

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



**ITEM: 3.17**  
(ID # 19739)

**MEETING DATE:**  
Tuesday, October 04, 2022

**FROM :** FACILITIES MANAGEMENT AND RIVERSIDE COUNTY SHERIFF'S  
DEPARTMENT :

**SUBJECT:** FACILITIES MANAGEMENT - REAL ESTATE (FM-RE): Approval of Lease Agreement Between Five Degrees, LLC a California Limited Liability Company and County of Riverside, On Behalf of the Riverside County Sheriff's Office; Lake Mathews Sheriff Station Lease and Tenant Improvement package. Corona, CEQA Exempt, District 2. [\$9,253,065 - 48.8% RSO Funds 10000 , 51.2% Development Impact Fees (DIF) Funds 30501] (Clerk to file Notice of Exemption)

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Find that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301, Existing Facilities Exemption, and Section 15061(b)(3), "Common Sense" Exemption;
2. Approve the Lease Agreement Between Five Degrees, LLC a California limited liability company, and County of Riverside and authorize the Chairman of the Board to execute the Lease on behalf of the County;

Continued on page 2

**ACTION:**Policy, CIP

  
Chad Bianco, Riverside County Sheriff

9/6/2022

  
Rose Salgado, Director of Facilities Management

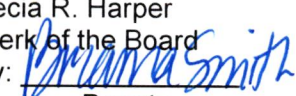
9/6/2022

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**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Perez, seconded by Supervisor Jeffries and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt  
Nays: None  
Absent: None  
Date: October 4, 2022  
xc: FM, Sheriff, Recorder

Kecia R. Harper  
Clerk of the Board  
By:   
Deputy

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,  
STATE OF CALIFORNIA**

**RECOMMENDED MOTION:** That the Board of Supervisors:

3. Authorize the Director of Facilities Management to take any and all actions necessary to document and complete this transaction; and
4. Direct the Clerk of the Board to file the Notice of Exemption with the County Clerk within five (5) working days of Board approval.

<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost</b>
<b>COST</b>	\$ 5,047,702	\$ 569,318	\$ 9,253,065	\$0
<b>NET COUNTY COST</b>	\$ 312,522	\$ 569,318	\$ 4,517,885	\$0
<b>SOURCE OF FUNDS:</b> RSO Funds 10000- 48.8%, 51.2% Development Impact Fees (DIF) Funds 30501			<b>Budget Adjustment:</b> No	
			<b>For Fiscal Year:</b> 2022/2023- 2029/2030	

**C.E.O. RECOMMENDATION:** Approve

**BACKGROUND:**

**Summary**

On January 25, 2022, the Board of Supervisors approved, in principle, the request by the Riverside County Sheriff's Office (RSO) to seek a new location in the South Corona-Lake Mathews area to adequately serve this growing population base (M.O. 3.55). Facilities Management Real Estate Division (FM-RE) subsequently issued a Request for Proposal on behalf of the RSO for an approximately 20,000 square foot facility which resulted in the selection of a location in a new business park development that is currently under construction and meets the RSO's requirements.

This new centralized location will primarily serve the unincorporated areas of Home Gardens, Coronita, Lake Hills, Woodcrest, El Cerrito, Temescal Valley, Lake Mathews, and Gavilan Hills which are currently being served by three distant stations incurring extended travel times. This new facility will allow RSO to efficiently serve the public and reduce incident response times which will improve public safety in this region of the County.

FM-RE and RSO completed negotiations and the attached Lease being presented for approval includes a seven (7) year lease term with one (1), five-year option to extend. Space planning was completed by RSO for full interior tenant improvements which total cost will be reimbursed to the Lessor upon substantial completion. Development Impact Fees (DIF) – Countywide Public Facilities Criminal Justice Fund shall be used for the costs of the Tenant Improvements (\$2,724,180), Furniture, Fixtures, and Equipment (FF&E) (\$1,700,000), and RCIT Expenses (\$311,000). All DIF funds are expected to be expended within the current fiscal year (FY

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2022/2023). All other costs not specified to be paid by DIF funds will be paid under general RSO funds 10000.

The following is a summary of the proposed Lease:

Lessor:	Five Degrees, LLC A California limited liability company 2518 N. Santiago Blvd. Orange, CA 92687
Location:	9 Latitude Way Corona, CA, 92881
Size:	19,490 rentable square feet
Term:	Seven (7) years, expiration February 28, 2030
Base Rent:	\$1.65 per square foot \$32,158.50 per month \$385,902.00 per year
Estimated Operating Expenses:	\$8,088.35 per month
Security Deposit:	\$125,000
Utilities:	To be provided and paid by RSO
Custodial:	To be provided and paid by RSO
Interior/Exterior Maintenance:	All maintenance except for the structural shell of the building to be provided and paid for by Sheriff's Office, subject to terms and conditions of the Lease.
Increases:	Four Percent (4%) annual increases on the Base rent, Operating Expenses to be actual expenses.
Options to Extend:	One (1), Five (5) year Option to Extend at Fair Market Value (FMV) if Lessor is provided notice between six (6) to twelve (12) months prior to expiration of initial Term.

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Tenant Improvements: \$2,724,180 is the estimated cost of Tenant Improvements (includes a 10% construction contingency) to be built by the Lessor and reimbursed by the RSO upon completion through Development Impact Fees (DIF) Funds.

Furniture, Fixtures, and Equipment: \$1,700,000 is the estimated cost of furniture, fixtures, and equipment (FF&E) for the Sheriff's Lake Mathews Station. FF&E's are movable furniture, fixtures, or other equipment that have no permanent connection to the structure of this future station's building. These items include desks, chairs, tables, bookcases, lockers, filing cabinets, and similar furnishings that will be utilized for the future station's normal, twenty-four hours seven days a week operation. This FF&E item, **excludes** the costs of all Laptops, Desktop Computers and any radio equipment that is currently being specified by RSO to meet the station's technical support needs. FF&E is to be paid by Development Impact Fees (DIF) Funds.

RCIT Costs: \$311,000 to be paid by Development Impact Fees (DIF) Funds.

Pursuant to the California Environmental Quality Act (CEQA), the Lease was reviewed and determined to be categorically exempt from CEQA under State CEQA Guidelines section 15301 Class 1-Existing Facilities Exemption and section 15061(b)(3), "Common Sense" Exemption. The Lease involves tenant improvements of a currently constructed space.

The attached Lease has been reviewed and approved by County Counsel as to legal form.

**Impact on Residents and Businesses**

RSO provides critical law enforcement and public safety services to unincorporated areas of the County and select contract cities within the County. Due to the population growth in the unincorporated areas of this region of the County, a need for additional RSO coverage has arisen, and RSO desires to provide its services to the residents and businesses of the area.

**Additional Fiscal Information**

See attached Exhibits A, B, and C. Costs associated with this Board action will be 48.8% RSO Funds and 51.2% Development Impact Fees (DIF) Fund 30501. RSO has budgeted these costs for FY2022/23 and will reimburse FM-RE for all associated rent (Base Rent and Operating Expenses) costs related to the Lease. The DIF Fund contribution will be restricted to Tenant

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Improvement (TI) construction costs up to \$2,724,180, Furniture, Fixtures, and Equipment (FF&E) costs up to \$1,700,000, and RCIT Infrastructure costs of up to \$311,000, all of which are anticipated to be expended in the current fiscal year (FY 2022/2023).

**Contract History and Price Reasonableness**

This is a new Seven (7) year lease and was determined by the RFP process to be negotiated at Fair Market Value compared to similar buildings and leases in the submarket.

**ATTACHMENTS:**

- Aerial Image
- Exhibits A, B, C & D
- Notice of Exemption
- Lease

JD:sc/08022022/xxxx/30.xxx

  
\_\_\_\_\_  
Meghan Hahn, Senior Management Analyst

9/12/2022

  
\_\_\_\_\_  
Aaron Gettis, Deputy County Counsel

9/9/2022

County of Riverside  
Facilities Management  
3450 14<sup>th</sup> Street, 2<sup>nd</sup> Floor, Riverside, CA

FOR COUNTY CLERK USE ONLY

Original Negative Declaration/Notice of Determination was routed to County Clerks for posting on.

10/5/22      b88  
Date                      Initial

**NOTICE OF EXEMPTION**

August 4, 2022

**Project Name:** Sheriff Latitude Lease Agreement, Corona

**Project Number:** FM042462014800

**Project Location:** 9 Latitude Way, west of Temescal Canyon Road, Corona, California 92881; Assessor’s Parcel Number (APN) 279-140-028

**Description of Project:** The County of Riverside Sheriff’s Department is seeking to enter into a new Lease Agreement with Five Degrees, LLC for a free-standing industrial building located at 9 Latitude Way in Corona California, identified as APN 279-140-028. The building to be leased is part of a larger industrial park consisting of 75 acres in which a mitigated negative declaration was prepared and approved by the City of Corona acting as the Lead Agency. The building to be leased consists of 19,490 square feet on a parcel of land approximately 2.03 acres in size and would be consistent with what was previously analyzed under CEQA. The facility will provide administrative offices to the Sheriff’s Department and also permits the use of one interrogation room. The Lease Agreement will be for a period of seven years, with one option to extend for an additional five-year term. The Lease Agreement is identified as the proposed project under the California Environmental Quality Act (CEQA). The proposed Lease would not result in an increase in capacity or physical expansion. No significant physical changes would occur as a result of the Lease Agreement.

**Name of Public Agency Approving Project:** Riverside County

**Name of Person or Agency Carrying Out Project:** Riverside County Facilities Management


**Exempt Status:** State CEQA Guidelines Section 15301, Class 1, Existing Facilities Exemption; Section 15061(b) (3), General Rule or “Common Sense” Exemption. Codified under California Code of Regulations Title 14, Article 5, Section 15061.

**Reasons Why Project is Exempt:** The proposed project is categorically exempt from the provisions of CEQA specifically by the State CEQA Guidelines as identified below. The project will not result in any specific or general exceptions to the use of the categorical exemption as detailed under State CEQA Guidelines Section 15300.2. The project will not cause an impact to an environmental resource of hazardous or critical concern nor would the project involve unusual circumstances that could potentially have a significant effect on the environment. The project would not result in impacts to scenic highways, hazardous waste sites, historic resources, or other sensitive natural environments, or have a cumulative effect to the environment. No significant environmental impacts are anticipated to occur with the Lease Agreement.

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- Section 15301 – Class 1 Existing Facilities Exemption:** This categorical exemption includes the operation, repair, maintenance, leasing, or minor alteration of existing public or private structures or facilities, provided the exemption only involves negligible or no expansion of the previous site’s use. The Lease Agreement is a contractual action to allow for the use of a previously approved facility under CEQA. The City of Corona approved the Mitigated Negative Declaration for the Latitude Industrial Park in April of 2020. The Lease Agreement would provide services within the building and consistent with the existing land use, and no substantial increase in capacity would be created by the Lease Agreement. Therefore, the project is exempt as it meets the scope and intent of the Categorical Exemption identified in Section 15301, Article 19, Categorical Exemptions of the CEQA Guidelines.
- Section 15061 (b) (3) – “Common Sense” Exemption:** In accordance with CEQA, the use of the Common Sense Exemption is based on the “general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.” State CEQA Guidelines, Section 15061(b) (3). The use of this exemption is appropriate if “it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.” *Ibid*. This determination is an issue of fact and if sufficient evidence exists in the record that the activity cannot have a significant effect on the environment, then the exemption applies and no further evaluation under CEQA is required. See *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal. 3d 68. The ruling in this case stated that if a project falls within a category exempt by administrative regulation or 'it can be seen with certainty that the activity in question will not have a significant effect on the environment', no further agency evaluation is required. With certainty, there is no possibility that the project may have a significant effect on the environment. The proposed Lease Agreement will not result in any direct or indirect physical environmental impacts. The use and operation of the facility will be consistent with the approved planned use and will not create any new environmental impacts to the surrounding area. Therefore, in no way, would the project as proposed have the potential to cause a significant environmental impact and the project is exempt from further CEQA analysis.

Therefore, the County of Riverside Facilities Management hereby concludes that no physical environmental impacts are anticipated to occur and the project as proposed is exempt under CEQA. No further environmental analysis is warranted.

**Signed:**  **Date:** 8-4-2022  
 Mike Sullivan, Senior Environmental Planner  
 County of Riverside, Facilities Management

**RIVERSIDE COUNTY CLERK & RECORDER**

**AUTHORIZATION  
TO BILL  
BY JOURNAL VOUCHER**

**Project Name: Sheriff Latitude Lease Agreement, Corona**

**Accounting String: 524830-47220-7200400000 - FM0412500015**

DATE: August 4, 2022

AGENCY: Riverside County Facilities Management

THIS AUTHORIZES THE COUNTY CLERK & RECORDER TO BILL FOR FILING AND HANDLING FEES FOR THE ACCOMPANYING DOCUMENT(S).

NUMBER OF DOCUMENTS INCLUDED: One (1)

AUTHORIZED BY: **Mike Sullivan, Senior Environmental Planner, Facilities Management**

Signature: 

PRESENTED BY: **Jonathan Duev, Deputy Director, Facilities Management**

**-TO BE FILLED IN BY COUNTY CLERK-**

ACCEPTED BY: -

DATE: -

RECEIPT # (S) -

County of Riverside  
Facilities Management  
3450 14<sup>th</sup> Street, 2<sup>nd</sup> Floor, Riverside, CA 92501

Date: August 4, 2022  
To: Office of the County Clerk  
From: Mike Sullivan, Senior Environmental Planner, Facilities Management  
Subject: **County of Riverside Facilities Management Project # FM0412500015**  
Sheriff Latitude Lease Agreement, Corona

The Riverside County's Facilities Management's Project Management Office is requesting that you post the attached Notice of Exemption. Attached you will find an authorization to bill by journal voucher for your posting fee.

**After posting, please return the document to:**

**Mail Stop #2600**

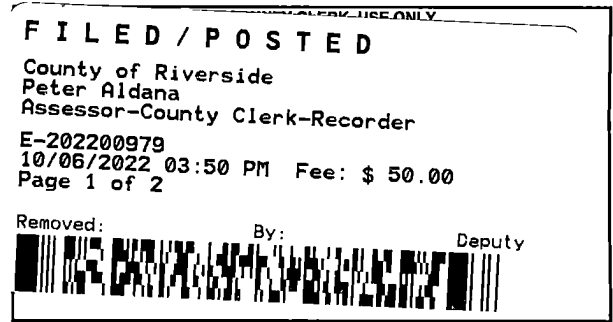
**Attention: Mike Sullivan, Senior Environmental Planner,**  
**Facilities Management,**  
**3450 14<sup>th</sup> Street, 2<sup>nd</sup> Floor, Riverside, CA 92501**

**If you have any questions, please contact Mike Sullivan at 955-8009 or email at [msullivan@rivco.org](mailto:msullivan@rivco.org).**

Attachment

cc: file

County of Riverside  
Facilities Management  
3450 14<sup>th</sup> Street, 2<sup>nd</sup> Floor, Riverside, CA



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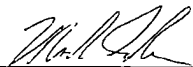
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Therefore, the County of Riverside Facilities Management hereby concludes that no physical environmental impacts are anticipated to occur and the project as proposed is exempt under CEQA. No further environmental analysis is warranted.

**Signed:**  **Date:** 8-4-2022  
Mike Sullivan, Senior Environmental Planner  
County of Riverside, Facilities Management

**STANDARD INDUSTRIAL/COMMERCIAL SINGLE-TENANT LEASE - NET  
(DO NOT USE THIS FORM FOR MULTI-TENANT BUILDINGS)**

**1. Basic Provisions ("Basic Provisions").**

1.1 **Parties.** This Lease ("Lease"), dated for reference purposes only July 28, 2022, is made by and between Five Degrees, LLC, a California limited liability company ("Lessor") and County of Riverside ("Lessee"), (collectively the "Parties," or individually a "Party").

1.2 **Premises:** That certain real property, including all improvements therein or to be provided by Lessor under the terms of this Lease, commonly known as (street address, city, state, zip): 9 Latitude Way, Corona, CA, 92881 ("Premises"). The Premises are located in the County of Riverside, and are generally described as (describe briefly the nature of the property and, if applicable, the "Project," if the property is located within a Project): a freestanding industrial building ("Building") consisting of approximately 19,490 square feet as determined by HPA Architecture on a parcel of land consisting of approximately 2.03 acres (the "Land"). The Premises, the Building and the Land are collectively defined as the "Property". The Property is within a "Project" identified as the "Latitude Business Park", an industrial project consisting of multiple buildings on approximately 75 acres of land. (See also Paragraph 2)

1.3 **Term:** Seven (7) years and Zero (0) months ("Original Term") commencing See Paragraph 55 ("Commencement Date") and ending See Paragraph 55 ("Expiration Date"). (See also Paragraph 3)

~~1.4 **Early Possession:** If the Premises are available Lessee may have non-exclusive possession of the Premises commencing \_\_\_\_\_ ("Early Possession Date"). (See also Paragraphs 3.2 and 3.3)~~

1.5 **Base Rent:** \$32,158.50 per month ("Base Rent"), payable on the first day of each month commencing See Paragraph 55. (See also Paragraph 4)

If this box is checked, there are provisions in this Lease for the Base Rent to be adjusted. See Paragraph 52.

**1.6 Base Rent and Other Monies Paid Upon Execution:**

- (a) **Base Rent:** \$32,158.50 for the period Month 1.
- (b) **Security Deposit:** \$125,000.00 ("Security Deposit"). (See also Paragraph 5)
- (c) **Association Fees:** See Addendum, Par. 53 for the period \_\_\_\_\_.
- (d) **Other:** \$8,088.35 for Month 1 Additional Rent (See Paragraph 52).
- (e) **Total Due Upon Execution of this Lease:** \$165,246.85.

1.7 **Agreed Use:** A new Sheriff Station and administrative offices related thereto. Holding cells shall be disallowed; however, one interrogation room is permitted. See Paragraph 6.1. (See also Paragraph 6)

1.8 **Insuring Party.** Lessor is the "Insuring Party" unless otherwise stated herein. (See also Paragraph 8)

1.9 **Real Estate Brokers.** (See also Paragraph 15 and 25)

(a) **Representation:** Each Party acknowledges receiving a Disclosure Regarding Real Estate Agency Relationship, confirms and consents to the following agency relationships in this Lease with the following real estate brokers ("Broker(s)") and/or their agents ("Agent(s)"): Lessor's Brokerage Firm Strata Realty, Inc./Eric Frickle Commercial Realty License No. 00880273/00866733 Is the broker of (check one):  the Lessor; or  both the Lessee and Lessor (dual agent).

Lessor's Agent Timothy Hawke, SIOR/Eric Frickle, CCIM, ALC License No. 00880273/00866733 is (check one):  the Lessor's Agent (salesperson or broker associate); or  both the Lessee's Agent and the Lessor's Agent (dual agent).

~~Lessee's Brokerage Firm \_\_\_\_\_ License No. \_\_\_\_\_ Is the broker of (check one):  the Lessee; or  both the Lessee and Lessor (dual agent).~~

~~Lessee's Agent \_\_\_\_\_ License No. \_\_\_\_\_ is (check one):  the Lessee's Agent (salesperson or broker associate); or  both the Lessee's Agent and the Lessor's Agent (dual agent).~~

(b) **Payment to Brokers.** Upon execution and delivery of this Lease by both Parties, Lessor shall pay to the Brokers the brokerage fee agreed to in a separate written agreement (or if there is no such agreement, the sum of \_\_\_\_\_ or \_\_\_\_\_ % of the total Base Rent) for the brokerage services rendered by the Brokers.

~~1.10 **Guarantor.** The obligations of the Lessee under this Lease are to be guaranteed by \_\_\_\_\_ ("Guarantor"). (See also Paragraph 37)~~

1.11 **Attachments.** Attached hereto are the following, all of which constitute a part of this Lease:

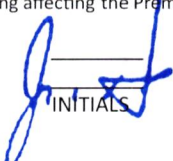
- an Addendum consisting of Paragraphs 51 through 63;
- a plot plan depicting the Premises;
- a current set of the Rules and Regulations;
- a Work Letter;
- other (specify): Exhibits A - K.

**2. Premises.**

2.1 **Letting.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease. While the approximate square footage of the Premises may have been used in the marketing of the Premises for purposes of comparison, the Base Rent stated herein is NOT tied to square footage and is not subject to adjustment should the actual size be determined to be different. **NOTE: Lessee is advised to verify the actual size prior to executing this Lease.**

2.2 **Condition.** Lessor shall deliver the Premises to Lessee broom clean and free of debris on the Commencement Date ~~or the Early Possession Date, whichever first occurs~~ ("Start Date"), and, ~~so long as the required service contracts described in Paragraph 7.1(b) below are obtained by Lessee and in effect within thirty days following the Start Date,~~ warrants that the existing electrical, plumbing, fire sprinkler, lighting, heating, ventilating and air conditioning systems ("HVAC"), loading doors, sump pumps, if any, and all other such elements in the Premises, other than those constructed by Lessee, shall be in good operating condition on said date, that the structural elements of the roof, bearing walls and foundation of ~~the Building any buildings on the Premises (the "Building")~~ shall be free of material defects, and that the Premises do not contain hazardous levels of any mold or fungi defined as toxic under applicable state or federal law. If a non-compliance with said warranty exists as of the Start Date, or if one of such systems or elements should malfunction or fail within the appropriate warranty period, Lessor shall, as Lessor's sole obligation with respect to such matter, except as otherwise provided in this Lease, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, malfunction or failure, rectify same at Lessor's expense. The warranty periods shall be as follows: (i) ~~so long as the required service contracts described in Paragraph 7.1(b) are obtained by Lessee and in effect within thirty days following the Start Date,~~ 6 months as to the HVAC systems, and (ii) 30 days as to the remaining systems and other elements of the Building. If Lessee does not give Lessor the required notice within the appropriate warranty period, correction of any such non-compliance, malfunction or failure shall be the obligation of Lessee at Lessee's sole cost and expense. Lessor also warrants, that unless otherwise specified in writing, Lessor is unaware of (i) any recorded Notices of Default affecting the Premise; (ii) any delinquent amounts due under any loan secured by the Premises; and (iii) any bankruptcy proceeding affecting the Premises.

  
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2.3 **Compliance.** Lessor warrants that to the best of its knowledge the improvements on the Premises comply with the building codes, applicable laws, covenants or restrictions of record, regulations, and ordinances ("**Applicable Requirements**") that were in effect at the time that each improvement, or portion thereof, was constructed. Said warranty does not apply to the use to which Lessee will put the Premises, modifications which may be required by the Americans with Disabilities Act or any similar laws as a result of Lessee's use (see Paragraph 50), or to any Alterations or Utility Installations (as defined in Paragraph 7.3(a)) made or to be made by Lessee. **NOTE: Lessee is responsible for determining whether or not the Applicable Requirements, and especially the zoning, are appropriate for Lessee's intended use, and acknowledges that past uses of the Premises may no longer be allowed.** If the Premises do not comply with said warranty, Lessor shall, except as otherwise provided, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, rectify the same at Lessor's expense. If Lessee does not give Lessor written notice of a non-compliance with this warranty within 6 months following the Start Date, correction of that non-compliance shall be the obligation of Lessee at Lessee's sole cost and expense. If the Applicable Requirements are hereafter changed so as to require during the term of this Lease the construction of an addition to or an alteration of the Premises and/or Building, the remediation of any Hazardous Substance, or the reinforcement or other physical modification of the Unit, Premises and/or Building ("**Capital Expenditure**"), Lessor and Lessee shall allocate the cost of such work as follows:

(a) Subject to Paragraph 2.3(c) below, if such Capital Expenditures are required as a result of the specific and unique use of the Premises by Lessee as compared with uses by tenants in general, Lessee shall be fully responsible for the cost thereof, provided, however, that if such Capital Expenditure is required during the last 2 years of this Lease and the cost thereof exceeds 6 months' Base Rent, Lessee may instead terminate this Lease unless Lessor notifies Lessee, in writing, within ~~10 30~~ days after receipt of Lessee's termination notice that Lessor has elected to pay the difference between the actual cost thereof and an amount equal to 6 months' Base Rent. If Lessee elects termination, Lessee shall ~~immediately~~ **within 90 days** cease the use of the Premises which requires such Capital Expenditure and deliver to Lessor written notice specifying a termination date at least ~~90 180~~ days thereafter. Such termination date shall, however, in no event be earlier than the last day that Lessee could legally utilize the Premises without commencing such Capital Expenditure.

(b) If such Capital Expenditure is not the result of the specific and unique use of the Premises by Lessee (such as, governmentally mandated seismic modifications), then Lessor shall pay for such Capital Expenditure and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease or any extension thereof, on the date that on which the Base Rent is due, an amount equal to 1/144th of the portion of such costs reasonably attributable to the Premises. Lessee shall pay interest on the balance but may prepay its obligation at any time. If, however, such Capital Expenditure is required during the last 2 years of this Lease or if Lessor reasonably determines that it is not economically feasible to pay its share thereof, Lessor shall have the option to terminate this Lease upon 90 days prior written notice to Lessee unless Lessee notifies Lessor, in writing, within 10 days after receipt of Lessor's termination notice that Lessee will pay for such Capital Expenditure. If Lessor does not elect to terminate, and fails to tender its share of any such Capital Expenditure, Lessee may advance such funds and deduct same, with interest, from Rent until Lessor's share of such costs have been fully paid. If Lessee is unable to finance Lessor's share, or if the balance of the Rent due and payable for the remainder of this Lease is not sufficient to fully reimburse Lessee on an offset basis, Lessee shall have the right to terminate this Lease upon 30 days written notice to Lessor.

(c) Notwithstanding the above, the provisions concerning Capital Expenditures are intended to apply only to non-voluntary, unexpected, and new Applicable Requirements. If the Capital Expenditures are instead triggered by Lessee as a result of an actual or proposed change in use, change in intensity of use, or modification to the Premises then, and in that event, Lessee shall either: (i) immediately cease such changed use or intensity of use and/or take such other steps as may be necessary to eliminate the requirement for such Capital Expenditure, or (ii) complete such Capital Expenditure at its own expense. Lessee shall not, however, have any right to terminate this Lease.

2.4 **Acknowledgements.** Lessee acknowledges that: (a) it has been given an opportunity to inspect and measure the Premises, (b) it has been advised by Lessor and/or Brokers to satisfy itself with respect to the size and condition of the Premises (including but not limited to the electrical, HVAC and fire sprinkler systems, security, environmental aspects, and compliance with Applicable Requirements and the Americans with Disabilities Act), and their suitability for Lessee's intended use, (c) Lessee has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefor as the same relate to its occupancy of the Premises, (d) it is not relying on any representation as to the size of the Premises made by Brokers or Lessor, (e) the square footage of the Premises was not material to Lessee's decision to lease the Premises and pay the Rent stated herein, and (f) neither Lessor, Lessor's agents, nor Brokers have made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease. In addition, Lessor acknowledges that: (i) Brokers have made no representations, promises or warranties concerning Lessee's ability to honor the Lease or suitability to occupy the Premises, and (ii) it is Lessor's sole responsibility to investigate the financial capability and/or suitability of all proposed tenants.

~~2.5 Lessee as Prior Owner/Occupant. The warranties made by Lessor in Paragraph 2 shall be of no force or effect if immediately prior to the Start Date Lessee was the owner or occupant of the Premises. In such event, Lessee shall be responsible for any necessary corrective work.~~

### 3. Term.

3.1 **Term.** The Commencement Date, Expiration Date and Original Term of this Lease are as specified in Paragraph 1.3.

3.2 **Early Possession.** Any provision herein granting Lessee Early Possession of the Premises is subject to and conditioned upon the Premises being available for such possession prior to the Commencement Date. Any grant of Early Possession only conveys a non-exclusive right to occupy the Premises. If Lessee totally or partially occupies the Premises prior to the Commencement Date, the obligation to pay Base Rent shall be abated for the period of such Early Possession. All other terms of this Lease (including but not limited to the obligations to pay Real Property Taxes and insurance premiums and to maintain the Premises) shall be in effect during such period. Any such Early Possession shall not affect the Expiration Date.

3.3 **Delay In Possession.** Lessor agrees to use commercially reasonable efforts to deliver exclusive possession of the Premises to Lessee by the Commencement Date. If, despite said efforts, Lessor is unable to deliver possession by such date, Lessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease or change the Expiration Date. Lessee shall not, however, be obligated to pay Rent or perform its other obligations until Lessor delivers possession of the Premises and any period of rent abatement that Lessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Lessee. If possession is not delivered within 60 days after the Commencement Date, as the same may be extended under the terms of any Work Letter executed by Parties, Lessee may, at its option, by notice in writing within 10 days after the end of such 60 day period, cancel this Lease, in which event the Parties shall be discharged from all obligations hereunder. If such written notice is not received by Lessor within said 10 day period, Lessee's right to cancel shall terminate. If possession of the Premises is not delivered within 120 days after the Commencement Date, this Lease shall terminate unless other agreements are reached between Lessor and Lessee, in writing.

3.4 **Lessee Compliance.** Lessor shall not be required to tender possession of the Premises to Lessee until Lessee complies with its obligation to provide evidence of insurance (Paragraph 8.5). Pending delivery of such evidence, Lessee shall be required to perform all of its obligations under this Lease from and after the Start Date, including the payment of Rent, notwithstanding Lessor's election to withhold possession pending receipt of such evidence of insurance. Further, if Lessee is required to perform any other conditions prior to or concurrent with the Start Date, the Start Date shall occur but Lessor may elect to withhold possession until such conditions are satisfied.

### 4. Rent.

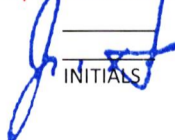
4.1 **Rent Defined.** All monetary obligations of Lessee to Lessor under the terms of this Lease (except for the Security Deposit) are deemed to be rent ("**Rent**").

4.2 **Payment.** Lessee shall cause payment of Rent to be received by Lessor in lawful money of the United States, without offset or deduction (except as specifically permitted in this Lease), on or before the day on which it is due. All monetary amounts shall be rounded to the nearest whole dollar. In the event that any invoice prepared by Lessor is inaccurate such inaccuracy shall not constitute a waiver and Lessee shall be obligated to pay the amount set forth in this Lease. Rent for any period during the term hereof which is for less than one full calendar month shall be prorated based upon the actual number of days of said month. Payment of Rent shall be made to Lessor at its address stated herein or to such other persons or place as Lessor may from time to time designate in writing. Acceptance of a payment which is less than the amount then due shall not be a waiver of Lessor's rights to the balance of such Rent, regardless of Lessor's endorsement of any check so stating. In the event that any check, draft, or other instrument of payment given by Lessee to Lessor is dishonored for any reason, Lessee agrees to pay to Lessor the sum of \$25 in addition to any Late Charge and Lessor, at its option, may require all future Rent be paid by cashier's check. Payments will be applied first to accrued late charges and attorney's fees, second to accrued interest, then to Base Rent, Insurance and Real Property Taxes, and any remaining amount to any other outstanding charges or costs.

4.3 **Association Fees.** In addition to the Base Rent, Lessee shall pay to Lessor each month **Lessee's Proportionate Share of Association Costs.** (See Paragraph 53) ~~an amount equal to any owner's association or condominium fees~~ levied or assessed against the Premises. Said monies shall be paid at the same time and in the same manner as the Base Rent.

5. **Security Deposit.** Lessee shall deposit with Lessor upon execution hereof the Security Deposit as security for Lessee's faithful performance of its obligations under this Lease. If Lessee fails to pay Rent, or otherwise Defaults under this Lease, Lessor may use, apply or retain all or any portion of said Security Deposit for the payment of any amount already due Lessor, ~~for Rents which will be due in the future,~~ and/or to reimburse or compensate Lessor for any liability, expense, loss or damage which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of the Security Deposit, Lessee shall within 10 days after written request therefor deposit monies with Lessor sufficient to restore said Security Deposit to the full amount required by this Lease. ~~If the Base Rent increases during the term of this Lease, Lessee shall, upon written request from Lessor, deposit additional monies with Lessor so that the total amount of the Security Deposit~~

  
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~~shall at all times bear the same proportion to the increased Base Rent as the initial Security Deposit bore to the initial Base Rent.~~ Should the Agreed Use be amended to accommodate a material change in the business of Lessee or to accommodate a sublessee or assignee ~~that is materially less creditworthy in the aggregate,~~ Lessor shall have the right to increase the Security Deposit to the extent necessary, in Lessor's reasonable judgment, to account for any increased wear and tear that the Premises may suffer as a result thereof. ~~If a change in control of Lessee occurs during this Lease and following such change the financial condition of Lessee is, in Lessor's reasonable judgment, significantly reduced, Lessee shall deposit such additional monies with Lessor as shall be sufficient to cause the Security Deposit to be at a commercially reasonable level based on such change in financial condition.~~ Lessor shall not be required to keep the Security Deposit separate from its general accounts. Within 90 days after the expiration or termination of this Lease, Lessor shall return that portion of the Security Deposit not used or applied by Lessor. Lessor shall ~~upon written request~~ provide Lessee with an accounting showing how that portion of the Security Deposit that was not returned was applied. ~~Lessor shall provide written notice to Lessee at least ninety (90) days prior to the termination of the Lease to allow Lessee to make any repairs to the Premises prior to any Security Deposit offsets being deducted.~~ No part of the Security Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease. THE SECURITY DEPOSIT SHALL NOT BE USED BY LESSEE IN LIEU OF PAYMENT OF THE LAST MONTH'S RENT.

## 6. Use.

6.1 **Use.** Lessee shall use and occupy the Premises only for the Agreed Use, or any other legal use which is reasonably comparable thereto, and for no other purpose. Lessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs occupants of or causes damage to neighboring premises or properties. Other than guide, signal and seeing eye dogs, ~~and on-duty working animals (i.e., K9 units) used in the course of professional duties and activities of the County and Sheriff's Department,~~ Lessee shall not keep or allow in the Premises any pets, animals, birds, fish, or reptiles. Lessor shall not unreasonably withhold or delay its consent to any written request for a modification of the Agreed Use, so long as the same will not impair the structural integrity of the improvements on the Premises or the mechanical or electrical systems therein, and/or is not significantly more burdensome to the Premises. If Lessor elects to withhold consent, Lessor shall within 7 days after such request give written notification of same, which notice shall include an explanation of Lessor's objections to the change in the Agreed Use.

### 6.2 Hazardous Substances.

(a) **Reportable Uses Require Consent.** The term "Hazardous Substance" as used in this Lease shall mean any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Premises, (ii) regulated or monitored by any governmental authority, or (iii) a basis for potential liability of Lessor to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, by-products or fractions thereof. Lessee shall not engage in any activity in or on the Premises which constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Lessor and timely compliance (at Lessee's expense) with all Applicable Requirements. "Reportable Use" shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and/or (iii) the presence at the Premises of a Hazardous Substance with respect to which any Applicable Requirements requires that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Lessee may use any ordinary and customary materials reasonably required to be used in the normal course of the Agreed Use, ordinary office supplies (copier toner, liquid paper, glue, etc.) and common household cleaning materials, so long as such use is in compliance with all Applicable Requirements, is not a Reportable Use, and does not expose the Premises or neighboring property to any meaningful risk of contamination or damage or expose Lessor to any liability therefor. In addition, Lessor may condition its consent to any Reportable Use upon receiving such additional assurances as Lessor reasonably deems necessary to protect itself, the public, the Premises and/or the environment against damage, contamination, injury and/or liability, including, but not limited to, the installation (and removal on or before Lease expiration or termination) of protective modifications (such as concrete encasements) and/or increasing the Security Deposit.

(b) **Duty to Inform Lessor.** If Lessee knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on, under or about the Premises, other than as previously consented to by Lessor, Lessee shall immediately give written notice of such fact to Lessor, and provide Lessor with a copy of any report, notice, claim or other documentation which it has concerning the presence of such Hazardous Substance.

(c) **Lessee Remediation.** Lessee shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Premises (including through the plumbing or sanitary sewer system) and shall promptly, at Lessee's expense, comply with all Applicable Requirements and take all investigatory and/or remedial action reasonably recommended, whether or not formally ordered or required, for the cleanup of any contamination of, and for the maintenance, security and/or monitoring of the Premises or neighboring properties, that was caused or materially contributed to by Lessee, or pertaining to or involving any Hazardous Substance brought onto the Premises during the term of this Lease, by or for Lessee, or any third party.

(d) **Lessee Indemnification.** Lessee shall indemnify, defend and hold Lessor, its agents, employees, lenders and ground lessor, if any, harmless from and against any and all loss of rents and/or damages, liabilities, judgments, claims, expenses, penalties, and attorneys' and consultants' fees arising out of or involving any Hazardous Substance brought onto the Premises by or for Lessee, or any third party (provided, however, that Lessee shall have no liability under this Lease with respect to underground migration of any Hazardous Substance under the Premises from adjacent properties not caused or contributed to by Lessee). Lessee's obligations shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Lessee, and the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease. **No termination, cancellation or release agreement entered into by Lessor and Lessee shall release Lessee from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Lessor in writing at the time of such agreement.**

(e) **Lessor Indemnification.** Except as otherwise provided in paragraph 8.7, Lessor and its successors and assigns shall indemnify, defend, reimburse and hold Lessee, its employees and lenders, harmless from and against any and all environmental damages, including the cost of remediation, which result from Hazardous Substances which existed on the Premises prior to Lessee's occupancy or which are caused by the gross negligence or willful misconduct of Lessor, its agents or employees. Lessor's obligations, as and when required by the Applicable Requirements, shall include, but not be limited to, the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease.

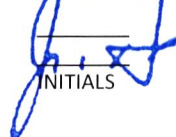
(f) **Investigations and Remediations.** Lessor shall retain the responsibility and pay for any investigations or remediation measures required by governmental entities having jurisdiction with respect to the existence of Hazardous Substances on the Premises prior to Lessee's occupancy, unless such remediation measure is required as a result of Lessee's use (including "Alterations", as defined in paragraph 7.3(a) below) of the Premises, in which event Lessee shall be responsible for such payment. Lessee shall cooperate fully in any such activities at the request of Lessor, including allowing Lessor and Lessor's agents to have reasonable access to the Premises at reasonable times in order to carry out Lessor's investigative and remedial responsibilities.

(g) **Lessor Termination Option.** If a Hazardous Substance Condition (see Paragraph 9.1(e)) occurs during the term of this Lease, unless Lessee is legally responsible therefor (in which case Lessee shall make the investigation and remediation thereof required by the Applicable Requirements and this Lease shall continue in full force and effect, but subject to Lessor's rights under Paragraph 6.2(d) and Paragraph 13), Lessor may, at Lessor's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to remediate such condition exceeds 12 times the then monthly Base Rent or \$100,000, whichever is greater, give written notice to Lessee, within 30 days after receipt by Lessor of knowledge of the occurrence of such Hazardous Substance Condition, of Lessor's desire to terminate this Lease as of the date ~~60~~ **180** days following the date of such notice. In the event Lessor elects to give a termination notice, Lessee may, within ~~10~~ **30** days thereafter, give written notice to Lessor of Lessee's commitment to pay the amount by which the cost of the remediation of such Hazardous Substance Condition exceeds an amount equal to 12 times the then monthly Base Rent or \$100,000, whichever is greater. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days following such commitment. In such event, this Lease shall continue in full force and effect, and Lessor shall proceed to make such remediation as soon as reasonably possible after the required funds are available. If Lessee does not give such notice and provide the required funds or assurance thereof within the time provided, this Lease shall terminate as of the date specified in Lessor's notice of termination.

6.3 **Lessee's Compliance with Applicable Requirements.** Except as otherwise provided in this Lease, Lessee shall, at Lessee's sole expense, fully, diligently and in a timely manner, materially comply with all Applicable Requirements, the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Lessor's engineers and/or consultants which relate in any manner to the Premises, without regard to whether said Applicable Requirements are now in effect or become effective after the Start Date. Lessee shall, within **10 business** days after receipt of Lessor's written request, provide Lessor with copies of all permits and other documents, and other information evidencing Lessee's compliance with any Applicable Requirements specified by Lessor, and shall immediately upon receipt, notify Lessor in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving the failure of Lessee or the Premises to comply with any Applicable Requirements. Likewise, Lessee shall immediately give written notice to Lessor of: (i) any water damage to the Premises and any suspected seepage, pooling, dampness or other condition conducive to the production of mold; or (ii) any mustiness or other odors that might indicate the presence of mold in the Premises. In addition, Lessee shall provide copies of all relevant material safety data sheets (**MSDS**) to Lessor within 10 days of the receipt of a written request therefor. In addition, Lessee shall provide Lessor with copies of its business license, certificate of occupancy and/or any similar document within **10 business** days of the receipt of a written request therefor.

6.4 **Inspection; Compliance.** Lessor and Lessor's "Lender" (as defined in Paragraph 30) and consultants authorized by Lessor shall have the right to enter into Premises at any time in the case of an emergency, and otherwise at reasonable times after reasonable notice, for the purpose of inspecting and/or testing the condition of the Premises and/or for verifying compliance by Lessee with this Lease. The cost of any such inspections shall be paid by Lessor, unless a violation of

  
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Applicable Requirements, or a Hazardous Substance Condition (see paragraph 9.1(e)) is found to exist or be imminent, or the inspection is requested or ordered by a governmental authority. In such case, Lessee shall upon request reimburse Lessor for the cost of such inspection, so long as such inspection is reasonably related to the violation or contamination. In addition, Lessee shall provide copies of all relevant material safety data sheets (MSDS) to Lessor within 10 days of the receipt of a written request therefor. Lessee acknowledges that any failure on its part to allow such inspections or testing will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, should the Lessee fail to allow such inspections and/or testing in a timely fashion the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to ~~10~~ 5% of the then existing Base Rent or \$100, whichever is greater for the remainder to the Lease. The Parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to allow such inspection and/or testing. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to such failure nor prevent the exercise of any of the other rights and remedies granted hereunder. **Notwithstanding the above, the Base Rent shall not be automatically increased as referenced herein after two infractions wherein Lessee does not allow such inspections and/or testing in a timely fashion; however, thereafter if a subsequent infraction occurs, the Base Rent shall be automatically increased without any requirements for notice to Lessee, by an amount equal to 4% of the then existing Base Rent or \$100, whichever is greater for the remainder of the Lease.**

## 7. Maintenance; Repairs; Utility Installations; Trade Fixtures and Alterations.

### 7.1 Lessee's Obligations.

(a) **In General.** Subject to the provisions of Paragraph 2.2 (Condition), 2.3 (Compliance), 6.3 (Lessee's Compliance with Applicable Requirements), 7.2 (Lessor's Obligations), 9 (Damage or Destruction), and 14 (Condemnation), Lessee shall, at Lessee's sole expense, keep the Premises, Utility Installations (intended for Lessee's exclusive use, no matter where located), and Alterations in good order, condition and repair (whether or not the portion of the Premises requiring repair, or the means of repairing the same, are reasonably or readily accessible to Lessee, and whether or not the need for such repairs occurs as a result of Lessee's use, any prior use, the elements or the age of such portion of the Premises), including, but not limited to, all equipment or facilities, such as plumbing, HVAC equipment, electrical, lighting facilities, ~~boilers, pressure vessels,~~ fire protection system, fixtures, walls (interior and exterior), foundations, ceilings, roofs, roof drainage systems, floors, windows, doors, plate glass, ~~fire extinguishing systems, including fire alarm and/or smoke detection devices and monitoring systems,~~ skylights, ~~landscaping,~~ driveways, parking lots, fences, retaining walls, ~~and Lessee's signs, sidewalks and parkways located in or, on, or adjacent to~~ the Premises. Lessee, in keeping the Premises in good order, condition and repair, shall exercise and perform good maintenance practices, specifically including the procurement and maintenance of the service contracts required by Paragraph 7.1(b) below. Lessee's obligations shall include restorations, replacements or renewals when necessary to keep the Premises and all improvements thereon or a part thereof in good order, condition and state of repair **to the extent not warranted by Lessor hereunder.** Lessee shall, during the term of this Lease, keep the exterior appearance of the Building in a first-class condition (including, e.g. graffiti removal) consistent with the exterior appearance of other similar facilities of comparable age and size in the **Project vicinity,** including, when necessary, the exterior repainting of the Building.

(b) **Service Contracts.** Lessee shall, at Lessee's sole expense, procure and maintain contracts, with copies to Lessor, in customary form and substance for, and with contractors specializing and experienced in the maintenance of the following equipment and improvements, if any, if and when installed on the Premises: ~~(i) HVAC equipment, (ii) boiler, and pressure vessels, (iii) (i) fire monitoring systems, (ii) fire extinguishing systems, including fire alarm and/or smoke detection devices, (iv) landscaping and irrigation systems, (v) roof covering and drains, and (vi) (iii) clarifiers, if any.~~ However, **if Lessee fails to procure or maintain such contracts,** Lessor reserves the right, upon notice to Lessee, to procure and maintain any or all of such service contracts, and Lessee shall reimburse Lessor, upon demand, for the cost thereof.

(c) **Failure to Perform.** If Lessee fails to perform Lessee's obligations under this Paragraph 7.1, Lessor may enter upon the Premises after 10 days' prior written notice to Lessee (except in the case of an emergency, in which case no notice shall be required), perform such obligations on Lessee's behalf, and put the Premises in good order, condition and repair, and Lessee shall promptly pay to Lessor a sum equal to ~~115~~ 110% of the cost thereof.

~~(d) **Replacement.** Subject to Lessee's indemnification of Lessor as set forth in Paragraph 8.7 below, and without relieving Lessee of liability resulting from Lessee's failure to exercise and perform good maintenance practices, if an item described in Paragraph 7.1(b) cannot be repaired other than at a cost which is in excess of 50% of the cost of replacing such item, then such item shall be replaced by Lessor, and the cost thereof shall be prorated between the Parties and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease or any extension thereof, on the date on which Base Rent is due, an amount equal to the product of multiplying the cost of such replacement by a fraction, the numerator of which is one, and the denominator of which is 144 (i.e. 1/144th of the cost per month). Lessee shall pay interest on the unamortized balance but may prepay its obligation at any time.~~

(e) **Roof, Parking Lot, HVAC.** Lessee shall be responsible for repairs and/or replacement of the roof (including roof drains and skylights) and parking lot repairs and/or parking lot replacement, HVAC repairs and/or replacement, and Lessor shall use the reserves set aside for such repair or replacement work and shall perform said work when required as determined by Lessor. Lessee shall be responsible for any repair and/or replacement costs as described herein in the event such costs exceed the amount(s) held in reserve. Lessor shall obtain a 15-year roof warrant at Lessor's cost upon completion of the Building.

7.2 **Lessor's Obligations.** Subject to the provisions of Paragraphs 2.2 (Condition), 2.3 (Compliance), 9 (Damage or Destruction) and 14 (Condemnation), it is intended by the Parties hereto that **except for being responsible for the structural elements of the roof, bearing walls, and foundation,** Lessor have no obligation, in any manner whatsoever, to repair and maintain the Premises, or the equipment therein, all of which obligations are intended to be that of the Lessee. It is the intention of the Parties that the terms of this Lease govern the respective obligations of the Parties as to maintenance and repair of the Premises. **Notwithstanding the above, Lessor, at Lessee's sole cost and expense, shall procure and maintain contracts, for (i) quarterly HVAC maintenance, (ii) annual roof maintenance, (iii) annual parking lot maintenance and (iv) annual parking light fixture maintenance. The cost of said contracts shall be included in Lessee's Operating Expenses. See also Paragraph 52.**

### 7.3 Utility Installations; Trade Fixtures; Alterations.

(a) **Definitions.** The term "Utility Installations" refers to all floor and window coverings, air and/or vacuum lines, power panels, electrical distribution, security and fire protection systems, communication cabling, lighting fixtures, HVAC equipment, plumbing, and fencing in or on the Premises. The term "Trade Fixtures" shall mean Lessee's machinery and equipment that can be removed without doing material damage to the Premises. The term "Alterations" shall mean any modification of the improvements, other than Utility Installations or Trade Fixtures, whether by addition or deletion. "**Lessee Owned Alterations and/or Utility Installations**" are defined as Alterations and/or Utility Installations made by Lessee that are not yet owned by Lessor pursuant to Paragraph 7.4(a).

(b) **Consent.** Lessee shall not make any Alterations or Utility Installations to the Premises without Lessor's prior written consent. Lessee may, however, make non-structural Alterations or Utility Installations to the interior of the Premises (excluding the roof) without such consent but upon notice to Lessor, as long as they are not visible from the outside, do not involve puncturing, relocating or removing the roof or any existing walls, will not affect the electrical, plumbing, HVAC, and/or life safety systems, do not trigger the requirement for additional modifications and/or improvements to the Premises resulting from Applicable Requirements, such as compliance with Title 24, and the cumulative cost thereof during this Lease as extended does not exceed a sum equal to 3 month's Base Rent in the aggregate or a sum equal to one month's Base Rent in any one year. Notwithstanding the foregoing, Lessee shall not make or permit any roof penetrations and/or install anything on the roof without the prior written approval of Lessor. Lessor may, as a precondition to granting such approval, require Lessee to utilize a contractor ~~chosen and/or~~ approved by Lessor **whose approval shall not be unreasonably withheld.** Any Alterations or Utility Installations that Lessee shall desire to make and which require the consent of the Lessor shall be presented to Lessor in written form with detailed plans. Consent shall be deemed conditioned upon Lessee's: (i) acquiring all applicable governmental permits, (ii) furnishing Lessor with copies of both the permits and the plans and specifications prior to commencement of the work, and (iii) compliance with all conditions of said permits and other Applicable Requirements in a prompt and expeditious manner. Any Alterations or Utility Installations shall be performed in a workmanlike manner with good and sufficient materials. Lessee shall promptly upon completion furnish Lessor with as-built plans and specifications. ~~For work which costs an amount in excess of one month's Base Rent, Lessor may condition its consent upon Lessee providing a lien and completion bond in an amount equal to 150% of the estimated cost of such Alteration or Utility Installation and/or upon Lessee's posting an additional Security Deposit with Lessor.~~

(c) **Liens; Bonds.** Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use on the Premises, which claims are or may be secured by any mechanic's or materialmen's lien against the Premises or any interest therein. Lessee shall give Lessor not less than 10 days notice prior to the commencement of any work in, on or about the Premises, and Lessor shall have the right to post notices of non-responsibility. If Lessee shall contest the validity of any such lien, claim or demand, then Lessee shall, at its sole expense defend and protect itself, Lessor and the Premises against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof. ~~If Lessee is not self-performing~~ **Alteration or Utility Installation work, and if** Lessor shall require, Lessee shall furnish a surety bond in an amount equal to 150% of the amount of such contested lien, claim or demand, indemnifying Lessor against liability for the same. If Lessor elects to participate in any such action, Lessee shall pay Lessor's attorneys' fees and costs.

### 7.4 Ownership; Removal; Surrender; and Restoration.

(a) **Ownership.** Subject to Lessor's right to require removal or elect ownership as hereinafter provided, all Alterations and Utility Installations made by Lessee shall be the property of Lessee, but considered a part of the Premises. ~~Lessor may, at any time, elect in writing to be the owner of all or any specified part of the Lessee Owned Alterations and Utility Installations.~~ Unless otherwise instructed per paragraph 7.4(b) hereof, all Lessee Owned Alterations and Utility Installations shall, at the expiration or termination of this Lease, become the property of Lessor and be surrendered by Lessee with the Premises.

(b) **Removal.** By delivery to Lessee of written notice from Lessor not earlier than ~~90~~ 180 and not later than ~~30~~ 90 days prior to the end of the term of

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this Lease, Lessor may require that any or all Lessee Owned Alterations or Utility Installations be removed by the expiration or termination of this Lease. Lessor may require the removal at any time of all or any part of any Lessee Owned Alterations or Utility Installations made without the required consent.

(c) **Surrender; Restoration.** Lessee shall surrender the Premises by the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof broom clean and free of debris, and in good operating order, condition and state of repair, ordinary wear and tear excepted. "Ordinary wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice. Notwithstanding the foregoing and the provisions of Paragraph 7.1(a), if the Lessee occupies the Premises for 12 months or less, then Lessee shall surrender the Premises in the same condition as delivered to Lessee on the Start Date with NO allowance for ordinary wear and tear. Lessee shall repair any damage occasioned by the installation, maintenance or removal of Trade Fixtures, Lessee owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for Lessee. Lessee shall also completely remove from the Premises any and all Hazardous Substances brought onto the Premises by or for Lessee, or any third party (except Hazardous Substances which were deposited via underground migration from areas outside of the Premises) to the level specified in Applicable Requirements. Trade Fixtures shall remain the property of Lessee and shall be removed by Lessee. Any personal property of Lessee not removed on or before the Expiration Date or any earlier termination date shall be deemed to have been abandoned by Lessee and may be disposed of or retained by Lessor as Lessor may desire. The failure by Lessee to timely vacate the Premises pursuant to this Paragraph 7.4(c) without the express written consent of Lessor shall constitute a holdover under the provisions of Paragraph 26 below.

## 8. Insurance; Indemnity.

8.1 **Payment For Insurance.** Lessee shall pay for all insurance required under Paragraph 8 except to the extent of the cost attributable to liability insurance carried by Lessor under Paragraph 8.2(b) in excess of \$2,000,000 per occurrence. Premiums for policy periods commencing prior to or extending beyond the Lease term shall be prorated to correspond to the Lease term. Payment shall be made by Lessee to Lessor **each month based upon Lessor's estimate. See Paragraph 52 regarding the reconciliation provision. within 10 days following receipt of an invoice.**

### 8.2 Liability Insurance.

(a) **Carried by Lessee.** Lessee shall obtain and keep in force a Commercial General Liability policy of insurance protecting Lessee and Lessor as an additional insured against claims for bodily injury, personal injury and property damage based upon or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than \$1,000,000 per occurrence with an annual aggregate of not less than \$2,000,000. Lessee shall add Lessor as an additional insured by means of an endorsement at least as broad as the Insurance Service Organization's "Additional Insured-Managers or Lessors of Premises" Endorsement. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an "insured contract" for the performance of Lessee's indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Lessee nor relieve Lessee of any obligation hereunder. Lessee shall provide an endorsement on its liability policy(ies) which provides that its insurance shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be considered excess insurance only.

(b) **Carried by Lessor.** Lessor shall maintain liability insurance as described in Paragraph 8.2(a), in addition to, and not in lieu of, the insurance required to be maintained by Lessee. Lessee shall not be named as an additional insured therein.

### 8.3 Property Insurance - Building, Improvements and Rental Value.

(a) **Building and Improvements.** The Insuring Party shall obtain and keep in force a policy or policies in the name of Lessor, with loss payable to Lessor, any ground-lessor, and to any Lender insuring loss or damage to the Premises. The amount of such insurance shall be equal to the full insurable replacement cost of the Premises, as the same shall exist from time to time, or the amount required by any Lender, but in no event more than the commercially reasonable and available insurable value thereof. Lessee Owned Alterations and Utility Installations, Trade Fixtures, and Lessee's personal property shall be insured by Lessee not by Lessor. If the coverage is available and commercially appropriate, such policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake unless required by a Lender), including coverage for debris removal and the enforcement of any Applicable Requirements requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as the result of a covered loss. Said policy or policies shall also contain an agreed valuation provision in lieu of any coinsurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located. If such insurance coverage has a deductible clause, the deductible amount shall not exceed \$5,000 per occurrence, and Lessee shall be liable for such deductible amount in the event of an Insured Loss.

(b) **Rental Value.** The Insuring Party shall obtain and keep in force a policy or policies in the name of Lessor with loss payable to Lessor and any Lender, insuring the loss of the full Rent for one year with an extended period of indemnity for an additional 180 days ("Rental Value insurance"). Said insurance shall contain an agreed valuation provision in lieu of any coinsurance clause, and the amount of coverage shall be adjusted annually to reflect the projected Rent otherwise payable by Lessee, for the next 12 month period. Lessee shall be liable for any deductible amount in the event of such loss.

(c) **Adjacent Premises.** If the Premises are part of a larger building, or of a group of buildings owned by Lessor which are adjacent to the Premises, the Lessee shall pay for any increase in the premiums for the property insurance of such building or buildings if said increase is caused by Lessee's acts, omissions, use or occupancy of the Premises.

### 8.4 Lessee's Property; Business Interruption Insurance; Worker's Compensation Insurance.

(a) **Property Damage.** Lessee shall obtain and maintain insurance coverage on all of Lessee's personal property, Trade Fixtures, and Lessee Owned Alterations and Utility Installations. Such insurance shall be full replacement cost coverage with a deductible of not to exceed ~~\$1,000~~ **\$50,000** per occurrence. The proceeds from any such insurance shall be used by Lessee for the replacement of personal property, Trade Fixtures and Lessee Owned Alterations and Utility Installations.

(b) **Business Interruption.** Lessee shall obtain and maintain loss of income and extra expense insurance in amounts as will reimburse Lessee for direct or indirect loss of earnings attributable to all perils commonly insured against by prudent lessees in the business of Lessee or attributable to prevention of access to the Premises as a result of such perils.

(c) **Worker's Compensation Insurance.** Lessee shall obtain and maintain Worker's Compensation Insurance in such amount as may be required by Applicable Requirements. Such policy shall include a "Waiver of Subrogation" endorsement. Lessee shall provide Lessor with a copy of such endorsement along with the certificate of insurance or copy of the policy required by paragraph 8.5.

(d) **No Representation of Adequate Coverage.** Lessor makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Lessee's property, business operations or obligations under this Lease.

8.5 **Insurance Policies.** ~~The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance. Lessee must declare its insurance self-insured retention for each coverage required herein. Insurance required herein shall be by companies maintaining during the policy term a "General Policyholders Rating" of at least A-, VII, as set forth in the most current issue of "Best's Insurance Guide", or such other rating as may be required by a Lender. Lessee shall not do or permit to be done anything which invalidates the required insurance policies. Lessee shall, prior to the Start Date, deliver to Lessor certified copies of policies of such insurance or certificates with copies of the required endorsements evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification except after 30 days prior written notice to Lessor. Lessee shall, at least 10 days prior to the expiration of such policies, furnish Lessor with evidence of renewals or "insurance binders" evidencing renewal thereof, or Lessor may increase his liability insurance coverage and charge the cost thereof to Lessee, which amount shall be payable by Lessee to Lessor upon demand. Such policies shall be for a term of at least one year, or the length of the remaining term of this Lease, whichever is less. If either Party shall fail to procure and maintain the insurance required to be carried by it, the other Party may, but shall not be required to, procure and maintain the same.~~

8.6 **Waiver of Subrogation.** Without affecting any other rights or remedies, Lessee and Lessor each hereby release and waive the other, and waive their entire right to recover damages against the other, for loss of or damage to its property arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable hereto. The Parties agree to have their respective property damage insurance carriers waive any right to subrogation that such companies may have against Lessor or Lessee, as the case may be, so long as the insurance is not invalidated thereby.

8.7 **Indemnity.** Except for Lessor's gross negligence or willful misconduct, Lessee shall indemnify, protect, defend and hold harmless the Premises, Lessor and its agents, Lessor's master or ground lessor, partners and Lenders, from and against any and all claims, loss of rents and/or damages, liens, judgments, penalties, attorneys' and consultants' fees, expenses and/or liabilities arising out of, involving, or in connection with, a Breach of the Lease by Lessee and/or the use and/or occupancy of the Premises and/or Project by Lessee and/or by Lessee's employees, contractors, ~~or~~ invitees **or third parties**. If any action or proceeding is brought against Lessor by reason of any of the foregoing matters, Lessee shall upon notice defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor and Lessor shall cooperate with Lessee in such defense. Lessor need not have first paid any such claim in order to be defended or indemnified.

8.8 **Exemption of Lessor and its Agents from Liability.** Notwithstanding the negligence or breach of this Lease by Lessor or its agents, neither Lessor nor its agents shall be liable under any circumstances for: (i) injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, indoor air quality, the presence of mold or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising upon the Premises or upon other portions of the

  
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building of which the Premises are a part, or from other sources or places, (ii) any damages arising from any act or neglect of any other tenant of Lessor or from the failure of Lessor or its agents to enforce the provisions of any other lease in the Project, or (iii) injury to Lessee's business or for any loss of income or profit therefrom. Instead, it is intended that Lessee's sole recourse in the event of such damages or injury be to file a claim on the insurance policy(ies) that Lessee is required to maintain pursuant to the provisions of paragraph 8.

**8.9 Failure to Provide Insurance.** Lessee acknowledges that any failure on its part to obtain or maintain the insurance required herein will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, for any month or portion thereof that Lessee does not maintain the required insurance and/or does not provide Lessor with the required binders or certificates evidencing the existence of the required insurance, the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater. The parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to maintain the required insurance. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to maintain such insurance, prevent the exercise of any of the other rights and remedies granted hereunder, nor relieve Lessee of its obligation to maintain the insurance specified in this Lease.

## 9. Damage or Destruction.

### 9.1 Definitions.

(a) **"Premises Partial Damage"** shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations, which can reasonably be repaired in 6 months or less from the date of the damage or destruction. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(b) **"Premises Total Destruction"** shall mean damage or destruction to the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which cannot reasonably be repaired in 6 months or less from the date of the damage or destruction. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(c) **"Insured Loss"** shall mean damage or destruction to improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which was caused by an event required to be covered by the insurance described in Paragraph 8.3(a), irrespective of any deductible amounts or coverage limits involved.

(d) **"Replacement Cost"** shall mean the cost to repair or rebuild the improvements owned by Lessor at the time of the occurrence to their condition existing immediately prior thereto, including demolition, debris removal and upgrading required by the operation of Applicable Requirements, and without deduction for depreciation.

(e) **"Hazardous Substance Condition"** shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance, in, on, or under the Premises which requires restoration.

**9.2 Partial Damage - Insured Loss.** If a Premises Partial Damage that is an Insured Loss occurs, then Lessor shall, at Lessor's expense, repair such damage (but not Lessee's Trade Fixtures or Lessee Owned Alterations and Utility Installations) as soon as reasonably possible and this Lease shall continue in full force and effect; provided, however, that Lessee shall, at Lessor's election, make the repair of any damage or destruction the total cost to repair of which is \$10,000 or less, and, in such event, Lessor shall make any applicable insurance proceeds available to Lessee on a reasonable basis for that purpose. Notwithstanding the foregoing, if the required insurance was not in force or the insurance proceeds are not sufficient to effect such repair, the Insuring Party shall promptly contribute the shortage in proceeds (except as to the deductible which is Lessee's responsibility) as and when required to complete said repairs. In the event, however, such shortage was due to the fact that, by reason of the unique nature of the improvements, full replacement cost insurance coverage was not commercially reasonable and available, Lessor shall have no obligation to pay for the shortage in insurance proceeds or to fully restore the unique aspects of the Premises unless Lessee provides Lessor with the funds to cover same, or adequate assurance thereof, within ~~10~~ 30 days following receipt of written notice of such shortage and request therefor. If Lessor receives said funds or adequate assurance thereof within said ~~10~~ 30 day period, the party responsible for making the repairs shall complete them as soon as reasonably possible and this Lease shall remain in full force and effect. If such funds or assurance are not received, Lessor may nevertheless elect by written notice to Lessee within 10 days thereafter to: (i) make such restoration and repair as is commercially reasonable with Lessor paying any shortage in proceeds, in which case this Lease shall remain in full force and effect, or (ii) have this Lease terminate 30 days thereafter. Lessee shall not be entitled to reimbursement of any funds contributed by Lessee to repair any such damage or destruction. Premises Partial Damage due to flood or earthquake shall be subject to Paragraph 9.3, notwithstanding that there may be some insurance coverage, but the net proceeds of any such insurance shall be made available for the repairs if made by either Party.

**9.3 Partial Damage - Uninsured Loss.** If a Premises Partial Damage that is not an Insured Loss occurs, unless caused by a negligent or willful act of Lessee (in which event Lessee shall make the repairs at Lessee's expense), Lessor may either: (i) repair such damage as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) terminate this Lease by giving written notice to Lessee within 30 days after receipt by Lessor of knowledge of the occurrence of such damage. Such termination shall be effective ~~60~~ 90 days following the date of such notice. In the event Lessor elects to terminate this Lease, Lessee shall have the right within ~~10~~ 30 days after receipt of the termination notice to give written notice to Lessor of Lessee's commitment to pay for the repair of such damage without reimbursement from Lessor. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days after making such commitment. In such event this Lease shall continue in full force and effect, and Lessor shall proceed to make such repairs as soon as reasonably possible after the required funds are available. If Lessee does not make the required commitment, this Lease shall terminate as of the date specified in the termination notice.

**9.4 Total Destruction.** Notwithstanding any other provision hereof, if a Premises Total Destruction occurs, this Lease shall terminate 60 days following such Destruction. If the damage or destruction was caused by the gross negligence or willful misconduct of Lessee, Lessor shall have the right to recover Lessor's damages from Lessee, except as provided in Paragraph 8.6.

**9.5 Damage Near End of Term.** If at any time during the last 6 months of this Lease there is damage for which the cost to repair exceeds one month's Base Rent, whether or not an Insured Loss, Lessor may terminate this Lease effective 60 days following the date of occurrence of such damage by giving a written termination notice to Lessee within 30 days after the date of occurrence of such damage. Notwithstanding the foregoing, if Lessee at that time has an exercisable option to extend this Lease or to purchase the Premises, then Lessee may preserve this Lease by, (a) exercising such option and (b) providing Lessor with any shortage in insurance proceeds (or adequate assurance thereof) needed to make the repairs on or before the earlier of (i) the date which is 10 days after Lessee's receipt of Lessor's written notice purporting to terminate this Lease, or (ii) the day prior to the date upon which such option expires. If Lessee duly exercises such option during such period and provides Lessor with funds (or adequate assurance thereof) to cover any shortage in insurance proceeds, Lessor shall, at Lessor's commercially reasonable expense, repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. If Lessee fails to exercise such option and provide such funds or assurance during such period, then this Lease shall terminate on the date specified in the termination notice and Lessee's option shall be extinguished.

### 9.6 Abatement of Rent; Lessee's Remedies.

(a) **Abatement.** In the event of Premises Partial Damage or Premises Total Destruction or a Hazardous Substance Condition for which Lessee is not responsible under this Lease, the Rent payable by Lessee for the period required for the repair, remediation or restoration of such damage shall be abated in proportion to the degree to which Lessee's use of the Premises is impaired, but not to exceed the proceeds received from the Rental Value insurance. All other obligations of Lessee hereunder shall be performed by Lessee, and Lessor shall have no liability for any such damage, destruction, remediation, repair or restoration except as provided herein.

(b) **Remedies.** If Lessor is obligated to repair or restore the Premises and does not commence, in a substantial and meaningful way, such repair or restoration within 90 days after such obligation shall accrue, Lessee may, at any time prior to the commencement of such repair or restoration, give written notice to Lessor and to any Lenders of which Lessee has actual notice, of Lessee's election to terminate this Lease on a date not less than 60 days following the giving of such notice. If Lessee gives such notice and such repair or restoration is not commenced within 30 days thereafter, this Lease shall terminate as of the date specified in said notice. If the repair or restoration is commenced within such 30 days, this Lease shall continue in full force and effect. "Commence" shall mean either the unconditional authorization of the preparation of the required plans, or the beginning of the actual work on the Premises, whichever first occurs, **and Lessor will diligently pursue repair work to restore the Premises as expeditiously as possible.**

**9.7 Termination; Advance Payments.** Upon termination of this Lease pursuant to Paragraph 6.2(g) or Paragraph 9, an equitable adjustment shall be made concerning advance Base Rent and any other advance payments made by Lessee to Lessor. Lessor shall, in addition, return to Lessee so much of Lessee's Security Deposit as has not been, or is not then required to be, used by Lessor.

## 10. Real Property Taxes.

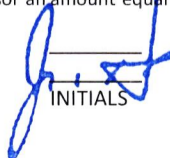
**10.1 Definition.** As used herein, the term **"Real Property Taxes"** shall include any form of assessment; real estate, general, special, ordinary or extraordinary, or rental levy or tax (other than inheritance, personal income or estate taxes); improvement bond; and/or license fee imposed upon or levied against any legal or equitable interest of Lessor in the Premises or the Project, Lessor's right to other income therefrom, and/or Lessor's business of leasing, by any authority having the direct or indirect power to tax and where the funds are generated with reference to the Building address. Real Property Taxes shall also include any tax, fee, levy, assessment or charge, or any increase therein: (i) imposed by reason of events occurring during the term of this Lease, including but not limited to, a change in the ownership of the Premises, and (ii) levied or assessed on machinery or equipment provided by Lessor to Lessee pursuant to this Lease.

**10.2 Payment of Taxes.** In addition to Base Rent, Lessee shall pay to Lessor an amount equal to the Real Property Tax **each month based upon Lessor's**

  
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estimate. See Paragraph 52 regarding the reconciliation provision. ~~installment due at least 20 days prior to the applicable delinquency date. If any such installment shall cover any period of time prior to or after the expiration or termination of this Lease, Lessee's share of such installment shall be prorated. In the event Lessee incurs a late charge on any Rent payment, Lessor may estimate the current Real Property Taxes, and require that such taxes be paid in advance to Lessor by Lessee monthly in advance with the payment of the Base Rent. Such monthly payments shall be an amount equal to the amount of the estimated installment of taxes divided by the number of months remaining before the month in which said installment becomes delinquent. When the actual amount of the applicable tax bill is known, the amount of such equal monthly advance payments shall be adjusted as required to provide the funds needed to pay the applicable taxes. If the amount collected by Lessor is insufficient to pay such Real Property Taxes when due, Lessee shall pay Lessor, upon demand, such additional sum as is necessary. Advance payments may be intermingled with other moneys of Lessor and shall not bear interest. In the event of a Breach by Lessee in the performance of its obligations under this Lease, then any such advance payments may be treated by Lessor as an additional Security Deposit. Lessor shall be responsible, regardless of timely reimbursements from Lessee, to timely remit all Property Tax payments when due, and Lessee shall not be held responsible for any late fees whatsoever resulting from late Property Tax payments.~~

10.3 **Joint Assessment.** If the Premises are not separately assessed, Lessee's liability shall be an equitable proportion of the Real Property Taxes for all of the land and improvements included within the tax parcel assessed, such proportion to be conclusively determined by Lessor from the respective valuations assigned in the assessor's work sheets or such other information as may be reasonably available.

10.4 **Personal Property Taxes.** Lessee shall pay, prior to delinquency, all taxes assessed against and levied upon Lessee Owned Alterations, Utility Installations, Trade Fixtures, furnishings, equipment and all personal property of Lessee. When possible, Lessee shall cause its Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property of Lessor. If any of Lessee's said property shall be assessed with Lessor's real property, Lessee shall pay Lessor the taxes attributable to Lessee's property within ~~10~~ 30 days after receipt of a written statement setting forth the taxes applicable to Lessee's property.

#### 11. Utilities and Services.

11.1 Lessee shall pay for all water, gas, heat, light, power, telephone, trash disposal and other utilities and services supplied to the Premises, together with any taxes thereon. If any such services are not separately metered or billed to Lessee, Lessee shall pay a reasonable proportion, to be determined by Lessor, of all charges jointly metered or billed. There shall be no abatement of rent and Lessor shall not be liable in any respect whatsoever for the inadequacy, stoppage, interruption or discontinuance of any utility or service due to riot, strike, labor dispute, breakdown, accident, repair or other cause beyond Lessor's reasonable control or in cooperation with governmental request or directions.

11.2 Within fifteen days of Lessor's written request, Lessee agrees to deliver to Lessor such information, documents and/or authorization as Lessor needs in order for Lessor to comply with new or existing Applicable Requirements relating to commercial building energy usage, ratings, and/or the reporting thereof.

#### 12. Assignment and Subletting.

##### 12.1 Lessor's Consent Required.

~~(a) Lessee shall not voluntarily or by operation of law assign, transfer, mortgage or encumber (collectively, "assign or assignment") or sublet all or any part of Lessee's interest in this Lease or in the Premises without Lessor's prior written consent.~~

~~(b) Unless Lessee is a corporation and its stock is publicly traded on a national stock exchange, a change in the control of Lessee shall constitute an assignment requiring consent. The transfer, on a cumulative basis, of 25% or more of the voting control of Lessee shall constitute a change in control for this purpose.~~

~~(c) The involvement of Lessee or its assets in any transaction, or series of transactions (by way of merger, sale, acquisition, financing, transfer, leveraged buy-out or otherwise), whether or not a formal assignment or hypothecation of this Lease or Lessee's assets occurs, which results or will result in a reduction of the Net Worth of Lessee by an amount greater than 25% of such Net Worth as it was represented at the time of the execution of this Lease or at the time of the most recent assignment to which Lessor has consented, or as it exists immediately prior to said transaction or transactions constituting such reduction, whichever was or is greater, shall be considered an assignment of this Lease to which Lessor may withhold its consent. "Net Worth of Lessee" shall mean the net worth of Lessee (excluding any guarantors) established under generally accepted accounting principles.~~

(d) An assignment or subletting without consent shall, at Lessor's option, be a Default curable after notice per Paragraph 13.1(d), or a noncurable Breach without the necessity of any notice and grace period. If Lessor elects to treat such unapproved assignment or subletting as a noncurable Breach, Lessor may either: (i) terminate this Lease, or (ii) upon 30 days written notice, increase the monthly Base Rent to 110% of the Base Rent then in effect. Further, in the event of such Breach and rental adjustment, (i) the purchase price of any option to purchase the Premises held by Lessee shall be subject to similar adjustment to 110% of the price previously in effect, and (ii) all fixed and non-fixed rental adjustments scheduled during the remainder of the Lease term shall be increased to 110% of the scheduled adjusted rent.

(e) Lessee's remedy for any breach of Paragraph 12.1 by Lessor shall be limited to compensatory damages and/or injunctive relief.

(f) Lessor may reasonably withhold consent to a proposed assignment or subletting if Lessee is in Default at the time consent is requested. **In the event Lessee is not in Default at the time consent is requested, Lessor's consent shall not be unreasonably withheld.**

(g) Notwithstanding the foregoing, allowing a de minimis portion of the Premises, ie. 20 square feet or less, to be used by a third party vendor in connection with the installation of a vending machine or payphone shall not constitute a subletting.

##### 12.2 Terms and Conditions Applicable to Assignment and Subletting.

(a) Regardless of Lessor's consent, no assignment or subletting shall: (i) be effective without the express written assumption by such assignee or sublessee of the obligations of Lessee under this Lease, (ii) release Lessee of any obligations hereunder, or (iii) alter the primary liability of Lessee for the payment of Rent or for the performance of any other obligations to be performed by Lessee.

(b) Lessor may accept Rent or performance of Lessee's obligations from any person other than Lessee pending approval or disapproval of an assignment. Neither a delay in the approval or disapproval of such assignment nor the acceptance of Rent or performance shall constitute a waiver or estoppel of Lessor's right to exercise its remedies for Lessee's Default or Breach.

(c) Lessor's consent to any assignment or subletting shall not constitute a consent to any subsequent assignment or subletting.

(d) In the event of any Default or Breach by Lessee, Lessor may proceed directly against Lessee, any Guarantors or anyone else responsible for the performance of Lessee's obligations under this Lease, including any assignee or sublessee, without first exhausting Lessor's remedies against any other person or entity responsible therefor to Lessor, or any security held by Lessor.

(e) Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Lessor's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or sublessee, including but not limited to the intended use and/or required modification of the Premises, if any, together with a fee of \$500 as consideration for Lessor's considering and processing said request. Lessee agrees to provide Lessor with such other or additional information and/or documentation as may be reasonably requested. (See also Paragraph 36)

(f) Any assignee of, or sublessee under, this Lease shall, by reason of accepting such assignment, entering into such sublease, or entering into possession of the Premises or any portion thereof, be deemed to have assumed and agreed to conform and comply with each and every term, covenant, condition and obligation herein to be observed or performed by Lessee during the term of said assignment or sublease, other than such obligations as are contrary to or inconsistent with provisions of an assignment or sublease to which Lessor has specifically consented to in writing.

(g) Lessor's consent to any assignment or subletting shall not transfer to the assignee or sublessee any Option granted to the original Lessee by this Lease unless such transfer is specifically consented to by Lessor in writing. (See Paragraph 39.2)

12.3 **Additional Terms and Conditions Applicable to Subletting.** The following terms and conditions shall apply to any subletting by Lessee of all or any part of the Premises and shall be deemed included in all subleases under this Lease whether or not expressly incorporated therein:

(a) Lessee hereby assigns and transfers to Lessor all of Lessee's interest in all Rent payable on any sublease, and Lessor may collect such Rent and apply same toward Lessee's obligations under this Lease; provided, however, that until a Breach shall occur in the performance of Lessee's obligations, Lessee may collect said Rent. In the event that the amount collected by **Lessee or Lessor** exceeds Lessee's then outstanding obligations any such excess shall be **divided equally between Lessor and Lessee, refunded to Lessee.** Lessor shall not, by reason of the foregoing or any assignment of such sublease, nor by reason of the collection of Rent, be deemed liable to the sublessee for any failure of Lessee to perform and comply with any of Lessee's obligations to such sublessee. Lessee hereby irrevocably authorizes and directs any such sublessee, upon receipt of a written notice from Lessor stating that a Breach exists in the performance of Lessee's obligations under this Lease, to pay to Lessor all Rent due and to become due under the sublease. Sublessee shall rely upon any such notice from Lessor and shall pay all Rents to Lessor without any obligation or right to inquire as to whether such Breach exists, notwithstanding any claim from Lessee to the contrary.

(b) In the event of a Breach by Lessee, Lessor may, at its option, require sublessee to attorn to Lessor, in which event Lessor shall undertake the obligations of the sublessor under such sublease from the time of the exercise of said option to the expiration of such sublease; provided, however, Lessor shall not be liable for any prepaid rents or security deposit paid by such sublessee to such sublessor or for any prior Defaults or Breaches of such sublessor.

(c) Any matter requiring the consent of the sublessor under a sublease shall also require the consent of Lessor.

(d) No sublessee shall further assign or sublet all or any part of the Premises without Lessor's prior written consent.

(e) Lessor shall deliver a copy of any notice of Default or Breach by Lessee to the sublessee, who shall have the right to cure the Default of Lessee within the grace period, if any, specified in such notice. The sublessee shall have a right of reimbursement and offset from and against Lessee for any such Defaults cured by



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the sublessee.

**13. Default; Breach; Remedies.**

**13.1 Default; Breach.** A "Default" is defined as a failure by the Lessee to comply with or perform any of the terms, covenants, conditions or Rules and Regulations under this Lease. A "Breach" is defined as the occurrence of one or more of the following Defaults, and the failure of Lessee to cure such Default within any applicable grace period:

(a) The abandonment of the Premises; the vacating of the Premises prior to the expiration or termination of this Lease without providing a commercially reasonable level of security, or where the coverage of the property insurance described in Paragraph 8.3 is jeopardized as a result thereof, or without providing reasonable assurances to minimize potential vandalism; or failure to deliver to Lessor exclusive possession of the entire Premises in accordance herewith prior to the expiration or termination of this Lease.

(b) The failure of Lessee to make any payment of Rent or any Security Deposit required to be made by Lessee hereunder, whether to Lessor or to a third party, when due, to provide reasonable evidence of insurance or surety bond, or to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of 3 business days following written notice to Lessee. THE ACCEPTANCE BY LESSOR OF A PARTIAL PAYMENT OF RENT OR SECURITY DEPOSIT SHALL NOT CONSTITUTE A WAIVER OF ANY OF LESSOR'S RIGHTS, INCLUDING LESSOR'S RIGHT TO RECOVER POSSESSION OF THE PREMISES.

(c) The failure of Lessee to allow Lessor and/or its agents access to the Premises **as required hereunder** or the commission of waste, act or acts constituting public or private nuisance, and/or an illegal activity on the Premises by Lessee, where such actions continue for a period of 3 business days following written notice to Lessee. In the event that Lessee commits waste, a nuisance or an illegal activity a second time then, the Lessor may elect to treat such conduct as a non-curable Breach rather than a Default.

(d) The failure by Lessee to provide (i) reasonable written evidence of compliance with Applicable Requirements, (ii) the service contracts, (iii) the rescission of an unauthorized assignment or subletting, (iv) an Estoppel Certificate or financial statements, (v) a requested subordination, (vi) evidence concerning any guaranty and/or Guarantor, (vii) any document requested under Paragraph 42, (viii) material safety data sheets (MSDS), or (ix) any other documentation or information which Lessor may reasonably require of Lessee under the terms of this Lease, where any such failure continues for a period of 10 days following written notice to Lessee.

(e) A Default by Lessee as to the terms, covenants, conditions or provisions of this Lease, **or of the rules adopted under Paragraph 40 hereof**, other than those described in subparagraphs 13.1(a), (b), (c) or (d), above, where such Default continues for a period of 30 days after written notice; provided, however, that if the nature of Lessee's Default is such that more than 30 days are reasonably required for its cure, then it shall not be deemed to be a Breach if Lessee commences such cure within said 30 day period and thereafter diligently prosecutes such cure to completion.

(f) The occurrence of any of the following events: (i) the making of any general arrangement or assignment for the benefit of creditors; (ii) becoming a "debtor" as defined in 11 U.S.C. § 101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within 60 days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where possession is not restored to Lessee within 30 days; or (iv) the attachment, execution or other judicial seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within 30 days; provided, however, in the event that any provision of this subparagraph is contrary to any applicable law, such provision shall be of no force or effect, and not affect the validity of the remaining provisions.

(g) The discovery that any financial statement of Lessee or of any Guarantor given to Lessor was materially false.

(h) If the performance of Lessee's obligations under this Lease is guaranteed: (i) the death of a Guarantor, (ii) the termination of a Guarantor's liability with respect to this Lease other than in accordance with the terms of such guaranty, (iii) a Guarantor's becoming insolvent or the subject of a bankruptcy filing, (iv) a Guarantor's refusal to honor the guaranty, or (v) a Guarantor's breach of its guaranty obligation on an anticipatory basis, and Lessee's failure, within 60 days following written notice of any such event, to provide written alternative assurance or security, which, when coupled with the then existing resources of Lessee, equals or exceeds the combined financial resources of Lessee and the Guarantors that existed at the time of execution of this Lease.

**13.2 Remedies.** If Lessee fails to perform any of its affirmative duties or obligations, within **10 30** days after written notice (or in case of an emergency, without **notice prior notice, but, in this event, Lessor shall follow-up with notice after the emergency event**), Lessor may, at its option, perform such duty or obligation on Lessee's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. Lessee shall pay to Lessor an amount equal to 115% of the costs and expenses incurred by Lessor in such performance upon receipt of an invoice therefor. In the event of a Breach, Lessor may, with or without further notice or demand, and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall **immediately** surrender possession to Lessor **after any applicable Notice and cure period**. In such event Lessor shall be entitled to recover from Lessee: (i) the unpaid Rent which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that the Lessee proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the Lessee proves could be reasonably avoided; and (iv) any other amount necessary to compensate Lessor for all the detriment proximately caused by the Lessee's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including but not limited to the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorneys' fees, and that portion of any leasing commission paid by Lessor in connection with this Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of the District within which the Premises are located at the time of award plus one percent. Efforts by Lessor to mitigate damages caused by Lessee's Breach of this Lease shall not waive Lessor's right to recover any damages to which Lessor is otherwise entitled. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Lessor shall have the right to recover in such proceeding any unpaid Rent and damages as are recoverable therein, or Lessor may reserve the right to recover all or any part thereof in a separate suit. If a notice and grace period required under Paragraph 13.1 was not previously given, a notice to pay rent or quit, or to perform or quit given to Lessee under the unlawful detainer statute shall also constitute the notice required by Paragraph 13.1. In such case, the applicable grace period required by Paragraph 13.1 and the unlawful detainer statute shall run concurrently, and the failure of Lessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Lessor to the remedies provided for in this Lease and/or by said statute.

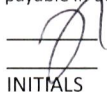
(b) Continue the Lease and Lessee's right to possession and recover the Rent as it becomes due, in which event Lessee may sublet or assign, subject only to reasonable limitations. Acts of maintenance, efforts to relet, and/or the appointment of a receiver to protect the Lessor's interests, shall not constitute a termination of the Lessee's right to possession.

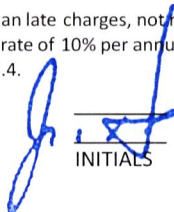
(c) Pursue any other remedy now or hereafter available under the laws or judicial decisions of the state wherein the Premises are located. The expiration or termination of this Lease and/or the termination of Lessee's right to possession shall not relieve Lessee from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Lessee's occupancy of the Premises.

**13.3 Inducement Recapture.** Any agreement for free or abated rent or other charges, the cost of tenant improvements for Lessee paid for or performed by Lessor, or for the giving or paying by Lessor to or for Lessee of any cash or other bonus, inducement or consideration for Lessee's entering into this Lease, all of which concessions are hereinafter referred to as "**Inducement Provisions**," shall be deemed conditioned upon Lessee's full and faithful performance of all of the terms, covenants and conditions of this Lease. Upon Breach of this Lease by Lessee, any such Inducement Provision shall automatically be deemed deleted from this Lease and of no further force or effect, and any rent, other charge, bonus, inducement or consideration theretofore abated, given or paid by Lessor under such an Inducement Provision shall be immediately due and payable by Lessee to Lessor, notwithstanding any subsequent cure of said Breach by Lessee. The acceptance by Lessor of rent or the cure of the Breach which initiated the operation of this paragraph shall not be deemed a waiver by Lessor of the provisions of this paragraph unless specifically so stated in writing by Lessor at the time of such acceptance.

**13.4 Late Charges.** Lessee hereby acknowledges that late payment by Lessee of Rent will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Lessor by any Lender. Accordingly, if any Rent shall not be received by Lessor within **5 30** days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall immediately pay to Lessor a one-time late charge equal to **10 5%** of each such overdue amount or \$100, whichever is greater. The Parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of such late payment. Acceptance of such late charge by Lessor shall in no event constitute a waiver of Lessee's Default or Breach with respect to such overdue amount, nor prevent the exercise of any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected, for 3 consecutive installments of Base Rent, then notwithstanding any provision of this Lease to the contrary, Base Rent shall, at Lessor's option, become due and payable quarterly in advance.

**13.5 Interest.** Any monetary payment due Lessor hereunder, other than late charges, not received by Lessor, when due shall bear interest from the 31st day after it was due. The interest ("**Interest**") charged shall be computed at the rate of 10% per annum but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

  
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13.6 Breach by Lessor.

(a) **Notice of Breach.** Lessor shall not be deemed in breach of this Lease unless Lessor fails within a reasonable time to perform an obligation required to be performed by Lessor. For purposes of this Paragraph, a reasonable time shall in no event be less than 30 days after receipt by Lessor **or as soon as possible in emergency situations**, and any Lender whose name and address shall have been furnished to Lessee in writing for such purpose, of written notice specifying wherein such obligation of Lessor has not been performed; provided, however, that if the nature of Lessor's obligation is such that more than 30 days are reasonably required for its performance, then Lessor shall not be in breach if performance is commenced within such 30 day period and thereafter diligently pursued to completion.

(b) **Performance by Lessee on Behalf of Lessor.** In the event that neither Lessor nor Lender cures said breach within 30 days after receipt of said notice, or if having commenced said cure they do not diligently pursue it to completion, then Lessee may elect to cure said breach at Lessee's expense and offset from Rent the actual and reasonable cost to perform such cure, provided however, that such offset shall not exceed an amount equal to the greater of one month's Base Rent or the Security Deposit, reserving Lessee's right to seek reimbursement from Lessor for any such expense in excess of such offset. Lessee shall document the cost of said cure and supply said documentation to Lessor.

**14. Condemnation.** If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (collectively "Condemnation"), this Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. If more than 10% of the Building, or more than 25% of that portion of the Premises not occupied by any building, is taken by Condemnation, Lessee may, at Lessee's option, to be exercised in writing within 10 days after Lessor shall have given Lessee written notice of such taking (or in the absence of such notice, within 10 days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Lessee does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the Base Rent shall be reduced in proportion to the reduction in utility of the Premises caused by such Condemnation. Condemnation awards and/or payments shall be the property of Lessor, whether such award shall be made as compensation for diminution in value of the leasehold, the value of the part taken, or for severance damages; provided, however, that Lessee shall be entitled to any compensation paid by the condemnor for Lessee's relocation expenses, loss of business goodwill and/or Trade Fixtures, without regard to whether or not this Lease is terminated pursuant to the provisions of this Paragraph. All Alterations and Utility Installations made to the Premises by Lessee, for purposes of Condemnation only, shall be considered the property of the Lessee and Lessee shall be entitled to any and all compensation which is payable therefor. In the event that this Lease is not terminated by reason of the Condemnation, Lessor shall repair any damage to the Premises caused by such Condemnation.

**15. Brokerage Representation. Fees.**

~~15.1 Additional Commission. In addition to the payments owed pursuant to Paragraph 1.9 above, Lessor agrees that: (a) if Lessee exercises any Option, (b) if Lessee or anyone affiliated with Lessee acquires any rights to the Premises or other premises owned by Lessor and located within the same Project, if any, within which the Premises is located, (c) if Lessee remains in possession of the Premises, with the consent of Lessor, after the expiration of this Lease, or (d) if Base Rent is increased, whether by agreement or operation of an escalation clause herein, then, Lessor shall pay Brokers a fee in accordance with the fee schedule of the Brokers in effect at the time the Lease was executed. The provisions of this paragraph are intended to supersede the provisions of any earlier agreement to the contrary.~~

~~15.2 Assumption of Obligations. Any buyer or transferee of Lessor's interest in this Lease shall be deemed to have assumed Lessor's obligation hereunder. Brokers shall be third party beneficiaries of the provisions of Paragraphs 1.9, 15, 22 and 31. If Lessor fails to pay to Brokers any amounts due as and for brokerage fees pertaining to this Lease when due, then such amounts shall accrue interest. In addition, if Lessor fails to pay any amounts to Lessee's Broker when due, Lessee's Broker may send written notice to Lessor and Lessee of such failure and if Lessor fails to pay such amounts within 10 days after said notice, Lessee shall pay said monies to its Broker and offset such amounts against Rent. In addition, Lessee's Broker shall be deemed to be a third party beneficiary of any commission agreement entered into by and/or between Lessor and Lessor's Broker for the limited purpose of collecting any brokerage fee owed.~~

**15.3 Representations and Indemnities of Broker Relationships.** Lessee and Lessor each represent and warrant to the other that it has had no dealings with any person, firm, broker, agent or finder (other than the Brokers and Agents, if any) in connection with this Lease, and that no one other than said named Brokers and Agents is entitled to any commission or finder's fee in connection herewith. Lessee and Lessor do each hereby agree to indemnify, protect, defend and hold the other harmless from and against liability for compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings or actions of the indemnifying Party, including any costs, expenses, attorneys' fees reasonably incurred with respect thereto.

**16. Estoppel Certificates.**

(a) Each Party (as "Responding Party") shall within ~~10~~ **30** days after written notice from the other Party (the "Requesting Party") execute, acknowledge and deliver to the Requesting Party a statement in writing in form similar to the then most current "Estoppel Certificate" form published by AIR CRE, plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party **and as may be necessary for the Responding Party to represent the facts accurately.**

(b) If the Responding Party shall fail to execute or deliver the Estoppel Certificate within such 10 day period, the Requesting Party may execute an Estoppel Certificate stating that: (i) the Lease is in full force and effect without modification except as may be represented by the Requesting Party, (ii) there are no uncured defaults in the Requesting Party's performance, and (iii) if Lessor is the Requesting Party, not more than one month's rent has been paid in advance. Prospective purchasers and encumbrancers may rely upon the Requesting Party's Estoppel Certificate, and the Responding Party shall be estopped from denying the truth of the facts contained in said Certificate. In addition, Lessee acknowledges that any failure on its part to provide such an Estoppel Certificate will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, should the Lessee fail to execute and/or deliver a requested Estoppel Certificate in a timely fashion the monthly Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater for remainder of the Lease. The Parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to provide the Estoppel Certificate. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to provide the Estoppel Certificate nor prevent the exercise of any of the other rights and remedies granted hereunder.

(c) If Lessor desires to finance, refinance, or sell the Premises, or any part thereof, Lessee and all Guarantors shall within 10 days after written notice from Lessor deliver to any potential lender or purchaser designated by Lessor such financial statements as may be reasonably required by such lender or purchaser, including but not limited to Lessee's financial statements for the past 3 years. All such financial statements shall be received by Lessor and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

**17. Definition of Lessor.** The term "Lessor" as used herein shall mean the owner or owners at the time in question of the fee title to the Premises, or, if this is a sublease, of the Lessee's interest in the prior lease. In the event of a transfer of Lessor's title or interest in the Premises or this Lease, Lessor shall deliver to the transferee or assignee (in cash or by credit) any unused Security Deposit held by Lessor. Upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, the prior Lessor shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Lessor. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Lessor shall be binding only upon the Lessor as hereinabove defined.

**18. Severability.** The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

**19. Days.** Unless otherwise specifically indicated to the contrary, the word "days" as used in this Lease shall mean and refer to calendar days.


**20. Limitation on Liability.** The obligations of Lessor under this Lease shall not constitute personal obligations of Lessor, or its partners, members, directors, officers or shareholders, and Lessee shall look to the Premises, and to no other assets of Lessor, for the satisfaction of any liability of Lessor with respect to this Lease, and shall not seek recourse against Lessor's partners, members, directors, officers or shareholders, or any of their personal assets for such satisfaction.

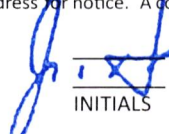
**21. Time of Essence.** Time is of the essence with respect to the performance of all obligations to be performed or observed by the Parties under this Lease.

**22. No Prior or Other Agreements; Broker Disclaimer.** This Lease contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective. Lessor and Lessee each represents and warrants to the Brokers that it has made, and is relying solely upon, its own investigation as to the nature, quality, character and financial responsibility of the other Party to this Lease and as to the use, nature, quality and character of the Premises. Brokers have no responsibility with respect thereto or with respect to any default or breach hereof by either Party.

**23. Notices.**

**23.1 Notice Requirements.** All notices required or permitted by this Lease or applicable law shall be in writing and may be delivered in person (by hand or by courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission, or by email, and shall be deemed sufficiently given if served in a manner specified in this Paragraph 23. The addresses noted adjacent to a Party's signature on this Lease shall be that Party's address for delivery or mailing of notices. Either Party may by written notice to the other specify a different address for notice, except that upon Lessee's taking possession of the Premises, the Premises shall constitute Lessee's address for notice. A copy of all notices to Lessor shall be concurrently transmitted to such

  
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party or parties at such addresses as Lessor may from time to time hereafter designate in writing.

**23.2 Date of Notice.** Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail the notice shall be deemed given 72 hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantees next day delivery shall be deemed given 24 hours after delivery of the same to the Postal Service or courier. Notices delivered by hand, or transmitted by facsimile transmission or by email shall be deemed delivered upon actual receipt. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

**23.3 Options.** Notwithstanding the foregoing, in order to exercise any Options (see paragraph 39), the Notice must be sent by Certified Mail (return receipt requested), Express Mail (signature required), courier (signature required) or some other methodology that provides a receipt establishing the date the notice was received by the Lessor.

#### 24. Waivers.

(a) No waiver by Lessor of the Default or Breach of any term, covenant or condition hereof by Lessee, shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent Default or Breach by Lessee of the same or of any other term, covenant or condition hereof. Lessor's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to, or approval of, any subsequent or similar act by Lessee, or be construed as the basis of an estoppel to enforce the provision or provisions of this Lease requiring such consent.

(b) The acceptance of Rent by Lessor shall not be a waiver of any Default or Breach by Lessee. Any payment by Lessee may be accepted by Lessor on account of monies or damages due Lessor, notwithstanding any qualifying statements or conditions made by Lessee in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by Lessor at or before the time of deposit of such payment.

(c) THE PARTIES AGREE THAT THE TERMS OF THIS LEASE SHALL GOVERN WITH REGARD TO ALL MATTERS RELATED THERETO AND HEREBY WAIVE THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE TO THE EXTENT THAT SUCH STATUTE IS INCONSISTENT WITH THIS LEASE.

#### 25. Disclosures Regarding The Nature of a Real Estate Agency Relationship.

(a) When entering into a discussion with a real estate agent regarding a real estate transaction, a Lessor or Lessee should from the outset understand what type of agency relationship or representation it has with the agent or agents in the transaction. Lessor and Lessee acknowledge being advised by the Brokers in this transaction, as follows:

(i) **Lessor's Agent.** A Lessor's agent under a listing agreement with the Lessor acts as the agent for the Lessor only. A Lessor's agent or subagent has the following affirmative obligations: **To the Lessor:** A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessor. **To the Lessee and the Lessor:** (a) Diligent exercise of reasonable skills and care in performance of the agent's duties. (b) A duty of honest and fair dealing and good faith. (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(ii) **Lessee's Agent.** An agent can agree to act as agent for the Lessee only. In these situations, the agent is not the Lessor's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Lessor. An agent acting only for a Lessee has the following affirmative obligations. **To the Lessee:** A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessee. **To the Lessee and the Lessor:** (a) Diligent exercise of reasonable skills and care in performance of the agent's duties. (b) A duty of honest and fair dealing and good faith. (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(iii) **Agent Representing Both Lessor and Lessee.** A real estate agent, either acting directly or through one or more associate licensees, can legally be the agent of both the Lessor and the Lessee in a transaction, but only with the knowledge and consent of both the Lessor and the Lessee. In a dual agency situation, the agent has the following affirmative obligations to both the Lessor and the Lessee: (a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either Lessor or the Lessee. (b) Other duties to the Lessor and the Lessee as stated above in subparagraphs (i) or (ii). In representing both Lessor and Lessee, the agent may not, without the express permission of the respective Party, disclose to the other Party confidential information, including, but not limited to, facts relating to either Lessee's or Lessor's financial position, motivations, bargaining position, or other personal information that may impact rent, including Lessor's willingness to accept a rent less than the listing rent or Lessee's willingness to pay rent greater than the rent offered. The above duties of the agent in a real estate transaction do not relieve a Lessor or Lessee from the responsibility to protect their own interests. Lessor and Lessee should carefully read all agreements to assure that they adequately express their understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional. Both Lessor and Lessee should strongly consider obtaining tax advice from a competent professional because the federal and state tax consequences of a transaction can be complex and subject to change.

(b) Brokers have no responsibility with respect to any default or breach hereof by either Party. The Parties agree that no lawsuit or other legal proceeding involving any breach of duty, error or omission relating to this Lease may be brought against Broker more than one year after the Start Date and that the liability (including court costs and attorneys' fees), of any Broker with respect to any such lawsuit and/or legal proceeding shall not exceed the fee received by such Broker pursuant to this Lease; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.

(c) Lessor and Lessee agree to identify to Brokers as "Confidential" any communication or information given Brokers that is considered by such Party to be confidential.

**26. No Right To Holdover.** Lessee has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Lease. At or prior to the expiration or termination of this Lease Lessee shall deliver exclusive possession of the Premises to Lessor. For purposes of this provision and Paragraph 13.1(a), exclusive possession shall mean that Lessee shall have vacated the Premises, removed all of its personal property therefrom and that the Premises have been returned in the condition specified in this Lease. In the event that Lessee does not deliver exclusive possession to Lessor as specified above, then Lessor's damages during any holdover period shall be computed at the amount of the Rent (as defined in Paragraph 4.1) due during the last full month before the expiration or termination of this Lease (disregarding any temporary abatement of Rent that may have been in effect), but with Base Rent being **150 125%** of the Base Rent payable during such last full month. **Notwithstanding the above, in the event Lessee holdover as described herein, and Lessor agrees to work with Lessee to remain in the building on a month-to-month basis for a short term or longer, then, in this instance, either party may thereafter provide a 30-day notice to vacate. In the event Lessor provides said 30-day notice to vacate and Lessee holdover beyond the 30-day period, then the Base Rent will increase to 150% of the Base Rent payable during such last full month before the occurrence of the initial holdover event.** Nothing contained herein shall be construed as consent by Lessor to any holding over by Lessee.

**27. Cumulative Remedies.** No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

**28. Covenants and Conditions; Construction of Agreement.** All provisions of this Lease to be observed or performed by Lessee are both covenants and conditions. In construing this Lease, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Lease. Whenever required by the context, the singular shall include the plural and vice versa. This Lease shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

**29. Binding Effect; Choice of Law.** This Lease shall be binding upon the Parties, their personal representatives, successors and assigns and be governed by the laws of the State in which the Premises are located. Any litigation between the Parties hereto concerning this Lease shall be initiated in the county in which the Premises are located. Signatures to this Lease accomplished by means of electronic signature or similar technology shall be legal and binding.

#### 30. Subordination; Attornment; Non-Disturbance.

**30.1 Subordination, Non-Disturbance, and Attornment Agreement.** To carry out the purposes of Section 30.2 and Section 30.3, the Parties agree to execute a Subordination, Non-Disturbance and Attornment Agreement in the form set forth in the attached Exhibit "K".

**30.2 Subordination.** County agrees that within forty-five (45) business days after Lessor's written request, it shall execute the agreement referred to in Section 30.1 that Lessor reasonably considers necessary to evidence or confirm the subordination or inferiority of this Lease to the lien of any mortgage, deed of trust or other encumbrance of the Premises or any renewal, extension, modification, replacement thereof, provided however, that such Subordination Agreement shall be strictly limited to matters contained in the Agreement referred to in Section 30.1 and no such Subordination Agreement shall materially increase any of County's obligations or materially decrease any of County's rights under this Lease, nor shall the possession of County be disturbed, by reason of any foreclosure, sale or other action under any such trust deed, mortgage or other encumbrance.

**30.3 Attornment.** If Lessor's interest in the Premises passes to a successor, and provided County has received the Non-Disturbance agreement referred to in Section 30.1, County shall, within forty-five (45) business days after Lessor's transferee's request, execute the agreement referred to in Section 30.1, thereby agreeing to attorn and to recognize the transferee as the Lessor under this Lease; provided the transfer of Lessor's interest in the

  
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Premises was by sale, lease, foreclosure, deed in lieu of foreclosure, exercise of any remedy provided in any encumbrance or operation of law.

~~30.1 Subordination. This Lease and any Option granted hereby shall be subject and subordinate to any ground lease, mortgage, deed of trust, or other hypothecation or security device (collectively, "Security Device"), now or hereafter placed upon the Premises, to any and all advances made on the security thereof, and to all renewals, modifications, and extensions thereof. Lessee agrees that the holders of any such Security Devices (in this Lease together referred to as "Lender") shall have no liability or obligation to perform any of the obligations of Lessor under this Lease. Any Lender may elect to have this Lease and/or any Option granted hereby superior to the lien of its Security Device by giving written notice thereof to Lessee, whereupon this Lease and such Options shall be deemed prior to such Security Device, notwithstanding the relative dates of the documentation or recordation thereof.~~

~~30.2 Attornment. In the event that Lessor transfers title to the Premises, or the Premises are acquired by another upon the foreclosure or termination of a Security Device to which this Lease is subordinated (i) Lessee shall, subject to the non-disturbance provisions of Paragraph 30.3, attorn to such new owner, and upon request, enter into a new lease, containing all of the terms and provisions of this Lease, with such new owner for the remainder of the term hereof, or, at the election of the new owner, this Lease will automatically become a new lease between Lessee and such new owner, and (ii) Lessor shall thereafter be relieved of any further obligations hereunder and such new owner shall assume all of Lessor's obligations, except that such new owner shall not: (a) be liable for any act or omission of any prior lessor or with respect to events occurring prior to acquisition of ownership; (b) be subject to any offsets or defenses which Lessee might have against any prior lessor, (c) be bound by prepayment of more than one month's rent, or (d) be liable for the return of any security deposit paid to any prior lessor which was not paid or credited to such new owner.~~

~~30.3 Non-Disturbance. With respect to Security Devices entered into by Lessor after the execution of this Lease, Lessee's subordination of this Lease shall be subject to receiving a commercially reasonable non-disturbance agreement (a "Non-Disturbance Agreement") from the Lender which Non-Disturbance Agreement provides that Lessee's possession of the Premises, and this Lease, including any options to extend the term hereof, will not be disturbed so long as Lessee is not in Breach hereof and attorns to the record owner of the Premises. Further, within 60 days after the execution of this Lease, Lessor shall, if requested by Lessee, use its commercially reasonable efforts to obtain a Non-Disturbance Agreement from the holder of any pre-existing Security Device which is secured by the Premises. In the event that Lessor is unable to provide the Non-Disturbance Agreement within said 60 days, then Lessee may, at Lessee's option, directly contact Lender and attempt to negotiate for the execution and delivery of a Non-Disturbance Agreement.~~

30.4 Self-Executing. The agreements contained in this Paragraph 30 shall be effective without the execution of any further documents; provided, however, that, upon written request from Lessor or a Lender in connection with a sale, financing or refinancing of the Premises, Lessee and Lessor shall execute such further writings as may be reasonably required to separately document any subordination, attornment and/or Non-Disturbance Agreement provided for herein.

31. Attorneys' Fees. If any Party or Broker brings an action or proceeding involving the Premises whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term, "Prevailing Party" shall include, without limitation, a Party or Broker who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party or Broker of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, Lessor shall be entitled to attorneys' fees, costs and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach (\$200 is a reasonable minimum shall be the cost per occurrence for such services and consultation).

32. Lessor's Access; Showing Premises; Repairs. Lessor and Lessor's agents shall have the right to enter the Premises at any time, in the case of an emergency with an escort from the Sheriff's Department; provided that, an escort from the Sheriff's Department is immediately available, and otherwise at reasonable times after reasonable prior notice for the purpose of showing the same to prospective purchasers, lenders, or tenants, and making such alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary or desirable and the erecting, using and maintaining of utilities, services, pipes and conduits through the Premises and/or other premises as long as there is no material adverse effect on Lessee's use of the Premises. All such activities shall be without abatement of rent or liability to Lessee. Notwithstanding the above, Lessor shall not show the Premises to any prospective new tenant(s) prior to six months before the Lease Termination Date. For any showings to prospective purchasers, lenders, or tenants, Lessee reserves the right to limit access to areas of the Premises that it deems in its sole discretion to be sensitive in nature to its operations. Lessor shall use its best effort to provide Lessee at least ten business days prior notice for any other showings.

33. Auctions. Lessee shall not conduct, nor permit to be conducted, any auction upon the Premises without Lessor's prior written consent. Lessor shall not be obligated to exercise any standard of reasonableness in determining whether to permit an auction.

34. Signs. Lessor may place on the Premises ordinary "For Sale" signs at any time and ordinary "For Lease" signs during the last 6 months of the term hereof. In no event shall Lessor or its agents place signs or graphics on exterior windows of the Premises. Except for ordinary "for sublease" signs, Lessee shall not place any sign upon the Premises without Lessor's prior written consent. All signs must comply with all Applicable Requirements.

35. Termination; Merger. Unless specifically stated otherwise in writing by Lessor, the voluntary or other surrender of this Lease by Lessee, the mutual termination or cancellation hereof, or a termination hereof by Lessor for Breach by Lessee, shall automatically terminate any sublease or lesser estate in the Premises; provided, however, that Lessor may elect to continue any one or all existing subtenancies. Lessor's failure within 10 days following any such event to elect to the contrary by written notice to the holder of any such lesser interest, shall constitute Lessor's election to have such event constitute the termination of such interest.

36. Consents. All requests for consent shall be in writing. Except as otherwise provided herein, wherever in this Lease the consent of a Party is required to an act by or for the other Party, such consent shall not be unreasonably withheld or delayed. Lessor's actual reasonable costs and expenses (including but not limited to architects', attorneys', engineers' and other consultants' fees) incurred in the consideration of, or response to, a request by Lessee for any Lessor consent, including but not limited to consents to an assignment, a subletting or the presence or use of a Hazardous Substance, shall be paid by Lessee upon receipt of an invoice and supporting documentation therefor. Lessor's consent to any act, assignment or subletting shall not constitute an acknowledgment that no Default or Breach by Lessee of this Lease exists, nor shall such consent be deemed a waiver of any then existing Default or Breach, except as may be otherwise specifically stated in writing by Lessor at the time of such consent. The failure to specify herein any particular condition to Lessor's consent shall not preclude the imposition by Lessor at the time of consent of such further or other conditions as are then reasonable with reference to the particular matter for which consent is being given. In the event that either Party disagrees with any determination made by the other hereunder and reasonably requests the reasons for such determination, the determining party shall furnish its reasons in writing and in reasonable detail within 10 business days following such request.

37. Guarantor. (Intentionally deleted)

~~37.1 Execution. The Guarantors, if any, shall each execute a guaranty in the form most recently published by AIR CRE, and each such Guarantor shall have the same obligations as Lessee under this Lease.~~

~~37.2 Default. It shall constitute a Default of the Lessee if any Guarantor fails or refuses, upon request to provide: (a) evidence of the execution of the guaranty, including the authority of the party signing on Guarantor's behalf to obligate Guarantor, and in the case of a corporate Guarantor, a certified copy of a resolution of its board of directors authorizing the making of such guaranty, (b) current financial statements, (c) an Estoppel Certificate, or (d) written confirmation that the guaranty is still in effect.~~

38. Quiet Possession. Subject to payment by Lessee of the Rent and performance of all of the covenants, conditions and provisions on Lessee's part to be observed and performed under this Lease, Lessee shall have quiet possession and quiet enjoyment of the Premises during the term hereof.

39. Options. If Lessee is granted any Option, as defined below, then the following provisions shall apply.

39.1 Definition. "Option" shall mean: (a) the right to extend or reduce the term of or renew this Lease or to extend or reduce the term of or renew any lease that Lessee has on other property of Lessor; (b) the right of first refusal or first offer to lease either the Premises or other property of Lessor; (c) the right to purchase, the right of first offer to purchase or the right of first refusal to purchase the Premises or other property of Lessor.

39.2 Options Personal To Original Lessee. Any Option granted to Lessee in this Lease is personal to the original Lessee, and cannot be assigned or exercised by anyone other than said original Lessee and only while the original Lessee is in full possession of the Premises and, if requested by Lessor, with Lessee certifying that Lessee has no intention of thereafter assigning or subletting.

39.3 Multiple Options. In the event that Lessee has any multiple Options to extend or renew this Lease, a later Option cannot be exercised unless the prior Options have been validly exercised.

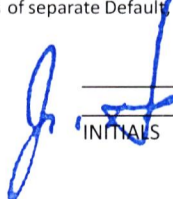
39.4 Effect of Default on Options.

(a) Lessee shall have no right to exercise an Option: (i) during the period commencing with the giving of any notice of Default and continuing until said Default is cured, (ii) during the period of time any Rent is unpaid (without regard to whether notice thereof is given Lessee), (iii) during the time Lessee is in Breach of this Lease, or (iv) in the event that Lessee has been given 3 or more notices of separate Defaults, whether or not the Defaults are cured, during the 12 month period immediately preceding the exercise of the Option.

  
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(b) The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Lessee's inability to exercise an Option because of the provisions of Paragraph 39.4(a).

(c) An Option shall terminate and be of no further force or effect, notwithstanding Lessee's due and timely exercise of the Option, if, after such exercise and prior to the commencement of the extended term ~~or completion of the purchase~~, (i) ~~Lessee fails to pay Rent for a period of 30 days after such Rent becomes due (without any necessity of Lessor to give notice thereof), or (ii)~~ if Lessee commits a Breach of this Lease **and fails to cure such Breach beyond the applicable cure period.**

**40. Multiple Buildings. (Intentionally deleted)** ~~If the Premises are a part of a group of buildings controlled by Lessor, Lessee agrees that it will abide by and conform to all reasonable rules and regulations which Lessor may make from time to time for the management, safety, and care of said properties, including the care and cleanliness of the grounds and including the parking, loading and unloading of vehicles, and to cause its employees, suppliers, shippers, customers, contractors, and invitees to so abide and conform. Lessee also agrees to pay its fair share of common expenses incurred in connection with such rules and regulations.~~

**41. Security Measures.** Lessee hereby acknowledges that the Rent payable to Lessor hereunder does not include the cost of guard service or other security measures, and that Lessor shall have no obligation whatsoever to provide same. Lessee assumes all responsibility for the protection of the Premises, Lessee, its agents and invitees and their property from the acts of third parties.

**42. Reservations.** Lessor reserves to itself the right, from time to time, to grant, without the consent or joinder of Lessee, such easements, rights and dedications that Lessor deems necessary, and to cause the recordation of parcel maps and restrictions, so long as such easements, rights, dedications, maps and restrictions do not unreasonably interfere with the use of the Premises by Lessee. Lessee agrees to sign any documents reasonably requested by Lessor to effectuate any such easement rights, dedication, map or restrictions.

**43. Performance Under Protest.** If at any time a dispute shall arise as to any amount or sum of money to be paid by one Party to the other under the provisions hereof, the Party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of said Party to institute suit for recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said Party to pay such sum or any part thereof, said Party shall be entitled to recover such sum or so much thereof as it was not legally required to pay. A Party who does not initiate suit for the recovery of sums paid "under protest" within 6 months shall be deemed to have waived its right to protest such payment.

**44. Authority; Multiple Parties; Execution.**

(a) If either Party hereto is a corporation, trust, limited liability company, partnership, or similar entity, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on its behalf. Each Party shall, within 30 days after request, deliver to the other Party satisfactory evidence of such authority.

(b) If this Lease is executed by more than one person or entity as "Lessee", each such person or entity shall be jointly and severally liable hereunder. It is agreed that any one of the named Lessees shall be empowered to execute any amendment to this Lease, or other document ancillary thereto and bind all of the named Lessees, and Lessor may rely on the same as if all of the named Lessees had executed such document.

(c) This Lease may be executed by the Parties in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

**45. Conflict.** Any conflict between the printed provisions of this Lease and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions, **and such changes must be initialed by both Parties.**

**46. Offer.** Preparation of this Lease by either Party or their agent and submission of same to the other Party shall not be deemed an offer to lease to the other Party. This Lease is not intended to be binding until executed and delivered by all Parties hereto.

**47. Amendments.** This Lease may be modified only in writing, signed by the Parties **or approved designees** in interest at the time of the modification. As long as they do not materially change Lessee's obligations hereunder, Lessee agrees to make such reasonable non-monetary modifications to this Lease as may be reasonably required by a Lender in connection with the obtaining of normal financing or refinancing of the Premises.

**48. Waiver of Jury Trial. THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING INVOLVING THE PROPERTY OR ARISING OUT OF THIS LEASE.**

**49. Arbitration of Disputes.** An Addendum requiring the Arbitration of all disputes between the Parties and/or Brokers arising out of this Lease  is  is not attached to this Lease.

**50. Accessibility; Americans with Disabilities Act.**

(a) The Premises:

have not undergone an inspection by a Certified Access Specialist (CASp). Note: A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises.

have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises met all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq. Lessee acknowledges that it received a copy of the inspection report at least 48 hours prior to executing this Lease and agrees to keep such report confidential.

have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises did not meet all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq. Lessee acknowledges that it received a copy of the inspection report at least 48 hours prior to executing this Lease and agrees to keep such report confidential except as necessary to complete repairs and corrections of violations of construction related accessibility standards.

In the event that the Premises have been issued an inspection report by a CASp the Lessor shall provide a copy of the disability access inspection certificate to Lessee within 7 days of the execution of this Lease.

(b) Since compliance with the Americans with Disabilities Act (ADA) and other state and local accessibility statutes are dependent upon Lessee's specific use of the Premises, Lessor makes no warranty or representation as to whether or not the Premises comply with ADA or any similar legislation. In the event that Lessee's use of the Premises requires modifications or additions to the Premises in order to be in compliance with ADA or other accessibility statutes, Lessee agrees to make any such necessary modifications and/or additions at Lessee's expense.

**LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN, AND BY THE EXECUTION OF THIS LEASE SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.**

**ATTENTION: NO REPRESENTATION OR RECOMMENDATION IS MADE BY AIR CRE OR BY ANY BROKER AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS LEASE OR THE TRANSACTION TO WHICH IT RELATES. THE PARTIES ARE URGED TO:**

- 1. SEEK ADVICE OF COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS LEASE.**
- 2. RETAIN APPROPRIATE CONSULTANTS TO REVIEW AND INVESTIGATE THE CONDITION OF THE PREMISES. SAID INVESTIGATION SHOULD INCLUDE BUT NOT BE LIMITED TO: THE POSSIBLE PRESENCE OF HAZARDOUS SUBSTANCES, THE ZONING OF THE PREMISES, THE STRUCTURAL INTEGRITY, THE CONDITION OF THE ROOF AND OPERATING SYSTEMS, AND THE SUITABILITY OF THE PREMISES FOR LESSEE'S INTENDED USE.**

**WARNING: IF THE PREMISES ARE LOCATED IN A STATE OTHER THAN CALIFORNIA, CERTAIN PROVISIONS OF THE LEASE MAY NEED TO BE REVISED TO COMPLY WITH THE LAWS OF THE STATE IN WHICH THE PREMISES ARE LOCATED.**

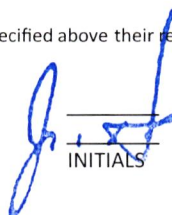
The parties hereto have executed this Lease at the place and on the dates specified above their respective signatures.



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Executed at: Orange CA  
On: 8-25-22

By LESSOR:  
Five Degrees, LLC, a California limited liability company

By: \_\_\_\_\_  
Name Printed: Larry Haupert  
Title: General Manager  
Phone: (714) 998-3400  
Fax: (714) 998-3401  
Email: larry@rexcodex.com

By: \_\_\_\_\_  
Name Printed: \_\_\_\_\_  
Title: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

Address: 2518 N. Santiago Blvd  
Orange, CA 92687  
Federal ID No.: 83-2818394

Executed at: \_\_\_\_\_  
On: \_\_\_\_\_

By LESSEE:  
County of Riverside,  
a political subdivision of the State of California

By: \_\_\_\_\_  
Name Printed: Jeff Hewitt  
Title: Chairman Board of Supervisors  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

Attest:  
**Kecia R. Harper**  
Clerk of the Board

By: \_\_\_\_\_  
Name Printed: Breanna Smith  
Title: Deputy  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

Address: \_\_\_\_\_  
Federal ID No.: \_\_\_\_\_

Approved as to Form:  
County Counsel

By: \_\_\_\_\_  
**Ryan Yabko**  
Deputy County Counsel

**BROKER**

Strata Realty, Inc./Eric Frickle  
Commercial Realty

Attn: Timothy Hawke, SIOR/Eric Frickle, CCIM, ALC

Title: President/Broker

Address: 2433 Pomona Road  
Corona, CA 92878  
Phone: (951) 280-1733  
Fax: (951) 280-1739

Email: thawke@stratarealty.com/broker@ericfrickle.com

Federal ID No.: 43-1952854/  
Broker DRE License #: 00880273/00866733  
Agent DRE License #: 00880273/00866733

**BROKER**

Attn: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_  
Federal ID No.: \_\_\_\_\_  
Broker DRE License #: \_\_\_\_\_  
Agent DRE License #: \_\_\_\_\_

All notices for Lessee shall be directed to:

**County of Riverside**  
**Facilities Management Department**  
**Attn: Deputy Director of Real Estate**  
**3450 14th Street, Suite 200**  
**Riverside, CA 92501**

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ADDENDUM  
PAGE 1 OF 5

As referred to in Paragraph 1.11, this is an Addendum to the attached Lease Agreement dated July 28, 2022, by and between **Five Degrees, LLC, a California limited liability company "Lessor", and County of Riverside, "Lessee"**, for the Premises located at 9 Latitude Way, Corona, CA 92881, and constitutes a part of the attached Lease.

51. **General Provisions:**

To the extent of any conflict or inconsistency between any of the terms, conditions or provisions of this Addendum and any of the terms, conditions or provisions of the AIR STANDARD INDUSTRIAL/COMMERCIAL SINGLE-TENANT LEASE - NET, the terms, conditions and provisions of this Addendum shall control and supersede, but only to the extent of the actual conflict or inconsistency. All capitalized terms not otherwise defined in this Addendum shall have the same definitions as in the AIR STANDARD INDUSTRIAL/COMMERCIAL SINGLE-TENANT LEASE - NET. The AIR STANDARD INDUSTRIAL/COMMERCIAL SINGLE-TENANT LEASE - NET and the Addendum are hereinafter collectively the "Lease".

52. **Rent Schedule:**

<u>Payment Periods</u>	<u>Monthly Base Rent Schedule (Net)</u>
Months 1 – 12:	\$32,158.50
Months 13 – 24:	\$33,444.84
Months 25 – 36:	\$34,782.63
Months 37 – 48:	\$36,173.94
Months 49 – 60:	\$37,620.90
Months 61 – 72:	\$39,125.74
Months 73 – 84:	\$40,690.77

This Lease is a "Net" lease and, except as expressly provided to the contrary in this Lease, Lessee is responsible for paying all amounts due in connection with use of the Premises. Accordingly, in addition to Base Rent, Lessee shall also pay to Lessor the following expenses: (i) Real Property Taxes; (ii) Property Management Fees; (iii) Insurance Costs; and (iv) Lessee's Proportionate Share of Association Costs (collectively, "**Operating Expenses**"). All such amounts shall be paid on a monthly basis.

Lessor's first-year estimated monthly Operating Expenses for the Premises are as follows:

Real Property Taxes:	\$0.250 psf per month
Insurance Costs:	\$0.010 psf per month
Association Fees:	\$0.020 psf per month
Quarterly HVAC Maintenance:	\$0.015 psf per month
Annual Parking Lot Maintenance:	\$0.015 psf per month
Annual Roof Maintenance:	\$0.010 psf per month
Annual Parking Light Fixture Maintenance:	\$0.010 psf per month
Property Management:	\$0.020 psf per month
Reserves for Roof Replacement:	\$0.035 psf per month
Reserves for Parking Lot Repair/Replacement:	\$0.010 psf per month
Reserves for HVAC Replacement:	\$0.020 psf per month
<b>Total:</b>	<b>\$0.415</b>

The Property Management fee shall be capped at 2% of the Base Rent for each calendar year for the initial three years of the Lease Term. Thereafter, the Property Management fee may be subject to increase as reasonably determined by Lessor, but in no event shall the Property Management fee increase more than \$750.00 per any lease year.

All rent checks are due on or before the first day of each month and shall be made payable to:

**Make check out to:**  
**"Five Degrees, LLC"**

**Mail check to:**  
**REXCO DEVELOPMENT**  
**Attn: Judy Beil**  
**2518 N. Santiago Blvd.**  
**Orange, CA 92867**

Lessor may from time to time provide Lessee with a different mailing address and a payee pursuant to the notice provisions of this Lease Agreement.



Lessor shall deliver to Lessee within 60 days after the expiration of each calendar year a reasonably detailed statement showing the actual Operating Expenses incurred during the preceding year. If Lessee's payments under this Paragraph 52 during the preceding year exceed the actual Operating Expenses indicated on such statement, Lessor shall credit the amount of such over-payment against Lessee's Rent next becoming due (or, at the end of the Lease Term, Lessor shall promptly reimburse the over-payment). If Lessee's payments under this Paragraph 52 during the preceding year were less than the actual Operating Expenses indicated on such statement, Lessee shall pay to Lessor the amount of the deficiency within 30 days after delivery by Lessor to Lessee of the statement. Any delay or failure by Lessor in delivering any Estimated Statement or Actual Statement will not constitute a waiver of its right to require an increase in Operating Expenses nor will it relieve Lessee of its obligations pursuant to this Paragraph 52, except that Lessee will not be obligated to make any payments based on such Estimated Statement or Actual Statement until 30 days after receipt of such Estimated Statement or Actual Statement.

53. Association; CC&Rs; Operating Expenses; and Maintenance:

Lessor expects to form an owners' association (the "**Association**") to improve, maintain, repair and manage the "**Common Area**" (as defined in the CC&Rs) within the Project that shall include the private roadways owned by Owners and maintained by the Association, monument signs, and landscape areas. The costs to maintain the Common Area shall be hereinafter referred to as the "**Association Costs**". This Lease is expressly subject to the requirements of the Association and a Declaration of Covenants, Conditions and Restrictions and Reservation of Easements, and all amendments thereto, prepared by Lessor and/or the Association in connection with the Common Area and the Land (the "**CC&Rs**"). Upon execution of this Lease, Lessee confirms receipt of the above-referenced CC&Rs that were sent to Lessee's representative, Jonathan Duey, via email sent by Tabitha Smith with Strata Realty, Inc., on July 28, 2022.

Lessee shall be responsible for its proportionate share of the costs to maintain the Common Area, Project monument sign(s), and landscaping ("**Lessee's Proportionate Share of Association Costs**") as specified in the CC&Rs, and Lessee's responsibility shall be fully discharged if Lessee pays the "Association Costs" as set forth herein. Lessor shall indemnify, defend, and hold Lessee harmless from any damages or costs claimed by the Association against Lessee under the CC&Rs based on nonpayment by Lessee of Association Costs in the event and to the extent that Lessor has not paid monies collected from Lessee to the Association or failed to collect an amount sufficient to cover Lessee's Proportionate Share of Association Costs despite Lessee's payment in full of the Association Costs.

54. Construction and Construction Cost Allocation:

Lessor shall cause the Building shell and the exterior parking and landscape areas to be developed and constructed in accordance with the permitted plans (the "**Permitted Plans**") prepared by HPA Architecture (the "**Architect**"). The Permitted Plans shall be supplemented to include Lessee's "**Tenant Improvement Plans**", which shall consist of interior office improvements within the Building and exterior improvements (that include an additional drive aisle, retaining wall improvements to accommodate additional on-site parking, exterior electronically operated access gates, and exterior screening walls) collectively, the "**Tenant Improvements**". The Permitted Plans and the Tenant Improvement Plans for the Tenant Improvements shall comprise the Premises and collectively be referenced hereafter as the "**Final Plans**".

Lessee, at Lessee's sole cost, shall provide the initial "**SpaceFloor Plan**" for the Tenant Improvement Plans. The Floor Plan, as shown in the attached **Exhibit A**, shall include Lessee's desired interior office layout. The Building and improvements comprising the Premises shall be located substantially as shown on the "**Site Plan**" as depicted in **Exhibit B**. Lessor shall cause the Building and improvements comprising the Premises to be constructed by licensed contractors substantially in accordance with: (a) the Final Plans; and (b) the "**Site Construction Specifications and Office Construction Standards**" referenced in the attached **Exhibit C** (collectively, "**Lessor's Work**"). Lessor shall ensure that Lessor's Work complies with the requirements of Article 9 of the CC&Rs.

The Tenant Improvements, as designed by Lessee, shall be paid for by Lessee but constructed by Lessor. The "**Tenant Improvement Costs**" shall include: (i) the cost to construct the Tenant Improvements; (ii) the cost to provide construction drawings by the Architect and mechanical, electrical, plumbing, fire sprinkler, and structural plans that collectively will be in sufficient form and detail to submit to the City for issuance of the required permits to allow Lessor to construct the



Tenant Improvements; and (iii) the cost to demolish approximately 90% of the improved office area, the added two-way drive aisle, and the screening walls that front Temescal Canyon Road and Tom Barnes Street; (iv) the cost of all permits required for the Tenant Improvements, and the cost of a "Signage Package" as referenced below in Paragraph 59. Notwithstanding the above, the Tenant Improvement Costs shall be reduced by Lessor's cost to construct approximately 1,940 square feet of the interior office improvements (the "**TI Credit**"). See the attached **Exhibit D** for a breakout of the initial budget for the Tenant Improvement Costs based upon the Site Plan and Floor Plan as shown in Exhibits A and B. breakout budget lines for three change order requests with a budget cost for each allowable change order that if unused will become a rent credit to the Lessee).

Lessor, at Lessor's sole cost, shall be responsible for all construction costs for Lessor's Work, excluding the Tenant Improvement Costs (less the TI Credit). Lessee shall be responsible to pay all Tenant Improvement Costs upon substantial completion of Lessor's Work in accordance with the process outlined in **Exhibit J** ("**Tenant Improvement Reimbursement**").

55.     **Lease Commencement Date:**     The Lease Commencement Date shall occur on the date of Lessor's substantial completion ("**Substantial Completion**") of the Lessor's Work. Substantial Completion of the Lessor's Work shall be defined as the date that Lessor has substantially completed the Lessor's Work in conformance with the permitted Final Plans as evidenced by receipt of a final sign-off by the City of Corona (the "**City**") of the Inspection Card. Lessee shall be responsible to obtain a "**Certificate of Occupancy**" from the City. To obtain the Certificate of Occupancy, Lessee must have transferred the utilities into its name and must have obtained a business license with the City. Lessee shall obtain a Certificate of Occupancy within 15 days following the Lease Commencement Date. A follow-up amendment shall be executed between the Parties to memorialize the final Commencement and Expiration Dates of the Lease.
56.     **Option to Extend:**     See also Exhibit H. Lessee shall have one (1) five-year renewal option ("**Option**") to extend the Lease. The initial Base Rent for the first year of the Option shall be set at the then fair-market rental rate for similar type spaces within comparable submarkets in the Inland Empire; however, in no event shall the starting Base Rent for the Option be less than four (4%) percent above the previous month's Base Rent (the "**Option Floor Rate**"). Each subsequent year of the Option term shall have annual four (4%) percent increases. For the Option to be valid, the Option must be exercised by providing Lessor written notice of Lessee's intent to exercise said Option not less than six (6) months, nor more than twelve (12) months prior to the expiration of the initial lease term.  
Lessee shall have one (1) five-year renewal option ("**Option**") to extend the Lease. The initial Base Rent for the first year of the Option shall be set at the then fair-market rental rate for similar type spaces within comparable submarkets in the Inland Empire; however, in no event shall the starting Base Rent for the Option be less than four (4%) percent above the previous month's Base Rent (the "**Option Floor Rate**"). Each subsequent year of the Option term shall have annual four (4%) percent increases. For the Option to be valid, the Option must be exercised by providing Lessor written notice of Lessee's intent to exercise said Option not less than six (6) months, nor more than twelve (12) months prior to the expiration of the initial lease term.
57.     **Telecommunications:**     Lessee, at Lessee's sole cost and expense, shall be responsible for obtaining and installing its own telecommunications, including the two required phone lines for the fire monitoring system, security service, and data communication system(s) to the Property and for all coordination regarding any work and installation timing regarding same. Lessee shall use its best efforts to coordinate any installation work described herein that may be required by Lessor to complete Lessor's Work, and Lessor shall provide Lessee access to perform such installation if required prior to the Start Date.
58.     **Building Security/  
Fire Monitoring:**     Lessor, at Lessor's sole cost and expense, shall be responsible for the installation of the fire sprinkler monitoring system as part of the Lessor's Work. In the event Lessee elects to install a security system, Lessee shall be responsible for the installation and maintenance cost of such system.
59.     **Signage:**     The Parties shall agree to a comprehensive Signage Package as part of the overall Tenant Improvement Costs. Notwithstanding the above, all Lessee signage shall be subject to the Project sign criteria and be in compliance with the City of Corona's signage requirements.



ADDENDUM  
PAGE 4 OF 5

60. **Miscellaneous:**
- (a) The captions of this Addendum are for convenience only and are not a part of this Lease, and do not in any way define, limit, describe or amplify the terms or provisions of this Lease or the scope or intent thereof.
  - (b) This Lease may be executed in multiple counterparts, each of which shall constitute an original, but all of which taken together shall constitute one and the same Agreement.
  - (c) Lessee and Lessor understand, agree, and acknowledge that this Lease has been freely negotiated by both Parties; and that in the event of any controversy, dispute, or contest over the meaning, interpretation, validity, or enforceability of the Lease or any of its terms or conditions, there shall be no inference, presumption, or conclusion drawn whatsoever against either Party by virtue of that Party having drafted this Lease or any portion thereof.
  - (d) Lessor, Five Degrees, LLC, as owner of the Property and developer, is not acting as contractor regarding the Property. Five Degrees, LLC shall act as developer and contract with licensed contractors to cause the Building described herein to be constructed in substantial accordance with the Final Plans. Lessee understands and agrees that the Parties have entered into a lease agreement and not a construction contract.
  - (e) With respect to the CC&Rs, Lessor shall indemnify, defend, and hold harmless Lessee for any nonpayment by Lessor of assessments to the Association under Paragraph 8.9 thereunder.
  - (f) EXCEPT AS SET FORTH IN PARAGRAPH 13 HEREOF, EACH PARTY HEREBY WAIVES THE RIGHT TO RECOVER CONSEQUENTIAL, INCIDENTAL, EXEMPLARY AND SIMILAR DAMAGES AND THE MULTIPLIED PORTION OF DAMAGES, EVEN IF SUCH PARTY HAS BEEN WARNED OF THE POSSIBILITY OF SUCH DAMAGES. THIS PARAGRAPH WILL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS LEASE.
  - (g) Lessee shall be responsible to confirm with the City of Corona, at Lessee's cost, that its use is permitted within the Project zoning, and that the provided number of parking stalls is adequate for Lessee's use.
  - (h) In the Lease Agreement, the word "County" or "County of Riverside" or "County of Riverside, a political subdivision of the State of California, on behalf of the Riverside County Sheriff's Department" is used interchangeably with "Lessee".
  - (i) Lessor shall not relocate the Lessee at any time for any reason during the Term of the Lease.

61. **Potential Solar Power Roof Lease:**
- Lessor reserves the right to lease all or a portion of the Building's roof for the placement of solar energy panels and associated equipment; provided that: (i) the solar energy lease benefits the Lessee; and (ii) Lessee reasonably approves the form of the lease within ten (10) days after Lessor has submitted same for Lessee's review. In the event Lessee has not responded in writing as to its reasonable approval or otherwise by 4:00 PM of the tenth (10<sup>th</sup>) day from the time of receipt, then such non-response shall be deemed as Lessee's approval of the form of the lease.

62. **Lessor Notices:**
- The Riverside County Sheriff Department is to be included in all notices from Lessor to Lessee, and deliver such notices in email or written form to:

Riverside County Sheriff  
Project Management Office  
Attn.: Amber McHenry  
4095 Lemon St., 5<sup>th</sup> Floor  
Riverside, CA 92501  
Email: [amchenry@riversidesheriff.org](mailto:amchenry@riversidesheriff.org)

63. **Exhibits and Schedules:**
- The following exhibits and schedules are attached hereto and made a part of this lease agreement:

Exhibit A: Floor Plan  
Exhibit B: Site Plan



- Exhibit C: Site Construction Specifications and Office Construction Standards
- Exhibit D: Budgeted Tenant Improvement Costs Based Upon the Current Floor Plan
- Exhibit E: California Sale/Lease Americans with Disabilities Act, Hazardous Materials, and Tax Disclosure
- Exhibit F: Rules and Regulations
- Exhibit G: AIR Disclosure Regarding Real Estate Agency Relationship
- Exhibit H: AIR Option to Extend
- Exhibit I: Project CC&Rs (Sent previously to Lessee via email)
- Exhibit J: Final Tenant Improvement Costs Based Upon Completion of Construction Drawings and Final Tenant Improvement Reimbursement Invoice (Inclusive of any credits or additional costs)
- Exhibit K: Subordination, Non-Disturbance, and Attornment Agreement ("SNDA")

**Agreed and Accepted:**

**Lessor:**  
**Five Degrees, LLC,**  
**a California limited liability company**

By: [Signature]  
Name: Larry Hauptert  
Title: General Manager  
Date: 8/25/22

**Lessee:**  
**County of Riverside, a political subdivision of the**  
**State of California**

By: [Signature]  
Name: Jeff Hewitt  
Title: Chairman Board of Supervisors  
Date: 10/4/2022

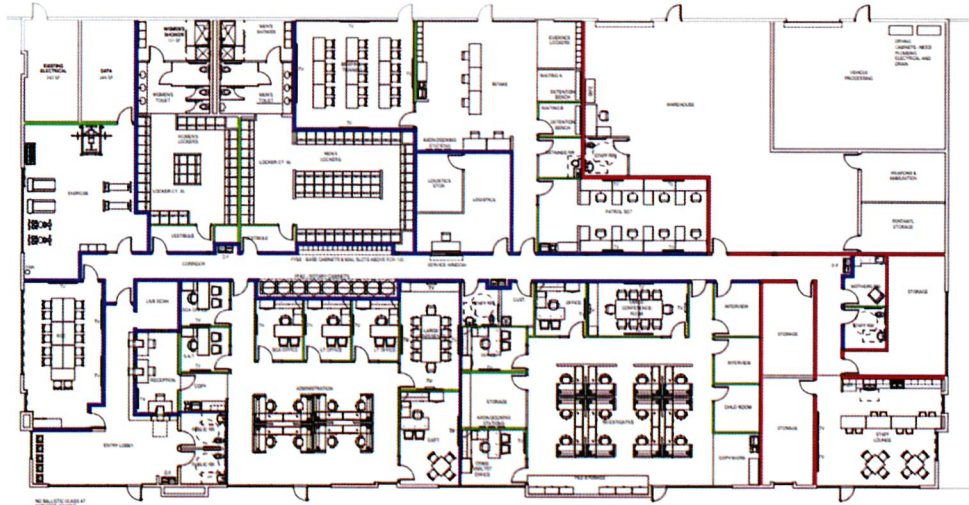
Attest:  
Kecia R. Harper  
Clerk of the Board

By: [Signature]  
Name Printed: Breanna Smith  
Title: Deputy

Approved as to Form:  
County Counsel

By: [Signature]  
Ryan Yabko  
Deputy County Counsel

EXHIBIT A  
FLOOR PLAN  
(NOT TO SCALE)



**WALL TYPES LEGEND**

- FULL HEIGHT METAL STUD WALL (4" MIN.) WITH 1 LAYER 5/8" TYPE - X GYPSUM BOARD EACH SIDE WITH SOUND BATT INSULATION. SEE FINISH SCHEDULE FOR ADDITIONAL FINISHES.
- FULL HEIGHT 1 - HR RATED METAL STUD WALL (4" MIN.) WITH 1 LAYER 5/8" TYPE - X GYPSUM BOARD EACH SIDE WITH SOUND BATT INSULATION. SEE FINISH SCHEDULE FOR ADDITIONAL FINISHES.
- PARTIAL HEIGHT METAL STUD WALL (4" MIN.) WITH 1 LAYER 5/8" GYPSUM BOARD EACH SIDE WITH SOUND BATT INSULATION. SEE FINISH SCHEDULE FOR ADDITIONAL FINISHES.
- PARTIAL HEIGHT METAL STUD WALL (4" MIN.) WITH 1 LAYER 5/8" GYPSUM BOARD EACH SIDE. SEE FINISH SCHEDULE FOR ADDITIONAL FINISHES.

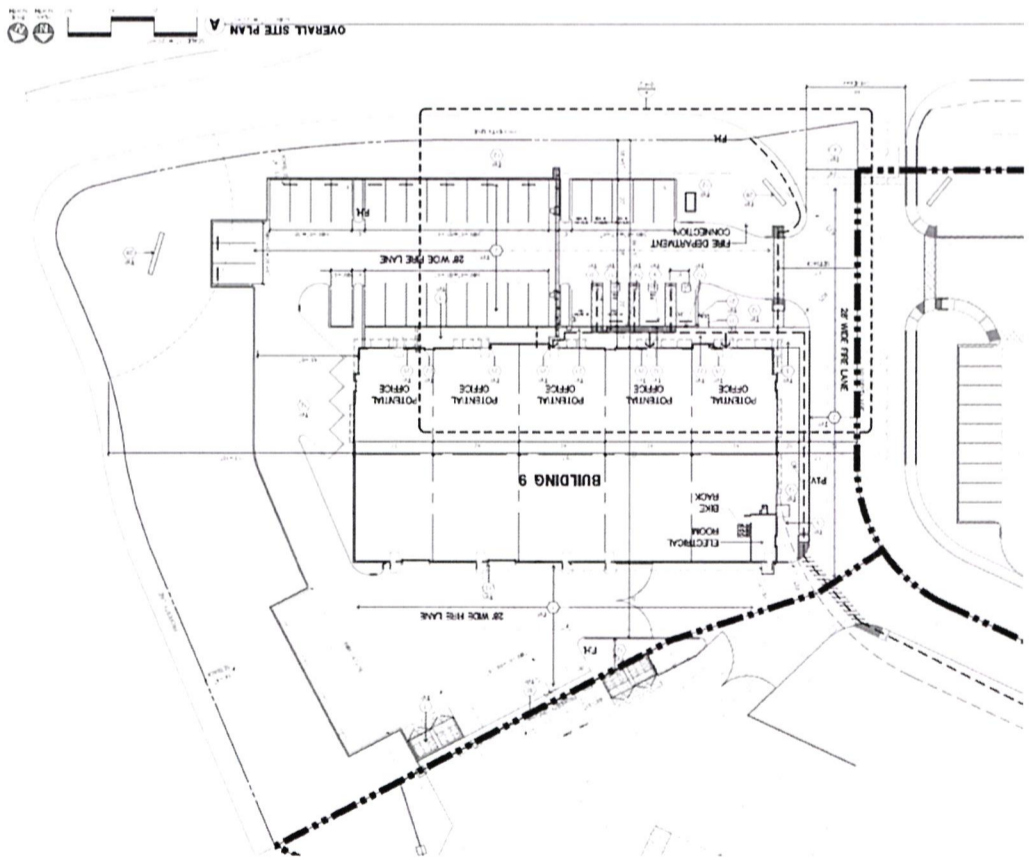


EXHIBIT B  
SITE PLAN  
(NOT TO SCALE)

EXHIBIT C  
SITE CONSTRUCTION SPECIFICATIONS AND OFFICE CONSTRUCTION STANDARDS

SITE CONSTRUCTION SPECIFICATIONS:

**A. Site Work**

- a. Onsite Paving
  - i. Parking and drive aisles to be asphalt paving.
  - ii. Trash /recycling enclosure area provided.
- b. Parking
  - i. Auto parking shall be provided as shown on the Site Plan as modified by the Tenant Improvement Plans. (See Exhibit B).
- c. Parking Lot Lighting
  - i. Wall pack and pole top mounted, minimum lighting levels per City standards, photocell operated.
- d. Landscaping
  - i. Fully landscaped site with automatic drip irrigation in accordance with City requirements.
- e. Utilities
  - i. Electric power to electrical room, (cable by utility company).
  - ii. One 4" sanitary sewer lateral, connect to main in street frontage.
  - iii. One 2" domestic water lateral (1.5" meter), connect to main.
  - iv. Fire lines and hydrants as required by Fire Department. Fire line connected to main.
  - v. Telephone and IT conduit to telephone board (cable by Telephone company and IT conduit by Data provider).
- f. Exterior Screen Walls
  - i. Exterior screen walls to be added per the Tenant Improvement Plans.
- g. Additional Drive Aisle
  - i. An additional drive aisle to be added per the Tenant Improvement Plans. (See Exhibit B).
- h. Exterior Retaining Walls
  - i. Exterior retaining walls to be added per the Tenant Improvement Plans.
- i. Access Gates
  - i. Access gates to be provided. Gates will be prepped for future electrical access at Tenant's cost.

**B. Offsite Work**

- a. Street Improvements
  - i. Concrete driveway approaches as required at street frontages per City requirements.
  - ii. Landscape improvements at City right-of-way per City requirements.
  - iii. Street paving/patching as required per City standards.

**C. Building Exterior**

- a. Wall Panels
  - i. Site cast tilt-up concrete with integral reveals, painted finish at exterior and interior per plans. Approximately 31' high to top of parapet.
- b. Exterior Office Elevations
  - i. Standard 2x4 clear anodized aluminum storefront system, with narrow stile aluminum framed entrance doors.
  - ii. Glass: 1" insulated glass unit (blue reflective).
- c. Exterior Doors
  - i. Hollow metal, 3'-0" x 7'-0" typical, painted to match building exterior at concrete walls.
  - ii. Narrow stile aluminum framed glass doors to match storefront at office entry.
  - iii. Steel roll-up doors, manually operated, rated for local wind loads per City requirements, and painted to match building exterior at concrete walls.

**D. Structural System**

- a. On Grade Floor System
  - i. 6" concrete throughout warehouse with #3 reinforcing bars at 18" o.c. eachway, or as determined by Soils and Structural Engineers, over compacted subgrade.
- b. Roof System

- i. 4-ply built-up roofing over plywood sheathing over roof framing; consisting of 3 plies of roof material with ND-24 Cap Roofing by Johns-Manville or equal (Class A rated)
- ii. Bay spacing, approximately 40'W x 50' D, as determined by Structural Engineer.
- iii. Roof drainage by interior (primary) roof drains with overflow scuppers (south elevation) and exterior sheet metal downspouts with overflow scuppers (north elevation).
- iv. Skylights provided at approximately 2% of the roof area.
- v. Insulation
  - 1. White scrim foil insulation. (Warehouse only)
- vi. Floor/Ceiling Heights
  - 1. 24' minimum warehouse clear height.

**E. Doors and Stairs**

- i. Truck Doors
- i. Five (5) grade-level loading doors (12' wide x 14' high) as modified per the Tenant Improvement Plans. (See Exhibit A).
- ii. Exterior Pedestrian Doors
  - 1. 3'-0"x7'-0" hollow metal doors as required by Code.

**F. Fire Protection**

- i. Building fully sprinklered
  - 1. Automatic ESFR fire sprinkler system.

**G. Standard Electrical**

- i. Electrical System
  - 1. 800 amp, 277/480-volt, 3-phase, 4-wire service.
  - 2. Main electrical room supplied with underground pull section, house meter and main circuit breaker. One (1) 30 KVA step-down transformer.
  - 3. Central Station Fire Monitoring Alarm is included.
  - 4. All data and communication systems are excluded.

OFFICE CONSTRUCTION STANDARDS:

**H. Office Standards/Allowances**

- Interior Walls - Gypsum board over 20GA. metal studs (typical)
- Interior Doors
  - Frames (Western Integrated, 3'-0" x 8', or equal)
  - Doors (VT Industries – White Maple, Riverstone RI-15 8'H or equal)
- Ceilings – Armstrong Dune 2'x4' 15/16" or equal (entire office area)
- Flooring
  - Per Tenant's specifications
- Paint (entire office area)
- Mechanical
  - HVAC
- Electrical
  - Per Tenant's specifications
- Plumbing
  - Per Tenant's Floor Plan and specifications
- Cabinets
  - Per Tenant's Floor Plan and specifications
- Doors (Locking systems supplied only to exterior doors)

EXHIBIT D  
 BUDGETED TENANT IMPROVEMENT COSTS BASED UPON THE CURRENT FLOOR PLAN  
 (Page 1 of 2)

July 29, 2022

COUNTY OF RIVERSIDE

LAKE MATTHEWS SHERIFF SUBSTATION  
 9 LATITUDE WAY CORONA

**PRELIMINARY BUDGET**

RENTABLE AREA 19,490

**PARTITION WALLS:**

Framing / Drywall / Insulation (12 ft high) 685 l.f. @ \$ 115.00 l.f. of wall \$ 78,775.00

**FULL HEIGHT DEMISING WALLS:**

Framing / Drywall / Insulation (framed to underside of rc 1,240 l.f. @ \$ 235.00 l.f. of wall \$ 291,400.00

**INTERIOR DOORS:**

3ft x 8ft wood doors / frames / passage hardware 50 ea @ \$ 1,350.00 ea \$ 67,500.00  
 (excludes electronic hardware)

**ACOUSTICAL CEILING:**

2ft x 4ft fineline system 8,259 sq. ft. @ \$ 4.75 sq. ft. \$ 39,230.25

**DRYWALL CEILING:**

Framing / Drywall 2,993 sq. ft. @ \$ 12.00 sq. ft. \$ 35,916.00

**DRYWALL CEILING / SOFFITS:**

Framing, Drywall 1,020 sq. ft. @ \$ 40.00 sq. ft. \$ 40,800.00

**CEILING INSULATION:**

R-19 throughout entire space 19,490 sq. ft. @ \$ 1.45 sq. ft. \$ 28,260.50

**PAINT** (entire lease area)

19,490 sq. ft. @ \$ 1.55 sq. ft. \$ 30,209.50

**CARPET:**

Carpet tiles, rubber base 940 yds @ \$ 43.00 yd \$ 40,420.00

**VINYL FLOORING:**

VCT flooring / rubber base 2,547 sq. ft. @ \$ 3.75 sq. ft. \$ 9,551.25

**SEALED CONCRETE:**

Warehouse, vehicle and storage area 4,700 sq. ft. @ \$ 1.00 sq. ft. \$ 4,700.00

**RUBBER FLOORING:**

Gym area 709 sq. ft. @ \$ 8.00 sq. ft. \$ 5,672.00

**CERAMIC TILE FLOORING:**

Restrooms, shower rooms, locker rooms 2,430 sq. ft. @ \$ 13.00 sq. ft. \$ 31,590.00

**CERAMIC TILE WALLS:**

Restrooms, shower rooms, locker rooms 3,144 sq. ft. @ \$ 20.00 sq. ft. \$ 62,880.00

**RESTROOM ACCESSORIES:**

Partitions, ADA accessories, mirrors, signs 1 ls @ \$ 23,360.00 ea. \$ 23,360.00

EXHIBIT D  
 BUDGETED TENANT IMPROVEMENT COSTS BASED UPON THE CURRENT FLOOR PLAN  
 (Page 2 of 2)

<b><u>PLUMBING BUDGET:</u></b>	39 ea	@	\$ 4,500.00	ea	\$ 175,500.00
Rough in / Fixtures / concrete demo replacement					
<b><u>ELECTRICAL BUDGET:</u></b>	19,490 sq. ft.	@	\$ 23.00	sq. ft.	\$ 448,270.00
Circuits, panels, fixtures, data rings					
<b><u>GENERATOR BUDGET:</u></b>	1 ls	@	\$ 65,000.00	ea	\$ 65,000.00
<b><u>H.V.A.C. EQUIPMENT / DISTRIBUTION BUDGET:</u></b>	65 tons	@	\$ 6,500.00	ton	\$ 422,500.00
65 tons / exposed duct at vehicle processing, warehouse, gym, storage rooms / roof framing and repair condensate, package units dispersed over roof					
<b><u>FIRE SPRINKLERS:</u></b>	19,490 sq. ft.	@	\$ 3.75	sq. ft.	\$ 73,087.50
drops at improved area					
<b><u>MILLWORK:</u></b>	1 ls	@	\$ 25,000.00	ea	\$ 25,000.00
Lounge upper and lower cabinets, mens and womens locker restrooms with stone tops, reception desk, lower cabinets at 2 conference rooms, cabinet at mothers room					
<b><u>SECURITY FENCE AND GATES:</u></b>	1 ls	@	\$ 24,000.00	ea	\$ 24,000.00
1 set sliding gates at front, 1 set swing gates at rear					
<b><u>REAR DRIVE ADDED WIDTH:</u></b>	1 ls	@	\$ 50,000.00	ea	\$ 50,000.00
grading, backfill, retaining wall, asphalt, misc curbs					
<b><u>PERIMETER BLOCK WALL FENCE:</u></b>	507 lf	@	\$ 234.00	lf	\$ 118,638.00
6 ft high split face two side block wall					
<b>SUBTOTAL CONSTRUCTION COST</b>	19,490 sq. ft.	@	\$ 112.48	sq. ft.	\$ 2,192,260.00
<b>ENGINEERING / ARCHITECT</b>	19,490 sq. ft.	@	\$ 3.00	sq. ft.	\$ 58,470.00
<b>PERMITS</b>	19,490 sq. ft.	@	\$ 2.50	sq. ft.	\$ 48,725.00
<b>PLANS</b>	19,490 sq. ft.	@	\$ 1.50	sq. ft.	\$ 29,235.00
<b>SITE GENERAL COND. (misc.labor misc protection material)</b>	19,490 sq. ft.	@	\$ 4.00	sq. ft.	\$ 77,960.00
<b>10% CONSTRUCTION MANAGEMENT</b>					\$ 219,226.00
<b>10% CONTINGENCY</b>					\$ 219,226.00
<b>SUBTOTAL SOFT COSTS:</b>					\$ 652,842.00
<b>SIGNAGE BUDGET:</b>					\$ 25,000.00
<b>CREDIT FOR OFFICE NOT CONSTRUCTED</b>	1,949 sq. ft.	@	\$ (74.87)	sq. ft.	\$ (145,921.63)
<b>TOTAL PROJECTED BUDGET</b>	19,490 sq. ft.	@	\$ 139.77	sq. ft.	\$ 2,724,180.37
<b><u>NOTE: BUDGET EXCLUDES: FURNISHINGS, SECURITY ALARM SYSTEM, LOCKERS, SIGNAGE LOW VOLTAGE CABLING, APPLIANCES, ACCESS CONTROL SYSTEMS</u></b>					

EXHIBIT E  
CALIFORNIA SALE/LEASE AMERICANS WITH DISABILITIES ACT,  
HAZARDOUS MATERIALS, AND TAX DISCLOSURE

The Americans With Disabilities Act is intended to make many business establishments equally accessible to persons with a variety of disabilities; modifications to real property may be required. State and local laws also may mandate changes. The real estate brokers in this transaction are not qualified to advise you as to what, if any, changes may be required now, or in the future. Owners and tenants should consult the attorneys and qualified design professionals of their choice for information regarding these matters. Real estate brokers cannot determine which attorneys or design professionals have the appropriate expertise in this area.

Various construction materials may contain items that have been or may in the future be determined to be hazardous (toxic) or undesirable and may need to be specifically treated/handled or removed. For example, some transformers and other electrical components contain PCBs, and asbestos has been used in components such as fire-proofing, heating and cooling systems, air duct insulation, spray-on and tile acoustical materials, linoleum, floor tiles, roofing, dry wall and plaster. Due to prior or current uses of the Property or in the area, the Property may have hazardous or undesirable metals (including lead-based paint), minerals, chemicals, hydrocarbons, or biological hazards (including, but not limited to, mold) or radioactive items (including electrical and magnetic fields) in soils, water, building components, above or below-ground containers or elsewhere in areas that may or may not be accessible or noticeable. Such items may leak or otherwise be released. Real estate agents have no expertise in the detection or correction of hazardous or undesirable items. Expert inspections are necessary. Current or future laws may require clean up by past, present and/or future owners and/or operators. It is the responsibility of the Seller/Lessor and Buyer/Lessee to retain qualified experts to detect and correct such matters and to consult with legal counsel of their choice to determine what provisions, if any, they may include in transaction documents regarding the Property.

Sellers/Lessors are required under California Health and Safety Code Section 25915 et seq. to disclose reports and surveys regarding asbestos to certain persons, including their employees, contractors, co-owners, purchasers and tenants. Buyers/Lesseees have similar disclosure obligations. Sellers/Lessors and Buyers/Lesseees have additional hazardous materials disclosure responsibilities to each other under California Health and Safety Code Section 25359.7 and other California laws. Consult your attorney regarding this matter, and make proper disclosures. Strata Realty, Inc. is not qualified to assist you in this matter or provide you with other legal or tax advice.

Sale, lease and other transactions can have local, state and federal tax consequences for the Seller/Lessor and/or Buyer/Lessee. In the event of a sale, Internal Revenue Code section 1445 requires that all buyers of an interest in any real property located in the United States must withhold and pay over to the Internal Revenue Service (IRS) an amount equal to fifteen percent (15%) of the gross sales price within ten (10) days of the date of the sale unless the buyer can adequately establish that the seller was not a foreigner, generally by having the seller sign a Non-Foreign Seller Certificate. Note that depending upon the structure of the transaction, the tax withholding liability could exceed the net cash proceeds to be paid to the seller at closing. California poses an additional withholding requirement equal to three and one-third percent (3 1/3%) of the gross sales price on all Sellers (California residents and non-residents alike) for California real property if the sale price exceeds \$100,000. Consult your tax and legal advisor. Real estate brokers are not qualified to give legal or tax advice or to determine whether any other person is properly qualified to provide legal or tax advice.

Property Address: 9 Latitude Way, Corona, CA 92881

Lessor's Initials



Lessee's Initials




EXHIBIT F  
RULES AND REGULATIONS

The following are the rules and regulations of this Office facility. Any violation of any of these rules and regulations shall be considered a material and substantial breach of this Lease.

1. No curtains, draperies, blinds, shutters, screens or other coverings, awnings, hangings, or decorations shall be attached to, hung or placed in, or used in connection with, any window or door on the Premises without the prior written consent of Lessor. In any event with the prior written consent of Lessor, all such items shall be installed inboard of Lessor's standard window covering and shall in no way be visible from the exterior of the Building. No articles shall be placed or kept on the window sills so as to be visible from the exterior of the Building. No articles shall be placed against glass partitions or doors which Lessor considers unsightly from outside Lessee's Premises.
2. Lessor and its agents shall not be liable for damages for any error concerning the admission to, or exclusion from, the Building or Property of any person.  
  
During the continuance of any invasion, mob, riot, public excitement or other circumstance rendering such action advisable in Lessor's opinion, Lessor reserves the right (but shall not be obligated) to prevent access to the Building during the continuance of that event by any means it considers appropriate for the safety of persons and protection of the Building, property in the Building.
3. Lessee shall see that all doors of its Premises are closed and securely locked and must observe strict care and caution that all water faucets or water apparatus, coffee pots or other heat-generating devices are entirely shut off before Lessee or its employees leave the Premises, and that all utilities shall likewise be carefully shut off or otherwise set in a commercially reasonable manner, so as to prevent waste or damage. Lessee shall be responsible for any damage or injuries sustained by Lessor for noncompliance with this rule.
4. Lessor will furnish Lessee free of charge with two (2) keys to each front and side exterior doors in the Premises. Lessee, upon the termination of its tenancy, shall deliver to Lessor the keys for all doors which have been furnished to Lessee or that Lessee subsequently created. None of the foregoing shall preclude Lessee from installing a security access system for the Premises subject to Lessor's written approval (which shall not unreasonably be withheld). Notwithstanding the above, Lessee shall maintain exclusive control of the keys and access to the Building.
5. The restrooms, toilets, urinals, wash bowls and other apparatus shall not be used for any purpose other than that for which they were constructed and no foreign substance of any kind whatsoever inconsistent with their purpose shall be thrown into them. The expense of any breakage, stoppage, or damage resulting from violation of this rule shall be borne by the Lessee who, or whose employees or invitees, shall have caused the breakage, stoppage, or damage.
6. Lessee shall not use or keep in or on the Premises, or the Building any kerosene, gasoline, or inflammable or combustible fluid or material other than in connection with products stored, sold, or maintained that are part of Lessee's business and permitted as part of the Agreed Use and in compliance with Paragraph 6.2 of the Lease.
7. Lessee shall not use or keep in or on the Premises, the Building any foul or noxious gas or substance. Lessee shall not allow the Premises to be occupied or used in a manner offensive or objectionable to Lessor or other occupants of the Building by reason of noise, odors and/or vibrations or interfere in any way with other lessees or those having business therein, nor shall any animals or birds be brought or kept in or about the Premises, or the Building.
8. No cooking shall be done or permitted by any Lessee on the Premises, except that use by the Lessee of Underwriters' Laboratory (UL) approved equipment, refrigerators, and microwave ovens may be used in the Premises for the preparation of coffee, tea, hot chocolate and similar beverages, storing and heating food for Lessees and their employees shall be permitted. All uses must be in accordance with all applicable federal, state and city laws, codes, ordinances, rules and regulations and the Lease.
9. Except with the prior consent of Lessor, Lessee shall not sell, or permit the sale, at retail, of newspapers, magazines, periodicals, theater tickets or any other goods or merchandise in or on the Premises, nor shall the Premises be used for the business of a public barber shop, beauty parlor, nor shall the Premises be used for any illegal, improper, immoral or objectionable purpose, or any business or activity other than that specifically provided for in such Lessee's Lease. Lessee shall not accept hairstyling, barbering, shoeshine, nail, massage or similar services in the Premises or common area except as authorized by Lessor.
10. If Lessee requires telegraphic, telephonic, telecommunications, data processing, burglar alarm or similar services, it shall first obtain, and comply with, Lessor's instructions in their installation. The cost of purchasing, installation and maintenance of such services shall be borne solely by Lessee.
11. Lessor will direct electricians as to where and how telephone, telegraph and electrical wires are to be introduced or installed. No boring or cutting for wires will be allowed without the prior written consent of Lessor. The location of burglar alarms, telephones, call boxes and other office equipment affixed to the Premises shall be subject to the prior written approval of Lessor.
12. Lessee shall not install any radio or television antenna, satellite dish, loudspeaker or any other device on the exterior walls or the roof of the Building, without Lessor's written consent. Lessee shall not interfere with radio or television broadcasting or reception from or in the Building, or elsewhere.
13. Except as otherwise provided in the Lease, Lessee shall not mark, or drive nails, screws or drill into the partitions, woodwork or drywall or in any way deface the Premises or any part thereof without Lessor's consent. Lessee may install nails and screws in areas of the Premises that have been identified for those purposes to Lessor by Lessee at the time those walls or partitions were installed in the Premises. Lessee shall not lay linoleum, tile, carpet or any other floor covering so that the same shall be affixed to the floor or its Premises in any manner except as approved in writing by Lessor. The expense of repairing any damage resulting from a violation of this rule or the removal of any floor covering shall be borne by the Lessee by whom, or by whose contractors, employees or invitees, the damage shall have been caused.

Lessor's Initials \_\_\_\_\_

Lessee's Initials \_\_\_\_\_

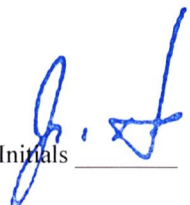
EXHIBIT F  
RULES AND REGULATIONS

14. Lessee shall not place a load upon any floor of its Premises which exceeds the load per square foot which such floor was designed to carry or which is allowed by law. Lessor shall have the right to prescribe the weight, size and position of all safes, furniture or other heavy equipment brought into the Building. Safes or other heavy objects shall, if considered necessary by Lessor, stand on wood strips of such thickness as determined by Lessor to be necessary to properly distribute the weight thereof. Lessor will not be responsible for loss of or damage to any such safe, equipment or property from any cause, and all damage done to the Building by moving or maintaining such safe, equipment or other property shall be repaired at the expense of Lessee.
- Business machines and mechanical equipment belonging to Lessee which cause noise or vibration that may be transmitted to the structure of the Building or to any space therein to such a degree as to be objectionable to Lessor shall be placed and maintained by Lessee, at Lessee's expense, on vibration eliminators or other devices sufficient to eliminate noise or vibration. The persons employed to move such equipment in or out of the Building must be acceptable to Lessor.
15. Each Lessee shall store all its trash and garbage within the interior of the Premises. Lessee shall not place in the trash boxes or receptacles any personal trash or any material that may not or cannot be disposed of in the ordinary and customary manner of removing and disposing of trash and garbage in the city, without violation of any law or ordinance governing such disposal. All trash, garbage and refuse disposal shall be made only through entry-ways and elevators provided for such purposes and at such times as Lessor shall designate. If the Building has implemented a building-wide recycling program for Lessees, Lessee shall use good faith efforts to participate in said program.
16. Canvassing, soliciting, distribution of handbills or any other written material and peddling in the Project is prohibited and Lessee shall cooperate to prevent the same. No Lessee shall make room-to-room solicitation of business from other lessees in the Project, without the written consent of Lessor.
17. Lessor reserves the right to exclude or expel from the Building and/or Property any person who, in Lessor's judgment, is under the influence of alcohol or drugs or who commits any act in violation of any of these Rules and Regulations.
18. Lessee shall comply with all safety, fire protection and evacuation procedures and regulations established by Lessor or any governmental agency.
19. Lessee assumes any and all responsibility for protecting its Premises from theft, robbery and pilferage, which includes keeping doors locked and other means of entry to the Premises closed.
20. Parking spaces shall be for passenger vehicles only; no boats, trucks, trailers, recreational vehicles or other types of vehicles may be parked in the parking areas (except that trucks may be loaded and unloaded in designated loading areas). Vehicles in violation of the above shall be subject to tow-away, at vehicle owner's expense. The parking areas shall not be used to provide car wash, oil changes, detailing, automotive repair or other services unless otherwise approved or furnished by Lessor.
21. No smoking of any kind shall be permitted anywhere within the Building, including, without limitation, the Premises and those areas immediately adjacent to the entrances and exits to the Building, or any other area as Lessor elects. Smoking in the Building is only permitted in smoking areas identified by Lessor, which may be relocated from time to time.
22. Lessee shall be responsible for the observance of all of the foregoing Rules and Regulations by Lessee's employees, agents, clients, customers, invitees and guests.
23. Lessor may waive any one or more of these Rules and Regulations for the benefit of any particular Lessee or lessees, but no such waiver by Lessor shall be construed as a waiver of such Rules and Regulations in favor of any other Lessee or lessees, nor prevent Lessor from thereafter enforcing any such Rules and Regulations against any or all lessees of the Building.
24. Lessor reserves the right to make such other and reasonable rules and regulations as in its judgment may from time to time be needed for safety and security, for care and cleanliness of the Building and Property and for the preservation of good order therein and Lessor shall provide a thirty (30) day prior notice to Lessee regarding any forthcoming rule changes. Lessee agrees to abide by all such Rules and Regulations herein stated and any additional rules and regulations which are adopted.

Lessor's Initials \_\_\_\_\_



Lessee's Initials \_\_\_\_\_





DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIP
(As required by the Civil Code)

When you enter into a discussion with a real estate agent regarding a real estate transaction, you should from the outset understand what type of agency relationship or representation you wish to have with the agent in the transaction.

SELLER'S AGENT

A Seller's agent under a listing agreement with the Seller acts as the agent for the Seller only. A Seller's agent or a subagent of that agent has the following affirmative obligations:

To the Seller: A fiduciary duty of utmost care, integrity, honesty and loyalty in dealings with the Seller.

To the Buyer and the Seller:

- (a) Diligent exercise of reasonable skill and care in performance of the agent's duties.
(b) A duty of honest and fair dealing and good faith.
(c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties.

An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

BUYER'S AGENT

A Buyer's agent can, with a Buyer's consent, agree to act as agent for the Buyer only. In these situations, the agent is not the Seller's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Seller. An agent acting only for a Buyer has the following affirmative obligations:

To the Buyer: A fiduciary duty of utmost care, integrity, honesty and loyalty in dealings with the Buyer.

To the Buyer and the Seller:

- (a) Diligent exercise of reasonable skill and care in performance of the agent's duties.
(b) A duty of honest and fair dealing and good faith.
(c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties.

An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

AGENT REPRESENTING BOTH SELLER AND BUYER

A real estate agent, either acting directly or through one or more salesperson and broker associates, can legally be the agent of both the Seller and the Buyer in a transaction, but only with the knowledge and consent of both the Seller and the Buyer.

In a dual agency situation, the agent has the following affirmative obligations to both the Seller and the Buyer:

- (a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either the Seller or the Buyer.
(b) Other duties to the Seller and the Buyer as stated above in their respective sections.

In representing both Seller and Buyer, a dual agent may not, without the express permission of the respective party, disclose to the other party confidential information, including, but not limited to, facts relating to either the Buyer's or Seller's financial position, motivations, bargaining position, or other personal information that may impact price, including the Seller's willingness to accept a price less than the listing price or the Buyer's willingness to pay a price greater than the price offered.

SELLER AND BUYER RESPONSIBILITIES

Either the purchase agreement or a separate document will contain a confirmation of which agent is representing you and whether that agent is representing you exclusively in the transaction or acting as a dual agent. Please pay attention to that confirmation to make sure it accurately reflects your understanding of your agent's role. The above duties of the agent in a real estate transaction do not relieve a Seller or Buyer from the responsibility to protect his or her own interests. You should carefully read all agreements to assure that they adequately express your understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional. If you are a Buyer, you have the duty to exercise reasonable care to protect yourself, including as to those facts about the property which are known to you or within your diligent attention and observation. Both Sellers and Buyers should strongly consider obtaining tax advice from a competent professional because the federal and state tax consequences of a transaction can be complex and subject to change.

Throughout your real property transaction you may receive more than one disclosure form, depending upon the number of agents assisting in the transaction. The law requires each agent with whom you have more than a casual relationship to present you with this disclosure form. You should read its contents each time it is presented to you, considering the relationship between you and the real estate agent in your specific transaction. This disclosure form includes the provisions of Sections 2079.13 to 2079.24, inclusive, of the Civil Code set forth on page 2. Read it carefully. I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS DISCLOSURE AND THE PORTIONS OF THE CIVIL CODE PRINTED ON THE BACK (OR A SEPARATE PAGE).

Form with checkboxes for Buyer, Seller, Lessor, Lessee and a Date field.

Agent: Strata Realty, Inc./Eric Frickle Commercial Realty DRE Lic. #: 00880273/00866733
Real Estate Broker (Firm)

By: (Salesperson or Broker-Associate) DRE Lic. #: 00880273/00866733 Date:

THIS FORM HAS BEEN PREPARED BY AIR CRE. NO REPRESENTATION IS MADE AS TO THE LEGAL VALIDITY OR ADEQUACY OF THIS FORM FOR ANY SPECIFIC TRANSACTION. PLEASE SEEK LEGAL COUNSEL AS TO THE APPROPRIATENESS OF THIS FORM.

INITIALS

Handwritten signature and INITIALS

**DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIP  
CIVIL CODE SECTIONS 2079.13 THROUGH 2079.24 (2079.16 APPEARS ON THE FRONT)**

**2079.13.** As used in Sections 2079.7 and 2079.14 to 2079.24, inclusive, the following terms have the following meanings:

**(a)** "Agent" means a person acting under provisions of Title 9 (commencing with Section 2295) in a real property transaction, and includes a person who is licensed as a real estate broker under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code, and under whose license a listing is executed or an offer to purchase is obtained. The agent in the real property transaction bears responsibility for that agent's salespersons or broker associates who perform as agents of the agent. When a salesperson or broker associate owes a duty to any principal, or to any buyer or seller who is not a principal, in a real property transaction, that duty is equivalent to the duty owed to that party by the broker for whom the salesperson or broker associate functions. **(b)** "Buyer" means a transferee in a real property transaction, and includes a person who executes an offer to purchase real property from a seller through an agent, or who seeks the services of an agent in more than a casual, transitory, or preliminary manner, with the object of entering into a real property transaction. "Buyer" includes vendee or lessee of real property. **(c)** "Commercial real property" means all real property in the state, except (1) single-family residential real property, (2) dwelling units made subject to Chapter 2 (commencing with Section 1940) of Title 5, (3) a mobilehome, as defined in Section 798.3, (4) vacant land, or (5) a recreational vehicle, as defined in Section 799.29. **(d)** "Dual agent" means an agent acting, either directly or through a salesperson or broker associate, as agent for both the seller and the buyer in a real property transaction. **(e)** "Listing agreement" means a written contract between a seller of real property and an agent, by which the agent has been authorized to sell the real property or to find or obtain a buyer, including rendering other services for which a real estate license is required to the seller pursuant to the terms of the agreement. **(f)** "Seller's agent" means a person who has obtained a listing of real property to act as an agent for compensation. **(g)** "Listing price" is the amount expressed in dollars specified in the listing for which the seller is willing to sell the real property through the seller's agent. **(h)** "Offering price" is the amount expressed in dollars specified in an offer to purchase for which the buyer is willing to buy the real property. **(i)** "Offer to purchase" means a written contract executed by a buyer acting through a buyer's agent that becomes the contract for the sale of the real property upon acceptance by the seller. **(j)** "Real property" means any estate specified by subdivision (1) or (2) of Section 761 in property, and includes (1) single-family residential property, (2) multiunit residential property with more than four dwelling units, (3) commercial real property, (4) vacant land, (5) a ground lease coupled with improvements, or (6) a manufactured home as defined in Section 18007 of the Health and Safety Code, or a mobilehome as defined in Section 18008 of the Health and Safety Code, when offered for sale or sold through an agent pursuant to the authority contained in Section 10131.6 of the Business and Professions Code. **(k)** "Real property transaction" means a transaction for the sale of real property in which an agent is retained by a buyer, seller, or both a buyer and seller to act in that transaction, and includes a listing or an offer to purchase. **(l)** "Sell," "sale," or "sold" refers to a transaction for the transfer of real property from the seller to the buyer and includes exchanges of real property between the seller and buyer, transactions for the creation of a real property sales contract within the meaning of Section 2985, and transactions for the creation of a leasehold exceeding one year's duration. **(m)** "Seller" means the transferor in a real property transaction and includes an owner who lists real property with an agent, whether or not a transfer results, or who receives an offer to purchase real property of which he or she is the owner from an agent on behalf of another. "Seller" includes both a vendor and a lessor of real property. **(n)** "Buyer's agent" means an agent who represents a buyer in a real property transaction.

**2079.14.** A seller's agent and buyer's agent shall provide the seller and buyer in a real property transaction with a copy of the disclosure form specified in Section 2079.16, and shall obtain a signed acknowledgment of receipt from that seller and buyer, except as provided in Section 2079.15, as follows: **(a)** The seller's agent, if any, shall provide the disclosure form to the seller prior to entering into the listing agreement. **(b)** The buyer's agent shall provide the disclosure form to the buyer as soon as practicable prior to execution of the buyer's offer to purchase. If the offer to purchase is not prepared by the buyer's agent, the buyer's agent shall present the disclosure form to the buyer not later than the next business day after receiving the offer to purchase from the buyer.

**2079.15.** In any circumstance in which the seller or buyer refuses to sign an acknowledgment of receipt pursuant to Section 2079.14, the agent shall set forth, sign, and date a written declaration of the facts of the refusal.

**2079.16** Reproduced on Page 1 of this AD form.

**2079.17(a)** As soon as practicable, the buyer's agent shall disclose to the buyer and seller whether the agent is acting in the real property transaction as the buyer's agent, or as a dual agent representing both the buyer and the seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller, the buyer, and the buyer's agent prior to or coincident with execution of that contract by the buyer and the seller, respectively. **(b)** As soon as practicable, the seller's agent shall disclose to the seller whether the seller's agent is acting in the real property transaction as the seller's agent, or as a dual agent representing both the buyer and seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller and the seller's agent prior to or coincident with the execution of that contract by the seller.

**(C) CONFIRMATION:** The following agency relationships are confirmed for this transaction.

Seller's Brokerage Firm DO NOT COMPLETE, SAMPLE ONLY License Number \_\_\_\_\_

Is the broker of (check one):  the seller; or  both the buyer and seller. (dual agent)

Seller's Agent DO NOT COMPLETE, SAMPLE ONLY License Number \_\_\_\_\_

Is (check one):  the Seller's Agent. (salesperson or broker associate); or  both the Buyer's Agent and the Seller's Agent. (dual agent)

Buyer's Brokerage Firm DO NOT COMPLETE, SAMPLE ONLY License Number \_\_\_\_\_

Is the broker of (check one):  the buyer; or  both the buyer and seller. (dual agent)

Buyer's Agent DO NOT COMPLETE, SAMPLE ONLY License Number \_\_\_\_\_

Is (check one):  the Buyer's Agent. (salesperson or broker associate); or  both the Buyer's Agent and the Seller's Agent. (dual agent)

**(d)** The disclosures and confirmation required by this section shall be in addition to the disclosure required by Section 2079.14. An agent's duty to provide disclosure and confirmation of representation in this section may be performed by a real estate salesperson or broker associate affiliated with that broker.

**2079.18** (Repealed pursuant to AB-1289, 2017-18 California Legislative session)

**2079.19** The payment of compensation or the obligation to pay compensation to an agent by the seller or buyer is not necessarily determinative of a particular agency relationship between an agent and the seller or buyer. A listing agent and a selling agent may agree to share any compensation or commission paid, or any right to any compensation or commission for which an obligation arises as the result of a real estate transaction, and the terms of any such agreement shall not necessarily be determinative of a particular relationship.

**2079.20** Nothing in this article prevents an agent from selecting, as a condition of the agent's employment, a specific form of agency relationship not specifically prohibited by this article if the requirements of Section 2079.14 and Section 2079.17 are complied with.

**2079.21 (a)** A dual agent may not, without the express permission of the seller, disclose to the buyer any confidential information obtained from the seller. **(b)** A dual agent may not, without the express permission of the buyer, disclose to the seller any confidential information obtained from the buyer. **(c)** "Confidential information" means facts relating to the client's financial position, motivations, bargaining position, or other personal information that may impact price, such as the seller is willing to accept a price less than the listing price or the buyer is willing to pay a price greater than the price offered. **(d)** This section does not alter in any way the duty or responsibility of a dual agent to any principal with respect to confidential information other than price.

**2079.22** Nothing in this article precludes a seller's agent from also being a buyer's agent. If a seller or buyer in a transaction chooses to not be represented by an agent, that does not, of itself, make that agent a dual agent.

**2079.23 (a)** A contract between the principal and agent may be modified or altered to change the agency relationship at any time before the performance of the act which is the object of the agency with the written consent of the parties to the agency relationship. **(b)** A lender or an auction company retained by a lender to control aspects of a transaction of real property subject to this part, including validating the sales price, shall not require, as a condition of receiving the lender's approval of the transaction, the homeowner or listing agent to defend or indemnify the lender or auction company from any liability alleged to result from the actions of the lender or auction company. Any clause, provision, covenant, or agreement purporting to impose an obligation to defend or indemnify a lender or an auction company in violation of this subdivision is against public policy, void, and unenforceable.

**2079.24** Nothing in this article shall be construed to either diminish the duty of disclosure owed buyers and sellers by agents and their associate licensees, subagents, and employees or to relieve agents and their associate licensees, subagents, and employees from liability for their conduct in connection with acts governed by this article or for any breach of a fiduciary duty or a duty of disclosure.

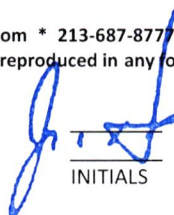
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AD-3.01, Revised 06-10-2019



INITIALS

Last Edited: 3/14/2022 12:22 PM

Page 2 of 2

**OPTION(S) TO EXTEND TERM  
STANDARD LEASE ADDENDUM**

Dated: July 28, 2022

By and Between

Lessor: Five Degrees, LLC, a California limited liability company

Lessee: County of Riverside

Property Address: 9 Latitude Way, Corona, CA, 92881  
(street address, city, state, zip)

Paragraph: 56 **OPTION(S) TO EXTEND TERM.** Subject to the terms, conditions and provisions of Paragraph 39, Lessor grants Lessee one (1) option(s) to extend the term of the Lease ("Extension Option(s)", with each Extension Option being for a term of sixty (60) months, commencing when the prior term expires ("Option Term(s)"). In order to exercise an Extension Option, Lessee must give written notice of such election to Lessor and Lessor must receive such notice at least six (6) but not more than twelve (12) months prior to the date that the applicable Option Term would commence, time being of the essence. If timely and proper notification of the exercise of an Extension Option is not given by Lessee and/or received by Lessor, such Extension Option shall automatically expire. Except as specifically modified, the terms, conditions and provisions of the Lease shall apply during Option Terms but the amount of Rent during Option Terms shall be established by using the method(s) selected below (check method(s) to be used and fill in appropriately) **Only the Riverside County Board of Supervisors has the authority of the County to approve the Option Term for the Lessee on its behalf and enter into the Option Term with the Lessor:**

I. **Consumer Price Index.**

(a) During the Option Term(s) which start(s) on \_\_\_\_\_, the monthly Base Rent shall be increased on \_\_\_\_\_ and every \_\_\_\_\_ months thereafter during such Option Term(s) ("Option Term CPI Increase Date(s)") commensurate with the increase in the Option Term CPI (as herein defined) determined as follows: the monthly Base Rent scheduled for the month immediately preceding the first occurring Option Term CPI Increase Date shall be multiplied by a fraction the denominator of which is the Option Term Base CPI (as herein defined), and the numerator of which is the Option Term Comparison CPI (as herein defined). The amount so calculated shall constitute the new Base Rent until the next Option Term CPI Increase Date during the applicable Option Term, but in no event shall any such new Base Rent be less than the Base Rent for the month immediately preceding the applicable Option Term CPI Increase Date.

(b) The term "Option Term CPI" shall mean the Consumer Price Index of the Bureau of Labor Statistics of the U.S. Department of Labor for (select one):  CPI W (Urban Wage Earners and Clerical Workers) or  CPI U (All Urban Consumers), for (fill in Urban Area): \_\_\_\_\_ or  the area in which the Premises is located, All Items (1982-1984 = 100). The term "Option Term Comparison CPI" shall mean the CPI of the calendar month which is 2 full months prior to the applicable Option Term CPI Increase Date. The term "Option Term Base CPI" shall mean the CPI of the calendar month which is 2 full months prior to (select one):  Commencement Date of the Original Term,  start of the applicable Option Term, or  (fill in month) \_\_\_\_\_.

(c) If compilation and/or publication of the CPI is transferred to another governmental department, bureau or agency or is discontinued, then instead the index most nearly the same as the CPI shall be used to calculate the Base Rent increases hereunder. If the Parties cannot agree on such alternative index, then the matter shall be submitted for decision to the American Arbitration Association in accordance with the then rules of said association and the decision of the arbitrators shall be binding upon the parties, with the cost of such arbitration being paid equally by the Parties.

II. **Fixed Percentage.** During the Option Term(s) which start(s) on \_\_\_\_\_, the monthly Base Rent shall be increased on \_\_\_\_\_ and every \_\_\_\_\_ months thereafter during such Option Term(s) ("Option Term Percentage Increase Date(s)") by \_\_\_\_\_ percent ( \_\_\_\_\_ %) of the monthly Base Rent scheduled to be paid for the month immediately preceding the applicable Option Term Percentage Increase Date.

III. **Fair Market Value. (Subject to the Option Floor Rate. See Paragraph 56.)**

(a) During the Option Term(s) which start(s) on the first day of the eighty-fifth month following the Commencement Date, the amount of Rent shall be the amount forecasted to be the fair market rental value of the Premises during such Option Term established pursuant to the procedures, terms, assumptions and conditions set forth herein ("Fair Market Value"); provided, however, regardless of such Fair Market Value, Base Rent during an Option Term shall not be less than the Base Rent scheduled as of when the prior term expires. Starting as of Lessee's exercise of the applicable Extension Option (but not earlier than six (6) months before start of the applicable Option Term), the Parties shall for thirty (30) days ("Negotiation Period") attempt to agree upon the Fair Market Value. If during the Negotiation Period the Parties do not agree on the Fair Market Value, then the Fair Market Value shall be established pursuant to the procedures set forth herein, which shall be binding.

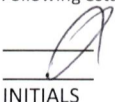
(b) Each Party shall, within fifteen (15) days after the end of the Negotiation Period, in writing submit to the other Party such Party's determination of the Fair Market Value ("Submitted Value(s)"). If a Party fails to timely provide a Submitted Value, then the other Party's Submitted Value shall be the Fair Market Value. If both Parties timely provide Submitted Values, then each Party shall, within fifteen (15) days after both Parties have exchanged Submitted Values, in writing notify the other Party of such Party's selected arbitrator who shall meet the qualifications set forth herein ("Advocate Arbitrator(s)"). Lessor and Lessee may select an Advocate Arbitrator who is favorable to such Party's position and may, prior to or after appointment of an Advocate Arbitrator, consult with such Party's Advocate Arbitrator. If a Party fails to timely and properly provide notice of such Party's chosen Advocate Arbitrator, then the other Party's Submitted Value shall be the Fair Market Value.

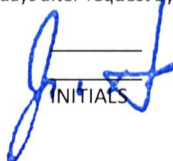
(c) If both Parties timely and properly designate Advocate Arbitrators, then such Advocate Arbitrators shall, within fifteen (15) days after their selection, choose a third (3rd) neutral arbitrator who shall meet the qualifications set forth herein ("Neutral Arbitrator"). The Neutral Arbitrator shall be engaged jointly by Lessor and Lessee. If Advocate Arbitrators fail to agree upon and timely appoint a Neutral Arbitrator, then the President of AIR CRE shall appoint such Neutral Arbitrator within fifteen (15) days after request by either Party. If the President of AIR CRE does not timely appoint the Neutral Arbitrator, then either Party may file an appropriate legal action for a judge with competent jurisdiction over the Parties to appoint the Neutral Arbitrator.

(d) The Advocate Arbitrators and the Neutral Arbitrator ("Arbitrator(s)") shall be duly licensed real estate brokers or salespersons in good standing in the state in which the Premises is located, shall have been active over the five (5) year period before their appointment in the leasing of properties similar to the Premises within the general real estate market of the Premises. The Neutral Arbitrator shall additionally not be related to or affiliated with either Party or Advocate Arbitrator, and shall not have previously represented in a real estate transaction a Party or anyone related to or affiliated with a Party. All matters to be determined by the Arbitrators shall be decided by a majority vote of the Arbitrators, with each Arbitrator having one (1) vote. The Arbitrators may, as the Arbitrators determine, hold hearings and require briefs, including market data and additional information.

(e) Within thirty (30) days after selection of the Neutral Arbitrator, the three Arbitrators shall first reach a decision as to their own independent opinion of the Fair Market Value established by taking into account the terms, assumptions and conditions set forth herein ("Arbitrators' Market Value"), then decide which Party's Submitted Value is closer in monetary amount to the Arbitrators' Market Value ("Selected Market Value"), then provide the Parties a copy of the Arbitrators' Market Value and finally notify the Parties of the Selected Market Value. The Selected Market Value shall be the Fair Market Value. The Arbitrators shall have no right to decide a Selected Market Value which is a compromise to (or modification of) the Submitted Values. The decision of the Arbitrators shall be binding upon the Parties. The Party whose Submitted Value is not the Selected Market Value shall, within ten (10) days after the Arbitrators decide the Selected Market Value, pay the fees and costs of all three (3) Arbitrators.

(f) If the Fair Market Value has not been established before the start of the applicable Option Term, then Lessee shall continue to pay to Lessor rent in the amount payable for the month immediately preceding the start of such Option Term and Lessor's acceptance of such rent shall not waive, adversely affect or prejudice the Parties' right to complete establishment of the Fair Market Value or Lessor's right to collect the full amount of the Fair Market Value once the Fair Market Value is established. Lessee shall, within ten (10) days after establishment of the Fair Market Value, pay to Lessor any deficiency in rent then due for the Option Term. Following establishment of Fair Market Value, the Parties shall, within ten (10) days after request by either Party, sign an amendment to this Lease to confirm the Fair

  
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Market Value and the expiration date of this Lease, but the Parties' failure to request or to sign such an amendment shall not affect establishment of the Fair Market Value or extension of the Lease term.

(g) The Arbitrators, in deciding the Arbitrators' Market Value, shall take into account rent rates, rent abatements, periodic rent increases, real property taxes, insurance premiums and other operating expenses, tenant improvement and other applicable allowances, building services, length of lease term and other factors professional real estate brokers and/or appraisers customarily consider in determining fair market rent of property in an arm's length transaction by ready, willing and able parties for space of comparable location, size, age, condition, quality, parking, visibility, view, signage and accessibility if the Premises were marketed in a normal and customary manner for a reasonable length of time on the open market to be leased to a tenant with financial strength and credit worthiness comparable to Lessee and guarantors (if any) of this Lease (as of Lessee's exercise of the Extension Option) for a term comparable to the length of the applicable Option Term and used for the Agreed Use (or other reasonably comparable uses). The Arbitrators, in deciding the Arbitrators' Market Value, shall not consider as a comparable transaction any of the following: a sublease, lease assignment, lease renewal or extension; lease with a tenant that has equity, is related to or affiliated with the landlord; or a lease of space that was subject to a right of first refusal, right of first offer, expansion option or other encumbrances. The Arbitrators, in deciding the Arbitrators' Market Value, shall reduce the Fair Market Value on account of Alterations and improvements made by Lessee to the extent the cost thereof was paid solely by Lessee (in excess of any applicable improvement allowance, abated rent in lieu of improvement allowance or other consideration provided by Lessor for Lessee's improvement of the Premises), shall not reduce the Fair Market Value on account of any real estate brokerage commission savings by Lessor, and shall not reduce the Fair Market Value on account of deferred maintenance or repair of the Premises for which Lessee was responsible under the Lease but did not perform.

IV. Fixed Rental Adjustment(s) ("FRA").

The monthly Base Rent shall be increased to the following amounts on the dates set forth below:

On (fill in FRA Adjustment Date(s)):

The new Base Rent shall be:

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V. Continuation of Original Term Adjustments.

The monthly Base Rent during the Option Term(s) which start(s) on \_\_\_\_\_ shall be increased in accordance with the same formula provided in the Lease to be used to calculate increases in the Base Rent during the Original Term of the Lease.

**BROKER'S FEE: For each adjustment in Base Rent specified above, the Brokers shall be paid a Brokerage Fee in accordance with paragraph 15 of the Lease or if applicable, paragraph 9 of the Sublease.**

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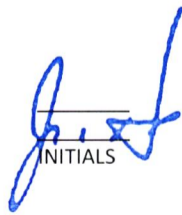
  
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EXHIBIT I  
PROJECT CC&Rs

**DOC # 2021-0556743**

09/17/2021 02:46 PM Fees: \$374.00

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County of Riverside

Peter Aldana

Assessor-County Clerk-Recorder

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AND WHEN RECORDED RETURN TO:

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FINGAL, FAHRNEY & CLARK, LLP  
5120 CAMPUS DR STE 200  
NEWPORT BEACH, CA 92660

6554083

\*\*This document was electronically submitted  
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THIS SPACE FOR RECORDERS USE ONLY

**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS  
AND RESERVATION OF EASEMENTS  
FOR  
LATITUDE BUSINESS PARK**

First American Title Company has recorded this instrument  
by request as an accommodation only and has not examined  
it for regularity and sufficiency or as to its effect upon title to  
any real property that may be described herein.

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DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND RESERVATION OF EASEMENTS FOR  
LATTITUDE BUSINESS PARK

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATION OF EASEMENTS FOR LATTITUDE BUSINESS PARK (this “**Declaration**”) is made this 17<sup>th</sup> day of September, 2021 by Latitude Business Park, LLC, a California limited liability company (“**Declarant**”) and Latitude Business Park II, LLC, a California limited liability company (“**Latitude II**”) for the benefit of the Business Park Property described hereinbelow. The capitalized terms used in the Preamble are defined in Article I.

P R E A M B L E:

A. Declarant is the owner of Lots 1 through 9, A and B of the Parcel Map (as defined herein) of the real property in the City of Corona, County of Riverside, State of California (the “**Declarant’s Property**”).

B. Latitude Business Park II is the owner of Lots 10 through 13 of the Parcel Map of the real property in the City of Corona, County of Riverside, State of California.

C. The real property which constitutes the Parcel Map (the “**Business Park Property**”), constitutes all of that certain business park known, or hereafter to be known, as the “Latitude Business Park.”

D. Declarant and Latitude II desire that all of the Business Park Property be owned, operated and maintained in accordance with this Declaration. The Business Park Property shall constitute a “common interest development” under the Commercial and Industrial Common Interest Development Act (California Civil Code Sections 6500, *et seq.*) or any successor statute governing common interest developments in commercial office business centers comparable to the Business Park Property.

E. Declarant and Latitude II further desire that all of the Business Park Property be encumbered with the obligation to fund the operation and maintenance of all Common Area, and other common costs of the Business Park, as further described herein.

**ARTICLE I**  
**STATEMENT OF PURPOSE; DEFINITIONS**

**1.1 STATEMENT OF PURPOSE.**

Declarant and Latitude II hereby declare that the Business Park Property and such other real property as may be hereafter annexed in accordance with Article XV below, will be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the easements, restrictions, reservations, rights, covenants, conditions and equitable servitudes

contained in this Declaration, all of which are intended to enhance the attractiveness, stability and desirability of the Business Park Property, in furtherance of a general plan for the protection, maintenance, subdivision, improvement and sale of the Covered Property or any portion thereof. The covenants, conditions, restrictions, rights, reservations, easements and equitable servitudes set forth in this Declaration will also (1) constitute a covenant running with the land pursuant to Section 1468 of the California Civil Code; (2) run with and burden the Business Park Property and will be binding upon all Persons having or acquiring any interest in the Business Park Property or any part thereof, their heirs, successors and assigns; (3) inure to the benefit of every portion of the Business Park Property and any interest therein; (4) inure to the benefit of and be binding upon Declarant (and any assignees or successors-in-interest) and each Owner and each Owner's successors-in-interest; and (5) may be enforced by (a) Declarant, (b) the Association, or (c) subject to the provisions and limitations set forth in Article XIII hereof, any Owner.

## **1.2 DEFINITIONS.**

When the following words and phrases are used in this Declaration, they will have the meanings given in this Article and be subject to the limits described in this Article.

### *1.2.1 Applicable Laws.*

Applicable Laws means any federal, state or local statute, rule, regulation, requirement, initiative, policy and common law applicable to the Business Park Property, including without limitation the development, construction, use or operation thereof, or binding upon the owner or any lessees or occupants of the Business Park Property.

### *1.2.2 Approving Authority.*

The term Approving Authority shall have the meaning ascribed to said term in Section 9.3.1 of this Declaration.

### *1.2.3 Articles.*

Articles means the Articles of Incorporation of the Association filed with the California Secretary of State, as amended or restated from time to time.

### *1.2.4 Assessment.*

Assessment means, generally, any Common Assessment, Capital Improvement Assessment, Compliance Assessment, Extraordinary Assessment or Reconstruction Assessment.

### *1.2.5 Assessment, Capital Improvement.*

Capital Improvement Assessment means a charge which the Board may levy against each Lot and the Owner thereof representing a portion of the cost to the Association for installation or construction of any capital improvements on any of the Common Area; provided however that Capital Improvement Assessments shall not be assessable for the cost of initial construction of Improvements to the Common Area by Declarant. Capital Improvement Assessments will be levied upon the Lots based upon the share of Common Assessments allocated to such Lot pursuant to Section 8 of the Declaration.

*1.2.6 Assessment, Common.*

Common Assessment means a charge against each Lot and the Owner thereof to be used to satisfy Common Expenses, which is to be levied as provided herein.

*1.2.7 Assessment, Compliance.*

Compliance Assessment means a charge against a particular Owner directly attributable to or reimbursable by that Owner equal to the cost incurred by the Association for corrective action performed pursuant to the Governing Documents, including, without limitation, a charge for monitoring and inspection costs, plus interest and other charges on such Compliance Assessments as provided for in the Governing Documents. Compliance Assessments may include any collection costs, expenses and reasonable attorneys' fees.

*1.2.8 Assessment, Extraordinary.*

Extraordinary Assessment shall mean a charge which the Board may levy against (a) all of the Owners and their Lots to fund payment of any emergency or other expenses which cannot be imposed as a Capital Improvement Assessment or Reconstruction Assessment, or (b) against specific Owners and their Lots with respect to the exercise by the Association of any step-in rights it may have to maintain such Owner's Building or Lot upon any failure of such Owner to satisfactorily perform its duties and obligations under Section 6.1. Unless otherwise determined by the Board to be reasonable or appropriate under the circumstances, Extraordinary Assessments shall be levied in the same proportions as Common Assessments.

*1.2.9 Assessment, Reconstruction.*

Reconstruction Assessment means a charge which the Board may levy against the Owners and their Lots representing a portion of the Association's cost to reconstruct any Improvements on the Common Area. Reconstruction Assessments will be levied in the same proportion as Common Assessments.

*1.2.10 Association.*

The Association means the **Latitude Business Park Owners Association, Inc., a California nonprofit mutual benefit corporation** which Declarant has formed as a California nonprofit mutual benefit corporation, in order that it shall satisfy the requirements of California Civil Code Section 6528 for purposes of constituting an "Association" thereunder.

*1.2.11 Association Accounts.*

Association Accounts shall have the meaning ascribed to that term in Section 8.4 hereof.

*1.2.12 Beneficiary.*

Beneficiary means a Mortgagee under a Mortgage or a Beneficiary under a Deed of Trust, and any assignee of such Mortgagee or Beneficiary, as the case may be.

*1.2.13 Board or Board of Directors.*

Board or Board of Directors means the Association's Board of Directors.

*1.2.14 Budget.*

Budget means a written budget for a future period containing reasonably itemized estimate of the Common Expenses and any prospective income pertaining to operation and maintenance of the Common Area and satisfaction by Association of its other obligations under Article III hereof.

*1.2.15 Building.*

Building means all buildings and/or structures as may exist from time to time on each Lot, and any other improvements which are adjoining, appurtenant or integral to any such building and/or structure and are designed for the exclusive use of an Owner thereof.

*1.2.16 Business Park Property.*

Business Park Property means all of the real property covered by this Declaration from time to time, including through annexation by means of a Recorded Supplemental Declaration that annexes additional real property into the Business Park Property pursuant to Article XV below.

*1.2.17 Bylaws.*

Bylaws means the Bylaws of the Association as adopted by the Board initially or as amended or restated from time to time in accordance with the provisions thereof.

*1.2.18 Castle & Cooke Environmental CC&R's.*

Castle & Cooke Environmental CC&R's means these certain covenants, conditions and restrictions recorded against the Business Park Property on January 26, 2017 as Instrument No. 2017-0032908 in Official Records of Riverside County, as amended by that certain First Amended and Restated Declaration of Covenants, Conditions and Restrictions Running with the Land, recorded February 14, 2019 as Instrument No. 2019-0051226 of Official Records of Riverside County and any future amendments thereto.

*1.2.19 City.*

City means the City of Corona in the County of Riverside, State of California, and its various departments, divisions, officials, employees and representatives.

*1.2.20 Common Area.*

The Common Area means, (i) the private roadways owned by Owners maintained by the Association ("Private Roads") and monument signs ("Monument Signs") shown on Exhibit C, (ii) the landscape areas shown on Exhibit D ("Landscaped Areas"), (iii) Lots A and B (the restricted common area required to be maintained for environmental purposes under the Castle and Cooke Environmental CC&R's), and (iv) any easements and rights over the Lots granted hereunder or otherwise reserved to the Association and that are (a) operated and maintained by the Association, either in whole or in part, for the exclusive or non-exclusive use, enjoyment or benefit of the Business Park Property, regardless of whether Association's interests therein are established by deed, easement, lease, encroachment permit, right of entry, license or otherwise, or (b) operated or maintained by the Association, or for which the costs of operation and maintenance are funded, in whole or in part, by Association in accordance with requirements of the Land Use Conditions.

For purposes of clarification, the Common Area may also include median strips, private roads and driveways, landscaping, sidewalks, slopes, berms, intersection plazas, detention basins, drainage structures, and swales on neighboring property provided that the maintenance thereof is allocated to the Association pursuant to this Declaration, any Supplemental Declaration, any Recorded map or any agreement which the Association enters into or assumes obligations under as authorized by this Declaration and which is required in connection with satisfaction of the Land Use Conditions or is otherwise for the common benefit of the Lots within the Business Park Property. The Common Area will be "common area" as defined in California Civil Code 6532(a) and (b).

*1.2.21 Common Expenses.*

Common Expenses means those expenses that are incurred for the common benefit of the Lots within the Business Park Property (including expenses relating to satisfaction of or compliance with Land Use Conditions), including the actual and estimated costs (as such estimated costs may be set forth in the Budget) of the following:

- (a) Maintaining, managing, operating, protecting, repairing and replacing the Common Area and improvements thereon;
- (b) Water and other utility or service charges billed to the Association and the cost thereof shall be included within the Common Expenses; provided, however, that the Association shall have the right to install submeters for water or any other utility to each Lot and to bill the responsible Owner therefor, whereupon the Association may advance the cost of such submeter installation and the subsequent usage charges relating to such utilities, and to collect payment or reimbursement from the applicable Owner or Owners through including such cost in the Common Expenses;
- (c) Any commonly metered utilities or other commonly metered charges for the Common Area;
- (d) Compensation paid to accountants, attorneys, professionals and managers for work relating to operation of the Common Area, satisfaction of or compliance with post-construction Land Use Conditions and enforcing the covenants, conditions and restriction contained herein;
- (e) All landscaping, trash pickup, street sweeping, power washing and other services benefiting the Common Area;
- (f) Orchestrating materials recycling programs, whether compulsory or elective, for the Business Park Property;
- (g) Maintaining, repairing and replacing the sewers and storm drains in the public right of way or private streets or other common areas within, adjacent to or benefiting the Business Park Property or for facilities, the maintenance of which is a requirement of the Land Use Conditions or otherwise imposed by any Governmental Authority;

(h) Fire and casualty insurance, general liability insurance, workers' compensation insurance, and other insurance covering the Common Areas and the directors, officers and agents of the Association;

(i) If required by any governmental agency, operating and maintaining any groundwater monitoring or extraction wells located within, or constituting an element of, the Common Area or Common Area Improvements, in accordance with any Land Use Conditions or as may be required by any other appropriate Governmental Authority;

(j) Taxes or assessments, if any, paid by the Association hereunder in connection with corporation maintenance requirements, discharging its operation and maintenance duties, or levied or assessed against the Common Area or Common Area Improvements owned by the Association;

(k) Amounts paid to discharge any lien or encumbrance levied against the Common Area, or portions thereof, which lien or encumbrance arises after the applicable Common Area is first placed into service as Common Area for the benefit of the Covered Properties and the Owners thereof;

(l) Funding of any Reserve Funds established in accordance with this Declaration in such reasonable amounts, if any, as Association may determine;

(m) Expenses incurred in satisfaction of ongoing use and maintenance requirements under any Land Use Conditions or to comply with the Land Use Restrictions for the benefit of, in whole or in part, the Business Park Property;

(n) Costs of Association's, or the Business Park's (at Association's election), participation in any transportation management association in accordance with any transportation demand management plan or transportation mitigation plan or program to the extent required by Governmental Authorities, including without limitation, any costs for traffic or trip count audits or mitigation studies, or other transportation management compliance efforts as required by any Governmental Authority in connection with compliance with Applicable Laws or satisfaction of or compliance with the Land Use Conditions;

(o) Payments, if any, made to any third party pursuant to any cost-sharing or reimbursement agreement between said party and the Association;

(p) Payments to any third party pursuant to any agreement between the Association and that third party, or costs of otherwise performing obligations of the Association hereunder, as authorized by this Declaration;

(q) All other expenses incurred by the Association for any reason whatsoever in connection with operating, maintaining and replacing the Business Park Property, or providing services to occupants of the Business Park Property, for the common benefit of the Owners or occupants of the Business Park Property;

(r) Amounts of a Member's unpaid or uncollectible Capital Improvement Assessments, Common Assessments, Compliance Assessments and Reconstruction Assessments;

(s) Premiums, costs and expenses of the Association with respect to any bonds;

(t) Costs and expenses necessary for managing and administering the Association, including without limitation, compensation paid to Association's employees and contractors for work related to the discharge of the Association's obligations; and

(u) Amounts necessary for any Reserve Funds established in such reasonable amounts as the Board may determine.

*1.2.22 Common Area Improvements.*

Any Improvements located on or within the Common Area or landscaped areas of the Business Park wherever located, and all areas that are maintained for the common enjoyment, use or benefit of the Business Park Property or in satisfaction of Land Use Conditions. The Common Area Improvements shall include perimeter tubular fencing, automatic irrigation systems for all parkways and street trees and may include, without limitation, the Private Roads shown on Exhibit C, the landscaped areas of the individual Lots shown on Exhibit D, entry monuments and signage, street improvements, lighting within the Common Area, landscaping, trees, detention basins (including porous landscaped detention areas, if any), drainage devices, sewer improvements, and groundwater, soil gas, soil vapor or other environmental monitoring or extraction wells and facilities, if any, which Common Area Improvements may be located within or adjacent to the Business Park Property.

*1.2.23 County.*

County means the County of Riverside in the State of California, and its various departments, divisions, employees and representatives.

*1.2.24 Declarant.*

Declarant means **Latitude Business Park, LLC, a California limited liability company**, its successors and any Person to which it shall have assigned any rights hereunder by express written assignment. Any such assignment may include some or all of the rights of the Declarant and may be subject to such conditions or limits as the assignor may impose in its discretion. As used in this Section, "successor" means a Person who acquires Declarant or substantially all of its assets, or who merges with Declarant, by sale, merger, reverse merger, consolidation, sale of stock or assets, operation of law or otherwise.

*1.2.25 Declaration.*

Declaration means this entire instrument, including the Preamble, all other provisions, and the Exhibits, as amended or restated.

*1.2.26 Deed of Trust.*

Deed of Trust means a Mortgage as defined in this Declaration.

*1.2.27 Design Guidelines.*

The term Design Guidelines shall have the meaning ascribed to said term in Section 9.3.2 of this Declaration.

*1.2.28 Fiscal Year.*

Fiscal Year means the fiscal accounting and reporting period of the Association. Unless amended by Declarant, the initial Fiscal Year shall commence on January 1 and terminate on December 31.

*1.2.29 Governmental Authority.*

Governmental Authority means any governmental department, agency or body of authority of the United States of America, the State of California, the County, any Regional Water Quality Control Board, the Regional Air Quality Management District and any other federal, state, local or municipal governmental entity or agency or successor thereto, including any special assessment district, landscape (or other) maintenance district or community facilities district having competent authority or jurisdiction over development, use or operation of the Business Park Property. For purposes of this Declaration, any reference to requirements or actions imposed or mandated by a Governmental Authority shall also include any requirements, injunctions or other actions imposed or mandated by judicial order by any court of law having jurisdiction over Declarant or any portion of the Business Park Property.

*1.2.30 Governing Documents.*

Governing Documents means this Declaration, all Supplemental Declarations, any Design Guidelines, any Business Park Guidelines, the Articles and the Bylaws.

*1.2.31 Improvement.*

Improvement means any structure, fixture, improvement, affixed equipment, vegetation or appurtenance to real property including, without limitation, buildings, walkways, sprinkler pipes, catch basins, storm drains, sewer improvements, monitoring or remediation wells, roads, driveways, garages and car ports, parking areas, fences, screening walls, block walls, retaining walls, stairs, decks, landscaping, irrigation systems, antennae, hedges, windbreaks, railings, plantings, planted trees and shrubs, poles, Signs, storage areas, exterior air conditioning and water-softening fixtures or equipment, transit shelters and benches, security gates, kiosks, cameras or monitoring equipment and perimeter fencing. The Design Guidelines may identify additional items that are Improvements.

*1.2.32 Business Park.*

Business Park means the industrial park developed by Declarant known as the "Latitude Business Park," consisting of the Lots, and the Common Area. Each Owner is notified that the Business Park is in a CFD and other assessment districts.

*1.2.33 Business Park Guidelines.*

Business Park Guidelines means the rules, regulations, policies and procedures that the Association establishes, amends or restates, from time to time, pursuant to the Declaration for the day-to-day maintenance, operation, appearance and use of the Business Park Property and for use of the Common Area by Owners and their tenants, occupants, guests and invitees.

*1.2.34 Land Use Conditions.*

Conditions of development and impact mitigations including, without limitation, any environmental impact report, mitigated negative declaration, mitigation measures, map conditions (including Conditions of Approval for Parcel Map No. 37608, plot plan conditions promulgated by the City or County, permit conditions for grading and infrastructure, building permit conditions, Mello-Roos funding conditions and obligations, and all other conditions or covenants, as same may be supplemented or amended from time to time, imposed or exacted by any Governmental Authority relating to entitlement, development, construction or operation of the Business Park Property.

*1.2.35 Land Use Restrictions.*

Land Use Restrictions means all covenants, conditions and restrictions Recorded against all or any portion of the Business Park Property from time to time, including, where applicable, any Declaration of Special Land Use Restrictions or similar instrument imposed by Declarant (or any affiliate of Declarant) or recorded by Declarant against title to the Business Park Property or any position thereof.

*1.2.36 Lot.*

Lot means any lot or parcel of land shown on the Parcel Map except Lots A and B.

*1.2.37 Manager.*

Manager means the Person who provides professional management for the Association or Common Area, and who is retained to perform functions of the Association as authorized, commanded and limited by the Governing Documents and the terms of the agreement between the Association and said Person.

*1.2.38 Member.*

Member means any Person holding a Membership (including Declarant), and generally references the Owners of the Business Park Property as more particularly described herein.

*1.2.39 Membership.*

Membership means the property, voting and other rights and privileges of Members as provided in the Governing Documents, together with the correlative duties and obligations contained therein.

*1.2.40 Mortgage.*

Mortgage means any Recorded mortgage or deed of trust or other conveyance of one or more Lots, or other portions of the Business Park Property to secure the performance of an obligation, which will be reconveyed upon the completion of such performance.

*1.2.41 Mortgagee, Mortgagor.*

Mortgagee means a Person to whom a Mortgage is made and includes the Beneficiary of a Deed of Trust. Mortgagor means a Person who mortgages his or her Lot, or other real property in the Business Park Property to another (i.e., the maker of a Mortgage), and includes the Trustor of a Deed of Trust. The term "Trustor" is synonymous with the term "Mortgagor" and the term "Beneficiary" is synonymous with the term "Mortgagee."

*1.2.42 Owner.*

Owner means the Person or Persons, including Declarant, who hold, now or hereafter, fee simple interest of record to any Lot. For any Business Park Property that is subject to an executory contract of sale, the term "Owner" shall refer only to the seller, and shall not include the buyer. The term "Owner" shall not include Mortgagees, notwithstanding the prior commencement of any actions or procedures to foreclose upon the interest of Owner under the applicable Mortgage.

*1.2.43 Parcel Map.*

Parcel Map means Parcel Map No. 37608 in the City of Corona, County of Riverside, State of California, being a subdivision of Parcels A and B of Lot Line Adjustment No. 18-004, as evidenced by document recorded December 14, 2018, as Instrument No. 2018-0486202 and re-recorded on December 19, 2018 as Instrument No. 2018-0491144 of Official Records, and Lots 29 to 33, 49 to 57, 58 to 69, 74 to 102, 179-180, and Portions of Lot 1, 24, 25, 34 to 36, 46 to 48, 69 to 71, 73, & 81 to 83, inclusive in Block B of the Overlook Addition No. 3 to Corona, all in the City of Corona, County of Riverside, State of California as shown on Exhibit A attached hereto and incorporated by this reference.

*1.2.44 Parking Rules.*

Parking Rules means the policies and procedures established, and amended from time-to-time, by the Board for the maintenance, operation and use of any and all parking stalls, areas, lots or structures within the Business Park Property, provided that such Parking Rules shall not unreasonably interfere with the property rights and interests of any Owner, or with the rights of each Owner to use of the number of parking stalls allocated to such Owner and its Lot. There shall be no parking permitted along the private roads within the Business Park. Fire hydrants and fire lanes shall not be blocked by building materials, equipment and/or vehicles.

*1.2.45 Percentage Share.*

Percentage Share means the percentage share of Common Expenses allocated to each Lot in accordance with Exhibit B to this Declaration for purposes of allocating Assessments among the Lots. Unless otherwise specified, the allocation of Percentage Shares among existing Owners of the Business Park Property shall be based fifty percent (50%) on the ratio of the net Lot square footage applicable to each Lot within the Business Park Property to total net aggregate

square footage applicable to all Lots within the Business Park Property and fifty percent (50%) on the ratio of Building square footage constructed on each Lot within the Business Park to total aggregate square footage constructed on all Lots within the Business Park Property at the time such allocation is determined.

*1.2.46 Person.*

Person means a natural individual or any entity with the legal right to hold title to real property. When the word "person" is used and is not capitalized, the word only refers to natural persons.

*1.2.47 Record, File, Recordation.*

Record, File, or Recordation means, with respect to any document, the recordation or filing of such document in the Official Records of the County Recorder for the County of Riverside, State of California.

*1.2.48 Reserve Fund.*

Reserve Fund means that portion of the Common Expenses allocated (a) for the future repair and replacement of, or additions to, structural elements, mechanical equipment and other major components of Common Area Improvements, and (b) amounts reasonably necessary to satisfy any deductibles or self-insured retentions under all insurance policies the Association maintains with respect to the Common Area or in performing its obligations under Article XI hereof.

*1.2.49 Restricted Common Area.*

Restricted Common Area means Lots A and B as shown on the Parcel Map. No one is allowed to enter onto or use Lots A and B except for the Association for maintenance and repair purposes only.

*1.2.50 Sign.*

Sign means all advertising, placards, monuments, signs, names, billboards, insignia, numerals, addresses, and descriptive words of any type affixed, inscribed, constructed, or maintained in the Business Park Property or on any Improvement.

*1.2.51 Supplemental Declaration.*

Supplemental Declaration means an instrument recorded either to amend any previously recorded Supplemental Declaration, or to otherwise supplement this Declaration pursuant to Section 15.2 hereof, as such instrument is amended or restated.

*1.2.52 Water Quality Instruments.*

Water Quality Instruments shall mean, collectively, all agreements, documents and instruments with, and all permits and approvals issued by, any Governmental Authorities addressing the quality, treatment, channeling or flow of storm water run-off, water drainage, storm sewers or water channels located on or adjacent, or otherwise affecting, the Business Park, including without limitation any applicable Storm Water Pollution Prevention Plan ("SWPPP"), National Pollutant Discharge Elimination System ("NPDES") permit requirements, Standard

Urban Storm Water Mitigation Plan, Water Quality Management Plan, Drainage Area Management Plan, Local Implementation Plan, and other storm water quality management plans that may be prepared for the Business Park in compliance with applicable federal, state and local laws and approved by the applicable public agencies. The Water Quality Instruments address water runoff generated by the Business Park and will be monitored by various public agencies (e.g., the Regional Water Quality Control Board and the County). The Water Quality Management Plans contain, among other things, certain Best Management Practices that must be followed by the Association, the Owners and/or tenants within the Business Park Property. The Water Quality Management Plans and the related Best Management Practices may be modified at any time by the Declarant and/or the public agencies having jurisdiction over such matters.

## **ARTICLE II USE RESTRICTIONS**

Each and all land annexed into the Business Park Property hereunder shall be held, used and enjoyed subject to the following restrictions. Subject to compliance with Section 15.2 hereof, any Supplemental Declaration may add use restrictions or replace one or more of the use restrictions contained in this Article.

### **2.1 PERMITTED USES.**

Subject to compliance with the other terms of this Declaration, the Business Park Property may be used for any industrial or other uses for which they are designed and which are permitted under the Land Use Conditions and Applicable Law without issuance of a conditional use permit, variance or other discretionary approval. Any proposed use of Business Park Property that requires the issuance by any applicable Governmental Authority of a variance, conditional use permit or other discretionary approval shall not be permitted unless (a) the proposed use otherwise complies with this Declaration and all Applicable Laws, Land Use Restrictions and Land Use Conditions, (b) the proposed use has been approved in writing by the Board of the Association, which consent may be withheld at the Board's sole discretion, and (c) while Declarant holds fee title to any portion of the Business Park Property, the proposed use has been approved in writing by Declarant, which consent may be withheld in the Board's sole discretion. Owner shall obtain the foregoing approval of Declarant (if applicable) or the Board prior to submitting any application (or related or supporting documents) for such variance, use permit or other discretionary approval to any Governmental Authority.

#### *2.1.1 Declarant Discretion.*

Notwithstanding the foregoing, Declarant may authorize any other use which is not otherwise precluded by Applicable Law; provided, however, that (a) Declarant may not authorize any of the prohibited uses listed in Section 2.2.2 through 2.2.6, below, and (b) the use authorized by Declarant shall not be substantially incongruous or materially conflicting with the permitted uses in this Section. Approvals and disapprovals by Declarant of uses not expressly permitted under Section 2.1, above, will be made in the sole and absolute discretion of Declarant.

### **2.2 PROHIBITED USES.**

Prohibited uses are those uses that (a) are not compatible with permitted uses for the Business Park Property, as reasonably determined by the Board, (b) would result in a violation of

this Declaration, including without limitation, violations of the environmental restrictions described in Section 7.1 below, (c) uses that would result in a violation of the Land Use Conditions or Applicable Laws, (d) uses that would cause any portion of the Business Park Property to be governed by the Davis-Stirling Common Interest Development Act, or (e) uses that are in violation of applicable federal, state or local law. The following operations and uses shall not be permitted on any Lot within the Business Park Property unless specifically authorized in writing by Declarant in a Recorded Supplemental Declaration:

*2.2.1 Undesirable Uses.*

Trailer courts, slaughterhouses, animal hide tanneries, canneries, barns, stables, cemeteries, crematoriums, junk yards, scrap metal yards, waste material businesses, any "fire sale", "bankruptcy sale" or "public auction" businesses or thrift stores principally engaged in vending donated second-hand goods.

*2.2.2 Criminal Detention or Rehabilitation Facilities.*

Jails or other facilities for the detention or confinement of criminals, facilities or businesses providing rehabilitation or post-detention vocational services to convicted felons, facilities providing post-detention or transitional housing to convicted felons, bail bond agencies or probation offices.

*2.2.3 Governmental Offices.*

Governmental agency or quasi-governmental offices providing customer services to the public entering onto the Business Park Property (e.g., internal revenue service, department of motor vehicles, employment development department, housing authority) but specifically excluding warehousing and storage uses and other uses permitted under Section 2.1 hereof.

*2.2.4 Cannabis, Drug Testing or Drug Rehabilitation.*

The on-site (a) manufacture, cultivation, processing, storage, distribution, dispensing or selling of hallucinogenic plants, cannabis, cannabis derivatives or cannabis-containing products, whether for personal, medical, recreational or other use, whether legally or illegally, or (b) operation of clinics for testing or for providing rehabilitation services of persons relating to the use of illicit drugs.

*2.2.5 Homeless Shelters.*

Facilities or businesses providing short-term shelter, transitional housing, vocational training or free meal services to transients or homeless persons.

*2.2.6 Adult Entertainment.*

Establishments or businesses principally engaged in the performance, production, filming, recording, sale or distribution of photographs, films, recordings, or other electronic or digital media of nude or partially nude persons performing or simulating sexual acts; or businesses which show X-rated movies or pornographic movies or sell pornographic material to the public from the Business Park Property.

*2.2.7 Dangerous Uses.*

Businesses engaging in the on-site manufacture, sale, storage or distribution of inherently dangerous, hazardous or unsafe goods, such as munitions, ammunition, explosives or fireworks.

*2.2.8 Funeral Business.*

Businesses engaging in handling funerals and dead bodies.

*2.2.9 Cold Storage Facilities.*

Cold storage facilities shall be limited to the square footage permitted by the City. The current City limitation is 175,000 square feet for properties located within the Light Industrial zone (Planning Areas 1 and 2) of the El Cerrito Specific Plan. This provision shall be effective for as long as the City provides limits on the number and size of cold storage facilities in the City's El Cerrito Specific Plan for the Light Industrial zone. In addition, no Owner of any Lot in the Business Park Property shall use any Building for cold storage without the express written consent of the Declarant which consent may be withheld in the sole and absolute discretion of the Declarant.

**2.3 LIGHTING.**

Unless otherwise authorized or directed by the Approving Authority, all exterior lighting on any Lot shall be of the type required by the Land Use Conditions and designed and located to be direct light rays inward to the extent practicable so as to reduce, to the extent commercially practicable, the escape of light beyond the property boundaries of the subject Lot, and to be compatible with the lighting on adjacent Lots in the Business Park Property, as may be further provided in the Design Guidelines. To the extent required by the Land Use Conditions or otherwise by law or Governmental Authority, all exterior nighttime lighting shall be hooded and directed away from neighboring properties.

**2.4 LOADING FACILITIES.**

Unless otherwise authorized by Declarant or the Approving Authority in their sole discretion, all loading and unloading for any occupant or Owner of a Lot shall be performed on that Lot, and not on portions of the Common Area for which the underlying interest is owned in fee by another Owner.

**2.5 TRASH AND STORAGE AREA.**

Unless otherwise authorized by Declarant or the Approving Authority in their sole discretion, trash bins and storage areas shall be shielded from view by placement within buildings or by enclosure with walls or fences within an Owner's Lot or any Exclusive Use Area assigned to Owner's Lot.

**2.6 SCREENING.**

All mechanical equipment, whether roof-mounted, mounted or attached to exterior walls, or placed at grade on or around the exterior of a building on the Business Park Property, including, but not limited to, antennae, satellite dishes, air conditioning, heating and ventilating equipment and vents, electrical transformers, backflow siphons, pull boxes, and all loading and unloading facilities shall, to the extent it is not prohibited by Applicable Law, be screened from view from

any street and from other Lots in compliance with the Land Use Conditions and to the reasonable satisfaction of the Approving Authority. Exterior screening shall be constructed of materials compatible with the materials used on the exterior of the building, or may be accomplished by constructing a berm constructed of earthen materials and landscape. Emergency or back-up generators shall be placed within the structure or building that they intend to serve unless screened from view to the satisfaction of the Board, in its good faith and absolute discretion.

#### **2.7 EXTERNAL EFFECTS.**

Every use shall be operated so that it does not emit any dangerous, disruptive, obnoxious or unduly annoying degree of noise, vibration, dust, heat, light, glare, smoke, radiation or fumes beyond any boundary line of the Lot on which the use is located. Among other things, no materials or wastes shall be permitted on a Lot, or to be stored upon such Lot, in such manner or form as to permit transfer off of a Lot by natural causes or forces and all materials or wastes which might cause fumes or dust or which might constitute a fire hazard or which might be edible by, or otherwise attractive to animals, rodents or insects shall be stored only in closed containers or within an enclosed structure. Notwithstanding the foregoing, nothing in this Section 2.7 shall be interpreted so as to unreasonably restrict or prohibit temporary impacts resulting from the conduct of reasonable and customary construction activity on any Lot within the Business Park Property to the extent such construction activity otherwise complies with any construction rules and regulations reasonably imposed by Declarant, Association or applicable Governing Authorities.

#### **2.8 PARKING AND VEHICULAR RESTRICTIONS.**

Each Lot shall be the beneficiary of an easement appurtenant over the Common Area (private streets) to access each Lot. Each Lot shall provide parking in accordance with all governmental regulations for the Lot's lessees, guests and invitees with respect to the parking areas designated in each Lot, together with the rights of ingress and egress over all drive aisles located on the Business Park Property. No vehicle shall be parked on any portion of any Lot, other than within the striped parking spaces, within a building or within a storage area, except temporarily while loading or unloading at a doorway or loading area of a building Improvement on a Lot or as in hereinafter permitted by this Section. No parking shall be permitted on the private street or in areas which may obstruct free traffic flow, constitute a nuisance, or otherwise create a safety hazard. To the extent the allocated parking for any Lot does not satisfy the City's parking requirements for the uses thereof, the Owner of such Lot must procure sufficient parking from other Owners within the Business Park or off-site as may be necessary to satisfy City's parking requirements for all uses conducted on such Lot on-site and shall not rely on parking facilities available on the Lot of any other Owner except pursuant to parking easements or other recorded agreements. The Association shall have the right to adopt, separately or as part of the Business Park Guidelines, a set of Parking Rules regarding parking and vehicular use within the Business Park Property and on streets within the Business Park.

#### **2.9 RESTRICTION ON TRUCK TRAFFIC EXITING BUSINESS PARK.**

Truck traffic exiting the Business Park shall only exit south bound on Temescal Canyon Road. Truck traffic exiting north on Temescal Canyon Road is prohibited. This prohibition shall stay in effect until Temescal Canyon Road north of the Business Park Property is improved to its ultimate width in the County of Riverside.

**2.10 NUISANCES.**

No noxious or offensive activities shall be carried on upon any part of the Business Park Property, which may be, or may (a) become a nuisance to the Owners, or (b) in any way interfere with the quiet enjoyment of each Owner of his respective Lot, or (c) in any way increase the rate of insurance for any other Lot, or (d) prevent, materially interfere with or practically discourage access to the Business Park or any of the Business Park Property, or (e) materially and adversely impact the reputation or standing of the Business Park, its constituent Owners or its occupants. Each Owner shall comply with any applicable governmental noise abatement ordinances.

**2.11 FURTHER SUBDIVISION.**

During the period that Declarant owns any portion of the Business Park Property, no Owner in the Business Park Property shall further subdivide its Lot unless Declarant has given its prior written approval therefor, which may be granted or withheld in Declarant's sole and absolute discretion.

**2.12 RE-ZONING OR GENERAL PLAN AMENDMENTS.**

During the period that Declarant owns any portion of the Business Park Property, no rezoning or general plan or specific plan amendments concerning any portion of the Business Park, or the use thereof, may be initiated or proposed by any Owner, unless the application, petition or other proposal therefor has been approved in writing by the Declarant, and the proposed rezoning or general plan of specific plan amendment otherwise complies with this Declaration and all Applicable Laws.

**ARTICLE III  
PROJECT GOVERNANCE; THE ASSOCIATION**

The following terms and provisions govern the formation and operation of the Association.

**3.1 ORGANIZATION OF THE ASSOCIATION.**

The general plan of Declarant hereunder with respect to the Business Park Property includes the formation of an owner's association with the powers of (1) owning, maintaining and administering the Common Area and Common Area Improvements, (2) administering and enforcing the Governing Documents, and (3) collecting and disbursing the Assessments and charges hereinafter created. The Members of the Association shall be the Owners of real property interests in the Business Park Property. The Association shall exercise such powers as permitted or required by this Declaration and Section 6750 *et seq.* of the California Civil Code.

**3.2 GENERAL DUTIES AND POWERS.**

The Association duties and powers are those described and limited as set forth in the Articles, Bylaws, the Declaration and any Supplemental Declarations, as well as the general and implied powers of a nonprofit public benefit corporation, generally to do all things that a corporation organized under the laws of the State of California may lawfully do which are necessary or proper in operating for the peace, health, comfort, safety and general welfare of its Members, subject only to the limits upon the exercise of such powers set forth in the Articles, Bylaws, the Declaration, and any Supplemental Declarations. All of the Association's powers shall

be exercised by its Board of Directors except those powers reserved in specific provisions of the Articles, Bylaws, the Declaration or any Supplemental Declarations to the Owners or Members.

### **3.3 PERMITTED FUNCTIONS.**

The Association is formed exclusively for those purposes and activities which are specifically and directly related to (i) the duties and powers enumerated in this Article, (ii) maintaining, operating and using the Common Area, including the Improvements thereon, (iii) collecting assessments to finance the maintenance and use of the Common Area, and (iv) administering and enforcing the Governing Documents (collectively, the "Permitted Functions"). Permitted Functions do not include those activities prohibited by Section 2.5 below. The funds and resources of the Association shall be used exclusively for the direct costs of Permitted Functions. This Section does not preclude the use of the Common Area facilities by Declarant for promotional special events and other purposes as authorized by the Governing Documents. Certain specifically enumerated powers and duties of the Association, and limitations thereof, are set forth in Article IV, below.

### **3.4 PROHIBITED ACTIVITIES.**

The Association is prohibited from undertaking or performing any of the following activities ("Prohibited Activities"), or expending or using the Association funds or resources for any Prohibited Activities.

#### *3.4.1 Political Activities.*

Engaging in any Federal, State or local political activities or activities intended to influence a governmental action affecting areas outside the boundaries of the Business Park Property. These activities include endorsement or support of legislative or administrative actions by a local Governmental Authority, candidates for elected or appointed office, initiatives, recall elections or other ballot proposals. The Association is prohibited from conducting, sponsoring, participating in or expending funds or resources on any activity, campaign or event, including any social or political campaign, event or activity, which does not directly and exclusively pertain to a Permitted Function. The foregoing is not intended to prohibit discussion of political and legislative issues by members of the Association.

### **3.5 STANDARD OF CARE, NONLIABILITY.**

#### *3.5.1 Scope of Powers and Standard of Care.*

(a) General Scope of Powers. Rights and powers conferred on the Board or any committees or representatives of the Association by the Governing Documents are not duties, obligations or disabilities charged upon those persons unless the rights and powers are explicitly identified as including duties, obligations or disabilities in the Governing Documents or in Applicable Law. Unless a duty to act is imposed on the Board, any committees or representatives of the Association by the Governing Documents or Applicable Law, the Board, and the committees have the right to decide to act or not act. Any decision to not act is not a waiver of the right to act in the future. Moreover, if it is determined that an action or decision does not meet the standards set forth in subsections (b) or (c) below, as applicable, provided that such action or decision is

shown to be not willful or not malicious, the action or decision may be reversed without further liability to the party making the decision or taking such action.

(b) **Business Affairs.** This section applies to actions by the Board and its members in connection with management, personnel, maintenance and operations, insurance, contracts and finances, and committee member actions. Each Board member shall perform the duties of a Board member in good faith, in a manner such Board member believes to be in the best interests of the Association and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. When performing his duties, a Board member is entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by:

(i) one or more officers or employees of the Association whom the Board member believes to be reliable and competent in the matters presented;

(ii) counsel, engineers, architects, independent accountants or other persons as to matters which the Board member believes to be within such person's professional or expert competence; or

(iii) a committee of the Board upon which the Board member does not serve, as to matters within its designated authority, which committee the director believes to merit confidence, so long as, in any such case, the director acts in good faith, after reasonable inquiry when the need therefor is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted.

This subsection (b) is intended to be a restatement of the Business Judgment Rule established in Applicable Law as it applies to the Association. All amendments, modifications, restatements and interpretations of the business judgment rule applicable to the Association shall be interpreted to amend, modify, restate or interpret this subsection (b).

(c) **The Association Governance.** This subsection (c) applies to Board actions and committee decisions in connection with interpretation and enforcement of the Governing Documents, architectural and landscaping control, regulation of uses within the Business Park Property, rulemaking and oversight of committees. Actions taken or decisions made in connection with these matters shall be reasonable, fair and nondiscriminatory.

### *3.5.2 Nonliability.*

(a) **General Rule.** No person is liable to any other person (other than the Association or a party claiming in the name of the Association) for injuries or damage resulting from such person's official acts, except to the extent that injuries or damage result from the person's willful or malicious misconduct. No person is liable to the Association (or to any party claiming in the name of the Association) for injuries or damage resulting from such person's official acts, except to the extent that such injuries or damage result from such person's willful or malicious misconduct. The Association is not liable for damage to property in the Business Park Property

unless caused by the negligence of the Association, the Board, the Association's officers, the project manager or its staff.

(b) **Nonliability of Volunteer Board Members and Officers.** A volunteer Board member or volunteer Association officer shall not be personally liable to any person who suffers injury, including without limit bodily injury, emotional distress, wrongful death or property damage or loss as a result of the tortious act or omission of the volunteer officer or Board member if all of the following conditions are met:

(1) the act or omission was performed within the scope of the officer's or director's good faith understanding of such officer's duties;

(2) the act or omission was performed in good faith;

(3) the act or omission was not willful, wanton or grossly negligent; and

(4) the association maintained and had in effect at the time the act or omission occurred and at the time a claim is made one or more policies of insurance that shall include coverage for both the general liability of the association, and the individual liability of officers and directors of the association for negligent acts or omissions in that capacity with minimum coverage amounts of at least at least one million dollars (\$1,000,000) (in 2021 dollars, indexed to inflation in accordance with the Consumer Price Index for all urban consumers, as reasonably calculated each five (5) years thereafter by the Board, or more frequently as it may be determines by the Board from time to time).

### **3.6 MEMBERSHIP AND VOTING RIGHTS.**

#### *3.6.1 Membership Appurtenant.*

Every Owner of a Lot (except for Declarant), upon close of escrow for its acquisition of the Lot, shall automatically become a Member of the Association and shall remain a Member thereof until such time as his ownership ceases, at which time its membership in the Association shall automatically cease. Declarant shall automatically acquire a membership in the Association for each Lot owned by Declarant when the Lot is encumbered by the Declaration. Declarant shall retain the membership for each Lot until such time as Declarant's ownership of the Lot ceases. Memberships in the Association shall not be assignable, except to the Person to which title to the Lot has been transferred. Every membership in the Association shall be appurtenant to and may not be separated from the fee ownership of such Lot. Ownership of a Lot shall be the sole qualification for membership in the Association.

#### *3.6.2 Transfer.*

The Association Membership held by any Owner of a Lot shall not be transferred, pledged or alienated in any way, except upon the sale, ground leasing or encumbrance of such Owner's Lot, and then only to the purchaser, ground lessor or Mortgagee of such Lot. Any attempt to make a prohibited transfer shall be void, and will not be reflected upon the books and records of the Association. A Member who has sold his Lot to a contract purchaser under an agreement to

purchase shall be entitled to delegate to such contract purchaser his Membership rights in the Association. Such delegation shall be in writing and shall be delivered to the Board before such contract purchaser may vote. The contract seller shall be liable for all charges and assessments which are assessed against his Lot up to the date on which fee title to the Lot is transferred. If the Owner of any Lot should fail or refuse to transfer the Membership registered in his name to the purchaser of such Lot upon transfer of fee title thereto, the Board of Directors shall have the right to record the transfer upon the books of the Association. Until satisfactory evidence of such transfer has been presented to the Board, the purchaser shall not be entitled to vote at meetings of the Association. The Association may levy a reasonable transfer fee against a new Owner and his Lot (which fee may be added to the Common Assessment chargeable to such new Owner or collected through escrow) to reimburse the Association for the administrative cost of transferring the Membership to the new Owner on the records of the Association.

### 3.6.3 *Classes of Voting Membership.*

The Association shall have two (2) classes of voting Membership, as follows:

(a) CLASS A. Class A Members shall be all Owners with the exception of Declarant. The lessee of a lot under a ground lease with an initial term of more than ten (10) years, and not the Owner of the lot, shall be a Member during the term of such ground lease. When more than one person holds an interest in any lot, all such persons shall be Members. Class A Members are entitled to exercise Class A voting power in the Association in proportion to the Percentage Share allocated to such Owner's Lot as shown on Exhibit B. If any Lot is legally subdivided in accordance with the Declaration, then the voting power allocated to the subject Lot hereunder shall be divided and reallocated among the subdivided legal parcels by Declarant or the Board in a Supplemental Declaration, following which each such subdivided legal parcel shall constitute a separate Lot hereunder. Each Class A Member's right to vote commences on close of escrow for the Member's acquisition of the Lot to which such voting rights are appurtenant.

(b) CLASS B. The originally named Declarant shall be the sole Class B Member and any Lots owned by said Declarant shall be entitled to fifty (50) times the Class A voting power that such Lots would otherwise have been allocated if the Lots were owned by a party other than Declarant.

### 3.7 VOTE DISTRIBUTION.

All voting rights shall be subject to the restrictions and limits established in the Declaration, any Supplemental Declarations thereto and in the Articles and Bylaws. When more than one Person holds an interest or interests in any Lot ("co-owner"), all such co-owners shall be Members and may attend any meetings of the Association, but only one such co-owner shall be entitled to exercise the votes to which the Lot is entitled. Such co-owners may from time to time all designate in writing one of their number to vote. Fractional votes shall be allowed, provided that the "Class A" votes for each Lot shall be exercised, if at all, as a unit. Where no voting co-owner is designated or if such designation has been revoked, the votes for such Lot shall be exercised as the majority of the co-owners of the Lot mutually agree. Unless the Board receives a written objection from a co-owner, it shall be presumed that the corresponding voting co-owner is acting with the consent of his or her co-owners. No votes shall be cast for any Lot where the co-owners present in person or by proxy owning the majority interests in such Lot cannot agree to said votes or other action.

The nonvoting co-owner or co-owners shall be jointly and severally responsible for all of the obligations imposed upon the jointly owned Lot and shall be entitled to all other benefits of ownership. All agreements and determinations lawfully made by the Association in accordance with the voting percentages established herein, or in the Bylaws, shall be deemed to be binding on all Owners, their successors and assigns.

**ARTICLE IV  
THE ASSOCIATION'S SPECIFIC RIGHTS AND OBLIGATIONS**

The Association has the following rights, powers and duties:

**4.1 COMMON AREA.**

The Association shall have the power and duty to operate, manage, maintain, repair, reconstruct and replace the Common Area and the Common Area Improvements therein in accordance with the Declaration.

**4.2 UTILITIES.**

The power and duty to obtain all water, sewer, gas, electric services and communications services as may be necessary or appropriate, as determined by the Board, for operation and maintenance of the Common Area in a neat and attractive condition.

**4.3 SEWERS, STORM WATER FACILITIES AND BMPs.**

The power and duty to inspect, maintain, repair and replace any sewer systems, storm drains or drainage facilities and Best Management Practice (BMP) facilities and improvements serving the Business Park Property (the "Water Facilities") if and to the extent said facilities and systems serve more than one Lot and are not maintained by a Governmental Authority or a utility company, and otherwise in compliance with the Water Quality Instruments. All costs and expenses incurred in connection with performing and discharging said duties shall be part of the Common Expenses allocated among the Owners in accordance with Section 6.2 of this Declaration. To the extent such facilities and systems are maintained by a Governmental Authority, such Governmental Authority shall have the power and duty to inspect, maintain, repair and replace such Water Facilities, and in the event that such Governmental Authority performs any maintenance or repair on such Water Facilities, such Governmental Authority shall restore any disturbed area of the Business Park Property to the then- current applicable standards.

**4.4 GRANTING RIGHTS.**

Although not presently contemplated, if any Common Area is hereafter owned in fee simple by the Association, the power to grant exclusive or nonexclusive easements, licenses or rights on, over, across or under, or to grant fee interests in said owned Common Area, to the extent any such grant is reasonably required (a) for Improvements to serve the Common Area, (b) for purposes of conformity with the as-built location of Improvements installed or authorized by the Association, (c) in connection with any lawful lot line adjustment, or (d) for other purposes consistent with the intended use or development of the Business Park. This power includes the right to create and convey such interests to an Owner over portions of the Common Area. The Association may de-annex any portion of the Business Park Property from the encumbrance of the Declaration in connection with any lawful lot line adjustment.

**4.5 RIGHT OF ENTRY FOR INSPECTION.**

The power and the duty, to the extent the Board deems advisable, to enter upon any Lot for the purpose of inspecting any portion of the Business Park Property to ensure compliance with this Declaration or to otherwise satisfy the obligations of the Association hereunder subject to the restrictions of Section 9.8. Except where exigent circumstances demand earlier access, the Association shall give advance written notice not less than forty-eight (48) hours prior to exercising any right of entry or inspection in accordance herewith.

**4.6 RIGHT OF ENTRY FOR ACCESS AND FORCED COMPLIANCE.**

The power, but without any obligation, for the Association to enter upon any Lot without being liable to any Owner except for reasonably avoidable damage caused by such entry, in order to (i) enforce the Governing Documents by peaceful means, (ii) maintain or repair any Lot if for any reason the responsible Owner fails to perform maintenance or repair required by the Governing Documents, or (iii) cause the Lot to comply with the requirements of the Land Use Conditions or the Water Quality Instruments. This power shall include the ability to cause a Lot or the Improvements thereon to comply with any lawful order of a Governmental Authority. The powers herein granted and reserved shall be exercised only (a) to the extent deemed advisable by the Association for the benefit or protection of the Business Park Property and its Owners, and (b) after reasonable notice is given by the Association, except where there exists an emergency or other exigent circumstance requiring immediate entry, in which case the Association shall provide notice at the earliest practicable time thereafter.

**4.7 MANAGER AND OTHER PERSONNEL.**

The power to retain a Manager and to employ other Persons necessary for the effective operation and maintenance of the Common Area, including legal, management and accounting services.

**4.8 INSURANCE.**

The power and duty to keep insurance for the Common Area and Common Area Improvements in accordance with this Declaration or as reasonably necessary and customary for the protection of the Common Area, the Common Area Improvements, the Association and the Association's Board, officers and its agents.

**4.9 BORROWINGS.**

The power to encumber, mortgage, pledge, hypothecate and/or otherwise grant security interests in the Common Area as collateral for borrowing money or incurring debt for purposes authorized by this Declaration or in furtherance of satisfying its obligations hereunder.

**4.10 SERVICES IN COMMON TO BUSINESS PARK OCCUPANTS.**

The power and the duty, to the extent directed by Declarant, required by any Governmental Authority or Land Use Conditions, or as the Board otherwise deems it advisable, to pay a portion of the costs of services provided to the Business Park as a whole which benefit the Owners and occupants of the Business Park Property and the power and the duty, to the extent the Association is directed by Declarant or otherwise deems it advisable, to pay for a portion of the costs of maintenance of improvements or other areas in the Business Park or neighboring lands, whether

located inside or outside of the Business Park Property, which benefits the Business Park Property and the Owners of the Lots therein or is otherwise reasonably required to satisfy Land Use Conditions, including, for purposes of example and not to limit the generality of the foregoing, costs of providing management and maintenance of Common Area elements such as non-public roadways, storm drainage structures and improvements, and pest eradication and trash and recycling collection.

#### **4.11 CONTRACTS AND MUTUAL BENEFIT AGREEMENTS.**

The power to enter into, modify, restate, supplement or terminate contracts and mutual benefit agreements for the common benefit of the Business Park Property and the Owners thereof. This includes contracts with Owners or other Persons to provide services or to maintain Improvements in the Business Park Property and elsewhere that the Association is not otherwise required to provide or maintain pursuant to this Declaration. The foregoing power shall include the power to assume obligations of Declarant or of third parties under any pre-existing agreement entered into for the common benefit of the Business Park Property and the Owners thereof, including but not limited to the following:

(a) **Contracts for Services.** Contracts with Owners or other Persons to provide services or to maintain and repair the condition and appearance of the Improvements within the Business Park Property;

(b) **Contracts Satisfying Land Use Conditions.** Contracts reasonably related to satisfaction of Land Use Conditions affecting the Common Area or the Business Park Property; provided, however, that to the extent said contracts undertake responsibility or provide direct benefits to real property other than the Business Park, Association shall use commercially reasonable efforts to seek reimbursement of an equitable share of the costs thereof;

(c) **Cost Sharing.** Contracts to share costs with any neighboring property owner, owners' association or other third parties to contribute funds for, among other things, ongoing programs mandated by a Governmental Authority (such as habitat maintenance programs, storm water quality mitigation programs, air quality emissions programs and development mitigation monitoring programs) and for any other shared or mutually beneficial property or services or a higher level of Common Area maintenance;

(d) **Other Agreements.** Agreements or contracts, including without limitation mutual benefit agreements, with any governmental or quasi-governmental agencies, landscape maintenance districts, street lighting facilities districts, nonprofit mutual benefit corporation, nonprofit public benefit corporations, unincorporated association or other entities established in connection with the operation and maintenance of the Business Park, or portion thereof, for purposes of satisfying or discharging the conditions, covenants and duties imposed by the Land Use Conditions, the Water Quality Instruments or otherwise consistent with the duties and powers set forth in the Governing Documents.

#### **4.12 ENFORCEMENT OF THE DECLARATION.**

The power and duty to enforce the provisions of this Declaration on the terms set forth in Article XIV below.

**4.13 BUSINESS PARK GUIDELINES.**

The power and the duty, to the extent the Board deems advisable, to establish, amend, restate, delete and create exceptions to, or permit variances from, the Business Park Guidelines.

*4.13.1 Areas of Regulation.*

Business Park Guidelines may concern and regulate, without limitation, use of the Common Area, signs, parking restrictions, minimum standards of property maintenance and appearance, and any other matter which pertains to use and occupancy of the Business Park Property; provided, however, that the Business Park Guidelines are enforceable only to the extent they are consistent with the Declaration and any Supplemental Declarations, or any of the other Governing Documents.

*4.13.2 Limits on Regulation.*

Except as otherwise set forth herein or in any Supplemental Declaration, the Business Park Guidelines shall fairly apply to all Owners and their Lots. The Business Park Guidelines may regulate the time, place and manner of posting of signs. No modification to the Business Park Guidelines may require an Owner to dispose of personal property that was in or on a Lot prior to the adoption of such modification if such personal property was in compliance with all rules previously in force. This exemption shall apply only during the period of such Owner's ownership of the Lot and shall not apply to (i) subsequent Owners who take title to the Lot after the modification is adopted, or (ii) clarifications to the Business Park Guidelines.

*4.13.3 Effective Date.*

All changes to the Business Park Guidelines will become effective on the earlier to occur of (a) fifteen (15) days after said changes are posted in a conspicuous place in the Common Area or (b) five (5) days following delivery thereof to the Owners in compliance with Section 16.6.

*4.13.4 Compliance with Business Park Guidelines.*

Each Owner shall comply with, and the Association is hereby authorized and empowered to enforce, the Business Park Guidelines, provided that any such enforcement shall be accomplished in a uniform and nondiscriminatory manner.

*4.13.5 No Liability.*

The Association will not be liable in damages to any Owner, or to any other Person subject to or affected by this Declaration, because of the establishment, amendment, restatement, deletion and/or waiver of any Business Park Guidelines or the enforcement or non-enforcement of the Business Park Guidelines.

**4.14 ASSIGNMENT TO ASSOCIATION OF DECLARANT RIGHTS.**

*4.14.1 Assignment and Assumption.*

The Declarant may, at any time, without the further consent of the Owners, assign and delegate to the Association, any rights and interests held by the Declarant with respect to the Business Park Property or the Business Park. Each Owner of any portion of the Business Park

Property hereby authorizes and consents, for itself and each of its successors and assigns, thereto. Such assignment may include or exclude the Declarant's express rights under this agreement, including without limitation, the retained rights below, except to the extent that the Declarant expressly provides otherwise in writing or if otherwise prohibited or restricted herein. Upon Declarant's assignment of its rights and obligations to the Association, the Association shall accept the assignment and promptly counter-sign and deliver to Declarant a written assignment and assumption agreement in the form to be provided by Declarant. Such agreement shall specify the date upon which such assignment and assumption becomes effective. Declarant may retain any rights the Declarant has under this Declaration, including the Declarant's rights as the Owner of any Business Park Property that Declarant has not yet conveyed to another Owner. In addition, the Declarant shall specifically retain the following rights (the "Retained Rights") from and after any such assignment:

(a) Enforcement Rights. The Declarant shall retain the right to enforce against Owner or any tenant or other occupant of the Business Park Property, or any portion thereof, the use limitations, maintenance obligations and other provisions of this Declaration on behalf of, and in lieu of action by, the Association on the terms set forth in Article XIV.

(b) Indemnity Rights. The Declarant will retain all of its rights to indemnity and defense pursuant to Article XII, or elsewhere, in this Declaration.

(c) Declarant's Veto Rights. The Association and its Board may not take any of the following actions without the prior approval of the Declarant which may be withheld in the Declarant's sole discretion:

(i) Any amendment of this Declaration affecting Declarant's rights and protections described in this section or in Article V;

(ii) Annexation of additional real property to the Declaration during the period that the originally-named Declarant hereunder is an Owner;

(iii) Any material changes in the general, overall, architectural or landscape design of the Business Park during the period that Declarant is an Owner; and

(iv) Adoption of the Business Park Guidelines, and any modification or revocation of any previously adopted Business Park Guidelines approved by Declarant.

**ARTICLE V  
DECLARANT RIGHTS AND EXEMPTIONS**

**5.1 INTEREST OF DECLARANT.**

Declarant, or its successors or assigns, acquired the Business Park Property for the purpose of creating a commercial common interest development, and to complete improvements and tenant improvements within the Common Areas and on the Business Park Property suitable for a common interest development, and for the sale, resale, rental and other disposition of the Lots and associated

Improvements, and to establish the Business Park Property as a quality commercial business center development. Each Owner of a Lot which is part of the Business Park Property acknowledges that Declarant has a substantial interest in assuring compliance with, and enforcement of, the covenants, conditions, restrictions and reservations contained in this Declaration and any Supplemental Declarations. The provisions of this Section 5.1 supersede and control over all other provisions of any Governing Documents as applied to Declarant.

**5.2 SPECIAL DECLARANT RIGHTS.**

Declarant has the rights described in the subsections below. Nothing herein limits, and neither any Owner nor the Association may interfere with, Declarant's exercise of these rights; provided, however, that nothing in this Article or Section shall permit Declarant to do any of the following on or within the Lot of any other Owner unless (a) such Owner has granted written approval therefor, or (b) Declarant holds appropriate easement or other rights (reserved in Article X below or otherwise) with respect to such Lot.

*5.2.1 Subdivision.*

To subdivide, resubdivide, re-entitle or process a lot-line adjustment for any portion of the Business Park Property.

*5.2.2 Sales.*

To sell, resell, rent or sublease any portion of the Business Park Property, directly or through agents and representatives.

*5.2.3 Development.*

To complete excavation, grading, construction of Improvements or other development activities to and on any portion of the Business Park Property owned by Declarant.

*5.2.4 Signs.*

To erect, construct and maintain on the Common Area portions of the Business Park Property, such structures, signs and displays reasonably necessary for identification and branding of the Business Park and the conduct of the business of disposing of the Business Park Property by sale, lease or otherwise.

*5.2.5 Communication Towers and Improvements.*

Declarant has the exclusive right to grant rights to itself and others (without the approval of the Association) and grant easements to construct and operate cell towers or other communication improvements within the Business Park.

*5.2.6 Creating Additional Easements.*

At any time prior to acquisition of title to a Lot by a purchaser from Declarant, to establish on that Lot, additional licenses, easements, reservations and rights-of-way to itself, to utility companies, or to others as reasonably necessary to the proper creation of a common interest development, subdivision and disposal of the Business Park Property.

*5.2.7 Sales and Leasing.*

To use any and all portions of the Common Area for access to the sales and leasing facilities of Declarant by prospective purchasers, sales agents and Declarant.

*5.2.8 Modifications.*

To unilaterally modify Declarant's plan for creating a common interest development consisting of the Business Park Property, including without limit, recording Supplemental Declarations for portions of the Business Park Property owned by Declarant.

*5.2.9 Restricted Access Areas.*

To create or permit Owners to create areas (such as Exclusive Use Areas) in the Business Park Property that are gated or that are otherwise controlled or fenced so that access to those areas is limited, provided that the Owners of all Lots within such gated area approve the creation of such a limited access area.

*5.2.10 Decisions by Declarant.*

All decisions to be made by Declarant under this Declaration may be made by Declarant in its sole and absolute discretion unless otherwise expressly stated herein.

**5.3 EASEMENT RELOCATION.**

Declarant may cause easements constituting portions of the Common Area to be relocated, modified or terminated to accommodate modifications to the plans creating the common interest development consisting of the Business Park Property. Such relocation, modification or termination may be set forth in a Recorded Supplemental Declaration, or by a separate instrument. No such relocation, modification or termination shall prevent or materially burden or inhibit access to any Lot.

**5.4 EXEMPTION.**

Declarant and any tenant of all or any portion of a Lot owned by Declarant is exempt from the restrictions contained in Article II and Article IX of this Declaration.

**5.5 TERMINATION OF DECLARANT RIGHTS.**

Declarant shall have the right, by written notice to the Association, (a) to terminate any portion of its rights hereunder at any time, (b) to resign all rights of Declarant hereunder, or (c) to assign, release or relinquish any such rights to the Association, after which such rights may be exercised by the Board on behalf of the Association, and unless earlier terminated, all rights reserved to the Declarant in this Declaration shall terminate.

**ARTICLE VI  
MAINTENANCE OBLIGATIONS**

**6.1 MAINTENANCE OBLIGATIONS OF OWNERS.**

Subject to Section 6.2 below, each Owner, at its sole cost and expense, subject to the provisions of this Declaration requiring any architectural approvals, shall maintain, repair, replace and restore all Improvements located on its Lot itself in a neat, sanitary and attractive condition. Such maintenance responsibilities include, but are not limited to, (a) except with respect to any

Common Area on such Lot, maintaining of all parking, walkway and driveway areas within the legal boundaries of said Lot, in a reasonably dust, weed and debris free and sanitary condition, well lighted, and (b) maintaining clean building exteriors which shall include, if necessary, periodic painting or other treatment, graffiti removal, and (c) provide water and power to all landscape areas in a manner reasonably acceptable to the Association, and (d) in a manner otherwise reasonably acceptable to Declarant and the Approving Authority, if any. Without limiting the foregoing, the Board shall have the right to adopt, as part of the Business Park Guidelines, maintenance standards for the Business Park Property or any portion thereof and shall further have the right to set forth specific Owner maintenance standards and obligations in a Supplemental Declaration recorded against any portion of the Business Park Property described therein. Such Supplemental Declarations may further assign maintenance obligations for specified Common Area or Common Area Improvements to the Owner of any Business Park Property described therein. If any Owner shall permit any portion of the Business Park Property, all buildings or other Improvement for which it has responsibility for maintenance to fall into disrepair or to become unsafe, unsightly or unattractive, or to otherwise violate this Declaration, the Association shall have the right to seek any remedies at law or in equity which it may have to enforce compliance herewith. In addition, the Association shall have the right, but not the duty, to enter upon (or cause its Manager or other agent to enter upon) such Business Park Property, building or other Improvement to make such repairs or to perform such maintenance in Owner's stead, and to obtain reimbursement for the cost thereof from said Owner.

## 6.2 COMMON AREA.

### 6.2.1 *Common Area Maintenance.*

The Association shall have the sole right and duty to maintain the Common Area, and the Common Area Improvements, facilities and amenities thereon, in a manner satisfactory to Declarant, in its sole and absolute discretion; provided, however, that the Association may assign the maintenance obligations therefor to any Owner under a Supplemental Declaration. The Association shall, when warranted, provide for the maintenance, repair and replacement of all Common Area Improvements within the Common Area and shall likewise provide for the utilities serving the Common Area. The Association shall not be responsible for the maintenance of any portions of the Common Area which have been dedicated to and accepted for maintenance by a Governmental Authority. All of the foregoing obligations of the Association shall be discharged when and in such manner as the Board shall determine in its good faith judgment.

### 6.2.2 *Commencement of Association Maintenance.*

The Association's obligation to maintain any portion of the Common Area or any element of the Common Area Improvements shall commence, as to such portion or element, when the following requirements are met:

- (a) the Common Area is encumbered by the Declaration; and
- (b) the Common Area Improvements, landscape areas on each Lot, if any, are substantially completed with respect to that portion thereof.

*6.2.3 Alterations to the Common Area by Owners.*

Subject to the provisions of Article IX of this Declaration, no improvement, excavation or work which in any way alters the Common Area shall be made or done by any Person other than the Declarant (during such time that it remains an Owner) or the Association, or their respective, authorized agents, after the completion of the construction or installation of the Common Area Improvements thereon.

*6.2.4 Specific Maintenance Obligations.*

For the avoidance of doubt, specific items listed in Exhibit E to this Declaration shall be maintained by either the Association or the Owners of each Lot, as indicated on said Exhibit E. If an item is not listed in Exhibit E, then it shall be maintained in accordance with the general rules established in Section 6.1 and 6.2, above.

*6.2.5 General Maintenance Obligations.*

Unless Exhibit E provides otherwise, the Association shall maintain the Common Area and each Owner shall maintain such Owner's Unit and Exclusive Use Area. Each Owner shall immediately notify the Association of any dangerous, defective or other condition which could cause injury to person or property in such Owner's Unit or Exclusive Use Area. Unless other arrangements are approved by the Board, all Improvements an Owner installs in any other area of the Business Park must be maintained by the Owner who installed the Improvements. If the Owner fails to maintain such Owner-installed Improvements and the Board determines that the Improvements significantly interfere with the Association's ability to fulfill its obligations, the Association may remove such Owner-installed Improvements.

**6.3 WATER DISCHARGE AND STORM WATER RUNOFF.**

The Business Park Property is subject to compliance with all Federal, State and local laws, permit conditions, restriction and requirements for water discharge and storm water runoff. The following specific requirements are applicable to the Business Park Property, the Association, and all Owners in the Business Park Property:

*6.3.1 Water Quality.*

Each Owner (as to its Lot) and the Association (to the extent of its rights and duties with respect to the Common Area) shall comply with, and shall cause the Business Park Property to comply with the Water Quality Instruments, if any, or any and all Federal, State and local requirements of any National Pollutant Discharge Elimination System permits, whether general or individual (each, a "NPDES Permit"), issued or adopted pursuant to the Federal Clean Water Act. The Association and each Owner shall implement and comply with all BMPs and perform all maintenance and operations duties imposed by any Water Quality Instruments, as amended, and shall ensure that landscape irrigation systems serving the Common Area and Business Park Property, respectively, are implemented in accordance with the BMPs, including without limitation (a) the use of planting material and palettes described in the Design Guidelines (including, where applicable, planting material that promotes surface filtration), and (b) maintenance of all permanent slopes with required landscaping with native or other drought tolerant planting materials. The costs all such data collection and reporting requirements incurred by the Association, as well as the maintenance costs and BMP implementation costs within the Common Area, shall be treated as Common Expenses.

*6.3.2 Water Quality Instrument Compliance.*

Each Owner (as to its Lot) and the Association (to the extent of the Association's rights and duties with respect to the Common Area) shall comply with, and shall cause the Business Park Property (and each tenant, license or occupant thereof) to comply with all Water Quality Instruments, if any, respecting storm water run-off from the Business Park Property.

*6.3.3 Rights of the City.*

The City has the following rights with respect to storm water improvements located within the Property:

(i) The City may inspect all storm water improvements within the Property (including any located upon portions of the Parcels owned by Owners) during reasonable daylight hours (or at any time in the event of emergency) in order to assure that such improvements are being properly maintained as set forth herein and as required by any permits or approvals, rules, regulations or guidelines applicable to the Property. The Owners hereby grant in favor of the City an easement for access, ingress and egress with respect to the rights contained in this Section.

(ii) The Owners will defend, indemnify and hold the City, its officials, officers, employees, agents and volunteers free and harmless with respect to maintenance of the storm water improvements as set forth herein. The Owner's responsibility to indemnify the City shall be limited as follows:

(1) The Owner's shall have no indemnity obligation concerning the City, its officials, officers, employees, agents and volunteers (the "City Indemnitees") for any liability, costs, claims, damages, demands, actions, judgments, causes of action, losses, expenses, and any and all damage to any property or injuries to or death of any person(s) (collectively, the "Liabilities") arising out of the City Indemnitees' negligence or willful misconduct.

(2) An Owner shall have no indemnity obligation concerning any Liabilities after the Owner no longer owns any part of the Property except for any Liabilities arising out of or incurred in connection with the actions, inaction, negligence or willful misconduct of the Owner during the time when the Owner owned any part of the Property; and

(3) Declarant shall have no indemnity obligation concerning any Liabilities arising out of an act of any of the Owners.

**6.4 DAMAGE AND DESTRUCTION.**

*6.4.1 Common Area.*

(a) Owners' Responsibilities. Each Owner is liable to the Association for any damage suffered to the Common Area due to Owner's acts or omissions, or the negligence or willful misconduct of said Owner or the Persons deriving their right and easement of use and enjoyment of the Common Area from said Owner to the extent that such damage is not fully

reimbursed to the Association by insurance proceeds (including, without limitation, any deductible amounts under any insurance policies against which the Association files a claim for such damage). The Board may (i) determine whether any claim shall be made upon the insurance maintained by or available to the Association, and (ii) demand and receive reimbursement from said Owner a charge equal to any deductible paid and the increase, if any, in the insurance premium directly attributable to the damage caused by such Owner or the Persons for whom such Owner may be liable as described in this Declaration. If a Lot is jointly owned, the liability of its Owners is joint and several, except to the extent that the Association has previously contracted in writing with such joint Owners to the contrary. The responsible Owner shall reimburse the Association for all cost of correcting such damage to the extent not reimbursed by the proceeds of any insurance claims.

(b) **Repair and Reconstruction.** If the Common Area is damaged or destroyed, the Association shall cause the Common Area to be repaired and reconstructed, but only to the extent that the cost of repair does not exceed the total amount of Available Restoration Funds. For purposes of this Section, the term "Available Restoration Funds" shall mean and refer to the sum of (i) all insurance proceeds the Association actually collects from all applicable policies and coverages available in connection with the casualty event, (ii) all deductibles required under insurance maintained by Association to the extent that payment thereof constitutes a Common Expense, and (iii) to the extent that any Owner or third party is determined to be legally responsible for the suffered casualty or loss, the amount recovered from such Owner or third party.

(c) **Discretionary Restoration.** Notwithstanding that the cost for repair and reconstruction may exceed Available Restoration Funds, the Board may elect, without obligation, to restore any damaged portion of the Common Area. The Board may thereafter include all costs of such repair in excess of the Available Restoration Funds as a Common Expense charge.

(d) **Eminent Domain.** If all or any portion of the Common Area is taken by right of eminent domain or by private purchase in lieu of eminent domain, the award in condemnation shall belong solely to the Association. No Owner (including any Owner having rights to an Exclusive Use Area that is subject to such taking) may participate as a party, or otherwise, in any proceedings relating to such condemnation.

#### *6.4.2 Damage to Lots and Buildings.*

If all or any portion of any Lot or any building or other Improvement constructed thereon is damaged or destroyed by fire or other casualty, the Owner(s) of such Lot(s) shall rebuild, repair and reconstruct the Lot, building or other Improvement, as applicable, in a manner which will restore them to an equivalent or better appearance and condition as existed immediately prior to the casualty or as otherwise approved by Declarant or the Approving Authority, as provided elsewhere in this Declaration. The Owner of any damaged Lot or Building shall be obligated to proceed with all due diligence hereunder, so as to and cause reconstruction to commence within six (6) months after the damage occurs and to be completed within eighteen (18) months following commencement of such reconstruction, unless prevented by causes beyond the reasonable control of such Owner. An unaffiliated transferee of title to a Lot which is damaged or upon which is located a damaged building or other Improvement shall commence and complete reconstruction in the respective periods which would have remained for the performance of such obligations if

the Owner of the Lot at the time of the damage still held title to the Lot; provided, however, that in no event shall such transferee be required to commence or complete such reconstruction in less than ninety (90) days from the date such transferee acquired title to the Lot.

**6.5 EXCESSIVE USE OF COMMON AREAS.**

No Owner of a Lot in the Business Park shall conduct activities (or allow any Tenants to conduct activities) that materially impact any other Owner's (or Tenant's) access to their Lot and Business Park operations, including without limitation, truck stackage, parking, or blocking or delaying traffic on any streets within the Business Park. The Association shall have all rights at law or in equity to enforce the prohibitions set forth in this section including, but not limited to imposing fines, enjoining such activities (without the necessity of posting a bond). The cost of enforcement (including reasonable attorneys' fees incurred by the Association) shall be paid for by the Owner allowing the prohibitions contained in this Section to occur. Each Owner agrees to include the provisions of this Section in each Lease for all or a portion of any Building located on Owner's Lot within the Business Park. In addition, each Owner will be responsible to the Association for the cost of damage or wear and tear to the Common Areas caused by excessive truck traffic entering or exiting the Owner's Lot.

**ARTICLE VII  
ENVIRONMENTAL PROVISIONS**

**7.1 ENVIRONMENTAL COVENANTS AND INDEMNITY.**

No Owner, tenant, occupant or user of any portion of the Business Park Property (nor their employees, contractors, subcontractors, invitees or guests) shall engage, or permit others to engage, in any conduct or activities on Owner's Business Park Property that constitute a violation of the covenants recorded against the Business Park Property that relate to Land Use Conditions or environmental conditions (to the extent applicable to such party's use of its Business Park Property, the "Environmental Covenants"). Each Owner shall be responsible to prohibit or restrict activities by its tenants, licensees and occupants that may have an impact on the environment.

*7.1.1 No Storage or Release of Hazardous Materials.*

No Owner, tenant, occupant or user of any portion of the Business Park Property shall cause or permit any Hazardous Materials (as defined below) to be brought upon, stored, manufactured, generated, blended, handled, recycled, treated, released, disposed or used in, on, under or about the Business Park Property, Common Area or any other portion of the Business Park in a manner that is not in compliance with governmental and environmental laws, rules and specifications, including routine office and janitorial supplies, in usual and customary quantities, and stored, used and disposed of in accordance with all Environmental Laws (as defined below), Land Use Conditions or Environmental Covenants.

*7.1.2 Indemnity Obligation.*

Each Owner, tenant, occupant or user of any portion of the Business Park Property shall indemnify, protect, defend and hold harmless each other Owner, Declarant and the Association (and its Board, officers and agents), and each of their respective successors and assigns from and against any and all claims, judgments, causes of action, damages, penalties, fines, taxes, costs, liabilities, losses, including loss of value, and expenses arising at any time during or after

such party's ownership, tenancy, occupancy or use of the Lot or portion thereof, as a result (directly or indirectly) of or in connection with (i) the breach of any prohibition in this Section or in the Environmental Covenants, or (ii) the presence of Hazardous Materials on, under or about the Lot, Common Area or any other portion of the Business Park. Any indemnity obligation shall include all costs incurred by any of the above-referenced indemnified parties for any investigations undertaken, any required or necessary repair, cleanup or detoxification, and the preparation and implementation of any closure, monitoring or other required plans.

For purposes of this Section, "Environmental Laws" shall mean any and all federal, state or local environmental, health and/or safety-related laws, regulations, standards, decisions of courts, ordinances, rules, codes, orders, decrees, directives, guidelines, plans, risk management plans, recorded property covenants and/or restrictions, permits or permit conditions, currently existing and as amended, enacted, issued or adopted in the future relating to health, safety or the environment or to any Hazardous Materials (including, without limitation, any RMP as approved by the Regional Water Quality Board and/or any other regulatory agency, or its or their respective staffs), all environmental covenants, conditions and restrictions recorded against the Business Park or any portion thereof, and the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (12 U.S.C. Section 9601 *et seq.*), which are or become applicable to Owners, tenants, the Lot or any portion thereof, or the Business Park or any portion thereof. For purposes of this Section, "Hazardous Materials" shall mean any chemical, substance, material, controlled substance, object, condition, waste, living organism or combination thereof, which is or may be hazardous to human health or safety or to the environment due to its radioactivity, ignitability, corrosivity, reactivity, explosivity, toxicity, carcinogenicity, malagenicity, phytotoxicity, infectiousness or other harmful or potentially harmful properties or, effects, including, without limitation, tobacco smoke, petroleum and petroleum products, asbestos, radon, polychlorinated biphenyls (PCBs), refrigerants (including those substances defined in the Environmental Protection Agency's "Refrigerant Recycling Rule," as amended from time to time), and all of those chemicals, substances, materials, controlled substances, objects, conditions, wastes, living organisms or combinations thereof, which are now or become in the future listed, defined or regulated in any manner by any Environmental Law based upon, directly or indirectly, such properties or effects.

#### **7.2 PROHIBITION ON DISTURBANCE OF DRAINAGE IMPROVEMENTS.**

No Owner, tenant, occupant or user of any portion of the Business Park Property shall cause or permit any use, maintenance, construction or repair work to occur within the Business Park Property which could (a) interfere with or impact the established storm water drainage from any Lot or Improvement within the Business Park Property without the express written approval of Association and all applicable Governmental Authorities, (b) detrimentally affect the water quality of any storm water run-off or other surface water flows entering, directly or indirectly, onto the Common Area or into a public storm drainage improvement or right-of-way, or (c) is otherwise contrary to any applicable Water Quality Instrument.

#### **7.3 COMPLIANCE WITH CASTLE AND COOKE ENVIRONMENTAL CC&R'S.**

The Association shall be responsible for the Business Park's maintenance and other obligations imposed on the Business Park Property by the Castle & Cooke Environmental CC&R's.

**ARTICLE VIII  
ALLOCATION OF COMMON EXPENSES AND PERCENTAGE SHARE**

**8.1 COMMON EXPENSE BUDGET.**

Not later than sixty (60) days prior to the beginning of each fiscal year of the Association, the Board shall cause the Manager (or other qualified party) to prepare and distribute to the Owners, for their information, a reasonably detailed Budget showing the anticipated Common Expenses that the Association anticipates will be incurred during the following fiscal year, net of any revenue or reimbursement from third parties pursuant to any mutual benefit agreements or other cost-sharing agreements entered into or assumed by, or binding upon, the Association.

**8.2 COMMENCEMENT OF COMMON ASSESSMENTS.**

Common Assessments (as well as any applicable Capital Improvement Assessments, Compliance Assessments, Extraordinary Assessments or Reconstruction Assessments) as to any given Lot shall commence when all of the following requirements are met:

*8.2.1 Encumbrance by Declaration.*

The Lot is encumbered by the Declaration as part of the Business Park Property;  
and

*8.2.2 Authorization by Supplemental Declaration or Declarant.*

If not expressly authorized by the Supplemental Declaration, Declarant otherwise authorizes the Board in writing to commence assessing the Lot.

**8.3 ESTABLISHING COMMON ASSESSMENTS.**

Common Assessments shall be initially levied against the Lots (and their Owners) according to the initial Budget of the Association. Thereafter, Common Assessments shall be adjusted in accordance with the revised Budget approved by the Board from time to time. If the Board determines that Common Expenses may be properly paid by collection of a Common Assessment in an amount less than the Common Assessment required by the Budget for the year, the Board may levy a Common Assessment which is less than the Budgeted amount. If the Board determines that the Common Assessment being collected is or will become inadequate to pay all Common Expenses, the Board shall immediately determine the approximate amount of the inadequacy and levy a supplemental Common Assessment.

*8.3.1 Association Maintenance of Common Area.*

Prior to commencement of the Association's maintenance obligations as to any portion of the Common Area, an interest in such portion (whether in fee, or by easement, ground lease, license or right of irrevocable entry or encroachment permit) shall be conveyed or otherwise granted to the Association as necessary to permit the Association to enter upon and perform its obligations relating thereto. The Association, acting through its Board, must accept maintenance responsibility for (and if directed by Declarant, the foregoing interest in) each portion of the

Common Area when maintenance responsibility is tendered by Declarant, and in connection therewith shall execute an acceptance of each deed or other instrument and any accompanying escrow instructions if requested to do so by Declarant.

#### **8.4 ACCOUNTS OF THE ASSOCIATION.**

The Association's general operating funds and general reserve funds shall be established as trust accounts at a banking or savings institution and may be combined so long as reserve funds are not combined with operating funds (and are otherwise treated as separate) for accounting purposes.

##### *8.4.1 Association Accounts.*

The Board shall budget, establish and maintain at least the following accounts (the "Association Accounts") into which shall be deposited all monies paid to the Association, and from which disbursements shall be made, as provided in the Declaration, in the Association's performance of its functions:

(a) **General Operating Fund.** A general operating fund for current expenses of the Association, exclusive of current expenses attributable to the Special Benefit Areas, if any.

(b) **General Reserve Fund.** A general reserve fund for the deposit of reserves attributable to improvements within the common area, exclusive of reserves attributable to the Special Benefit Areas, if any.

(c) **Special Benefit Area Operating Fund.** For each special benefit area, if any, a separate Special Benefit Area operating fund for current expenses of the Special Benefit Area.

(d) **Special Benefit Area Reserve Fund.** For each Special Benefit Area, if any, a separate Special Benefit Area Reserve Fund for the deposit of reserves attributable to the Special Benefit Area.

(e) **Miscellaneous Accounts.** Any other accounts which the Board may deem necessary.

##### *8.4.2 Disbursements from Association Accounts.*

Disbursements from the particular Association Accounts shall be limited to specific purposes as follows:

(a) **General Operations Disbursements.** Disbursements from the general operating fund shall be made for such purposes as are necessary for the discharge of the Association's responsibilities under the Governing Documents, for the common benefit of all Owners.

(b) General Reserve Disbursements. Disbursements from the general reserve fund shall be made solely for the purpose of funding those reserve expenditures that are not budgeted to a Special Benefit Area.

(c) Special Benefit Area Operations. Disbursements from each Special Benefit Area operating fund shall be made solely for the purpose of funding the current operating Common Expenses of the Special Benefit Area for which the fund was created.

(d) Special Benefit Area Reserves. Disbursements from each Special Benefit Area reserve fund shall be made solely for the purpose of funding reserve expenditures attributable to the Special Benefit Area for which the fund was created.

#### **8.5 COLLECTION OF COMMON ASSESSMENTS.**

The Board shall fix the initial amount of the Common Assessment against each Lot within the Business Park Property at least thirty (30) days in advance of each Fiscal Year based upon the Budget. Written notice of any change in the amount of any Common Assessment, Capital Improvement Assessment or Reconstruction Assessment shall be delivered to every Owner subject thereto not less than thirty (30) nor more than sixty (60) days prior to the increased Assessment becoming due. The due dates, whether they are monthly, quarterly, or on some other schedule, shall be established by the Board. The Association shall, upon demand and for a reasonable charge, furnish a certificate setting forth whether the assessments for a specified Lot have been paid. A properly completed certificate as to the status of Assessments against each Lot is binding upon the Association as of the date of its issuance. The Association may use any method of collecting Assessments allowed by law including charging credit cards or electronic transfers. The Board may make different Assessment collection arrangements with the different Owners. The Board may allow an Owner to pre-fund the Owner's Assessment obligation with an annuity or other funding mechanism the Board determines is appropriate. At the Association's discretion, the additional cost of any method of collection can be collected from the Owner electing the method of collection and does not have to be divided equally among all Owners.

#### **8.6 SPECIAL ASSESSMENTS.**

The Board may levy, in any Fiscal Year, a Capital Improvement Assessment, Reconstruction Assessment or Extraordinary Assessment (each, a "Special Assessment") for purposes authorized in the Declaration or in this or any other Supplemental Declaration.

#### **8.7 EXEMPT PROPERTY.**

The following property is exempt from assessments imposed pursuant hereto:

##### *8.7.1 Public Property.*

All portions of the Business Park Property dedicated to and accepted by a Government Agency.

##### *8.7.2 The Restricted Common Area.*

The Restricted Common Area.

*8.7.3 Other.*

Any areas exempted from assessments in a Supplemental Declaration; provided that such areas are utilized for community serving or non-profit uses directly benefiting the Business Park Property or the Owners of the Lots or otherwise required to satisfy the requirements for development or operation of the Business Park Property of a Governmental Authority.

**8.8 SPECIAL BENEFIT AREAS.**

In the event that Declarant or the Board, in each case in their reasonable discretion, determines that any one (1) or more Lots within the Business Park Property, or the Owner or occupants thereof, benefit more than the Business Park Property as a whole from special or unique services or benefits provided by the Association, then Declarant or the Board, as applicable, shall have the right, but not the obligation, to establish a Special Benefit Area consisting of the Lot(s) benefited by such special services. Special Benefit Areas may be designated by Declarant or the Board in a Supplemental Declaration recorded against the Lot(s) to be included within such Special Benefit Area; provided that, to the extent any such Lot(s) have been conveyed by Declarant prior to the creation of such Special Benefit Area, such Supplemental Declaration must be executed by all of the Owner(s) of the Lot(s) subject to the designated Special Benefit Area. Costs related to the special services or benefits provided to Lot(s) within such Special Benefits Area shall be assessed only against the Owners of such Lot(s) and may be allocated among such Owners by any method determined by Declarant and the Board to be reasonable or appropriate under the circumstances. The additional administrative and operating costs of each Special Benefit Area shall be included a part of the Common Expenses allocated to the Owners of the Lot(s) within the Special Benefit Area. All provisions requiring the vote or approval of a specified percentage of Owners regarding services or benefits to be provided to Owners within any Special Benefit Area shall only require the vote or approval of the requisite percentage of Owners who are responsible for payment of Assessments attributable to the Special Benefit Areas Area.

**8.9 NONPAYMENT OF ASSESSMENTS.**

*8.9.1 Delinquency.*

Any installment of an Assessment is delinquent if not paid within ten (10) days after the due date established by the Board. The Board may also require the delinquent Owner to pay a late charge in accordance with California Civil Code Section 6808. Any Assessment installment not paid within thirty (30) days after the due date, plus all late charges (if applicable) and reasonable costs of collection (including attorneys' fees) shall bear interest at the maximum legal rate commencing thirty (30) days from the date the Assessment becomes due and continuing until paid. The Association need not accept any tender of a partial payment of an amount due and acceptance of any such tender does not waive the Association's right to demand and receive full payment.

*8.9.2 Remedies.*

The Association may bring an action at law against the Owner personally obligated to pay amounts due or may foreclose its Assessment Lien (as hereinafter defined) against the Lot of such Owner. A suit to recover a money judgment for unpaid Assessments may be brought without foreclosing or waiving any lien securing the same, subject to the provisions of Section 6808, 6810 and 6858 of the California Civil Code; provided, however, that this provision (or any suit to recover a money judgment) does not affirm the adequacy of money damages. Any recovery resulting from a suit at

law or in equity initiated pursuant to this Section may include reasonable attorneys' fees as fixed by the court. In the event that the Association elects to enforce an Owner's obligation to pay Assessments by Recordation of an Assessment Lien against such Owner's Lot, the provisions of this Section 8.9.2 shall govern.

(a) **Priority of Assessment Lien.** Any Assessment Lien recorded pursuant hereto shall be prior and superior to all other liens, except (1) all taxes, bonds, Assessments and other levies which, by law, would be superior thereto, and (2) the lien or charge of any First Mortgage of Record made in good faith and for value and Recorded before the date on which the "Notice of Delinquent Assessment" (described in this Section) is Recorded against the respective Lot. Sale or transfer of any Lot shall not affect the Assessment Lien, except that the sale or transfer of any Lot pursuant to judicial or nonjudicial foreclosure of a First Mortgage extinguishes the lien rights of the Association as to Assessments and payments which became due prior to such sale or transfer. No sale or transfer relieves such Lot from lien rights of the Association for any Assessments becoming due after the sale or transfer. No Person who obtains title to a Lot pursuant to a judicial or nonjudicial foreclosure of the First Mortgage is liable for the share of the Common Expenses or Assessments chargeable to such Lot which became due prior to the acquisition of title to the Lot by such Person. Such unpaid share of Common Expenses or assessments is a Common Expense collectible from all of the Owners including such Person.

(b) **Creation of Assessment Lien.**

(i) **Notice of Intent.** At least thirty (30) days prior to Recording a lien upon an Owner's Lot to collect a past due Assessment (an "Assessment Lien"), the Association shall send to such Owner by certified mail a written notice ("Notice of Intent to Lien") containing, at a minimum, the following information: (1) the collection and lien enforcement procedures of the Association, (2) an itemized statement of the charges owed by the Owner (including the principal owed, any late charges, any interest, and the method of calculation of such interest or late charge and any attorney fees incurred by the Association as a result of such delinquency) and a description of the method of calculation of all sums applicable to the lien, (3) the following statement in 14-point boldface type or all capital letters: "IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION," (4) a statement that the Association may recover reasonable costs of collecting past due Assessments, (5) a statement that the Owner has the right to inspect the Association's records, pursuant to California Corporations Code Section 8333, (6) statement that the Owner shall not be liable to pay the charges, interest and costs of collection if it is determined the Assessment was paid on time to the Association, and (7) such information as may be required by Civil Code Section 6812 in effect on the date hereof (or as modified or superseded by successor statutes applicable hereto).

(ii) **Board Decision to Record Lien.** The decision to record an Assessment Lien with a power of sale by trustee shall be made by the Board by a majority vote of the Board members in an open meeting. The Board shall record the vote in the minutes of that meeting.

(iii) Dispute by Owner. If, within fifteen (15) days of the postmark of the Notice of Intent to Lien, an Owner submits to the Board a written dispute thereof with an explanation of the reasons for the Owner's dispute of the Notice of Intent to Lien, then the Board shall promptly respond in writing to such Owner, and in any event within fifteen (15) days of its receipt of such Owner's explanation.

(iv) Notice of Delinquent Assessment. At any time thirty (30) days or more after mailing of the above-referenced Notice of Intent to Lien, the Association may Record a Notice of Delinquent Assessment against the Lot of the delinquent Owner in the form described under, and as provided in, California Civil Code Section 6814. The Notice of Delinquent Assessment must be signed by an authorized Association officer or agent and must recite (i) a sufficient description of the Lot, (ii) the record Owner thereof, (iii) the amount of the Assessment and other authorized charges and interest, including the cost of preparing and Recording the Notice of Delinquent Assessment, (iv) the amount of collection costs incurred, including reasonable attorneys' fees, and expenses, (v) the Association's name and address, and (vi) in order for the Assessment Lien to be enforced nonjudicially by trustee sale foreclosure, the name and address of the trustee authorized by the Association to enforce the lien by sale. The Notice of Delinquent Assessment must be mailed to the delinquent Owner, by certified or registered mail, postage prepaid, as set forth in Section 2924b of the California Civil Code, no later than ten (10) calendar days after Recordation. Recordation of the Notice of Delinquent Assessment creates the Assessment Lien on the Lot of the delinquent Owner as provided in Section 6814 and 6816 of the California Civil Code. The Assessment Lien shall continue until the full amount claimed therein is paid or otherwise satisfied. An action may be brought to enforce the Assessment Lien upon the expiration of thirty (30) days following Recordation of the applicable Notice of Delinquent Assessment.

(v) Service of Notice of Default. In addition to the requirements of Section 2924, a notice of default shall be served by the Association on the Owner's legal representative in accordance with the manner of service of summons in the California Code of Civil Procedure, commencing with Section 415.10.

(c) Exceptions. Monetary penalties imposed by the Association as a disciplinary measure for failure of a member to comply with the governing documents (as distinguished and separate from unpaid assessments, late charges or cost reimbursements to the Association) may not become a lien against an Owner's Lot enforceable by the sale thereof under Sections 2924, 2924b and 2924c of the California Civil Code.

(d) Foreclosure Sale. Provided that (i) at least thirty (30) days have elapsed since the date on which the Notice of Delinquent Assessment was Recorded and (ii) at least ten (10) days have elapsed since a copy of the Notice of Delinquent Assessment was mailed to the Owner affected thereby, the Board, its attorneys or other Persons authorized by the Board may conduct a public sale to foreclose an Assessment Lien in accordance with the provisions of Sections 2924, 2924a, 2924b, 2924c and 2924f of the California Civil Code, or in accordance with any similar statute hereafter enacted applicable to the exercise of powers of sale in Mortgages, or in any other manner permitted by law. The Association, through duly authorized agents, may bid on the Lot at foreclosure sale, and acquire and hold, lease, encumber and convey the Lot. Upon

completion of the foreclosure sale, the Association or the purchaser at the sale may file suit to secure occupancy of the defaulting Owner's Lot, and the defaulting Owner shall be required to pay the reasonable rental value of the Lot during any period of continued occupancy by the defaulting Owner or any Persons claiming under the defaulting Owner.

(e) **Receivers.** In addition to foreclosure and other remedies of the Association, each Owner, by acceptance of a deed to such Owner's Lot, conveys to the Association all of such Owner's right, title and interest in all rents, issues and profits derived from and appurtenant to such Lot subject to the right, power and authority of the Association to collect and apply such rents, issues and profits to any delinquent assessments owed by such Owner, reserving to the Owner the right, prior to any default by the Owner in the payment of assessments, to collect and retain such rents, issues and profits as they become due and payable. Upon default, the Association may, at any time thirty (30) days or later following delivery to the Owner of a Notice of Delinquent Assessment, either in person, by agent or by receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness secured by the lien described herein, (a) enter in or upon and take possession of the Lot, (b) in the Association's name, sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and (c) apply the same, less allowable expenses of operation, to any delinquencies of the Owner hereunder, and in such order as the Association may determine. The entering upon and taking possession of the Lot, the collection of rents, issues and profits and the application thereof, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

(f) **Release of Lien.** Upon the timely curing of any default for which the Association Records a Notice of Delinquent Assessment, the Association's officers shall, within twenty-one (21) days after payment of the full amount claimed in the Notice of Delinquent Assessment or other satisfaction thereof, Record an appropriate Notice of Satisfaction and Release of Lien. The Association shall provide the Owner with a copy of the Notice of Release or any other notice that the full amount claimed in the Notice of Delinquent Assessment has been satisfied. The Board may require payment by the defaulting Owner of a reasonable fee, to be determined by the Board, to cover the cost of preparing and Recording such release. A certificate executed and acknowledged by any two (2) members of the Board stating the indebtedness secured by the Assessment Lien created hereunder upon any Lot shall be conclusive upon the Association and the Owners as to the amount of such indebtedness as of the date of the certificate, in favor of all Persons who rely thereon in good faith. Such certificate shall be furnished to any Owner upon request at a reasonable fee, to be determined by the Board.

#### *8.9.3 Payment Under Protest and Reservation of Rights.*

An Owner may pay under protest any disputed charge or sum levied by the Association, including, but not limited to, an Assessment, fine, penalty, late fee, collection cost, or monetary penalty imposed as a disciplinary measure, and by so doing, specifically reserve the right to contest the disputed charge or sum in court or otherwise. An owner is not liable for charges, interest, and costs of collection, if it is established that the assessment was paid properly on time.

## **ARTICLE IX DESIGN CONTROL**

### **9.1 ALTERATIONS TO COMMON AREA.**

Except as expressly set forth in this Article, no improvement or work which alters or adversely affects the Common Area shall be made or done by any Person other than the Declarant. Notwithstanding the foregoing, but subject to compliance with the provisions of this Article, the Land Use Restrictions, the Land Use Conditions, all Applicable Laws and other requirements of any Governmental Authority, each Owner may modify the Owner's Lot, and the route over the Common Area leading to the entrance of any Improvements located on the Owner's Lot, at the Owner's sole expense, to facilitate access thereto by persons who are blind, visually impaired, deaf or physically disabled, or to alter a latent hazardous condition.

### **9.2 APPROVAL FOR OWNER IMPROVEMENTS.**

Construction of initial Improvements to the Lots shall be subject to review and control of Declarant on the terms set forth in any Land Use Restrictions. From and after completion of such initial Improvements, no Owner shall permit or cause any portion of such Owner's Lot, or any Improvements located therein, including landscaping, exterior Signs and affixed equipment (collectively, "Owner Improvements") to be altered, installed, constructed, reconstructed, replaced, assembled, maintained, relocated, removed or demolished (each, a "Proposed Alteration") unless such Proposed Alteration conforms to all applicable Governmental Requirements, the Land Use Restrictions and any Design Guidelines which may be adopted by the Board from time to time pursuant to Section 9.3 below. Without limiting the foregoing, to the extent required by the Design Guidelines or other Business Park Guidelines adopted by the Declarant and the Approving Authority from time to time, no construction, installation or alteration of an Owner Improvement may be commenced or maintained until site plans, preliminary plans, final plans and specifications therefore and other materials required to be submitted pursuant to the Design Guidelines have been submitted to and approved in writing by the Approving Authority.

#### *9.2.1 Exemptions.*

(a) **Categorical Exemptions.** The Approving Authority may exempt from approval specific Improvements or classes of Improvements (provided, however, that any such categorical exemption shall require prior approval of the Declarant).

(b) **Identical Replacements.** Any Improvement may be repainted, recoated, resurfaced or repaired without such approval so long as such work on the Improvement employs substantially identical colors, materials and general appearance as last approved or used. Furthermore, Approving Authority consent shall not be required for the restoration or replacement of any Owner Improvement which will be substantially identical to the original improvements located within the Lot at the time the Owner acquired the Lot or any Owner Improvement subsequently installed within the Lot but previously approved by the Approving Authority pursuant hereto.

(c) **Declarant Exemption.** Notwithstanding any other provision of the Governing Documents, (i) Declarant shall not be required to obtain Association's approval or otherwise comply with the requirements of this Article with respect to its construction or development activities, (ii) Declarant may expressly designate a Person or Business Park Property

in a Supplemental Declaration (or other Recorded document) that is exempt from the requirements to obtain Approving Authority approval or otherwise comply with the requirements of this Article with respect to their construction or development activities, and (iii) Declarant may expressly designate a Person or Business Park Property in a Supplemental Declaration (or other Recorded document) for which approval must be obtained from the Approving Authority and otherwise comply with the requirements of this Article with respect only to certain limited construction or development activities. Declarant may, at its option, establish an additional architectural or design review committee for any area of the Business Park Property.

### 9.3 APPROVAL STANDARDS.

#### 9.3.1 *Architectural Approving Authority.*

During the time the Declarant is the holder of the "Class B" voting rights, Declarant shall be the "Approving Authority" for purposes of exercising all approval, inspection and enforcement rights set forth in this Article. Notwithstanding the foregoing, Declarant shall have the right (but not the obligation) to assign and delegate its rights and duties as Approving Authority to the Association at any time. Upon any such assignment and delegation or upon expiration of the "Class B" voting rights of Declarant, which ever first occurs, the Board shall constitute the Approving Authority for purposes of this Article or shall identify a design review committee therefor. Either Declarant (or Association, to the extent that it has succeeded as Approving Authority) may establish a committee of Owners of Lots within the Business Park Property and empower such committee with its authority hereunder, whereupon said committee shall be deemed to be the Approving Authority hereunder. The Approving Authority shall have the power, but not the duty, to retain any other Persons (including agents or affiliates of Declarant) to advise the Approving Authority in connection with the review, approval and/or inspection of any Proposed Alterations pursuant to this Article.

#### 9.3.2 *Design Guidelines.*

Declarant and the Approving Authority (if any) may, in their reasonable discretion, adopt and revise from time-to-time guidelines (the "Design Guidelines") regarding architectural standards for Proposed Alterations to be constructed by or on behalf of any Owner within the Business Park Property. Such Design Guidelines may include, without limitation, identification of the types of Proposed Alterations requiring approval hereunder and required submittals and other procedures for such review as well as reasonable restrictions on the conduct of construction activity within the Business Park Property so as to minimize damage to Common Area and/or other Lots and any other adverse impacts on the use and occupancy of other Lots within the Business Park Property.

#### 9.3.3 *Basis of Approval.*

The Approving Authority shall review and approve, conditionally approve or disapprove all plans submitted to it for any proposed construction, installation or alteration on the basis of any and all factors which it may deem relevant, including without limit, consistency with the Design Guidelines, the Governing Documents and the Land Use Restrictions, and the overall benefit or detriment which would result to the immediate vicinity and the Business Park Property generally. The Approving Authority shall consider, among other matters, aesthetic aspects of the

architectural designs, placement of buildings, effect on pedestrian and vehicular traffic flow, location of driveways and service areas, landscaping, color schemes, exterior finishes and materials and similar features; provided, however, that neither the Design Guidelines nor any other criteria utilized by the Approving Authority shall apply to any interior elements of the Improvements not visible from other Lots, Common Area or public or private streets within the Business Park Property except to the extent that any subterranean construction may impact adjacent lands, groundwater or soils mitigation or remediation concerns. The Approving Authority is not responsible for reviewing, nor may its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes. Without limiting the foregoing, the Approving Authority shall approve materials submitted for its approval only if it determines that the installation or construction of the Proposed Alterations contemplated thereby in the manner indicated therein will comply with the Design Guidelines, Land Use Restrictions and Applicable Law and will not otherwise be detrimental to the appearance or operation of the surrounding area of the Business Park Property as a whole.

#### *9.3.4 Variances.*

The Approving Authority may authorize variances from compliance with any of the architectural and landscaping provisions of the Governing Documents, including without limit, restrictions upon height, size, floor area or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental consideration may require. If such variances are granted, no violation of the covenants, conditions and restrictions contained in the Governing Documents shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance does not waive any of the terms and provisions of the Governing Documents for any purpose except as to the particular Lot and particular provision hereof covered by the variance, nor does it affect the Owner's obligation to comply with all applicable governmental ordinances affecting the use of his Lot.

#### **9.4 EXCULPATION.**

Neither Declarant, the Approving Authority nor any Person retained by the Approving Authority in connection with the review and approval of Proposed Alterations pursuant to this Article, shall be liable in damages to anyone making submittals as provided herein, or to any Owner, or other Person subject to or affected by this Declaration, on account of any of the following: (a) the approval or disapproval of any submittal; (b) any construction, performance or nonperformance by an Owner of any work within a Lot, whether or not pursuant to approved submittals; (c) any mistake in judgment, negligence, action or omission in the Approving Authority's exercise of its rights, powers and duties hereunder; or (d) the enforcement of or failure to enforce any of these Governing Documents. Every Person who makes submittals for approval of a Proposed Alteration agrees by reason of such submittal, and every Owner of a Lot agrees by acquiring title to any Lot or an interest therein affected by such Proposed Alteration, not to bring any suit or action against Declarant or the Approving Authority or any Person retained by any of the foregoing in connection herewith seeking to recover any such damages. Approval of any submittal by the Approving Authority shall not constitute the assumption of any responsibility by, or impose any liability upon, Declarant, the Association, or the Approving Authority with respect to the accuracy or sufficiency of the submittal.

**9.5 NO WAIVER OF FUTURE APPROVALS.**

The Approving Authority's approval of any proposals or plans and specifications or drawings for any work done or proposed or in connection with any other matter requiring approval hereunder does not waive any right to withhold approval of any similar proposals, plans and specifications, drawings or matters subsequently or additionally submitted for approval.

**9.6 CONTRACTOR REQUIREMENTS.**

The Approving Authority shall have the right, but not the duty, to require as a condition to approval of any Proposed Alteration that the contractors or subcontractors to be engaged by the responsible Owner to perform any construction, installation or other services required in connection with the Proposed Alteration (collectively, the "Work") provide to the Approving Authority, prior to commencing Work within the Business Park Property, proof of any workers' compensation insurance coverage required by law as well as commercial general liability insurance coverage (with a minimum coverage of at least One Million Dollars (\$1,000,000 per occurrence, indexed to inflation from and after 2021, as reasonably determined by the Approving Authority or the Association) against any claims or liabilities arising from the performance of the Work or other activities of such contractor or subcontractor on the Business Park Property in connection therewith in an amount satisfactory to the Approving Authority in its reasonable discretion. The Approving Authority shall further have the right to require all such contractors and subcontractors to deliver certificates of insurance for the foregoing commercial general liability insurance naming the Approving Authority and Declarant as an additional insured thereunder. Without limiting the foregoing, the Approving Authority shall have the right, but not the duty, to disapprove any contractors or subcontractors engaged by an Owner to perform Work within the Business Park Property to the extent that the failure to perform such Work in a good and workmanlike manner could have a material, adverse effect on the physical condition of the Common Area or any other Lot within the Business Park Property.

**9.7 COMMENCEMENT AND COMPLETION OF PROPOSED ALTERATIONS.**

Unless otherwise specified by the Approving Authority in its approval of a submittal, each Owner shall have a period of one (1) year after the date of approval by the Approving Authority within which to commence such Proposed Alteration in accordance with the approval. Each Owner shall give the Approving Authority at least fifteen (15) days prior written notice of the commencement of any Proposed Alteration. Approval of a submittal shall expire one (1) year after the date such approval is given by the Approving Authority, subject to force majeure. If an Owner fails to commence the work covered by such submittal in accordance with the approved document or documents within such period, any previous approvals for such work shall become invalid, and the Owner shall be obligated make a new submittal prior to commencing such work of Improvement. After a Proposed Alteration is commenced by an Owner, such Owner shall diligently pursue such Proposed Alteration to completion in strict compliance with the approved submittals, the Land Use Restrictions and any other construction rules or regulations that may be adopted by Declarant or the Approving Authority from time to time.

**9.8 INSPECTION OF WORK.**

The Approving Authority or its duly authorized representative may inspect any Work. The right to inspect includes the right to require any Owner to take such action as may be necessary to

remedy any noncompliance with Approving Authority approvals for the Work or with the requirements of the Governing Documents ("Noncompliance").

*9.8.1 Time Limit.*

The Approving Authority's right to inspect the Work and notify the responsible Owner of any Noncompliance shall terminate sixty (60) days after the Approving Authority has received written notice from the Owner that the Work has been completed and the Work has, in fact, been completed. If the Approving Authority fails to send a notice of Noncompliance to an Owner before this time limit expires, the Work shall be deemed to comply with the Approving Authority approvals.

*9.8.2 Remedy.*

If an Owner fails to remedy any Noncompliance for which it has received notification within thirty (30) days from the date of such notification from the Approving Authority (provided, if the Owner commences such remedial work during the 30-day period and thereafter diligently pursues completion of same, Owner shall not be deemed in breach of its obligations hereunder), then the Association may Record a Notice of Noncompliance and commence an alternate dispute resolution procedure or a lawsuit for damages or injunctive relief, as appropriate, to remedy such Noncompliance.

**9.9 CERTIFICATE OF COMPLIANCE.**

Upon completion of the Work, whether or not the Approving Authority has exercised its right to inspect the Proposed Alteration pursuant to Section 9.8 above, the performing Owner shall, upon request by the Approving Authority, supply it with a certification by a licensed or registered architect or engineer that the Proposed Alterations have been completed in accordance with the final working drawings and specifications previously approved by the Approving Authority.

**9.10 PRESUMPTION OF COMPLIANCE.**

Upon expiration of one (1) year after either (a) the date the County issued a final permit approval or certificate of occupancy for any Lot in which Proposed Alterations have been performed, if applicable, or (b) the Recording date of a valid notice of completion with respect to such Proposed Alteration, the Proposed Alteration shall, in favor of purchasers and Mortgagees in good faith and for value without knowledge of the Noncompliance and noncompletion, be deemed to be in compliance and completed in accordance with all provisions of this Article, unless either (i) an actual notice of Noncompliance or noncompletion thereof executed by or on behalf of the Association is Recorded, or (ii) legal proceedings are instituted by the Association to enforce compliance or completion.

**9.11 REMOVAL OF LIENS.**

No Owner shall permit any mechanic's, or materialmen's, or other similar liens to be created or maintained against any Common Area or other Owner's Lot within the Covered Property to which labor or material has been performed or furnished in connection with the construction of a Proposed Alteration. An Owner may post a bond and contest any such lien at the Owner's sole expense.

**ARTICLE X**

## **OWNERS' PROPERTY RIGHTS AND PROJECT EASEMENTS**

### **10.1 OWNERS' EASEMENTS OF ENJOYMENT.**

Declarant hereby establishes for the benefit of the Business Park Property, and, upon recordation of a Supplemental Declaration annexing any additional land and Improvements hereafter added to the Business Park Property and made subject to this Declaration, the Owners thereof, a non-exclusive easement of access, use and enjoyment of, in, to and over the private streets, which easement shall be appurtenant and pass with title to every Lot within the Business Park Property, subject to the qualifications, limitations and exceptions hereinafter set forth.

#### *10.1.1 Declarant's Right to Access.*

Declarant, for itself and on behalf of its agents, representatives and prospective purchasers, reserves and retains the absolute right and easement to the nonexclusive use of the Common Area without cost, for access, ingress, egress, use and enjoyment, in support of its efforts to market, show and dispose of the Business Park Property until Declarant no longer owns any portion of the Business Park Property; provided, however, that such reserved rights shall not be exercised in a manner that prevents or unreasonably hinders Owners from their enjoyment of the rights to the Common Area established by this Declaration.

#### *10.1.2 Declarant's Reserved Rights.*

The foregoing easement shall be subordinate and subject to all other rights and reservations of Declarant set forth in this Declaration, for its own behalf or on behalf of the Association, including the following:

(a) **Reconstructing Improvements.** Declarant's or the Association's right to add to, repair, reconstruct, replace or refinish any Common Area Improvement or portion thereof on the Common Area.

(b) **Maintenance and Repair.** The Association's right to maintain and repair the Common Area and Common Area Improvements, including without limit the right to add to, replace, remove, enhance or plant landscaping upon any portion of the Common Area.

(c) **Designated Exclusive Use Areas.** Declarant's right to designate, by recorded Supplemental Declaration, exclusive use areas within portions of the Common Area for the exclusive use or maintenance by one or more Owners, including without limitation, common driveways.

(d) **Access to Public.** The Association's right to make portions of the Common Area and Common Area Improvements available for use by Persons who are not Owners in the Business Park Property on such terms and at such times as may be negotiated by the Board.

(e) **Other Easements.** The easements reserved in the other Sections of this Article.

### **10.2 EASEMENTS FOR VEHICULAR/PEDESTRIAN TRAFFIC.**

Declarant reserves, for the benefit of all the Business Park Property and Owners, non-exclusive easements appurtenant for vehicular and pedestrian traffic over the private streets and walkways within the Common Area.

#### **10.3 EASEMENTS FOR PUBLIC SERVICE USE.**

Declarant reserves easements over the Business Park Property for public services, including but not limited to, the right of law enforcement and fire protection personnel to enter upon any part of the Business Park Property for the purpose of carrying out their official duties; which easements shall be for the benefit of Declarant, the Business Park Property and the Owners of the Lots located therein.

#### **10.4 EASEMENTS FOR WATER, UTILITY, MONITORING AND REMEDIATION FACILITIES AND ACTIVITIES.**

Declarant reserves easements over the Business Park Property for public and private utility purposes, including but not limited to, the right of any public utility or mutual water district to ingress and egress over the Business Park Property for purposes of reading and maintaining meters, and using and maintaining fire hydrants located in the Business Park Property. Declarant reserves rights and easements over the Business Park Property, exercisable at any time, for installing, reading, servicing, maintaining and replacing, as it deems necessary or appropriate, submeters with respect to any utilities providing service to greater than one (1) Lot through a single meter. Declarant reserves easements over the Business Park Property for installation, maintenance, inspection and access to existing and future environmental monitoring or remediation equipment or facilities. To comply with the requirements of a Governmental Authority, both Declarant and the Association shall have the right to install monitoring and extraction wells, meters and other monitoring or remediation equipment or facilities anywhere in the Business Park Property and to enter the Business Park Property to maintain, collect information from and remove such wells, meters and monitoring or remediation equipment. Owners must not interfere with the Declarant's exercise of the rights reserved in this Section.

#### **10.5 MASTER TELECOMMUNICATIONS EASEMENT.**

Declarant has reserved, or will reserve upon conveyance of each Lot or Business Park Property, certain exclusive and nonexclusive easements over the Common Area and those portions of the building setback areas on Lots that border public or private streets for access, ingress and egress for purposes of installing, operating, maintaining, repairing, inspecting, removing and replacing wires, fibers, lines and related facilities and equipment (the "Telecommunications Infrastructure") supporting telecommunication, internet service, data, video and cable television services (the "Services"). Such easements are freely transferable by Declarant to any other individual or entity and their successive owners for the purpose of providing the Services to the Business Park Property and areas in and around the Business Park. With respect to any Telecommunications Infrastructure installed by Declarant within the Business Park Property in exercise of its reserved easement rights, such Telecommunications Infrastructure shall remain the property of Declarant, its subsidiaries, successors, transferees and assigns, and transfer of all or any portion of the Business Park Property by Declarant to an Owner does not imply the transfer of any such Telecommunications Infrastructure located thereon. Exercise of the easements reserved in this Section shall not unreasonably interfere with the reasonable use and enjoyment of the Business Park Property by the Owners.

**10.6 MISCELLANEOUS EASEMENTS.**

Declarant expressly reserves, for the benefit of the Association and, where indicated below, Declarant, the Business Park Property and the Owners of the Lots located therein, the following easements provided that the exercise of the following easements shall not unreasonably interfere with the reasonable use and enjoyment of the Business Park Property in a manner consistent with this Declaration (as amended or supplemented pursuant to the terms hereof):

*10.6.1 Utilities.*

Reciprocal, nonexclusive easements over all Lots and the Common Area as necessary for maintenance and repair of utility services which easements shall be for the benefit of the Association, Declarant, the Business Park Property and the Owners of the Lots located therein. Such easements shall include the right of access to any rooms, chase, conduit, trench or other space in, on or within any Lot or Improvement through which utilities are distributed to other Lots and Improvements in the Business Park Property. The Owners of Lots served by any particular common utility equipment or facilities shall be responsible, jointly and severally, for maintenance, repair and replacement of any such common utility equipment or facilities falling into disrepair.

*10.6.2 Fire/Life Safety and Fire Suppression Systems.*

The central control and monitoring panels of the fire and life safety systems and the main water supply line and distribution lines for any fire suppression systems serving the Common Area or Common Area Improvements (if any) shall be the responsibility of the Association for maintenance, repair and replacement. Owners shall be required to maintain in good order and repair, and shall be responsible for installing, maintaining, repairing and replacing, all water supply lines of any fire suppression systems serving the Owner's building along with lateral and distribution lines (including risers and sprinkler heads) and sensors connecting to the Building's central control and monitoring panel or any main water supply lines serving the fire suppression systems.

*10.6.3 Drainage.*

Reciprocal, nonexclusive easements for drainage of water over, across and upon adjacent Lots and the Common Area resulting from the normal use of adjoining Lots or the Common Area which easements shall be for the benefit of the Association, Declarant, the Business Park Property and the Owners of the Lots located therein.

*10.6.4 Inspection, Maintenance and Repair.*

Nonexclusive easements for access to perform necessary inspection, maintenance and repair of any Improvement constructed by Declarant which easements shall be for the benefit of Declarant and the Association.

*10.6.5 Easements on Maps.*

Easements as shown on any Recorded subdivision map or Recorded parcel map of any portion of the Business Park Property which easements shall, unless otherwise specified

therein, be for the benefit of Declarant, the Association, the Business Park Property and the Owners of the Lots located therein.

*10.6.6 Encroachments.*

Easements for minor encroachment and maintenance if any Improvement upon a Lot encroaches upon the Common Area or if the Common Area Improvements encroach upon any Lot as a result of construction by Declarant or as a result of construction or reconstruction approved by the Approving Authority, or the repair, shifting, settlement or movement of any portion of, or Improvement of the Business Park Property which easements shall be for the benefit of Declarant, the Association, the Business Park Property and the Owners of the Lots located therein.

*10.6.7 Storm and Surface Water Collection and Monitoring.*

Easements permitting Declarant, the Association or their respective consultants, to enter upon all Lots and the Common Area to access, collect, sample, monitor and test storm water or other surface water thereon for reporting, collecting data, or compelling Owner's compliance with the requirements of any applicable Governmental Authority, the Land Use Conditions or Water Quality Instruments.

*10.6.8 Easement for Law Enforcement and Emergency Vehicles and Personnel.*

Declarant hereby reserves a non-exclusive easement for access, ingress and egress upon and across the Business Park as may be necessary for law enforcement of city and state traffic and penal codes and for the provision of emergency services in the Business Park by City and state law enforcement officers and vehicles, City Fire Department and other emergency services vehicles and personnel.

**10.7 RIGHT OF ENTRY.**

The following provisions shall govern entry by Declarant or the Association onto any Lot pursuant to any of the foregoing easements. Except in the case of an emergency which shall not require prior written notice to the Owner of the Lot, entry onto any Lot pursuant to such authority shall require at least three (3) days' advance written notice to the Owner of the Lot. If an emergency occurs, entry upon a Lot by or on behalf of Declarant or the Association shall be permitted without said prior notice. Notwithstanding the foregoing, the Association shall have the right to enter into the Exclusive Use Area appurtenant to any Lot at any time for purposes of maintenance, inspection or the performance of any other obligation of the Association hereunder or as required by the Land Use Conditions or any Governmental Authority. The provisions of this Section shall not be deemed to limit or otherwise apply to any entry by the Association into any such Exclusive Use Area.

**10.8 DELEGATION OF USE.**

Any Owner entitled to the right and easement of use and enjoyment of the Common Area may delegate those rights and easements to such Owner's tenants, contract purchasers, subtenants or other occupants of the Improvements on such Owner's Lots, subject to reasonable regulation by the Association.

**10.9 WAIVER OF USE.**

No Owner may exempt himself from personal liability for Owner's Assessments and funding obligation to Association, nor release his Lot from the liens and charges hereof, by waiving

the use and enjoyment of the Common Area or any facilities thereon or by abandoning the whole or any portion of Owner's Lot.

#### **10.10 TAXES.**

Each Owner shall take such action as the Declarant or Association may reasonably specify to obtain or maintain separate real estate tax assessment of each Lot. If any taxes or assessments may, in the Association's opinion, become a lien on the Common Area or any part thereof, the Association may pay them as a Common Expense and charge the Association's costs to the appropriate Owner or Owners, together with a five percent (5%) administrative charge thereon, which amount shall be reimbursed by said Owner or Owners within ten (10) days of written demand therefor.

### **ARTICLE XI INSURANCE**

#### **11.1 ASSOCIATION INSURANCE.**

##### *11.1.1 Casualty Insurance.*

The Association shall procure and maintain "all-risk" property insurance for loss or damage to the Common Area and all insurable Common Area Improvements and fixtures originally installed by Declarant or the Association on the Common Area with coverage amounts of at least one hundred percent (100%) of the full replacement cost of the Improvement and other property, and may obtain such additional insurance against such other hazards and casualties as the Board deems desirable if commercially reasonable and maintained by reasonably prudent owners, community managers, property managers or associations of similar properties, including, without limitation earthquake insurance. The Association may also insure any other property whether real or personal, owned by the Association, against loss or damage by fire and such other hazards as the Board may deem desirable, with the Association as the owner and beneficiary of such insurance. The insurance coverage with respect to the Common Area shall be written in the name of, and the proceeds thereof shall be payable to the Association. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried, with any excess proceeds not applied to restoration to be credited against the Common Expenses allocated to the Owners. Premiums for all insurance carried by the Association shall be includable as part of the Common Expenses.

##### *11.1.2 Liability and Other Insurance.*

The Board shall have the power and duty to procure and maintain commercial general liability insurance, including medical payments and malicious mischief, in such limits as are commercially reasonable and prudent (but in no event shall limits be less than Five Millions Dollars (\$5,000,000)) covering all claims for personal injury and property damage arising out of a single occurrence, insuring against liability for bodily injury, death and property damage arising from the activities of the Association hereunder or with respect to property maintained or required to be maintained by the Association pursuant hereto including, if obtainable, a cross-liability endorsement insuring each insured against liability to each other insured. The Board may also obtain Worker's Compensation insurance and other liability insurance on behalf of the Association as is customary or as it deems prudent, insuring each Lot Owner and the Association

and Declarant from liability in connection with the Common Area, the premiums for which shall constitute an element of the Common Expense. All insurance policies shall be reviewed at least annually by the Board and the limits modified in the commercially reasonable discretion of the Board. The Association may also obtain such errors and omissions insurance, indemnity bonds, fidelity bonds and other insurance as it deems advisable, insuring its directors and officers, and the project manager, against any liability for any act or omission in carrying out their obligations hereunder.

*11.1.3 Notice of Expiration Requirements.*

If available on commercially reasonable terms, each of the policies of insurance maintained by the Association shall contain a provision that the policy shall not be cancelled, terminated, materially modified or allowed to expire by its terms, without ten (10) days' prior written notice to the Declarant and to each Owner and Mortgagee, insurer and guarantor of a Mortgage who has filed a written request with the carrier for such notice.

**11.2 INSURANCE OBLIGATIONS OF OWNERS.**

Each Owner shall obtain "all-risk" property insurance to insure the Improvements on Owner's Lot and Business Park Property. All such insurance shall provide an agreed amount endorsement for no less than one hundred percent (100%) of the full replacement cost (new without deduction for depreciation) of the Improvements, fixtures and other property or Owner or any of its tenant or occupants on Owner's Lot. All such policies shall contain a provision that the same shall not be canceled or terminated, or shall not be renewed, except upon at least thirty (30) days' written notice to the Board. The Association has the right, but not the duty, to cure an Owner's failure to comply with this Section by purchasing the insurance on behalf of the Owner, who shall then be required to reimburse the Association, together with a ten percent (10%) administrative charge thereupon, for all costs incurred by the Association in obtaining the insurance. It shall further be the responsibility of each Owner to provide insurance on his personal property and to carry commercial general liability insurance in the amount and with coverage established from time to time by the Association (but in no event shall limits be less than Five Million Dollars (\$5,000,000)) to cover Owner's individual liability for injury to persons or damage to property occurring on his Lot. Such policies shall not adversely affect or diminish any liability under any insurance obtained by or on behalf of the Association. If any loss intended to be covered by insurance carried by or on behalf of the Association shall occur and the proceeds payable thereunder shall be reduced by reason of insurance carried by any Owner, such Owner shall assign the proceeds of such insurance carried by such Owner to the Association, to the extent of such reduction, for application to the same purposes as the reduced proceeds are to be applied. The insurance required under this Section may be provided under the Association's blanket policy or policies and may, subject to the approval of the Association, be provided through a program of self-insurance.

**ARTICLE XII  
OWNER INDEMNITY**

**12.1 GENERAL INDEMNITY.**

Subject to the provisions of Section 12.3 below, each Owner (the "Indemnifying Owner") shall protect, indemnify, defend, and hold Declarant, each other Owner, and the Association,

harmless from and against all claims, expenses, liabilities, loss, damage, and costs, including without limit any actions or proceedings in connection therewith and reasonable attorneys' fees, incurred in connection with, or arising from (i) any breach of this Declaration or any Land Use Conditions or Land Use Restrictions by the indemnifying Owner or its tenants, licensees or permittees, (ii) any violation of Applicable Law (including Hazardous Materials laws) by indemnifying Owner or tenants, licensees or permittees in connection with use or occupancy of indemnifying Owner's Lot, and (iii) any other accident, injury, loss, or damage, howsoever caused, to any person or loss or damage to property as shall occur on the Indemnifying Owner's Lot.

**12.2 COMMON AREA.**

Each Owner shall protect, indemnify, defend and hold harmless the Declarant, each other Owner, and the Association, from and against all claims, expenses, liabilities, loss, damage, and costs, including without limit any actions or proceedings in connection therewith and reasonable attorneys' fees, incurred in connection with, or arising from use of the Common Area or Common Area Improvements by the Indemnifying Owner or tenants, licensees or permittees thereof.

**12.3 GENERAL PROVISIONS.**

Notwithstanding anything to the contrary in this Article, neither the Association, Declarant, nor any Owner shall be entitled to indemnification for any damage caused by or arising from its gross negligence or willful misconduct or the gross negligence or willful misconduct of its agents or contractors. Without limiting the foregoing, the Association, Declarant, and each Owner waives any right of recovery against the other Owners for any loss, damage, or injury to the extent the same is actually covered by insurance.

**ARTICLE XIII  
RIGHTS OF MORTGAGEES**

**13.1 GENERAL PROTECTIONS.**

Notwithstanding any other provision of this Declaration, no amendment or violation of the Declaration defeats or renders invalid the rights of the Mortgagee or Beneficiary under any first lien priority Mortgage or Deed of Trust (meaning any mortgage or deed of trust with first lien priority over all other mortgages or deeds of trust encumbering a Lot) upon one (1) or more Lots made in good faith and for value, provided that, after the foreclosure thereof, such Lot will remain subject to this Declaration.

**13.2 WRITTEN NOTIFICATION.**

Each Mortgagee or Beneficiary, insurer and guarantor of a first lien priority Mortgage or Deed of Trust encumbering at least one Lot, upon filing a written request for notification with the Association, is entitled to written notification from the Association of the following:

13.2.1 Any condemnation or casualty loss that affects either a material portion of the Common Area or any Common Area Improvements;

13.2.2 Any delinquency of sixty (60) days or more in the performance of any Owner obligation hereunder, including without limit any payment of the Percentage Share owed

by the Owner(s) of the Lots securing the respective first Mortgage or Deed of Trust, which notice each Owner hereby consents to and authorizes; and

13.2.3 Any material amendment to this Declaration, as specified in Section 16.3.1.

**13.3 ADDITIONAL RIGHTS UPON REQUEST.**

All Mortgagees, Beneficiaries, insurers and guarantors of a first lien priority Mortgages or Deeds of Trust encumbering at least one Lot, upon written request to the Board, shall have the right to examine copies of the records relating to the Association's incurring and subsequent payment of Common Expenses, and the allocation thereof to Owners as Assessments, during normal business hours.

**13.4 PRIORITY OF MORTGAGE LIENS.**

No lien described under Section 8.9.2, nor any breach of this Declaration, nor the enforcement of any provision hereof defeats or renders invalid the rights of the Mortgagee or Beneficiary under any Recorded first lien priority Mortgage or Deed of Trust upon a Lot made in good faith and for value; except that, any Mortgage or Deed of Trust Recorded after the Recording by the Association of a Lien Notice shall be subject to the rights of the Association under that Lien Notice. After a Beneficiary or other Person obtains title to a Lot by judicial foreclosure or by means set forth in a Deed of Trust, the Lot shall remain subject to the Declaration and the payment of all installments of the applicable Percentage Share allocation accruing after the date the Beneficiary or other Person obtains title shall become due and payable by said Beneficiary or Person.

**ARTICLE XIV  
ENFORCEMENT**

**14.1 ENFORCEMENT OF THE GOVERNING DOCUMENTS.**

Enforcement hereof by Declarant, the Association or any Owner shall be governed by the terms of this Article. All disputes arising under the Governing Documents, other than those described in Sections 8.9 and 14.2 shall be resolved as follows:

*14.1.1 Violations Identified by the Association.*

If the Association determines that there is a violation of the terms of this Declaration, or the Approving Authority notifies the Association that an Owner has not complied with the provisions of Article IX of this Declaration or that an Improvement which is the maintenance responsibility of an Owner needs maintenance, repair, restoration or painting, then the Association, in addition to any other remedies set forth in this Declaration, may give written notice to the responsible Owner identifying (i) the condition or violation complained of, and (ii) a reasonable length of time within which the Owner must remedy the violation (including, if applicable, the length of time within which the Owner must submit plans to the Approving Authority and the length of time that the Owner has to complete the work once plans therefor are approved by the Approving Authority). If an Owner does not perform such corrective action as is required by the Association within the allotted time, the Association may (a) remedy such condition or violation complained of, whereupon the cost of causing such corrective action shall be reimbursed by said Owner to the Association, together with a ten percent (10%) administrative

fee, within ten (10) days of written demand therefor, or (b) pursue legal or equitable remedies for damages or to compel compliance with Owner's obligations under this Declaration.

*14.1.2 Recorded Notice of Noncompliance.*

If an Owner does not perform corrective action within the allotted time therefor pursuant to Section 14.1.1, above, the Association may Record against title to the Lot, or portion thereof on which the condition or violation exists, a memorandum, declaration or notice of noncompliance (a "Notice of Noncompliance") against the Lot in such form as may comply with the rules and regulations of, or otherwise be acceptable to, the County recorder's office. Said Notice of Noncompliance shall attach any written notice delivered by the Association pursuant to Section 14.1.1, above, and must recite (a) a good and sufficient legal description of any such Lot, (b) the record Owner or reputed Owner thereof, (c) the Association's name and address, and (d) a brief description of the condition or violation requiring corrective action. Recordation of the Notice of Noncompliance creates a lien on the Lot as provided in the California Civil Code for the actual costs incurred by the Association to correct the noncompliance or enforce compliance by Owner, whether such costs are incurred before or after the Notice of Noncompliance is Recorded. The Notice of Noncompliance must be signed by an authorized officer or agent of the Association, and must be mailed in the manner set forth in the California Civil Code to the record Owner of the Lot no later than ten (10) calendar days after recordation. The Association shall not be liable to Owner for any damages, costs, loss or injury resulting from the Recording, in good faith, any Notice of Noncompliance against title to a Lot or portion thereof.

*14.1.3 Legal Proceedings.*

Failure to comply with any of the terms and obligations of this Declaration by an Owner, or any other Person deriving rights from Owner, is grounds for relief which may include, without limit, an action to recover sums due for damages, injunctive relief, foreclosure of any lien, or any combination thereof; provided, however, that the procedures described in Section ARTICLE XIV above shall first be followed (to the extent the procedures are applicable).

*14.1.4 No Waiver.*

Failure to enforce any provision hereof does not waive the right to enforce that provision, or any other provision hereof.

*14.1.5 Right to Enforce.*

For so long as the originally-named Declarant holds legal title to any real property within the Business Park Property, Declarant shall have the right, but not the obligation, to enforce any of the provisions of this Declaration subject only to compliance with the provisions of the California Civil Code.

*14.1.6 City Provisions.*

The City's local law enforcement officers may enforce City and State traffic and penal codes within the Property. All work to be performed within public easements located on the Business Park Property must be plan checked and inspected by the City, and the applicable Owner shall be responsible for the payment of applicable City fees related thereto. The City shall have the right, but not the obligation, to enforce this Declaration. If adequate maintenance of the

Common Areas does not occur in accordance with this Declaration, the City shall have the right to access the Business Park Property to collect such violation and the City shall have the right to charge the applicable Owner its reasonable costs incurred by the City to correct such violation.

#### **14.2 DISPUTES WITH DECLARANT PARTIES.**

Any disputes (each a "Declarant Party Dispute") between any Owner or the Association, on the one hand, and the Declarant or any director, officer, partner, member, employee, contractor, subcontractor, design professional or agent of Declarant (collectively "Declarant Parties"), on the other hand, arising under the Governing Documents or relating to the Business Park Property shall be subject to the following provisions; except that Declarant Party Disputes shall not include (a) any disputes where the amount in controversy is less than \$10,000, nor (b) any action taken by the Association to collect any delinquent Assessment:

##### *14.2.1 Notice.*

Any Owner asserting a Declarant Party Dispute (the "Claimant") against any Declarant Party shall give written notice of the Declarant Party Dispute by personal or mail service as authorized by Code of Civil Procedure Sections 415.10, 415.20, 415.21, 415.30 or 415.40 describing the nature of the Declarant Party Dispute and any proposed remedy (the "Dispute Notice") to the Declarant Party(ies) against whom such Declarant Party Dispute is asserted (the "Respondent").

##### *14.2.2 Right to Inspect and Correct.*

Beginning on the date the Dispute Notice is delivered to the Respondent and continuing until the Declarant Party Dispute is resolved, the Respondent and its representatives have the right to (a) meet with the Claimant at a reasonable time and place to discuss the Declarant Party Dispute, (b) enter the Business Park Property to inspect any areas that are subject to the Declarant Party Dispute, and (c) conduct inspections and testing (including destructive or invasive testing) in a manner deemed appropriate by the Respondent. If Respondent elects to take any corrective action, Respondent and its representatives shall be provided full access to the Business Park Property to take and complete the corrective action. Respondent, with the consent of the Association, has the right to select the corrective action Respondent believes is appropriate but is not obligated to take any corrective action.

##### *14.2.3 Mediation.*

If the Declarant Party Dispute is not resolved within sixty (60) days after Respondent's receipt of the Dispute Notice (or in the event that Respondent has commenced corrective action pursuant to Section 14.2.2 above, ninety (90) days after receipt of the Declarant Party Dispute Notice), the Association or Respondent may require that the parties submit the Declarant Party Dispute to mediation. Failure of the Association or Respondent to submit the Declarant Party Dispute to mediation within the foregoing period shall constitute a waiver of such party's right to pursue mediation. Such Declarant Party Dispute shall be mediated pursuant to (a) the American Arbitration Association mediation procedures in existence when the Dispute Notice is delivered, or (b) mediation procedures of any other entity offering mediation services that is mutually acceptable to Claimant and Respondent. The provisions of California Evidence Code Sections 1115 through 1128 shall be applicable to the mediation process. Use and disclosure of statements, evidence and communications offered or made in the course of the mediation shall be

governed by these Sections, including the Sections which preclude use of material in future proceedings and the Sections which provide for confidentiality of material. Each party shall bear its own attorneys' fees and costs incurred in connection with the mediation. All other expenses of the mediation including the fees charged by the mediator and the cost of any proof or expert advice requested by the mediator, shall be borne by the Claimant and Respondent equally, unless the parties agree otherwise.

*14.2.4 Judicial Reference.*

If a Declarant Party Dispute remains unresolved after completion of mediation entered into by the parties pursuant to the preceding Section, the Claimant may file a lawsuit. All lawsuits regarding Declarant Party Disputes must be resolved by general judicial reference pursuant to California Code of Civil Procedure Sections 638 and 641 through 645.1, as modified by this Section 14.2.4:

(a) The referee shall be a retired judge who served on the Los Angeles, Orange, Riverside or San Bernardino County Superior Court with substantial experience in the type of matter in dispute and without any relationship to the parties or interest in the Business Park, unless the parties agree otherwise. Claimant and Respondent shall meet to select the referee no later than thirty (30) days after service of the initial complaint on the Respondent. Any dispute regarding selecting the referee shall be resolved by the court in which the complaint is filed.

(b) The general referee shall have the authority to try all issues of fact and law and to report a statement of decision to the court. The referee shall be the only trier of fact and law in the reference proceeding, and shall have no authority to further refer any issues of fact or law to any other person unless (1) all parties to the judicial reference proceeding consent, or (2) the referee determines that a conflict of interest or similar situation has arisen which would make it inappropriate for the referee to act as the trier of fact or law concerning an issue or matter. In the second alternative, an alternative judicial referee shall be selected solely for resolving or rendering a decision concerning the issue or matter involved in the conflict.

(c) The parties to the judicial reference proceeding shall be entitled only to limited discovery, consisting of the exchange of the following: (1) witness lists, (2) expert witness designations, (3) expert witness reports, (4) exhibits, (5) reports of testing or inspections, and (6) briefs. Any other discovery authorized in the California Code of Civil Procedure shall be permitted by the referee upon a showing of good cause or based on the consent of both parties to the judicial reference proceeding.

(d) The referee shall have the power to hear and dispose of motions, including motions relating to discovery, provisional remedies, demurrers, motions to dismiss, motions for judgment on the pleadings and summary judgment and/or adjudication motions, in the same manner as a trial court judge. The referee shall also have the power to adjudicate summarily issues of fact or law including the availability of remedies whether or not the issue adjudicated could dispose of an entire cause of action or defense. The referee may rule on all post-hearing motions in the same manner as a trial judge.

(e) The referee may grant all legal and equitable remedies and award damages in the judicial reference proceeding. The referee's statement of decision shall contain an explanation of the factual and legal basis for the decision pursuant to California Code of Civil Procedure Section 632. The decision of the referee shall stand as the decision of the court, and upon filing of the statement of decision with the clerk of the court, judgment may be entered thereon in the same manner as if the Declarant Party Dispute had been tried by the court. The decision of the referee shall be subject to appeal in the same manner as if the Declarant Party Dispute had been tried by the Court.

(f) Each party shall bear its own attorney's fees and costs incurred in connection with the judicial reference proceeding. All other fees and costs incurred in connection with the judicial reference proceeding, including the cost of a stenographic record of the proceedings, shall be advanced equally by the Claimant and all Respondents against whom the Declarant Party Dispute has been asserted. However, the referee shall have the power to reallocate such fees and costs among the parties in the referee's final ruling. This provision does not modify any provision of any contract between the Association and any Declarant Party requiring indemnification or establishing a different allocation of costs between the Association and such other Declarant Party.

*14.2.5 Statute of Limitations.*

Nothing in this Section 14 shall be deemed to toll, stay, reduce or extend any applicable statute of limitations; provided, however, that either party may commence a legal action which in the good faith determination of that party is necessary to preserve that party's rights under any applicable statute of limitations so long as no further steps in processing the action are taken except those authorized in this Section 14.3.

*14.2.6 Agreement to Dispute Resolution; Waivers of Jury Trial; Amendment.*

THE ASSOCIATION AND EACH OWNER AGREE TO USE THE PROCEDURES ESTABLISHED IN THIS SECTION 14 TO RESOLVE ALL DECLARANT PARTY DISPUTES AND WAIVE THEIR RIGHTS TO RESOLVE DECLARANT PARTY DISPUTES IN ANY OTHER MANNER. DECLARANT AND EACH OWNER ACKNOWLEDGE THAT BY AGREEING TO RESOLVE ALL DECLARANT PARTY DISPUTES AS PROVIDED IN THIS SECTION 14.3, THEY ARE GIVING UP THEIR RIGHT TO HAVE DECLARANT PARTY DISPUTES TRIED BEFORE A JURY. THIS SECTION 14 MAY NOT BE AMENDED WITHOUT DECLARANT'S PRIOR WRITTEN CONSENT.

**14.3 COVENANTS RUNNING WITH LAND.**

The covenants contained in this Declaration shall constitute covenants running with the land; shall be binding upon, and shall inure to the benefit of the Business Park Property. This Declaration shall further inure to the benefit of the Declarant, and shall be enforceable by Declarant; provided, however that nothing in this Section 14.3 shall be deemed to confer any rights or obligations hereunder to any successor-in- title to the interests of Declarant or any affiliate thereof except to the extent any such rights are expressly assigned by Declarant to such successor-in-title, to the extent permitted hereby and not personal to the originally-named Declarant hereunder.

**ARTICLE XV  
SUPPLEMENTAL DECLARATIONS AND AMENDMENTS**

**15.1 ANNEXING ADDITIONAL PROPERTY; SUPPLEMENTAL DECLARATION CONTENT.**

Each Supplemental Declaration annexing additional real property to the Business Park Property shall contain at least the following provisions:

*15.1.1 Declaration Reference.*

A reference to this Declaration, which reference shall state the date of Recordation hereof and the Instrument number or other relevant Recording data of the County Recorder's office.

*15.1.2 Update of Percentage Share Calculation.*

An update to Exhibit B providing an allocation of Percentage Share among all Lots constituting the Business Park Property pursuant to the formula for computing Percentage Share described in Section 1.2.45, above. The Board shall have the power and duty to adjust the Percentage Share of each Lot as may be necessary and appropriate to maintain reasonable consistency with the formula for computing Percentage Share.

*15.1.3 Additions and Modifications.*

Any Supplemental Declaration may contain such additions and modifications of the covenants, conditions, restrictions, reservation of easements and equitable servitudes contained in this Declaration as may be necessary and as are consistent with the general plan of this Declaration.

**15.2 DEANNEXATION AND AMENDMENT.**

Declarant may unilaterally amend a Supplemental Declaration or delete all or a portion of the Business Park Property from the encumbrance of this Declaration, so long as (a) Declarant is the Owner of the affected Lot, (b) a Notice of Deletion or an amendment to any operative Supplemental Declaration, as applicable, is Recorded in the same manner as the then-applicable Supplemental Declaration was Recorded, and (c) all rights of access, parking, utility easements and other rights to portions of such Business Park Property are retained to the Association and the Members.

**15.3 OTHER SUPPLEMENTAL DECLARATIONS.**

Declarant may Record one or more Supplemental Declarations (a) against all of the Business Park Property in connection with the Declarant's assignment of its rights and obligations as Declarant, for which no signatures of Owners shall be required, and (b) against any portion of the Business Park Property, with the consent of the Owners of all Lots included within such portion of the Business Park Property, in which case, the Supplemental Declaration may designate the use classifications within the areas affected by a Supplemental Declaration and may further supplement this Declaration with such additional covenants, conditions, restrictions and land uses as Declarant may deem appropriate for the real property subject to such Supplemental Declaration. Subject to the foregoing, the provisions of any Supplemental Declaration may impose such additional, different or more restrictive conditions, covenants, restrictions, land uses and limits as Declarant may deem advisable, taking into account the particular requirements of Development.

If there is any conflict between any Supplemental Declaration and this Declaration, then provided that the Supplemental Declaration was approved and recorded in accordance with the terms and intent of this Declaration, the provisions of the Supplemental Declaration shall control with respect to the Lot or other real property described in such Supplemental Declaration unless otherwise stated therein.

**15.4 AMENDMENT.**

Amendments to this Declaration shall require the approval of Owners constituting a majority of the Percentage Share of the Business Park Property.

*15.4.1 Member Approval.*

Except as otherwise expressly provided in this Declaration, all amendments to this Declaration can be adopted by Members holding at least a majority of the voting power of the Association. The following amendments shall require approval by the Members as follows:

(a) any amendment to the methodology for allocating Percentage Shares set forth in Section 1.2.45 shall require the consent of seventy-five percent (75%) of the "Class A" voting power of the Association;

(b) any amendment to the provisions of this Section 15.4.1 shall require the unanimous consent of all Members.

*15.4.2 First Mortgagee Approval.*

In addition to the required notice and consent of Members and Declarant, the Beneficiaries of fifty-one percent (51%) of the First Mortgages on all the Parcels in the Business Park Property who have requested notifications of proposed action requiring the consent of a specified percentage of First Mortgagees must approve of any of the following amendments to the Governing Documents.

(a) Any amendment which affects or purports to affect the validity or priority of Mortgages or the rights or protection granted to Beneficiaries, insurers and guarantors of First Mortgages in this Declaration.

(b) Any amendment which would or could result in a Mortgage being canceled by forfeiture.

(c) Any amendment relating to the insurance provisions or to the application of insurance proceeds or to the disposition of any money received in any taking under condemnation proceedings.

(d) Any amendment which would subject any Owner to a right of first refusal or other such restriction if such Lot is proposed to be sold, transferred or otherwise conveyed.

*15.4.3 Notice to Mortgagees: Deemed Approval.*

Each Beneficiary of a First Mortgage on a Parcel in the Business Park Property which is sent written notice of a proposed amendment or termination of this Declaration by certified or registered mail with a return receipt requested (or such other form of notice (such as telefacsimile or overnight delivery) as may be reasonably specified in such Beneficiary's written request for notice) shall be deemed to have approved the amendment or termination if the Beneficiary fails to submit a response to the notice within thirty (30) days after the date of the mailing receipt.

*15.4.4 Certification of Amendments.*

A copy of each amendment shall be certified by at least two (2) Association officers, and the amendment will be effective when a Certificate of Amendment is Recorded. The Certificate, signed and sworn to by at least two (2) officers of the Association that the requisite number of members have either voted for or consented in writing to any termination or amendment adopted as provided above, when Recorded, is conclusive evidence of that fact. The Association shall maintain in its files the record of all such votes or written consents for at least four (4) years. The certificate reflecting any termination or amendment which requires the written consent of any of the Beneficiaries of First Mortgages must include a certification that the requisite approval of such First Mortgagees has been obtained. The certificate reflecting any termination or amendment which requires the written consent of Declarant or is subject to Declarant's veto right must include Declarant's signature.

*15.4.5 City Approval.*

All amendments must receive approval from the City to ensure that the provisions of these CC&R's that are required under the conditions of approval of the Business Park are not modified or deleted.

**ARTICLE XVI  
DISCLAIMERS; NOTICE; GENERAL PROVISIONS**

**16.1 DISCLAIMERS AND PROXIMITY DISCLOSURES.**

*16.1.1 No Representations or Warranties.*

No representations or warranties of any kind, express or implied, have been given or made by Declarant or its agents or employees in connection with the Business Park Property or the Annexable Area (if any) or any portion thereof, its physical condition, zoning, compliance with Applicable Laws, fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof as a planned development, except as specifically and expressly set forth in this Declaration.

*16.1.2 No Representations for Further Annexation.*

No obligation exists for Declarant to annex any further land or property, whether or not adjacent to the Business Park, into the Business Park Property.

*16.1.3 Security and Privacy Disclaimer.*

Services provided by the Association and Improvements constructed by the Declarant, or their respective agents, may offer some degree of access control or other security benefit to the Business Park Property and its occupants and users; provided however, that these services and Improvements do not provide security for Persons, personal property or Lots within the Business Park Property. Neither Declarant nor the Association (a) have offered to provide security for the Business Park Property, (b) makes any representations or warranties whatsoever concerning the privacy and safety of the Business Park Property. Neither the Association nor Declarant shall be liable to any Person and each Owner waives any claim against the same for (i) any unauthorized or criminal entry of third parties into the Business Park Property, any Lot within the Business Park Property or any Improvements within the Business Park Property, (ii) any injury or damage to Persons, or (iii) any loss of property in and about the Business Park Property, any Lot within the Business Park Property or any Improvements within the Business Park Property, by or from any unauthorized or criminal acts of third parties, regardless of any action, inaction, failure, breakdown, malfunction or insufficiency of the services and Improvements provided by the Association or Declarant.

**16.2 INTERPRETATION.**

*16.2.1 General Rules.*

This Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation, maintenance and protection of the Business Park Property and Common Area. Any violation of this Declaration is a nuisance. The Governing Documents shall be interpreted so as to be consistent with Applicable Laws, including ordinances and regulations of any appropriate Governmental Authority. The Governing Documents shall be construed and governed by the laws of the State of California. The Article and Section headings have been inserted for convenience only, and may not be considered or referred to in resolving questions of interpretation or construction. As used in this Declaration, the singular includes the plural and the plural the singular; and the masculine, feminine and neuter each include the other, unless the context dictates otherwise. Except as otherwise expressly provided in this Declaration, any reference in this Declaration to time for performance of obligations or to elapsed time means consecutive calendar days, months, or years, as applicable. All exhibits attached to this Declaration are incorporated in this Declaration by this reference. All references made in this Declaration to statutes are to those statutes as amended or restated or to subsequently enacted replacement statutes.

*16.2.2 Relationship to Other Governing Documents.*

If there are conflicts or inconsistencies between this Declaration and Design Guidelines or Business Park Guidelines, then the provisions of this Declaration shall prevail.

*16.2.3 Severability.*

The provisions hereof are independent and severable, and a determination of invalidity or partial invalidity or unenforceability of any one provision or portion hereof by a court of competent jurisdiction does not affect the validity or enforceability of any other provision hereof.

**16.3 DURATION; TERMINATION.**

This Declaration and each term, easement, covenant, restriction and undertaking contained herein will remain in effect for a term of sixty (60) years from the Recordation hereof and will automatically be renewed for successive ten (10) year periods thereafter, unless both the Board and Owners representing at least sixty percent (60%) of the Percentage Share vote not to automatically renew the term of this Declaration following initial expiration thereof.

*16.3.1 Unilateral Amendment.*

Notwithstanding any other provisions of this Section 16.3, Declarant (as long as Declarant owns any portion of the Annexable Area) may unilaterally amend this Declaration by Recording a written instrument signed by Declarant (1) to conform this Declaration to any laws or regulations or any Governmental Authority or to the Land Use Conditions, (2) to correct typographical or engineering errors or amend, replace or substitute any exhibit to correct typographical or engineering errors, (3) include any exhibit that was inadvertently omitted from the Declaration at the time of Recording or (4) change any exhibit or portion of an exhibit to conform to as-built conditions.

**16.4 NO PUBLIC RIGHT OR DEDICATION.**

Nothing contained in this Declaration constitutes a gift or dedication of all or any part of the Business Park Property to the public, or for any public use.

**16.5 CONSTRUCTIVE NOTICE AND ACCEPTANCE.**

Every Person who owns, occupies or acquires any right, title, estate or interest in or to any Lot or other portion of the Business Park Property does hereby consent and agree, and shall be conclusively deemed to have consented and agreed, to every limit, restriction, easement, reservation, condition and covenant contained in this Declaration, whether or not any reference to the Governing Documents is contained in the instrument by which such Person acquired an interest in the Business Park Property or any portion thereof.

**16.6 NOTICES.**

Except as otherwise provided in this Declaration, notice to be given to an Owner or Mortgagee must be in writing and may be delivered to the Owner or Mortgagee, as applicable, personally or by certified mail, return receipt requested, or by any two (2) of systems or technologies designed to record and communicate messages, such as telegraph, facsimile, electronic mail, or other electronic means. Delivery of such notice to one (1) or more co-owners of a Lot, to any general partner of a partnership, or to a member of a limited liability company, constitutes delivery to all co-owners, the partnership, or the limited liability company. Delivery of such notice to any officer or agent for the service of process on a corporation constitutes delivery to the corporation. Alternatively, notice may be delivered by reputable overnight courier or regular United States mail, postage prepaid, addressed to the Owner or Mortgagee at the most recent address furnished by such Owner or Mortgagee to the Association. If an Owner does not furnish an address, notice may be sent to the street address of an Owner's Lot. Notice by United States mail is deemed delivered three (3) business days after the time of such mailing.

**16.7 MERGERS OR CONSOLIDATIONS.**

Upon a merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer and enforce the covenants, conditions and restrictions established by the Association Governing Document, together with the covenants and restrictions established upon any other property, as one plan.

[SIGNATURES ON FOLLOWING PAGE]





EXHIBIT B

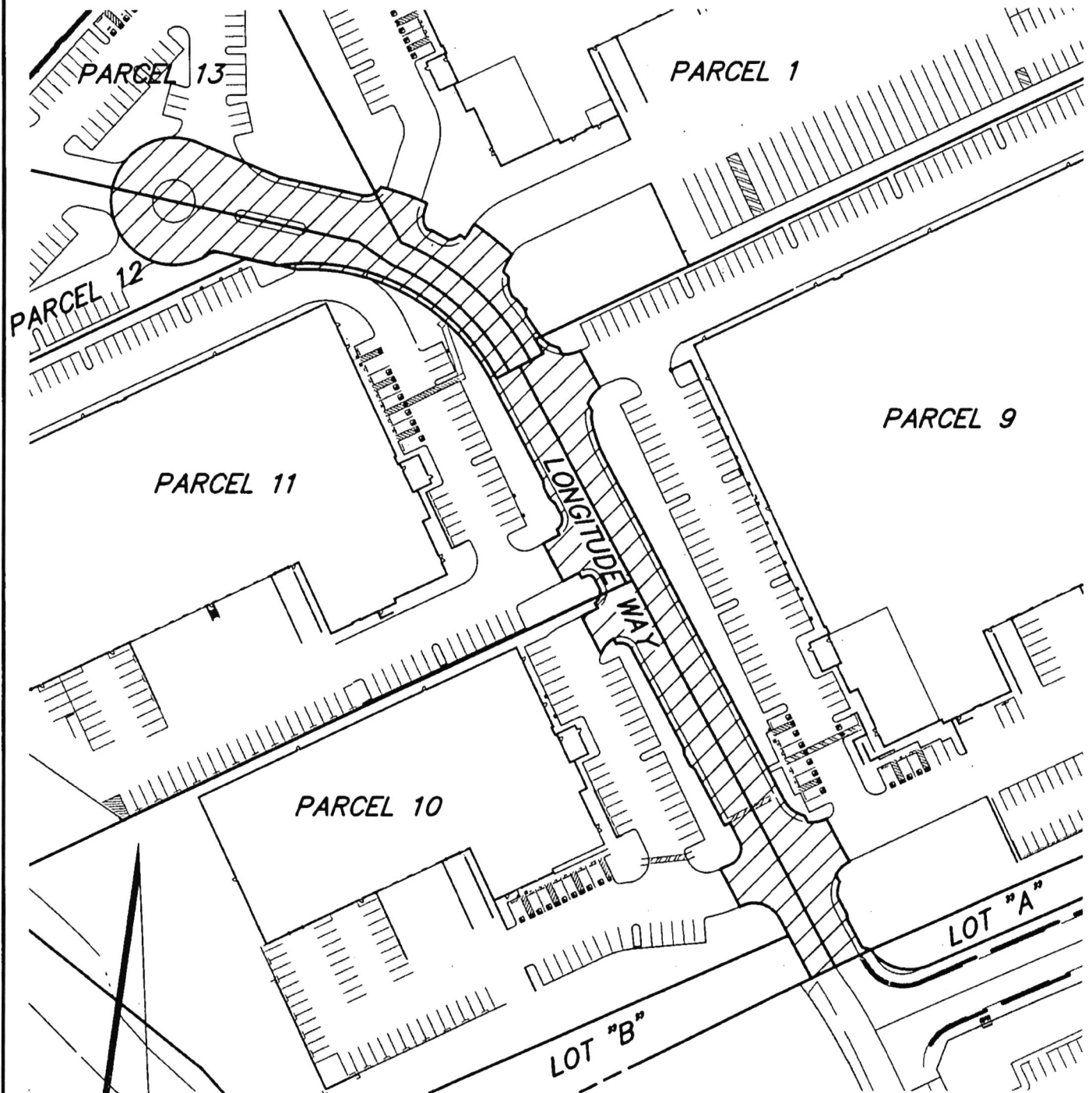
PERCENTAGE SHARE ALLOCATION OF COMMON EXPENSES

<b>BLDG</b>	<b>Parcel #</b>	<b>Net Parcel Size S.F.</b>	<b>% of total net parcel</b>	<b>Bldg Size</b>	<b>% of total bldg</b>	<b>Percentage Share</b>	<b># of Class A Votes</b>
15 Longitude Way	1	430,199	13.77%	164,888	15.32%	14.55%	14.55%
1 Latitude Way	2	179,890	5.76%	65,140	6.05%	5.91%	5.91%
3 Latitude Way	3	130,016	4.16%	44,833	4.17%	4.16%	4.16%
5 Latitude Way	4	90,971	2.91%	32,813	3.05%	2.98%	2.98%
7 Latitude Way	5	75,398	2.41%	22,759	2.11%	2.26%	2.26%
9 Latitude Way	6	88,623	2.84%	19,940	1.85%	2.34%	2.34%
4 & 6 Latitude Way	7	215,692	6.90%	54,318	5.05%	5.98%	5.98%
2 Latitude Way	8	202,663	6.49%	89,682	8.33%	7.41%	7.41%
17 Longitude Way	9	525,301	16.81%	253,702	23.57%	20.19%	20.19%
16 Longitude Way	10	171,710	5.50%	46,185	4.29%	4.89%	4.89%
14 Longitude Way	11	238,404	7.63%	78,327	7.28%	7.45%	7.45%
10 Longitude Way	12	480,969	15.40%	132,408	12.30%	13.85%	13.85%
11 Longitude Way	13	294,177	9.42%	71,415	6.63%	8.03%	8.03%
<b>Total</b>		<b>3,124,013</b>	<b>100.00%</b>	<b>1,076,410</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>

EXHIBIT "C"  
DESCRIPTION OF BUSINESS PARK PROPERTY,  
ROADWAYS AND SIGNS

[SEE ATTACHED]

### PARCEL MAP 37608 LONGITUDE WAY



**LEGEND**



INDICATES PRIVATE STREET AREA

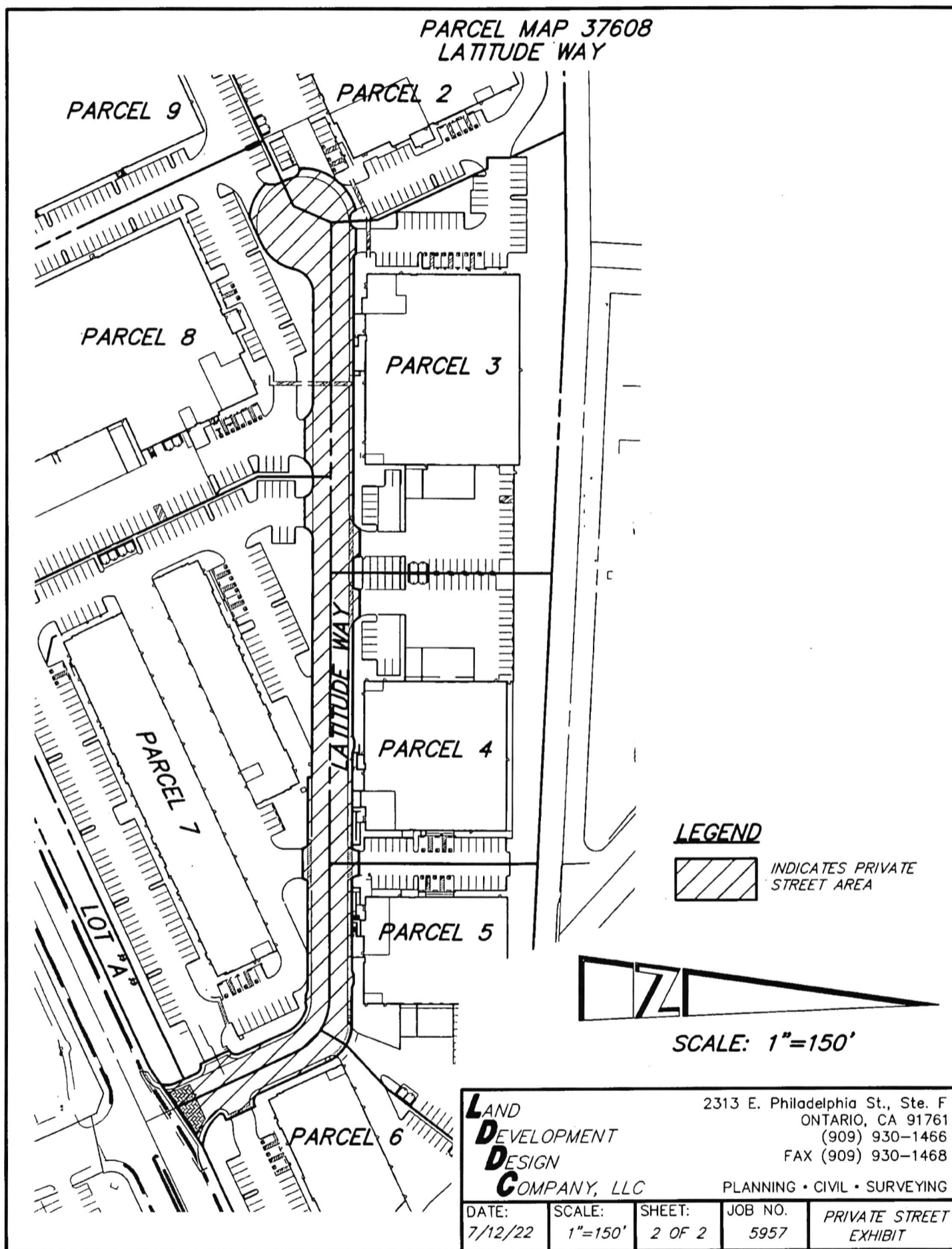
SCALE: 1"=120'

**L**AND  
**D**EVELOPMENT  
**D**ESIGN  
**C**OMPANY, LLC

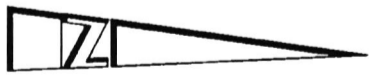
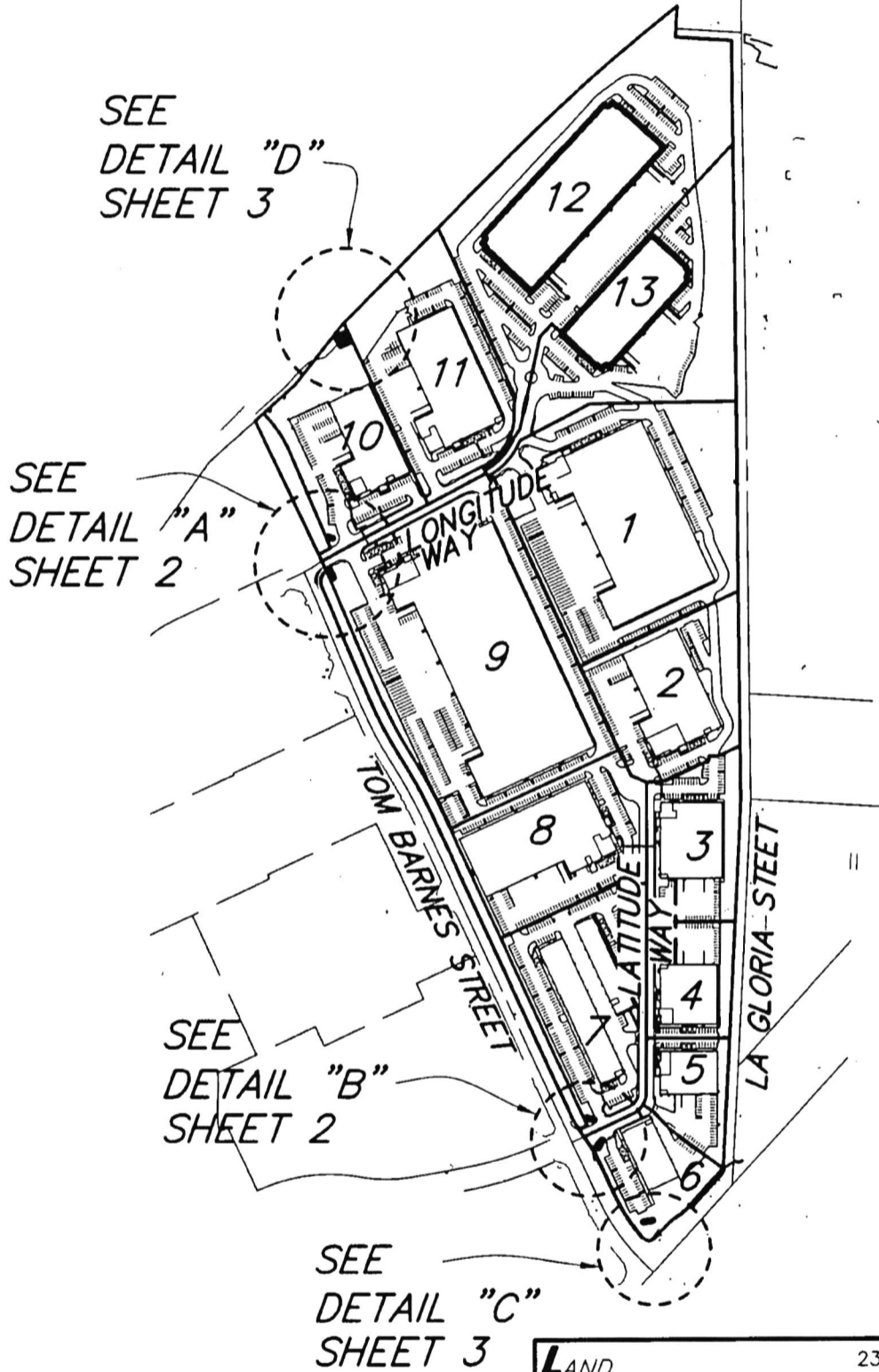
2313 E. Philadelphia St., Ste. F  
ONTARIO, CA 91761  
(909) 930-1466  
FAX (909) 930-1468

PLANNING • CIVIL • SURVEYING

DATE: 7/12/22	SCALE: 1"=120'	SHEET: 1 OF 2	JOB. NO. 5957	PRIVATE STREET EXHIBIT
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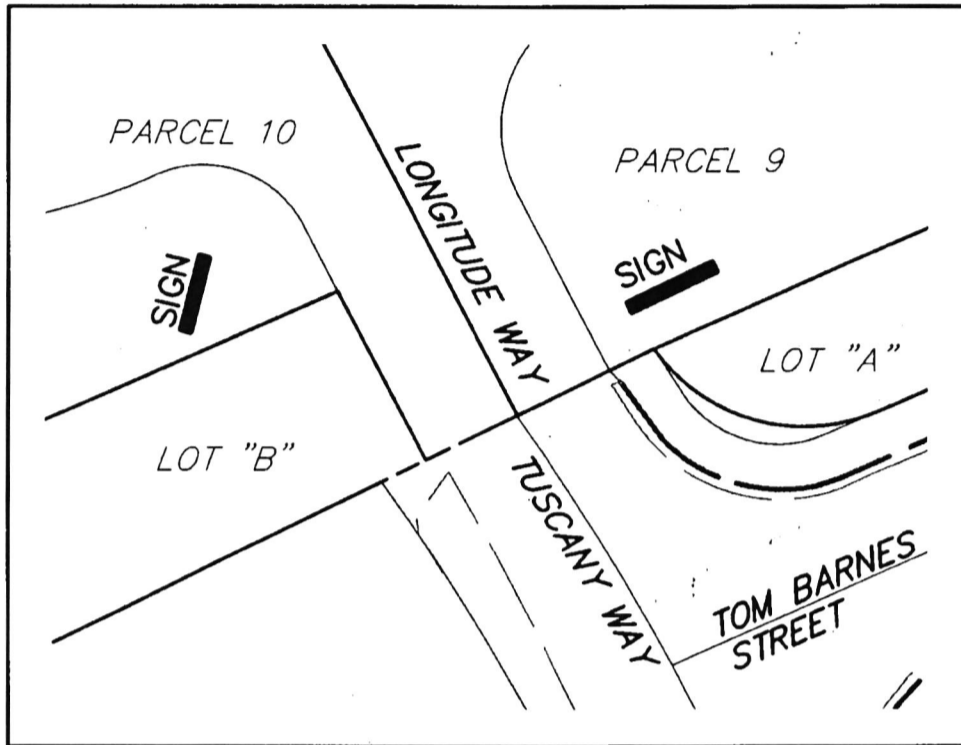
PARCEL MAP 37608



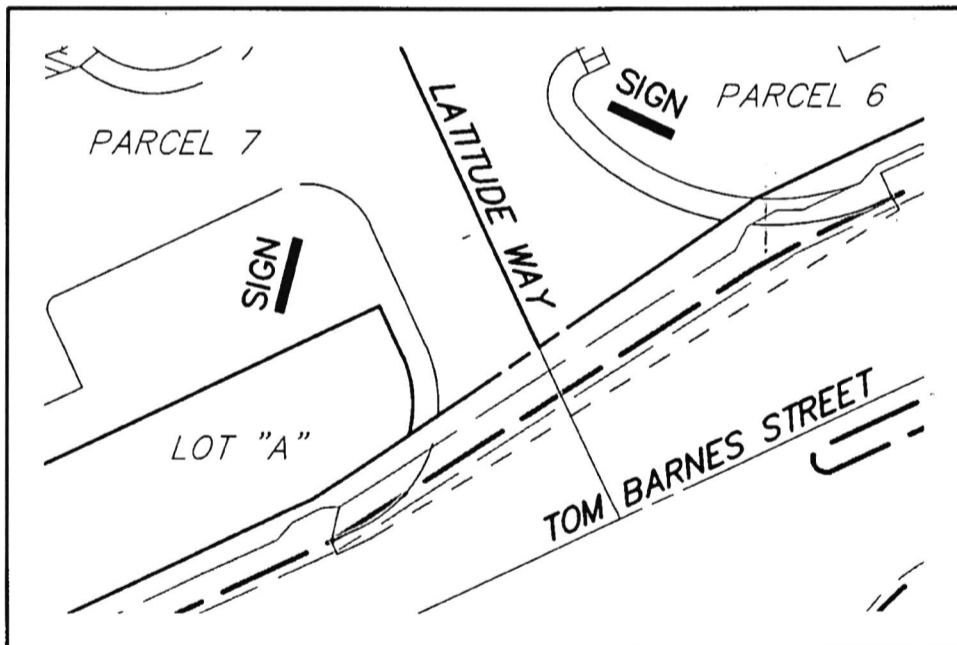
SCALE: 1"=500'

<b>L</b> AND <b>D</b> EVELOPMENT <b>D</b> ESIGN <b>C</b> OMPANY, LLC	2313 E. Philadelphia St., Ste. F ONTARIO, CA 91761 (909) 930-1466 FAX (909) 930-1468			
	PLANNING • CIVIL • SURVEYING			
DATE:	SCALE:	SHEET:	JOB NO.	MONUMENT SIGN EXHIBIT
7/12/21	1"=500'	1 OF 3	5957	

PARCEL MAP 37608'



DETAIL "A"



DETAIL "B"



SCALE: 1"=40'

**LEGEND**

 INDICATES SIGN

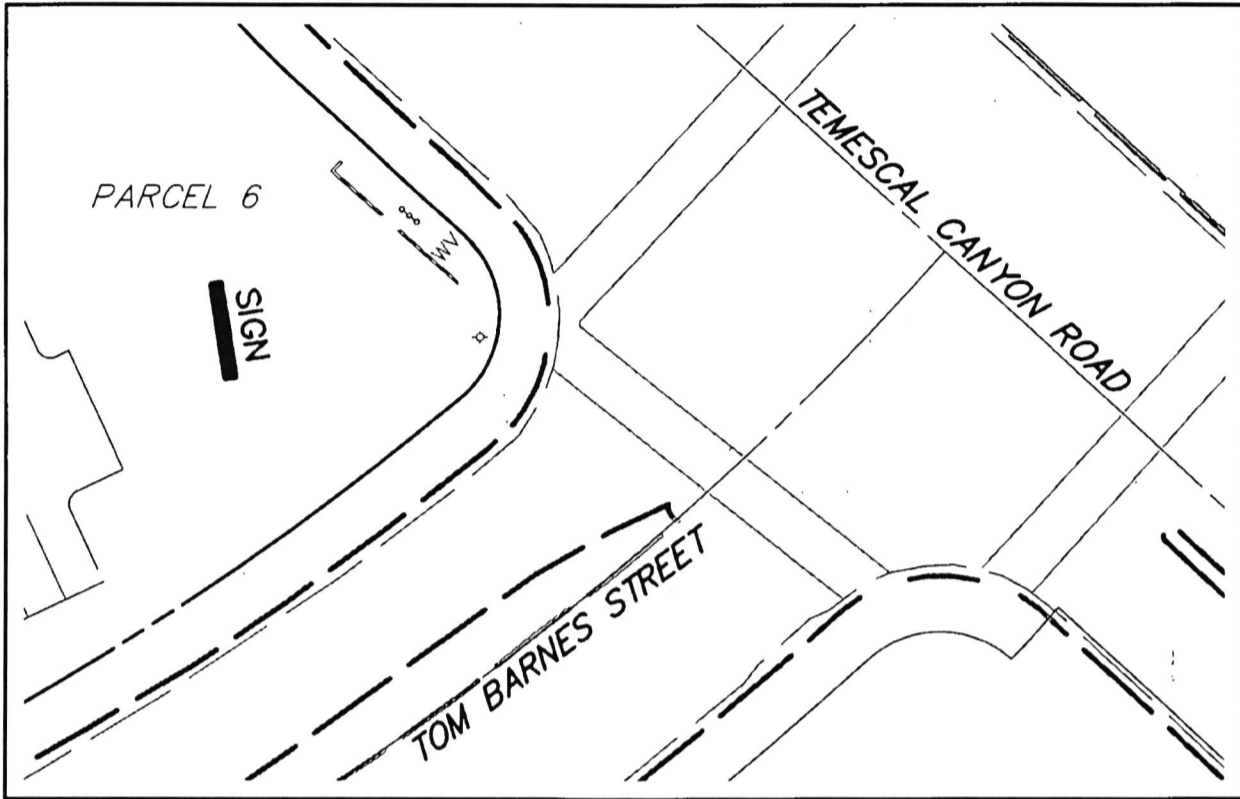
**L**AND  
**D**EVELOPMENT  
**D**ESIGN  
**C**OMPANY, LLC

2313 E. Philadelphia St., Ste. F  
ONTARIO, CA 91761  
(909) 930-1466  
FAX (909) 930-1468

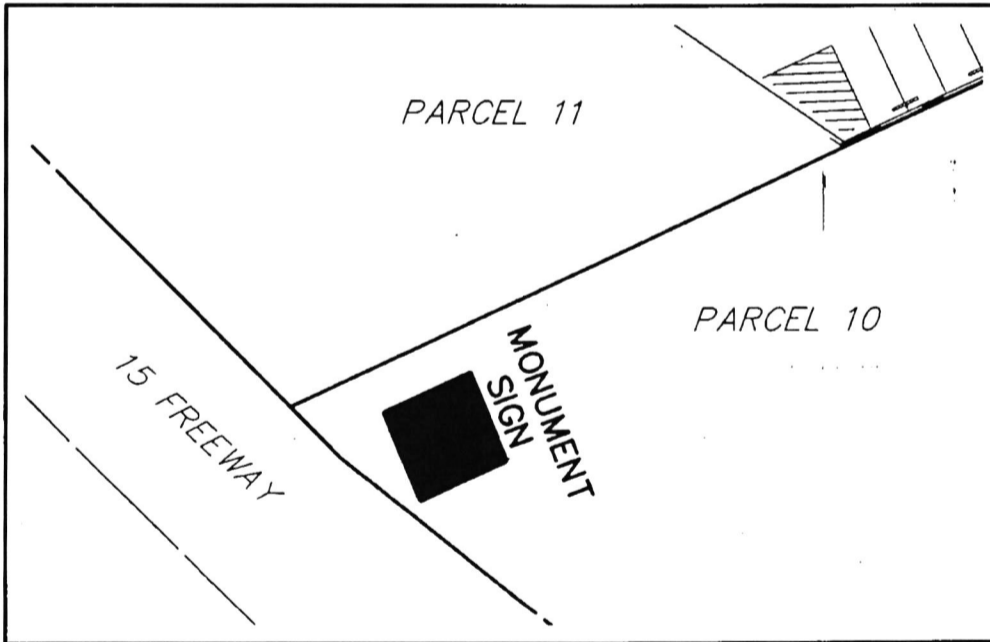
PLANNING • CIVIL • SURVEYING

DATE: 7/12/21	SCALE: 1"=40'	SHEET: 2 OF 3	JOB NO. 5957	MONUMENT SIGN EXHIBIT
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PARCEL MAP 37608





DETAIL "C"



SCALE: 1"=40'

DETAIL "D"

**LEGEND**

-  INDICATES SIGN
-  INDICATES MONUMENT SIGN

**L**AND  
**D**EVELOPMENT  
**D**ESIGN  
**C**OMPANY, LLC

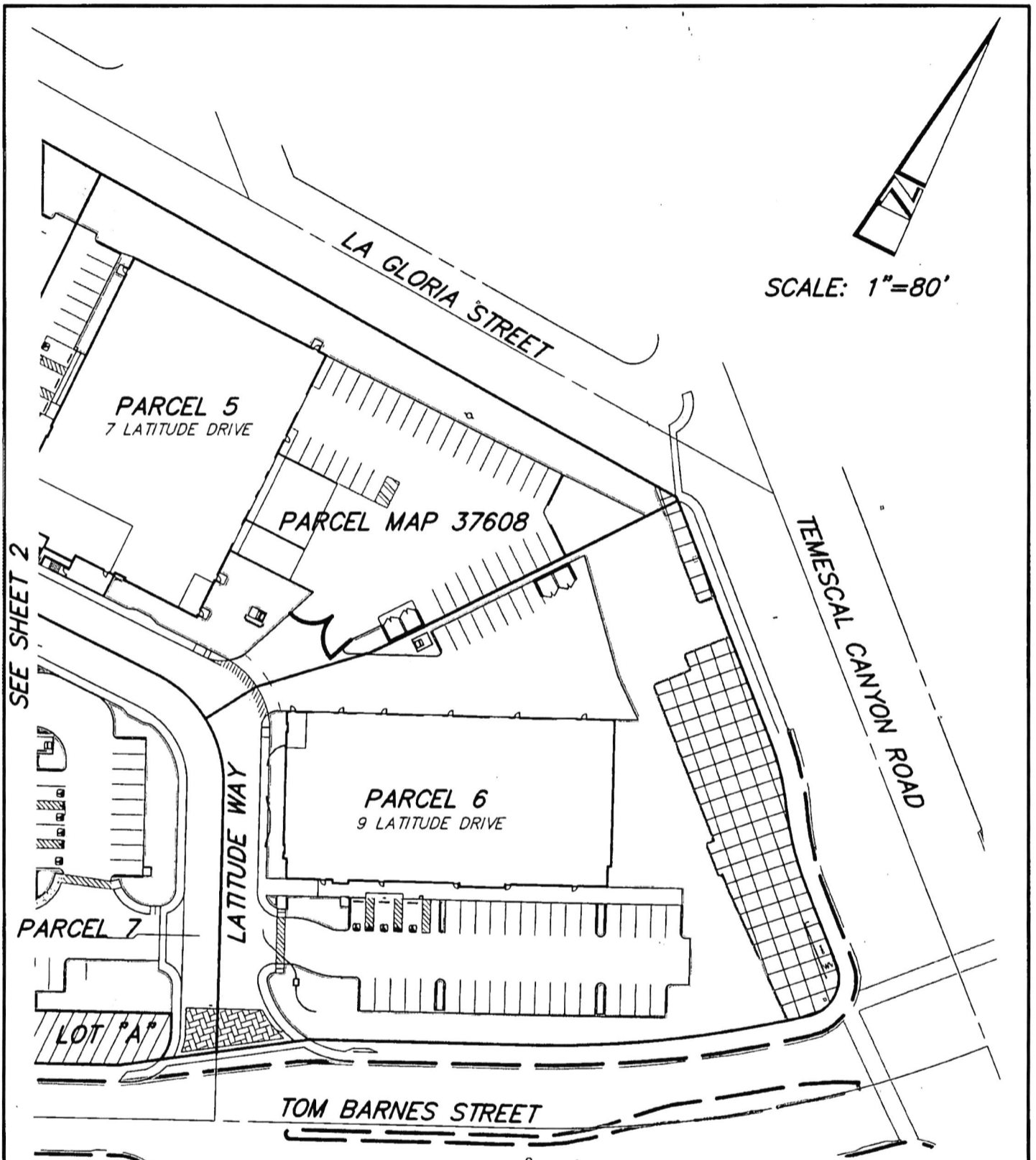
2313 E. Philadelphia St., Ste. F  
ONTARIO, CA 91761  
(909) 930-1466  
FAX (909) 930-1468

PLANNING • CIVIL • SURVEYING

DATE: 7/12/21	SCALE: 1"=40'	SHEET: 3 OF 3	JOB NO. 5957	MONUMENT SIGN EXHIBIT
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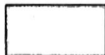
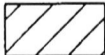

EXHIBIT "D"  
DESCRIPTION OF BUSINESS PARK PROPERTY,  
LANDSCAPE AREAS

[SEE ATTACHED]



SEE SHEET 2

**LEGEND**

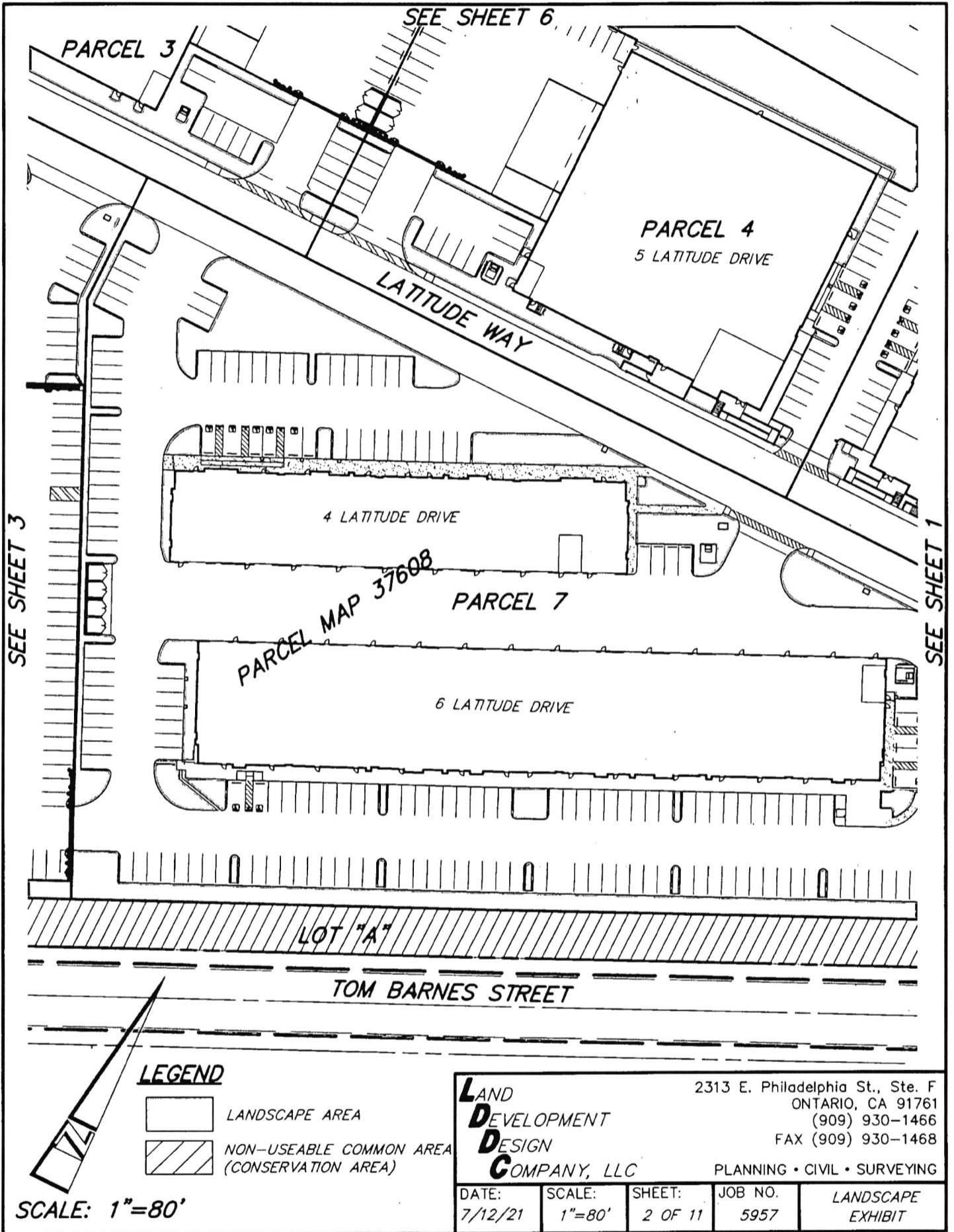
-  LANDSCAPE AREA
-  NON-USEABLE COMMON AREA (CONSERVATION AREA)
-  NON-USEABLE COMMON AREA

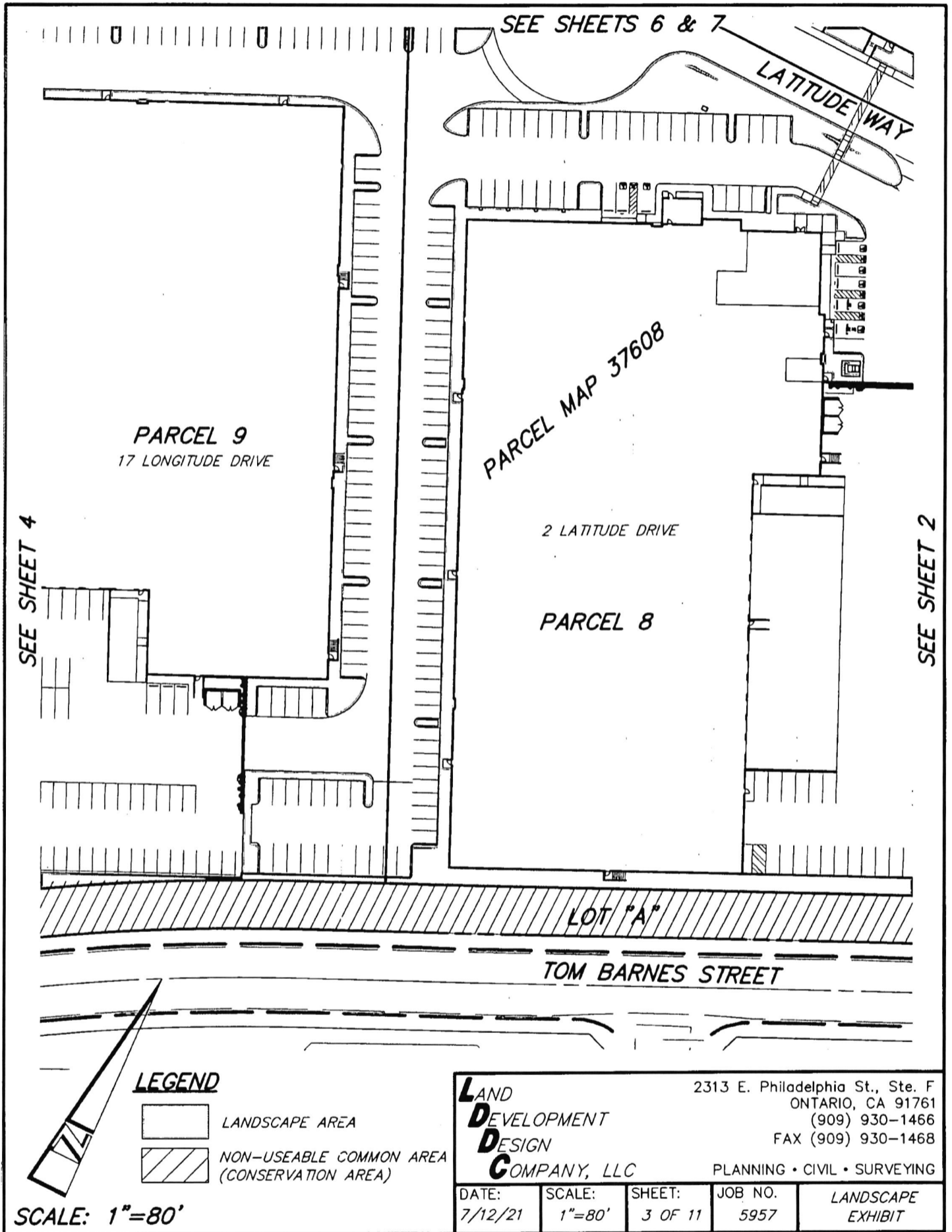
**LAND DEVELOPMENT DESIGN COMPANY, LLC**

2313 E. Philadelphia St., Ste. F  
 ONTARIO, CA 91761  
 (909) 930-1466  
 FAX (909) 930-1468

PLANNING • CIVIL • SURVEYING

DATE: 7/12/21	SCALE: 1"=80'	SHEET: 1 OF 11	JOB NO. 5957	LANDSCAPE EXHIBIT
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SEE SHEETS 6 & 7

LATITUDE WAY

PARCEL 9  
17 LONGITUDE DRIVE

PARCEL MAP 37608

2 LATITUDE DRIVE

PARCEL 8



SEE SHEET 4

SEE SHEET 2

LOT "A"

TOM BARNES STREET

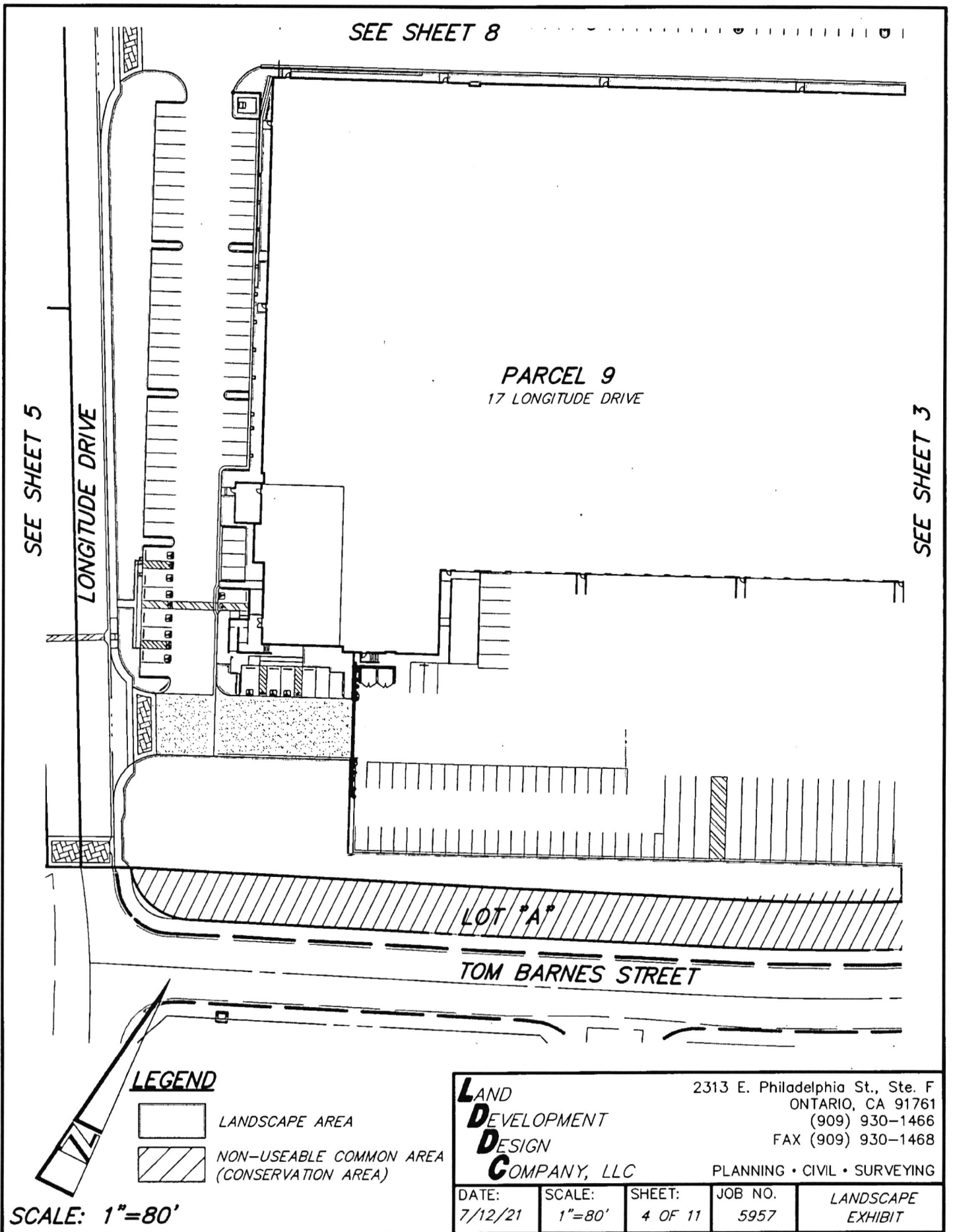
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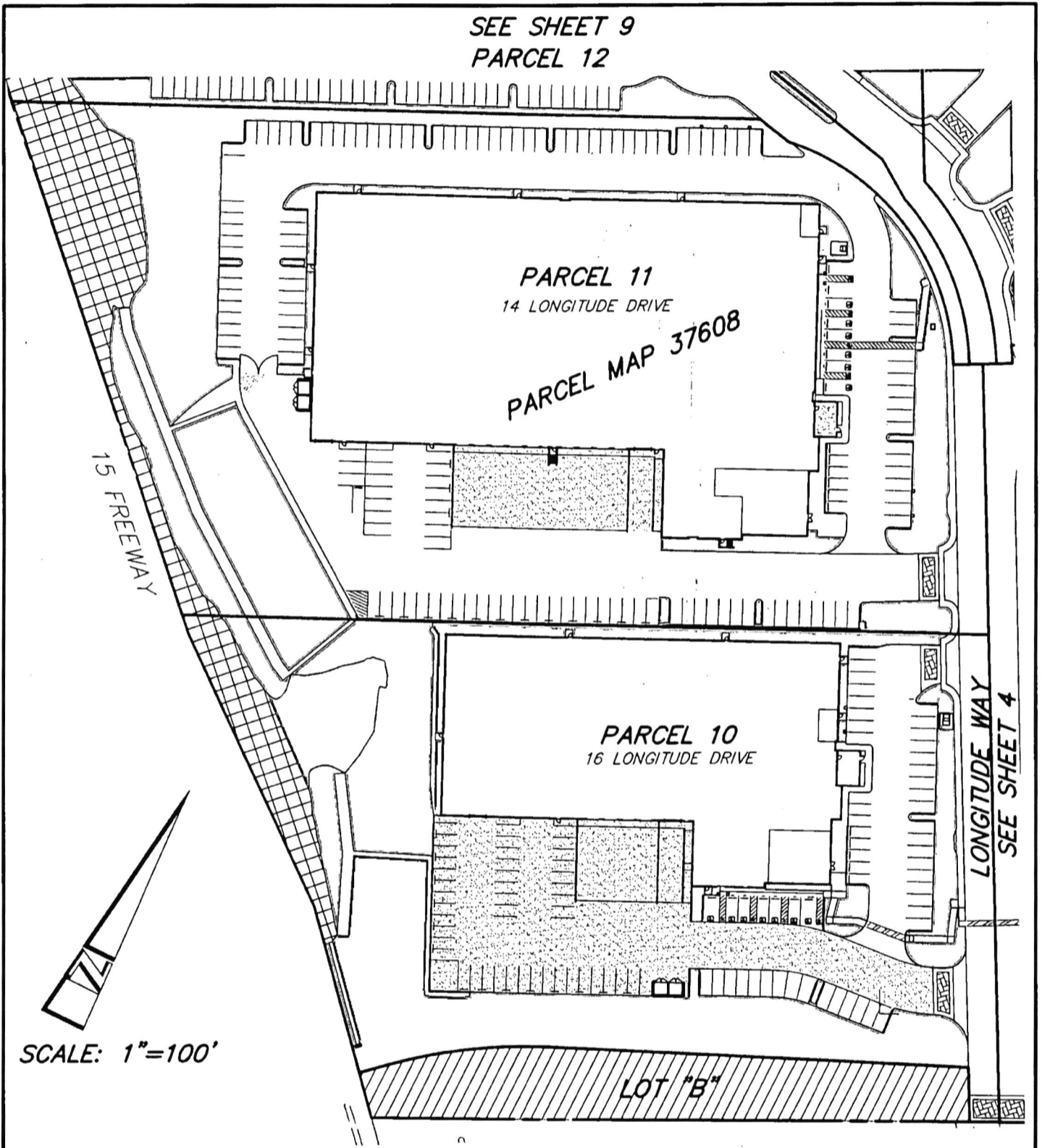
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-  NON-USEABLE COMMON AREA (CONSERVATION AREA)

SCALE: 1"=80'

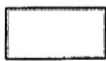
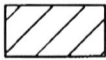

**LAND DEVELOPMENT DESIGN COMPANY, LLC**  
 2313 E. Philadelphia St., Ste. F  
 ONTARIO, CA 91761  
 (909) 930-1466  
 FAX (909) 930-1468  
 PLANNING • CIVIL • SURVEYING

DATE: 7/12/21	SCALE: 1"=80'	SHEET: 3 OF 11	JOB NO. 5957	LANDSCAPE EXHIBIT
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**LEGEND**

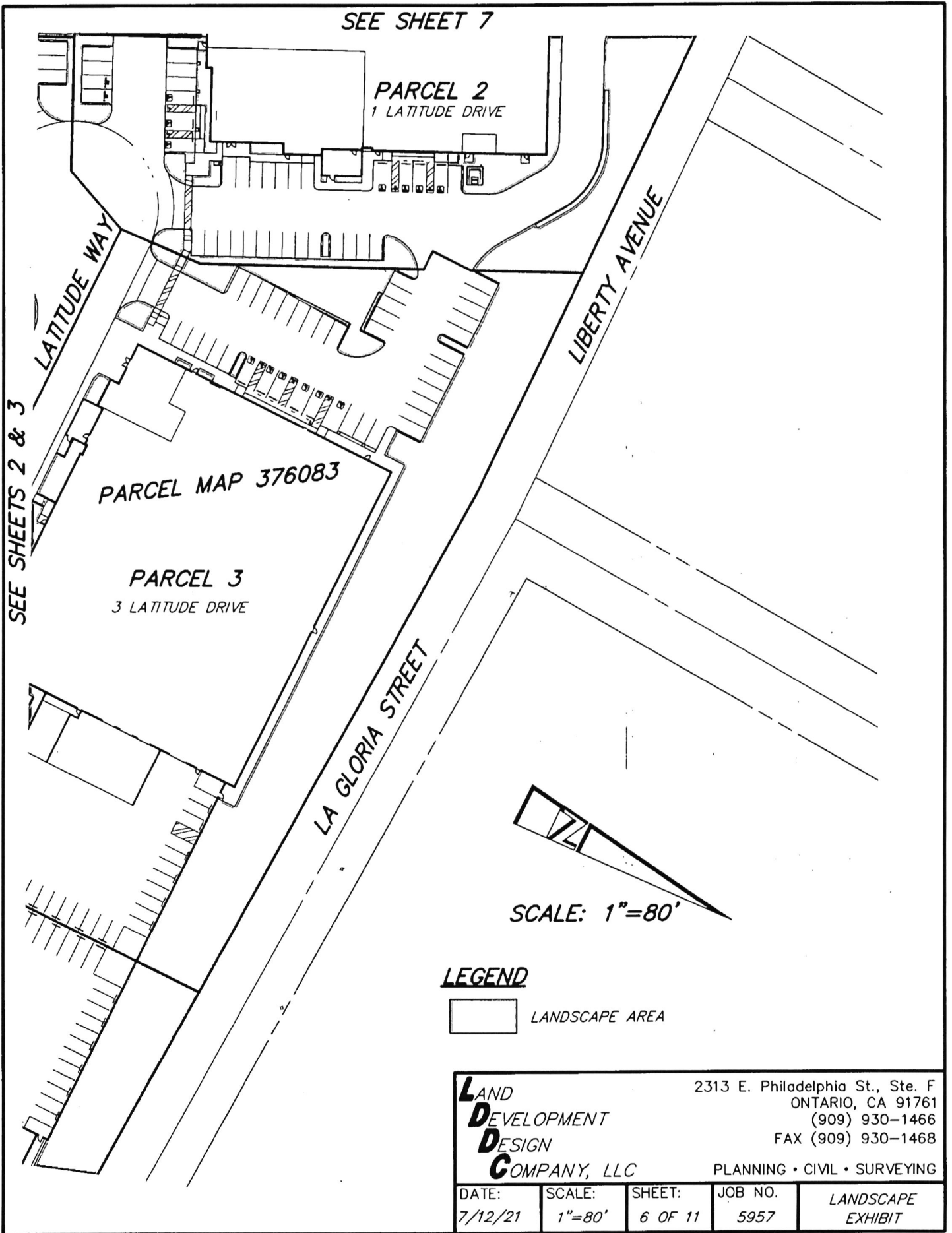
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-  NON-USEABLE COMMON AREA (CONSERVATION AREA)
-  NON-USEABLE COMMON AREA

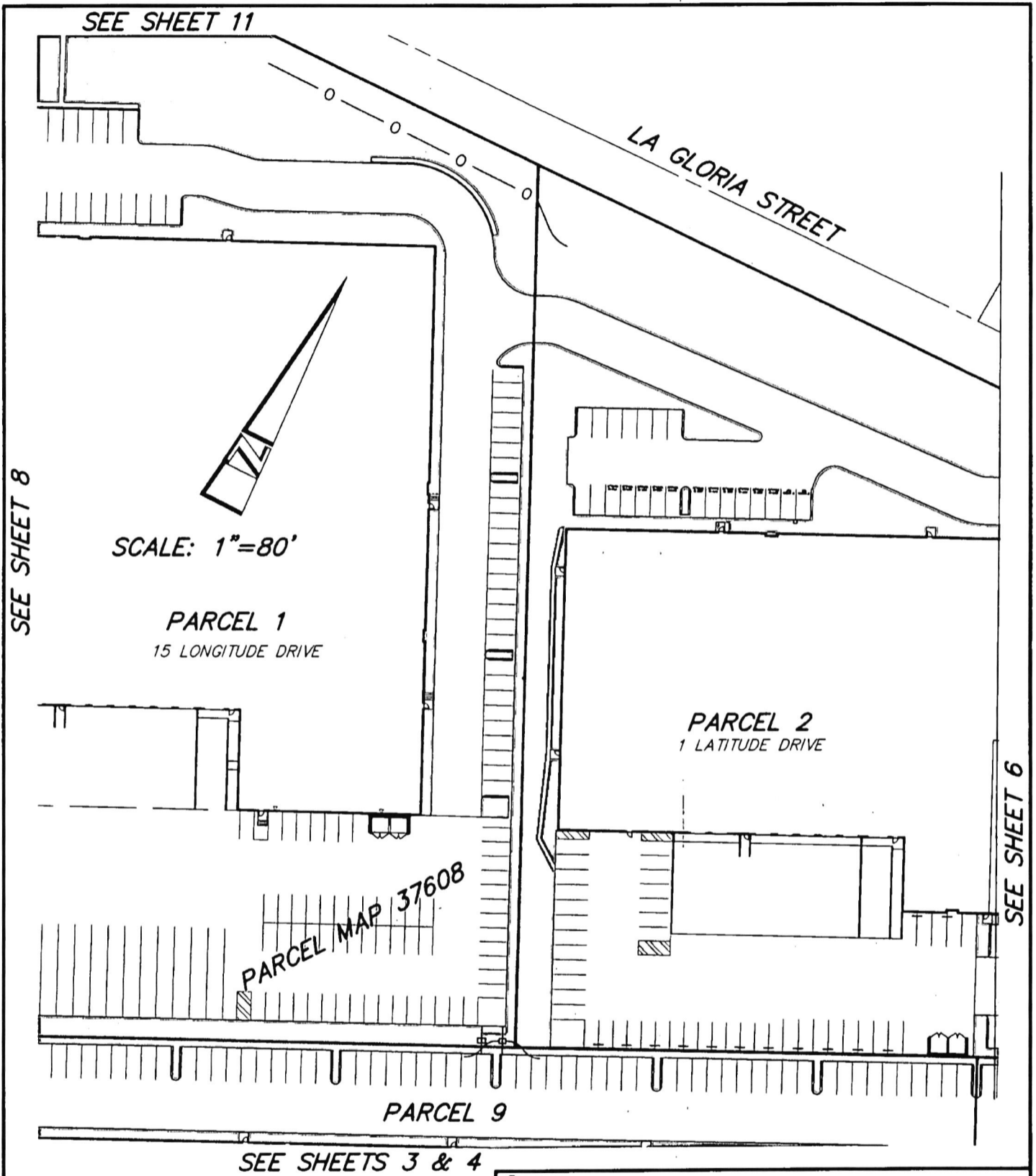
**L**AND  
**D**EVELOPMENT  
**D**ESIGN  
**C**OMPANY, LLC

2313 E. Philadelphia St., Ste. F  
ONTARIO, CA 91761  
(909) 930-1466  
FAX (909) 930-1468

PLANNING • CIVIL • SURVEYING

DATE: 7/12/21	SCALE: 1"=100'	SHEET: 5 OF 11	JOB NO. 5957	LANDSCAPE EXHIBIT
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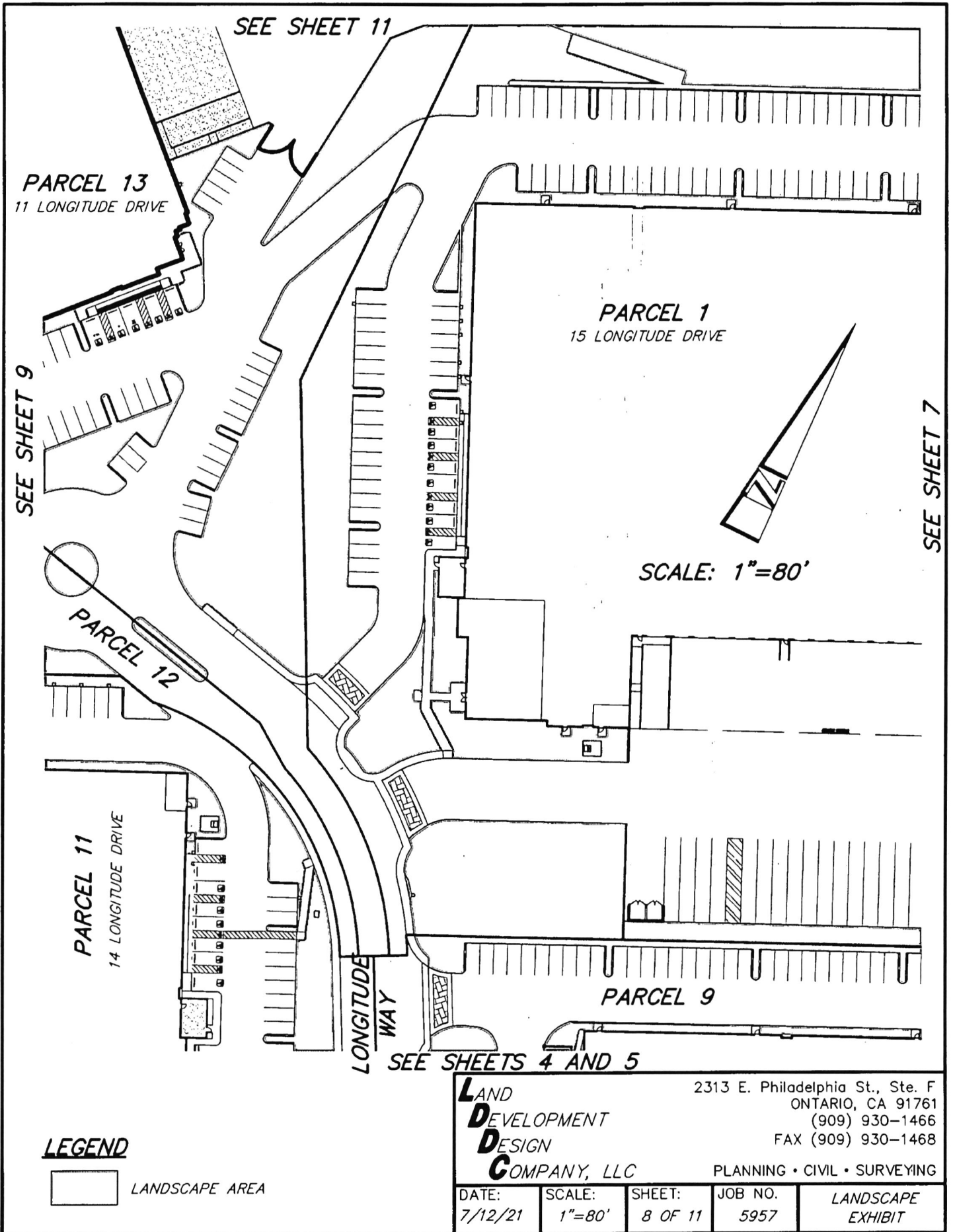
**LEGEND**

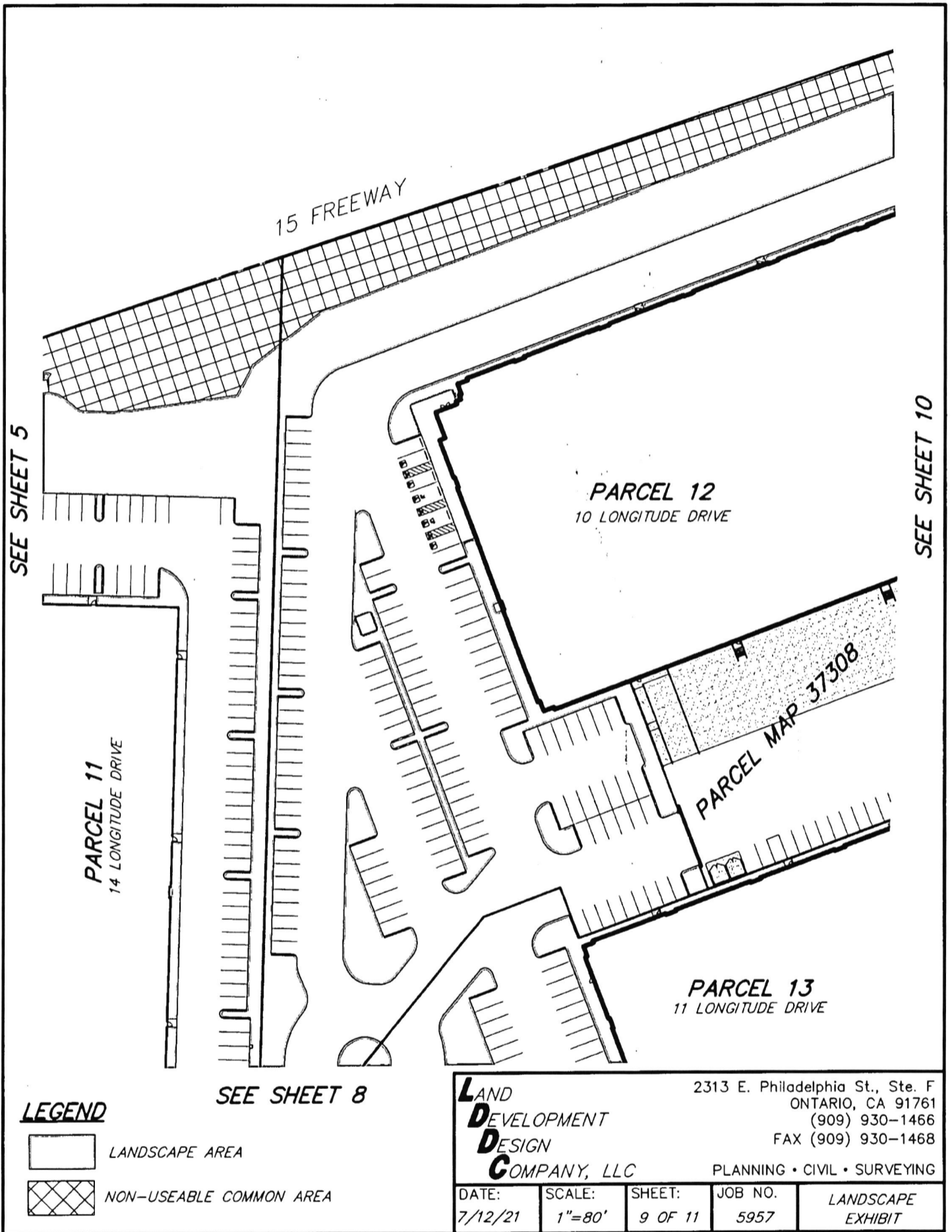
 LANDSCAPE AREA

**L**  
**D**  
**D**  
**C**  
LAND  
DEVELOPMENT  
DESIGN  
COMPANY, LLC

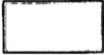

2313 E. Philadelphia St., Ste. F  
ONTARIO, CA 91761  
(909) 930-1466  
FAX (909) 930-1468  
PLANNING • CIVIL • SURVEYING

DATE: 7/12/21	SCALE: 1"=80'	SHEET: 7 OF 11	JOB NO. 5957	LANDSCAPE EXHIBIT
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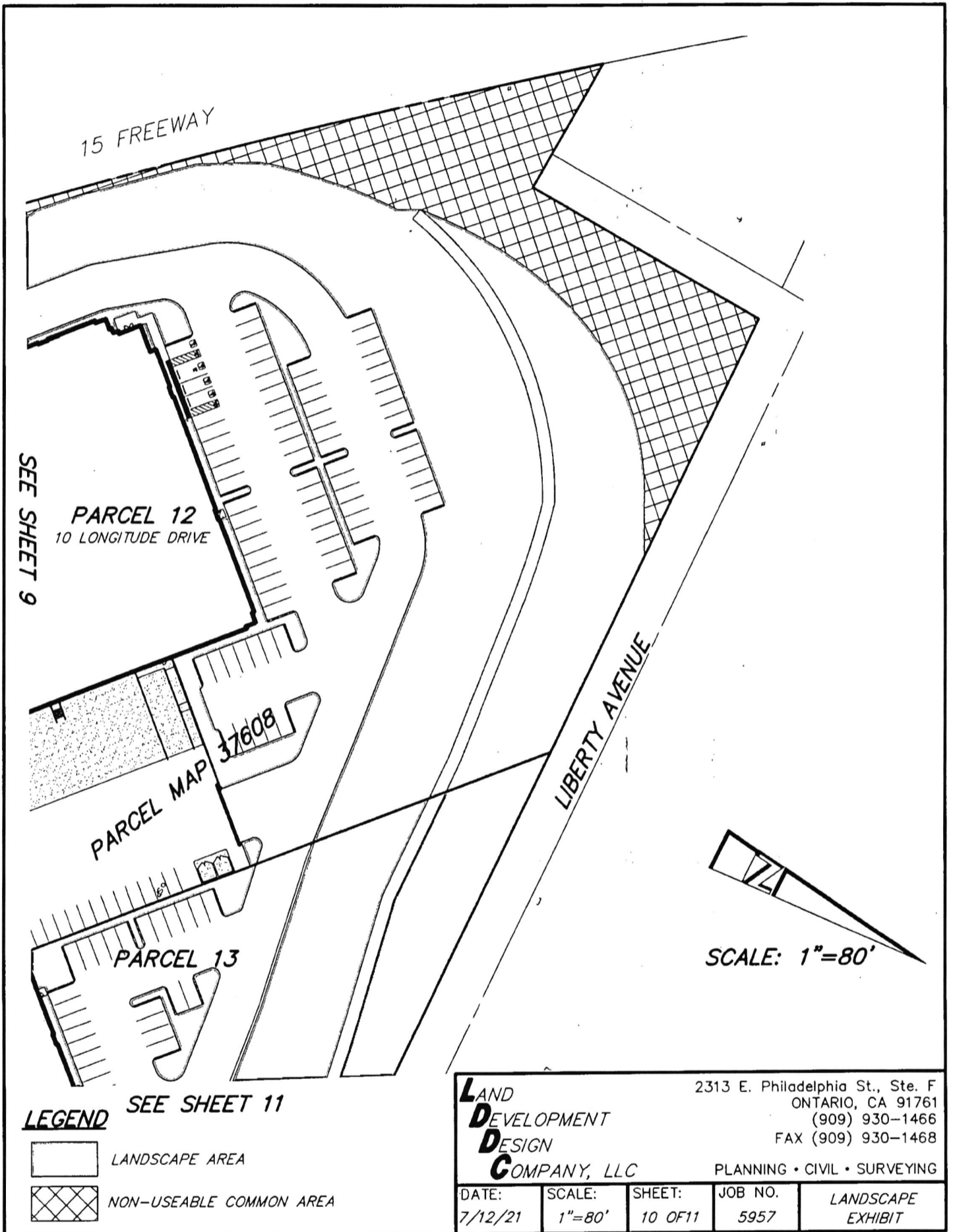
**LEGEND**

-  LANDSCAPE AREA
-  NON-USEABLE COMMON AREA

**L**AND  
**D**EVELOPMENT  
**D**ESIGN  
**C**OMPANY, LLC

2313 E. Philadelphia St., Ste. F  
ONTARIO, CA 91761  
(909) 930-1466  
FAX (909) 930-1468  
PLANNING • CIVIL • SURVEYING

DATE: 7/12/21	SCALE: 1"=80'	SHEET: 9 OF 11	JOB NO. 5957	LANDSCAPE EXHIBIT
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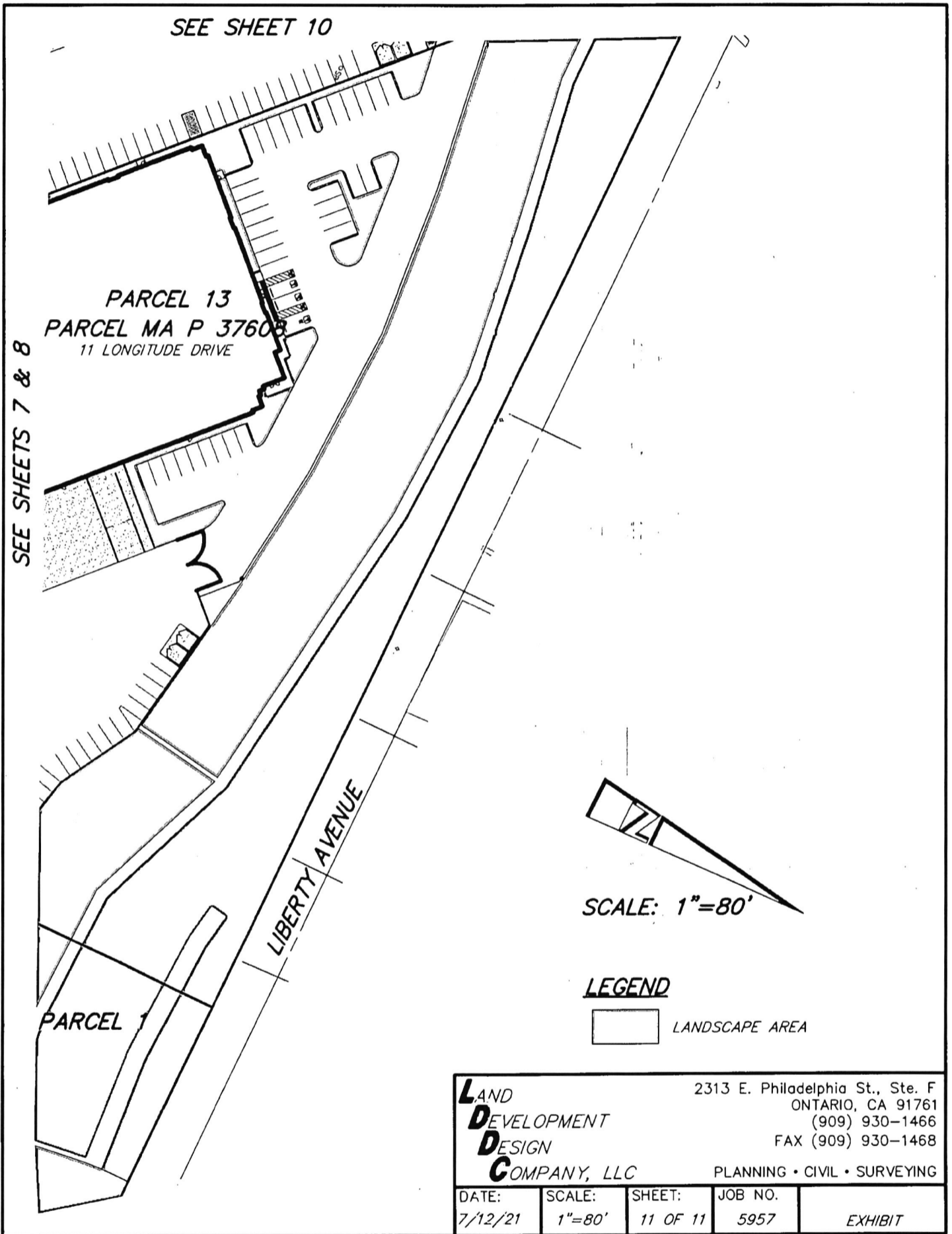


EXHIBIT E

SPECIFIC MAINTENANCE OBLIGATIONS

MAINTENANCE ITEM

RESPONSIBILITIES

Building	Owner shall maintain all elements of each building located on Owner's Lot, including all structural components, exterior finished surfaces, exterior walls, roofs, doors, lobbies, stairways and stairwells, restrooms and utility components, elevators, interior landscape elements and other decorative elements within the boundaries of the Lots; except that the Association shall have the right to recoat, resurface or repaint Building exteriors. Maintenance and repair of the Party Wall and other shared utility systems or other components of the Improvements shall be performed by all Owners of the affected Lots.
Rights of Association for Painting of the exterior of the Buildings	Upon the Owner's failure to do so, the Association shall have the right to perform painting of exteriors of all Buildings as reasonably determined by the Board for the purposes of assuring general aesthetics, graffiti free appearance and uniformity within the Latitude Business Park; in which instance the Association may seek reimbursement of the costs thereof from the Building's Owner as a Special Assessment.
Common Area, any monument sign, fences, drive aisles and access ways, & all landscaping located within the Common Area	The Association shall operate, maintain, repair, insure and replace as the Board shall reasonably determine.
Utilities	<p>The Association maintains the utilities serving the private streets, including any Common Utility Improvements and power to any monument sign.</p> <p>Each Owner shall maintain any utility system components and improvements serving such Owner's Lot (including powered water to landscaped areas) and the Buildings thereon, as well as any lines exclusively serving the Lot. Each Owner shall</p>



maintain any water lines serving the Lot beginning at (and including) the water shutoff valve and running to and into the Owner's Building Unit, as well as all individual portions of the interior wastewater drain lines that connect to the lines in and under the Common Area.

Castle & Cooke Environmental  
CC&R's

The Association shall be responsible for all compliance with the Castle & Cooke Environmental CC&R's.



EXHIBIT J  
FINAL TENANT IMPROVEMENT COSTS UPON COMPLETION OF CONSTRUCTION DRAWINGS AND  
FINAL TENANT IMPROVEMENT REIMBURSEMENT INVOICE  
(INCLUSIVE OF ANY CHANGE ORDERS)

This Lease contains an initial budget for the Tenant Improvement Costs referenced in Exhibit D. Upon receipt of completed construction drawings, the initial budget will be updated. The final cost to complete the Tenant Improvements will include the updated costs based upon the completed construction drawings and additional cost items for tenant improvement work that may be added or deleted, i.e., a "**Change Order**". Prior to making any Change Order, Lessor shall first provide Lessee with the cost impact of same, and Lessee shall have seven (7) business days to approve or disapprove the Change Order. In the event Lessee does not timely respond back to Lessor in writing with its disapproval or approval of the Change Order, the requested Change Order shall not be executed by Lessor. Upon completion of the Tenant Improvements, Lessor shall issue a final invoice for the Tenant Improvement Costs, the full amount of which shall be due and payable by Lessee within thirty (30) days of substantial completion of Lessor's Work.

Lessor's Initials \_\_\_\_\_



Lessee's Initials \_\_\_\_\_

Exhibit K

**SUBORDINATION AGREEMENT  
(NON-KEY LEASE)**

THIS SUBORDINATION AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2022, by and between Transamerica Life Insurance Company, an Iowa corporation ("Lender"), and County of Riverside, a political subdivision of the State of California ("Tenant").

WHEREAS, Lender intends to fund a commercial mortgage loan (the "Loan") to Five Degrees, LLC, a California limited liability company ("Landlord") secured by a mortgage, deed of trust or other security instrument (as such document may be modified by time to time, the "Mortgage") on the land described on Exhibit "A," together with present or future improvements (the "Real Property"); and

WHEREAS, by a certain lease between Landlord and Tenant dated as of July 28, 2022 (together with all amendments, options, extensions and renewals, the "Lease"), Landlord has demised to Tenant all or a portion of the Real Property; and

WHEREAS, as a condition of the Loan's funding, Landlord will assign its interest in the Lease to Lender under an Absolute Assignment of Lease and Rents (the "Assignment"); and

WHEREAS, Tenant desires to enter into this Agreement in order to benefit from the promises by Lender and the release of the Tenant by the Landlord that are set forth in this Agreement;

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants herein contained, the parties agree as follows:

1. Subordination. If, upon the closing of the Loan, the Lease would not by its terms be subordinate to the lien of Lender on the Real Property, Tenant so subordinates the Lease.
2. Payment of Rent at Lender's Direction. Tenant acknowledges that Landlord has directed Tenant to pay its Rent to the Lender at Lender's direction. Landlord releases Tenant from any claim for Rent delivered to Lender at Lender's direction.
3. No Advance Payment of Rent. Landlord hereby advises the Tenant that under the Assignment the Landlord is precluded from accepting rents more than one month in advance, including termination payments, without the Lender's consent.
4. Non-Disturbance. If Lender forecloses the Loan or acquires title to the Real Property by deed in lieu of foreclosure, the Lender shall not name Tenant in any action to foreclose the Mortgage or otherwise disturb Tenant's quiet enjoyment and possession of its demised premises, provided the Tenant is not in default under the Lease.
5. Attornment. Subject to the other terms of this Agreement, Tenant will, upon notice of the transfer of Real Property to the Lender or other purchaser of Real Property at the foreclosure sale, attorn to new owner and recognize the new owner as landlord under the Lease from the time of transfer of the Real Property forward, and the Lease shall remain in force as a direct lease between the new owner and Tenant.
6. Legal Description. If no legal description of the Real Property is attached at the time of Tenant's execution of this Agreement, Tenant hereby authorizes both Landlord and Lender, individually, to attach the correct legal description.
7. No Modification. No modification of this Agreement shall be valid unless in writing and executed by the party against whom enforcement is sought.
8. Notices. Any notice under this Agreement may be delivered by hand or sent by commercial delivery service or United States Postal Service express mail, in either case for overnight delivery with proof of receipt, or sent by certified mail, return receipt requested, to the following addresses:

To Tenant      County of Riverside  
Facilities Management Department  
Attn: Deputy Director of Real Estate  
3450 14<sup>th</sup> Street, Suite 200  
Riverside, CA 92501

To Landlord    Five Degrees, LLC, a California limited liability company  
Attn: Larry Haupt/Judy Beil  
2518 N. Santiago Blvd  
Orange, CA 92867

To Lender      Transamerica Life Insurance Company  
c/o AEGON USA Realty Advisors, LLC  
Director, Mortgage Loan Servicing – 3B-CR  
6300 C Street SW  
Cedar Rapids, Iowa 52499  
leasing@aegonam.com

The notice shall be deemed to have been given on the date it was actually received.

9. Successors and Assigns. This Agreement shall be binding on, and shall inure to the benefit of, the parties' successors and assigns.
10. Counterparts. This Agreement may be executed and delivered in counterparts for the convenience of the parties.
11. Merger. This Agreement represents the entire, final agreement between the parties relating to its subject matter, supersedes all prior agreements and understandings, written or oral, and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the parties.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date first above written.

Tenant: \_\_\_\_\_  
Title: \_\_\_\_\_  
Name: \_\_\_\_\_  
Date: \_\_\_\_\_

**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 \_\_\_\_\_, 2022, before me, \_\_\_\_\_, 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)

Landlord: \_\_\_\_\_

Title: \_\_\_\_\_

Name: \_\_\_\_\_

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

3.

### 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 \_\_\_\_\_, 2022, before me, \_\_\_\_\_, 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)

Lender: Transamerica Life Insurance Company,  
an Iowa corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

**ACKNOWLEDGMENT**

STATE OF Iowa )

SS:

COUNTY OF Linn )

ON THIS \_\_\_\_\_ day of \_\_\_\_\_, 2022, before me, the subscriber, personally appeared \_\_\_\_\_, to me known, who being by me duly sworn, did depose and say that she/he is Authorized Signatory of Transamerica Life Insurance Company, the corporation described in and which executed the within instrument; that she/he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that she/he signed her/his name thereto by like order as the free and voluntary act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Notary Public \_\_\_\_\_

**EXHIBIT A  
(TO SUBORDINATION AGREEMENT)  
LEGAL DESCRIPTION OF PROPERTY**

# Exhibit A

**FY 2022/23**  
**Riverside Sheriff's Department**  
**9 Latitude Way, Corona, CA 92881**

**ESTIMATED AMOUNTS**

**Total Square Footage to be Leased:**

Current Office: 19,490 SQFT

Approximate Cost per SQFT (Jul-June) \$ 1.65

Base Rent Cost per Month (Jul-June) \$ 32,158.50

Base Rent Cost (Jul-June)	\$	128,634.00
Abated Rent	\$	-
<b>Total Estimated Base Rent Cost for FY 2022/23</b>	<b>\$</b>	<b>128,634.00</b>

Lease Operating Expense Cost per month (Jul-Feb)	\$	-
Lease Operating Expense Cost per month (March-June)	\$	8,088.35
Total Estimated Operating Expense Cost (Jul-Feb)	\$	-
Total Estimated Operating Expense Cost (March-Jun)	\$	32,353.40
<b>Total Estimated Operating Expense Cost for FY 2022/23</b>	<b>\$</b>	<b>32,353.40</b>

Custodial Cost per month (Nov-Jun) \$ 2,338.80

\$ -

Total custodial Cost (Nov-Jun)	\$	9,355.20
<b>Total Estimated Custodial Cost for FY 2022/23</b>	<b>\$</b>	<b>9,355.20</b>

**Estimated Additional Costs:**

Utility Cost per SQFT \$ 0.12

Estimated Utility Costs per Month \$ 2,338.80

Total Estimated Utility Cost (Nov-June)	\$	9,355.20
<b>Total Estimated Utility Cost for FY 2022/23</b>	<b>\$</b>	<b>9,355.20</b>

RCIT Costs	\$	311,000.00
Tenant Improvement Costs	\$	2,724,180.37

Security Deposit \$ 125,000.00

FM Lease Management Fee as of 03/01/2023	4.86%	\$ 7,823.99
--	-------	-------------

<b>TOTAL ESTIMATED COST FOR FY 2022/23</b>	<b>\$</b>	<b>3,347,702.16</b>
--	-----------	---------------------

Amount in FY 2022/23 for New Amendment	\$	3,347,702.16
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<b>TOTAL COUNTY COST</b>	<b>59.80%</b>	<b>\$ 2,001,925.89</b>
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# Exhibit B

FY 2023/24

Riverside Sheriff's Department  
9 Latitude Way, Corona, CA 92881

## ESTIMATED AMOUNTS

### Total Square Footage to be Leased:

Current Office:		19,490	SQFT		
Approximate Cost per SQFT (Jul-Feb)	\$	1.65			
Approximate Cost per SQFT (Mar-Jun)	\$	1.72			
Base Rent Cost per Month (Jul-Feb)			\$	32,158.50	
Base Rent Cost per Month (Mar-Jun)			\$	33,444.84	
Total Base Rent Cost (Jul-Feb)			\$	257,268.00	
Total Base Rent Cost (Mar-Jun)			\$	133,779.36	
<b>Total Estimated Base Rent Cost for FY 2023/24</b>			<b>\$</b>	<b>391,047.36</b>	
Lease Operating Expense Cost per month (Jul-Feb)			\$	8,088.35	
Lease Operating Expense Cost per month (Mar-June)			\$	8,411.88	
Total Estimated Operating Expense Cost (Jul-Feb)			\$	64,706.80	
Total Estimated Operating Expense Cost (Mar-Jun)			\$	33,647.54	
<b>Total Estimated Operating Expense Cost for FY 2023/24</b>			<b>\$</b>	<b>98,354.34</b>	
Custodial Cost per Month (Jul-Feb)			\$	2,338.80	
Custodial Cost per Month (Mar-Jun)			\$	2,338.80	
Total Custodial Cost (Jul-Feb)			\$	18,710.40	
Total Custodial Cost (Mar-Jun)			\$	9,355.20	
<b>Total Estimated Custodial Cost for FY 2023/24</b>			<b>\$</b>	<b>28,065.60</b>	
<b><u>Estimated Additional Costs:</u></b>					
Utility Cost per SQFT	\$	0.12			
Estimated Utility Costs per Month			\$	2,338.80	
Total Estimated Utility Cost (Jul-Jun)			\$	28,065.60	
Tenant Improvement			\$	-	
FM Lease Management Fee as of 03/01/2023		4.86%	\$	23,784.92	
<b>TOTAL ESTIMATED COST FOR FY 2023/24</b>			<b>\$</b>	<b>569,317.82</b>	
<b>TOTAL COUNTY COST</b>		<b>59.80%</b>	<b>\$</b>	<b>340,452.06</b>	

# Exhibit C

**FY 2024/25 - 2029/30**  
**Riverside Sheriff's Department**  
**9 Latitude Way, Corona, CA 92881**

**ESTIMATED AMOUNTS**

**Total Square Footage to be Leased:**

Current Office: 19,490 SQFT

	FY 2024/25	FY 2025/26	FY 2026/27	FY 2027/28	FY 2028/29	FY 2029/30
Approximate Cost per SQFT (Jul-Feb)	\$ 1.72	\$ 1.78	\$ 1.86	\$ 1.93	\$ 2.01	\$ 2.09
Approximate Cost per SQFT (Mar-Jun)	\$ 1.78	\$ 1.86	\$ 1.93	\$ 2.01	\$ 2.09	\$ 2.17
Base Rent cost per Month (Jul-Feb)	\$ 33,444.84	\$ 34,782.63	\$ 36,173.94	\$ 37,620.90	\$ 39,125.73	\$ 40,690.76
Base Rent cost per Month (Mar-Jun)	\$ 34,782.63	\$ 36,173.94	\$ 37,620.90	\$ 39,125.73	\$ 40,690.76	
Total Base Rent Cost (Jul-Feb)	\$ 267,558.72	\$ 278,261.07	\$ 289,391.51	\$ 300,967.17	\$ 313,005.86	\$ 325,526.09
Total Base Rent Cost (Mar-Jun)	\$ 139,130.53	\$ 144,695.76	\$ 150,483.59	\$ 156,502.93	\$ 162,763.05	\$ -
<b>Total Estimated Base Rent Cost for FY 2024/25 - 2029/30</b>	<b>\$ 406,689.25</b>	<b>\$ 422,956.82</b>	<b>\$ 439,875.10</b>	<b>\$ 457,470.10</b>	<b>\$ 475,768.91</b>	<b>\$ 325,526.09</b>
Lease Operating Expense Cost per month (Jul-Feb)	\$ 8,411.88	\$ 8,748.36	\$ 9,098.29	\$ 9,462.23	\$ 9,840.71	\$ 10,234.34
Lease Operating Expense Cost per month (Mar-June)	\$ 8,748.36	\$ 9,098.29	\$ 9,462.23	\$ 9,840.71	\$ 10,234.34	\$ -
Total Estimated Operating Expense Cost (Jul-Feb)	\$ 67,295.07	\$ 69,986.87	\$ 72,786.35	\$ 75,697.80	\$ 78,725.72	\$ 81,874.74
Total Estimated Operating Expense Cost (Mar-Jun)	\$ 34,993.44	\$ 36,393.17	\$ 37,848.90	\$ 39,362.86	\$ 40,937.37	\$ -
<b>Total Est. Operating Expense Cost FY 2024/25 - 2029/30</b>	<b>\$ 102,288.51</b>	<b>\$ 106,380.05</b>	<b>\$ 110,635.25</b>	<b>\$ 115,060.66</b>	<b>\$ 119,663.09</b>	<b>\$ 81,874.74</b>
Custodial Cost per Month (Jul-Jun)	\$ 2,338.80	\$ 2,338.80	\$ 2,338.80	\$ 2,338.80	\$ 2,338.80	\$ 2,338.80
Total Custodial Cost (July - Feb)	\$ 18,710.40	\$ 18,710.40	\$ 18,710.40	\$ 18,710.40	\$ 18,710.40	\$ 18,710.40
Total Custodial Cost (Mar - June)	\$ 9,355.20	\$ 9,355.20	\$ 9,355.20	\$ 9,355.20	\$ 9,355.20	\$ -
<b>Total Estimated Custodial Cost for FY 2024/25 - 2029/30</b>	<b>\$ 28,065.60</b>	<b>\$ 28,065.60</b>	<b>\$ 28,065.60</b>	<b>\$ 28,065.60</b>	<b>\$ 28,065.60</b>	<b>\$ 18,710.40</b>
<b>Estimated Additional Costs:</b>						
Utility Cost per SQFT	\$ 0.12	\$ 0.12	\$ 0.12	\$ 0.12	\$ 0.12	\$ 0.12
Estimated Utility Costs per Month	\$ 2,338.80	\$ 2,338.80	\$ 2,338.80	\$ 2,338.80	\$ 2,338.80	\$ 2,338.80
Total Estimated Utility Cost	\$ 28,065.60	\$ 28,065.60	\$ 28,065.60	\$ 28,065.60	\$ 28,065.60	\$ 18,710.40
Tenant Improvement	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
FM Lease Management Fee as of 03/01/2023 4.86%	\$ 24,736.32	\$ 25,725.77	\$ 26,754.80	\$ 27,825.00	\$ 28,937.99	\$ 19,799.68
<b>TOTAL ESTIMATED COST FOR FY 2024/25 - 2029/30</b>	<b>\$ 589,845.28</b>	<b>\$ 611,193.84</b>	<b>\$ 633,396.35</b>	<b>\$ 656,486.96</b>	<b>\$ 680,501.18</b>	<b>\$ 464,621.32</b>

**F11 Total Cost \$ 7,553,064.92**  
**F11 Total County Cost 59.80% \$ 4,516,732.82**

# Riverside County Sheriff's Department

9 Latitude Way, Corona, CA 92881



## Legend

- Parcels
- Blueline Streams
- City Areas



**\*IMPORTANT\*** Maps and data are to be used for reference purposes only. Map features are approximate, and are not necessarily accurate to surveying or engineering standards. The County of Riverside makes no warranty or guarantee as to the content (the source is often third party), accuracy, timeliness, or completeness of any of the data provided, and assumes no legal responsibility for the information contained on this map. Any use of this product with respect to accuracy and precision shall be the sole responsibility of the user.

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REPORT PRINTED ON... 8/2/2022 9:43:42 AM

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## Notes

District 1  
APN: 279-140-028  
Leased area hatched in blue