
| Traffic and Transportation Bureau | | | | |
| v. | There are high volume Long Beach Transit bus stops on Broadway, Ocean Boulevard and Pacific Avenue, fronting this development site. Architectural design for this project should | Yes | Yes | No |

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| | reflect the presence of the bus stops. A widened sidewalk with enhanced paving should be provided for the bus stop area (at a minimum, 12 feet of sidewalk should be provided). Developer shall collaborate with Long Beach Transit and the Planning Bureau to take advantage of this opportunity. | | | |
| w. | The Developer shall contact Long Beach Transit prior to the commencement of work to coordinate design and construction issues and to ensure that construction is coordinated with transit bus operations at the existing bus stop adjacent to the development site. Contact Shirley Hsiao, Manager of Service Development Planning, at (562) 591-8753. | Yes | Yes | No |
| x. | The size and configuration of all proposed driveways serving the project site shall be subject to review and approval of the City Traffic Engineer. Driveways greater than 28 feet requires a variance; contact the Traffic and Transportation Bureau at (562) 570-6331 to request additional information regarding driveway construction requirements. | Yes | Yes | Yes |
| y. | A traffic report was prepared for this project, under the supervision and approved (stamped) by a registered Traffic Engineer in the State of California, as part of the Supplemental Environmental Impact Report. In addition, any proposed physical street improvements must include a scaled drawing stamped by a registered civil engineer. | Yes | Yes | Yes |
| z. | The Developer is to design and construct traffic signal modifications at the intersection of Chestnut Avenue (extended) and Ocean Boulevard, as required by the City Traffic Engineer, based on the operational assessment and geometric changes resulting from driveway, sidewalk, and crosswalk modifications. Such traffic signal modifications will include provisions for vehicle detection at the driveways and the development of new traffic signal timing. | Yes | No | No |
| aa. | The Developer shall install all new traffic signs that require removal to accommodate the new development within the public rights-of-way. All traffic signs shall be installed to the satisfaction | Yes | Yes | Yes |

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| | of the City Traffic Engineer. | | | |
| bb. | The Developer shall replace all traffic signs and mounting poles damaged or misplaced as result of construction activities to the satisfaction of the City Traffic Engineer. | Yes | Yes | Yes |
| cc. | The Developer shall provide for the painting and/or stripping of all new streets in connection with this development, including, but not limited to bike lane striping along Chestnut Avenue, and Cedar Avenue. The Developer shall also repaint and/or strip all existing traffic markings obliterated or defaced by construction activities to the satisfaction of the City Traffic Engineer. | Yes | Yes | Yes |
| dd. | All traffic control device installations, including pavement markings within the private parking lot, shall be installed in accordance with the provisions of the Manual on Uniform Traffic Control Devices (MUTCD), 2012 or current edition (i.e., white parking stalls, stop signs, entry treatment signage, handicapped signage, etc.). | Yes | Yes | Yes |
| ee. | The Developer shall contact the Traffic & Transportation Bureau, at (562) 570-6331, to modify the existing curb marking zones, adjacent to the site. | Yes | Yes | Yes |
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| | <u>Timing</u> | | | |
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| ff. | Elements of this Condition of Approval #30 related to the improvement of Magnolia Avenue and Chestnut Avenue, and Ocean Boulevard between Magnolia Avenue and Chestnut Avenue, shall be completed prior to the issuance of a Certificate of Occupancy for City Hall. | Yes | No | No |
| gg. | Elements of this Condition of Approval #30 related to the improvement of Pacific Avenue, Ocean Boulevard between Cedar Avenue and Pacific Avenue, and Broadway between Cedar Avenue and Pacific Avenue, shall be completed prior to the issuance of a Certificate of Occupancy for Lincoln Park. | Yes | No | No |
| hh. | Elements of this Condition of Approval #30 related to the improvement of Cedar Avenue, and Ocean Boulevard between Chestnut Avenue and Cedar Avenue, shall be completed | No | No | Yes |

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| prior to issuing a Certificate of Occupancy for any Center Block residential unit. | | | |
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| EIR Mitigation Measures | | | |
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| 31. The developer shall comply with all mitigation measures for Downtown Plan Program EIR 04-08 in addition to the following mitigation measures set forth in Supplemental EIR 02-15: | | | |
| a. Aesthetics | | | |
| 1) Mitigation Measure AES-2: Construction Screening. Temporary fencing comprised of chain link or wood with screening material attached shall be used around the perimeter of the active construction site to buffer views of construction activities, as well as the staging of vehicles, equipment, and materials. In addition, the contractor shall affix or paint a plainly visible signs, on publicly accessible portions of the temporary fencing, with the following language: "POST NO BILLS". Such language shall appear at intervals of no less than 25 feet along the length of the publically accessible portions of the barrier. The contractor shall ensure through daily visual inspections that no unauthorized materials are posted on any temporary construction barriers or temporary pedestrian walkways, and that such temporary barriers and walkways are maintained in a visually attractive manner, including the prompt removal of graffiti, throughout the construction period. | Yes | Yes | Yes |
| b. Air Quality | | | |
| 1) Mitigation Measure AQ-2: Air Quality Safety Plan. | | | |

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| <p>If demolition occurs by implosion, the City shall approve an Air Quality Safety Plan that protects public health. The plan shall be prepared with and approved by the South Coast Air Quality Management District. Public safety measures include:</p> <ul style="list-style-type: none"> • A radius around the project site in which the public is prevented from being outdoors; • Advanced notification of potential particulate matter and asbestos exposure to all land uses within 1,000 feet of the project site; • Notice that windows should be closed at all buildings within the safety radius during the implosion until the City has provided notice that particulate matter and asbestos concentrations have reached background concentrations; and • Air quality monitoring during the day of the implosion to confirm when particulate matter and asbestos concentrations have reached background concentrations. | Yes | No | Yes |
| <p>2) Mitigation Measure AQ-3: Low-VOC Paint. The project applicant shall require all development operator(s) to use low-VOC paint on all interior and exterior surfaces. Paint should not exceed 50 g/L for all interior surfaces and exterior surfaces.</p> | Yes | Yes | Yes |

| c. Cultural Resources | | | |
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| <p>1) Mitigation Measure CR-1(a): Historic Artifact Collection Program. Impacts resulting from the demolition of the City Hall-Library Complex and Courthouse shall be minimized through development of an archival identification and collections program. The purpose of this program will be to identify the existing historic artifacts, documents and other objects that are currently stored at the Main Library, City Hall and Port of Long Beach facilities, as well as key components of the Old Courthouse and City Hall-Library Complex to be demolished, so that these important relics can be utilized in the future by researchers and the public for educational purposes. As part of the program, the City will itemize, catalogue and rehouse the items, and establish appropriate conservation and storage measures for long-term preservation. One possible location for rehousing items would be as a museum in the proposed project's new Library. Completion of this mitigation measure shall be monitored and enforced by the City of Long Beach Development Services Department.</p> | Yes | No | No |
| <p>2) Mitigation Measure CR-1(b): Building Documentation. Impacts resulting from the demolition of the City Hall-Library Complex and Old Courthouse shall be minimized through archival documentation of as-built and as-found condition. Prior to the issuance of the first occupancy permit for the project, the lead agency shall ensure that documentation of the building is completed in accordance with the general guidelines of Historic</p> | Yes | No | No |

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| <p>American Building Survey (HABS) documentation. The documentation shall include large-format photographic recordation, a historic narrative report, and compilation of historic research. The documentation shall be completed by a qualified architectural historian or historian who meets the Secretary of the Interior's Professional Qualification Standards for History and/or Architectural History. The original archival-quality documentation shall be offered as donated material to repositories that will make it available for current and future generations. Archival copies of the documentation also would be submitted to the City of Long Beach Development Services Department, the downtown branch of the Long Beach Public Library, and the Historical Society of Long Beach where it would be available to local researchers. Completion of this mitigation measure shall be monitored and enforced by the City of Long Beach Development Services Department.</p> | | | |
| <p>d. Noise and Vibration</p> | | | |

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| <p>1) Mitigation Measure Noise-1: Noise Control Plan. If demolition occurs by implosion, the City shall approve a Noise Control Plan that protects public health and includes:</p> <ul style="list-style-type: none"> • A site-specific map that delineates the hearing damage radius; • Safety measures to ensure that community members would not be within this radius during the implosion; • Control measures designed by an implosion expert to reduce noise at the source of the implosion; and • A statement that all demolition-related damage shall be repaired. | Yes | No | Yes |
| <p>2) Mitigation Measure Noise-2(a): Loading Areas. The applicant shall submit site plans to the Department of Development Services showing that all loading and unloading areas would be oriented away from existing sensitive receptors and/or shielded by the proposed buildings such that the line-of-sight would be broken.</p> | Yes | Yes | Yes |
| <p>3) Mitigation Measure Noise-2(b): Sound-Rated Windows and Glass Doors Near Commercial Uses. The applicant shall install sound-rated windows and sliding glass doors on all residential units that are within 50 feet of commercial uses. Windows shall be at least STC 35 to ensure that commercial activities do not result in interior noise levels exceeding 35 dBA when the windows are closed.</p> | Yes | Yes | Yes |

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| <p>4) Mitigation Measure Noise-3: Vibration Control Plan. If demolition occurs by implosion, the City shall approve a Vibration Control Plan that protects public health and adjacent buildings, and includes:</p> <ul style="list-style-type: none"> • A site-specific estimate of the potential zones of vibration perceptibility and building damage; • A pre-construction survey to assess the foundations and facades of buildings within the damage zone; • A post-construction survey to assess damage, if any, caused by implosion; and • A statement that all demolition-related damage shall be repaired. | Yes | No | Yes |
| <p>5) Mitigation Measure Noise-6(a): Mechanical Ventilation. The applicant shall provide mechanical ventilation in all residential units proposed along Broadway, Pacific Avenue, Third Street, Cedar Avenue, Chestnut Avenue, and First Street, so that windows can remain closed at the choice of the occupants to maintain interior noise levels below 35 dBA Ldn.</p> | Yes | Yes | Yes |
| <p>6) Mitigation Measure Noise-6(b): Sound-Rated Windows and Sliding Glass Doors. The applicant shall install sound-rated windows and sliding glass doors on the residential units that face Broadway, Pacific Avenue, Third Street, and Cedar Avenue, as well as the proposed library, such that interior noise levels would not exceed 35</p> | Yes | Yes | Yes |

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| | dBA Ldn when the windows are closed. | | | |
| | e. Other CEQA | | | |
| | 1) Mitigation Measure Other-1: Fumigation. Prior to the issuance of demolition permits, the project applicant shall fumigate all buildings. | Yes | No | Yes |
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| | <u>Project Design</u> | | | |
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| 32. | The developer shall provide a sample of all final exterior finish materials selected for construction for review by the Director of Development Services, prior to issuance of core and shell building permits for the buildings upon which the respective exterior finishes are to be located. Additionally, final Lincoln Park exterior finish material selections shall be subject to Director of Parks, Recreation and Marine review and approval. If materials are found to be below the standards approved in the Project Agreement, the developer shall propose a different finish material, and provide samples, to the satisfaction of the Director of Development Services or, in the event the finish material pertains to Lincoln Park, the Director of Parks, Recreation and Marine. In the event the required approvals for final exterior finish materials are not received within the time frame stipulated in the Project Agreement, the final exterior finish materials submitted for approval shall be deemed approved under this special condition. | Yes | No | No |
| 33. | The architectural design of both Civic Block buildings shall be harmonious and complementary, and the architectural style shall not be changed between buildings or between phases of construction. The architectural designs of the City Hall, Port Building, and Main Library as presented in the Project Agreement are deemed to have met this requirement and no further action is required. | Yes | No | No |
| 34. | The Center Block development shall be designed in accordance with the Project Agreement and the | No | No | Yes |

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| <p>design criteria set forth in Sections 4-6 of the Downtown Plan (PD-30). A section of First Street with non-traditional paving and curbless design shall be developed as a privately owned and operated street between Chestnut Avenue and Cedar Avenue as part of the Center Block development. The Center Block's First Street extension shall include a History Walk, complete with educational points of interest, to the satisfaction of the Director of Development Services.</p> | | | |
| <p>35. All groundcover and shrubs shall be drought-tolerant and low-water requirement species. The project landscaping shall comply with the Water Efficient Landscaping standards of Chapter 21.42 of the Zoning Regulations.</p> | Yes | Yes | Yes |
| <p>36. All forms of barbed wire and razor wire shall be prohibited on the site.</p> | Yes | Yes | Yes |
| <p>Standard Conditions – Plans, Permits, and Construction:</p> | | | |
| <p>37. Prior to the issuance of any core and shell building permit, the applicant shall submit a revised set of plans reflecting all of the design changes, if any, impacting these conditions of approval, to the satisfaction of the Director of Development Services.</p> | Yes | Yes | Yes |
| <p>38. All conditions of approval must be printed verbatim on a page or pages within all sets of plans submitted for plan review to the Department of Development Services. These conditions must be printed on the site plan or a subsequent reference page.</p> | Yes | Yes | Yes |
| <p>39. The plans submitted for plan review must explicitly call out and describe all materials, textures, accents, colors, window, door, planter, and paving details that were approved by the Site Plan Review Committee or the Planning Commission. No substantial changes shall be made without prior written approval of the Site Plan Review Committee or the Planning Commission.</p> | Yes | Yes | Yes |

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| <p>40. Prior to the issuance of a building permit, the applicant must depict all utility apparatus, such as, but not limited to, backflow devices and Edison transformers, on both the site plan and the landscape plan. These devices shall not be located in prominent locations within any front, side, or rear yard area that is adjacent to a public street. Furthermore, these devices shall be screened by landscaping or another screening method approved by the Director of Development Services.</p> | Yes | Yes | Yes |
| <p>41. The Director of Development Services is authorized to approve minor modifications to the approved design plans or to any of the conditions of approval if such modifications shall not significantly change or alter the approved project. The Director of Parks, Recreation and Marine is similarly authorized to approve minor modifications to the approved Lincoln Park design plans. Any major modifications shall be reviewed by the Zoning Administrator, Site Plan Review Committee, Planning Commission, or Parks and Recreation Commission, respectively.</p> | Yes | Yes | Yes |
| <p>42. All rooftop mechanical equipment excluding photovoltaic panels and communication antennas shall be fully screened from public view. Said screening must be architecturally compatible with the building in terms of theme, materials, colors and textures. If the screening is not specifically designed into the building, a rooftop mechanical equipment screening plan must be submitted for approval by the Director of Development Services prior to the issuance of each core and shell building permit.</p> | Yes | Yes | Yes |
| <p>43. Upon plan approval and prior to issuance of each core and shell building permit, the applicant shall submit a reduced-size set of final construction plans for the project file. Additionally, copies of as-built building plans depicting any construction phase modifications, if any, shall be provided for each building prior to the issuance of the respective building's Certificate of Occupancy. A</p> | Yes | Yes | Yes |

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| | copy of the as-built Lincoln Park plan shall also be provided prior to the Park's final inspection. | | | |
| 44. | A permit from the Department of Public Works shall be required for any work to be performed in or over the public right-of-way. | Yes | Yes | Yes |
| 45. | Any off-site improvements found to be damaged as a result of construction activities related to this project shall be replaced to the satisfaction of the Director of Public Works. | Yes | Yes | Yes |
| 46. | Separate building permits are required for fences, retaining walls, flagpoles, and pole mounted yard lighting foundations. | Yes | Yes | Yes |
| 47. | The applicant shall file a separate plan check submittal to the Long Beach Fire Department for review and approval prior to the issuance of a building permit. | Yes | Yes | Yes |
| 48. | Prior to the issuance of each core and shell building permit, the applicant shall submit architectural, landscaping and lighting drawings for the review and approval of the Police Department for their determination of compliance with Police Department security recommendations. | Yes | Yes | Yes |
| 49. | All structures shall conform to the Long Beach Building Code requirements. Notwithstanding this subject permit, all other required permits from the Building Bureau must be secured. | Yes | Yes | Yes |
| 50. | Site development, including landscaping, shall conform to the approved plans on file with the Department of Development Services. At least one set of approved plans containing Planning, Building, Fire, and, if applicable, Health Department stamps shall be maintained at the job site, at all times for reference purposes during construction and final inspection. | Yes | Yes | Yes |

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| <p>51. The applicant must submit complete landscape and irrigation plans for Director of Development Services review and approval prior to the issuance of a tenant improvement building permit for a particular building. The landscaping plan shall include drought tolerant street trees to be installed consistent with the specifications of the Street Tree Division of the Department of Public Works. Approved root guards shall be provided for all street trees. Turf shall be limited to less than 50% of the total landscaped area, excluding Lincoln Park. The turf shall not be composed of bluegrass, fescue, rye, or other grasses with high water needs. 50% or more of the planted area (as measured in square feet of landscape) shall be comprised of drought-tolerant plants, to the satisfaction of the Director of Development Services. Lincoln Park tree, shrub, and groundcover selections shall also be subject to Director of Parks, Recreation and Marine review and approval.</p> | Yes | Yes | Yes |
| <p>52. For new construction, all landscaped areas shall comply with the State of California's model landscape ordinance. Landscaped areas shall be planted with drought tolerant plant materials and shall be provided with water conserving automatic irrigation systems designed to provide complete and adequate coverage to sustain and promote healthy plant life. The irrigation system shall not cause water to spray or flow across a public sidewalk.</p> | Yes | Yes | Yes |
| <p>53. All landscaping irrigation systems shall use high efficiency sprinkler nozzles. The models used and flow rates shall be specified on the landscaping plan. For residential-type or small-scale sprinkler systems, sprinkler head flow rates shall not exceed 1.00 GPM and shall be of the rotating type. Where feasible, drip irrigation shall be used instead. If an in-ground irrigation system is to be installed, such system shall be controlled by an automatic self-adjusting weather-based irrigation controller.</p> | Yes | Yes | Yes |
| <p>54. Permeable pavement shall be utilized where feasible, to the satisfaction of the Director of Development Services. Public right-of-way improvements shall be exempt from this requirement. If the feasibility of using permeable pavement is uncertain, it shall be the developer's responsibility to demonstrate that a given application of permeable pavement is not feasible, to the satisfaction of the Director of Development Services.</p> | Yes | Yes | Yes |

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| 55. | All outdoor fountains or water features shall utilize water recycling or re-circulation systems. The plans submitted for review shall specifically identify such systems. | Yes | Yes | Yes |
| 56. | Energy conserving equipment, lighting, and construction features shall be utilized in this project as specified in the Project Agreement. | Yes | No | No |
| 57. | Low-flow fixtures shall be used for all lavatory faucets, kitchen faucets, showerheads, toilets, and urinals. Toilets may be either low-flow or dual flush. Maximum flow rates for each fixture type shall be as follows: lavatory faucet – 2.75 GPM, kitchen faucet – 2.20 GPM, showerhead – 2.00 GPM, toilet – 1.3 GPF, dual flush toilet – 0.8/1.6 GPF, urinal – 1.0 GPF. Plans submitted for review shall specifically identify such fixtures and flow rates. | Yes | Yes | Yes |
| 58. | Demolition, site preparation, and construction activities are limited to the following (except for the pouring of concrete which may occur as needed) unless a modification is granted by the City's Noise Control Officer: a. Weekdays and federal holidays: 7:00 a.m. to 7:00 p.m.; b. Saturday: 9:00 a.m. - 6:00 p.m.; and c. Sundays: not allowed | Yes | Yes | Yes |
| Standard Conditions – General: | | | | |
| 59. | This permit shall be invalid if the owner(s) and/or applicant(s) have failed to return written acknowledgment of their acceptance of the conditions of approval on the <i>Conditions of Approval Acknowledgment Form</i> supplied by the Planning Bureau. This acknowledgment must be submitted within 30 days from the effective date of approval (final action date or, if in the appealable area of the Coastal Zone, 21 days after the local final action date). | Yes | Yes | Yes |
| 60. | If, for any reason, there is a violation of any of the conditions of this permit or if the use/operation is found to be detrimental to the surrounding community, including public health, safety or general welfare, environmental quality or quality of life, such shall cause the City to initiate revocation and termination procedures of all rights granted herewith. | Yes | Yes | Yes |

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| 61. This approval is required to comply with these conditions of approval as long as the use is on the subject site. As such, the site shall allow periodic re-inspections, at the discretion of city officials, to verify compliance. The property owner shall reimburse the City for inspection costs, including those performed by the Department of Parks, Recreation and Marine for Lincoln Park maintenance compliance. | Yes | Yes | Yes |
| 62. In the event of transfer of ownership of the property involved in this application, the new owner shall be fully informed of the permitted use and development of said property as set forth by this permit together with all conditions that are a part thereof. These development conditions must be recorded with all title conveyance documents at time of closing escrow. | Yes | Yes | Yes |
| 63. Approval of this development project is expressly conditioned upon payment (prior to building permit issuance or prior to Certificate of Occupancy, as specified in the applicable Ordinance or Resolution for the specific fee) of impact fees, connection fees and other similar fees based upon additional facilities needed to accommodate new development at established City service level standards, including, but not limited to, sewer capacity charges, Park Fees and Transportation Impact Fees. | Yes | Yes | Yes |
| 64. No publicly accessible telephones shall be maintained on the exterior of the premises. Any existing publicly accessible telephones shall be removed. | Yes | Yes | Yes |
| 65. The property shall be developed and maintained in a neat, quiet, and orderly condition and operated in a manner so as not to be detrimental to adjacent properties and occupants. | Yes | Yes | Yes |
| 66. The operator of the approved use shall prevent loitering in all parking, plaza, and landscaping areas, including Lincoln Park. The operator must clean the parking, plaza, and landscaping areas, including Lincoln Park, of trash and debris on a daily basis. Failure to do so shall be grounds for permit revocation. If loitering problems develop, the Director of Development Services or Director of Parks, Recreation and Marine may require additional preventative measures, such as but not | Yes | No | No |

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| | limited to, additional lighting or private security guards. | | | |
| 67. | Exterior security bars and roll-up doors applied to windows and pedestrian building entrances shall be prohibited. | Yes | Yes | Yes |
| 68. | Any graffiti found on site must be removed within 24 hours of its appearance. | Yes | Yes | Yes |
| 69. | All required utility easements shall be provided to the satisfaction of the concerned department, agency, or utility company. | Yes | Yes | Yes |
| 70. | All trash and refuse containers shall be fully screened from public view to the satisfaction of the Director of Development Services. | Yes | Yes | Yes |
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| <p>71. As a condition of any City approval, the applicant shall defend, indemnify, and hold harmless City and its agents, officers, and employees from any claim, action, or proceeding against City or its agents, officers, and employees to attack, set aside, void, or annul the approval of City, concerning the processing of the proposal/entitlement or any action relating to, or arising out of, such approval. At the discretion of the City and with the approval of the City Attorney, a deposit of funds by the applicant may be required in an amount sufficient to cover the anticipated litigation costs.</p> | <p>Yes</p> | <p>Yes</p> | <p>Yes</p> |
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Attachment 1—Map: *Project Boundaries for Public Works Improvements*

