



CITY OF SAN DIMAS CITY CLERK

DATE: June 8th, 2021
TO: June 8th, 2021 City Council Agenda Packet
FROM: Debra Black, City Clerk
SUBJECT: Documents Received at the June 8, City Council Meeting

The attached Letter of Intent and Resolution were presented to the City Clerk after the preparation of the agenda packet, presented to the City Council and posted on the City website on June 8th, 2021. They have been added to the permanent record for the meeting.

Binding Letter of Intent
Parking Facilities

This binding letter of intent (LOI) is dated effective as of the date of the last signature below by and among the Metro Gold Line Foothill Extension Construction Authority (the “Authority”) and the City of San Dimas (the “City”). Authority and City are sometimes individually referred to herein as a “Party” and collectively referred to as “Parties.”

The Parties intend to be bound by this letter of intent according to the terms and conditions set forth herein.

Recitals

- A. The Project. The Authority is responsible for the development and construction of the Foothill Gold Line Light Rail Extension Project and has entered into a contract to extend the Metro Gold Line from the City of Azusa to the City of Pomona (the “Project”).
- B. City Yard Parcels. In order to construct the Project, the Authority has proposed to acquire the 2.18-acre property owned by the City located at 301 S. Walnut Ave., San Dimas, CA 91773 (the “City Yard Parcels”) for purposes of building a parking facility to serve the Project’s San Dimas light rail station, and has complied with the California Environmental Quality Act (“CEQA”) for that acquisition and use.
- C. New Parcels. The City does not desire the Project’s parking facility to displace the City Yard Parcel and desires instead that the Project’s parking facility be located on property owned by the City and identified as Los Angeles County Accessors Parcel Numbers 8390-021-900, 901, 904 to 910, 912 to 917, and the area of the proposed driveway along the west portion of parcels 902 and 903 as shown in the attached Exhibit A (“New Parcels”).
- D. Acquisition of New Parcels for Project. The Authority is willing to pursue relocating the Project’s parking facility onto the New Parcels, subject to obtaining applicable environmental approvals and other satisfactory terms and conditions.

The Parties hereby agree as follows:

- 1. Purchase Agreement. Within thirty (30) days of the execution of this LOI, the Parties will work together in good faith toward execution of a mutually agreeable purchase and sale agreement for the purchase of the New Parcels.
- 2. Purchase Price. Authority will submit the names of three certified MAI appraisers to the City, and the City shall choose one appraiser from such list to value the New Parcels. Contingent upon and subject to the successful close of escrow, the fair market value of the New Parcels as determined by the chosen appraiser shall be paid to the City as just compensation for the Authority’s acquisition of the

New Parcels, and neither Party shall have the right to dispute the valuation determination of the appraiser unless such valuation varies substantially from the valuation conducted by a separate certified MAI appraiser selected solely by the City, should the City elect to perform such separate appraisal. "Substantially" is defined as deviating more than thirty percent (30%) from the valuation determined by the chosen appraiser of the three submitted by the Authority. Should such substantial deviation occur, City shall have the right to cancel escrow, however the Parties agree to negotiate in good faith on an alternative purchase price and to reasonably work to not unnecessarily delay the Project.

3. Environmental Clearance. As a condition precedent to the Authority's acquisition of the New Parcels, the Authority shall have secured all CEQA approvals necessary for the Authority's contemplated use of the New Parcels. Notwithstanding anything else in this LOI to the contrary, if the Authority fails to secure all such necessary CEQA approvals, this LOI shall become null and void and neither Party shall have any rights, obligations, or remedies with regard to the other Party in connection with acquisition of the New Parcels.
4. Entire Agreement; Amendment. This LOI contains the entire understanding and agreement between the Parties relating to the matters contemplated hereby and supersedes all prior or contemporaneous negotiations, agreements, and representations, oral or written, in connection with acquisition of the New Parcels. This LOI may only be amended by a written instrument signed by both Parties.
5. Additional Acts and Documents. Each Party agrees to do all such reasonable things and take all such reasonable actions, and to make, execute, and deliver such other documents and instruments as shall be reasonably required to carry out the provisions, intent, and purposes of this LOI. Authority also commits to work with the City and Foothill Transit, the current user of the largest portion of the New Parcels, to implement a reasonable transition plan which will further multimodal transportation in the region.
6. Severability. If any term, provision, condition, or covenant of this LOI, or the application thereof to any Party or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this LOI shall remain in full force and effect to the fullest extent permitted by law.
7. Governing Law. This LOI shall be construed in accordance with the internal laws of the State of California, without regard to conflict of law principles, and shall be construed according to its fair meaning and as if prepared by both of the Parties.
8. Counterparts. This LOI may be executed in counterparts. All counterparts when executed shall constitute one agreement notwithstanding that all the Parties are not signatory to the original or the same counterpart. The Parties agree that facsimile signatures and/or electronic signatures on this LOI or any amendment

thereto shall have the same force, effect, and validity as that of an original signature.

9. Authority to Execute. The persons executing this LOI on behalf of the Parties hereto warrant and represent that they are duly authorized to execute and deliver this LOI on behalf of such Party, and by so executing this LOI, said Party is formally bound to the provisions of this LOI.
10. Limited Use. This LOI and the resulting subsequent agreement to purchase the New Parcels is entered into in the spirit of compromise to resolve a disputed claim and the terms shall be considered part of settlement negotiations between the Parties. None of the provisions of this LOI or the resulting subsequent agreement shall be used or construed as an admission of liability or default for any purpose, nor shall they restrict the Authority's or City's power of eminent domain, or the Authority's or City's rights in any eminent domain proceeding, or otherwise be referred to in any potential eminent domain or related proceeding if the Authority pursues acquisition of the City Yard Parcels, except for the restriction on Authority's eminent domain authority in paragraph 11 herein.
11. Restriction on Taking of City Yard Parcels. Upon and after close of escrow of the New Parcels as contemplated by this LOI, the Authority shall not exercise eminent domain to acquire any significant portion of the City Yard Parcels.
12. Interpretation. The Parties have each agreed to the use of the particular language of this LOI, and no question of future interpretation shall be resolved by any rule of interpretation providing for interpretation against the Party whose representatives drafted this LOI, or any portion thereof.

IN WITNESS WHEREOF, the Parties have executed this LOI as of the Effective Date.

Date: June ___, 2021

CITY OF SAN DIMAS

By: _____

Name: Chris Constantin

Its: City Manager

ATTEST:

By: _____

Name: Debra Black

Its: City Clerk

Date: June ___, 2021

METRO GOLD LINE FOOTHILL EXTENSION
CONSTRUCTION AUTHORITY

By: _____

Name: Habib F. Balian

Its: CEO

APPROVED AS TO FORM:

ALESHIRE & WYNDER LLP

By: _____

Jeff M. Malawy
Attorneys for CITY OF SAN DIMAS

Date: June ___, 2021

NOSSAMAN LLP

By: _____

Bradford B. Kuhn
Attorneys for METRO GOLD LINE FOOTHILL
EXTENSION CONSTRUCTION AUTHORITY

Date: June ___, 2021

RESOLUTION NO. XXXX(21)

A Resolution of the City Council of the City of San Dimas, California, and of the Successor Agency to the Former San Dimas Redevelopment Agency, Declaring Certain Public Property as Exempt Surplus Land, Pursuant to Government Code Section 54221

WHEREAS, under the Surplus Land Act, Government Code section 54220, *et seq.* (Act), surplus real property is defined as “land owned in fee simple by any local agency for which the local agency’s governing body takes formal action in a regular public meeting declaring that the land is surplus and is not necessary for the agency’s use;” and

WHEREAS, Government Code subdivision 54221(f)(1)(D) of the Act designates certain property as “exempt” from the provisions of the Act; and

WHEREAS, that certain real property owned by the City of San Dimas (“City”) described and shown on Exhibit A, and that certain property owned by the Successor Agency to the Former San Dimas Redevelopment Agency described and shown on Exhibit B (collectively referred to with the property described in Exhibit A as the “Property”), which by this reference is incorporated herein, is proposed to be transferred to the Metro Gold Line Foothill Extension Construction Authority, a local or state public agency (Authority); and

WHEREAS, the Property is not (i) within a coastal zone, (ii) adjacent to a historical unit of the State Parks System, (iii) listed on, or determined by the State Office of Historic Preservation to be eligible for, the National Register of Historic Places or (iv) within the Lake Tahoe region as defined in Government Code section 66905.5; and

WHEREAS, the City now desires to declare the Property as exempt surplus land.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN DIMAS, CALIFORNIA, DOES HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The recitals above are true and correct.

SECTION 2. Based on the above recitals, the City Council and the Successor Agency find and declare (i) the Property is exempt surplus land pursuant to Government Code subdivision 54221(f)(1)(D), (ii) the noticing requirements of Government Code subdivision 54221(f)(2) are not applicable and (iii) other related provisions of the Act are not applicable pursuant to Government Code section 54222.3.

SECTION 3. This Resolution is effective upon its adoption.

The foregoing Resolution was proposed by Council Member _____, seconded by Council Member _____, and was duly passed and adopted by the Council of the City of San Dimas at a regular meeting on _____, 2021 by the following vote:

AYES: Council Member(s):
NOES: Council Member(s):
ABSENT: Council Member(s):

Emmett Badar, Mayor and Chair
City of San Dimas and Successor
Agency to Former San Dimas
Redevelopment Agency

ATTEST:

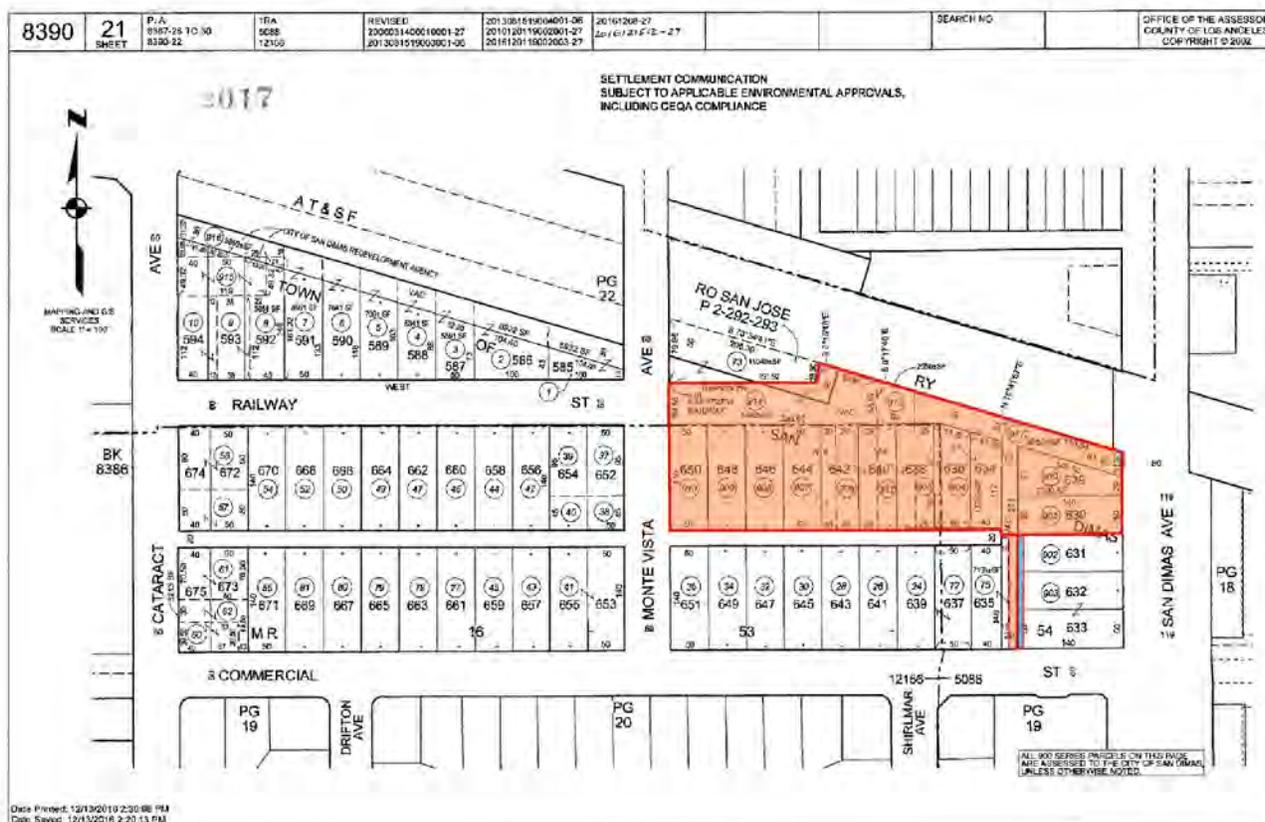
Debra Black, City Clerk and Agency Clerk
City of San Dimas and Successor Agency
to Former San Dimas Redevelopment
Agency

Exhibit A to Resolution No. XXXX(21)

City Property Property Description and Location

Description

Multiple parcels (highlighted in red) located between Monte Vista and San Dimas Avenues. The parcels include Los Angeles County Accessors Parcel Numbers 8390-021-900, 901, 904 to 910, 912 to 917. The parcels represent a surface parking lot which is in current use as parking.

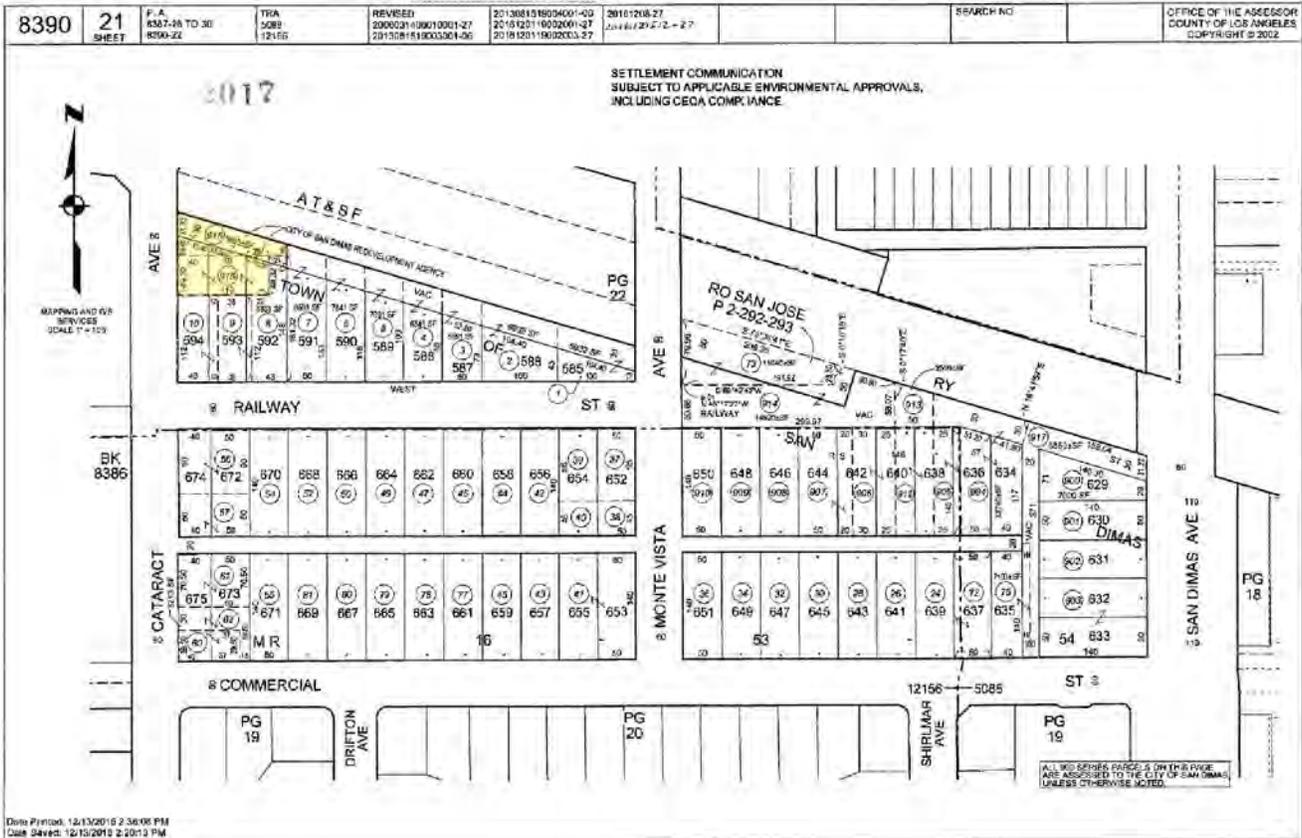


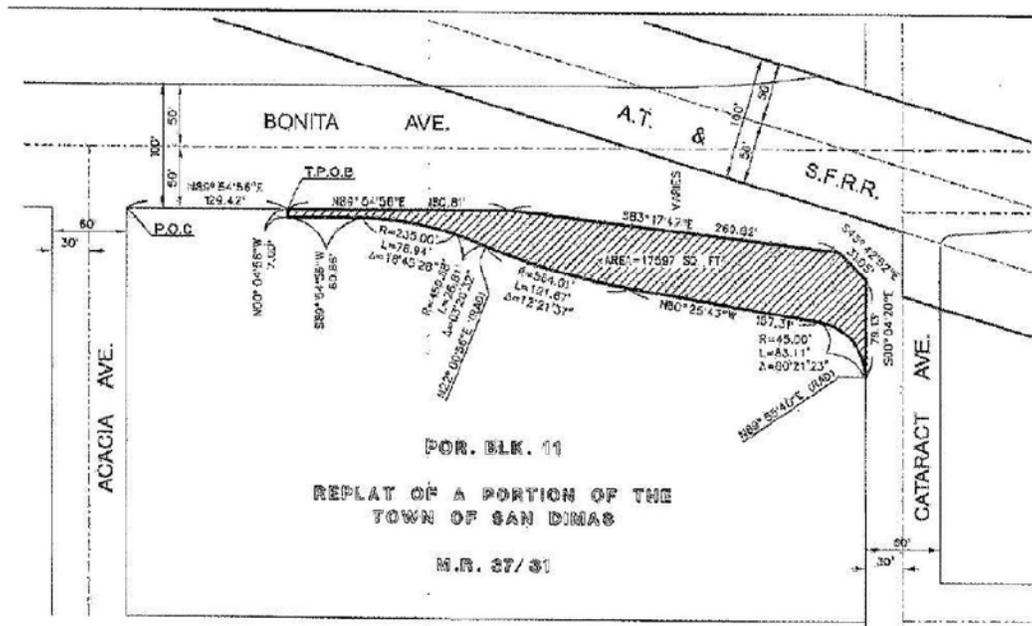
**Exhibit B
to
Resolution No. XXXX(21)**

**Successor Agency Property
Property Description and Location**

Description

Multiple parcels (highlighted in yellow) located on Cataract just south of Bonita Avenue. The parcels include Los Angeles County Accessors Parcel Numbers 8390-021-915, 8390-021-916. The parcels represent unimproved land currently zoned as residential. Additional property which is a portion of a larger parcel is depicted in the second diagram (highlighted as crosshatch). The parcel is a portion of Los Angeles County Accessors Parcel Numbers 8386-021-913 and represents unimproved land currently zoned as commercial.





FOR BLK. 11
 REPEAT OF A PORTION OF THE
 TOWN OF SAN DIMAS
 M.R. 37/31

METRO GOLD LINE FOOTHILL PHASE 2B
 EXHIBIT "B" - PARCEL 2111



DRAWN BY: <u>KT</u>	Job No. <u>162285</u>
CHECKED BY: <u>DL</u>	
DATE: <u>1/22/2016</u>	
SCALE: <u>1"=40'</u>	SHEET <u>1</u> OF <u>1</u>

THE BEARINGS SHOWN ON THIS PLAT ARE BASED ON THE BEARING FROM THE RECORD OF SURVEY RECORDED IN BOOK 281 PAGES 64 THROUGH 75 OF RECORD MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF LOS ANGELES COUNTY, STATE OF CALIFORNIA.





**CITY COUNCIL AND SUCCESSOR AGENCY
MEETING AGENDA
TUESDAY JUNE 8th, 2021 7:00 P. M.
SAN DIMAS COUNCIL CHAMBER
245 EAST BONITA AVENUE**

**THE CITY COUNCIL CHAMBER WILL BE OPEN AT 50% CAPACITY.
ALL ATTENDEES MUST WEAR MASKS AND OBSERVE 6-FOOT SOCIAL
DISTANCING. SEATING WILL BE LIMITED. AN OVERFLOW AREA WILL BE
AVAILABLE IN THE CITY HALL LOBBY.**

Please review the last page of this document for instructions on public participation.

A public agenda packet is available for review on the City's website www.sandimasca.gov or by contacting the City Clerk's Office at cityclerk@sandimasca.gov.

CITY COUNCIL:

Mayor Emmett Badar, Mayor Pro Tem Denis Bertone, Councilmember John Ebiner,
Councilmember Ryan A. Vienna, Councilmember Eric Weber

CALL TO ORDER AND FLAG SALUTE

RECOGNITIONS

➤ San Dimas Rotary 61st Anniversary – (Page 7)

ORAL COMMUNICATIONS

(Members of the audience are invited to address the City Council on any item on this agenda or not on this agenda. Public comment will not be taken during each individual agenda item, except for public hearing items. Comments on public hearing items will be heard when that item is scheduled for discussion. Under the provisions of the Brown Act, the legislative body is prohibited from engaging in discussion on any item not appearing on the posted agenda. However, your concerns may be referred to staff or set for discussion at a later date. Each speaker will be limited to (3) three minutes.)

CONSENT CALENDAR

(All items on the Consent Calendar are considered to be routine and will be enacted by one motion unless a member of the City Council requests separate discussion.)

1. Approve **Resolution 2021-34**, for the Prepaid Warrant Register for May 31st, 2021 in the amount of \$695,341.70 and the June 15th, 2021 in the amount of \$335,406.58 *(Pages 9-38)*
2. Approve and Confirm the Calculation Factor for the 2021-22 Annual Appropriations Limit – GANN Limit *(Pages 39-42)*

RESOLUTION 2021-35, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS, COUNTY OF LOS ANGELES, ADOPTING AN APPROPRIATIONS LIMIT FOR FISCAL YEAR 2021-22 AND APPROPRIATE EXCESS REVENUES

3. Approve an Addendum to the Landscape Maintenance Contract for Nieves Landscape, Inc. in the Amount of \$3,801.84 Annually *(Pages 43-46)*
4. Approve Additional Change Order Request in the amount of \$1,983 for San Dimas Recreation Center Re-roof Project for a total Project Cost of \$88,520 *(Pages 47-52)*
5. Approve Amendment 5 to the East San Gabriel Valley Watershed Management (ESGVWM) Group Cooperative Agreement and Update the City's Cost Share for FY 2021-2022 Using Safe Clean Water Act Funds *(Pages 53-74)*
6. Adopt **Ordinance 1287**, Amendment of Municipal Code Section 9.27.010 – Fireworks Prohibited, to Allow the City and the School District to Provide Firework Shows During Special Events *Second Reading and Adoption (Pages 75-78)*
7. Approve Letter of Support for Marchant Park Stormwater Infiltration Project *(Pages 79-86)*
8. Approve Minutes of the April 13, 2021 Adjourned City Council Meeting and April 13, 2021 Regular City Council Meeting *(Pages 87-100)*
9. Reject Claim Cornelius vs. City of San Dimas (3012139 GRV) *(Pages 101-104)*
10. Approve Repurposing Metro Cycle 3 Open Street Grant Funding *(Pages 105-112)*
11. San Gabriel Valley Council of Governments Updates *(Pages 113-128)*

END OF CONSENT CALENDAR

RECOMMENDATION: Approve consent calendar with recommendations as presented in staff reports.

OTHER BUSINESS

1. **Discussion and Consideration of Action Related to Impacts from Los Angeles County District Attorney's Policies** (*Pages 129-206*) *Deferred to the June 22, 2021 meeting.*
2. **Discussion and Consideration of Setting Campaign Contribution Limits and Regulations for Elections of Mayor and City Councilmembers** (*Pages 207-212*)
3. **Discussion, Consideration and Action to Enter into a Letter of Intent with the Metro Gold Line Foothill Extension Construction Authority Regarding Purchase and Use of City and Successor Agency Property for Metro Gold Line Parking, Approving a Resolution Declaring Properties as Exempt Surplus Property and Approving an Amendment to Pioneer Square's Exclusive Negotiating Agreement to Release Interest in Certain Successor Agency Property (Los Angeles County Accessors Parcel Numbers 8390-021-915, 8390-021-916, 8386-021-913, 8390-021-900, 901, 904 to 910, 912 to 917)** (*Pages 213-292*)

RESOLUTION, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS, CALIFORNIA, AND OF THE SUCCESSOR AGENCY TO THE FORMER SAN DIMAS REDEVELOPMENT AGENCY, DECLARING CERTAIN PUBLIC PROPERTY AS EXEMPT SURPLUS LAND, PURSUANT TO GOVERNMENT CODE SECTION 54221

STAFF AND CITY COUNCIL REPORTS

1. **City Manager**
 - **COVID-19 Update** (*Verbal*)
 - **Gold Line Update** (*Verbal*)
 - **SB 9** (*Verbal*)
2. **City Attorney**
3. **Members of the City Council**
 - a. **Councilmembers' Report on Meetings Attended at the Expense of the Local Agency** (Pursuant to AB 1234 – G.C. §53232.3(d))
 - b. **Consider Reappointments and Appointment Senior Citizens Commissions** (*Page 293*)
 - c. **City Council Requests for Future Items, Comments and Updates**

ORAL COMMUNICATIONS

Members of the Audience (*Speakers are limited to (3) minutes or as may be determined by the Chair.*)

ADJOURNMENT

The next meeting will be on June 8th, 2021 at 7:00 p.m.



Notice Regarding Americans with Disabilities Act: In compliance with the ADA, if you need assistance to participate in a city meeting, please contact the City Clerk's Office at (909) 394-6216. Early notification before the meeting you wish to attend will make it possible for the City to make reasonable arrangements to ensure accessibility to this meeting [28 CFR 35.102-35.104 ADA Title II].

Copies of documents distributed for the meeting are available in alternative formats upon request. Any writings or documents provided to the City Council regarding any item on this agenda will be made available for public inspection at the Administration Counter at City Hall and at the San Dimas Library during normal business hours. In addition, most documents are posted on the City's website at www.sandimasca.gov

Posting Statement: I declare under penalty of perjury that on June 4th, 2021, I posted a true and correct copy of this agenda on the bulletin board in the Civic Center Plaza of City Hall at 245 E. Bonita Ave., San Dimas Post Office 300 E. Bonita Ave., Von's Via Verde Shopping Center 1160 Via Verde Ave., and on the City's website www.sandimasca.gov/agendas-minutes/ as required by law.

June 4th, 2021
Date

Debra Black

Debra Black, City Clerk

In order to minimize the spread of the COVID 19 virus, the June 8th, 2021 City Council meeting will be conducted as follows:

1. The City Council Chamber will be open for in-person attendance at 50% capacity.
2. Members of the public may observe the City Council meeting live on the City of San Dimas website at www.sandimasca.gov or on KWST Channel 3. To view from the website, select the [Watch City Council Meetings](#) blue button from the home page.
3. If you wish to submit written comments before the meeting you are strongly encouraged to submit your comment via email by **5:00 P.M. on Tuesday, June 8th, 2021** to the City Clerk at publiccomments@sandimasca.gov. The City Clerk will read into the record the names, topic and position taken, provide copies to the City Council and post on the City website.
4. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in the City Council meeting, please contact the City Clerk's Office at least 24 hours prior to the meeting to ensure reasonable accommodations can be considered and arranged to provide accessibility to participate in the meeting.

The City of San Dimas thanks you in advance for taking all precautions to prevent spreading the COVID 19 virus.



Agenda Item Staff Report

To: Honorable Mayor and Members of City Council and Successor Agency
For the meeting of June 8, 2021

From: Chris Constantin, City Manager and Executive Director
Jeff Malawy, City Attorney and Agency Counsel

Subject: Discussion, Consideration and Action to Enter into a Letter of Intent with the Metro Gold Line Foothill Extension Construction Authority Regarding Purchase and Use of City and Successor Agency Property for Metro Gold Line Parking, Approving a Resolution Declaring Properties as Exempt Surplus Property and Approving an Amendment to Pioneer Square's Exclusive Negotiating Agreement to Release Interest in Certain Successor Agency Property

SUMMARY

The requested actions would result in moving the intended Gold Line parking from a taking of the City Municipal Yard and several private parcels and move it to be substantially located at the City's Park and Ride on San Dimas Avenue. This action does not in itself result in a sale of City property but allows the City and Gold Line to proceed towards a sale. Overall, this item may result in increasing downtown parking from 175 to 310 spaces, eliminate significant cost and hurdles with a Municipal Lot move, and facilitate the local development of the Successor Agency's Bonita/Cataract property.

RECOMMENDATION

The City Manager recommends the City Council and Successor Agency to

- 1) Approve the City Manager to execute Amendment No. 1 to the Exclusive Negotiating Agreement with Pioneer Square, LLC to release Successor Agency Property, referred to as Los Angeles County Accessors Parcel Numbers 8390-021-915, 8390-021-916, and such portion of 8386-021-913 as depicted in Attachment No. 1 to Amendment No. 1 of the Exclusive Negotiating Agreement from the Exclusive Negotiating Agreement.
- 2) Approve Resolution designating Successor Agency Property as Exempt Surplus Land.
- 3) Authorize the City Manager to enter into and execute the attached Letter of Intent with the Metro Gold Line Foothill Extension Construction Authority regarding the transaction and sale of the City's Park and Ride and other parcels, in total referred to as Los Angeles County Accessors Parcel Numbers 8390-021-900, 901, 904 to 910, 912 to 917.

FISCAL IMPACT

None. There is no immediate fiscal impact anticipated taking action to enter the Letter of Intent, Resolution, and Amendment No. 1 to the Exclusive Negotiating Agreement with Pioneer Square, LLC.

BACKGROUND

The Metro Gold Line Foothill Extension Construction (Gold Line) is undertaking an expansion of the Metro light rail project passing through the region with a stop in San Dimas. Specifically, the San Dimas station is part of the Gold Line light rail project from Glendora to Montclair and will be located just east of San Dimas Avenue between Bonita Avenue and Arrow Highway. The station will be a center platform station, with light rail tracks on either side (one for westbound and one for eastbound trains). The San Dimas station will have an associated parking facility, and have amenities for riders arriving by walking, bicycle, bus, and drop-off.

Once completed, three tracks will run through the City of San Dimas within the shared rail corridor – the two light rail tracks will be in the south portion for the Gold Line and the one freight track will be on the north. While the two systems will share the rail corridor, light rail trains and freight trains do not share tracks.

Permanent changes will also occur due to the project, including safety enhancements at all street crossings (raised medians, red curbing and turn restrictions within 100 feet of the rail corridor at all street crossings), relocation of the freight track to the northern half of the rail corridor, new fencing and walls along the entire rail corridor, and new overhead lines to power the Gold Line system. Additionally, the intersection of Bonita Avenue/Cataract Avenue will be fully reconstructed, and a new traffic signal will be installed to replace the current stop signs. A new light rail bridge will be built over the Bonita Avenue/Cataract Avenue intersection for Gold Line trains only, requiring the permanent closure of Monte Vista Avenue at the railroad corridor to vehicles. The bridge and intersection changes are required by the California Public Utilities Commission for safety. A new pedestrian underpass will be built to allow north/south pedestrian access at Monte Vista Avenue. The freight track will remain at street level.

During 2006-07, the Gold Line worked with the City of San Dimas (along with all other Foothill Gold Line cities from Pasadena to Montclair) to explore their visions for integrating transit-oriented developments (TOD) near the future stations. At that time, the City was still uncertain as to the location of the City's future Gold Line station. Since then, the City agreed that the station would be located east of San Dimas Avenue. In a 2013 Final Environmental Impact Report, the Gold Line identified the construction of a parking facility in San Dimas with 450 proposed parking spaces.

Due to a change in economics and Metro's adoption of a Supportive Transit Parking Program Master Plan in January 2018, the Gold Line conducted a Supplemental Environmental Impact Report with proposed changes eliminating the San Dimas parking garage and reducing to a surface lot. This reduced the available parking from a proposed 450 spaces down to 289 spaces. The

Supplemental Environmental Impact Report was approved in January 2021 with the City of San Dimas's objections noted in the formal record.

The San Dimas station and parking require the Gold Line's acquisition of the City Municipal Yard located on Walnut Avenue as well as several private properties. Such acquisition would impact the City's ability to provide public works services and necessitated an evaluation of alternatives. Currently, the Gold Line requires access and use of the City's Municipal Yard within the next 20 months. The timeline, location, and logistics in moving the Municipal Yard create significant hurdles for the City.

An alternate location ready to operate as a Municipal Yard is difficult to come by and in the 20 months allotted, make this alternative highly unlikely. Delaying the Gold Line's acquisition of the Municipal Yard would provide more time for the City to identify an alternate site; however, the City has been told with certainty this is not likely due to the possible delay to the station project. Lastly, should the City become adversarial in the Municipal Yard acquisition, the Gold Line could trigger an eminent domain process and forcibly take the property. This last alternative would result in significant costs and delays with the outcome still being the City losing its Municipal Yard. In any alternate case, it is highly likely the City would be left with a significant cost obligation even after the property sale and/or eminent domain to construct its Municipal Yard and leave the City scrambling to provide basic Public Works and Parks capital maintenance activity throughout the community.

In any of the scenarios where the City has some level of control, the options, impacts, and secondary effects would have dramatic implications upon the City and the Gold Line. A drawn-out dispute may not result in a positive outcome for either governmental agency and would forestall the possibility of finding a mutually agreeable solution. Consequently, the City approached the Gold Line with an alternative which appears to have mutual benefits which may resolve the unpleasant outcomes of our current direction and save San Dimas tax payers millions in General Fund expenses while also provide secondary benefits to the downtown and neighboring Bonita/Cataract development. The recommended action would begin the process of implementing the City's alternative option.

DISCUSSION/ANALYSIS

The City engaged a consultant to work through options for moving the Municipal Yard, identify possible locations, and determine the estimated costs for designing and constructing a new Municipal Yard. The current Municipal Yard is functional but aging and is constrained on about two and a half acres along the south side of the rail line and the west street line of Walnut Avenue. While the identification of this location as the site of Gold Line parking is not a recent development, the determination of substantial costs and alternatives for the Municipal Yard are new and part of the calculus in requiring a win-win alternative to the currently planned parking location at the Municipal Yard's Walnut Avenue site.

Municipal Yard Costs would Negatively Impact the City's Finances

The City recently received the results of the consultant's work and identified seven alternate Municipal Yard locations, all in private hands, as well as an estimated \$23 million in design and construction costs (**Attachment A**). This estimate did not include the cost of property acquisition as this can vary significantly based on the parcel, the improvements on each parcel, and the value for what could be constructed on the parcel. For comparison, the City recently performed an appraisal for a vacant nearly four-and-a-half-acre piece of land in a key corridor which returned an estimated \$4.7 million valuation. Thus, it is realistic to see the full costs of this project exceeding \$28 million.

The purchase of the City's Municipal Yard would require an appraisal to determine value and a negotiation with the Gold Line for the sale of the property. If an agreement to sell was not reached, the Gold Line would initiate condemnation, or alternatively known as eminent domain, to take the property and compensate the City for the value of the property and the cost to physically move assets from the current lot to a new location. The Gold Line would not be responsible to select and build a site for the City, nor would the Gold Line be forced to pay an unlimited amount to the City for the taking of its Municipal Yard. Realistically, the City would be left with a fair market value revenue that was much less than the estimated \$28 million for the new Municipal Yard. The result would be to saddle taxpayers with 30 years of debt and over \$900,000-\$1 million in annual debt service payments for a financing option that would be required to minimize impacts on current City programs and services. While bringing online a new Municipal Yard would benefit the City, the timing of such an investment is ill advised.

First, for the past three fiscal years, the City projected annual deficits in the City's initial annual budgets, and such deficits were only reduced with onetime actions. The debt service would be a multiyear impact which would further pressure the City to reduce programs, services, and current expenditures to accommodate such an annual payment. It should be noted that while the Municipal Yard requires some updating, it is still fully functional and can remain so for the foreseeable future.

Second, the Gold Line requires access to the Municipal Yard site within 20 months. Assuming the City gets passed the negative financial impact of debt service payments or an alternate method for paying for the costs, the City would be hard pressed to find and acquire a site and prepare the site to accommodate the Municipal Yard within the required Gold Line timeframe. Since all the identified new sites for the Municipal Yard are in private hands, it is highly unlikely the City would not be able to acquire those properties without either paying an amount substantially higher than market value or engaging in condemnation of the property itself. In either case, the City's financial position and/or the timing of the move would be limiting factors, and additionally, the issue of annual cost would still be a negative impact.

Thirdly, if the City implemented a catastrophic plan to setup Municipal Yard operation, the City would be looking at existing City owned land for the site. As of today, only park land/open space is available with the space requirements for the Municipal Yard, and such a move would be far from ideal and may turn into a longer term location due to costs associated with a new Municipal Yard. None of the current City-owned properties offer a reasonable location for the Municipal Yard without impacting public services, subjecting the new Municipal Yard to a location that may

be impacted during a disaster, and in the end, the \$23 million in design and construction costs would still be a significant hurdle to moving out of such park land/open space.

Alternative Option to Enhance Parking Downtown

As the new City Manager starting on January 4, 2021, I spent the first two weeks requesting the Gold Line reconsider approving its Supplemental Environmental Impact Report. Unfortunately, the Gold Line board did not change direction from reducing parking spaces from the original 450 spaces down to 289 spaces. The new model employed to support fewer spaces is the constrained parking model, which in my opinion, is a euphemism for, “if you make parking scarce, fewer people will want to park and ride there, and the result would be fewer people coming to the station which result in fewer spaces needed.” The reduced parking will assuredly result in spillover to the surrounding downtown areas, including the downtown core. The spillover impacts would necessitate the implementation of parking management strategies to ensure parking impacts are managed. Regardless, parking availability will be impacted in our downtown core and surrounding areas.

In May 2021, the City’s Community Development Department issued a Request for Proposals for a consultant to conduct a Downtown Specific Plan. The Specific Plan encompasses the Bonita Avenue corridor from Arrow highway to the west all the way to Walnut to the east, and the intent of the Specific Plan is to facilitate more innovative development to enhance the City’s overall downtown corridor. In whatever direction the City takes in the downtown core, parking will become limiting factors in any innovative development. This is currently the case with the Pioneer Square development on Bonita and Cataract, and such limiting factors are cited in many cities as reasons why otherwise incredible development opportunities fail.

In evaluating the parking issue, the City currently has a City-owned lot just south from the downtown which is utilized by the Foothill Transit Authority for its express line to downtown Los Angeles. The lot, known as the Park and Ride, has approximately 175 parking spaces. In the constrained parking model proposed by Metro, this City lot would already be subjected to impacts necessitating implementation of measures to reduce its desirability as a Gold Line parking location. These measures would also have the unintended effect of negatively impacting the Foothill Transit customers. Further, changes in ridership patterns would further change how the express line operates.

Knowing that parking will be a limiting factor in the City’s Specific Plan, where increased parking would be needed to reduce parking impacts related to the Gold Line, and where the currently proposed parking area for the Gold Line would trigger significant costs to the City, focusing on increasing parking in the downtown and doing so in a way that limits the City’s cost to add parking would be a better solution than the current location for Gold Line parking. Thus, the opportunity for a win-win alternative option presents itself. Increasing parking in the City’s downtown core to support the Gold Line, whose station would be across the street and where such increase would support more innovative development in the downtown and surrounding corridor makes a lot of sense. This is especially the case when we factor in that such alternative option would eliminate the need for the City to relocate its Municipal Yard and for the Gold Line to possibly eminent domain or acquire private land next to the Municipal Yard.

Alternative Parking Option Becoming a Win-Win-Win for the City, Gold Line, and the Bonita Corridor

The City approached the Gold Line to reconsider the planned location of the Gold Line parking from the City's Municipal Yard site to the Park and Ride knowing that the Gold Line was already in the acquisition process and far along its procurement process under its existing plans. The Gold Line had no obligation or initial incentive to deviate from its already intended plan. However, the Gold Line was receptive to hearing the alternative option.

The alternative would be to place the Gold Line parking at the City's Park and Ride location and to utilize Gold Line property along the southside of the rail line between Cataract and Monte Vista Avenue, a piece that would currently be unutilized and a potential future nuisance due to its vacant nature, for additional parking. Based on the Gold Line's analysis, these properties could facilitate more efficient parking design which would increase parking from 175 current spaces to 310 spaces. The alternative would also eliminate the Gold Line's need to acquire private property as well as to acquire the City's Municipal Yard and would reduce the overall cost of constructing the Gold Line station and intended parking. The alternative option would also result in more parking availability to the downtown and surrounding developments, especially during low Gold Line usage periods of late evening and weekends.

The alternative option would eliminate the three issues identified earlier in this staff report related to the move of the Municipal Yard – significant cost requiring City debt, constrained timeline to make the move, and the possibility of requiring a catastrophic Municipal Yard site on City park land/open space. The additional parking within the potential Pioneer Square development also alleviates one limitation impacting viability of that innovative development, and the reduced Gold Line use of downtown parking during later evenings and weekends, opens significant capacity to support downtown restaurants and venues which cater to those time periods.

Alternative Option for Gold Line Parking

This alternative would create negative impacts, just as any option involving the Gold Line parking and more general activity would to the surrounding areas.

First, the express bus line which utilizes the Park and Ride would no longer have a location within the Park and Ride to pick up passengers. Regardless of the parking location, the establishment of the Gold Line would introduce unknown impacts on ridership of the express bus line. Such impacts were to be analyzed by Foothill Transit and may have resulted in a change in routes away from the current location regardless of consideration of this alternative parking option. As almost all the bus line locations in the City are subject to change, there is no guarantee that a bus route will remain in a specific location for any extended period. Foothill Transit is constantly evaluating their system and adjusting as necessary to best serve the regional multimodal riding community. To eliminate this location from consideration solely on its use by the express bus line may result in losing the only viable option to enhance the downtown and possibly lose the bus line in the end if analysis shows the Gold Line makes such route not appropriate for the overall regional transit system.

Second, the Gold Line would require the City to sell the City's Park and Ride to facilitate the increased parking. This sale would limit, albeit not eliminate, the City's control over future development of the Park and Ride. It may be a viable option in the future to construct a parking garage to support the Specific Plan goals and downtown business or allow for a mixed use project bringing higher density housing with parking to the transit corridor thereby bringing more customers to downtown businesses. These types of options become more challenging when the City does not retain ownership of the Park and Ride.

Third, the additional parking along the rail line would require the City to sell its Successor Agency parcels on Cataract to the Gold Line to allow for ingress/egress to the additional parking. Currently, the westside of the Gold Line's property between Cataract and San Dimas Avenue opens within 100 feet of the rail line. Under California Public Utilities Commission (CPUC) guidelines, a physical barrier is required within these 100 feet to reduce traffic conflict with the rail line. This is a safety measure that would not allow the additional parking area to be viable without acquisition of two parcels on Cataract. The two Successor Agency parcels would allow for an entry/exit point just outside the 100 feet CPUC buffer and make this additional parking on Gold Line property viable. However, the two Successor Parcels are restricted under an Exclusive Negotiating Agreement with Pioneer Square, LLC as part of the development of the neighboring Cataract property along Bonita and Cataract. Pioneer Square would need to relinquish its exclusive negotiating rights to facilitate an alternative parking option for the Gold Line and City.

Fourth, the introduction of more parking for Gold Line customers at the Park and Ride, as well as the potential Pioneer Square project will increase parking pressure in the surrounding residential areas. It is expected that the change in Gold Line parking will not eliminate the Gold Line's obligation to evaluate parking impacts and identify appropriate parking mitigation measures in the surrounding area. The City will need to be very diligent to minimize the impact on the surrounding areas; however, there is no guarantee that impacts will be fully eliminated.

Lastly, any complex arrangement such as this alternative option will have secondary and unanticipated effects. We do not know what such effects may be in the future, but we do know that the current Gold Line parking option will be a significant burden on the City both financially and logistically and will miss the opportunity to benefit the downtown and neighboring developments with increased parking capacity.

Alternative Option for Gold Line Parking – Addressing Possible Issues

This alternative would create negative impacts, just as any option involving Gold Line parking. In evaluating the negative impacts, the City discussed this alternative parking option with Foothill Transit Authority and Pioneer Square¹ representatives. Both agencies understand the implications for the City of the original plan for Gold Line parking, and both saw the opportunities generated by considering the alternative parking option.

¹ On March 5, 2021, Pioneer Square provided the City formal authorization to explore this alternative parking option with the Gold Line and other stakeholders.

The City intends to work with the Gold Line to facilitate an on street option for Foothill Transit to continue access for pickup and drop-off in the hopes that any future analysis of ridership would support retaining the express bus line in the downtown area.

Pioneer Square was excited at the potential to increase parking capacity, and by extension, to provide the ability for such parking to support the overall parking needs of their development reducing barriers to the project.

The City would make parking impacts a priority in the downtown and surrounding residential area to facilitate measures that reduce those impacts on the availability of parking directly in front of those businesses and homes.

Lastly, the City will work in good faith with Gold Line, and in the future Metro, to facilitate future development mutually beneficial to the City and Metro, when opportunities arise for the Park and Ride facility. The alternative parking option also allows the City and Gold Line to work collaboratively on a solution that is mutually beneficial. In strengthening this relationship, the City hopes to foster future collaboration should opportunities or unanticipated issues arise. One such need is to ensure that the east side entrance/exit to the Municipal Yard is not negatively impacted by the CPUC requirement for a buffered median safety zone within the 100 feet of the rail line. We anticipate being able to work collaboratively with the Gold Line to resolve any conflicts at this area.

Next Steps

In order to facilitate this alternative option, time is of the essence. The Gold Line has already delayed proceeding with acquisition of the Municipal Yard, but they require the City to take affirmative action quickly to agree to this alternative parking option, which would involve the eventual sale of Successor Agency/City property. Additionally, the City and Pioneer Square must agree to amend their Exclusive Negotiating Agreement to allow the required parcels to be removed and thereby allow those properties to be negotiated with the Gold Line. Lastly, the Successor Agency/City needs to approve a resolution declaring the Successor Agency/City parcels as exempt from the Surplus Land Act as the City is transacting the properties with another governmental agency.

The following attachments provide the requisite documents necessary to proceed with the alternative parking option.

Attachment B provides the Letter of Intent between the City and Gold Line to work diligently and in good faith to appraise and transact a sale of the City's Park and Ride and Successor Agency's parcels to facilitate the alternate parking option. The Gold Line will need to update their environmental clearances and in consummating a sale, the Gold Line would relinquish their right to eminent domain the City's Municipal Yard.

Attachment C provides the Resolution exempting the Successor Agency and City's properties from the Surplus Land Act as the sale is being completed with another local or state public agency.

Attachment D provides Amendment No. 1 to the Exclusive Negotiating Agreement between the City and Pioneer Square, LLC to remove the two Successor Agency parcels required for the alternative parking option, as well as a portion of the Bonita/Cataract parcel that is required for the realignment of the roadway as part of the Gold Line rail construction.

Attachment E provides the historical documents and original Exclusive Negotiating Agreement as reference documents.

The actions requested in this item can be approved collectively, or if considered separately, must start with the approval of the Amendment No. 1 with Pioneer Square, then with approval of the resolution, and lastly with authorizing the execution of the Letter of Intent.

ENVIRONMENTAL/CEQA

The disposal and sale of the Property is found to be exempt from the California Environmental Quality Act (“CEQA”) pursuant to Public Resource Code section 21084 and California Code of Regulations, Title 14, sections 15061(b)(2) and 15312. Any further activity which triggers CEQA is contemplated to be studied as an obligation of the Gold Line.

Respectfully submitted,



Chris Constantin
City Manager

Attachments:

- | | |
|---------------------|---|
| Attachment A | Estimated Municipal Yard Design and Construction Costs |
| Attachment B | Binding Letter of Intent with Metro Gold Line Extension Construction Authority |
| Attachment C | Resolution – City Land Exempt |
| Attachment D | Amendment No. 1 to the Exclusive Negotiating Agreement with Pioneer Square, LLC |
| Attachment E | Historical Documents – Pioneer Square, LLC |

ATTACHMENT A



CITY OF SAN DIMAS

MAINTENANCE YARD

PROGRAMMATIC CONCEPTUAL STATEMENT OF PROBABLE COST

Prepared:

April 12, 2021

San Dimas Maintenance Yard Conceptual Statement of Probable Cost

Component	BUDGET	Comment
1 A/E SERVICES	1,795,000	Based on 10% fee
Conceptual Design	1,795,000	
Schematic Design	Incl	
Design Development	Incl	
Construction Administration	Incl	
Reimbursables	Incl	
2 GEOTECHNICAL	30,000	
Soils Reports (Buildings, Parking Areas)	30,000	
3 ENVIRONMENTAL	20,000	
Phase 1: ESA	10,000	Allowance
ACM / LBP Report	10,000	Allowance
Phase 2	N/A	Assumes not required
4 DEPUTY TESTING AND INSPECTION	300,000	
Soils Testing (Deputy Inspections)	100,000	Allowance
Materials Testing (Deputy Inspections)	200,000	Allowance
5 DIRECT COSTS	17,950,000	
Central Administration Building	6,982,702	
Central Shops	2,333,001	
Sitework (Demo, Landscape, Hardscape, etc)	8,634,282	Based on 3.5-acre programmed site
6 FIXTURES, FURNISHINGS, & EQUIPMENT (FF&E)	440,000	
Office furniture (Desks, Chairs, Files)	310,000	Allowance based on \$35/SF
Shop Equipment / Rack Systems	100,000	Allowance
Misc furniture and furnishings	20,000	Allowance
Building Identification signage	10,000	Allowance
7 TEMPORARY FACILITIES DURING CONSTRUCTION	200,000	
Temporary Trailers	200,000	Allowance
8 ELECTRONIC SYSTEMS AND SPECIAL EQUIPMENT	350,000	
Computers, Phones, Servers, Scanners, Copiers, Etc.	-	Not included
AV Systems	250,000	
Security Equipment and Access Controls	100,000	
9 PROGRAM & CONSTRUCTION MANAGEMENT	700,000	
Overhead, Fee & Administration costs	675,000	
Reimbursables & Insurance	25,000	Includes online document management software
10 UTILITY COMPANY CONNECTION SERVICES AND FEES	50,000	
Electric Service	10,000	Allowance
Water Service	10,000	Allowance
Sewer Service	10,000	Allowance
Gas Service	10,000	Allowance
Phone/Data/Cable Service	10,000	Allowance
11 CITY OF SAN DIMAS FEES AND ADMINISTRATION	0	
Plan Check, Permit Fees, and Building Inspections	TBD	Assumes exempt from fees
12 PROJECT CONTINGENCY	1,989,000	
Course of Construction Contingency	1,795,000	10% Allowance
Soft Cost Contingency (Professional Fees)	194,000	5% Allowance
TOTAL PROJECT COSTS	\$23,824,000	

NOTES:

- Construction costs are based on April 2020 values and include future escalation reflecting a midpoint of construction of March 2023.
- Griffin Structures, Inc. is offering this Statement of Probable Cost based on current level of documentation available which is based upon program documents without drawings. Griffin has used its reasonable best efforts to assess identified project specific program requirements, favorable geographic and topographic considerations, assumed building type, construction methods, current labor rates and material costs, and local market conditions to generate an opinion of possible project specific costs. Griffin cannot be held responsible for adjustments to this estimate which could produce amendments to subsequent and future project budget updates based upon changes in project specific requirements or unforeseen adjustments in local market conditions affecting both direct and indirect costs.
- Budget above does not include land acquisition costs nor financing costs.

INTRODUCTION

BASIS OF ESTIMATE

This Cost Estimate is based upon space programs along with verbal and written guidance by the City of San Dimas.

ESTIMATE MARK UPS

The following markups are included from this estimate:

1) General Conditions	10.00%
2) Overhead and Profit (OH&P)	4.50%
3) Bonds & Insurance	2.50%
4) Design Contingency	10.00%
5) Escalation to MOC, March 2023	7.71%

EXCLUSIONS

The following items are excluded from this estimate.

- 1) Escalation beyond midpoint of construction, March 2023. Assumed construction start date of July 2022 and a 15 month construction schedule
- 2) Asbestos abatement / hazardous material removal.
- 3) Off-site work.
- 4) Night time work.
- 5) Accelerated construction schedule.
- 6) Land acquisition costs.
- 7) Phasing.

ITEMS AFFECTING COST ESTIMATE

Items that may change the estimated construction cost may include but are not limited to the following:

- 1) Unforeseen sub-surface condition.
- 2) Any changes to the scope of work not included in this report. We recommend to update the estimate to capture the value of any changes.
- 3) Sole source procurement.
- 4) Any changes or delay from the projected construction schedule.

CLARIFICATIONS

- 1) This estimate is based on the assumption of a competitive bid environment by a minimum of four at the General Contractor and the Subcontractor level.
- 2) This estimate assumes the use of prevailing wages.
- 3) This estimate assumes design-bid-build procurement method.
- 4) Prequalification process for General Contractor and Subcontractor has not been included on this estimate. If prequalification will be implemented, it will have a cost impact to the project.

CONSTRUCTION COST SUMMARY

Base Scope Elements	TOTAL
CENTRAL ADMINISTRATION BUILDING, ONE-STORY	\$6,982,702
CENTRAL SHOPS BUILDINGS, ONE-STORY PEMB	\$2,333,001
SITE DEVELOPMENT	\$8,634,282
TOTAL CONSTRUCTION COST	\$17,949,985

Phases Detail Elements

Element	Quantity	Unit	Unit Cost	Subtotal
CENTRAL ADMINISTRATION BUILDING, ONE-STORY				
Buildings and structures				
Central admin building, one-story	10,436	sf	\$453.80	\$4,735,857
Central admin storage, naturally ventilated PEMB	6,705	sf	\$335.10	\$2,246,846
TOTAL - CENTRAL ADMINISTRATION BUILDING, ONE-STORY				\$6,982,702
CENTRAL SHOPS BUILDINGS, ONE-STORY PEMB				
Buildings and structures				
Shop building, 20'-0" clear	6,427	sf	\$363.00	\$2,333,001
TOTAL - CENTRAL SHOPS BUILDINGS, ONE-STORY PEMB				\$2,333,001
SITE DEVELOPMENT				
Site demolition				
Clear and grub of existing site	152,795	sf	\$0.50	\$76,398
Hazmat abatement, not included				Excluded
Buildings and structures				
Fuel canopy including equipment and tanks	1,500	sf	\$1,047.10	\$1,570,650
Wash area, covered including underground utilities (oil / water separator, etc.)	1,300	sf	\$146.60	\$190,580
Covered storage areas, including chain-link fence enclosure	7,434	sf	\$174.60	\$1,297,976
Covered parking	2,500	sf	\$160.60	\$401,500
Site development				
Earthwork and site prep	152,795	sf	\$4.20	\$641,739
Site utilities, allowance	152,795	sf	\$7.00	\$1,069,565
Generator, 350kW, allowance	1	ls	\$342,024.90	\$342,025
EV charger infrastructure, chargers not included	21	ea	\$1,326.30	\$27,852
Concrete paving to remaining site area, 80%	16,756	sf	\$18.20	\$304,959
Landscape to remaining site area, 20%	4,189	sf	\$14.00	\$58,646
Irrigation at parks and recreation, allowance	1	ls	\$10,000.00	\$10,000
New perimeter fence and gates, allowance	1,600	lf	\$230.40	\$368,640
New interior security fence and gates, allowance	500	lf	\$230.40	\$115,200
Parking, surface including circulation	68,470	sf	\$21.00	\$1,437,870
New drive way access, allowance	2	ea	\$55,840.80	\$111,682
Transfer station, allowance	1	ls	\$400,000.00	\$400,000
Open area, includes lighting	3,000	sf	\$28.00	\$84,000
Signage and directional markings, allowance	1	ls	\$125,000.00	\$125,000
TOTAL - SITE DEVELOPMENT				\$8,634,282

ATTACHMENT B

Binding Letter of Intent Parking Facilities

This binding letter of intent (LOI) is dated effective as of the date of the last signature below by and among the Metro Gold Line Foothill Extension Construction Authority (the "Authority") and the City of San Dimas (the "City"). Authority and City are sometimes individually referred to herein as a "Party" and collectively referred to as "Parties."

The Parties intend to be bound by this letter of intent according to the terms and conditions set forth herein.

Recitals

- A. The Project. The Authority is responsible for the development and construction of the Foothill Gold Line Light Rail Extension Project and has entered into a contract to extend the Metro Gold Line from the City of Azusa to the City of Pomona (the "Project").
- B. City Yard Parcels. In order to construct the Project, the Authority has proposed to acquire the 2.18-acre property owned by the City located at 301 S. Walnut Ave., San Dimas, CA 91773 (the "City Yard Parcels") for purposes of building a parking facility to serve the Project's San Dimas light rail station and has complied with the California Environmental Quality Act ("CEQA") for that acquisition and use.
- C. New Parcels. The City does not desire the Project's parking facility to displace the City Yard Parcel and desires instead that the Project's parking facility be located on property owned by the City and identified as Los Angeles County Accessors Parcel Numbers 8390-021-900, 901, 904 to 910, 912 to 917, and the area of the proposed driveway along the west portion of parcels 902 and 903 as shown in the attached Exhibit A ("New Parcels").
- D. Acquisition of New Parcels for Project. The Authority is willing to pursue relocating the Project's parking facility onto the New Parcels, subject to obtaining applicable environmental approvals and other satisfactory terms and conditions.

The Parties hereby agree as follows:

1. Purchase Agreement. Within thirty (30) days of the execution of this LOI, the Parties will work together in good faith toward execution of a mutually agreeable purchase and sale agreement for the purchase of the New Parcels.
2. Purchase Price. Authority will submit the names of three certified MAI appraisers to the City, and the City shall choose one appraiser from such list to value the New Parcels. Contingent upon and subject to the successful close of escrow, the fair market value of the New Parcels as determined by the chosen appraiser shall be paid to the City as just compensation for the Authority's acquisition of the

New Parcels, and neither Party shall have the right to dispute the valuation determination of the appraiser unless such valuation varies substantially from the valuation conducted by a separate certified MAI appraiser selected solely by the City, should the City elect to perform such separate appraisal. "Substantially" is defined as deviating more than thirty percent (30%) from the valuation determined by the chosen appraiser of the three submitted by the Authority. Should such substantial deviation occur, City shall have the right to cancel escrow, however the Parties agree to negotiate in good faith on an alternative purchase price and to reasonably work to not unnecessarily delay the Project.

3. Environmental Clearance. As a condition precedent to the Authority's acquisition of the New Parcels, the Authority shall have secured all CEQA approvals necessary for the Authority's contemplated use of the New Parcels. Notwithstanding anything else in this LOI to the contrary, if the Authority fails to secure all such necessary CEQA approvals, this LOI shall become null and void and neither Party shall have any rights, obligations, or remedies with regard to the other Party in connection with acquisition of the New Parcels.
4. Entire Agreement; Amendment. This LOI contains the entire understanding and agreement between the Parties relating to the matters contemplated hereby and supersedes all prior or contemporaneous negotiations, agreements, and representations, oral or written, in connection with acquisition of the New Parcels. This LOI may only be amended by a written instrument signed by both Parties.
5. Additional Acts and Documents. Each Party agrees to do all such reasonable things and take all such reasonable actions, and to make, execute, and deliver such other documents and instruments as shall be reasonably required to carry out the provisions, intent, and purposes of this LOI. Authority also commits to work with the City and Foothill Transit, the current user of the largest portion of the New Parcels, to implement a reasonable transition plan which will further multimodal transportation in the region.
6. Severability. If any term, provision, condition, or covenant of this LOI, or the application thereof to any Party or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this LOI shall remain in full force and effect to the fullest extent permitted by law.
7. Governing Law. This LOI shall be construed in accordance with the internal laws of the State of California, without regard to conflict of law principles, and shall be construed according to its fair meaning and as if prepared by both of the Parties.
8. Counterparts. This LOI may be executed in counterparts. All counterparts when executed shall constitute one agreement notwithstanding that all the Parties are not signatory to the original or the same counterpart. The Parties agree that facsimile signatures and/or electronic signatures on this LOI or any amendment

thereto shall have the same force, effect, and validity as that of an original signature.

9. Authority to Execute. The persons executing this LOI on behalf of the Parties hereto warrant and represent that they are duly authorized to execute and deliver this LOI on behalf of such Party, and by so executing this LOI, said Party is formally bound to the provisions of this LOI.
10. Limited Use. This LOI and the resulting subsequent agreement to purchase the New Parcels is entered into in the spirit of compromise to resolve a disputed claim and the terms shall be considered part of settlement negotiations between the Parties. None of the provisions of this LOI or the resulting subsequent agreement shall be used or construed as an admission of liability or default for any purpose, nor shall they restrict the Authority's or City's power of eminent domain, or the City's rights in any eminent domain proceeding, or otherwise be referred to in any potential eminent domain or related proceeding if the Authority pursues acquisition of the City Yard Parcels, except for the restriction on Authority's eminent domain authority in paragraph 11 herein.
11. Restriction on Taking of City Yard Parcels. Upon and after close of escrow of the New Parcels as contemplated by this LOI, the Authority shall not exercise eminent domain to acquire any of the City Yard Parcels.
12. Interpretation. The Parties have each agreed to the use of the particular language of this LOI, and no question of future interpretation shall be resolved by any rule of interpretation providing for interpretation against the Party whose representatives drafted this LOI, or any portion thereof.

IN WITNESS WHEREOF, the Parties have executed this LOI as of the Effective Date.

Date: _____, 2021

CITY OF SAN DIMAS

By: _____

Name: Chris Constantin

Its: City Manager

ATTEST:

By: _____

Name: Debra Black

Its: City Clerk

Date: _____, 2021

METRO GOLD LINE FOOTHILL EXTENSION
CONSTRUCTION AUTHORITY

By: _____

Name: Habib F. Balian

Its: CEO

APPROVED AS TO FORM:
ALESHIRE & WYNDER LLP

By: _____
Jeff M. Malawy
Attorneys for CITY OF SAN DIMAS

Date: May ____, 2021

NOSSAMAN LLP

By: _____
Bradford B. Kuhn
Attorneys for METRO GOLD LINE FOOTHILL
EXTENSION CONSTRUCTION AUTHORITY

Date: May ____, 2021

ATTACHMENT C

RESOLUTION 2021-36

A Resolution of the City Council of the City of San Dimas, California, and of the Successor Agency to the Former San Dimas Redevelopment Agency, Declaring Certain Public Property as Exempt Surplus Land, Pursuant to Government Code Section 54221

WHEREAS, under the Surplus Land Act, Government Code section 54220, *et seq.* (Act), surplus real property is defined as “land owned in fee simple by any local agency for which the local agency’s governing body takes formal action in a regular public meeting declaring that the land is surplus and is not necessary for the agency’s use;” and

WHEREAS, Government Code subdivision 54221(f)(1)(D) of the Act designates certain property as “exempt” from the provisions of the Act; and

WHEREAS, that certain real property owned by the City of San Dimas (“City”) described and shown on Exhibit A, and that certain property owned by the Successor Agency to the Former San Dimas Redevelopment Agency described and shown on Exhibit B (collectively referred to with the property described in Exhibit A as the “Property”), which by this reference is incorporated herein, is proposed to be transferred to the Metro Gold Line Foothill Extension Construction Authority, a local or state public agency (Authority); and

WHEREAS, the Property is not (i) within a coastal zone, (ii) adjacent to a historical unit of the State Parks System, (iii) listed on, or determined by the State Office of Historic Preservation to be eligible for, the National Register of Historic Places or (iv) within the Lake Tahoe region as defined in Government Code section 66905.5; and

WHEREAS, the City now desires to declare the Property as exempt surplus land.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN DIMAS, CALIFORNIA, DOES HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The recitals above are true and correct.

SECTION 2. Based on the above recitals, the City Council and the Successor Agency find and declare (i) the Property is exempt surplus land pursuant to Government Code subdivision 54221(f)(1)(D), (ii) the noticing requirements of Government Code subdivision 54221(f)(2) are not applicable and (iii) other related provisions of the Act are not applicable pursuant to Government Code section 54222.3.

SECTION 3. This Resolution is effective upon its adoption.

The foregoing Resolution was proposed by Council Member _____, seconded by Council Member _____, and was duly passed and adopted by the Council of the City of San Dimas at a regular meeting on June 8th, 2021 by the following vote:

AYES:

NOES:

ABSENT:

Emmett Badar, Mayor and Chair
City of San Dimas and Successor
Agency to Former San Dimas
Redevelopment Agency

ATTEST:

Debra Black, City Clerk and Agency Clerk
City of San Dimas and Successor Agency
to Former San Dimas Redevelopment
Agency

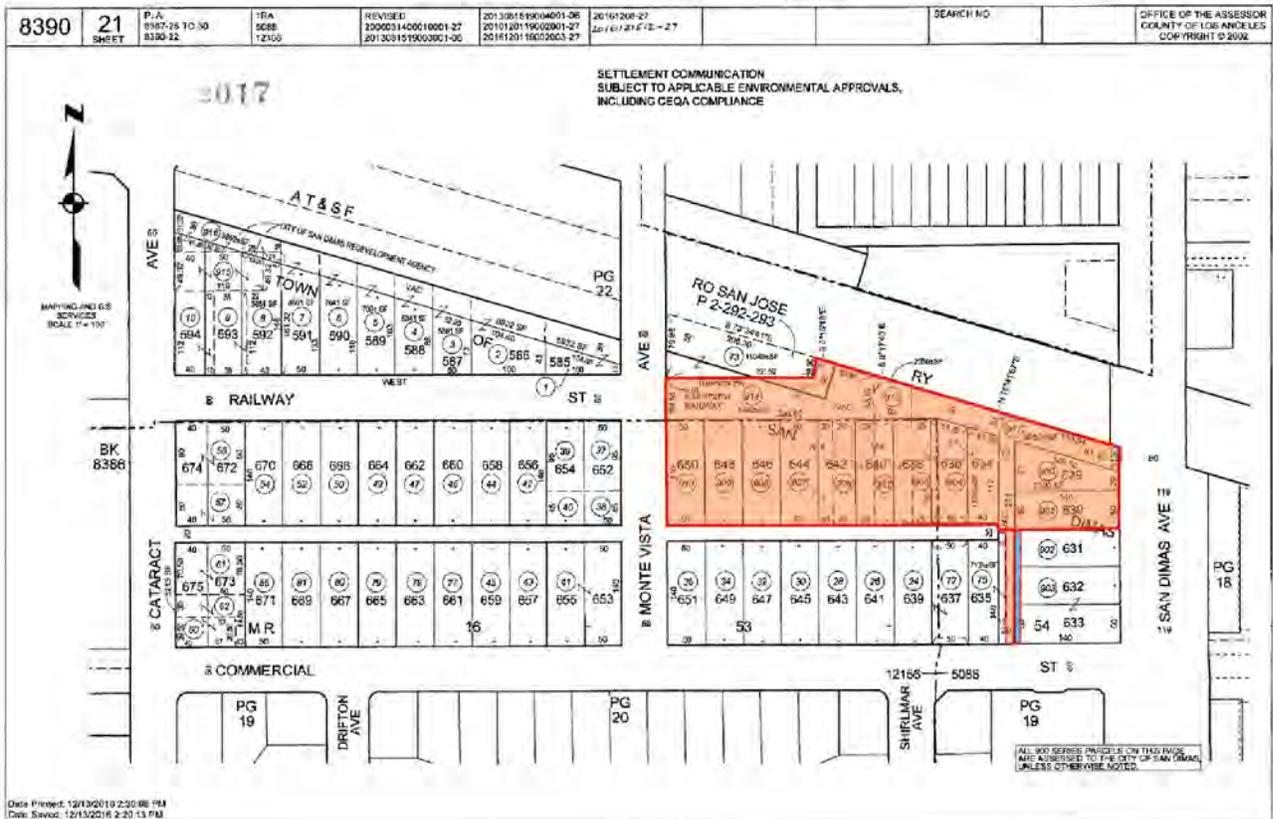
DRAFT

Exhibit A to Resolution 2021-36

City Property Property Description and Location

Description

Multiple parcels (highlighted in red) located between Monte Vista and San Dimas Avenues. The parcels include Los Angeles County Accessors Parcel Numbers 8390-021-900, 901, 904 to 910, 912 to 917. The parcels represent a surface parking lot which is in current use as parking.

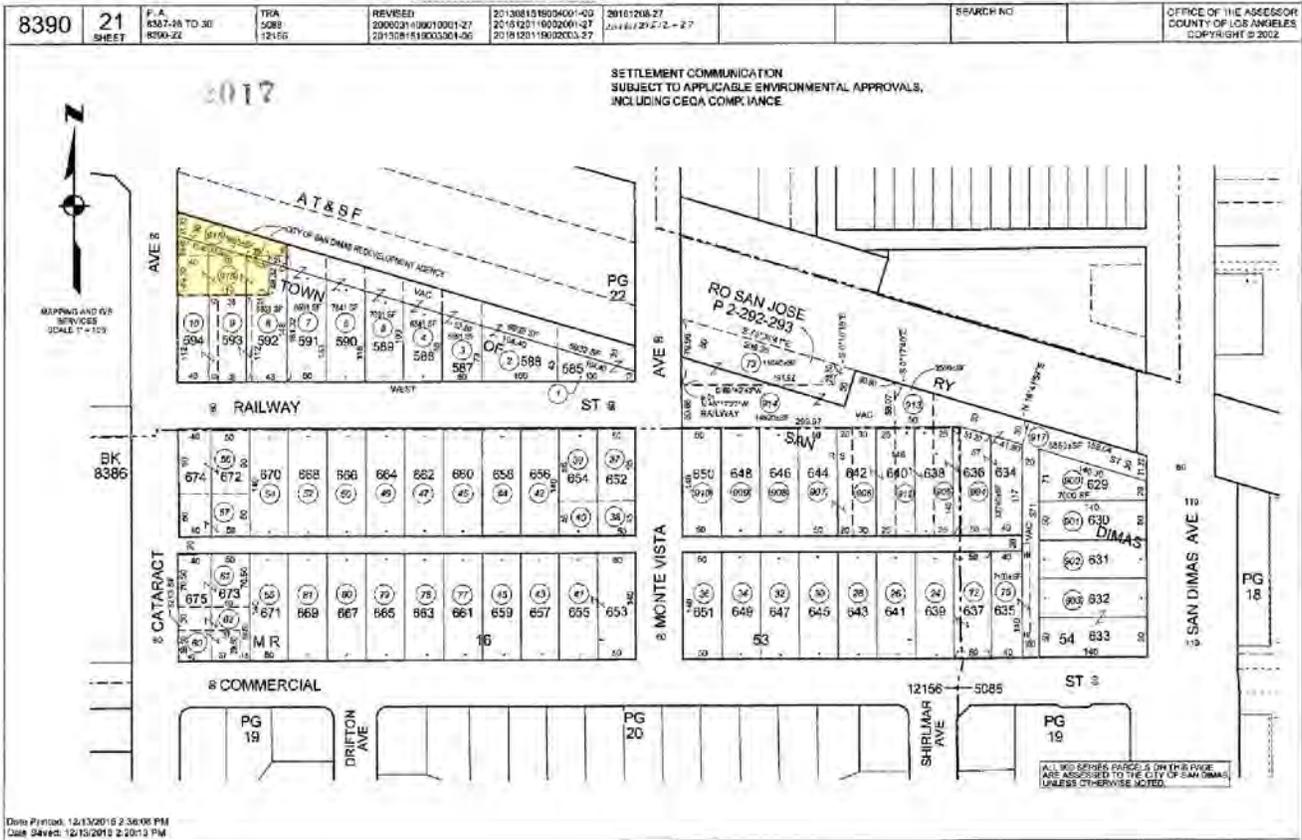


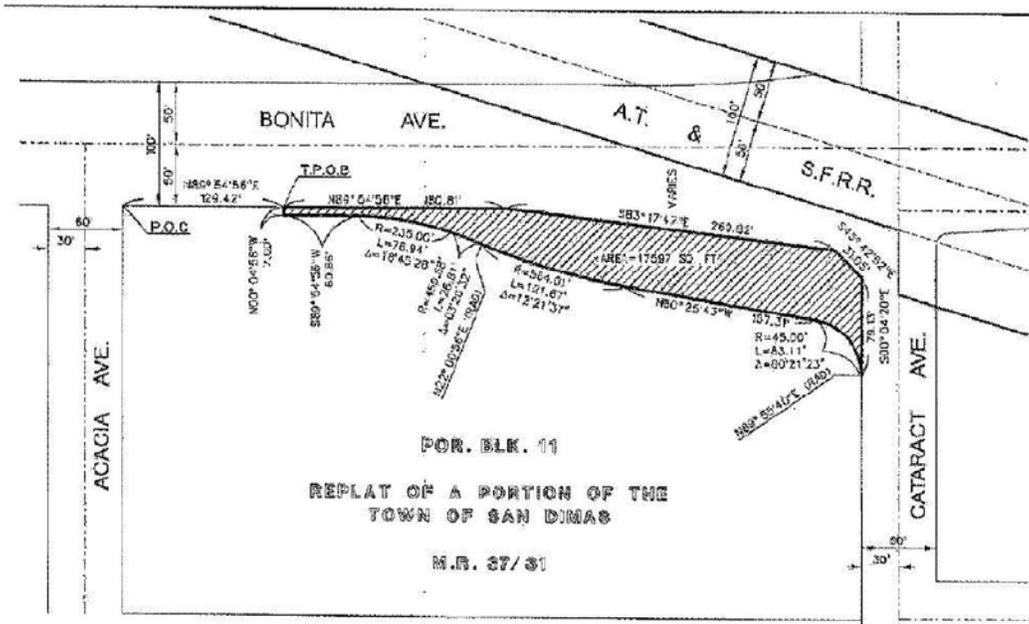
**Exhibit B
to
Resolution 2021-36**

**Successor Agency Property
Property Description and Location**

Description

Multiple parcels (highlighted in yellow) located on Cataract just south of Bonita Avenue. The parcels include Los Angeles County Accessors Parcel Numbers 8390-021-915, 8390-021-916. The parcels represent unimproved land currently zoned as residential. Additional property which is a portion of a larger parcel is depicted in the second diagram (highlighted as crosshatch). The parcel is a portion of Los Angeles County Accessors Parcel Numbers 8386-021-913 and represents unimproved land currently zoned as commercial.





FOR BLK. 11
 REPLAT OF A PORTION OF THE
 TOWN OF SAN DIMAS
 M.R. 37/31

METRO GOLD LINE FOOTHILL PHASE 2B
 EXHIBIT "B" - PARCEL 2111



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 Torrance, CA 90503
 (781) 300-1300 www.culvergroup.com

DRAWN BY: <u>KT</u>	Job No. <u>162285</u>
CHECKED BY: <u>DR</u>	
DATE: <u>1/22/2010</u>	
SCALE: <u>1"=40'</u>	SHEET <u>1</u> OF <u>1</u>

THE BEARINGS SHOWN ON THIS PLAT ARE BASED ON THE BEARING FROM THE RECORD OF SURVEY RECORDED IN BOOK 281 PAGES 64 THROUGH 75 OF RECORD MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF LOS ANGELES COUNTY, STATE OF CALIFORNIA.

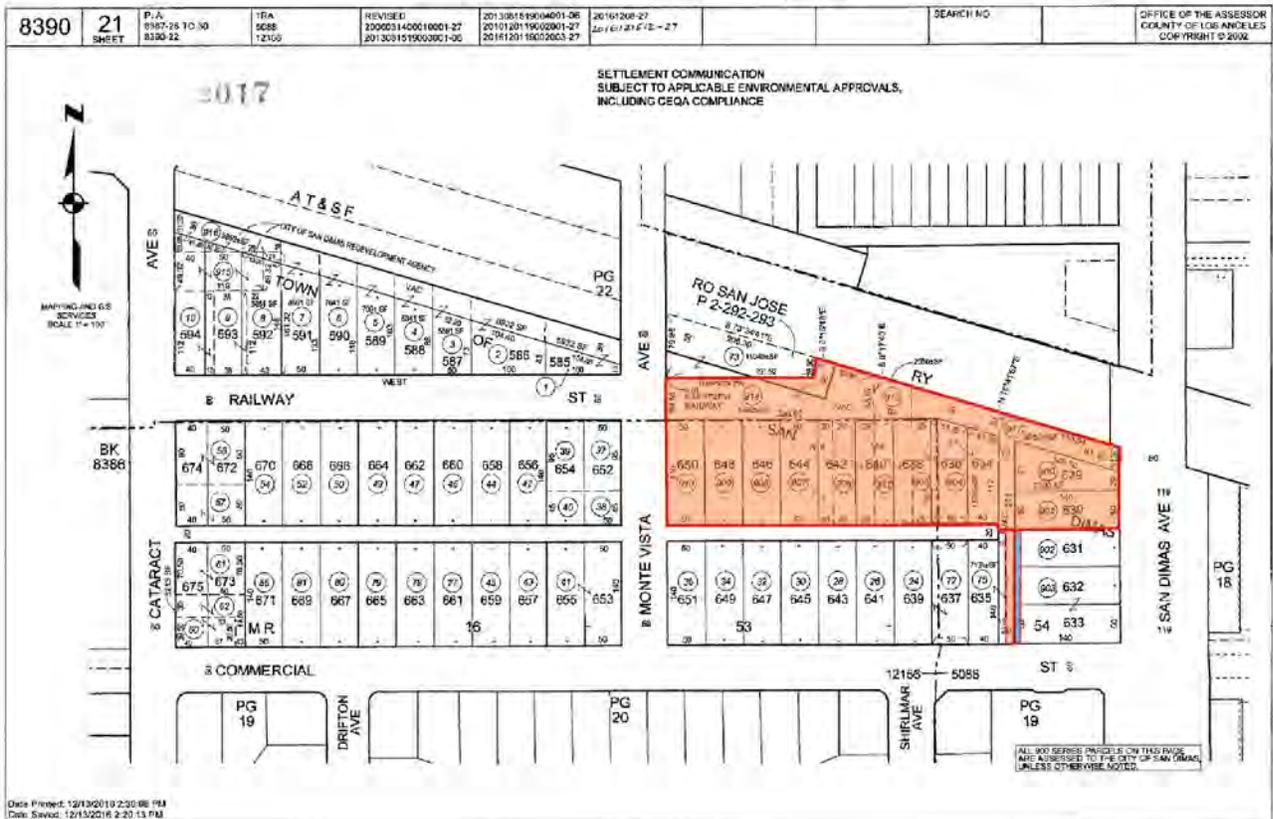
DRAFT

Exhibit A to Resolution 2021-36

City Property Property Description and Location

Description

Multiple parcels (highlighted in red) located between Monte Vista and San Dimas Avenues. The parcels include Los Angeles County Accessors Parcel Numbers 8390-021-900, 901, 904 to 910, 912 to 917. The parcels represent a surface parking lot which is in current use as parking.

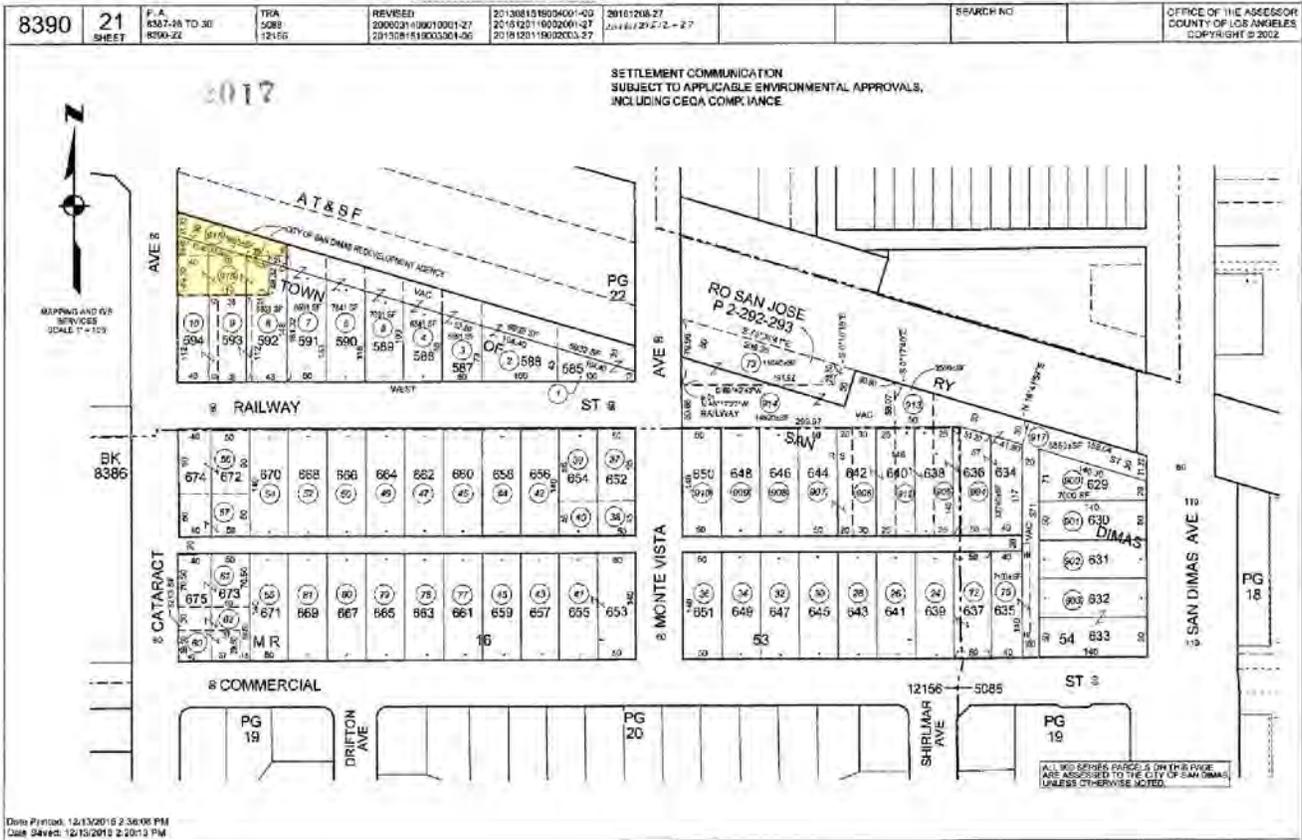


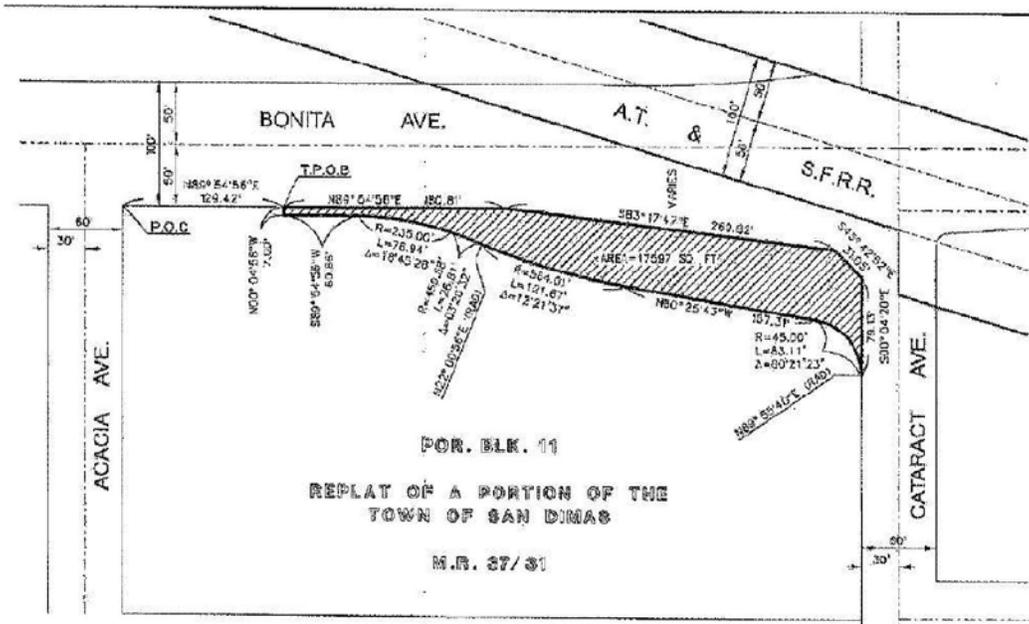
**Exhibit B
to
Resolution 45**

**Successor Agency Property
Property Description and Location**

Description

Multiple parcels (highlighted in yellow) located on Cataract just south of Bonita Avenue. The parcels include Los Angeles County Accessors Parcel Numbers 8390-021-915, 8390-021-916. The parcels represent unimproved land currently zoned as residential. Additional property which is a portion of a larger parcel is depicted in the second diagram (highlighted as crosshatch). The parcel is a portion of Los Angeles County Accessors Parcel Numbers 8386-021-913 and represents unimproved land currently zoned as commercial.





FOR BLK. 11
 REPLAT OF A PORTION OF THE
 TOWN OF SAN DIMAS
 M.R. 37/31

METRO GOLD LINE FOOTHILL PHASE 2B
 EXHIBIT 'B' - PARCEL 2111



Professional Land Surveyors
 18841 Van Nuys Blvd., Suite 102
 Van Nuys, CA 91411
 (781) 300-1300 www.cartergroup.com

DRAWN BY: <u>KT</u>	Job No. <u>ME2285</u>
CHECKED BY: <u>DR</u>	
DATE: <u>1/24/2012</u>	SHEET: <u>1</u> OF <u>1</u>
SCALE: <u>1"=40'</u>	

THE BEARINGS SHOWN ON THIS PLAT ARE BASED ON THE BEARING FROM THE RECORD OF SURVEY RECORDED IN BOOK 281 PAGES 64 THROUGH 75 OF RECORD MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF LOS ANGELES COUNTY, STATE OF CALIFORNIA.

DRAFT

ATTACHMENT D

AMENDMENT NO. 1 TO EXCLUSIVE NEGOTIATION AGREEMENT

THIS AMENDMENT NO. 1 TO EXCLUSIVE NEGOTIATION AGREEMENT ("Amendment") is made this 3 day of JUNE, 2021 ("Effective Date"), by and between the Successor Agency to the Former San Dimas Redevelopment Agency, a political subdivision formed pursuant to Health and Safety Code 34173 ("Agency" or "City"), and Pioneer Square, LLC, a California limited liability company ("Developer"). Agency and Developer are hereinafter collectively referred to as the "parties" and individually as a "party".

RECITALS

The parties enter into this Agreement on the basis of the following facts, understandings, and intentions:

A. On or about August 25, 2020, Agency and Developer entered into that certain Exclusive Negotiation Agreement ("ENA"), which ENA was fully executed on September 8, 2020, pursuant to which the Agency agreed to enter into exclusive negotiations with Developer to reach an agreement for the sale of the Site, subject to specified conditions precedent set forth therein.

B. The ENA encompasses Agency-owned properties located at 344 West Bonita Avenue (APN: 8386-021-913), 108 North Cataract Avenue (APN: 8390-021-916), and 112 North Cataract Avenue (APN: 8390-021-915), within the City of San Dimas, which properties are defined as the "Site" and more particularly shown and described in Exhibit "A" attached to the ENA.

C. The ENA negotiation term and due diligence period have extended, as confirmed by duly-approved extension letters such that the term and due diligence period are now set to expire on July 6, 2021.

D. The parties now wish to memorialize their agreement to amend the Site so as to remove from consideration the parcels 108 North Cataract Avenue (APN: 8390-021-916) and 112 North Cataract Avenue (APN: 8390-021-915), as such parcels are more specifically described at Exhibit "A" to the ENA, and the portion of that certain parcel described as 344 W. Bonita Avenue (APN: 8386-021-913) scheduled to be transferred by the Agency to the Metro Gold Line Foothill Extension Construction Authority ("Metro") and comprising approximately 17,597 square feet of land, as shown on Attachment No. 1 to this Amendment (collectively, "Removed Parcels"), from the definition of the Site in the ENA.

NOW, THEREFORE, and in consideration of the mutual covenants contained herein, the parties mutually agree to the following:

1. Amended Definition of "Site". All references to the term "Site" in the ENA, as legally described in Exhibit "A" to the ENA, shall be amended to eliminate the Removed Parcels and shall encompass the area to include the balance of the property located at 344 West Bonita Avenue (APN: 8386- 021- 913) after eliminating the Removed Parcels within the City of San Dimas.

2. Continuing Effect of ENA. Except as amended by this Amendment, all provisions of the ENA shall remain unchanged and in full force and effect and the parties' rights and obligations under the ENA shall not change as a result of this Amendment. From and after the date of this Amendment, whenever the term "Agreement" appears in the ENA, it shall mean the ENA as amended by this Amendment.

3. Adequate Consideration. The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment. The parties acknowledge that the sale by the Agency of the Removed Parcels to Metro will yield significant benefits and other consideration. As such, no other consideration shall be provided by Agency to Developer as a result of the revision of the Site pursuant to this Amendment.

4. Authority. The persons executing this Amendment on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment on behalf of said party, (iii) by so executing this Amendment, such party is formally bound to the provisions of this Amendment, and (iv) entering into this Amendment does not violate any provision of any other agreement to which said party is bound.

[Signatures appear on following page]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day first above written and agree to all terms and conditions herein.

“AGENCY”

“SAN DIMAS SUCCESSOR AGENCY, a public body corporate and politic

By: _____
Chris Constantin, Executive Director

ATTEST:

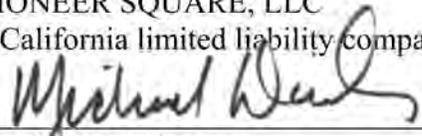
Debra Black, Successor Agency Clerk

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

Jeff Malawy, Successor Agency Counsel

“DEVELOPER”

PIONEER SQUARE, LLC
a California limited liability company

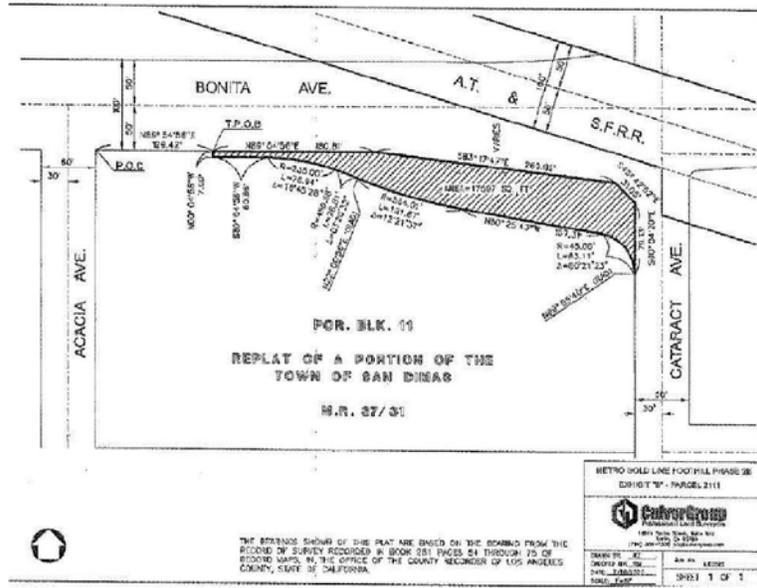


By: Michael Dieden

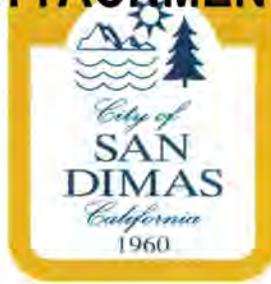
By: _____

ATTACHMENT NO. 1

DEPICTION OF REMOVED PORTION OF PARCEL AT APN: 8386-021-913



ATTACHMENT E



City Council

Emmett Badar, Mayor
Denis Bertone, Mayor Pro Tem
John Ebner
Ryan A. Vienna
Eric Weber

City Manager

Chris Constantin

Assistant City Manager

Brad McKinney

Director of Community Development

Henry K. Noh

Acting Director of Parks and Recreation

Brad McKinney

Director of Public Works

Shari Garwick

City Attorney

Jeff Malawy

April 14, 2021

Via Email to mdieden@challc.com

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

SUBJECT: Extension of Period of Negotiation and Due Diligence under Exclusive Negotiating Agreement ("ENA") for 344 West Bonita Avenue, 108 North Cataract Avenue, and 112 North Cataract Avenue, San Dimas, California ("Site")

Dear Mr. Dieden,

This memorializes the understandings between Pioneer Square, LLC ("Pioneer") and the Successor Agency to the Former San Dimas Redevelopment Agency ("Agency") to extend the term and Due Diligence Period under the ENA. On behalf of the Agency, I find that satisfactory progress is being made on the ENA to warrant the extension. Specifically, Pioneer has expressed its desire to proceed with acquisition of the Site following the expiration of Due Diligence Period and sufficient progress has been made on the negotiations of the draft Conveyance Instrument, as such capitalized words are defined in the ENA. Therefore, pursuant to Section 2.A. (Period of Exclusive Negotiation) of the ENA approved on August 25, 2020 by the City Council on behalf of the Agency, and deemed effective on September 8, 2020, a second 90 day extension has been granted beginning April 6, 2021 and ending July 6, 2021 per my authority as Executive Director of the Agency.

The City Council on behalf of the Agency also considered the recommendation to extend the Due Diligence Period at its April 13, 2021 City Council meeting and found that satisfactory progress is being made on the ENA to warrant the extension. Therefore, pursuant to Section I.F of the ENA approved on August 25, 2020 by the City, an additional 120 days has been granted to the Due Diligence Period beginning retroactively to March 8, 2021 and ending conterminously with the term of the ENA on July 6, 2021.

Except as modified by this letter, the full force and effect of the existing ENA, shall remain during the extension period.

Please sign below to acknowledge concurrence and acceptance of this ENA extension and return the original signed letter prior to April 21, 2021 to the attention of our Executive Director, Chris Constantin, at the address shown above:

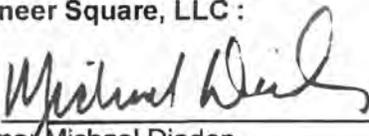
Sincerely,



Chris Constantin
Executive Director

ACKNOWLEDGEMENT AND APPROVAL

Pioneer Square, LLC :

By: 
Name: Michael Dieden

Date: 4/21/2021

Title: PRESIDENT

By: 
Name: Chris Constantin
Title: City Manager

Date: 4/28/2021

cc: Jeff Malawy, City Attorney/Agency Counsel



Agenda Item Staff Report

To: Honorable Mayor and Members of City Council, as Successor Agency to the Former San Dimas Redevelopment Agency
For the meeting of April 13, 2021

From: Chris Constantin, Executive Director

Subject: Consideration of a Second Extension to the Due Diligence Period under the Exclusive Negotiating Agreement (ENA) with Pioneer Square, LLC for the Development of a Mixed-use Project at Properties Located at 344 West Bonita Avenue (APN: 8386-021-913), 108 North Cataract Avenue (APN: 8390-021-916), and 112 North Cataract Avenue (APN: 8390-021-915), San Dimas California

SUMMARY

The Successor Agency to the former San Dimas Redevelopment Agency owns 344 West Bonita Avenue (APN: 8386-021-913), 108 North Cataract Avenue (APN: 8390-021-916) and 112 North Cataract Avenue (APN: 8390-021-915) ("Property") and has entered into an Exclusive Negotiating Agreement (ENA) with Pioneer Square, LLC to buy and develop these sites with residential, commercial, retail/restaurant and hotel uses that seek to enhance economic and employment opportunities for the City and the surrounding areas. Pioneer Square has requested a second extension to the Due Diligence period to align with the ENA.

RECOMMENDATION

Staff recommends that the City Council approve an extension to the Due Diligence period between the Successor Agency to the Former San Dimas Redevelopment Agency and Pioneer Square, LLC retroactively to March 8, 2021 and ending July 6, 2021 and authorize the Executive Director to execute the necessary documents.

BACKGROUND

In June 2019, the San Dimas Successor Agency ("Agency"), with the assistance of Kosmont Real Estate Services ("KR"), issued an initial offering for the sale of a +/- 3.57-acre property at 344 West Bonita Avenue, San Dimas, between Cataract and Acacia Avenues. This Property is within proximity to the City's downtown and is adjacent to Pioneer Park.

The Agency entered into an Exclusive Negotiating Agreement (ENA) with Pioneer Square (PSQ) on August 25, 2020. The Developer is requesting an extension to the Due Diligence period under the ENA.

DISCUSSION

This ENA is an agreement between the Successor Agency/City and the Developer specifying a range of time whereby the parties shall exclusively negotiate in good faith to arrive at a final Project Plan and Conveyance Instrument.

During the ENA period, PSQ has been going through a Due Diligence period which requires them to complete a series of reports, studies, and plans to determine the proposed Project's scope and feasibility.

PSQ has expressed its desire to proceed with acquisition of the Site following the expiration of the Due Diligence Period and sufficient progress has been made on the negotiations of the draft Conveyance Instrument, defined in the ENA. Therefore, pursuant to Section 2.A. (Period of Exclusive Negotiation) of the ENA approved on August 25, 2020 by the City Council on behalf of the Agency, and deemed effective on September 8, 2020, a second 90-day extension has been granted beginning April 6, 2021 and ending July 6, 2021 per the City Manager's authority as Executive Director of the Agency.

PSQ has requested a second extension to the Due Diligence period to align with the current ENA extension. This request is being made in light of the items remaining outstanding to ascertain the viability of the Project. Therefore, pursuant to Section I.F of the ENA approved on August 25, 2020 by the City, an additional 120 days is being requested to the Due Diligence Period beginning retroactively to March 8, 2021 and ending conterminously with the term of the ENA on July 6, 2021.

Respectfully submitted,



Chris Constantin,
Executive Director

Attachment:

Due Diligence Extension Letter



DOCUMENT TRANSMITTAL FORM

Requested Action:	Approval
Date:	April 28, 2021
Department:	Public Works
Staff Person:	Michael O'Brien
Phone Number:	

Time Sensitive?	Yes
Due Date	May 3, 2021
Latest Return Date	May 3, 2021

#	Routing	"X"	Initials
1	Preparer	<input checked="" type="checkbox"/>	
2	HR	<input type="checkbox"/>	
3	Finance	<input type="checkbox"/>	
4	Risk	<input type="checkbox"/>	
5	CAO	<input type="checkbox"/>	
6	ACM	<input type="checkbox"/>	
7	CM	<input checked="" type="checkbox"/>	
8	City Clerk	<input type="checkbox"/>	

DOCUMENT DETAILS	
Document Title:	PSQ Extension
Brief Description:	Extension of Period of Negotiation and Due Diligence under Exclusive Negotiating Agreement for 344 West Bonita Avenue, 108 North Cataract Avenue, and 112 North Cataract Avenue.
Vendor:	Pioneer Square, LLC
Key Vendor Contact:	Michael Dieden
Vendor Phone Number:	

Dept for Retention:	City Clerk
Retention Category:	None
Date for Document Destruction Review:	

CHECK-OFF LIST:	
<input checked="" type="checkbox"/> Final Agreement (signed by City Attorney, ASD, and Vendor)	<input type="checkbox"/> Solicitation Documents (Bids, RFP, trade journal notices, etc.)
<input type="checkbox"/> Purchase Order, W9, sole source justifications or other initiating transaction	<input type="checkbox"/> Solicitation Response (Proposal, List of Proposers, bid submission listings include prices, etc.)
<input type="checkbox"/> Available funding Budget Sheet showing account number and available funding	<input type="checkbox"/> Conflict of Interest Form/CalPERS Determination
<input type="checkbox"/> Insurance Certificate, endorsements and declarations naming City of San Dimas	<input type="checkbox"/> Vendor Invoice and Supporting Information
<input type="checkbox"/> Council Action and/or Authority for CM to execute	<input type="checkbox"/> Completed Product or Service; verification of completeness
<input type="checkbox"/> Other:	<input type="checkbox"/> Other:

NOTES/COMMENTS:
Keywords for Search (separate words by comma):

City Council

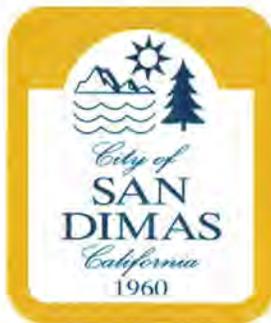
Emmett Badar, Mayor
Denis Bertone, Mayor Pro Tem
John Ebner
Ryan A. Vienna
Eric Weber

City Manager

Chris Constantin

Assistant City Manager

Brad McKinney



**Director of
Community Development**
Henry K. Noh

**Acting Director of
Parks and Recreation**
Brad McKinney

Director of Public Works
Shari Garwick

City Attorney
Jeff Malawy

February 21, 2021

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

**SUBJECT: 90-Day Extension for Due Diligence under Exclusive Negotiating Agreement (ENA)
For 344 West Bonita Avenue, 108 North Cataract Avenue, and 112 North Cataract Avenue, San
Dimas, California ("Site")**

Dear Mr. Dieden,

Enclosed please find two sets of the 90-letter of extension for your signature. The City Council approved this at the February 9th, 2021 council meeting. Return both to my office for the City Manager's signature. I will send you your set of the final executed document.

Sincerely,

A handwritten signature in black ink that reads "Debra Black".

Debra Black
City Clerk

City Council

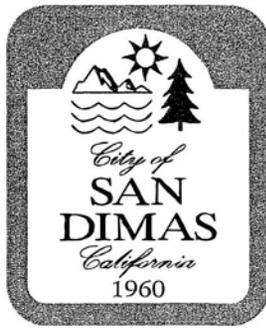
Emmett Badar, Mayor
Denis Bertone, Mayor Pro Tem
John Ebner
Ryan A. Vienna
Eric Weber

City Manager

Chris Constantin

Assistant City Manager

Brad McKinney



**Director of
Community Development**
Henry K. Noh

Director of Public Works
Shari Garwick

**Director of Parks and
Recreation**
Hector M. Kistemann

City Attorney
Jeff Malawy

February 10, 2021

Via Email to mdieden@challc.com
Pioneer Square, LLC
8800 Venice Blvd, Suite 316
Los Angeles, CA 90034
Attention: Michael Dieden

SUBJECT: 90-Day Extension for Due Diligence under Exclusive Negotiating Agreement (ENA) for 344 West Bonita Avenue, 108 North Cataract Avenue, and 112 North Cataract Avenue, San Dimas, California ("Site")

Dear Mr. Dieden,

This memorializes the understandings between Pioneer Square, LLC ("Pioneer") and the Successor Agency to the Former San Dimas Redevelopment Agency ("Agency") to extend the Due Diligence Period under the ENA for 90-days. The City Council on behalf of the Successor Agency considered the recommendation to extend the Due Diligence Period at its February 9, 2021 City Council meeting and found that satisfactory progress is being made on the ENA to warrant the extension.

Specifically, there have been delays in securing an appraisal of the properties that are the subject of the ENA and, in turn, the preparation of the draft Conveyance Instrument, as such capitalized words are defined in the ENA. Therefore, pursuant to Section I.F of the ENA approved on August 25, 2020 by the City, an additional 90 days has been granted to the Due Diligence Period beginning retroactively to December 7, 2020 and ending March 8, 2021.

Except as modified by this letter and as the negotiation term of the ENA was extended by the December 11, 2020 countersigned letter from the City, the full force and effect of the existing ENA, shall remain during the extension period.

Please sign below to acknowledge concurrence and acceptance of this ENA extension and return the original signed letter prior to February 15, 2021 to the attention of our Executive Director, Chris Constantin, at the address shown above:

Sincerely,

A handwritten signature in black ink, appearing to read 'Chris Constantin'.

Chris Constantin
Executive Director

ACKNOWLEDGEMENT AND APPROVAL

Pioneer Square, LLC:

By: _____
Name: Michael Dieden

Date: _____

Title: _____

By: _____

Date: _____

Name: _____

Title: _____

cc: Jeff Malawy, City Attorney/Agency Counsel



DOCUMENT TRANSMITTAL FORM

Requested Action:	Approval
Date:	February 11, 2021
Department:	Administrative Services
Staff Person:	Brad McKinney
Phone Number:	(909) 394-6213

Time Sensitive?	Yes
Due Date	February 15, 2021
Latest Return Date	February 15, 2021

#	Routing	"X"	Initials
1	Preparer	<input checked="" type="checkbox"/>	
2	HR		
3	Finance	<input type="checkbox"/>	
4	Risk		
5	DEPT HEAD	<input type="checkbox"/>	
6	ACM	<input checked="" type="checkbox"/>	<i>[Signature]</i>
7	CM	<input checked="" type="checkbox"/>	<i>[Signature]</i>
8	City Clerk	<input type="checkbox"/>	

DOCUMENT DETAILS	
Document Title:	90 Day Extension DD - PSQ
Brief Description:	90 day Extension letter for Due Diligence for the PSQ ENA.
Vendor:	PSQ
Key Vendor Contact:	Michael Dieden
Vendor Phone Number:	(310) 418-6835

Dept for Retention:
City Clerk
Retention Category:
CL+5
Date for Document Destruction Review:
June 30, 2026

CHECK-OFF LIST:			
<input type="checkbox"/>	Agreement (signed by City Attorney, ASD, and Vendor)	<input type="checkbox"/>	Solicitation Documents (Bids, RFP, etc.)
<input type="checkbox"/>	Purchase Order	<input type="checkbox"/>	Solicitation Response (Proposal, List of Proposers)
<input type="checkbox"/>	Available funding Budget Sheet	<input type="checkbox"/>	Conflict of Interest Form/CalPERS Determination
<input type="checkbox"/>	Insurance Certificate naming City of San Dimas	<input type="checkbox"/>	Vendor Invoice and Supporting Information
<input checked="" type="checkbox"/>	Council Action or Authority Documents <i>APPROVED BY COUNCIL ON 2.9.2021</i>	<input type="checkbox"/>	Completed Product or Service
<input checked="" type="checkbox"/>	Other: Letter Approval	<input type="checkbox"/>	Other:

NOTES/COMMENTS:
Keywords for Search (separate words by comma):

City Council
EMMETT BADAR, Mayor
DENIS BERTONE, Mayor Pro Tem
JOHN EBINER
RYAN A. VIENNA
ERIC WEBER

Interim City Manager
BRAD Mc KINNEY



Director of
Community Development
HENRY NOH

Director of Public Works
SHARI GARWICK

Director of Parks and
Recreation
HECTOR M. KISTEMANN

City Attorney
JEFF MALAWY

December 11, 2020

Via Email to mdieden@challc.com
Pioneer Square, LLC
8800 Venice Blvd, Suite 316
Los Angeles, CA 90034
Attention: Michael Dieden

SUBJECT: 90-Day Extension of the Exclusive Negotiating Agreement (ENA) for 344 West Bonita Avenue, 108 North Cataract Avenue, and 112 North Cataract Avenue, San Dimas, California ("Site")

Dear Mr. Dieden,

This memorializes the understandings between Pioneer Square, LLC ("Pioneer") and the Successor Agency to the Former San Dimas Redevelopment Agency ("Agency") to extend the term of the ENA for 90-days. On behalf of the Agency, I find that satisfactory progress is being made on the ENA to warrant the extension. Specifically, Pioneer has expressed its desire to proceed with acquisition of the Site following the expiration of Due Diligence Period and sufficient progress has been made on the negotiations of the draft Conveyance Instrument, as such capitalized words are defined in the ENA. Therefore, pursuant to Section 2.A. (Period of Exclusive Negotiation) of the ENA approved on August 25, 2020 by the City, an additional 90 days has been granted starting January 6, 2021 and ending April 6, 2021 per the authority of the Executive Director of the Agency.

The 90-day extension effectuated by this letter is further based on Pioneer's confirmation by its signature below that it concurs with the release of the nonrefundable Conveyance Instrument Deposit pursuant to Section 6 of the ENA.

We further understand Pioneer seeks an extension of the Due Diligence Period for an additional 90 days. Such extension is beyond my authority under the ENA. Nevertheless, in light of the items that remain outstanding to ascertain the viability of the Project and allow time for receipt and review of the appraisal and negotiations of the Conveyance Instrument, which was contemplated to occur before expiration of the Due Diligence Period under Section 1.F, I will recommend

such extension to the City Council. We intend to bring this request to the City Council at one of its meetings in January 2021, and will confirm whether the City Council is amenable to the extension following that meeting.

Except as modified by this letter, the full force and effect of the existing ENA shall remain during the extension period.

Please sign below to acknowledge concurrence and acceptance of this ENA extension and return the original signed letter prior to December 18, 2020 to the attention of our Executive Director, Brad McKinney, at the address shown above:

Sincerely,



Brad McKinney
Executive Director

ACKNOWLEDGEMENT AND APPROVAL

Pioneer Square, LLC :

By: Michael Dieden
Name: Michael Dieden

Date: 12/15/2020

Title: Co-Managing Partner

By: _____

Date: _____

Name: _____

Title: _____

cc: Jeff Malawy, City Attorney/Agency Counsel



December 7, 2010

Mr. Brad McKinney
Interim City Manager
City of San Dimas
245 East Bonita Avenue
San Dimas, CA 91773-3002

Re: Exclusive Negotiation Agreement between the Successor Agency to the Former San Dimas Redevelopment Agency and Pioneer Square, LLC concerning real estate at 344 West Bonita Avenue (APN: 8386-021-913), 108 North Cataract Avenue (APN: 8390-021-916) and 112 North Cataract Avenue (APN: 8390-021-915) (the "ENA")

Dear Mr. McKinney,

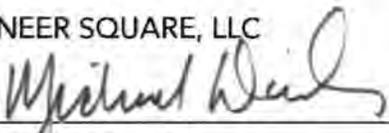
Whereas the parties have made substantial progress in accomplishing milestones described in the ENA document and more specifically set forth in Exhibit "C" thereto, and certain of those milestones require additional work to be completed, Pioneer Square, LLC is requesting, as contemplated by Section 2(A) in the ENA, a Ninety (90) day extension from December 7, 2010, to March 8, 2021. Pioneer Square, LLC will continue to work diligently and communicate regularly with the City and Kosmont Companies throughout this period and the ENA shall remain in full force and effect.

Please indicate your approval of said extension by signing below and returning this letter to the undersigned.

Thank you for your consideration.

Sincerely,

PIONEER SQUARE, LLC

By: 
Michael Dieden

AGREED

City of San Dimas on behalf of the Successor Agency

By: _____

Brad McKinney,

cc: Larry Kosmont, Julio Fuentes, Brian Moncrief



Agenda Item Staff Report

To: Honorable Mayor and Members of City Council, as Successor Agency to the Former San Dimas Redevelopment Agency
For the meeting of August 25, 2020

From: Brad McKinney, Interim Executive Director

Subject: CONSIDERATION OF AN EXCLUSIVE NEGOTIATING AGREEMENT (ENA) WITH PIONEER SQUARE, LLC FOR THE DEVELOPMENT OF A MIXED-USE PROJECT AT PROPERTIES LOCATED AT 344 WEST BONITA AVENUE (APN: 8386-021-913), 108 NORTH CATARACT AVENUE (APN: 8390-021-916), AND 112 NORTH CATARACT (APN: 8390-021-915), SAN DIMAS CALIFORNIA

SUMMARY

The Successor Agency to the Former San Dimas Redevelopment Agency owns 344 West Bonita Avenue (APN: 8386-021-913), 108 North Cataract Avenue (APN: 8390-021-916) and 112 North Cataract Avenue (APN: 8390-021-915) ("Property"), which are underutilized and underperforming properties. The Agency seeks to enter into an Exclusive Negotiating Agreement (ENA) with Pioneer Square, LLC to buy and develop these sites with residential, commercial, retail/restaurant and hotel uses that seek to enhance economic and employment opportunities for the City and the surrounding areas.

BACKGROUND

In June 2019, the San Dimas Successor Agency ("Agency"), with the assistance of Kosmont Real Estate Services ("KR"), issued an initial offering for the sale of a +/- 3.57-acre property at 344 West Bonita Avenue, San Dimas, between Cataract and Acacia Avenues. This Property is within proximity to the City's downtown and is adjacent to Pioneer Park. The Property is also within a half-mile of the proposed San Dimas rail station, which will be part of the Foothill Gold Line Rail project.

The Agency received three developer proposals and/or letters of interest for the acquisition and/or development of the Property. The Agency staff and KR completed a detailed evaluation of the proposals/letters of interest submitted and separately conducted interviews as part of the evaluation process. Pioneer Square, LLC. ("Developer") was ultimately selected to advance to the next phase of the evaluation process due to their comprehensive conceptual plan that proposed an attractive, livable community by combining hospitality, residential and commercial uses with public plaza

amenities and subterranean parking to provide a sense of place and engagement not only for the local community but for the region as well.

PROJECT & ENA ANALYSIS

This Exclusive Negotiating Agreement ("ENA") is an agreement between the Successor Agency/City and the Developer specifying a range of time whereby the parties shall exclusively negotiate in good faith to arrive at a final Project Plan and Conveyance Instrument. The ENA period legally binds the Agency to not negotiate with 3rd parties regarding the Property, and it requires the Developer to conduct its Property due diligence work and complete a series of reports, studies, and plans regarding the Project's scope and feasibility.

During the ENA, the parties will evaluate the Developer's Project Plan and financial feasibility for designing and building a mixed-use project that is proposed to include approximately:

- 40 for-sale housing units (townhomes and flats);
- 28,000 square feet of retail and commercial space, including a possible bookstore, dining (provided dining shall not include any fast food, except as expressly approved by the City), small grocer, creative office space, health & exercise use and 15,000 square feet of office/flex space;
- Boutique hotel with approximately 60-80 rooms with lobby, restaurant and bar services, pool, and roof-top bar;
- 200 subterranean and semi-subterranean parking spaces; and
- Design amenities that will accentuate the pedestrian experience, interrelate the relationship between Pioneer Square and Pioneer Park, and install long-term sustainable drought-resistant landscape improvements.

The ENA will enable the Agency/City to identify and assess the potential public benefits and new city revenues (property taxes, transient occupancy taxes, and sales taxes), as well as potential private benefits (construction and permanent jobs with badly needed housing opportunities) for the City and region.

The initial ENA term is for 120 calendar days and may be extended for two additional 90-day periods at the Developer's request and with the written approval of the City Manager/Executive Director. The Developer will have 90-days from the ENA effective date to complete its due diligence site work.

The Developer will prepare studies, reports, and analysis to determine the feasibility of the Project. The Developer shall submit to the Agency/City a boutique hotel study, site plan and development program, preliminary proforma, public outreach plan, monthly leasing activity report, preliminary financing plan, partners disclosure report, development schedule, and other documentation requested by the Agency/City. The Developer will secure a Phase I environmental report, and if necessary, perform a Phase II report after obtaining a right of entry agreement from the City.

The ENA calls for the Developer to acquire the Property in fee interest for Three Million Dollars (\$3,000,000) subject to confirmation of this price by a fair market value appraisal by an appraiser

selected by the Agency/City. The appraisal may account for any specific property constraints, which may include public improvements and environmental conditions. Potential storm drain relocation work and soils mitigation issues will be considered and may generate pricing adjustments as part of the appraisal evaluation. The land purchase price or adjustments made by the appraisal of the Property's market value will be subject to the approval of the Los Angeles Fifth District Consolidated Countywide Oversight Board ("OB").

The Developer will be responsible for financing and building all on-site improvements required of the Project. The Developer will pay for other necessary public improvements, including all City fees incurred for processing this Project. As currently conceived, it is anticipated that there shall be no Agency/City financial assistance provided to this Project unless specifically provided in the ENA.

The Developer will deposit \$25,000 within five days of the ENA effective date to reimburse the Agency/City for third-party costs and expenses. Staff-related time and internal costs are also eligible for reimbursement. The Agency/City will provide the Developer with a written monthly report accounting for these expenses.

The Developer shall deposit another \$25,000 within five days of the OB's approval of the Conveyance Instrument, so long as there are no third-party challenges or litigation. These funds shall be nonrefundable and applicable to the land purchase price, except in the case of an Agency/City default, an OB or other oversight board non-approval, or an Agency/City failure to approve or execute the Conveyance Instrument. If this occurs, the remaining deposit will be returned to the Developer.

Within five days of approval of a Conveyance Instrument, the Developer will deposit \$50,000 to reimburse the Agency/City for its third-party costs to complete CEQA documents, reports, and studies.

There is no provision in the ENA to commit the Developer to buy the Property or develop the Project. Moreover, the ENA does not require the Agency/City to sell the Property or approve the Project. The ENA provides the Agency/City with unfettered discretion to reject the Project and/or the Conveyance Instrument.

During the ENA, the Developer cannot assign its rights and obligations under the ENA without the City's consent, except to Permitted Affiliates. Once the Conveyance Instrument is executed, the City has approved the Project, and the City has issued a Certificate of Occupancy for the Project, the Developer may convey the Property and Project without the City's consent.

RECOMMENDATION

Staff recommends that the City Council take the following actions:

1. Approve the Exclusive Negotiating Agreement (ENA) between the Successor Agency to the Former San Dimas Redevelopment Agency and Pioneer Square, LLC; and

2. Authorize the Executive Director to execute the ENA, in a form acceptable to the City Attorney, on behalf of the Successor Agency.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "B/M", with a long horizontal stroke extending to the right.

Brad McKinney,
Interim Executive Director

Attachment: Exclusive Negotiation Agreement

Contract



September 8, 2020

Debra Black
City Clerk
City of San Dimas
248 East Bonita Ave.
San Dimas, CA 91773

Re: Pioneer Square Exclusive Negotiation Agreement (ENA)

Dear Ms. Black,

Attached please find enclosed an executed copy of the City's ENA with Pioneer Square, LLC. Thank you for coordinating this effort

Sincerely,


Michael Dieden
Co-Managing Partner | Pioneer Square LLC
(e) mdieden@challc.com
(c) 310-836-1342

Enclosure

EXCLUSIVE NEGOTIATION AGREEMENT

THIS EXCLUSIVE NEGOTIATION AGREEMENT ("ENA" or "Agreement") is made this 25th day of August, 2020 ("Effective Date"), by and between the Successor Agency to the Former San Dimas Redevelopment Agency, a political subdivision formed pursuant to Health and Safety Code 34173 ("Agency" or "City"), and Pioneer Square, LLC, a California limited liability company ("Developer"). Agency and Developer are hereinafter collectively referred to as the "parties" and individually as a "party".

RECITALS

The parties enter into this Agreement on the basis of the following facts, understandings, and intentions:

A. *The Site; Underutilization Thereof:* Agency owns the following properties located at 344 West Bonita Avenue (APN: 8386-021-913), 108 North Cataract Avenue (APN: 8390-021-916), and 112 North Cataract Avenue (APN: 8390-021-915), which is within the City of San Dimas's municipal boundaries and more particularly shown and described in Exhibit "A" attached hereto (the "Site"). The Site is currently underutilized, falling substantially short of its revenue-generating and job-generating potential. The Agency therefore seeks to enter into exclusive negotiations with the Developer with the purpose of reaching an agreement for the acquisition and development of the Site to enhance the Site's residential, commercial, retail/restaurant, and hotel uses, thereby providing further economic and employment opportunities on and around the Site, while maintaining high standards of development and environmental protection. Agency/City seeks to utilize the Site in a manner that will maximize public benefits and welfare, while encouraging the development of a well-planned and thoughtfully designed mixed-use development.

B. *Site is Located for Transit-Oriented Residential, Mixed-Use Retail Center.* The Site fronts Bonita Avenue and is within close proximity to the City's downtown and highest concentration of commercial activity as well as adjacent to Pioneer Park. The Site is located within a half mile from the proposed San Dimas station as part of the Foothill Gold Line light rail project from Glendora to Montclair, which is located east of San Dimas Avenue between Bonita Avenue and Arrow Highway. The Site also has easy regional access to major freeways including U.S. Highway 57. The Project, as currently proposed, could provide substantial economic growth in the City of San Dimas to the extent the Project (as that term is defined below):

- Provides for a land use and infrastructure plan that will support the creation of a major job center in the City;
- Helps to establish San Dimas as a prime location for boutique hotel, residential, retail and restaurant uses, as such uses are further defined in Exhibit "B";

- Provides a balanced approach to City's fiscal viability, revenue generation (e.g. property tax, transient occupancy tax, and sales tax), economic expansion and environmental integrity;
- Improves City's jobs to housing balance; and
- Provides new, local construction jobs as well as permanent employment opportunities.

C. *Proposed Project:* In order to achieve the above-described goals of enhancing the Site's use, Agency and Developer are considering a conceptual plan to design and construct a mixed use project (with boutique hotel, restaurant, retail, and residential uses) upon the Site (collectively, the "Project"). It is anticipated that the Project will consist of a concept plan and preliminary development program (to be further refined as part of the related land use entitlement process), of approximately 40 for-sale residential dwelling units (townhomes and flats), a boutique hotel (with approximately 60-80 keys), approximately 28,000 square feet of retail/restaurants/boutique market and approximately 15,000 square feet of flex-space/create office uses. The Project concept plan is described further in Exhibit "B" ("Required Project Features/Elements") and Exhibit "E" ("Preliminary Site Plan").

It is anticipated that the Project will generate revenue and provide both construction-related and permanent employment opportunities for the San Dimas community. It is also anticipated that as part of the Project's land use entitlement process, the Project will be required to: reflect a high quality of development; strictly adhere to applicable building codes and other applicable standards and requirements; implement appropriate measures, as feasible, to address any identified significant environmental impacts; and incorporate feasible energy efficiency, water conservation, and other sustainability measures (to enhance the Project's efficiency and help reduce greenhouse gas emissions, among other things). In addition, it is anticipated that the Project will be designed to include necessary street and utility infrastructure to serve the Project, to be further considered as part of its entitlement process.

D. *Further Plans Needed for Project Proposal; Compliance with Laws:* Developer previously submitted an LOI/Proposal, as part of the related solicitation for LOI/Proposals conducted by the Agency in June 2019, which provided a very general outline of the Project's potential components (see Exhibit "B"). Assuming the parties enter into a Conveyance Instrument (as that term is defined below), it is anticipated that Developer will submit more detailed concept plans, site plans and Project descriptions as necessary and desirable for City to process the required land use entitlements, approvals, and permits (both ministerial and discretionary) to develop the Project, subject to full compliance with the California Environmental Quality Act (Public Resources Code § 21000 et seq., ("CEQA") (collectively, "Project Entitlements"). Any such specific Project land use application(s) will be submitted in a manner that is consistent with all applicable laws, ordinances, regulations, and requirements of the City of San Dimas, including but not limited to, the City's Zoning Code and General Plan (subject to any amendments thereto approved by City as part of the entitlement process). This Agreement is only an agreement to negotiate the terms of the Conveyance Instrument; accordingly, it does not guaranty that City will issue any Project Entitlements or in any way limit City's discretion in approving or disapproving the Project or any portion thereof, or require Developer to entitle, construct or operate the Project.

E. *Project Contingent on Resolution of Multiple Issues.* Assuming the parties enter into a Conveyance Instrument and Developer pursues the Project, the parties acknowledge that completion of this Project may entail approvals from, and cooperation with, different governmental agencies, and potential resolution of environmental review issues.

F. *Identity of Developer:* The term "Developer," as used herein, refers to Pioneer Square LLC, a California limited liability company and its existing and any future affiliates.

G. *Negotiations with Goal of Reaching Agreement on a Conveyance Instrument:* Agency and Developer desire, for the Period of Negotiation (as that term is defined in Section 2 below), to continue negotiating diligently and in good faith with the goal of entering into one or more of a purchase and sale agreement, development agreement, a disposition and development agreement, or other agreement(s) effecting the conveyance of ownership and/or occupancy rights for the Site to Developer, and otherwise setting forth the terms and conditions of a mutually acceptable arrangement that provides for the development of the Project as contemplated therein along with the parties' other rights and obligations related thereto (each and collectively, a "Conveyance Instrument"). The parties understand and acknowledge that the Conveyance Instrument will expressly condition the close of the escrow to occur only after final City approval of the Project Entitlements. City approval of all Project Entitlements and the expiration of all applicable appeal or challenge periods to such approvals, without the filing of any such appeal or challenge by a third party, shall be a condition precedent to the closing of the transaction under the Conveyance Instrument, which condition precedent is for the benefit of each of Developer and City.

NOW, THEREFORE, and in consideration of the mutual covenants contained herein, the parties mutually agree to the following:

SECTION 1. NATURE OF NEGOTIATIONS.

A. **Good Faith.** Agency and Developer agree that, for the Period of Negotiation, they shall negotiate diligently and in good faith to prepare and enter into a Conveyance Instrument, which will require Developer to secure approval from City of the Project Entitlements as a condition to closing of escrow on the Site. Assuming the parties enter into said Conveyance Instrument and Developer pursues the Project, the parties acknowledge that the Project's development will be subject to City's approval of the Project Entitlements in accordance with all applicable rules, regulations, standards, and criteria set forth in the City's General Plan and other applicable specific plan(s) and zoning regulations (which may necessitate amendment or other modification to accommodate Developer's proposed uses). Agency agrees, for the Period of Negotiation, not to negotiate with any other person or entity regarding the leasing, conveyance, redevelopment or development of the Site or any portion thereof without the prior written consent of Developer, which Developer may withhold in its sole and absolute discretion. The City/Agency may be able to receive unsolicited offers, but the City shall not negotiate with these proposers during the ENA period. The City/Agency may, however, respond to public inquiries regarding the progress or implementation of the Project. The City shall provide any customary project information to the public that is required by law to be disclosed.

B. No Commitment on Conveyance of Site or Project Approval. Nothing in this Agreement shall be deemed a covenant, promise or commitment by Developer to acquire the Site or develop the Project; or by the Agency, City of San Dimas, or any subdivision of the City, with respect to the conveyance of the Site or the approval of any development of the Site or otherwise. The parties' execution of this Agreement is merely an agreement to enter into a period of exclusive negotiations according to the terms hereof, reserving final discretion and approval by City as to any actions required of it under applicable laws and regulations. Recital Paragraphs "A" through "G," inclusive are incorporated by reference as substantive provisions of this Agreement.

C. Developer Deposit for Agency Expenses/CEQA Expenses. Developer acknowledges that Agency will expend substantial resources in the negotiation and performance of this Agreement. Within five (5) days of the Effective Date of this Agreement, Developer shall submit to Agency a deposit (the "Agency Expenses Deposit") in the amount of Twenty Five Thousand Dollars (\$25,000), which shall be used to reimburse Agency all of its reasonable expenses as described herein.

The purpose of the Agency Expenses Deposit is: to pay for Agency's/City's actual and reasonable third-party costs and expenses in connection with the negotiation and performance of this Agreement, including, but not be limited to, the preparation of the Conveyance Instrument. Such third-party costs shall include, but not be limited to, fees and expenses of legal counsel, financial and economic consultants and reports, in each case engaged by Agency/City for services relating to the negotiation and performance of this Agreement.

For purposes of this Agreement, Agency/City may also reimburse itself for internal staff-related time and internal costs ("internal costs" are costs relating to legal counsel and technical experts) associated with the negotiation and performance of this Agreement, consistent with applicable standard City rates. Agency/City shall provide Developer with a written report and accounting of expenditures from the Agency Expenses Deposit on a monthly basis and also upon the expiration or termination of this Agreement, which reasonably documents said time, costs and expenses. Should the Agency Expenses Deposit be insufficient to pay the aforementioned Agency costs and expenses, Developer shall supplement the Agency Expenses Deposit by the amount reasonably required by Agency to pay such costs and expenses, subject to Developer approval. Should Developer not pay any deposits required by this Section, then Agency/City may temporarily halt further negotiation and performance of this Agreement, including, but not be limited to, the preparation of the Conveyance Instrument pending resolution of the amount of any additional Agency Expenses Deposit; upon such resolution, Agency/City shall immediately recommence negotiation and performance of this Agreement, including, but not be limited to, the preparation of the Conveyance Instrument.

Assuming the parties successfully negotiate a Conveyance Instrument, the Agency Expenses Deposit will be increased by an initial deposit of Fifty Thousand Dollars (\$50,000) paid by Developer within five (5) days of the effective date of the Conveyance Instrument (the "CEQA Expenses Deposit"), which shall be used solely to reimburse Agency/City for all third-party consultant costs incurred by City to complete all documents, reports and studies for its CEQA review of the Project (collectively, the "CEQA Expenses").

Such CEQA Expenses Deposit may be increased as necessary to pay for the actual costs incurred and charged by the CEQA Consultant to Agency/City, upon thirty (30) days' prior written notice to and approval of Developer of said anticipated increase and reasonable documentation thereof. To this end, City/Agency shall provide Developer with a written report and accounting of expenditures from the Agency Expenses Deposit on a monthly basis and also upon the expiration or termination of this Agreement, which reasonably documents said time, costs and expenses.

At any time the balance of the Agency Expenses Deposit is less than Five Thousand Dollars (\$5,000), Agency/City may request that Developer deposit additional funds with Agency/City as is necessary to pay for the CEQA Expenses, in which case Developer shall make such additional deposit(s) no later than thirty (30) days of its receipt of any such written request in order to replenish the CEQA Expenses Deposit in a sufficient amount to meet any such additional reasonably anticipated costs. Should Developer not pay any deposits required by this Section, then Agency/City may temporarily halt further processing of the Project Entitlements pending resolution of the amount of any additional CEQA Expenses required to complete the CEQA analysis of the Project; upon such resolution, Agency/City shall immediately re-commence processing of the Project Entitlements and complete the Project's CEQA analysis. The CEQA Expenses Deposit shall be separate from the deposits made by Developer under Section 6 below and not applicable to any portion of the Purchase Price.

To the extent Agency/City has a remaining balance in the Agency Expenses Deposit by the end of the term of this Agreement, and Developer is not in breach of this Agreement (after any applicable notice and cure period has elapsed), Agency/City shall return that portion of the Agency Expenses Deposit for which Agency/City has not incurred costs along with an accounting of the costs incurred by Agency/City through the end of the term of this Agreement. Provided, however, that if performance of this Agreement results in the execution of a Conveyance Instrument, any provisions relating to further reimbursement of Agency/City expenses in connection with the Conveyance Instrument and/or the Project's entitlement process shall be as provided for in the Conveyance Instrument.

If this Agreement is terminated by Agency/City at any time due to a material breach of Developer's obligations hereunder, then the entire balance of the Agency Expenses Deposit shall be retained by Agency/City, as set forth in Section 8(G) below.

D. Site. The proposed Project (as proposed by Developer and approved by Agency/City) shall be located upon all or a portion of the Site. Agency/City makes no representation concerning the developability of the Site, and Developer shall exercise due diligence and, at its own expense and in its discretion, make all necessary Site investigations to assure itself of the suitability of the Site for development of the Project, subject to the provisions of the Access Agreement described in Section 7.

E. Nature of the Project. Subject to the execution of a Conveyance Instrument and approval by Agency/City (and any other governmental agencies, as may be necessary), Developer intends to develop the Site with the Project. The design of the Project will be consistent with Agency's/City's applicable design guidelines or as Agency/City may otherwise agree as part of the Project's land use entitlement process. Developer will also be required to obtain City Planning

Commission and City Council approval (and any other governmental agencies, as may be necessary) as part of the Project Entitlements in order to develop the Project. In addition, assuming Developer pursues the Project, Developer will be responsible for submitting a Conveyance and Project Implementation Plan including identification of entities, respective project ownership and schedule and plan for obtaining all Project Entitlements, arranging the financing for the Project, and funding and/or constructing all on- and off-site improvements and infrastructure necessary to serve the Project. Provided, however, the parties acknowledge that any such obligations will be subject to the terms and conditions of the Conveyance Instrument as well as all other Project Entitlements. All signage for the Project will comply with the applicable provisions of the City's municipal code, unless otherwise modified as part of the Project's entitlement process and approved by Agency/City.

F. Due Diligence. Developer shall have up to ninety (90) days from the Effective Date of this Agreement (the “**Due Diligence Period**”) to approve, in its sole discretion, the feasibility of acquiring, entitling and developing the Site as contemplated in the Concept Plan by: (i) reviewing the exceptions, legal descriptions and other matters contained in the preliminary title report prepared by Title Company; (ii) conducting or reviewing such surveys, investigations, studies and inspections and making or reviewing such geologic, environmental and soils tests and other studies of the Site (subject to Section 7); (iii) reviewing all other applicable due diligence materials respecting the Site; (iv) submitting a Conveyance and Project Implementation Plan as identified in Section 1(E).; and (v) commence negotiating the terms of a Conveyance Instrument mutually acceptable to Developer and the Agency/City as set forth in Section 1(A) and Section 2(A).

During the Due Diligence Period, the parties shall negotiate diligently and in good faith the terms and conditions of the Conveyance Instrument as set forth in Section 1(A). Unless Developer delivers written notice to the Agency/City approving the Conveyance Instrument form and the feasibility of acquiring, entitling and developing the Site with the proposed Project (the “**Due Diligence Approval**”) on or before the expiration of the Due Diligence Period, then this Agreement shall automatically terminate, any funds remaining in the Agency Expenses Deposit and in the Good Faith Commitment Deposit, not including any non-refundable deposits released to the Agency/City, shall be returned to Developer, and neither party shall have any further rights or obligations under this Agreement.

G. Environmental Review. The parties intend to diligently and in good faith work to negotiate the terms of the Conveyance Instrument during the term of this Agreement. There are many unknowns concerning the Project at this time, and during the term of this Agreement, Developer intends to undertake the studies, reports and analysis contemplated in Section 3 below (or as otherwise determined appropriate by Developer) to allow it to develop the Project concept/site plan, Project designs, environmental impact analysis (including a traffic analysis as well as other technical studies, as appropriate) and financing plans necessary to determine whether to undertake the Project, including further confirmation of the Site Plan that will be the subject of the Conveyance Instrument. The parties hereby agree that in the interest of time, the City shall consider any recommendation from Developer, but the City shall have ultimate discretion, concerning the selection of the CEQA consultant.

Environmental analysis will occur when the Project's plans are sufficiently defined for purposes of CEQA and as otherwise required under applicable laws and regulations. Should Developer proceed with the Project, it will have the sole responsibility to pursue and obtain any necessary environmental approvals for the Project pursuant to CEQA. Developer is required to undertake environmental review of the Project (subject to City's lead agency responsibilities). Therefore, the Conveyance Instrument will include provisions requiring Developer to deposit with City, as lead agency, all funds as reasonably necessary to cover the cost of such environmental review, and City agrees to assist Developer to the fullest extent reasonable in preparing any environmental documentation and processing any environmental review that may be necessary for the Project.

H. Financial Provisions. As part of the Conveyance Instrument negotiations, the parties agree to consider the following financial provisions, with any and all such terms to be further defined in the Conveyance Instrument:

1. Developer will acquire the Site in fee interest at the purchase price of Three Million Dollars (\$3,000,000) ("Purchase Price") subject to confirmation of such Purchase Price by a fair market value appraisal to be performed during the term of this ENA by an appraiser selected by the City/Agency. The City/Agency will instruct the appraiser to consider in its appraisal whether the storm drain easement and facilities that bisect the Site impacts the fair market value of the Site. Should Developer disagree with the appraised fair market value, the City and Developer shall select a mutually-acceptable appraiser to provide an independent appraisal, provided such appraisal can be completed within thirty (30) days of the date of the City's appraisal, and if so, negotiate the Purchase Price based on such mutually-selected appraiser's valuation and the parties will share the cost for such appraisal on an equal basis. Based on documentation provided by the City/Agency, it is believed that the Site does not contain any contamination that would affect the Purchase Price. Notwithstanding such understanding, the Purchase Price may be subject to adjustment, subject to City/Agency's approval, commensurate with the amount of any documented and verified costs required to address the presence of any contamination at the Site that may be found during the Due Diligence Period. Developer acknowledges that the Purchase Price or adjustment thereof shall be subject to Oversight Board (OB) approval, as further set forth in Section 2.C below.

2. Developer will be responsible for financing and constructing all on-Site improvements that are triggered by the Project or otherwise lawfully required and/or imposed by City/Agency or other government agency on the Project in connection with the Project's land use entitlement process.

3. Developer may be required to pay for other necessary public improvements (and all of City's fees incurred in processing the Project, without assistance of Agency/City), which are triggered by the Project or otherwise lawfully required and/or imposed by Agency/City or other government agency on the Project.

4. Other conditions and terms for the close of the escrow as negotiated as part of the Conveyance Instrument, which would include a closing date only after final City approval of the Entitlements. City approval of all the Entitlements and the expiration of all applicable appeal or challenge periods to such approvals, without the filing of any such appeal or challenge by a

third party, shall be a condition precedent to the closing of the transaction under the Conveyance Instrument, which condition precedent is for the benefit of each of Developer and Agency/City.

I. Schedule of Performance. Attached as Exhibit "C" is the parties' estimated schedule to negotiate and finalize the Conveyance Instrument within the time frame contemplated in this Agreement. The parties also anticipate that an estimated schedule to pursue the necessary Project Entitlements will be attached as an exhibit to the Conveyance Instrument, which will be negotiated during the term of this Agreement. In general, it is contemplated that said entitlement schedule will include estimated progress on critical elements of the Project's entitlement process (including any environmental review) and anticipated Project construction. The timeframes shown in attached Exhibit "C" are estimates only, and may be mutually amended by the parties hereto from time-to-time, subject to the requirements in Section 2(A) below.

J. Permitted Uses and Transfer Provisions. It is anticipated that the Conveyance Instrument will contain appropriate provisions addressing permitted uses anticipated to be constructed as part of the Project as well as transfer provisions with respect to the Site, the Project and related obligations under the Conveyance Instrument, as follows:

With respect to uses, the Conveyance Instrument will set forth the parties' expectations regarding development of the Site for Project-only purposes, with the approved Project land use entitlements governing permitted and conditionally permitted (if any) uses on the Site, consistent with those described in Recital C.

With respect to transfer of the Site and the Project and the assignment and assumption of related rights and obligations, the provisions set forth in Sections 1(J)(1) through (3) shall apply for purposes of this Agreement. Further, it is anticipated that similar provisions will be included in the Conveyance Instrument that will govern prior to Project completion, with an additional provision relating to the conveyance after Project completion as set forth in Section 1(J)(3) being included in the Conveyance Instrument as well. Notwithstanding anything to the contrary in the foregoing, any such transfer provisions in the Conveyance Instrument requiring Agency/City consent shall be limited to the time period prior to completion of the Project, and thereafter, Developer shall have the right, in its sole discretion, to transfer all or a portion of the Site and/or the Project without obtaining City consent except as otherwise provided for in Section 1(J)(3).

(1) The parties acknowledge that during the term of the ENA other non-affiliated entity(ies) may become involved in connection with the potential development of the Site, including, but not limited to, entity(ies) that have specialized expertise in the development and operation of boutique hotel, specialty grocery, and/or retail/restaurant uses, which transfer(s) shall be subject to the following provisions:

(a) Criteria for Approval of Future User. The sale(s) of portion(s) of the Site by Developer to other purchaser(s) of a commercial pad to be developed for a commercial/retail use or to any entity that will own and operate the boutique hotel is referred to below as a "Future User".

Any Future User shall be subject to Agency's/City's prior written approval, which shall not be unreasonably withheld, conditioned, delayed or denied, and which approval

shall be based on the experience, reputation for providing quality goods/services, expertise and financial ability of each said Future User to develop and operate those portions of the Project acquired by each such Future User. Agency's/City's approval of the Future User shall not include Agency's/City's approval of the type of use of the pad for which the Future User was selected by Developer.

Agency's/City's failure to deliver to Developer written notice of disapproval of a Future User stating the express reasons for disapproval within twenty-one (21) days after Developer has submitted its written request to Agency/City for approval of that Future User (along with sufficient information for Agency/City to ascertain the quality, viability and reputation of such Future User) shall be conclusively deemed to be Agency's/City's approval of the Future User. Any financial information of a Future User required by Agency/City as part of its approval of that Future User, shall be delivered to City's third-party advisor, such as Kosmont Real Estate Services (or another third-party consultant reasonably approved by Developer) (the "City Advisor") and subject to the confidentiality provisions of Section 3(L) below. The City Manager/Executive Director has the authority to issue the required approvals in this Section.

(2) During the term of this ENA, the parties acknowledge and agree that Developer shall not be required to obtain City consent for any assignment if and to the extent it involves any affiliate of Developer described in this Section 1(J)(2) in connection with Developer's activities under this Agreement, and Developer shall have the right, in its sole discretion, to assign its rights and delegate its duties and obligations hereunder to: any limited liability company, partnership or corporation in which Developer holds a majority interest (50.1%) in the capital and profits and in which agrees to hold such majority interest (50.1%) ("Permitted Affiliate Assignee") for at least the term of this Agreement or at least until the expiration of the period described in Section 1(J)(3). Notwithstanding the foregoing authorization, Developer shall promptly notify the City in writing of any and all changes whatsoever in the identity of the business entities or individuals comprising the Developer.

(3) Subject to the execution of a Conveyance Instrument, and assuming Developer pursues, and Agency/City approves the Project, then Developer will agree to not convey all or any portion of the Site and/or Project without the City's prior written consent until such time as the City issues the final Certificate of Occupancy ("CO") for the Project, provided that Developer will be permitted (without the need for Agency/City consent) to convey all or a portion of the Site and/or the Project to a Permitted Affiliate Assignee. In the unlikely event of Developer default with respect to Project financing, then the relevant lender(s) will be permitted (without the need for Agency/City consent) to foreclose on and/or sell all or a portion of the Project consistent with the terms of the underlying financing; provided such lender shall assume Developer's rights and obligations hereunder accruing after such transfer and be bound under the terms, conditions and covenants of the Conveyance Instrument as though they were parties thereto as provided for therein.

SECTION 2. PERIOD OF NEGOTIATION

A. Period of Exclusive Negotiation (Term). Agency and Developer agree to negotiate diligently and in good faith for one hundred twenty (120) calendar days after the

Effective Date of this Agreement in order to enter into a Conveyance Instrument, and subject to earlier termination or extension as provided herein (the "Period of Negotiation"). If upon the expiration of such Period of Negotiation, a Conveyance Instrument has not been executed, City/Agency and Developer have the ability to extend their negotiations by two (2) additional ninety (90) calendar day periods if both parties are in agreement to extend the period of time. For City/Agency, the City Manager/Executive Director shall have the authority to grant said extensions in writing. If City/Agency and Developer have not each approved and executed a Conveyance Instrument during the Period of Negotiation or extension as provided herein, this Agreement shall automatically terminate at the end thereof, and the parties shall have no further rights or obligations hereunder with the exception that Developer shall pay for Agency's/City's actual and reasonable third-party costs and expenses incurred as of the date of termination in connection with the negotiation and performance of this Agreement, including, but not be limited to, the preparation of the Conveyance Instrument in accordance with Section 1(B) above. City/Agency and Developer may mutually agree to further extend the Period of Negotiation beyond the above-referenced 90-day periods, as evidenced by a writing signed by both parties and approved by the City Council/Agency Board. Notwithstanding anything herein to the contrary, Developer may, in its discretion and without any showing of City/Agency default, terminate the Period of Negotiation and this Agreement with ten (10) calendar days' notice to the City/Agency.

B. Agency/City Approval. Developer understands and acknowledges that if negotiations culminate in a Conveyance Instrument, the Conveyance Instrument will be effective only after, and if, the Conveyance Instrument has been considered and approved by Agency/City and the City Council/Agency Board after public hearing thereon as required by applicable laws. Agency's/City's approval of any Conveyance Instrument will require compliance with any environmental analysis requirements under CEQA.

C. Oversight Board Approval. A Conveyance instrument executed by Agency/City may be contingent upon approval by the Los Angeles Fifth District Consolidated Countywide Oversight Board (the "OB"), which will be a condition precedent to the consummation of the transaction in the Conveyance Instrument. The Agency/City shall use its best efforts to obtain OB Approval. If OB approval is not obtained, Agency/City and Developer shall negotiate in good faith to modify the Conveyance Instrument for a period of sixty (60) days after receipt of notice of disapproval to attempt to reach an agreement that will be satisfactory to Agency/City, Developer and OB. Should the parties be unable to reach such agreement or should the OB ultimately not approve any modification to the Conveyance Instrument approved by the parties to secure OB approval (despite the Agency/City and Developer's best efforts which may require multiple rounds of submittals to the OB), then the Developer shall retain ownership of Phase II environmental site assessments and geotechnical soils report, unless the Agency/City elects, in its sole discretion, to purchase said report(s) at a mutually agreed upon price, but in no event to exceed actual cost.

SECTION 3. DEVELOPER'S RESPONSIBILITIES.

During the Period of Negotiation, at such times as may be practical or desirable depending upon the stage of the Conveyance Instrument negotiations, it is anticipated that Developer will prepare such studies, reports, and analysis as may be necessary to permit Developer to determine the feasibility of the Project, subject to any further rights granted Developer with respect to the

foregoing. During the Period of Negotiation, and as requested by Agency/City, Developer shall submit to Agency/City the following:

A. Boutique Hotel Feasibility Study. A study evaluating the feasibility of establishing a boutique hotel at the Site. This study will include an analysis of market conditions, economic and demographic factors, and site conditions of establishing a boutique hotel in the City at the Site. Upon its completion, Developer shall provide a copy of said study to the Agency/City in accordance with the time frame established under Exhibit C – Estimated Timeframe for Negotiation and Project Timeframes.

B. Environmental Review. Developer shall obtain and review a Phase I environmental (hazmat) report for the Site, and if recommended by the Phase I, Developer shall promptly obtain a Phase II report subject to entering into a reasonable right of entry agreement with City as contemplated under Section 7 of this Agreement. Developer shall promptly deliver copies to the Agency/City in accordance with Exhibit “C” - Estimated Timeframe for Negotiation and Project Timeframes.

C. Site Plan & Development Program. Developer shall submit a Site Plan & Development Program in accordance with Exhibit “C” - Estimated Timeframe for Negotiation and Project Timeframes. The parties anticipate that the Site Plan & Development Program will be further refined during the term of this Agreement, as part of the Conveyance Instrument negotiations, which is herein defined as specifying the conceptual framework to guide the overall development of the Project, the approved land uses on the Site, including generalized area of building pads, height of structures, total square footage, and the conceptual parking and circulation system for the Site. Assuming the parties enter into a Conveyance Instrument and Developer decides to pursue the Project, Developer will then prepare the preliminary design plan of the Project, including building elevations and design themes, as reasonably required by Agency/City, sufficient, to the extent feasible and practicable, to allow Agency/City to evaluate sign configuration, architectural design and similar issues as part of the Project's land use entitlement process.

D. Preliminary Proforma. A proforma showing the following preliminary information: an operating income and expense estimate, an estimated budget for development and construction of the Project, estimated pricing ranges (e.g., lease rates), projected range of Project value at completion, and relevant market validation (e.g., benchmark cap rates) shall be provided to Agency/City in accordance with the time frame established under Exhibit “C” - Estimated Timeframe for Negotiation and Project Timeframes. Said proforma should also show the preliminary estimated economic benefits to Agency/City for at least a ten (10) year period after completion of the Project with respect to the payment for the Site, all taxes and fees, sales/property tax revenue generation, and an estimate of anticipated construction and permanent jobs, as appropriate. Provided, however, that the parties acknowledge and agree that said proforma shall be based on information reasonably available during the term of the ENA and shall reflect the parties' understanding that such information is preliminary in nature. Said financial information shall be subject to the confidentiality provisions of Section 3(K) below.

E. Public Outreach Plan. A "Public Outreach Plan" that describes Developer's anticipated plan and approach on educating and informing the public about the Project, consistent

with the parties' confidentiality obligations set forth in Section 3(K) below, shall be provided to Agency/City in accordance with the timeframe established under Exhibit "C" - Estimated Timeframe for Negotiation and Project Timeframes. This plan shall be subject to approval by the City and shall detail, as appropriate, specific outreach efforts and methods, including public meetings and/or individual contacts, to communicate with and receive input from local stakeholders, which shall include, but are not limited to, residents and business and property owners in the San Dimas community.

F. Leasing Activity Reports. A monthly leasing activity report each thirty (30)-day period, in accordance with the timeframe established under Exhibit "C" - Estimated Timeframe for Negotiation and Project Timeframes, that is to reasonably document the interest of potential commercial and restaurant/retail users for Developer's proposed Project. All such reports shall be subject to the Section 3(K) confidentiality requirements.

G. Financial Capability. During the term of this ENA, Developer shall provide to Agency/City a preliminary financing plan (including financing sources and methods), CPA-certified financial statements, and/or other information, in accordance with Exhibit "C" - Estimated Timeframe for Negotiation and Project Timeframes, for the purpose of documenting, to Agency's/City's reasonable satisfaction, including an updated financing plan before the parties approve the Conveyance Instrument, Developer's financial capacity to proceed with the contemplated transaction. In connection with any assignment to a Permitted Affiliate Assignee, Developer shall also provide a written statement to Agency/City that documents the percentage of ownership that Developer holds in such Permitted Affiliate Assignee, as defined in Section 1(J)(2) in order to confirm that said Assignee is a Permitted Affiliate Assignee and has the financial capabilities to perform obligations under this Agreement and any Conveyance Instrument. Said financial information shall be subject to the confidentiality provisions of Section 3(K) below.

H. Partners. Developer will agree to the disclosure of Developer's principals, partners, joint ventures, and consultants that will be materially involved in the acquisition and development of the Site in accordance with Exhibit "C" - Estimated Timeframe for Negotiation and Project Timeframes and as may be reasonably requested by Agency/City.

I. Development Schedule. Developer shall submit to the City/Agency a schedule of development setting forth the proposed timetable for the commencement, substantial completion and final completion of the Project in accordance with Exhibit "C" - Estimated Timeframe for Negotiation and Project Timeframes.

J. Additional Documentation. City/Agency reserves the right to and may reasonably request any additional documentation, including additional reports, studies, analyses and other information, from Developer in order to negotiate the Conveyance Instrument as contemplated hereunder. Upon receiving such a request, Developer shall provide such additional documentation to City/Agency pursuant to a mutually agreed upon deadline.

K. Confidentiality. Agency/City agrees, to the maximum extent permitted by the California Public Records Act (Government Code Section 6253 *et seq.*) or other applicable local, state or federal disclosure laws (collectively, "Public Disclosure Laws"), to keep confidential all proprietary financial and other information submitted by Developer to Agency/City in connection

with Developer's satisfaction of its obligations under this Agreement and any Conveyance Instrument (collectively, "Confidential Information"). Notwithstanding the preceding sentence, City may disclose Confidential Information to its officials, employees, agents, attorneys and advisors, but only if and to the extent necessary to carry out the purpose for which the Confidential Information was disclosed consistent with the rights and obligations provided for hereunder.

Developer acknowledges that Agency/City has not made any representations or warranties that any Confidential Information Agency/City receives from Developer will be exempt from disclosure under any Public Disclosure Laws. In the event the City Attorney/Agency Counsel determines that the release of any Confidential Information is required by Public Disclosure Laws, or by order of a court of competent jurisdiction, Agency/City shall promptly notify Developer in writing of Agency's/City's intention to release the Confidential Information so that Developer has the opportunity to evaluate whether to object to said disclosure and/or to otherwise take whatever steps it deems necessary or desirable to prevent disclosure, provided that Agency/City shall not be liable for any damages, attorneys' fees and costs for any alleged failure to provide said notice (although such failure shall be considered a Agency/City default pursuant to Section 8(F) below). If the City Attorney/Agency Counsel, in his or her discretion, determines that only a portion of the requested Confidential Information is exempt from disclosure under the Public Disclosure Laws, City/Agency may redact, delete or otherwise segregate the Confidential Information that will not be released from the non-exempt portion to be released.

Developer acknowledges that in connection with the Agency Board's/City Council's consideration of any Conveyance Instrument as contemplated by this Agreement, Agency/City will need to present a summary of Developer's anticipated costs of development, together with such other information as may be reasonably required for a staff report accompanying the proposed Conveyance Instrument. Provided, however, that to the extent Developer reasonably determines it is necessary to protect Confidential Information relating to financial data, said information may be delivered directly to a third-party economic consultant. If this Agreement is terminated without the execution of a Conveyance Instrument, Agency/City shall return to Developer any and all Confidential Information.

Except for any disclosure that may be required under Public Disclosure Laws, during the Period of Negotiation, no public statements about the potential financial terms to be negotiated as part of the Conveyance Instrument shall be made by either Developer or Agency/City (other than those statements made to each party's respective agents, consultants and employees and, in the case of Developer, those statements made to prospective tenants or retailers for the Project, if any). Notwithstanding anything to the contrary in the foregoing, the parties shall not be liable for any damages, attorneys' fees and costs to the other party for any alleged public statement as provided above; provided, however, that if either party makes any such public statement in violation of this Section 3(K), then such action shall constitute a default under Section 8(F) below and be subject to available remedies pursuant to Section 8(G) below.

SECTION 4. AGENCY'S/CITY'S DISCRETION; NON-WAIVER OF POLICE POWERS.

The parties acknowledge that neither party is under any obligation to enter into any proposed Conveyance Instrument or other agreement as it relates to the Project, subject to the

parties' obligations to negotiate diligently and in good faith as set forth in this Agreement. Any actions taken or investments made by Developer in anticipation of a proposed Conveyance Instrument prior to such agreement being considered and approved by the Agency Board/City Council and signed and delivered, are undertaken at Developer's sole risk and expense. Prior to the execution and delivery of a Conveyance Instrument by Agency/City, any reliance by Developer on any representations or promises by Agency/City or Agency/City staff or consultants, or individual Councilmembers, is undertaken at Developer's sole risk and expense except for any representations or promises set forth in this Agreement.

The parties understand that Agency/City is reserving the right to exercise its discretion as to all matters with respect to the Conveyance Instrument and the Project which Agency/City is, by law, entitled or required to exercise, at its discretion; nothing in this Agreement shall be construed as having the effect of waiving or limiting Agency's/City's police powers and exercise of discretion. To this end:

1. The parties understand that Agency/City has the complete and unfettered discretion to reject the Project and/or Conveyance Instrument as provided for under applicable laws and regulations. As noted above, except for any representations or promises set forth in this Agreement, the risk of loss of any actions taken or investments made in connection with the Site and/or the Project by Developer prior to Conveyance Instrument approval and execution shall be absorbed entirely by Developer, as provided for in this Section 4.

2. The duty of Agency/City to execute the Conveyance Instrument shall be conditioned upon the successful review and approval of all necessary findings and conclusions which the Agency Board/City Council is required to make, including all necessary findings and determinations required under CEQA as applicable under relevant state and local land use provisions. As to any matter which Agency/City may be required to exercise its unfettered discretion in advancing the Project to completion, nothing herein, nor to be contained in the Conveyance Instrument, shall obligate Agency/City to exercise its discretion in any particular manner, and any exercise of discretion reserved hereunder or required by law, shall not be deemed to constitute a breach of Agency's/City's duties under this Agreement.

3. By its execution of this Agreement, Agency/City is not committing itself to any particular course of action with respect to the Conveyance Instrument or the Project or agreeing to undertake any activity requiring the subsequent exercise of discretion by Agency/City, or any department thereof including, but not limited to, the approval and execution of a Conveyance Instrument, the approval of the Project Entitlements, any development proposal or land use regulation governing the Site or the Project, the provision of financial assistance for the development of any public or private interest in real property, or any other such act or approval.

4. This Agreement does not constitute a disposition of property and does not require a public hearing. Agency's/City's execution of this Agreement is merely an agreement to enter into a period of exclusive negotiations according to the terms hereof, reserving final discretion and approval by Agency/City as to any proposed Conveyance Instrument and the Project, and all proceedings and decisions in connection therewith.

SECTION 5. AGENCY'S/CITY'S RESPONSIBILITIES.

A. Agency/City Assistance. Agency/City shall cooperate fully in providing Developer with appropriate information, documentation and assistance as it relates to Developer's evaluation and due diligence of the Site and potential viability of the Project, but such assistance shall not include financial assistance unless specifically provided herein. Further, subject to Developer confirming the Project description and Developer's payment of all reasonable costs to be incurred by Agency/City as provided for herein, Agency/City shall use diligence and good faith to timely and efficiently conduct any requisite CEQA review that will be triggered in connection with the Agency Board's/City Council's consideration of the Conveyance Instrument in accordance with the estimated timeframes set forth in attached Exhibit "C".

B. Preparation of Agreement The Conveyance Instrument shall include, among other relevant terms, the agreements between Agency/City and Developer regarding the design of the Project and other business terms mutually determined necessary or desirable by the parties for inclusion therein. Agency/City shall provide Developer with an initial draft of the Conveyance Instrument; however, in no event shall Agency/City commence the actual drafting of a Conveyance Instrument unless and until Developer has chosen one, single concept plan for the Project (subject to Project revisions determined appropriate by the parties) and submitted a single preliminary plan therefor.

If the negotiations culminate in a Conveyance Instrument signed by Developer, such agreement shall become effective only after and if said Conveyance Instrument has been considered and approved by the Agency Board/City Council.

SECTION 6. CONVEYANCE INSTRUMENT DEPOSIT.

No later than five (5) days after the Effective Date of the ENA, Developer shall make a deposit in the form of a cash deposit, cashier's check or other form of security reasonably acceptable to Agency/City in the amount of Twenty-Five Thousand Dollars (\$25,000.00) ("Conveyance Instrument Deposit"), subject to the provisions of this Section 6 and Sections 8(F), (G) below. The Conveyance Instrument Deposit shall be deposited in an interest-bearing escrow account with Fidelity National Title Insurance Company, 3237 East Guasti Road Suite 105, Ontario, CA 91761; (909)978-3020; Attn: Mary Lou Adame; Marylou.Adame@fnf.com with interest accruing for Developer's benefit and shall be nonrefundable and released to City, but applicable to the Purchase Price, no later than five (5) days after the expiration of the Due Diligence Period so long as Developer has previously notified City of Developer's intention to proceed;

The Conveyance Instrument Deposit described in this Section 6 is non-refundable except in the event of Agency/City default under Section 8(F) below or if Agency/City does not approve and execute the Conveyance Instrument or the failure for whatever reason of the City/Agency to gain OB or other oversight agency approval of the Conveyance Instrument, in which case all such deposits shall be refunded to Developer within five (5) days thereof.

Developer under the Conveyance Instrument shall make an additional deposit to augment the Conveyance Instrument Deposit equal to Twenty-Five Thousand Dollars (\$25,000.00) to be deposited by Developer no later than five (5) days following the approval of the Conveyance

Instrument by the OB and so long as no challenge or litigation is then pending relating to the Conveyance Instrument. The Conveyance Instrument will provide that such additional deposit shall be non-refundable, except in the event of Agency/City default under the terms of the Conveyance Instrument.

SECTION 7. ACCESS TO SITE.

During the term of this ENA, Agency/City shall provide Developer reasonable access to all portions of the Site for the purpose of obtaining data and making surveys and tests necessary to evaluate the development potential of the Site and otherwise to conduct the land use due diligence relating to the Project as contemplated hereunder, including, without limitation, the right to make borings to investigate the soils and environmental condition of the Site. Said right of access shall be memorialized within five (5) business days of the Effective Date by both parties executing an access agreement ("Access Agreement"), which shall contain standard, mutually acceptable terms, including those relating to Developer's indemnification obligations and Agency's/City's insurance requirements (as set forth in attached Exhibit "D").

SECTION 8. MISCELLANEOUS.

A. Brokerage Commissions. Agency represents it has engaged Kosmont Real Estate Services in connection with the potential sale of the Site and the transaction contemplated hereunder. Developer agrees to hold City harmless from any claim by any other broker, agent, or finder retained by Developer in connection with said transaction As shall be set forth more fully in the Conveyance Instrument and assuming the transaction contemplated thereunder closes escrow, Agency shall pay a real estate commission fee to Kosmont Real Estate Services in the amount of six percent (6%) of the purchase price for the Site. Developer's indemnification obligations set forth in this Section 8(A) shall survive the termination or expiration of this Agreement for a period of five (5) years from the Effective Date.

B. Copies of Documents. If the negotiations contemplated by this Agreement do not result in the execution of a Conveyance Instrument, except as a result of a breach of this Agreement by City/Agency, Developer shall provide City/Agency, within seven (7) days of the termination of this Agreement, at no cost or expense to City, with copies of any final versions of third party consultant, contractor, or subcontractor reports, studies, analysis, site plan layouts, engineering studies, memorandums, or similar documents prepared in connection with the Site and the Project during the Period of Negotiation, excluding legally privileged or otherwise confidential items or proprietary financial information. Developer shall make said copies available to Agency/City free of charge. Developer may retain copies of such documents for its own use and shall have an unrestricted right to use such documents, including without limitation all concepts embodied therein.

Such delivery of copies of documents by Developer to Agency/City shall be made without any representation, warranty, or liability whatsoever by Developer as to the ownership status, accuracy or sufficiency of the contents of such documents and shall be made subject to the rights of the preparers of such documents including, without limitation, the intellectual property rights (if any) associated with such documents. Agency/City acknowledges that any use of such

documents for the Site or other project(s) and/or use shall be at Agency's/City's or the applicable third party's sole risk and without any liability to Developer whatsoever.

C. No Personal Liabilities. Nothing in this Agreement shall create any personal obligation or liability of any member of the Agency Board/City Council, the City Manager/Executive Director or any Agency/City staff member, employee, attorney or agent of Agency/City for any obligation of Agency/City under this Agreement and, conversely, nothing in this Agreement shall create any personal obligation or liability of any individual, partner, member, principal, shareholder, employee, or agent of Developer for any obligation of Developer under this Agreement. All obligations of Developer as set forth herein shall be the joint and several obligations of Developer and any affiliate of Developer involved, at Developer's election, in Developer's activities under this Agreement.

D. Amendment This Agreement may only be amended by a document in writing signed by the parties.

E. Notices. All notices, including, but not limited to, all approvals and consents, required or permitted under this Agreement shall be delivered in person, by messenger, by overnight mail courier, or by registered or certified mail, postage prepaid, return receipt requested, to each party at its address shown below, or to any other notice address designated in writing by such party:

- Agency: Successor Agency of the Former San Dimas RDA
245 East Bonita Avenue
San Dimas, CA 91773
Attention: Executive Director

- With a copy: Aleshire & Wynder, LLP
2361 Rosecrans Avenue, Suite 475
El Segundo, CA 90245-4916
Attention: Jeff Malawy, Successor Agency Counsel

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

- With a copy: Jeffrey Graham, Esq.
17411 Revello Drive
Pacific Palisades, CA 90272

F. Default. Either party may terminate this Agreement if the other party should fail to comply with and perform in a timely manner any material obligation to be performed by such other party under this Agreement, provided the party seeking to terminate this Agreement shall provide at least ten (10) calendar days' written notice to the other party of such failure or nonperformance and such other party shall have such ten (10) calendar day period within which to cure such failure or nonperformance (or such longer period as may be reasonably necessary to cure such failure or

nonperformance if such failure or nonperformance cannot reasonably be cured with such 10-day period). Termination shall be the sole remedy for default, subject to Section 8(G) below. In no event shall either party be liable for monetary damages, attorney fees and costs, or any other cost or expense for the default or termination of this Agreement, and any such right to recover damages is expressly waived. Notwithstanding the foregoing, in no event shall any cure period hereunder extend the term of this Agreement and in no event shall Agency/City terminate this Agreement absent a finding of uncured material default on the part of Developer.

G. Remedies. In the event of an uncured default by Agency/City, Developer's sole remedy shall be to terminate this Agreement, upon which Developer shall be entitled to the return of the remaining balance of the Agency/City Expenses/CEQA Expenses Deposit, the full amount of the Conveyance Instrument Deposit and any interest earned thereon, and any amounts per Section 2.C above. Following such termination and the return of the balance of the Agency/City Expenses/CEQA Expenses Deposit and the Conveyance Instrument Deposit (and any interest earned thereon), neither party shall have any further right, remedy or obligation under this Agreement, except for indemnification obligations as set forth in Sections 8(A) above and 8(H) below. Notwithstanding the foregoing, if Agency/City, in bad faith, negotiates with any other person or entity with respect to the Site during the Period of Negotiation, then upon termination of this Agreement, Developer may seek injunctive relief to prohibit City from selling or using the Site during the Period of Negotiation and for a period of six (6) months thereafter; in addition, regardless of Developer obtaining any such injunctive relief, if Developer terminates this Agreement as a result of Agency's/City's material default, City shall not market the Site or solicit offers for the Site until the term of this Agreement has expired.

In the event of an uncured default by Developer, Agency's/City's sole remedy shall be to terminate this Agreement and to retain the City Expenses Deposit and that portion of the Conveyance Instrument Deposit that has already been released to Agency/City pursuant to Section 6 above, and any interest earned thereon. Following such termination, neither party shall have any right, remedy or obligation under this Agreement, except as otherwise expressly set forth herein.

H. Indemnification. Developer shall indemnify, defend, and hold Agency/City and its respective elected and appointed officials, officers, attorneys, employees and agents (collectively, "Agency/City Indemnitees") harmless from any and all claims, actions, suits and other liability (collectively, "Claims") asserted against Agency/City resulting from or in connection with Developer's execution of this Agreement and/or Developer's performance under this Agreement. This indemnity shall survive the expiration or termination of this Agreement. In the event that any Claim should be filed against any of the Agency/City Indemnitees which would require indemnification by Developer hereunder, Agency/City shall notify the Developer of such claim in a timely manner to permit Developer the opportunity to provide adequate representation to the Agency/City Indemnitees with respect to any such Claim. Notwithstanding anything in the foregoing to the contrary, this Section shall not be construed to mean that Developer shall hold the Agency/City Indemnitees harmless and/or defend them to the extent of any Claim(s) arising from the sole negligence, willful misconduct or illegal acts of any of the Agency/City Indemnitees and/or the failure of the Agency/City Indemnitees to follow any procedure or law applicable to the Agency/City.

I. General Provisions. This Agreement and all terms and conditions hereof shall be governed by and construed and enforced in accordance with the laws of the State of California. Any term herein can be waived only by a written waiver signed by the party against whom such waiver is to be asserted. This Agreement may be executed in counterparts, each of which when so executed shall be deemed an original, and all of which, together, shall constitute one and the same instrument. The parties acknowledge that this Agreement was jointly prepared by them, by and through their respective legal counsel, and any uncertainty or ambiguity existing herein shall not be interpreted against either of the parties, but otherwise shall be interpreted according to the application of the rules on interpretation of contracts. Should any portion, word, clause, phrase, sentence or paragraph of this Agreement be declared void or unenforceable, such portion shall be considered independent and severable from the remainder, the validity of which shall remain unaffected. Failure to insist on compliance with any term, covenant or condition contained in this Agreement shall not be deemed a waiver of that term, covenant or condition, nor shall any waiver or relinquishment of any right or power contained in this Agreement at any one time or more times be deemed a waiver or relinquishment of any right or power at any other time or times.

J. Recitals. The Recitals preceding the terms of this Agreement are incorporated into the terms hereof by this reference.

K. Entire Agreement. This Agreement constitutes the entire agreement between the parties who have executed it and supersedes any and all other agreements, understandings, negotiations, or discussions, either oral or in writing, express or implied between the parties to this Agreement. The parties to this Agreement each acknowledge that no representations, inducements, promises, agreements, or warranties, oral or otherwise, have been made by them, or anyone acting on their behalf, which are not embodied in this Agreement; that they have not executed this Agreement in reliance on any such representation, inducement, promise, agreement or warranty; and that no representation, inducement, promise, agreement or warranty not contained in this Agreement, including, but not limited to, any purported supplements, modifications, waivers, or terminations of this Agreement shall be valid or binding unless executed in writing by both of the parties to this Agreement.

L. Authority. Each party to this Agreement represents and warrants to the other that (i) such party is duly organized and existing; (ii) the person or persons executing and delivering this Agreement on such party's behalf are duly authorized to do so; (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement; and (iv) entering into this Agreement does not violate any provision of any other agreement to which said party is bound.

[Signatures appear on following page]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day first above written and agree to all terms and conditions herein.

“AGENCY”

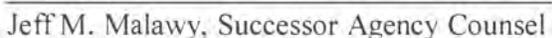
“SAN DIMAS SUCCESSOR AGENCY, a public body corporate and politic

By: 
Brad McKinney, Executive Director

ATTEST:

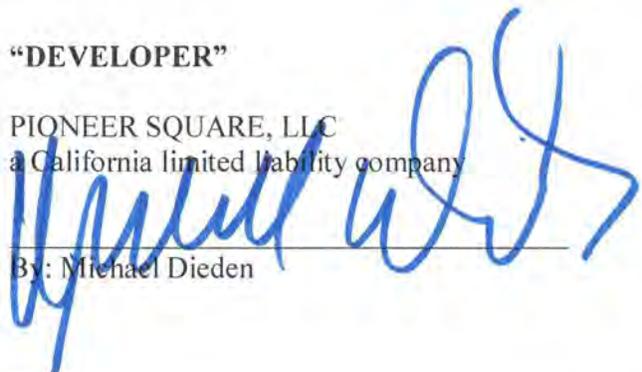

Debra Black, Successor Agency Clerk

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP


Jeff M. Malawy, Successor Agency Counsel

“DEVELOPER”

PIONEER SQUARE, LLC
a California limited liability company


By: Michael Dieden

By: _____

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day first above written and agree to all terms and conditions herein.

"AGENCY"

"SAN DIMAS SUCCESSOR AGENCY, a public body corporate and politic

By: 
Brad McKinney, Executive Director

ATTEST:


Debra Black, Successor Agency Clerk

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP


Jeff M. Malawy, Successor Agency Counsel

"DEVELOPER"

PIONEER SQUARE, LLC
a California limited liability company

By: Michael Dieden

By: _____

Exhibit "A"
SITE LEGAL DESCRIPTION

Exhibit "B"
REQUIRED PROJECT FEATURES/ELEMENTS

Project Concept: A multi-modal transit integrated village combining hospitality, residential and commercial uses (retail, entertainment, restaurants) surrounding a public plaza that creates a sense of place and engagement, thereby intended to attract future Metro and Foothill Transit commuters, and also patrons from throughout San Gabriel Valley. Developer may have some reasonable flexibility, provided Developer shows reasonable evidence therefor, supporting the alteration of a design feature herein, subject to the City's approval; however, features described below may not be eliminated (unless otherwise agreed in writing by City/Agency). The following uses will be further refined in the Conveyance Instrument, subject to the parties' consultation and further evaluation of applicable market feasibility studies and due diligence materials.

1. Developer will offer approximately 40 dwelling units, having a variety of for-sale housing types at diverse price points and at various densities to be located on the preliminary site plan delivered by Developer.
2. The retail/commercial uses may include a bookstore, dining (provided dining facilities shall not include any fast food restaurant, except as expressly approved by the City), a small grocer, creative office space and health & exercise uses among others, which comprise approximately twenty-eight thousand (28,000) useable square feet of retail and commercial service uses and fifteen thousand (15,000) office/flex space.
3. A boutique hotel with approximately 60-80 rooms, located on the NW corner of the property lot at Bonita and Acacia. The hotel will have a lobby with restaurant and bar services, a pool, and a roof-top bar with views of the San Gabriel Mountains and the Metro.
4. A parking program will be agreed upon by the Agency/City and Developer under which the parking will be sustainable both economically and environmentally. The parking facility will be sub and semi-subterranean estimated to contain 200 parking spaces.
5. The Project will prioritize the pedestrian experience, with buildings and spaces designed to be inviting to pedestrians, cyclists and motorists.
6. The Project will make for an inviting access and relationship to Pioneer Park located immediately adjacent to the Project.
7. The Project will provide multi-modal connections to adjacent developments and facilities in the area.
8. The Project will seek to achieve a high sustainability standard that will include water-wise landscaping that complements the various architectural styles and themes of the project, which may include water conservation in the landscape as not only a short-term response to the current drought but also as a long-term

sustainability practice.

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

Exhibit "C"

ESTIMATED TIMEFRAME FOR NEGOTIATION AND PROJECT TIMEFRAMES

<u>#</u>	<u>Activity</u>	<u>Responsible Party</u>	<u>Date</u>
1.	Developer submits Agency Expenses Deposit (\$25,000) (pursuant to Section 1.B.)	Developer	Within 5 days from the Effective Date of the ENA
2.	Developer submits Conveyance Instrument Deposit (\$25,000) (pursuant to Section 6)	Developer	Within 5 days from the Effective Date of the ENA
3.	City/Agency shall provide to Developer copies of all currently existing plans, studies and other written information regarding the Site in its possession, to the extent not previously delivered to Developer and to the extent material to the Project and not subject to any attorney-client or attorney work product privilege or other privilege.	City/Agency	Within 10 days from the Effective Date of the ENA
4.	Developer submits Boutique Hotel Market Study (pursuant to Section 3(A) of the ENA)	Developer	Within 45 days from the Effective Date of the ENA
5.	Development submits Phase 1 environmental assessment (pursuant to Section 3(B) of the ENA)	Developer	Within 45 days from the Effective Date of the ENA
6.	Development submits revised Site Plan & Preliminary Development Program (pursuant to Section 3(C) of the ENA)	Developer	Within 60 days from the Effective Date of the ENA
7.	Developer submits preliminary proforma (pursuant to Section 3(D) of the ENA)	Developer	Within 75 days from the Effective Date of the ENA
8.	Developer and City staff shall determine the likely type and schedule for obtaining entitlements necessary for construction of the Project including, but not limited to, discretionary permits	Developer & City/Agency	Within 75 days from the Effective Date of the ENA

<u>#</u>	<u>Activity</u>	<u>Responsible Party</u>	<u>Date</u>
9.	Developer submits proposed Public Outreach Plan to City (pursuant to Section 3(E) of the ENA)	Developer	Within 90 calendar days from the Effective Date of the ENA
10.	Developer to submit a Conveyance and Project Implementation Plan including identification of all development entities, respective project ownership and schedule and plan for obtaining all Project Entitlements and other items	Developer	Concurrent with or prior to expiration of Due Diligence Period
11.	Developer to conduct due diligence of the Site (pursuant to Section 1 (F) of the ENA)	Developer	Within 90 days from the Effective Date of the ENA
12.	Developer begins to submit a monthly leasing activity report (pursuant to Section 3(F) of the ENA)	Developer	Commences upon expiration of Due Diligence Period
13.	Developer provides preliminary financing plan (pursuant to Section 3(G) of the ENA) and updated financing plan	Developer	Within 90 days from the Effective Date of the ENA for the preliminary financing plan, before approval of the Conveyance Instrument and updated financing plan
14.	Developer provides disclosure of Developer's principals, partners, joint ventures, and consultants to City (pursuant to Section 3(H) of the ENA)	Developer	Within 90 days from the Effective Date of the ENA
15.	Developer shall submit a schedule of development setting forth the proposed timetable for the commencement, substantial completion and final completion of the Project	Developer	Within 90 days after Effective Date of the ENA
16.	Developer submits CEQA Expenses Deposit (\$50,000) (pursuant to Section 1.C.)	Developer	Within 5 days from the effective date of the Conveyance Instrument

Exhibit "D"
CITY INSURANCE REQUIREMENTS

Developer, its affiliates or contractors shall provide the following insurance policies, subject to the requirements outlined below:

Commercial General Liability Insurance. Developer shall keep or cause to be kept in force for the mutual benefit of City, City, and Developer comprehensive broad form commercial general liability insurance against claims and liability for personal injury or death arising from the use, occupancy, disuse or condition of the Site, improvements or adjoining areas or ways, affected by such use of the Site or for property damage, providing protection of at least One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) general aggregate.

Builder's Risk Insurance. Before commencement of any construction activities, Developer shall procure and shall maintain in force "all risks" builder's risk insurance including vandalism and malicious mischief, covering improvements in place and all material and equipment at the job site furnished under contract, but excluding contractor's, subcontractor's, and construction manager's tools and equipment and property owned by contractor's or subcontractor's employees, with limits and at least One Million Dollars (\$1,000,000.00) per occurrence.

Worker's Compensation. Developer shall also furnish evidence that any contractor with whom Developer has contracted for the performance of any work for which Developer is responsible hereunder carries workers' compensation insurance as required by law. Employer's liability limits usually should be One Million Dollars (\$1,000,000) to be equal to general and auto liability limits.

Auto and Other Insurance. If any vehicles are to enter the Property, automobile liability coverage in the amounts of One Million Dollars (\$1,000,000) combined single limit (CSL) per accident. Developer may procure and maintain any insurance not required by this Agreement.

Insurance Policy Form, Content and Insurer.

All insurance required by express provisions hereof shall be carried only by responsible insurance companies licensed to do business by California, rated "A" or better in the most recent edition of Best Rating Guide, the Key Rating Guide or in the Federal Register, and only if they are of a financial category Class IX or better. All such policies shall contain language, to the extent obtainable, to the effect that (i) any loss shall be payable notwithstanding any act of negligence of City, Agency, or Developer that might otherwise result in the forfeiture of the insurance, (ii) the insurer waives the right of subrogation against City and against City's/Agency's agents and representatives; (iii) the policies are primary and noncontributing with any insurance that may be carried by City; and (iv) the policies cannot be canceled or materially changed except after thirty (30) days' written notice by the insurer to City or City's/Agency's designated representative. Developer shall furnish City with copies of all such policies promptly on receipt of them, or with certificates evidencing the insurance. City and Agency shall be named as additional insureds on all policies of insurance required to be procured by the terms of this Agreement.

(LIMITS: HIGHER LIMITS MAYBE REQUIRED BASED UPON THE EXPOSURE OF THE CONTRACT, SOME FACTORS INCREASING EXPOSURE TO LOSS INCLUDE LARGE CONTRACTS, THE TYPES AND NUMBER OF SUBCONTRACTORS, CONSTRUCTION OF MULTI-STORY BUILDINGS, USE OF EXPLOSIVES/BLASTING, CONSTRUCTION NEAR PIPELINES OR TRENCHES, HIGHWAYS OR UTILITY LINES, PROXIMITY TO PUBLIC OR POTENTIAL FOR CATASTROPHIC LOSS.)

The Agency shall be named as an Additional Insured. Include endorsement with certificate.

The Certificate holder shall be indicated as:

Successor Agency of the Former San Dimas RDA
245 East Bonita Avenue
San Dimas, CA 91773

Certificate must indicate thirty (30) days minimum for cancellation notice.

Name of the insurer and policy number shall be indicated.

Exhibit "E"
PRELIMINARY SITE PLAN [PLACEHOLDER]

