Agenda Item Staff Report

To: Honorable Mayor and Members of City Council, as Successor Agency to the Former San Dimas Redevelopment Agency and City Council
For the Meeting of October 25, 2022

From: Chris Constantin, Executive Director and City Manager

Subject: CONSIDERATION OF A JOINT RESOLUTION 2022-53 APPROVING A DISPOSITION AND DEVELOPMENT AGREEMENT AND COVENANT AGREEMENT WITH PIONEER SQUARE, LLC FOR THE SALE AND DEVELOPMENT OF A MIXED-USE PROJECT AT PROPERTIES LOCATED AT 344 WEST BONITA AVENUE (APN: 8386-021-913), SAN DIMAS CALIFORNIA

SUMMARY

The Successor Agency to the Former San Dimas Redevelopment Agency owns 344 West Bonita Avenue (APN: 8386-021-913), ("Property"), and seeks to enter into a Disposition and Development Agreement and Covenant Agreement with Pioneer Square, LLC to sell and cause the development of the site with residential, commercial, retail/restaurant and hotel uses that seek to enhance economic and employment opportunities for the City and the surrounding areas. On October 11, 2022, the City Council held a public hearing to discuss this item and continued the item until the meeting of October 25, 2022 to allow City staff and Pioneer Square to consider a new concept proposed by Pioneer Square during the October 11, 2022 City Council Meeting.

RECOMMENDATION

City staff recommends that the City Council take the following actions:

1. Discuss the proposed Disposition and Development Agreement and Covenant Agreement between the Successor Agency to the Former San Dimas Redevelopment Agency and Pioneer Square, LLC; and

2. Consider approval of Joint Resolution 2022-53 approving the Disposition and Development Agreement and Covenant Agreement, and California Environmental Quality Act Sustainable Communities Project Exemption (Public Resources Code 21155 et seq).

FISCAL IMPACT

Estimated revenue to the government taxing entities (i.e. City, County, school district, etc.) of $2,635,600 of which the City will see roughly $176,000 in proceeds to the General Fund and $89,000 in proceeds to the Lighting District fund due to the sale of the property. Based on the

most recent information available from PSQ regarding the proposed project, the total future ongoing revenue when the full development is complete and in operation is estimated to be approximately $700,000/annually, which is comprised of $400,000 in Transient Occupancy Tax, $165,000 in direct/indirect sales taxes, and $137,000 in property taxes (including Motor Vehicle In Lieu Fee). The City would also experience an undetermined increase in ongoing business license fees which would vary depending on the number of new businesses, their employee counts and the final number of beds included in the lodging facility. Permit fee collections would also increase during the construction process.

BACKGROUND

On October 11, 2022, after conducting a public hearing, receiving testimony from the public and applicant, the City Council[1] deliberated and voted to continue the item to the Regular Meeting on October 25, 2022. **Attachment 1** provides Resolution 2022-53 which would approve the Disposition and Development Agreement and Covenant Agreement (DDA) which is attached to the Resolution as Exhibit A and adopts all findings in the Pioneer Square Project Sustainable Communities Project California Environmental Quality Act (CEQA) Exemption Memorandum prepared by Psomas dated August 2022 and which is attached to the Resolution as Exhibit B.

Attachment 2 provides the complete agenda item, including City Council Staff Report from October 11, 2022 and attachments for a detailed background on this item. This staff report highlights important amendments to the DDA.

DISCUSSION/ANALYSIS

At the October 11, 2022, Public Hearing, the Applicant (Pioneer Square or PSQ) proposed a new concept/idea that required additional research and analysis. As noted in the October 11, 2022 staff report, any development project that is complex, involves many aspects that are negotiated, and is designed in a way that balances the need of the developer with the City's desire for a specific project which has some measure of risk. There are risks in both supporting and not supporting this development, and in total, the risk versus reward must be considered in weighing the development project. While the October 11, 2022 staff report highlighted several risk/reward tradeoffs, Pioneer Square's new concept was intended to reduce risk related to key Project partners which make up the experience and financial strength supporting Project success.

New Pioneer Square Concept to Reduce Risk to the City that Appropriate Project Partners will be Secured in a Timely Fashion

As related previously, two key partners, Zislis and Republic Metropolitan, had established teaming agreements with PSQ, but PSQ had not executed operating agreements which made material commitments between the partners and the Project. Specifically, PSQ reported that the key partners required time to perform their due diligence after the approval of a DDA which would push the timeline past the December 31, 2022 deadline which would convert this Project from an exclusively negotiated to a Surplus Land Act transaction[2]. PSQ proposed providing the City an option to purchase the property back should PSQ not be able to secure these material agreements within nine months of City Council approval of the DDA.

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[1] References to City, City Council, are intended to also represent the Successor Agency and Board of the Successor Agency.

[2] The Surplus Land Act has specific requirements which eliminate the City's ability to exclusively negotiate with PSQ for this project by first requiring the property to be made available and negotiated in good faith with certain other developers, including affordable housing developers, governmental agencies, etc. The Surplus Land Act therefore introduces significant risk that the intended Project would not come to fruition.

At the October 11, 2022 City Council meeting, PSQ proposed offering the City a purchase option valued at the same price the property would be sold to PSQ – approximately $2.6 million which is the appraised value minus the estimated costs of environmental remediation and certain other required capital improvements. This concept would give the City the ability to sell the property prior to the December 31, 2022 deadline before triggering the Surplus Land Act. However, the risk/reward tradeoff here would be to continue the potential development passed the Surplus Land Act, but now introduces a financial obligation to the City to secure the Project with key partners which should have been solidified prior to this point. Consequently, PSQ's concept reduces risk associated with establishing viable Project partners but increases financial risk to the City, and at this point, appears to be a financial risk to the City's General Fund.

In evaluating the risk/reward, the PSQ option does provide a viable opportunity to solidify a mixed use development. To reduce risk to the City related to its financial risk, the City proposed an amendment which allowed the City to repurchase the property at a lower amount should an appraisal find that the value of the property, minus the reductions described above, fall between now and the point at which the City exercises its purchase option. Further, the City proposed as a condition of considering this new PSQ option, two additional amendments which would enhance the City's security that 1) the Hotel Component would not be delayed or negatively impacted by development of the rest of the property, and 2) requiring PSQ to submit more details related to the Project concepts, including but not limited to, project design and architectural components, with its zoning application which would give the City the ability to have a stronger say in how the final Project is developed. In total, PSQ's concept opened the door to reduce risk in two other areas as well – completing a Hotel as a priority and having say over concept/property design which were both key considerations which resulted in the City selecting PSQ for this Project.

Changes to the DDA which Reduce City Risk Exposure

The attached Resolution approves the DDA with several amendments from the version provided in the October 11, 2022 City Council agenda. The changes include a purchase option at the lower of the $2.6 million (the PSQ land purchase price) or the current appraised value minus the reductions made to the PSQ purchase price for remediation and required capital, that can be triggered no earlier than 9 months from City Council DDA approval. This purchase option is subject to the City's review and reasonable satisfaction of the following:

- PSQ to provide binding operating and/or partnership or similar agreements with the Zislis Group, Republic Metropolitan and/or other key partners/operators/3rd party equity and/or debt (lenders) providers that demonstrates sufficient commitment to the proposed project and PSQ's financial, operational and development capacity to successfully execute the proposed project;
- PSQ to provide updated market data and information on Hotel and project viability;
- PSQ to provide a financial proforma (including updated opinion of construction cost estimates from a qualified contractor source and updated market data/support for revenue assumptions) and/or other additional information to support the financial viability of the proposed project; and
- Any other provision that addresses weakness in the partners, financings, etc. of the deal;
    - Updated financial/balance statements, and
    - Any current litigation that could impact their ability to perform.

The proposal gives the City the opportunity to add security that the foundational elements of the deal are in place, reviewed by the City's real estate and financial consultant, Kosmont Realty, and

of an acceptable risk in a reasonable timeline of 9 months. The City added, and PSQ agreed, an additional provision that with an appraisal, the City would pay the lower of the PSQ purchase price or the newly appraised value (minus the same deductions PSQ received when they purchased the property). This ensures that should the value of land drop, the City is not incurring that market risk, and that such risk is transferred to PSQ.

Further conditions to considering PSQ's purchase option concept, the City proposed and PSQ agreed to two additional amendments which strengthen the City's position and further reduces Project risk as related to the construction of the Hotel and project design and architectural components.

The revised DDA includes language in Section 502(3) Right to Develop In Phases; Commercial Component Priority which specifies a stronger priority for the Hotel construction. This includes the following:

- The term "prioritizing the Hotel Component" shall mean that any phasing plan must call for **substantial progress on vertical construction of the Hotel Component** [emphasis added], at the latest, prior to the issuance of the first Certificate of Occupancy, temporary or otherwise for the Commercial or Residential Components of the Project.

The change more closely aligns construction of the Hotel with the rest of the development instead of relying more on a phasing schedule that triggers the first Certificate of Occupancy just on start of Hotel construction.

The revised DDA includes language in Attachment No. 3 Pioneer Square DDA Scope of Development which specifies more City control over Project design, architectural quality and the site plan. This includes the following:

- Developer shall **submit a complete package of plan and zoning amendments; site, parking, building designs and supporting documents** [emphasis added] as may be required by the City's Planning Department that **ensure the City can approve the plan and zoning changes with full knowledge and approval of the site, parking, and building designs.** [emphasis added] To this end, Developer shall further comply with the following requirements:

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

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

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

The emphasized language requires PSQ to submit a complete package of plan and zoning amendments. This would include items such as the site, parking, and building designs, which would ensure the City can approve the plan and zoning changes with full knowledge and approval of the site, parking, architectural and building designs. Since zoning approval is at the discretion of the City, the language facilitates the City being a stronger partner with PSQ in key aspects of the Project.

Additional details on the DDA and Covenant Agreement are included in Attachment 2, City Council Staff Report from October 11, 2022.

ENVIRONMENTAL REVIEW

The Project qualifies for a CEQA Statutory exemption as a Transit Priority Project pursuant to the CEQA "Sustainable Communities Project" exemption enacted as a part of Senate Bill 375, codified at Public Resources Code Sections 21155 et seq. Exhibit B to the Resolution provides the complete Environmental Exemption Memorandum completed by the City's consultant, Psomas.

Respectfully submitted,

Chris Constantin,
Executive Director

Attachments: 1. Joint Resolution 2022-53
Exhibit A Disposition and Development and Covenant Agreement
Exhibit B Psomas Environmental Exemption Memorandum
2. Staff Report and Attachments from October 11, 2022.

Thank you to the City team working on this project"

Chris Constantin, City Manager
Jeff Malawy, City Attorney's Office – City Attorney
Fred Galante, City Attorney's Office

Brad McKinney, Assistant City Manager
Henry Noh, Community Development Director
Shari Garwick, Public Works Director
Scott Wasserman, Parks and Recreation Director
Luis Torrico, Planning Manager
Eric Beilstein, Building Official

Larry Kosmont, Kosmont Realty
Brian Moncrief, Kosmont Realty

Attachment 1

JOINT RESOLUTION 2022-53

A JOINT RESOLUTION OF THE CITY COUNCIL OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS AS SUCCESSOR AGENCY TO THE FORMER SAN DIMAS REDEVELOPMENT AGENCY AND CITY OF SAN DIMAS APPROVING THE DISPOSITION AND DEVELOPMENT AGREEMENT WITH PIONEER SQUARE, LLC FOR THE SALE AND DEVELOPMENT OF A MIXED-USE PROJECT AT PROPERTIES LOCATED AT 344 WEST BONITA AVENUE, SAN DIMAS CALIFORNIA

WHEREAS, the City of San Dimas, as Successor Agency to the San Dimas Redevelopment Agency ("Agency") owns approximately 3.57-acre property located at 344 West Bonita Avenue, San Dimas, between Cataract and Acacia Avenues (Property); and

WHEREAS, the Property is currently vacant and thus underutilized, falling substantially short of its commercial, retail, residential, revenue-generating and job-generating potential; and

WHEREAS, on August 25, 2020, the Agency entered into an Exclusive Negotiating Agreement (ENA) with Pioneer Square, LLC (Developer) to negotiate the sale and ultimate development of the Property. Since then, there have been a total of 10 ENA extensions with the most recent one set to expire on October 31, 2022. It is important to note that certain constraints on the Property (e.g. environmental contamination due to historical industrial uses) as well as a worldwide pandemic in 2020 (COVID 19), caused major unforeseen delays/development uncertainties requiring additional time to evaluate the development feasibility of PSQ's proposed mixed-use development project and negotiate sale terms; and

WHEREAS, Developer team has experience successfully developing mixed-use urban infill projects and obtaining substantial 3rd party debt and equity needed to fund $50 to $100 million projects; and

WHEREAS, the qualifications and identity of Developer are of particular concern to City and Successor Agency (collectively, the "City" or the "City Council"), and it is because of such qualifications and identity that City Council desires to enter into the Disposition and Development Agreement, which is attached hereto as Exhibit "A" and incorporated herein by this reference, with Developer (DDA); and

WHEREAS, Developer will submit an application for the City's consideration to allow the design and construction of a mixed-use project upon the Property, as set forth in the DDA (Project); and

WHEREAS, the Project qualifies for a CEQA Statutory exemption as a Transit Priority Project pursuant to the California Environmental Quality Act (CEQA) "Sustainable Communities Project" exemption enacted as a part of Senate Bill 375, codified at Public Resources Code Sections 21155 et seq.; and

WHEREAS, nothing contained in the DDA commits the City to approving the Project or any component thereof, and the City retains its full discretion and land use authority to consider, modify, condition, approve, or reject the Project; and

WHEREAS, it is anticipated the Project, if approved, would generate substantial

revenue and provide construction-related and permanent employment opportunities for the San Dimas community; and

WHEREAS, it is also anticipated that as part of the Project's subsequent land use entitlement and permitting process, the Project would be required to: reflect a high quality of development; adhere to applicable building codes and other applicable standards and requirements; implement appropriate mitigation 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); and

WHEREAS, it is anticipated that the Project will be designed to include necessary street and utility infrastructure to serve the Project; and

WHEREAS, the Property and the DDA are not subject to the Surplus Lands Act as defined by Government Code Sections 54220 to 54233 due to the fact the Property has been subject to the ENA, approved before December 31, 2020, was acquired, and always intended, to be exchanged for private development and has never been used for public/governmental purposes, and will be disposed of before December 31, 2022, and

WHEREAS, the City and Developer have reached mutual agreement and now desire to voluntarily enter into the DDA to provide, among other things, for City's disposition of the Property to Developer, subject to the terms and conditions set forth in the DDA; and

WHEREAS, the City Council conducted a duly noticed public hearing on October 11, 2022, in which the City Council received and fully considered all oral and written testimony from members of the public and City staff.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN DIMAS AS SUCCESSOR AGENCY TO THE FORMER SAN DIMAS REDEVELOPMENT AGENCY AND CITY COUNCIL OF THE CITY OF SAN DIMAS, CALIFORNIA, DO HEREBY RESOLVE AS FOLLOWS:

SECTION 1. Recitals. The recitals set forth above are true and correct and incorporate herein by this reference.

SECTION 2. Findings. Based upon the foregoing and all oral and written testimony from members of the public and City staff, the City Council finds as follows:

A. Entering into the DDA will facilitate achievement of numerous goals and policies of the City's General Plan and Downtown Specific Plan, as may be amended as part of the Project entitlements as well as in conformity with the public convenience, general welfare, and good land use practices; will not be detrimental to the health, safety, and general welfare of persons residing in the immediate area nor be detrimental or injurious to property or persons in the general neighborhood or to the general welfare of the residents of the City as a whole; and will not adversely affect the orderly development of property or the preservation of property values.

B. The execution and performance of the DDA is in the vital and best interests of the City of San Dimas and its residents and is in accord with the foregoing public purposes and

provisions of applicable laws and regulations.

C. Based upon substantial evidence, the sale of the Property is in conformance with the City's General Plan pursuant to Government Code Section 65402.

SECTION 3. The City Council hereby adopts all findings in the Pioneer Square Project Sustainable Communities Project CEQA Exemption Memorandum prepared by Psomas dated August 2022 and attached to this Resolution as Exhibit B ("Exemption Memorandum"), and incorporates those findings by reference herein. On the basis of those findings, the City Council finds that the Project qualifies for a CEQA Statutory exemption as a Transit Priority Project pursuant to the California Environmental Quality Act (CEQA) "Sustainable Communities Project" exemption enacted as a part of Senate Bill 375, codified at Public Resources Code Sections 21155 et seq. and hereby approves said exemption. All conditions of approval recommended in the Exemption Memorandum shall be required conditions of approval on PSQ's proposed development project.

SECTION 4. Approval. Based upon the foregoing and all oral and written testimony from members of the public and City staff, the City Council hereby approves the DDA as attached hereto as Exhibit A.

SECTION 5. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED by the City Council for the Successor Agency and City of San Dimas at a regular meeting held on the 25th day of October 2022.

_____
MAYOR OF THE CITY OF SAN DIMAS AND
CHAIR OF THE SUCCESSOR AGENCY

ATTEST:

_____
CITY CLERK OF THE CITY OF SAN DIMAS

I, Debra Black, City Clerk of the City of San Dimas, do hereby certify that Resolution 2022-53 was duly adopted at a regular meeting of the said City Council held on the 25th day of October 2022; by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
CITY CLERK OF THE CITY OF SAN DIMAS

DISPOSITION AND DEVELOPMENT AGREEMENT

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

R E C I T A L S

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

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

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

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

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

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

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

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

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

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

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

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

G. Owner has given the required notice of its intention to consider this Agreement and has conducted the necessary public hearings thereon. Specifically, on October 11, 2022, the City Council held a duly-noticed public hearing on this matter. After taking testimony and considering the matter, the City Council closed the public hearing, deliberated, and then conducted a review pursuant to Government Code Section 65402 and other applicable laws and regulations.

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

I. (§ 100) PURPOSE OF THE AGREEMENT.

A. (§ 101) Purpose of the Agreement.

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

B. (§ 102) Site.

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

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

C. (§ 103) No Financial Assistance.

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

II. (§ 200) DEFINITIONS.

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

A. (§ 201) Agreement.

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

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

B. (§ 202) Approved Future User.

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

C. (§ 203) City.

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

D. (§ 204) CEQA Consultant.

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

E. (§ 205) CEQA Expenses Deposit.

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

F. (§ 206) Certificate of Completion.

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

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

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

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

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

1. Early Repurchase Option.

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

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

2. Option for TOT Guarantee Breach.

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

I. (§ 209) Days.

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

J. (§ 210) Deposit.

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

K. (§ 211) Effective Date.

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

L. (§ 212) Enforced Delay.

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

M. (§ 213) Entitlements.

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

N. (§ 214) Escrow.

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

O. (§ 215) Escrow Agent.

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

P. (§ 216) Future User.

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

Q. (§ 217) Grant Deed.

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

R. (§ 219) Retail Lot Tie Agreement.

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

S. (§ 220) Project.

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

T. (§ 221) Public Open Space.

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

U. (§ 222) Purchase Price.

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

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

V. (§ 223) Schedule of Performance.

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

W. (§ 224) Site.

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

X. (§ 225) Site Map.

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

Y. (§ 226) Title.

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

Z. (§ 227) Title Company.

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

AA. (§ 228) TOT Guarantee.

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

BB. (§ 229) Transfer.

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

III. (§ 300) PARTIES TO THE AGREEMENT.

A. (§ 301) Owner Identification.

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

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

B. (§ 302) Developer.

1. Identification and Developer's Representations.

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

2. Qualifications.

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

3. Financial Capability

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

4. Accounting of Agency Expenses Deposit.

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

C. (§ 303) Restrictions on Transfer.

1. Restrictions Prior to Completion of Project.

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

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

2. Exceptions.

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

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

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

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

d. **Reorganization**. A sale or transfer resulting from or in connection with a reorganization as contemplated by the provisions of the Internal Revenue Code of 1986, as amended or otherwise, in which the ownership interests of a corporation are assigned directly or by operation of law to a person or persons, firm or corporation which acquires the control of the voting capital stock of such corporation or all or substantially all of the assets of such corporation.

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

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

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

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

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

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

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

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

A. (§ 401) Approval of Site Conditions.

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

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

B. (§ 402) Conveyance; Covenant Agreement.

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

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

C. (§ 403) Escrow.

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

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

1. Developer's Conditions to Closing.

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

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

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

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

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

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

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

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

2. Owner's Conditions to Closing.

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

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

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

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

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

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

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

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

3. Both Parties' Conditions to Closing.

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

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

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

E. (§ 406) Conveyance of the Site.

1. Time for Conveyance.

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

2. Escrow Agent to Advise of Costs.

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

3. Deposits by Owner Prior to Closing.

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

4. Deposits by Developer Prior to Closing.

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

5. Recordation and Disbursement of Funds.

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

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

F. (§ 407) Title Matters.

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

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

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

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

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

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

1. AS-IS Acquisition.

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

2. Site Assessment and Remediation.

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

3. Disclaimer of Warranties.

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

4. Right to Enter Site; Indemnification.

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

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

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

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

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

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

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

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

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

DEVELOPER'S INITIALS: _____

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

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

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

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

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

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

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

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

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

H. (§ 409) Costs of Escrow.

1. Allocation of Costs.

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

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

2. Prorations and Adjustments.

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

3. Extraordinary Services of Escrow Agent.

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

4. Escrow Agent's Right to Retain Documents.

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

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

1. Termination.

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

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

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

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

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

2. Opportunity to Cure.

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

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

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

J. (§ 411) Responsibility of Escrow Agent.

1. Deposit of Funds.

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

2. Notices.

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

3. Sufficiency of Documents.

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

4. Exculpation of Escrow Agent.

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

5. Responsibilities in the Event of Controversies.

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

V. (§ 500) DEVELOPMENT OF THE SITE.

A. (§ 501) Scope of Development.

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

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

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

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

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

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

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

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

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

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

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

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

4. Public Open Space Component.

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

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

5. Developer Efforts to Obtain Approvals.

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

6. Owner's Reasonable Assistance.

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

7. Disapproval.

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

8. CEQA and CEQA Expenses Deposit.

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

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

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

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

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

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

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

C. (§ 503) <u>Costs</u>.

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

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

1. Developer to Pursue Project Diligently.

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

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

2. Boutique Hotel Feasibility Study.

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

3. Public Outreach Plan.

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

4. Leasing Activity Reports.

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

E. (§ 505) Indemnification During Construction.

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

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

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

1. Types of Insurance.

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

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

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

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

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

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

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

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

2. Policy Form, Content and Insurer.

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

3. Failure to Maintain Insurance and Proof of Compliance.

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

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

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

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

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

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

H. (§ 508) Rights of Access by Owner.

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

I. (§ 509) Applicable Laws.

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

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

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

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

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

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

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

1. Definitions.

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

2. No Encumbrances except Mortgages to Finance the Project.

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

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

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

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

4. Holder Not Obligated to Construct or Complete Improvements.

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

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

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

6. Modification of Article; Conflicts

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

7. Entitlement to Written Notice of Default

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

8. Right to Cure.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12. Minor Amendments.

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

M. (§ 513) Certificate of Completion.

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

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

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

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

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

N. (§ 5I4) Estoppels and SNDA's.

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

O. (§ 5I5) Partial Releases.

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

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

ii. Developer is not in breach of this DDA;

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

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

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

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

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

VI. (§ 600) USES OF THE SITE.

A. (§ 601) Uses.

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

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

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

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

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

1. Deeds.

In Deeds the following language shall appear: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, ancestry, or any other protected class as defined by federal, state and/or local law in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land herein conveyed, nor shall the grantee, or any persons claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the land herein conveyed. The foregoing covenants shall run with the land."

2. Leases.

In Leases the following language shall appear: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming

under or through him or her, and this lease is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, ancestry, or any other protected class as defined by federal, state and/or local law in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the premises herein leased nor shall the lessee, or any person claiming under or through him or her, establish or permit any such practice or practices, of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants or vendees in the premises herein leased."

3. Contracts.

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

D. (§ 604) Maintenance of Improvements.

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

(§ 605) Beneficiary and Third-Party Beneficiary.

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

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

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

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

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

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

B. (§ 702) Legal Actions.

1. Institution of Legal Actions.

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

2. Applicable Law and Forum.

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

3. Acceptance of Service of Process.

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

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

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

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

D. (§ 704) Waiver.

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

E. (§ 705) Specific Performance.

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

F. (§ 706) Construction and Environmental Covenants.

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

G. (§ 707) Attorney's Fees.

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

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

VIII. (§ 800) GENERAL PROVISIONS.

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

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

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

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

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

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

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

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

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

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

Commissions.

1. Personal Liability.

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

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

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

3. Commissions.

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

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

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

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

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

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

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

D. (§ 804) Books and Records.

1. Developer to Keep Records.

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

2. Right to Inspect.

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

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

3. Ownership of Documents.

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

4. Confidentiality.

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

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

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

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

F. (§ 806) Interpretation.

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

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

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

H. (§ 808) Severability.

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

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

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

J. (§ 810) Execution.

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

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

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

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

[SIGNATURES ON FOLLOWING PAGE]

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

REMINDER:

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

DEVELOPER:

PIONEER SQUARE, LLC

By: _____

Name:_____

Title:_____

By: _____

Name:_____

Title:_____

OWNER:

CITY OF SAN DIMAS, a municipal corporation

By: _____
Emmett Badar, Mayor

_____, 2022

ATTEST:

_____
Debra Black,
Secretary

ACCEPTED:

ESCROW HOLDER:

Accepted and agreed to:

By: _____
MaryLou Adame, Escrow Officer

Dated: _____, 2022

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

By: _____
Jeff Malawy, Agency Counsel

ATTACHMENT NO. 1-A

PIONEER SQUARE DDA

LEGAL DESCRIPTION OF SITE

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

Portion of APN 8386-021-913

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

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

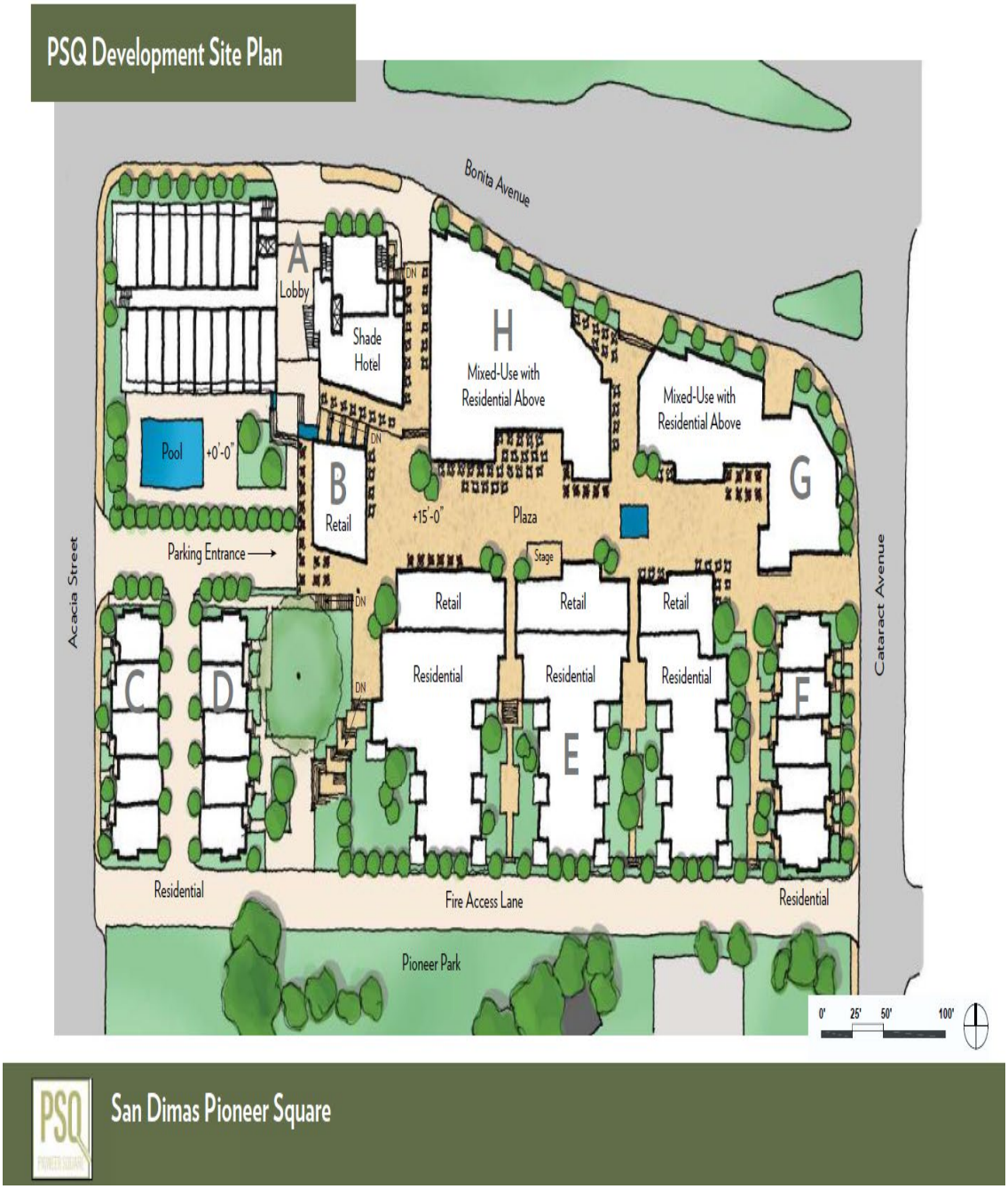
Except that portion of Block 11 of replat of a portion of the Town of San Dimas, in the City of San Dimas, County of Los Angeles, State of California, as per map recorded in Book 37, page 31 of Miscellaneous Records, in the Office of the County Recorder of said County, more particularly described as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

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

Contains approximately 4.03 acres, more or less.

ATTACHMENT NO. 1-A

PIONEER SQUARE DDA CONCEPTUAL SITE PLANS



ATTACHMENT NO. 2

PIONEER SQUARE DDA

SCHEDULE OF PERFORMANCE

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

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

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

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

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

ATTACHMENT NO. 3

PIONEER SQUARE DDA

SCOPE OF DEVELOPMENT

A. General

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

B. Project Concept:

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

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

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

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

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

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

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

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

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

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

B. Design Criteria

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

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

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

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

C. Site Work

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

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

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

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

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

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

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

D. Public Improvements

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

E. Landscaped Yards

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

E. Trash and Recycling Storage

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

F. Signs

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

G. Undergrounding Utilities

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

H. Mechanical Equipment

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

I. Applicable Codes

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

ATTACHMENT NO. 4

PIONEER SQUARE DDA

GRANT DEED

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

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

Attn: Executive Director

APN: 8386-021-913

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

GRANT DEED

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

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

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

2. Development.

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

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

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

4. Term of Restrictions.

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

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

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

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

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

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

(a) Deeds: In deeds the following language shall appear: "The grantee herein covenants by and for itself, its heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed,

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

(b) **Leases:** In leases the following language shall appear: "The lessee herein covenants by and for itself, its heirs, executors, administrators, successors, and assigns, and all persons claiming under or through them, and this lease is made and accepted upon and subject to the following conditions:

"That there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, age, ancestry, national origin or any other protected class as defined by federal, state and/or local law in the leasing, subleasing, renting, transferring, use, occupancy, tenure, or enjoyment of the land herein leased nor shall the lessee itself, or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, sublessees, subtenants, or vendees in the land herein leased."

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

The foregoing covenants shall remain in effect in perpetuity.

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

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

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

GRANTOR:

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

By: _____
Emmett Badar, Mayor

_____, 20__

ATTEST:

_____
Debra Black,
City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

By: _____
Jeff Malawy, City Attorney

ACKNOWLEDGEMENT OF ACCEPTANCE

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

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

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

Date:_____, 20__

"DEVELOPER"

PIONEER SQUARE LLC, a California limited liability company

By: _____

Its: _____

EXHIBIT "A" OF ATTACHMENT NO. 4

LEGAL DESCRIPTION OF PROPERTY

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

Portion of APN 8386-021-913

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

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

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

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

Contains approximately 4.03 acres, more or less.

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

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

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

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

WITNESS my hand and official seal.

_____
Notary Public

SEAL:

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

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

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

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

WITNESS my hand and official seal.

_____
Notary Public

SEAL:

ATTACHMENT NO. 5

PIONEER SQUARE DDA

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

FREE RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:

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

Attn: City Manager

APN: 8386-021-913

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

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

ATTACHMENT NO. 6

PIONEER SQUARE DDA

CERTIFICATE OF COMPLETION

FREE RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:

PIONEER SQUARE, LLC

_____

_____

Attn _____

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

CERTIFICATE OF COMPLETION

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

RECITALS:

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

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

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

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

NOW, THEREFORE,

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

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

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

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

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

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

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

"AGENCY"

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

By: _____

_____, Mayor

ATTEST

By:_____

_____, City Clerk

APPROVED AS TO FORM

ALESHIRE & WYNDER, LLP

By: _____

Jeff Malawy, City Attorney

CONSENT TO RECORDATION

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

Date: _____, 2022

"DEVELOPER"

PIONEER SQUARE, LLC, a California limited liability company

By: _____

Its: _____

EXHIBIT "A" TO ATTACHMENT NO. 6

PIONEER SQUARE DDA

LEGAL DESCRIPTION

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

Portion of APN 8386-021-913

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

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

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

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

Contains approximately 4.03 acres, more or less.

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

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

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

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

WITNESS my hand and official seal.

_____
Notary Public

SEAL:

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

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

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

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

WITNESS my hand and official seal.

_____
Notary Public

SEAL:

ATTACHMENT NO. 7

PIONEER SQUARE DDA

DEPICTION OF OPEN SPACE

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

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

FREE RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:

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

Attn: City Manager

APN: 8386-021-913

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

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

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

R E C I T A L S:

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

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

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

D. It is the intent of the parties that this Covenant Agreement shall be recorded on title to the Property in the Office of the County Recorder for the County of

Los Angeles, and that the terms hereof shall be binding on the Owner and its successors in interest in the Property for so long as the Covenant Agreement shall remain in effect.

A G R E E M E N T:

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

1. MAINTENANCE.

1.1 General Maintenance Obligation. Owner, for itself and its successors and assigns, hereby covenants and agrees to maintain and repair or cause to be maintained and repaired the Property and all related on-site improvements and landscaping thereon, including, without limitation, buildings, parking areas, lighting, signs and walls in a quality condition and repair, free of rubbish, debris and other hazards to persons using the same, and in accordance with all applicable laws, rules, ordinances and regulations of all federal, state, and local bodies and agencies having jurisdiction, at Owner's sole cost and expense. Such maintenance and repair shall include, but not be limited to, the following: (i) sweeping and trash removal; (ii) the care and replacement of all shrubbery, plantings, and other landscaping in a healthy condition; and (iii) the reasonable repair, replacement and restriping of asphalt or concrete paving using the same type of material originally installed, to the end that such pavings at all times be kept in a level and smooth condition. In addition, Owner shall be required to maintain the Property or cause the Property to be maintained in such a manner as to avoid the reasonable determination of a duly authorized official of the City that a public nuisance has been created by the absence of adequate maintenance such as to be detrimental to the public health, safety or general welfare or that such a condition of deterioration or disrepair causes appreciable harm or is materially detrimental to property or improvements within one thousand (1,000) feet of such portion of the Property.

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

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

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

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

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

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

carry out this Covenant Agreement. The Owner, or its successor and assign owing the affected portion of the Property, shall pay such costs as are reasonably incurred by City for such maintenance, including attorneys' fees and costs.

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

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

2. MANAGEMENT.

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

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

3. COMPLIANCE WITH LAWS.

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

4. INSURANCE.

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

5. OBLIGATION TO REPAIR.

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

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

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

7. TOT GUARANTEE.

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

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

a. Entitlement Application TOT Payment. If Owner does not submit all the necessary Entitlement applications to City for the Project by 5:00 p.m. on April 1, 2023, as is reasonably sufficient for City to deem the applications complete ("Complete Hotel Application"), Owner shall pay to City One Hundred Thousand Dollars ($100,000) ("Application TOT Payment") annually beginning by no later than April 1, 2024 and continuing on each anniversary of April 1st for each year thereafter in which Owner fails to submit the Complete Hotel Application, or the prorated amount of such Application TOT Payment until Owner submits the Complete Hotel Application. The Application TOT Payment obligation shall continue for nineteen (19) additional years

until Owner submits the Complete Hotel Application, for a total potential Application TOT Payment of Two Million Dollars ($2,000,000). The twenty (20)-year term shall be extended consistent with any extension as a result of any period of delay under Sections 7.3 through 7.6, above.

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

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

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

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

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

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

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

diligence in pursuing the cleanup and closure of the Site but that finalizing said cleanup has delayed Owner's ability to comply with the payment deadlines described in Sections 7.2 a., b. or c. above, the City shall not refuse to grant an extension of time sufficient to enable the environmental remediation and regulatory closure of the Site to be completed.

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

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

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

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

8. OPTION TO PURCHASE.

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

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

8.3 Option Term, Expiration & Termination.

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

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

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

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

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

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

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

8.7 Owner's Obligations During Option Term.

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

b. Authority to Contract. Owner represents, warrants, and covenants that, as of the Effective Date of this Covenant Agreement, Owner is the sole

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

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

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

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

8.11 Termination of Option.

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

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

c. Termination Documents. If the Option or Early Repurchase Option is terminated after recordation of the Option Memorandum, City shall promptly deliver to Owner an executed and acknowledged document to terminate the Option

Memorandum in a form acceptable to a reputable title company ("Option Termination Agreement").

8.12 Option Escrow.

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

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

8.13 Option Title.

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

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

Section. Upon the issuance of any amendment or supplement to the PTR which adds additional exceptions, the foregoing right of review and approval shall also apply to said amendment or supplement, provided, however, that Owner's initial period of review and approval or disapproval of any such additional exceptions shall be limited to ten (10) calendar days following receipt of notice of such additional exceptions. Nothing to the contrary herein withstanding, City shall be deemed to have automatically objected to all deeds of trust, mortgages, judgment liens, estate taxes, federal and state income tax liens, delinquent general and special real property taxes and assessments and similar monetary encumbrances affecting the Property, and Owner shall discharge any such non-permitted title matter of record prior to or concurrently with the Close of Escrow.

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

(1) The effect of this Covenant Agreement;

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

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

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

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

8.14 Owner's Deliveries.

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

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

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

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

8.16 Authorization to Record Documents and Disburse Funds.

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

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

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

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

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

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

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

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

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

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

8.19 Condition of the Property.

a. Inspection and Contingency Period. Upon the commencement of the Option Term or Early Repurchase Term, as applicable, and continuing thereafter for a period of twenty-four months (24) thereafter ("Inspection and Contingency Period"), City shall have the right to make an analysis of the Property including of such engineering, feasibility studies, economic analyses, soils tests,

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

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

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

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

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

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

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

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

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

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

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

8.21 Owner's Representations and Covenants.

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

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

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

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

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

f. Hazardous Substances. Owner shall not cause, allow or suffer any (i) Hazardous Substances, as that term is defined below, to be deposited or to exist on or below the surface of the Property, including, without limitation, contamination of the soil, subsoil or ground water, which constitute a violation of any law, rule or regulation of any government entity having jurisdiction thereof or which expose Owner or City to liability to third parties, or (ii) underground fuel or chemical storage tanks to be located on the Property, and (iii) generation, treatment, storage or disposal of Hazardous Substances, or other condition or use that could result in or cause a discharge of any Hazardous Substances on or below the Property. The term "Hazardous Substances" shall mean (i) any substance, product, waste or other material of any nature whatsoever which is or becomes listed, regulated, or for which liability arises for misuse, pursuant to the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), 42 U.S.C. §9601, *et seq.;* the Hazardous Materials Transportation Act, 49 U.S.C. §1801, *et seq.;* the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §6901, *et seq.;* the Toxic Substances Control Act, 15 U.S.C.S. §2601, *et seq.;* the Clean Water Act, 33 U.S.C. § 1251, *et seq.;* the Insecticide, Fungicide, Rodenticide Act, 7 U.S. C. § 136, *et seq.;* the Superfund Amendments and Reauthorization Act, 42 U.S.C. §6901, *et seq.;* the Clean Air Act, 42 U.S.C. §7401, *et seq.;* the Safe Drinking Water Act, 42 U.S.C. §300f, *et seq.;* the Solid Waste Disposal Act, 42 U.S.C. §6901, *et seq.;* the Surface Mining Control and Reclamation Act, 30 U.S.C. § 1201, *et seq.;* the Emergency Planning and Community Right to Know Act, 42 U.S. C. §11001, *et seq.;* the Occupational Safety and Health Act, 29 U.S.C. §§656 and 657; the Hazardous Waste Control Act, California Health and Safety Code ("H.&S.C.") §25100, *et seq.;* the Hazardous Substance Account Act, H.&S.C. §25330, *et seq.;* the California Safe Drinking Water and Toxic Enforcement Act, H.&S.C. §25249.5, *et seq.;* the Underground Storage of Hazardous Substances, H.&S.C. §25280, *et seq.;* the Carpenter-Presley-Tanner Hazardous Substance Account Act, H.&S.C. §25300, *et seq.;* the Hazardous Waste Management Act, H.&S.C. §25170.1, *et seq.;* the Hazardous Materials Response Plans and Inventory, H.&S.C. §25001, *et seq.;* the Porter-Cologne Water Quality Control Act, Water Code §13000, *et seq.,* all as they may from time to time be amended; (ii) any substance, product, waste or other material of any nature whatsoever which is or becomes listed, regulated, *or* for which liability for misuse arises pursuant to any other federal, state or local statute, law, ordinance, resolution, code, rule, regulation, order or decree due to its hazardous, toxic or dangerous nature; (iii) any petroleum, crude oil or any substance, product, waste, or other material of any nature whatsoever which contains gasoline, diesel fuel or other petroleum hydrocarbons other than petroleum and petroleum products contained within regularly operated motor vehicles; and (iv) polychlorinated biphenyls (PCB), radon gas, urea formaldehyde, asbestos, and lead.

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

citation regarding any violation, or potential or pending violation, of any such laws or regulations.

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

8.22 City's Representations.

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

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

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

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

8.26 Owner's Use of the Property. From and after the date of Owner's execution hereof, Owner shall not violate, or allow the violation of any law, ordinance, rule or regulation affecting the Property. Owner shall do or cause to be done all things reasonably within its control to preserve intact and unimpaired any and all easements, grants, appurtenances, privileges and licenses in favor of or constituting any portion of

Property. Further, Owner agrees to pay, as and when due, all payments on any liens or encumbrances presently affecting the Property and any and all taxes, assessments and levies in respect of the Property through the Closing Date.

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

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

9. ENFORCEMENT.

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

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

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

9.3 Enter the Property and cure the Event of Default.

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

10. NONDISCRIMINATION.

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

11. COVENANTS TO RUN WITH THE LAND.

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

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

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

All covenants, if any, set forth herein concerning construction and development of any improvements on the Property, the insurance requirements set forth in Section 4.1 (but not the Environmental Insurance Requirements of Section 4.3), the restrictions on Transfer set forth in Section 6, and any rights of City or Agency to satisfy liens shall

cause and terminate upon issuance of a Final Certificate of Completion pursuant to Section 3.03. 3 of the DDA. The covenants against discrimination set forth herein shall remain in effect in perpetuity.

12. Third Party Litigation.

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

13. INDEMNIFICATION.

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

agreement shall only be applicable to and binding upon the party then owning the Property or applicable portion thereof.

14. ATTORNEYS' FEES.

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

15. AMENDMENTS.

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

16. NOTICE.

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

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

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

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

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

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

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

17. SEVERABILITY/WAIVER/INTEGRATION/LENDER PROTECTION.

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

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

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

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

18. FUTURE ENFORCEMENT.

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

19. GOVERNING LAW.

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

20. COUNTERPARTS.

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

[END -- SIGNATURES ON NEXT PAGE]

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

OWNER:

PIONEER SQUARE, LLC

By: _____

Name:_____

Title:_____

By: _____

Name:_____

Title:_____

CITY:

CITY OF SAN DIMAS, a municipal corporation

By: _____
Emmett Badar, Mayor

_____, 2022

ATTEST:

_____,
Debra Black, City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

By: _____
Jeff Malawy, City Attorney

[END OF SIGNATURES]

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

On _____, before me, _____, personally appeared

_____

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

Witness my hand and official seal.

_____
Notary Public

[SEAL]

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

On _____, before me, _____, personally appeared

_____

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

Witness my hand and official seal.

_____
Notary Public

[SEAL]

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

On _____, before me, _____, personally appeared

_____

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

Witness my hand and official seal.

_____
Notary Public

[SEAL]

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

On _____, before me, _____, personally appeared

_____

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

Witness my hand and official seal.

_____
Notary Public

[SEAL]

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

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

Portion of APN 8386-021-913

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

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

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

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

Contains approximately 4.03 acres, more or less.

EXHIBIT "B"

DEPICTION OF OPEN SPACE

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

Exhibit B - Attachment 1

Pioneer Square Project

Sustainable Communities Project
CEQA Exemption Memorandum

Lead Agency

City of San Dimas
Community Development Department
245 E. Bonita Avenue
San Dimas, California 91773
Contact: Luis Torrico

Prepared by

Psomas
5 Hutton Centre Drive, Suite 300
Santa Ana, California 92707
Contact: Sean Noonan, AICP

August 2022

SECTION 1.0 PROJECT DESCRIPTION

The Project consists of a mixed-use development located at 344 West Bonita Avenue in the City of San Dimas in Los Angeles County, California approximately one-quarter mile west of the San Dimas Gold Line Station. The Project site is approximately 4.42 acres in size and is currently vacant. The Project would construct a new mixed-use development that would include approximately 97 residential dwelling units, a 68-room hotel, and 25,000 square feet of ground floor community-serving retail uses. The Project would construct eleven buildings across the Project site that together, would total 215,000 square feet of new development with 62,000 square feet of hotel uses, 128,000 square feet of residential uses, and 25,000 square feet of retail uses. The total proposed height of the Project would be four stories maximum, with three-story step backs adjacent to Pioneer Square Park to the south. The Project would include a total of 55 percent of the Project site as open space and 298 total off-street parking spaces located within two subterranean parking garages. A preliminary site plan and a public open space plan are provided as Exhibits 1 and 2 respectively.

SECTION 2.0 SUSTAINABLE COMMUNITIES STRATEGY CRITERIA

A Sustainable Communities Project Exemption (SCPE) may be prepared for a project that: (a) is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in a sustainable community's strategy (see Public Resources Code (PRC) Section 21155(a)); and (b) is a "transit priority project" (as defined in PRC Section 21155(b)).

An analysis of the Project relative to each of the SCPE criteria is provided below in Table 1. As shown in Table 1, the Project has been determined to meet each of these criteria and, thus, the Project is eligible to be fully exempted from the California Environmental Quality Act (CEQA).

Where required to ensure consistency with the SCPE criteria, Conditions of Approvals (COA) are recommended in Table 1.

Some information in this document has been adapted from the *CEQA SCPE Exemption for the Pioneer Square Project*, which was prepared by DLA Piper US, LLP on behalf of the Project Applicant in May 2022.

Table 1 – Evaluation of the Project Relative to the SCPE Criteria:

SUSTAINABLE COMMUNITIES' STRATEGY CRITERIA – Public Resources Code (PRC) Section 21155		
PRC § 21155(a). Consistency with the general use designation, density, building intensity, and applicable policies specified for the project area in a sustainable communities' strategy.	Consistent?	
	Yes	No
The Project would construct a new mixed-use development that would include 97 residential dwelling units, a 68-room hotel, and 25,000 square feet of ground floor community-serving retail uses. The Project would construct 11 buildings across the Project site that, together, would total 215,000 square feet of new development, with 62,000 square feet of hotel uses, 128,000 square feet of residential uses, and the aforementioned 25,000 square feet of retail uses. The Project proposes a total of 55 percent of the Project site as open space and 298 total off-street parking spaces located within two subterranean garages. The Southern California Association of Governments (SCAG) is the metropolitan planning and transportation organization covering the Project site, and in that capacity bears the responsibility under Senate Bill 375 to implement and administer regional transportation plans (RTP) and sustainable communities' strategies (SCS) for purposes of achieving the goal of reducing greenhouse gases as envisioned by Assembly Bill 32. Under the requirements of Senate Bill 375, SCAG prepared Connect SoCal, which is the region's RTP/SCS and which represents the vision for Southern California's future, including policies, strategies, and projects for advancing the region's mobility, economy, and sustainability through 2040. Connect SoCal details how the region will address its transportation and land use challenges and opportunities in order to achieve its regional emissions standards and greenhouse gas (GHG) reduction targets. Connect SoCal was approved and certified by the California Air Resources Board (CARB) though Executive Order G-20-239, issued on October 30, 2020. Specifically, Connect SoCal is a long-range visioning plan that builds upon and expands land use and transportation strategies established over several planning cycles to increase mobility options and achieve a more sustainable growth pattern. It charts a path toward a more mobile, sustainable, and prosperous region by making connections between transportation networks, between planning strategies and between the people whose collaboration can improve the quality of life for Southern Californians. The Project site is located within a "Compact" land use development categories (LDC) under the RTP/SCS. The Compact LDC is defined as follows in the RTP/SCS: • Less intense than Urban LDC, but highly walkable with rich mix of retail, commercial, residential and civic uses. Most likely to occur as new growth on the urban edge, or large-scale redevelopment. Rich mix of housing, from multifamily and attached single family	x	

(townhome) to small- and medium-lot single family homes. A Compact LDC area is well-served by regional and local transit service, but may not benefit from as much service as urban growth, and is less likely to occur around major multimodal hubs. Streets are well connected and walkable, and destinations such as schools, shopping and entertainment areas can typically be reached via a walk, bike, transit or short auto trip.

The Compact LDC is consistent with, among others, the following Place Types under the 2020-2045 RTP/SCS:

- **City Mixed Use:** As outlined in the 2020-2045 RTP/SCS, the City Mixed Use Place Types contain a variety of uses and building types and are located in transit-oriented, walkable areas. Typical buildings are between 3 and 40 stories tall, with ground-floor retail space, and office and/or residences on the floors above and parking is usually structured above or below ground. The land use mix for Town Mixed Use areas is typically approximately 28 percent residential, 17 percent employment, 35 percent mixed use, and 20 percent open space/civic. The residential mix is 97 percent multi-family and 3 percent townhome. The average total net Floor Area Ratio ("FAR") is 3.4, floors range from 2-8 feet, and the gross density ranges from 25-165 employees per acre and 10-75 households per acre.
- **Town Mixed Use:** As outlined in the 2020-2045 RTP/SCS, the Town Mixed Use Place Types contain a variety of uses and building types and are generally located in transit-oriented and walkable areas. Typical buildings are between 3 and 8 stories tall, with ground-floor retail space, and office and/or residences on the floors above and parking is usually structured above or below ground. The land use mix for Town Mixed Use areas is typically approximately 26 percent residential, 20 percent employment, 29 percent mixed use, and 25 percent open space/civic. The residential mix is 100 percent multi-family. The average total net FAR is 1.9, floors range from 2-8 feet, and the gross density ranges from 25-70 employees per acre and 7-35 households per acre.
- **Town Residential**: Town Residential Place Types are moderately dense residential neighborhoods interspersed with occasional retail areas. Residents tend to use transit, walking, and bicycling for transportation needs and has limited off-street parking. The land use mix for this place type is typically approximately 68 percent residential, 0 percent employment, 10 percent mixed use and 22 percent open space/civic. The residential mix is 53 percent multi-family and 47 percent townhome. The average total net FAR is 1.2, floors range from 2-8, and the gross density ranges from 0-25 employees per acre and 12-35 households per acre.

The Project is substantially consistent with the general use designation, density, and building intensity set forth in the 2020-2045 RTP/SCS for these Place Types. The Project is a mixed-use development located in close proximity to transit and a wide variety of services and retail uses within walking and biking distance. It is between 3-4 stories in height, with

a proposed land use mix square-footage wise of 60 percent residential, 28 percent hotel, and 12 percent commercial retail. 100 percent of the proposed residential units are multi-family units, and the proposed FAR is 1.16:1. The proposed residential density of the Project is just under 22 units per acre, and it would provide 55 percent of the total land area as open space. Based on these key characteristics, the Project is easily consistent with the general designation (zoning and land use types), density (units per acre), and building intensity (FAR) requirements of the applicable 2020-2045 RTP/SCS. The Project also generally complies with 2020-2045 RTP/SCS policies. It includes the reuse of an infill parcel to develop a mixed-use development including hotel, retail and multi-family housing near light rail transit and a variety of retail, service and employment opportunities, leveraging existing infrastructure and reducing the length of vehicle trips for residents, employees, and guests. Given the increasingly urbanized nature of the immediately surrounding area, Project residents and workers would be able to walk and bike to work, home and to shop. In addition, the Project site's location near robust transit opportunities – including most notably being walking distance from a Metro Gold Line station - would further reduce dependence on automobile travel, reducing the need to own an automobile and pay for parking for future residents and workers. The inclusion of a new hotel use close to transit and a variety of nearby retail and service uses would also reduce the dependence on automobile travel for persons visiting the City. Therefore, the Project is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in a sustainable communities' strategy.		
PRC § 21155(b). To be considered a Transit Priority Project (TPP), as defined by § 21155(b), the project must meet all of the following criteria. A TPP shall:	Consistent?	
	Yes	No
(1) Contain at least 50 percent residential use, based on total building square footage and, if the project contains between 26 percent and 50 percent nonresidential uses, a floor area ratio of not less than 0.75; As stated above, the Project meets this definition: it is 60 percent residential based on building square footage, has a FAR of 1.16:1. Therefore, the Project would meet this criterion.	x	
(2) Provide a minimum net density of at least 20 dwelling units per acre; and The Project will have a residential density of approximately 22 units per acre. Therefore, the Project qualifies as a Transit Priority Project. Therefore, the Project would meet this criterion.	x	

(3) Be within one-half mile of a major transit stop or high-quality transit corridor included in a regional transportation plan. A major transit stop is as defined in PRC Section 21064.3, except that, for purposes of this section, it also includes major transit stops that are included in the applicable regional transportation plan. For purposes of this section, a high quality transit corridor means a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours. A project shall be considered to be within one-half mile of a major transit stop or high- quality transit corridor if all parcels within the project have no more than 25 percent of their area farther than one-half mile from the stop or corridor and if not more than 10 percent of the residential units or 100 units, whichever is less, in the project are farther than one half mile from the stop or corridor. The Project site is located approximately one quarter mile west of the San Dimas Gold Line Station. The San Dimas Station is a component of the fully approved and funded first phase of the Azusa to Montclair Extension of the Metro Gold Line Foothill Extension Project. The Project was approved in 2013, construction commenced in 2017, and it is presently expected to be completed in 2025. The Gold Line Foothill Extension Project, Azusa to Claremont is included in the 2020-2045 RTP/SCS as a "Selected Transit Capital Project," and the Project site is located within an identified High Quality Transit Area as mapped by SCAG. Therefore, the Project would meet this criterion.	x	
PRC § 21155.1(a). The TPP complies with all of the following environmental criteria:	Consistent?	
	Yes	No
(1) The TPP and other projects approved prior to the approval of the TPP but not yet built can be adequately served by existing utilities, and the TPP applicant has paid, or has committed to pay, all applicable in-lieu or development fees. The Project site is an infill site surrounded by fully developed uses, and is located on W. Bonita Avenue, a major City thoroughfare that is served by water, wastewater, and electrical service utilities. As required by COA #1, the Project Applicant will prepare engineering studies and coordinate with utility service providers to obtain "will serve" letters to document adequacy of existing off-site utility infrastructure. With implementation of COA #1, the Project would be consistent with this criterion. • ***COA #1: Prior to construction, the Project Applicant will prepare engineering studies and coordinate with utility service providers to obtain "will serve" letters. Prior to approval of building plans, copies of the "will serve" letters for water, wastewater, and electricity will be submitted by the Project Applicant to the City's Planning Division. If a Tentative Map is proposed to subdivide the Project site, a Senate Bill 221-compliant Water Supply Verification (WSV) is required, which would demonstrate the Golden State Water***	x	

Company's capacity to supply water to the Project. The Project Applicant would also be required to pay all applicable utility-related fees.		
(2) The site of the TPP does not contain wetlands or riparian areas, does not have significant value as a wildlife habitat, and implementation of the project would not harm protected species. The Project site is located within an urbanized, built out area and has been previously developed. However, the Project would require the removal of existing mature trees and vegetation within the Project site; therefore, the Project could result in impacts to nesting birds. As such, as outlined in COA #2 it is recommended that vegetation be cleared outside of the nesting bird season. It is also recommended that prior to commencement of any vegetation removal that needs to occur during the peak bird breading season of February 1 to August 31, a preconstruction nesting bird survey be conducted by a qualified biologist to ensure that active bird nests would not be disturbed or destroyed. The following condition of approval is recommended to ensure consistency with this criterion. • ***COA #2: Vegetation shall be cleared outside of the nesting bird season (February 1 to August 31) if feasible. If vegetation must be removed during the nesting bird season, then a preconstruction nesting bird survey shall be conducted by a qualified biologist to ensure that active bird nests would not be disturbed. The surveys shall be completed no more than 14 days prior to initial ground disturbance. If an active nest is identified, a qualified biologist shall establish an appropriate buffer around the nest and no construction activities shall occur within the buffer until the nest is deemed inactive by a qualified biologist. The Project Applicant will submit a memorandum summarizing the results of any nesting bird surveys that are conducted to the City's Planning Division.***	x	
(3) The site of the TPP site is not included on any list of facilities and sites compiled pursuant to Section 65962.5 of the Government Code. Section 65962.5 of the Government Code identifies the "Cortese List" of hazardous waste sites. A review of information on the Department of Toxic Substances Control's ("DTSC") Envirostor database and the State Water Resources Control Board's Geotracker database indicates the Project site is the location of a former Texaco gas station at the southwest corner of W. Bonita Ave. and S. Cataract Street that was listed on the Cortese List by the Los Angeles Regional Water Quality Control Board as a Leaking Underground Storage Tank ("LUST") site in 1990 (Converse Consultants 2021). However, the case was closed on November 11, 2000 following remedial actions at the Project site in 1994 and 1998. As of today, the site is listed on the Cortese List as a "former" cleanup site with the designation "completed – case closed." As set forth in Citizens for	x	

Environmental Responsibility v. State ex rel. 14th Dist. Ag. Assn. (2015) 242 Cal.App.4th 555, 567, where a site is listed on the Cortese List as a LUST site but a cleanup is later completed and the site is closed by the relevant environmental oversight agency, that listing is effectively "annulled." Therefore, since the Project site is listed as a "former" cleanup site, the Project would meet this criterion.		
(4) The site of the TPP is subject to a preliminary endangerment assessment prepared by a registered environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future Phase I and Phase II environmental site assessments have been prepared for the Project site that indicate the continued presence of volatile orange compound (VOC) contamination in soil and soil vapor underneath the ground's surface (Converse Consultants 2021). As such, the adoption of the SCPE for the Project requires the implementation of COA #3 to ensure the Project would, in accordance with the requirement of this provision, result in a less than significant impact through the removal of the release or the mitigation of the release to a level of insignificance under applicable state or federal standards. The Project would thus be consistent with this criterion with the adoption and implementation of COA #3. • ***COA #3: Prior to issuance of a Project grading permit, the Project Applicant shall submit a Supplemental Phase II Environmental Site Assessment or similar documentation for the City Planning Division's review and approval identifying appropriate next steps for further analyses and remedial action(s) that are needed for the Project site to be utilized as proposed by the Project. Also, prior to issuance of a Project grading permit, documentation regarding the implementation of recommended additional hazardous waste analyses, remedial action(s), and coordination with the Department of Toxics and Substances Control (DTSC) will be provided to the City Planning Division for review and approval.***	x	
(5) The TPP does not have a significant effect on historical resources pursuant to Section 21084.1. The Project site was previously developed, but all structures have since been removed and the Project site is now vacant (NETRonline 2022). Therefore, the Project would not impact any known historical resources and is consistent with this criterion.	x	
(6) The TPP site is not subject to any of the following: **(a) A wildland fire hazard, as determined by the Department of Forestry and Fire Protection, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a wildland fire hazard.**	x	

The Project site is not located in a high risk wildland fire hazard zone (CALFIRE 2022). The Project is thus consistent with this criterion.

(b) An unusually high risk of fire or explosion from materials stored or used on nearby properties;

Since the Project's proposed uses and structure are similar to what exists in the vicinity, no aspect of the Project would result in an unusually high risk of fire or explosion. Similarly, there are no nearby industrial uses or other aspects of nearby properties that would present an unusually high risk of fire or explosion. There is a machinery and equipment company located north of the Project site on the other side of both the Gold Line right-of-way and Cataract Avenue (NETRonline 2022). Machinery shops do not typically contain large amounts of fuel or other flammable materials. Further, due to the distance, it is unlikely that if a fire or explosion occurred at this property that it would affect the Project site. The Project is thus consistent with this criterion.

(c) Risk of a public health exposure at a level that would exceed the standards established by any state or federal agency.

With implementation of the COA #3 discussed above, the Project would effectively mitigate the risk of a health exposure that would exceed the standards established by a state or federal agency with respect to subsurface hazardous materials. There is presently no other risk of a public health exposure presented by the Project that would exceed standards established by a state or federal agency. The Project would thus be consistent with this criterion with the adoption of COA #3.

(d) Seismic risk as a result of being within a delineated earthquake fault zone, as determined pursuant to Section 2622, or a seismic hazard zone, as determined pursuant to Section 2696, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of an earthquake fault or seismic hazard zone.

(e) Landslide hazard, flood plain, flood way, or restriction zone unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a landslide or flood.

The Project site is not identified by the USGS as containing or being within a short distance of any identified active fault lines, and the State of California Department of Conservation has not identified the Project site as being within an Alquist Priolo Earthquake Fault Zone (Geocon 2022). Also, the Project site is in a generally flat, developed urban area and is not located in or near an area prone to landslides. Also, the Project site is not located within the 100, 200 or 500-year flood plains (Geocon 2022). The Project is therefore consistent with this criterion.

- ***COA #4: Prior to issuance of a Project grading permit, the Project Applicant shall submit a Geotechnical Report for City Planning Division's review and approval identifying any geotechnical hazards for the Project as well as any remedial measures needed. The Project Applicant shall implement***

suggested remedial measures identified in the Geotechnical Report during construction.		
(7) The TPP site is not located on developed open space. **(a) For the purposes of this paragraph, "developed open space" means land that meets all of the following criteria:** **i. Is publicly owned or financed in whole or in part by public funds.** **ii. Is generally open to, and available for use by, the public.** **iii. Is predominantly lacking in structural development other than structures associated with open spaces, including, but not limited to, playgrounds, swimming pools, ballfields, enclosed play areas, and picnic facilities.** The Project site is currently a vacant lot and is not zoned or developed as open space (San Dimas 2022, NETRonline 2022). The Project is thus consistent with this criterion.	x	
(8) The buildings in the TPP are 15 percent more energy efficient than required by Chapter 6 of Title 24 of the California Code of Regulations, and the buildings and landscaping are designed to achieve 25 percent less water usage than the average household use in the region. COA #5 would be implemented to ensure consistency with this criterion. • ***COA #5: All buildings associated with the Project will be 15 percent more energy efficient than required by Chapter 6 of Title 24 of the California Code of Regulations, and the buildings and landscaping will be designed to achieve 25 percent less water usage than the average household use in the region.***	x	
PRC § 21155.1(b). The TPP complies with all of the following land use criteria:	Consistent?	
	Yes	No
(1) The site of the TPP is not more than eight acres in total area. The Project site is 4.2 acres in size and is thus consistent with this criterion.	x	
(2) The TPP does not contain more than 200 residential units. The Project contains 97 residential housing units and is thus consistent with this criterion	x	

(3) The TPP does not result in any net loss in the number of affordable housing within the project area. The Project site does not currently contain any housing units, so the Project would be consistent with this criterion.	x	
(4) The TPP does not include any single level building exceeding 75,000 square feet. The Project would construct eleven buildings across the Project site that together, would total 215,000 square feet of new development with 62,000 square feet of hotel uses, 128,000 square feet of residential uses, and 25,000 square feet of retail uses. None of the Project's eleven buildings would be single level buildings exceeding 75,000 square feet. Therefore, the Project would be consistent with this criterion.	x	
(5) Any applicable mitigation measures or performance standards or criteria set forth in the prior environmental impacts, and adopted in findings, have been or will be incorporated into the TPP. The following conditions of approval are based on the applicable project-level mitigation measures from the Connect SoCal Final Programmatic Environmental Impact Report, or their equivalents (SCAG, May 2020). • ***COA #6: The Project Applicant shall implement the measures the Connect SoCal Final Programmatic Environmental Impact Report that are identified with a red box around them within Appendix B of the SCPE Memorandum that was prepared by the City for this Project.***	x	
(6) The TPP is determined not to conflict with nearby operating industrial uses. The Project is located on a vacant site that does not contain any operating industrial uses. The area immediately surrounding the Project site is generally defined by a variety of residential and commercial retail uses. There are operating industrial uses on the opposite, northern side of W. Bonita Avenue, north of the existing rail line that would be utilized by the under-construction Gold Line, including the Machinery & Equipment Company facility located at 115 N. Cataract Avenue. The Project would be designed in a manner that would avoid conflicts with this and other nearby operating industrial uses. The Project would thus be consistent with this criterion.	x	
(7) The TPP is located within one-half mile of a rail transit station or a ferry terminal included in a RTP or within one-quarter mile of a high-quality transit corridor included in an RTP. The Project site is located approximately one-quarter mile from the San Dimas Gold Line Station. The San Dimas Gold Line Station is part of the Gold Line Foothill Extension Project, Azusa to Claremont, and is currently under construction. The Gold Line Foothill Extension Project, Azusa to Claremont is included in the 2020-2045 RTP/SCS as a "Selected Transit	x	

Capital Project," and the Project site is located within an identified High Quality Transit Area as mapped by SCAG. As defined in PRC Section 21155(b)(3), a major transit stop is as defined in Section 21064.3 of the PRC, except that for the purposes of implementing the Sustainable Communities Strategy, the definition of a major transit stop is extended to also include major transit stops that are included in the applicable regional transportation plan. Accordingly, the Project is consistent with this criterion.		
PRC § 21155.1(c). The TPP complies meets at least one of the following three criteria:	Consistent?	
	Yes	No
(1) The TPP meets both of the following: **(a) At least 20 percent of the housing would be sold to families of moderate income, or not less than 10 percent of the housing would be rented to families of low income, or not less than 5 percent of the housing is rented to families of very low income.** **(b) The TPP developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for very low, low-, and moderate-income households at monthly housing costs with an affordable housing cost or affordable rent, as defined in Section 50052.5 or 50053 of the Health and Safety Code, respectively, for the period required by the applicable financing. Rental units shall be affordable for at least 55 years. Ownership units shall be subject to resale restrictions or equity sharing requirements for at least 30 years.** **(2) The transit priority project developer has paid or will pay in-lieu fees pursuant to a local ordinance in an amount sufficient to result in the development of an equivalent number of units that would otherwise be required pursuant to paragraph (1).** **(3) The transit priority project provides public open space equal to or greater than five acres per 1,000 residents of the project.** The Project would comply with the third criterion by providing at least five acres per 1,000 residents as public open space. The average household size in San Dimas is 2.91 persons per household. Utilizing this figure for the Project, the Project's 97 units would include a population of approximately 282 persons. Based on this population, the Project would need to provide at least 61,419 square feet of public open space, or 1.41 acres. As shown in Figure 2, the Project proposes 55 percent, or approximately 2.43 acres, of the Project site as open space. Therefore, the Project would provide public open space equal to or in excess of this amount and would thus be consistent with this criterion, with implementation of COA #7 and COA #8. • ***COA #7: Prior to issuance of an occupancy permit, the Project Applicant shall convey a deed restriction, restrictive***	x	

covenant, or public access easement to the City of San Dimas covering the public open space areas. The conveyance mechanism would be subject to the review and approval of the City Attorney and Planning Division. • ***COA #8: Prior to the issuance of a Project grading permit, the Project Applicant shall submit to the City's Planning Division a public open space plan showing the locations and types of seating, landscaping, programming, and other amenities for review and approval.***		

SECTION 3.0 REFERENCES

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Exhibit 1

Preliminary Site Plan

PSQ Development Site Plan

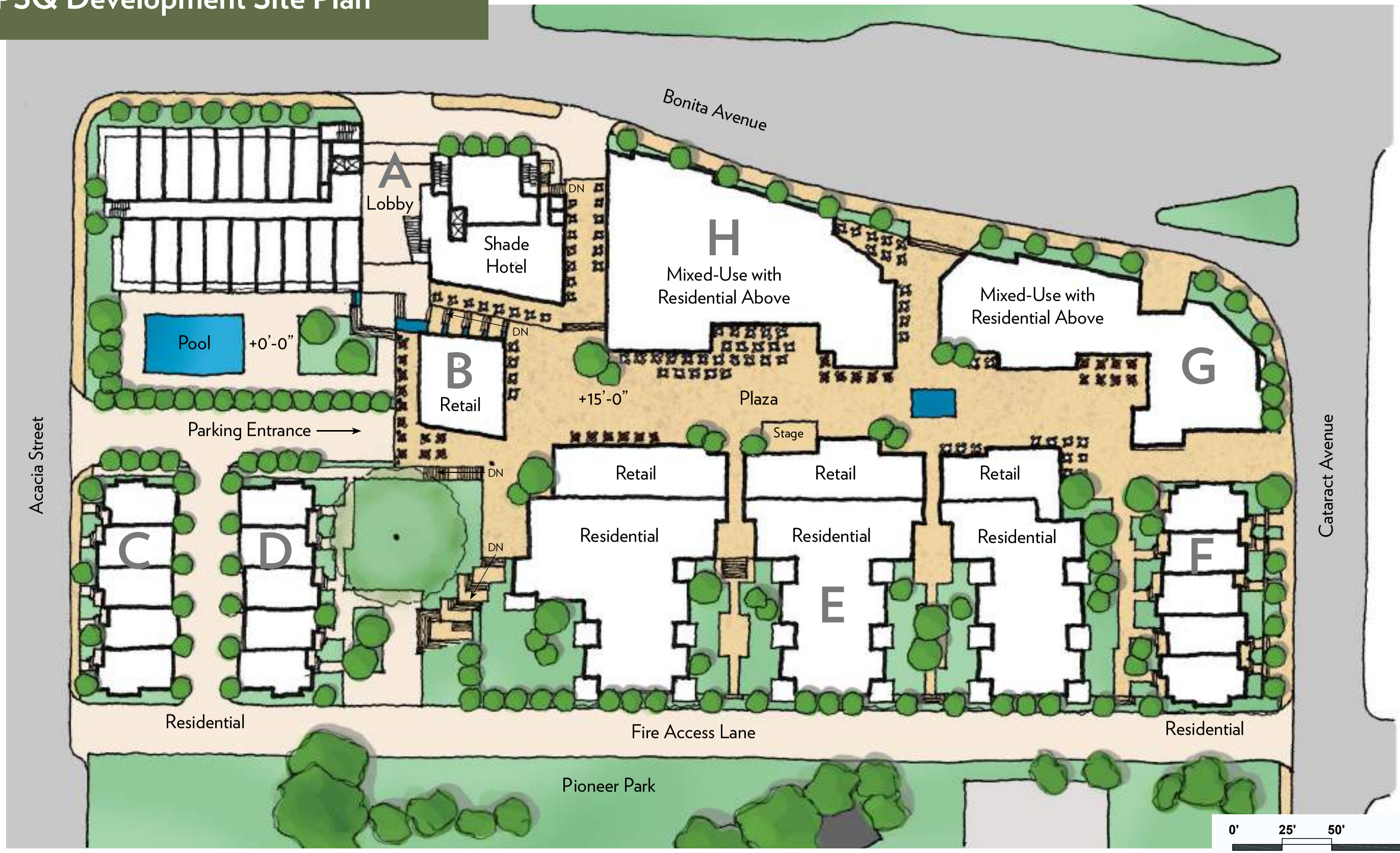


Exhibit 2

Public Open Space Exhibit

SAN DIMAS
PIONEER SQUARE

moore ruble yudell
architects & planners
933 Pico Boulevard Santa Monica, California 90405
tel 310 450 1400 mooreruble yudell.com

W BONITA AVE

S ACACIA ST

S CATARACT AVE

RAILWAY ST

STREET LIGHT TO BE RELOCATED

HOTEL
62000 GSF

POOL

RETAIL
2,150 GSF

MARKET HALL
11,100 GSF

CONDOS
17,000GSF
13 UNITS

CONDO CIRC.

RETAIL
8,000 GSF

CONDOS
16,000GSF
12 UNITS

FIRE ACCESS LANE

GARAGE ENTRANCE

STAGE

PUBLIC REST.

PUBLIC CIRC.

RETAIL
4,250 GSF

CONDO CIRC.

CONDOS
67,100GSF
52 UNITS

5 TOWN-HOMES
7,500GSF
2,300PKG

5 TOWN-HOMES
7,500GSF
2,300PKG

5 TOWN-HOMES

OVER 5 FLATS
10 TOTAL
11,000GSF

FIRE ACCESS ROAD

DN

UP

OPEN SPACE: 69,550sf | 1.6 acres

0' 10' 20' 40' 80'

SITE PLAN - UPPER PLAZA LEVEL

Appendix A

Preliminary Geotechnical Memorandum

PRELIMINARY GEOTECHNICAL EVALUATION

PROPOSED MIXED-USE DEVELOPMENT
344 WEST BONITA AVENUE
SAN DIMAS CALIFORNIA

AIN: 8386-021-913

GEOCON
WEST, INC.

GEOTECHNICAL
ENVIRONMENTAL
MATERIALS

PREPARED FOR

PIONEER SQUARE, LLC
LOS ANGELES, CALIFORNIA

PROJECT NO. W1627-06-01

JULY 28, 2022

Project No. W1627-06-01
July 28, 2022

Mr. Jorge Loor
Pioneer Square, LLC
8800 Venice Boulevard, Suite 316
Los Angeles, California 90034

Subject: PRELIMINARY GEOTECHNICAL EVALUATION
PROPOSED MIXED-USE DEVELOPMENT
344 WEST BONITA AVENUE
SAN DIMAS, CALIFORNIA
AIN: 8386-021-913

Dear Mr. Loor:

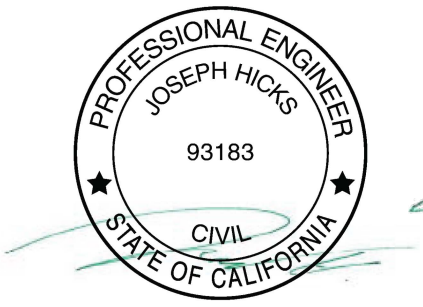
In accordance with your authorization of our proposal dated July 19, 2022, we have performed a preliminary geotechnical evaluation for the proposed mixed-use development located at 344 West Bonita Avenue in the City of San Dimas, California. The purpose of this study is to address potential geologic hazards and geotechnical conditions that could impact the project.

It is our understanding that this report will be used for support of a CEQA exemption memo. A comprehensive, design level geotechnical study should be performed prior to finalizing grading, structural, or shoring plans.

If you have any questions regarding this report, or if we may be of further service, please contact the undersigned.

Very truly yours,

GEOCON WEST, INC.



Joe Hicks, M.S.
PE 93183

Susan F. Kirkgard
CEG 1754

Harry Derkalousdian
PE 79694

(EMAIL) Addressee

TABLE OF CONTENTS

PRELIMINARY GEOTECHNICAL EVALUATION

1. PURPOSE AND SCOPE

This report presents the results of a preliminary geotechnical evaluation for the proposed mixed-use development located at 344 West Bonita Avenue in the City of San Dimas, California (see Vicinity Map, Figure 1). The purpose of this study was to evaluate subsurface soil and geologic conditions at the site and identify potential geotechnical conditions and geologic hazards that could impact the proposed project. It is our understanding that the report will be used to evaluate the feasibility of the development and to provide support for a CEQA exemption memo.

The scope of this evaluation included a satellite reconnaissance, review of previous geotechnical reports for nearby developments, review of planning documents available from the City of San Dimas, and review of existing published geologic information as it pertains to the proposed project, and the preparation of this report.

References reviewed to prepare this report are provided in the *List of References* section. No subsurface explorations were performed as part of this evaluation.

2. SITE AND PROJECT DESCRIPTION

The subject site is approximately 4.4 acres in size and is currently vacant land. The site is bounded by West Bonita Avenue to the north, North Cataract Avenue to the east, South Acacia Street to the west and Pioneer Park to the south (see Site Plan, Figure 2). A railroad ROW for the proposed eastern extension of the METRO Gold Line (AKA the L Line) traverses the intersection of North Cataract Avenue and West Bonita Avenue to the northeast. Aerial images (Google Earth, 2022) of the property show several stockpiles of gravel and other construction-related items in the northeast portion of the site. The site is relatively level with no pronounced highs or lows. Surface water drainage at the site appears to be via sheet flow along the existing ground contours towards city streets. Vegetation onsite consists of trees along much of the perimeter of the site and several trees in the southern portion of the site.

It is our understanding that the proposed development at the site consists of six or seven 4-story structures constructed at grade or near present grade or over one- to two-subterranean parking levels.

This preliminary evaluation report is based on our understanding of the project as described above. Any changes in the design, location or elevation of any structure, as outlined in this report, should be reviewed by this office. Geocon should be contacted to determine the necessity for review and possible revision of this report.

3. PRIOR INVESTIGATION

Geologic and geotechnical data is available from a prior geotechnical investigation at the San Dimas Station commercial center, located approximately 1,800 feet to the west (Geocon, 2011). The western portion of the commercial center was explored for rehabilitation of an existing 77-foot-tall sign foundation system. The prior investigation included drilling of one large-diameter boring to a depth of approximately 20½ feet below the ground surface. Direct shear tests were completed on selected samples.

4. GEOLOGIC SETTING

The site is located in an alluvial valley between the San Gabriel Mountains to the north and the San Jose Hills to the south. Alluvial deposits in the valley consist primarily of older Pleistocene age alluvial fans that are dissected by younger fan deposits originating from San Dimas Canyon. Regionally, the site is located within the northern portion of the Peninsular Ranges geomorphic province. This geomorphic province is characterized by northwest-trending physiographic and geologic features such as the nearby Chino Fault.

5. SOIL AND GEOLOGIC CONDITIONS

Based on our review of the prior geotechnical report (Geocon, 2011) as well as published geologic maps of the area, the site is underlain by Pleistocene older alluvial fan deposits consisting primarily of interbedded sand and silt with lesser amounts of clay (California Geological Survey [CGS], 2012: Dibblee, 2002). The geologic conditions at the site and in the local vicinity are presented on Figure 3, Local Geologic Map.

5.1 Artificial Fill

Due to the undeveloped nature of the site, we do not anticipate significant amounts of artificial fill at the site. However, all existing artificial fill soils will need to be removed as part of the planned development.

5.2 Alluvium

The Pleistocene age older alluvial fan deposits in the immediate area generally consists of interbedded silt with sand, silty sand and sandy silt. The alluvial soils are generally characterized as firm to medium dense and moist.

6. GROUNDWATER

Review of the Seismic Hazard Zone Report for the San Dimas 7.5-Minute Quadrangle (California Division of Mines and Geology [CDMG], 1998) indicates the historically highest groundwater level in the area is reported to be approximately 80 to 90 feet beneath the ground surface. Groundwater information presented in this document is generated from data collected in the early 1900's to the late 1990's. Based on current groundwater basin management practices, it is unlikely that groundwater levels will ever reach the historic high levels.

Groundwater was not encountered in the prior boring drilled by Geocon at a nearby site to a maximum depth of 20½ feet beneath the existing ground surface in 2011. Considering the reported historic high groundwater level (CDMG, 1998), the lack of groundwater encountered at the nearby site, and the depth of proposed construction, static groundwater is neither expected to be encountered during construction, nor have a detrimental effect on the project. However, it is not uncommon for groundwater levels to vary seasonally or for groundwater seepage conditions to develop where none previously existed, especially in impermeable fine-grained soils which are heavily irrigated or after seasonal rainfall. In addition, recent requirements for stormwater infiltration could result in shallower seepage conditions in the immediate site vicinity. Proper surface drainage of irrigation and precipitation will be critical for future performance of the project.

7. GEOLOGIC HAZARDS

7.1 Surface Fault Rupture

The numerous faults in Southern California include Holocene-active, pre-Holocene, and inactive faults. The criteria for these major groups are based on criteria developed by the California Geological Survey (CGS, formerly known as CDMG) for the Alquist-Priolo Earthquake Fault Zone Program (CGS, 2018a). By definition, a Holocene-active fault is one that has had surface displacement within Holocene time (about the last 11,700 years). A pre-Holocene fault has demonstrated surface displacement during Quaternary time (approximately the last 1.6 million years) but has had no known Holocene movement. Faults that have not moved in the last 1.6 million years are considered inactive.

The site is not within a state-designated Alquist-Priolo Earthquake Fault Zone for surface fault rupture hazards (CGS, 2022a; 2022b). No Holocene-active or pre-Holocene faults with the potential for surface fault rupture are known to pass directly beneath the site. Therefore, the potential for surface rupture due to faulting occurring beneath the site during the design life of the proposed development is considered low. However, the site is located in the seismically active Southern California region and could be subjected to moderate to strong ground shaking in the event of an earthquake on one of the many active Southern California faults. The faults in the vicinity of the site are shown in Figure 4, Regional Fault Map.

The closest active fault to the site is the Sierra Madre Fault Zone located approximately 1.5 miles to the north (USGS, 2006). Other nearby active faults are the Chino Fault, the Raymond Fault, the Whittier Fault, the Elsinore Fault, the San Andreas Fault Zone, and the San Jacinto Fault Zone located approximately 11 miles south-southeast, 11.7 miles northwest, 12.1 miles southwest, 19 miles southeast, 20 miles north-northeast, and 21.5 miles east-northeast of the site, respectively (USGS, 2006).

The pre-Holocene Indian Hill Fault is located approximately 550 feet north of the site. This fault is a known groundwater barrier in the area and groundwater levels south of the fault (near the site location) are significantly deeper than groundwater levels north of the fault. The Indian Hill Fault is not considered Holocene-active and the potential for a future earthquake along this fault is considered very low.

Several buried thrust faults, commonly referred to as blind thrusts, underlie the Los Angeles area at depth. These faults are not exposed at the ground surface and are typically identified at depths greater than 3.0 kilometers. The October 1, 1987, M_w 5.9 Whittier Narrows earthquake and the January 17, 1994, M_w 6.7 Northridge earthquake were a result of movement on the Puente Hills Blind Thrust and the Northridge Thrust, respectively. These thrust faults and others in the Los Angeles area are not exposed at the surface and do not present a potential surface fault rupture hazard at the site; however, these deep thrust faults are considered active features capable of generating future earthquakes that could result in moderate to significant ground shaking at the site.

7.2 Seismicity

As with all of Southern California, the site has experienced historic earthquakes from various regional faults. The seismicity of the region surrounding the site was formulated based on research of an electronic database of earthquake data. The epicenters of recorded earthquakes with magnitudes equal to or greater than 5.0 in the site vicinity are depicted on Figure 5, Regional Seismicity Map. A partial list of moderate to major magnitude earthquakes that have occurred in the Southern California area within the last 100 years is included in the following table.

LIST OF HISTORIC EARTHQUAKES

Earthquake (Oldest to Youngest)	Date of Earthquake	Magnitude	Distance to Epicenter (Miles)	Direction to Epicenter
Near Redlands	July 23, 1923	6.3	33	ESE
Long Beach	March 10, 1933	6.4	35	SSW
Tehachapi	July 21, 1952	7.5	92	NW
San Fernando	February 9, 1971	6.6	40	WNW
Whittier Narrows	October 1, 1987	5.9	16	W
Sierra Madre	June 28, 1991	5.8	15	NW
Landers	June 28, 1992	7.3	79	E
Big Bear	June 28, 1992	6.4	57	E
Northridge	January 17, 1994	6.7	42	W
Hector Mine	October 16, 1999	7.1	94	ENE
Ridgecrest	July 5, 2019	7.1	115	N

The site could be subjected to strong ground shaking in the event of an earthquake. However, this hazard is common in Southern California and the effects of ground shaking can be minimized if the proposed structures are designed and constructed in conformance with current building codes and engineering practices.

7.3 Seismic Design Criteria

The following table summarizes the site-specific design criteria obtained from the 2019 California Building Code (CBC; Based on the 2018 International Building Code [IBC] and ASCE 7-16), Chapter 16 Structural Design, Section 1613 Earthquake Loads. The data was calculated using the online application *Seismic Design Maps*, provided by OSHPD. The short spectral response uses a period of 0.2 second. We evaluated the Site Class based on the discussion in Section 1613.2.2 of the 2019 CBC and Table 20.3-1 of ASCE 7-16. The values presented below are for the risk-targeted maximum considered earthquake (MCE_R).

2019 CBC SEISMIC DESIGN PARAMETERS

Parameter	Value	2019 CBC Reference
Site Class	D	Section 1613.2.2
MCE_R Ground Motion Spectral Response Acceleration – Class B (short), S_S	1.685g	Figure 1613.2.1(1)
MCE_R Ground Motion Spectral Response Acceleration – Class B (1 sec), S_1	0.63g	Figure 1613.2.1(2)
Site Coefficient, F_A	1	Table 1613.2.3(1)
Site Coefficient, F_V	1.7*	Table 1613.2.3(2)
Site Class Modified MCE_R Spectral Response Acceleration (short), S_{MS}	1.685g	Section 1613.2.3 (Eqn 16-36)
Site Class Modified MCE_R Spectral Response Acceleration – (1 sec), S_{M1}	1.072g*	Section 1613.2.3 (Eqn 16-37)
5% Damped Design Spectral Response Acceleration (short), S_{DS}	1.124g	Section 1613.2.4 (Eqn 16-38)
5% Damped Design Spectral Response Acceleration (1 sec), S_{D1}	0.714g*	Section 1613.2.4 (Eqn 16-39)

Note:

*Per Section 11.4.8 of ASCE/SEI 7-16, a ground motion hazard analysis shall be performed for projects for Site Class "E" sites with Ss greater than or equal to 1.0g and for Site Class "D" and "E" sites with S1 greater than 0.2g. Section 11.4.8 also provides exceptions which indicates that the ground motion hazard analysis may be waived provided the exceptions are followed. Using the code-based values presented in the table above, in lieu of a performing a ground motion hazard analysis, requires the exceptions outlined in ASCE 7-16 Section 11.4.8 be followed.

The table below presents the mapped maximum considered geometric mean (MCE_G) seismic design parameters for projects located in Seismic Design Categories of D through F in accordance with ASCE 7-16.

ASCE 7-16 PEAK GROUND ACCELERATION

Parameter	Value	ASCE 7-16 Reference
Mapped MCE_G Peak Ground Acceleration, PGA	0.895g	Figure 22-7
Site Coefficient, F_{PGA}	1.1	Table 11.8-1
Site Class Modified MCE_G Peak Ground Acceleration, PGA_M	0.984g	Section 11.8.3 (Eqn 11.8-1)

The Maximum Considered Earthquake Ground Motion (MCE) is the level of ground motion that has a 2 percent chance of exceedance in 50 years, with a statistical return period of 2,475 years. According to the 2019 California Building Code and ASCE 7-16, the MCE is to be utilized for the evaluation of liquefaction, lateral spreading, seismic settlements, and it is our understanding that the intent of the Building Code is to maintain "Life Safety" during a MCE event. The Design Earthquake Ground Motion (DE) is the level of ground motion that has a 10 percent chance of exceedance in 50 years, with a statistical return period of 475 years.

Deaggregation of the MCE peak ground acceleration was performed using the USGS online Unified Hazard Tool, 2014 Conterminous U.S. Dynamic edition (v4.2.0). The result of the deaggregation analysis indicates that the predominant earthquake contributing to the MCE peak ground acceleration is characterized as a 6.99 magnitude event occurring at a hypocentral distance of 11.88 kilometers from the site.

Deaggregation was also performed for the Design Earthquake (DE) peak ground acceleration, and the result of the analysis indicates that the predominant earthquake contributing to the DE peak ground acceleration is characterized as a 6.91 magnitude occurring at a hypocentral distance of 17.0 kilometers from the site.

Conformance to the criteria in the above tables for seismic design does not constitute any kind of guarantee or assurance that significant structural damage or ground failure will not occur if a large earthquake occurs. The primary goal of seismic design is to protect life, not to avoid all damage, since such design may be economically prohibitive.

7.4 Liquefaction Potential

Liquefaction is a phenomenon in which loose, saturated, relatively cohesionless soil deposits lose shear strength during strong ground motions. Primary factors controlling liquefaction include intensity and duration of ground motion, gradation characteristics of the subsurface soils, in-situ stress conditions, and the depth to groundwater. Liquefaction is typified by a loss of shear strength in the liquefied layers due to rapid increases in pore water pressure generated by earthquake accelerations.

The current standard of practice, as outlined in the "Recommended Procedures for Implementation of DMG Special Publication 117, Guidelines for Analyzing and Mitigating Liquefaction in California" and "Special Publication 117A, Guidelines for Evaluating and Mitigating Seismic Hazards in California" requires liquefaction analysis to a depth of 50 feet below the lowest portion of the proposed structure. Liquefaction typically occurs in areas where the soils below the water table are composed of poorly consolidated, fine- to medium-grained, primarily sandy soil. In addition to the requisite soil conditions, the ground acceleration and duration of the earthquake must also be of a sufficient level to induce liquefaction.

The State of California Seismic Hazard Zone Map for the San Dimas Quadrangle (CDMG, 1999) indicates that the site is not located within an area designated as having a potential for liquefaction. In addition, a review of the County of Los Angeles Safety Element (Leighton, 1990) and the San Dimas General Plan (1991, updated 2008) indicate that the site is not located within an area identified as having a potential for liquefaction. The site is underlain by Pleistocene age alluvial fan deposits that are primarily stiff to hard or medium dense to dense and are not prone to liquefaction. Also, the historic high groundwater level in the site vicinity is reported to be on the order of 80 to 90 feet beneath the ground surface (CDMG, 1998), Based on these considerations, it is our opinion that the potential for liquefaction and associated ground deformations beneath the site is very low

7.5 Slope Stability

The topography at the site is relatively level and the topography in the immediate site vicinity slopes gently to the south. Review of the County of Los Angeles Safety Element (Leighton, 1990) and the City of San Dimas Safety Element (1999, revised 2008), the site is not located in a hillside area or an area designated as having a potential for slope stability hazards. Also, the site is not located within an area identified as having a potential for seismic slope instability (CDMG, 1999). There are no known landslides near the site, nor is the site in the path of any known or potential landslides. Therefore, the potential for slope stability hazards to adversely affect the proposed development is considered low.

7.6 Earthquake-Induced Flooding

Earthquake-induced flooding is inundation caused by failure of dams or other water-retaining structures due to earthquakes. Based on a review of the Los Angeles County Safety Element (Leighton, 1990) and the City of San Dimas Safety Element (1999, revised 2008), the site is not located within a potential inundation area for an earthquake-induced dam failure. Therefore, the probability of earthquake-induced flooding is considered very low.

7.7 Tsunamis, Seiches, and Flooding

The site is not located within a coastal area. Therefore, tsunamis are not considered a significant hazard at the site.

Seiches are large waves generated in enclosed bodies of water in response to ground shaking. No major water-retaining structures are located immediately up gradient from the project site. Therefore, flooding resulting from a seismically induced seiche is considered unlikely.

The site is within an area of minimal flooding (Zone X) as defined by the Federal Emergency Management Agency (LACDPW, 2022; FEMA, 2022).

7.8 Oil Fields & Methane Potential

Based on a review of the California Geologic Energy Management Division (CalGEM) Well Finder website, the site is not located within the limits of an oilfield and oil or gas wells are not located within he immediate vicinity of the site (CalGEM, 2022). However, due to the voluntary nature of record reporting by the oil well drilling companies, wells may be improperly located or not shown on the location map and undocumented wells could be encountered during construction. Any wells encountered during construction will need to be properly abandoned in accordance with the current requirements of the CalGEM.

Since the site is not located within an oil field, the potential for methane or other volatile gases to occur at the site is considered very low. However, should it be determined that a methane study is required for the proposed development it is recommended that a qualified methane consultant be retained to perform the study and provide mitigation measures as necessary.

7.9 Subsidence

Subsidence occurs when a large portion of land is displaced vertically, usually due to the withdrawal of groundwater, oil, or natural gas. Soils that are particularly subject to subsidence include those with high silt or clay content. The site is not located within an area of known ground subsidence (U.S. Geological Survey, 2022). No large-scale extraction of groundwater, gas, oil, or geothermal energy is occurring or planned at the site or in the general site vicinity. There appears to be little or no potential for ground subsidence due to withdrawal of fluids or gases at the site.

8. PRELIMINARY CONCLUSIONS AND RECOMMENDATIONS

8.1 General

8.1.1 This report is intended to address the feasibility of the proposed site development and is preliminary. A comprehensive geotechnical investigation that includes subsurface exploration, laboratory testing, and engineering analyses should be performed for the proposed project and will be required to provide conclusions and recommendations for the design and construction of the site. Based on our understanding of the project, it is our opinion that neither soil nor geologic conditions are known to exist at the site that would preclude the construction of the proposed project.

8.1.2 Potential geologic hazards at the site include seismic shaking.

8.1.3 The site could be subjected to strong ground shaking in the event of an earthquake. However, this hazard is common in Southern California and this site does not have an increased level of risk as compared to other sites in the immediate vicinity. The future geotechnical report will address the potential for seismic shaking, as well as provide recommendations for the mitigation of the potential consequences, if any.

8.1.4 The potential for other geologic hazards to impact the proposed development, such as landsliding, seismic slope instability and other slope stability hazards, subsidence, peat oxidation, flooding, seiches, inundation, tsunamis, and volcanic hazards, is considered very low.

8.1.5 The historic high groundwater level is reported to be greater than 80 feet below the existing ground surface. Therefore, it is unlikely that groundwater will be encountered during the excavation of the proposed subterranean levels, which are anticipated to extend to depths of 20 feet below the existing ground surface.

8.1.6 Based on data from the prior geotechnical investigations performed to the west of the site and our in-house experience in the site vicinity, it is anticipated that the proposed project will be able to utilize typical design and construction techniques. The soils at the proposed foundation level are anticipated to consist of Pleistocene age alluvium, which generally consists of interbedded sand and silt with varying amounts of clay, gravels and cobbles. The soils are anticipated to be subject to relatively small settlements which would occur during the initial loading of the foundation system.

8.1.7 It is anticipated that a conventional spread foundation system will be appropriate for structures constructed on grade, or over one- or two-subterranean levels. If constructed at-grade, foundations may derive support in newly placed engineered fill subsequent to the recommended grading and/or competent alluvial soils. If constructed over subterranean levels, footings may derive support in competent alluvial soils found at the subterranean levels. Conformation of the appropriate foundation system will depend on the results of the comprehensive geotechnical investigation and coordination with the project structural engineer.

8.1.8 Excavations must be conducted in a manner that maintains stability. It is anticipated that shoring may be required to maintain a stable excavation during construction of the below grade parking levels, and shoring design recommendations should be provided as a part of the comprehensive geotechnical report.

8.2 Additional Future Geotechnical Investigation

8.2.1 The purpose of this report was to provide preliminary recommendations pertaining to the geotechnical aspects of developing the property based on available geologic data. While it is our opinion that neither soil nor geologic conditions would preclude the construction of the proposed development, site exploration and a comprehensive geotechnical report will be required to provide conclusions and recommendations for the design and construction of the proposed development.

8.2.2 The future geotechnical work should include site-specific borings, laboratory testing, and engineering analyses.

LIMITATIONS AND UNIFORMITY OF CONDITIONS

1. The recommendations of this report pertain only to the site investigated and are based upon the assumption that the soil conditions do not deviate from those disclosed in the investigation. If any variations or undesirable conditions are encountered during construction, or if the proposed construction will differ from that anticipated herein, Geocon West, Inc. should be notified so that supplemental recommendations can be given. The evaluation or identification of the potential presence of hazardous or corrosive materials was not part of the scope of services provided by Geocon West, Inc.

2. This report is issued with the understanding that it is the responsibility of the owner, or of his representative, to ensure that the information and recommendations contained herein are brought to the attention of the architect and engineer for the project and incorporated into the plans, and the necessary steps are taken to see that the contractor and subcontractors carry out such recommendations in the field.

3. The findings of this report are valid as of the date of this report. However, changes in the conditions of a property can occur with the passage of time, whether they are due to natural processes or the works of man on this or adjacent properties. In addition, changes in applicable or appropriate standards may occur, whether they result from legislation or the broadening of knowledge. Accordingly, the findings of this report may be invalidated wholly or partially by changes outside our control. Therefore, this report is subject to review and should not be relied upon after a period of three years.

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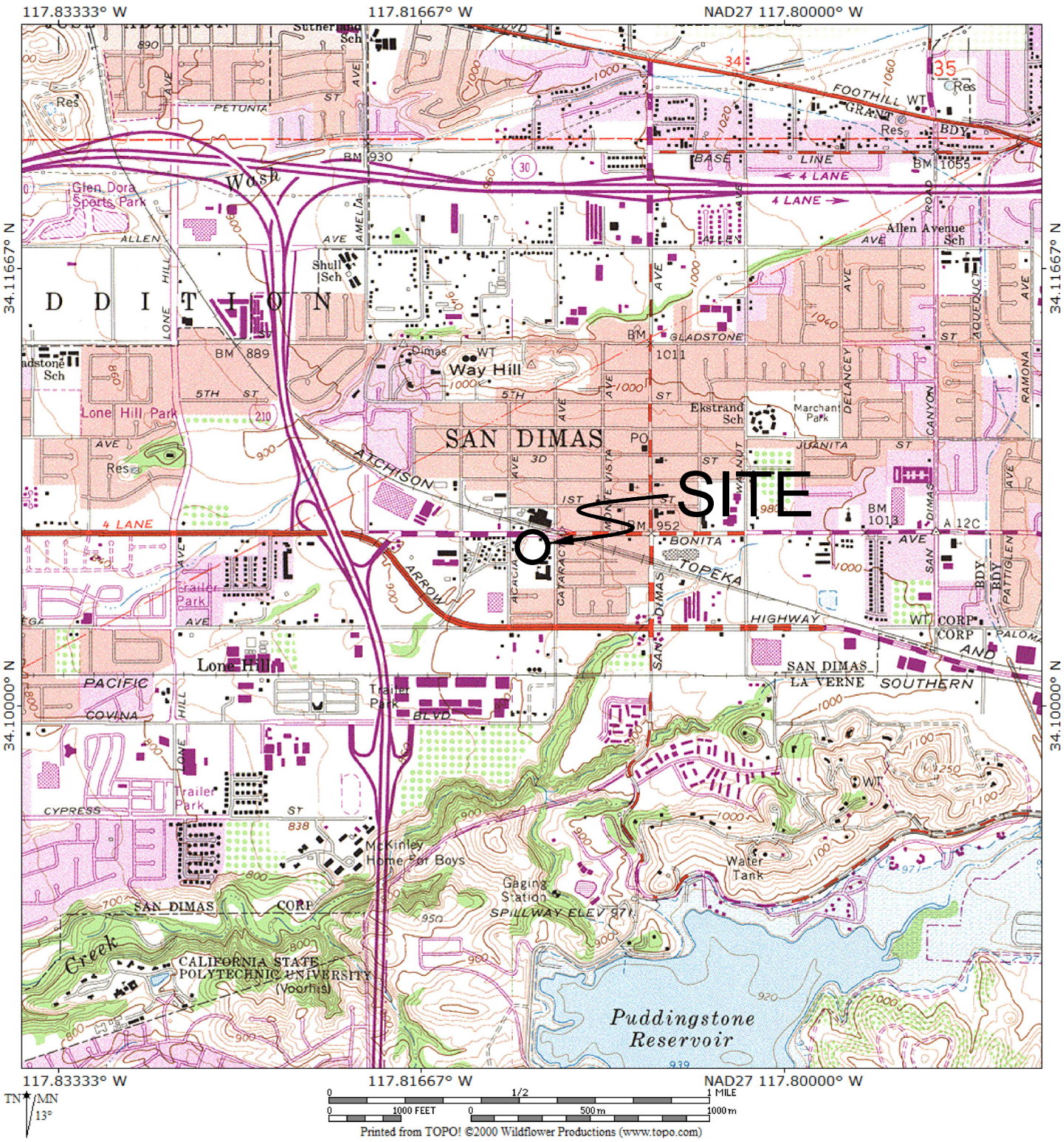

U.S.G.S. TOPOGRAPHIC MAPS, 7.5 MINUTE SERIES, SAN DIMAS, CA QUADRANGLES

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VICINITY MAP

344 WEST BONITA AVENUE
SAN DIMAS, CALIFORNIA

DRAFTED BY: CB	CHECKED BY: SFK

JULY 2022	PROJECT NO. W1627-06-01	FIG. 1

LEGEND

Approximate Location of Property Line

0 60' 120'

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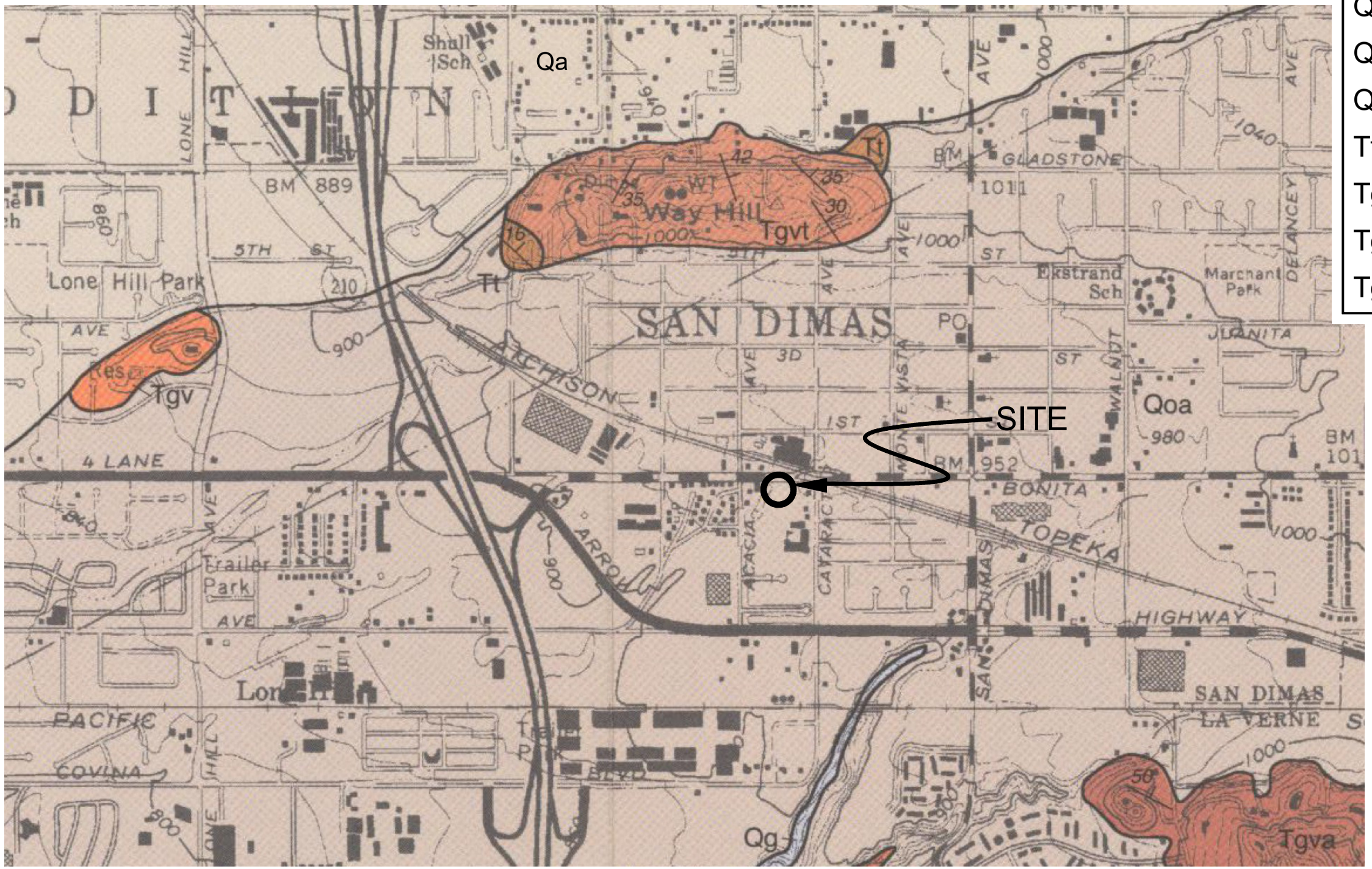
SITE PLAN

344 WEST BONITA AVENUE
SAN DIMAS, CALIFORNIA

JULY 2022	PROJECT NO. W1627-06-01	FIG. 2



LEGEND	
Qa	Quaternary Alluvial Valley Deposits
Qg	Quaternary Stream Channel Deposits
Qoa	Older Quaternary Alluvial Deposits
Tt	Topanga Formation
Tgv	Glendora Volcanics - Undifferentiated
Tgva	Glendora Volcanics - Andesite Flows and Breccia
Tgvt	Glendora Volcanics - Rhyolitic Tuff Breccia

Map Reference: Geologic Map of the San Dimas and Ontario Quadrangles
Los Angeles and San Bernardino Counties, California
T. W. Dibblee, Jr., 2002; DF - 91

NORTH

0 1000 2000

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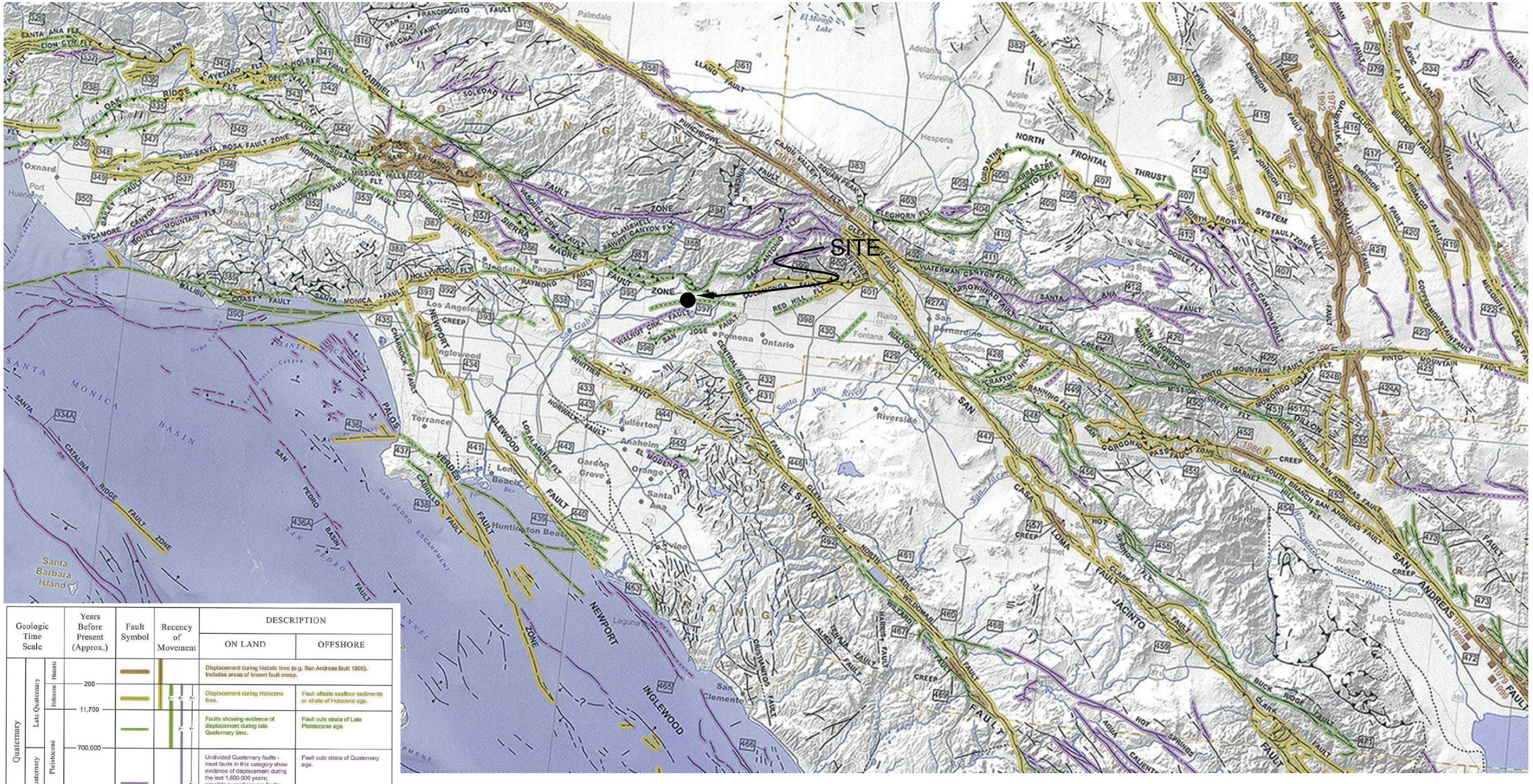
LOCAL GEOLOGIC MAP

344 WEST BONITA AVENUE
SAN DIMAS, CALIFORNIA

JULY 2022 | PROJECT NO. W1627-06-01 | FIG. 3

Reference: Jennings, C.W. and Bryant, W. A., 2010, Fault Activity Map of California, California Geological Survey Geologic Data Map No. 6.



Geologic Time Scale			Years Before Present (Approx.)	Fault Symbol	Recency of Movement	DESCRIPTION	
						ON LAND	OFFSHORE
Quaternary	Late Quaternary	Historic				Displacement during historic time (e.g. San Andreas fault 1906). Includes areas of known fault creep.	
		Holocene	200			Displacement during Holocene time.	Fault offsets seafloor sediments or strata of Holocene age.
			11,700			Faults showing evidence of displacement during late Quaternary time.	Fault cuts strata of Late Pleistocene age.
	Early Quaternary	Pleistocene	700,000			Undivided Quaternary faults - most faults in this category show evidence of displacement during the last 1,600,000 years; possible exceptions are faults which displace rocks of undifferentiated Plio-Pleistocene age.	Fault cuts strata of Quaternary age.
Pre-Quaternary			1,600,000*			Faults without recognized Quaternary displacement or showing evidence of no displacement during Quaternary time. Not necessarily inactive.	Fault cuts strata of Pliocene or older age.
			4.5 billion (Age of Earth)				

* Quaternary now recognized as extending to 2.6 Ma (Walker and Geissman, 2009). Quaternary faults in this map were established using the previous 1.6 Ma criterion.

N

0 12 24 Miles

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REGIONAL FAULT MAP

344 WEST BONITA AVENUE
SAN DIMAS, CALIFORNIA

JULY 2022 | PROJECT NO. W1627-06-01 | FIG. 4

SANTA BARBARA
VENTURA
LOS ANGELES
ORANGE
RIVERSIDE
IMPERIAL
SAN DIEGO
SITE
120°
33°
119°

EPICENTER MAP LEGEND

Period	1800 - 1868	1869 - 1931	1932 - 1999
≥ 7.0			
6.5 - 6.9			
6.0 - 6.4			
5.5 - 5.9			
5.0 - 5.4			

Magnitude (M)

Historical Faulting
Holocene Faulting
Highways (Major)
Highways (Minor)
Lakes

65 Last two digits of M ≥ 6.5 earthquake year

Reference: Toppozada, T., Branum, D., Petersen, M., Hallstrom, C., Cramer, C., and Reichle, M., 2000, Epicenters and Areas Damaged by M≥5 California Earthquakes, 1800 - 1999, California Geological Survey, Map Sheet 49.

0 20 40 Miles

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REGIONAL SEISMICITY MAP

344 WEST BONITA AVENUE
SAN DIMAS, CALIFORNIA

JULY 2022 | PROJECT NO. W1627-06-01 | FIG.5

Appendix B

Mitigation Monitoring and Reporting Program (MMRP)

from the Final Program Environmental Impact Report for the

Southern California Association of Governments (SCAG)

Connect SoCal 2020-2045 Regional Transportation Plan/

Sustainable Communities Strategy (2020-2045 RTP/SCS)

**** Measures in the MMRP that are identified with a red box***

around them are applicable to the Project.

THE 2020-2045 REGIONAL TRANSPORTATION PLAN/
SUSTAINABLE COMMUNITIES STRATEGY OF THE
SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS

CONNECT SoCal

EXHIBIT A

Mitigation Monitoring and Reporting Program for the Final Connect SoCal PEIR

SCAG™
INNOVATING FOR A BETTER TOMORROW

ADOPTED MAY 2020

STATE CLEARINGHOUSE #20199011061

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EXHIBIT A – MITIGATION MONITORING AND REPORTING PROGRAM

1.0 PURPOSE

The Mitigation Monitoring and Reporting Program (MMRP) has been prepared in conformance with Section 21081.6 of the California Environmental Quality Act (CEQA) and Section 15097 of the CEQA Guidelines. It is the intent of this program to: (1) verify satisfaction of the required mitigation measures of the EIR; (2) provide a methodology to document implementation of the required mitigation measures; (3) provide a record of the Monitoring Program; (4) identify monitoring responsibility; (5) establish administrative procedures for the clearance of mitigation measures; (6) establish the frequency and duration of monitoring; and (7) utilize existing review processes wherever feasible.

2.0 INTRODUCTION

This Mitigation Monitoring and Reporting Program describes the procedures that will be used to implement the mitigation measures adopted in connection with the approval of the project and the methods of monitoring such actions. This MMRP takes the form of a table that identifies the responsible entity for monitoring each mitigation measure and the timing of each measure.

This EIR identifies programmatic mitigation measures to be implemented by SCAG and identifies project-level mitigation measures that SCAG will encourage local agencies to implement, as appropriate and feasible, as part of project-specific environmental review.

SCAG has no authority to impose mitigation measures on individual projects for which it is not the lead agency. However, for projects seeking to use CEQA streamlining and/or tier from the Connect SoCal Program EIR, project-level mitigation measures included in this Program EIR (or comparable measures) should be required by the local lead agency as appropriate and feasible. Many lead agencies have existing regulations, policies, and/or standard conditions of approval that address potential impacts. Nothing in the Program EIR is intended to supersede existing regulations and policies of individual jurisdictions. Since SCAG has no authority to impose mitigation measures, mitigation measures to be implemented by local jurisdictions are subject to a lead agency's independent discretion as to whether measures are applicable to projects in their respective jurisdictions. Lead agencies may use, amend, or not use measures identified in this Program EIR as appropriate to address project-specific conditions. The determination of significance and identification of appropriate mitigation is *solely* the responsibility of the lead agency.

To assure consistent documentation of its direction at the May 7, 2020 Regional Council meeting regarding Connect SoCal, the Regional Council finds that conforming changes to the enacting resolution, findings and other decisional documents that fully effectuate the direction of the Regional Council, shall be presented to the Regional Council at a subsequent meeting for review and approval. If there is any inconsistency between the enacting resolutions, findings and other decisional documents and the Regional Council direction, the Regional Council direction shall govern.

Table A-1
Mitigation Monitoring and Reporting Program Matrix

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
Aesthetics		
SMM AES-1: SCAG shall facilitate minimizing impacts to scenic vistas through cooperation, information sharing regarding the locations of designated scenic vistas, and regional program development as part of SCAG's ongoing regional planning efforts, such as web-based planning tools for local government including REVISION, and other GIS tools and data services, including, but not limited to, Map Gallery, GIS library, and GIS applications, and direct technical assistance efforts such as sharing of associated online training materials. Caltrans and lead agencies, such as county and city planning departments, shall be consulted during this update process.	Ongoing over the life of the plan	SCAG
PMM AES-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to address potential aesthetic impacts to scenic vistas, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Use a palette of colors, textures, building materials that are graffiti-resistant, and/or plant materials that complement the surrounding landscape and development. b) Use contour grading to better match surrounding terrain. Contour edges of major cut-and-fill to provide a more natural looking finished profile. c) Design new corridor landscaping to respect existing natural and man-made features and to complement the dominant landscaping of the surrounding areas. d) Replace and renew landscaping along corridors with road widenings, interchange projects, and related improvements. e) Retain or replace trees bordering highways, so that clear-cutting is not evident. f) Provide new corridor landscaping that respects and provides appropriate transition to existing natural and man-made features and is complementary to the dominant landscaping or native habitats of surrounding areas. g) Reduce the visibility of construction staging areas by fencing and screening these areas with low contrast materials consistent with the surrounding environment, and by revegetating graded slopes and exposed earth surfaces at the earliest opportunity; h) Use see-through safety barrier designs (e.g. railings rather than walls)	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
PMM AES-2: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to address potential aesthetic impacts that substantially degrade visual character, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Minimize contrasts in scale and massing between the projects and surrounding natural forms and development, minimize their intrusion into important viewsheds, and use contour grading to better match surrounding terrain in accordance with county and city hillside ordinances, where applicable. b) Design landscaping along highway corridors to add significant natural elements and visual interest to soften the hard-edged, linear transportation corridors. c) Require development of design guidelines for projects that make elements of proposed buildings/facilities visually compatible or minimize visibility of changes in visual quality or character through use of hardscape and softscape solutions. Specific measures to be addressed include setback buffers, landscaping, color, texture, signage, and lighting criteria. d) Design projects consistent with design guidelines of applicable general plans. e) Require that sites are kept in a blight/nuisance-free condition. Remove blight or nuisances that compromise visual character or visual quality of project areas including graffiti abatement, trash removal, landscape management, maintenance of signage and billboards in good condition, and replace compromised native vegetation and landscape. f) Where sound walls are proposed, require sound wall construction and design methods that account for visual impacts as follows: — use transparent panels to preserve views where sound walls would block views from residences; — use landscaped earth berm or a combination wall and berm to minimize the apparent sound wall height; — construct sound walls of materials whose color and texture complements the surrounding landscape and development; g) Design sound walls to increase visual interest, reduce apparent height, and be visually compatible with the surrounding area; and landscape the sound walls with plants that screen the sound wall, preferably with either native vegetation or landscaping that complements the dominant landscaping of surrounding areas.	Ongoing over the life of the plan	Lead Agency
SMM AES-2: SCAG shall facilitate minimizing impacts on aesthetics related to new sources of light or glare through cooperation, information sharing regarding guidelines and policies, design approaches, building materials, siting, and technology, such as web-based planning tools for local government including CA LOTS, and other GIS tools and data services, including, but not limited to, Map Gallery, GIS library, and GIS applications, and direct technical assistance efforts and sharing of associated online training materials. Lead agencies, such as county and city planning departments, shall be consulted during this update process.	Ongoing over the life of the plan	SCAG

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
PMM AES-3: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to address potential aesthetic impacts that substantially degrade visual character, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Use lighting fixtures that are adequately shielded to a point below the light bulb and reflector and that prevent unnecessary glare onto adjacent properties. b) Restrict the operation of outdoor lighting for construction and operation activities to the hours of 7:00 a.m. to 10:00 p.m. or as otherwise required by applicable local rules or ordinances. c) Use high pressure sodium and/or cut-off fixtures instead of typical mercury-vapor fixtures for outdoor lighting. d) Use unidirectional lighting to avoid light trespass onto adjacent properties. e) Design exterior lighting to confine illumination to the project site, and/or to areas which do not include light-sensitive uses. f) Provide structural and/or vegetative screening from light-sensitive uses. g) Shield and direct all new street and pedestrian lighting away from light-sensitive off-site uses. h) Use non-reflective glass or glass treated with a non-reflective coating for all exterior windows and glass used on building surfaces. i) Architectural lighting shall be directed onto the building surfaces and have low reflectivity to minimize glare and limit light onto adjacent properties.	Ongoing over the life of the plan	Lead Agency
Agriculture and Forestry		
SMM AG-1: SCAG shall host a Natural & Farm Lands Conservation Working Group which will provide a forum for stakeholders to share best practices and develop recommendations for natural and agricultural land conservation throughout the region, including the development of a Natural Lands Conservation Strategy for the Connect SoCal Plan.	Ongoing over the life of the plan	SCAG
SMM AG-2: SCAG shall expand on the Natural Resource Inventory Database and Conservation Framework & Assessment by incorporating strategic mapping layers to build the database and further refine the priority conservation areas by (1) further investing in mapping and farmland data tracking and (2) working with County Transportation Commissions (CTCs) and SCAG's subregions to support their county-level efforts at data building. SCAG shall encourage CTCs to develop advanced mitigation programs or include them in future transportation measures by (1) funding pilot programs that encourage advance mitigation including data and replicable processes, (2) participating in state-level efforts that would support regional advanced mitigation planning in the SCAG region, and (3) supporting the inclusion of advance mitigation programs at county level transportation measures.	Ongoing over the life of the plan	SCAG

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
SMM AG-3: SCAG shall align with funding opportunities and pilot programs to begin implementation of conservation strategies through (1) seeking planning and implementation funds, such as cap and trade auction proceeds that could advance local action on acquisition and restoration projects locally and regionally, (2) supporting CTCs and other partners, and (3) continuing policy alignment with the State Wildlife Action Plan 2015 Update and its implementation.	Ongoing over the life of the plan	SCAG
SMM AG-4: SCAG shall provide incentives to jurisdictions that cooperate across county lines to protect and restore natural habitat corridors, especially where corridors cross county boundaries, as detailed in the Natural & Farm Lands Appendix strategies of Connect SoCal. SCAG will work with stakeholders to identify incentives and leverage resources that help protect habitat corridors.	Ongoing over the life of the plan	SCAG
PMM AG-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to address potential adverse effects on agricultural resources, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Require project sponsors to mitigate for loss of farmland by providing permanent protection of in-kind farmland in the form of easements, fees, or elimination of development rights/potential. b) Project relocation or corridor realignment to avoid Prime Farmland, Unique Farmland, or Farmland of Local or Statewide Importance. c) Maintain and expand agricultural land protections such as urban growth boundaries. d) Provide for mitigation fees to support a mitigation bank[1] that invests in farmer education, agricultural infrastructure, water supply, marketing, etc. that enhance the commercial viability of retained agricultural lands. e) Minimize severance and fragmentation of agricultural land by constructing underpasses and overpasses at reasonable intervals to provide property access. f) Use berms, buffer zones, setbacks, and fencing to reduce conflicts between new development and farming uses and protect the functions of farmland.	Ongoing over the life of the plan	Lead Agency

1 The California Department of Fish and Wildlife provides a definition for conservation or mitigation banks on their website (please see https://www.wildlife.ca.gov/Conservation/Planning/Banking).

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
PMM AG-2: Project level mitigation measures can and should be considered by Lead Agencies as applicable and feasible. Measures to reduce substantial adverse effects on Williamson Act contracts to the maximum extent practicable, as determined appropriate by each Lead Agency, may include the following, or other comparable measures: a) Project relocation or corridor realignment to avoid lands in Williamson Act contracts. b) Establish conservation easements consistent with the recommendations of the Department of Conservation, or 20-year Farmland Security Zone contracts (Government Code Section 51296 et seq.), 10-year Williamson Act contracts (Government Code Section 51200 et seq.), or use of other conservation tools available from the California Department of Conservation Division of Land Resource Protection.	Ongoing over the life of the plan	Lead Agency
PMM AG-3: Project level mitigation measures can and should be considered by Lead Agencies as applicable and feasible. Measures to reduce substantial adverse effects, through the conversion of Farmland to maximum extent practicable, as determined appropriate by each Lead Agency, may include the following, or other comparable measures: a) Minimize construction related impacts to agricultural and forestry resources by locating materials and stationary equipment in such a way as to prevent conflict with agriculture and forestry resources**.**	Ongoing over the life of the plan	Lead Agency
PMM AG-4: Project level mitigation measures can and should be considered by Lead Agencies as applicable and feasible. Measures to reduce substantial adverse effects, through the conversion of Farmland, to the maximum extent practicable, as determined appropriate by each Lead Agency, may include the following, or other comparable measures: a) Design proposed projects to minimize, to the greatest extent feasible, the loss of the highest valued agricultural land. b) Redesign project features to minimize fragmenting or isolating Farmland. Where a project involves acquiring land or easements, ensure that the remaining non-project area is of a size sufficient to allow economically viable farming operations. The project proponents shall be responsible for acquiring easements, making lot line adjustments, and merging affected land parcels into units suitable for continued commercial agricultural management. c) Reconnect utilities or infrastructure that serve agricultural uses if these are disturbed by project construction. If a project temporarily or permanently cuts off roadway access or removes utility lines, irrigation features, or other infrastructure, the project proponents shall be responsible for restoring access as necessary to ensure that economically viable farming operations are not interrupted.	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
PMM AG-5: Project level mitigation measures can and should be considered by Lead Agencies as applicable and feasible. Measures to reduce substantial adverse effects, through the conversion of Farmland, to the maximum extent practicable, as determined appropriate by each Lead Agency, may include the following, or other comparable measures: a) Manage project operations to minimize the introduction of invasive species or weeds that may affect agricultural production on adjacent agricultural land. Where a project has the potential to introduce sensitive species or habitats or have other spill-over effects on nearby agricultural lands, the project proponents shall be responsible for acquiring easements on nearby agricultural land and/or financially compensating for indirect effects on nearby agricultural land. Easements (e.g., flowage easements) shall be required for temporary or intermittent interruption in farming activities (e.g., because of seasonal flooding or groundwater seepage). Acquisition or compensation would be required for permanent or significant loss of economically viable operations.	Ongoing over the life of the plan	Lead Agency
Air Quality		
SMM AQ-1: SCAG shall develop the Southern California Disadvantaged Communities Planning Initiative which would provide funds to selected applicants to develop a low-cost, high-impact model which leverages SCAG's staff, data, and outreach resources to deliver context-sensitive plans in high-need, low-resourced active transportation infrastructure and frameworks. As part of the initiative, the model will be operationalized through the development of plans in six communities and refined to provide a sustainable resource for SCAG staff partner with local agencies to develop local active transportation plans.	Ongoing over the life of the plan	SCAG
SMM AQ-2: SCAG shall continue its commitment to analyze public health outcomes as part of Connect SoCal. As part of the public health analysis for the Plan, SCAG shall continue to analyze the Plan's impacts on air quality through its Public Health Working group and continue to support policy change at the city and country level through education programs.	Ongoing over the life of the plan	SCAG
SMM AQ-3: SCAG shall continue to conduct air quality-related technical analyses on the region, specifically in vulnerable areas that are typically environmental justice areas. For example, SCAG staff conducted technical analysis of emissions impacts on populations within 500 feet of freeways and highly travelled corridors in the Connect SoCal Environmental Justice Appendix. SCAG staff shall also continue to work with districts and relevant stakeholders to be informed of any updates new and/or changes to air quality issue areas through various forums like the Environmental Justice Working Group.	Ongoing over the life of the plan	SCAG
PMM AQ-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to violating air quality standards. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Minimize land disturbance. b) Suspend grading and earth moving when wind gusts exceed 25 miles per hour unless the soil is wet enough to prevent dust plumes.	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
c) Cover trucks when hauling dirt. d) Stabilize the surface of dirt piles if not removed immediately. e) Limit vehicular paths on unpaved surfaces and stabilize any temporary roads. f) Minimize unnecessary vehicular and machinery activities. g) Sweep paved streets at least once per day where there is evidence of dirt that has been carried on to the roadway. h) Revegetate disturbed land, including vehicular paths created during construction to avoid future off-road vehicular activities. ~~i) On Caltrans projects, Caltrans Standard Specifications 10-Dust Control, 17-Watering, and 18-Dust Palliative shall be incorporated into project specifications.~~ j) Require contractors to assemble a comprehensive inventory list (i.e., make, model, engine year, horsepower, emission rates) of all heavy-duty off-road (portable and mobile) equipment (50 horsepower and greater) that could be used an aggregate of 40 or more hours for the construction project. Prepare a plan for approval by the applicable air district demonstrating achievement of the applicable percent reduction for a CARB-approved fleet. k) Ensure that all construction equipment is properly tuned and maintained. l) Minimize idling time to 5 minutes—saves fuel and reduces emissions. m) Provide an operational water truck on-site ~~at all times~~. Use watering trucks to minimize dust; watering should be sufficient to confine dust plumes to the project work areas. Sweep paved streets at least once per day where there is evidence of dirt that has been carried on to the roadway. n) Utilize existing power sources (e.g., power poles) or clean fuel generators rather than temporary power generators. o) Develop a traffic plan to minimize community impacts as a result of traffic flow interference from construction activities. The plan may include advance public notice of routing, use of public transportation, and satellite parking areas with a shuttle service. Schedule operations affecting traffic for off-peak hours. Minimize obstruction of through-traffic lanes. Provide a flag person to guide traffic properly and ensure safety at construction sites. Project sponsors should consider developing a goal for the minimization of community impacts. p) As appropriate require that portable engines and portable engine-driven equipment units used at the project work site, with the exception of on-road and off-road motor vehicles, obtain CARB Portable Equipment Registration with the state or a local district permit. Arrange appropriate consultations with the CARB or the District to determine registration and permitting requirements prior to equipment operation at the site. q) Require projects to use Tier 4 Final equipment or better for all engines above 50 horsepower (hp). In the event that construction equipment cannot meet to Tier 4 Final engine certification, the Project representative or contractor must demonstrate through future study with written findings supported by substantial evidence that is approved by SCAG before using other		

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
technologies/strategies. Alternative applicable strategies may include, but would not be limited to, construction equipment with Tier 4 Interim or reduction in the number and/or horsepower rating of construction equipment and/or limiting the number of construction equipment operating at the same time. All equipment must be tuned and maintained in compliance with the manufacturer's recommended maintenance schedule and specifications. All maintenance records for each equipment and their contractor(s) should make available for inspection and remain on-site for a period of at least two years from completion of construction, unless the individual project can demonstrate that Tier 4 engines would not be required to mitigate emissions below significance thresholds. Project sponsors should also consider including ZE/ZNE technologies where appropriate and feasible.		
~~r) Projects located within the South Coast Air Basin should consider applying for South Coast AQMD "SOON" funds which provides funds to applicable fleets for the purchase of commercially available low-emission heavy-duty engines to achieve near-term reduction of NOx emissions from in-use off-road diesel vehicles.~~ ~~s) Projects located within AB 617 communities should review the applicable Community Emissions Reduction Plan (CERP) for additional mitigation that can be applied to individual projects.~~ ~~t) Where applicable, projects should provide information about air quality related programs to schools, including the Environmental Justice Community Partnerships (EJCP), Clean Air Ranger Education (CARE), and Why Air Quality Matters programs.~~ ~~u) Projects should work with local cities and counties to install adequate signage that prohibits truck idling in certain locations (e.g., near schools and sensitive receptors).~~ ~~v) As applicable for airport projects, the following measures should be considered:~~ ~~a. Considering operational improvements to reduce taxi time and auxiliary power unit usage, where feasible. Additionally, consider single engine taxing, if feasible as allowed per Federal Aviation Administration guidelines.~~ ~~b. Set goals to achieve a reduction in emissions from aircraft operations over the lifetime of the proposed project.~~ ~~c. Require the use of ground service equipment (GSE) that can operate on battery-power. If electric equipment cannot be obtained, require the use of alternative fuel, the cleanest gasoline equipment, or Tier 4, at a minimum.~~ ~~w) As applicable for port projects, the following measures should be considered:~~ ~~a. Develop specific timelines for transitioning to zero emission cargo handling equipment (CHE).~~ ~~b. Develop interim performance standards with a minimum amount of CHE replacement each year to ensure adequate progress.~~ ~~c. Use short side electric power for ships, which may include tugboats and other ocean-going vessels or develop incentives to gradually ramp up the usage of shore power.~~ ~~d. Install the appropriate infrastructure to provide shore power to operate the ships. Electrical~~		

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
hookups should be appropriately sized. e. Maximize participation in the Port of Los Angeles' Vessel Speed Reduction Program or the Port of Long Beach's Green Flag Initiation Program in order to reduce the speed of vessel transiting within 40 nautical miles of Point Fermin. f. Encourage the participation in the Green Ship Incentives. g. Offer incentives to encourage the use of on-dock rail. x) As applicable for rail projects, the following measures should be considered: a. Provide the highest incentives for electric locomotives and then locomotives that meet Tier 5 emission standards with a floor on the incentives for locomotives that meet Tier 4 emission standards. y) Projects that will introduce sensitive receptors within 500 feet of freeways and other sources should consider installing high efficiency of enhanced filtration units, such as Minimum Efficiency Reporting Value (MERV) 13 or better. Installation of enhanced filtration units can be verified during occupancy inspection prior to the issuance of an occupancy permit. z) Develop an ongoing monitoring, inspection, and maintenance program for the MERV filters. a. Disclose potential health impacts to prospective sensitive receptors from living in close proximity to freeways or other sources of air pollution and the reduced effectiveness of air filtration systems when windows are open or residents are outside. b. Identify the responsible implementing and enforcement agency to ensure that enhanced filtration units are installed on-site before a permit of occupancy is issued. c. Disclose the potential increase in energy costs for running the HVAC system to prospective residents. d. Provide information to residents on where MERV filters can be purchased. e. Provide recommended schedule (e.g., every year or every six months) for replacing the enhanced filtration units. f. Identify the responsible entity such as future residents themselves, Homeowner's Association, or property managers for ensuring enhanced filtration units are replaced on time. g. Identify, provide, and disclose ongoing cost-sharing strategies, if any, for replacing the enhanced filtration units. h. Set criteria for assessing progress in installing and replacing the enhanced filtration units; and i. Develop a process for evaluating the effectiveness of the enhanced filtration units. aa) Consult the SCAG Environmental Justice Toolbox for potential measures to address impacts to low-income and/or minority communities		

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
Biological Resources		
SMM BIO-1: SCAG shall facilitate reducing future impacts to species identified as a candidate, sensitive, or special status species and its habitats through cooperation, information sharing, and program development. SCAG shall consult with the resource agencies, such as the USFWS, NMFS, USACE, USFS, BLM, and CDFW, as well as local jurisdictions including cities and counties, to incorporate designated critical habitat, federally protected wetlands, the protection of sensitive natural communities and riparian habitats, designated open space or protected wildlife habitat, local policies and tree preservation ordinances, applicable HCPs and NCCPs, or other related planning documents into SCAG's ongoing regional planning efforts, such as web-based planning tools for local government including CA LOTS, and other GIS tools and data services, including, but not limited to, Map Gallery, GIS library, and GIS applications, and direct technical assistance efforts and sharing of associated online Training materials. Planning efforts shall be consistent with the approach outlined in the California Wildlife Action Plan.	Ongoing over the life of the plan	SCAG
SMM BIO-2: SCAG shall continue to develop a regional conservation strategy in coordination with local jurisdictions and other stakeholders, including the county transportation commissions. The conservation strategy will build upon existing efforts including those at the sub-regional and local levels to identify potential priority conservation areas. SCAG shall develop new regional tools, like the Regional Data Platform and Regional Greenprint to help local jurisdictions identify areas well suited for infill and redevelopment as well as critical habitat and natural lands to be preserved, including natural habitat corridors. SCAG will also collaborate with stakeholders to establish a new Regional Advanced Mitigation Program (RAMP) initiative to preserve habitat. The RAMP will be supplemental initiative to regional conservation and mitigation banks and other approaches by evaluating, advocating and highlighting projects that support per capita VMT reduction.	Ongoing over the life of the plan	SCAG
PMM BIO-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to threatened and endangered species, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Require project design to avoid occupied habitat, potentially suitable habitat, and designated critical habitat, wherever practicable and feasible. b) Where avoidance is determined to be infeasible, provide conservation measures to fulfill the requirements of the applicable authorization for incidental take pursuant to Section 7 or 10(a) of the federal ESA, Section 2081 of the California ESA to support issuance of an incidental take permit, and/or as identified in local or regional plans. Conservation strategies to protect the survival and recovery of federally and state-listed endangered and local special status species may include: i. Impact minimization strategies ii. Contribution of in-lieu fees for in-kind conservation and mitigation efforts iii. Use of in-kind mitigation bank credits	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
iv. Funding of research and recovery efforts v. Habitat restoration vi. Establishment of conservation easements vii. Permanent dedication of in-kind habitat c) Design projects to avoid desert native plants protected under the California Desert Native Plants Act, salvage and relocate desert native plants, and/or pay in lieu fees to support off-site long-term conservation strategies. d) Temporary access roads and staging areas will not be located within areas containing sensitive plants, wildlife species or native habitat wherever feasible, so as to avoid or minimize impacts to these species. e) Develop and implement a Worker Environmental Awareness Program (environmental education) to inform project workers of their responsibilities to avoid and minimize impacts on sensitive biological resources. f) Retain a qualified botanist to document the presence or absence of special status plants before project implementation. g) Appoint a qualified biologist to monitor construction activities that may occur in or adjacent to occupied sensitive species' habitat to facilitate avoidance of resources not permitted for impact. h) Appoint a qualified biologist to monitor implementation of mitigation measures. i) Schedule construction activities to avoid sensitive times for biological resources (e.g. steelhead spawning periods during the winter and spring, nesting bird season) and to avoid the rainy season when erosion and sediment transport is increased. j) Develop an invasive species control plan associated with project construction. k) If construction occurs during breeding seasons in or adjacent to suitable habitat, include appropriate sound attenuation measures required for sensitive avian species and other best management practices appropriate for potential local sensitive wildlife. l) Conduct pre-construction surveys to delineate occupied sensitive species' habitat to facilitate avoidance. m) Where projects are determined to be within suitable habitat and may impact listed or sensitive species that have specific field survey protocols or guidelines outlined by the USFWS, CDFW, or other local agency, conduct preconstruction surveys that follow applicable protocols and guidelines and are conducted by qualified and/or certified personnel.		
PMM BIO-2: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to riparian habitats and other sensitive natural communities, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Consult with the USFWS and NMFS where such state-designated sensitive or riparian habitats provide potential or occupied habitat for federally listed rare, threatened, and endangered	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
species afforded protection pursuant to the federal ESA. b) Consult with the USFS where such state-designated sensitive or riparian habitats provide potential or occupied habitat for federally listed rare, threatened, and endangered species afforded protection pursuant to the federal ESA and any additional species afforded protection by an adopted Forest Land Management Plan or Resource Management Plan for the four national forests in the six-county area: Angeles, Cleveland, Los Padres, and San Bernardino. c) Consult with the CDFW where such state-designated sensitive or riparian habitats provide potential or occupied habitat for state-listed rare, threatened, and endangered species afforded protection pursuant to the California ESA, or Fully Protected Species afforded protection pursuant to the State Fish and Game Code. d) Consult with the CDFW pursuant to the provisions of Section 1600 of the State Fish and Game Code as they relate to Lakes and Streambeds. e) Consult with the USFWS, USFS, CDFW, and counties and cities in the SCAG region, where state-designated sensitive or riparian habitats are occupied by birds afforded protection pursuant to the MBTA during the breeding season. f) Consult with the CDFW for state-designated sensitive or riparian habitats where furbearing mammals, afforded protection pursuant to the provisions of the State Fish and Game Code for fur-beaming mammals, are actively using the areas in conjunction with breeding activities. g) Require project design to avoid sensitive natural communities and riparian habitats, wherever practicable and feasible. h) Where avoidance is determined to be infeasible, develop sufficient conservation measures through coordination with local agencies and the regulatory agency (i.e., USFWS or CDFW) to protect sensitive natural communities and riparian habitats and develop appropriate compensatory mitigation, where required. i) Appoint a qualified wetland biologist to monitor construction activities that may occur in or adjacent to sensitive communities. j) Appoint a qualified wetland biologist to monitor implementation of mitigation measures. k) Schedule construction activities to avoid sensitive times for biological resources and to avoid the rainy season when erosion and sediment transport is increased. l) When construction activities require stream crossings, schedule work during dry conditions and use rubber-wheeled vehicles, when feasible. Have a qualified wetland scientist determine if potential project impacts require a Notification of Lake or Streambed Alteration to CDFW during the planning phase of projects. m) Consult with local agencies, jurisdictions, and landowners where such state-designated sensitive or riparian habitats are afforded protection pursuant an adopted regional conservation plan. n) Install fencing and/or mark sensitive habitat to be avoided during construction activities. o) Salvage and stockpile topsoil (the surface material from 6 to 12 inches deep) and perennial native plants, when recommended by the qualified wetland biologist, for use in restoring native		

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
vegetation to areas of temporary disturbance within the project area. Salvage of soils containing invasive species, seeds and/or rhizomes will be avoided as identified by the qualified wetland biologist. p) Revegetate with appropriate native vegetation following the completion of construction activities, as identified by the qualified wetland biologist. q) Complete habitat enhancement (e.g., through removal of non-native invasive wetland species and replacement with more ecologically valuable native species). r) Use Best Management Practices (BMPs) at construction sites to minimize erosion and sediment transport from the area. BMPs include encouraging growth of native vegetation in disturbed areas, using straw bales or other silt-catching devices, and using settling basins to minimize soil transport.		
PMM BIO-3: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to wetlands, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency. a) Require project design to avoid federally protected aquatic resources consistent with the provisions of Sections 404 and 401 of the CWA, wherever practicable and feasible. b) Where the lead agency has identified that a project, or other regionally significant project, has the potential to impact other wetlands or waters, such as those considered Waters Of the State of California under the State Wetland Definition and Procedures for Dischargers of Dredged or Fill Material to Waters of the State, not protected under Section 404 or 401 of the CWA, seek comparable coverage for these wetlands and waters in consultation with the SWRCB, applicable RWQCB, and CDFW. c) Where avoidance is determined to be infeasible, develop sufficient conservation measures to fulfill the requirements of the applicable authorization for impacts to federal and state protected aquatic resource to support issuance of a permit under Section 404 of the CWA as administered by the USACE. The use of an authorized Nationwide Permit or issuance of an individual permit requires the project applicant to demonstrate compliance with the USACE's Final Compensatory Mitigation Rule. The USACE reviews projects to ensure environmental impacts to aquatic resources are avoided or minimized as much as possible. Consistent with the administration's performance standard of "no net loss of wetlands" a USACE permit may require a project proponent to restore, establish, enhance or preserve other aquatic resources in order to replace those affected by the proposed project. This compensatory mitigation process seeks to replace the loss of existing aquatic resource functions and area. Project proponents required to complete mitigation are encouraged to use a watershed approach and watershed planning information. The new rule establishes performance standards, sets timeframes for decision making, and to the extent possible, establishes equivalent requirements and standards for the three sources of compensatory mitigation: — Permittee-responsible mitigation	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
— Contribution of in-kind in-lieu fees — Use of in-kind mitigation bank credits — Where avoidance is determined to be infeasible and d) Where avoidance is determined to be infeasible and proposed projects' impacts exceed an existing Nationwide Permit (NWP) and/or California SWRCB-certified NWP, or applicable County Special Area Management Plan (SAMP), the lead agency should provide USACE and SWRCB (where applicable) an alternative analysis consistent with the Least Environmentally Damaging Practicable Alternatives in this order of priorities: — Avoidance — Impact Minimization — On-site alternatives — Off-site alternatives e) Require review of construction drawings by a certified wetland delineator as part of each project-specific environmental analysis to determine whether aquatic resources will be affected and, if necessary, perform formal wetland delineation.		
SMM BIO-3: SCAG shall encourage and facilitate research, programs and policies to identify, protect and restore natural habitat corridors, especially where corridors cross county boundaries. Additionally, continue support for preserving wildlife corridors and wildlife crossings to minimize the impact of transportation projects on wildlife species and habitat fragmentation.	Ongoing over the life of the plan	SCAG
PMM BIO-4: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to wildlife movement, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Consult with the USFS where impacts to migratory wildlife corridors may occur in an area afforded protection by an adopted Forest Land Management Plan or Resource Management Plan for the four national forests in the six-County area: Angeles, Cleveland, Los Padres, and San Bernardino. b) Consult with counties, cities, and other local organizations when impacts may occur to open space areas that have been designated as important for wildlife movement related to local ordinances or conservation plans. c) Prohibit construction activities within 500 feet of occupied breeding areas for wildlife afforded protection pursuant to Title 14 § 460 of the California Code of Regulations protecting fur-bearing mammals, during the breeding season. d) Conduct a survey to identify active raptor and other migratory nongame bird nests by a qualified biologist at least two weeks before the start of construction at project sites from February 1 through August 31. e) Prohibit construction activities with 300 feet of occupied nest of birds afforded protection	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
pursuant to the Migratory Bird Treaty Act, during the breeding season. f) Ensure that suitable nesting sites for migratory nongame native bird species protected under the Migratory Bird Treaty Act and/or trees with unoccupied raptor nests should only be removed prior to February 1, or following the nesting season. g) When feasible and practicable, proposed projects will be designed to minimize impacts to wildlife movement and habitat connectivity and preserve existing and functional wildlife corridors. h) Conduct site-specific analyses of opportunities to preserve or improve habitat linkages with areas on- and off-site. i) Long linear projects with the possibility of impacting wildlife movement should analyze habitat linkages/wildlife movement corridors on a broad scale to avoid critical narrow choke points that could reduce function of recognized movement corridor. j) Require review of construction drawings and habitat connectivity mapping by a qualified biologist to determine the risk of habitat fragmentation. k) Pursue mitigation banking to preserve habitat linkages and corridors (opportunities to purchase, maintain, and/or restore offsite habitat). l) When practicable and feasible design projects to promote wildlife corridor redundancy by including multiple connections between habitat patches. m) Evaluate the potential for installation of overpasses, underpasses, and culverts to create wildlife crossings in cases where a roadway or other transportation project may interrupt the flow of species through their habitat. Retrofitting of existing infrastructure in project areas should also be considered for wildlife crossings for purposes of mitigation. n) Install wildlife fencing where appropriate to minimize the probability of wildlife injury due to direct interaction between wildlife and roads or construction. o) Where avoidance is determined to be infeasible, design sufficient conservation measures through coordination with local agencies and the regulatory agency (i.e., USFWS or CDFW) and in accordance with the respective counties and cities general plans to establish plans to mitigate for the loss of fish and wildlife movement corridors and/or wildlife nursery sites. The consideration of conservation measures may include the following measures, in addition to the measures outlined in MM-BIO-1(b), where applicable: — Wildlife movement buffer zones — Corridor realignment — Appropriately spaced breaks in center barriers — Stream rerouting — Culverts — Creation of artificial movement corridors such as freeway under- or overpasses — Other comparable measures		

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
p) Where the lead agency has identified that a RTP/SCS project, or other regionally significant project, has the potential to impact other open space or nursery site areas, seek comparable coverage for these areas in consultation with the USFWS, CDFW, NMFS, or other local jurisdictions. q) Incorporate applicable and appropriate guidance (e.g. FHWA-HEP-16-059), as well as best management practices, to benefit pollinators with a focus on native plants.		
PMM BIO-5: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce conflicts with local policies and ordinances protecting biological resources, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Consult with the appropriate local agency responsible for the administration of the policy or ordinance protecting biological resources. b) Prioritize retention of trees on-site consistent with local regulations. Provide adequate protection during the construction period for any trees that are to remain standing, as recommended by an International Society of Arboriculture (ISA) certified arborist. c) If specific project area trees are designated as "Protected Trees," "Landmark Trees," or "Heritage Trees," obtain approval for encroachment or removals through the appropriate entity, and develop appropriate mitigation measures at that time, to ensure that the trees are replaced. Mitigation trees shall be locally collected native species, as directed by a qualified biologist. d) Appoint an ISA certified arborist to monitor construction activities that may occur in areas with trees are designated as "Protected Trees," "Landmark Trees," or "Heritage Trees," to facilitate avoidance of resources not permitted for impact. Before the start of any clearing, excavation, construction or other work on the site, securely fence off every protected tree deemed to be potentially endangered by said site work. Keep such fences in place for duration of all such work. Clearly mark all trees to be removed. e) Establish a scheme for the removal and disposal of logs, brush, earth and other debris that will avoid injury to any protected tree. Where proposed development or other site work could encroach upon the protected perimeter of any protected tree, incorporate special measures to allow the roots to breathe and obtain water and nutrients. Minimize any excavation, cutting, filing, or compaction of the existing ground surface within the protected perimeter. Require that no change in existing ground level occur from the base of any protected tree at any time. Require that no burning or use of equipment with an open flame occur near or within the protected perimeter of any protected tree. f) Require that no storage or dumping of oil, gas, chemicals, or other substances that may be harmful to trees occur from the base of any protected trees, or any other location on the site from which such substances might enter the protected perimeter. Require that no heavy construction equipment or construction materials be operated or stored within a distance from the base of any protected trees. Require that wires, ropes, or other devices not be attached to any protected tree, except as needed for support of the tree. Require that no sign, other than a tag showing the	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
botanical classification, be attached to any protected tree. g) Thoroughly spray the leaves of protected trees with water periodically during construction to prevent buildup of dust and other pollution that would inhibit leaf transpiration, as directed by the certified arborist. h) If any damage to a protected tree should occur during or as a result of work on the site, the appropriate local agency will be immediately notified of such damage. If, such tree cannot be preserved in a healthy state, as determined by the certified arborist, require replacement of any tree removed with another tree or trees on the same site deemed adequate by the local agency to compensate for the loss of the tree that is removed. Remove all debris created as a result of any tree removal work from the property within two weeks of debris creation, and such debris shall be properly disposed of in accordance with all applicable laws, ordinances, and regulations. Design projects to avoid conflicts with local policies and ordinances protecting biological resources i) Where avoidance is determined to be infeasible, sufficient conservation measures to fulfill the requirements of the applicable policy or ordinance shall be developed, such as to support issuance of a tree removal permit. The consideration of conservation measures may include: — Avoidance strategies — Contribution of in-lieu fees — Planting of replacement trees — Re-landscaping areas with native vegetation post-construction — Other comparable measures developed in consultation with local agency and certified arborist.		
PMM BIO-6: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects on HCPs and NCCPs, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Consult with the appropriate federal, state, and/or local agency responsible for the administration of HCPs or NCCPs. b) Wherever practicable and feasible, the project shall be designed to avoid lands preserved under the conditions of an HCP or NCCP. c) Where avoidance is determined to be infeasible, sufficient conservation measures to fulfill the requirements of the HCP and/or NCCP, which would include but not be limited to applicable authorization for incidental take pursuant to Section 7 or 10(a) of the federal Endangered Species Act or Section 2081 of the California ESA, shall be developed to support issuance of an incidental take permit or any other permissions required for development within the HCP/NCCP boundaries. The consideration of additional conservation measures would include the measures outlined in SMM-BIO-2, where applicable.	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
Cultural Resources		
SMM CULT-1: Impacts to cultural resources shall be minimized through cooperation, information sharing, and SCAG's ongoing regional planning efforts such as web-based planning tools for local governments including CA LOTS, and other GIS tools and data services, including, but not limiting to, Map Gallery, GIS library, and GIS applications (note that no confidential cultural or tribal cultural resource location information will be housed in this database. All regulations pertaining to cultural resources site location confidentiality will be respected); and direct technical assistance efforts such as Toolbox Tuesday series and sharing of associated online Training materials. SCAG shall consult with resource agencies such as the National Park Service, Office of Historic Preservation, and Native American Heritage Commission, and with Native American tribes, to identify opportunities for early and effective consultation to identify archaeological sites, historical resources, and cemeteries to avoid such resources wherever practicable and feasible and reduce or mitigate for conflicts in compatible land use to the maximum extent practicable.	Ongoing over the life of the plan	SCAG
PMM CULT-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to historical resources, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Pursuant to *CEQA Guidelines* Section 15064.5, conduct a record search during the project planning phase at the appropriate Information Center to determine whether the project area has been previously surveyed and whether historical resources were identified. b) During the project planning phase, retain a qualified architectural historian, defined as an individual who meets the Secretary of the Interior's (SOI) Professional Qualification Standards (PQS) in Architectural History, to conduct historic architectural surveys if a built environment resource greater than 45 years in age may be affected by the project or if recommended by the Information Center. c) Comply with Section 106 of the National Historic Preservation Act (NHPA) including, but not limited to, projects for which federal funding or approval is required for the individual project. This law requires federal agencies to evaluate the impact of their actions on resources included in or eligible for listing in the National Register. Federal agencies must coordinate with the State Historic Preservation Officer in evaluating impacts and developing mitigation. These mitigation measures may include, but are not limited to the following: — Employ design measures to avoid historical resources and undertake adaptive reuse where appropriate and feasible. If resources are to be preserved, as feasible, carry out the maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction in a manner consistent with the Secretary of the Interior's Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings. If resources would be impacted, impacts should be minimized to the extent feasible. — Where feasible, noise buffers/walls and/or visual buffers/landscaping should be constructed to preserve the contextual setting of significant built resources. d) If a project requires the relocation, rehabilitation, or alteration of an eligible historical resource,	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
the Secretary of the Interior's Standards for the Treatment of Historic Properties should be used to the maximum extent possible to ensure the historical significance of the resource is not impaired. The application of the standards should be overseen by an architectural historian or historic architect meeting the SOI PQS. Prior to any construction activities that may affect the historical resource, a report, meeting industry standards, should identify and specify the treatment of character-defining features and construction activities and be provided to the Lead Agency for review and approval. e) If a project would result in the demolition or significant alteration of a historical resource eligible for or listed in the National Register of Historic Places (NRHP), California Register of Historical Resources (CRHR), or local register, recordation should take the form of Historic American Buildings Survey (HABS), Historic American Engineering Record (HAER), or Historic American Landscape Survey (HALS) documentation, and should be performed by an architectural historian or historian who meets the SOI PQS. Recordation should meet the SOI Standards and Guidelines for Architectural and Engineering, which defines the products acceptable for inclusion in the HABS/HAER/HALS collection at the Library of Congress. The specific scope and details of documentation should be developed at the project level in coordination with the Lead Agency. f) During the project planning phase, obtain a qualified archaeologist, defined as one who meets the SOI PQS for archaeology, to conduct a record search at the appropriate Information Center of the California Historical Resources Information System (CHRIS) to determine whether the project area has been previously surveyed and whether resources were identified. g) Contact the NAHC to request a Sacred Lands File search and a list of relevant Native American contacts who may have additional information. h) During the project planning phase, obtain a qualified archaeologist or architectural historian (depending on applicability) to conduct archaeological and/or historic architectural surveys as recommended by the qualified professional, the Lead Agency, or the Information Center. In the event the qualified professional or Information Center will make a recommendation on whether a survey is warranted based on the sensitivity of the project area for archaeological resources. Survey shall be conducted where the records indicate that no previous survey has been conducted, or if survey has not been conducted within the past 10 years. If tribal resources are identified during tribal outreach, consultation, or the record search, a Native American representative traditionally affiliated with the project area, as identified by the NAHC, shall be given the opportunity to provide a representative or monitor to assist with archaeological surveys. i) If potentially significant archaeological resources are identified through survey, and impacts to these resources cannot be avoided, a Phase II Testing and Evaluation investigation should be performed by a qualified archaeologist prior to any construction-related ground-disturbing activities to determine significance. If resources determined significant or unique through Phase II testing, and avoidance is not possible, appropriate resource-specific mitigation measures should be established by the lead agency, in consultation with consulting tribes, where appropriate, and undertaken by qualified personnel. These might include a Phase III data		

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
recovery program implemented by a qualified archaeologist and performed in accordance with the OHP's Archaeological Resource Management Reports (ARMR): Recommended Contents and Format and Guidelines for Archaeological Research Designs. Additional options can include 1) interpretative signage, or 2) educational outreach that helps inform the public of the past activities that occurred in this area. Should the project require extended Phase I testing, Phase II evaluation, or Phase III data recovery, a Native American representative traditionally affiliated with the project area, as indicated by the NAHC, shall be given the opportunity to provide a representative or monitor to assist with the archaeological assessments. The long-term disposition of archaeological materials collected from a significant resource should be determined in consultation with the affiliated tribe(s), where relevant; this could include curation with a recognized scientific or educational repository, transfer to the tribe, or respectful reinternment in an area designated by the tribe.		
j) In cases where the project area is developed and no natural ground surface is exposed, sensitivity for subsurface resources should be assessed based on review of literature, geology, site development history, and consultation with tribal parties. If this archaeological desktop assessment indicates that the project is located in an area sensitive for archaeological resources, as determined by the Lead Agency in consultation with a qualified archaeologist, the project should retain an archaeological monitor and, in the case of sensitivity for tribal resources, a tribal monitor, to observe ground disturbing operations, including but not limited to grading, excavation, trenching, or removal of existing features of the subject property. The archaeological monitor should be supervised by an archaeologist meeting the SOI PQS		
k) Conduct construction activities and excavation to avoid cultural resources (if identified). If avoidance is not feasible, further work may be needed to determine the importance of a resource. Retain a qualified archaeologist, and/or as appropriate, a qualified architectural historian who should make recommendations regarding the work necessary to assess significance. If the cultural resource is determined to be significant under state or federal guidelines, impacts to the cultural resource will need to be mitigated.		
l) Stop construction activities and excavation in the area where cultural resources are found until a qualified archaeologist can determine whether these resources are significant, and tribal consultation can be conducted, in the case of tribal resources. If the archaeologist determines that the discovery is significant, its long-term disposition should be determined in consultation with the affiliated tribe(s); this could include curation with a recognized scientific or educational repository, transfer to the tribe, or respectful reinternment in an area designated by the tribe.		

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
PMM CULT-2: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to human remains, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) In the event of discovery or recognition of any human remains during construction or excavation activities associated with the project, in any location other than a dedicated cemetery, cease further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the coroner of the county in which the remains are discovered has been informed and has determined that no investigation of the cause of death is required. b) If any discovered remains are of Native American origin, as determined by the county Coroner, an experienced osteologist, or another qualified professional: — Contact the County Coroner to contact the NAHC to designate a Native American Most Likely Descendant (MLD). The MLD should make a recommendation to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods. This may include obtaining a qualified archaeologist or team of archaeologists to properly excavate the human remains. In some cases, it is necessary for the Lead Agency, qualified archaeologist, or developer to also reach out to the NAHC to coordinate and ensure notification in the event the Coroner is not available. — If the NAHC is unable to identify a MLD, or the MLD fails to make a recommendation within 48 hours after being notified by the commission, or the landowner or his representative rejects the recommendation of the MLD and the mediation by the NAHC fails to provide measures acceptable to the landowner, obtain a culturally affiliated Native American monitor, and an archaeologist, if recommended by the Native American monitor, and rebury the Native American human remains and any associated grave goods, with appropriate dignity, on the property and in a location that is not subject to further subsurface disturbance.	Ongoing over the life of the plan	Lead Agency
Geology and Soils		
SMM-GEO-1: SCAG shall facilitate the minimization of substantial soil erosion or loss of topsoil through cooperation, information sharing, and regional program development as part of SCAG's ongoing regional planning efforts. Such efforts shall include web-based planning tools for local government including CA LOTS, and other GIS tools and data services, including, but not limited to, Map Gallery, GIS library, and GIS applications, and direct technical assistance efforts such as training series and sharing of associated online training materials. Resource agencies, such as the U.S. Geology Survey, shall be consulted during this update process.	Ongoing over the life of the plan	SCAG
PMM-GEO-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to historical resources, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Consistent with the CBC and local regulatory agencies with oversight of development associated	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
with the Plan, ensure that site-specific geotechnical investigations conducted by a qualified geotechnical expert are conducted to ascertain soil types prior to preparation of project designs. These investigations can and should identify areas of potential failure and recommend remedial geotechnical measures to eliminate any problems. b) Consistent with the requirements of the State Water Resources Control Board (SWRCB) for projects over one acre in size, obtain coverage under the General Construction Activity Storm Water Permit (General Construction Permit) issued by the SWRCB and prepare a stormwater pollution prevention plan (SWPPP) and submit the plan for review and approval by the Regional Water Quality Control Board (RWQCB). At a minimum, the SWPPP should include a description of construction materials, practices, and equipment storage and maintenance; a list of pollutants likely to contact stormwater; site-specific erosion and sedimentation control practices; a list of provisions to eliminate or reduce discharge of materials to stormwater; best management practices (BMPs); and an inspection and monitoring program. c) Consistent with the requirements of the SWRCB and local regulatory agencies with oversight of development associated with the Plan, ensure that project designs provide adequate slope drainage and appropriate landscaping to minimize the occurrence of slope instability and erosion. Design features should include measures to reduce erosion caused by storm water. Road cuts should be designed to maximize the potential for revegetation. d) Consistent with the CBC and local regulatory agencies with oversight of development associated with the Plan, ensure that, prior to preparing project designs, new and abandoned wells are identified within construction areas to ensure the stability of nearby soils.		
SMM GEO-2: Impacts to paleontological resources shall be minimized through cooperation, information sharing, and SCAG's ongoing regional planning efforts such as web-based planning tools for local governments including CA LOTS, and other GIS tools and data services, including, but not limiting to, Map Gallery, GIS library, and GIS applications; and direct technical assistance efforts such as training series and sharing of associated online training materials. SCAG shall consult with resource agencies such as the National Park Service, United States Forest Service, and Bureau of Land Management to identify opportunities for early and effective consultation to identify unique paleontological resources and unique geological features to avoid such resources wherever practicable and feasible and reduce or mitigation for conflicts in compatible land use to the maximum extent practicable.	Ongoing over the life of the plan	SCAG
PMM GEO-2: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the State CEQA Guidelines, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to paleontological resources. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Ensure compliance with the Paleontological Resources Preservation Act, the Federal Land Policy and Management Act, the Antiquities Act, Section 5097.5 of the Public Resources Code (PRC), adopted county and city general plans, and other federal, state and local regulations, as applicable and feasible, by adhering to and incorporating the performance standards and practices from the 2010 Society for Vertebrate Paleontology (SVP) standard procedures for the	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
assessment and mitigation of adverse impacts to paleontological resources. b) Obtain review by a qualified paleontologist (e.g. who meets the SVP standards for a Principal Investigator or Project Paleontologist or the Bureau of Land Management (BLM) standards for a Principal Investigator), to determine if the project has the potential to require ground disturbance of parent material with potential to contain unique paleontological or resources, or to require the substantial alteration of a unique geologic feature. The assessment should include museum records searches, a review of geologic mapping and the scientific literature, geotechnical studies (if available), and potentially a pedestrian survey, if units with paleontological potential are present at the surface. c) Avoid exposure or displacement of parent material with potential to yield unique paleontological resources. d) Where avoidance of parent material with the potential to yield unique paleontological resources is not feasible: 1. All on-site construction personnel receive Worker Education and Awareness Program (WEAP) training prior to the commencement of excavation work to understand the regulatory framework that provides for protection of paleontological resources and become familiar with diagnostic characteristics of the materials with the potential to be encountered. 2. A qualified paleontologist prepares a Paleontological Resource Management Plan (PRMP) to guide the salvage, documentation and repository of unique paleontological resources encountered during construction. The PRMP should adhere to and incorporate the performance standards and practices from the 2010 SVP Standard procedures for the assessment and mitigation of adverse impacts to paleontological resources. If unique paleontological resources are encountered during construction, use a qualified paleontologist to oversee the implementation of the PRMP. 3. Monitor ground disturbing activities in parent material, with a moderate to high potential to yield unique paleontological resources using a qualified paleontological monitor meeting the standards of the SVP or the BLM to determine if unique paleontological resources are encountered during such activities, consistent with the specified or comparable protocols. 4. Identify where ground disturbance is proposed in a geologic unit having the potential for containing fossils and specify the need for a paleontological monitor to be present during ground disturbance in these areas. e) Avoid routes and project designs that would permanently alter unique geological features. f) Salvage and document adversely affected resources sufficient to support ongoing scientific research and education. g) Significant recovered fossils should be prepared to the point of curation, identified by qualified experts, listed in a database to facilitate analysis, and deposited in a designated paleontological curation facility. h) Following the conclusion of the paleontological monitoring, the qualified paleontologist should		

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
prepare a report stating that the paleontological monitoring requirement has been fulfilled and summarize the results of any paleontological finds. The report should be submitted to the lead CEQA and the repository curating the collected artifacts, and should document the methods and results of all work completed under the PRMP, including treatment of paleontological materials, results of specimen processing, analysis, and research, and final curation arrangements.		
Greenhouse Gases		
SMM GHG-1: SCAG, in partnership with local air districts, shall continue to work with the counties and cities to adopt qualified GHG reduction plans (e.g., climate action plans [CAPs], develop GHG-reducing planning policies, and implement local climate initiatives. These reductions can be achieved through a combination of programs that implement plans developed collaboratively, including ZNE in new construction, retrofits of existing buildings, incentivizing the development of renewable energy sources that serve both new and existing land uses, as well as measures to reduce GHG emissions form transportation sources.	Ongoing over the life of the plan	SCAG
SMM GHG-2: SCAG shall encourage energy efficient design for buildings, through SCAG's Sustainable Communities Program potentially including strengthening local building codes for new construction and renovation to achieve a higher level of energy efficiency.	Ongoing over the life of the plan	SCAG
SMM GHG-3: SCAG shall continue working with partners including universities, utilities, regulating agencies, the private sector and NGO's, and member agencies to support deployment of electric vehicle (EV) charging in the region. SCAG shall provide resources to member agencies and supply them with available information and data so that they can better take advantage of legislation and funding for EV charging.	Ongoing over the life of the plan	SCAG
SMM GHG-4: SCAG shall continue to pursue partnerships with SCE, municipal utilities, locally operated electricity providers and CPUC to promote energy efficient development in the SCAG region, through coordinated planning and data and information sharing activities.	Ongoing over the life of the plan	SCAG
PMM-GHG-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to greenhouse gas emissions, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Integrate green building measures consistent with CALGreen (California Building Code Title 24), local building codes and other applicable laws, into project design including: i) Use energy efficient materials in building design, construction, rehabilitation, and retrofit. ii) Install energy-efficient lighting, heating, and cooling systems (cogeneration); water heaters; appliances; equipment; and control systems. iii) Reduce lighting, heating, and cooling needs by taking advantage of light-colored roofs, trees for shade, and sunlight. iv) Incorporate passive environmental control systems that account for the characteristics of the natural environment. v) Use high-efficiency lighting and cooking devices.	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
vi) Incorporate passive solar design. vii) Use high-reflectivity building materials and multiple glazing. viii) Prohibit gas-powered landscape maintenance equipment. ix) Install electric vehicle charging stations. x) Reduce wood burning stoves or fireplaces. xi) Provide bike lanes accessibility and parking at residential developments. b) Reduce emissions resulting from projects through implementation of project features, project design, or other measures, such as those described in Appendix F of the State CEQA Guidelines. c) Include off-site measures to mitigate a project's emissions. d) Measures that consider incorporation of Best Available Control Technology (BACT) during design, construction and operation of projects to minimize GHG emissions, including but not limited to: i) Use energy and fuel-efficient vehicles and equipment; ii) Deployment of zero- and/or near zero emission technologies; iii) Use lighting systems that are energy efficient, such as LED technology; iv) Use the minimum feasible amount of GHG-emitting construction materials; v) Use cement blended with the maximum feasible amount of flash or other materials that reduce GHG emissions from cement production; vi) Incorporate design measures to reduce GHG emissions from solid waste management through encouraging solid waste recycling and reuse; vii) Incorporate design measures to reduce energy consumption and increase use of renewable energy; viii) Incorporate design measures to reduce water consumption; ix) Use lighter-colored pavement where feasible; x) Recycle construction debris to maximum extent feasible; xi) Plant shade trees in or near construction projects where feasible; and xii) Solicit bids that include concepts listed above. e) Measures that encourage transit use, carpooling, bike-share and car-share programs, active transportation, and parking strategies, including, but not limited to the following: i) Promote transit-active transportation coordinated strategies; ii) Increase bicycle carrying capacity on transit and rail vehicles; iii) Improve or increase access to transit; iv) Increase access to common goods and services, such as groceries, schools, and day care; v) Incorporate affordable housing into the project;		

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
vi) Incorporate the neighborhood electric vehicle network; vii) Orient the project toward transit, bicycle and pedestrian facilities; viii) Improve pedestrian or bicycle networks, or transit service; ix) Provide traffic calming measures; x) Provide bicycle parking; xi) Limit or eliminate park supply; xii) Unbundle parking costs; xiii) Provide parking cash-out programs; xiv) Implement or provide access to commute reduction program; f) Incorporate bicycle and pedestrian facilities into project designs, maintaining these facilities, and providing amenities incentivizing their use; and planning for and building local bicycle projects that connect with the regional network; g) Improving transit access to rail and bus routes by incentives for construction of transit facilities within developments, and/or providing dedicated shuttle service to transit stations; and h) Adopting employer trip reduction measures to reduce employee trips such as vanpool and carpool programs, providing end-of-trip facilities, and telecommuting programs including but not limited to measures that: i) Provide car-sharing, bike sharing, and ride-sharing programs; ii) Provide transit passes; iii) Shift single occupancy vehicle trips to carpooling or vanpooling, for example providing ride-matching services; iv) Provide incentives or subsidies that increase that use of modes other than single-occupancy vehicle; v) Provide on-site amenities at places of work, such as priority parking for carpools and vanpools, secure bike parking, and showers and locker rooms; vi) Provide employee transportation coordinators at employment sites; vii) Provide a guaranteed ride home service to users of non-auto modes. i) Designate a percentage of parking spaces for ride-sharing vehicles or high-occupancy vehicles, and provide adequate passenger loading and unloading for those vehicles; j) Land use siting and design measures that reduce GHG emissions, including: i) Developing on infill and brownfields sites; ii) Building compact and mixed-use developments near transit; iii) Retaining on-site mature trees and vegetation, and planting new canopy trees; iv) Measures that increase vehicle efficiency, encourage use of zero and low emissions vehicles, or reduce the carbon content of fuels, including constructing or encouraging construction of		

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
electric vehicle charging stations or neighborhood electric vehicle networks, or charging for electric bicycles; and v) Measures to reduce GHG emissions from solid waste management through encouraging solid waste recycling and reuse. k) Consult the SCAG Environmental Justice Toolbox for potential measures to address impacts to low-income and/or minority communities. The measures provided above are also intended to be applied in low income and minority communities as applicable and feasible.		
Hazards and Hazardous Materials		
SMM HAZ-1: SCAG shall work with the U.S. DOT, the Office of Environmental Service Caltrans, and the private sector to continue to conduct driver safety training programs and enforce speed limits on roadways. In an effort to reduce risks associated with the transport of hazardous materials in the SCAG region, SCAG shall encourage the U.S. Department of Transportation and the California Highway Patrol to continue to enforce speed limits and existing regulations governing goods movement and hazardous materials transportation.	Ongoing over the life of the plan	SCAG
SMM HAZ-2: SCAG shall notify member agencies of the importance of ensuring that construction and operation of transportation projects provide for the safe transport and disposal of hazardous waste, consistent with the provisions of HMR, 49 CFR Parts 171–180.	Ongoing over the life of the plan	SCAG
SMM HAZ-3: SCAG shall coordinate with the Office of Environmental Services to identify any transportation infrastructure elements within the SCAG region where risks to people and property occur at an above-average incident level, potentially warranting consideration for remedial design in future regional transportation plans (RTPs).	Ongoing over the life of the plan	SCAG
PMM HAZ-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to the routine transport, use, or disposal of hazardous materials, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Where the construction or operation of projects involves the transport of hazardous material, provide a written plan of proposed routes of travel demonstrating use of roadways designated for the transport of such materials. b) Specify Project requirements for interim storage and disposal of hazardous materials during construction and operation. Storage and disposal strategies must be consistent with applicable federal, state, and local statutes and regulations. Specify the appropriate procedures for interim storage and disposal of hazardous materials, anticipated to be required in support of operations and maintenance activities, in conformance with applicable federal, state, and local statutes and regulations, in the business plan for projects as applicable and appropriate. c) Submit a Hazardous Materials Business/Operations Plan for review and approval by the appropriate local agency. Once approved, keep the plan on file with the Lead Agency (or other appropriate government agency) and update, as applicable. The purpose of the Hazardous Materials Business/Operations Plan is to ensure that employees are adequately trained to handle	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
the materials and provides information to the local fire protection agency should emergency response be required. The Hazardous Materials Business/Operations Plan should include the following: — The types of hazardous materials or chemicals stored and/or used on-site, such as petroleum fuel products, lubricants, solvents, and cleaning fluids. — The location of such hazardous materials. — An emergency response plan including employee training information. — A plan that describes the way these materials are handled, transported and disposed. d) Follow manufacturer's recommendations on use, storage, and disposal of chemical products used in construction. e) Avoid overtopping construction equipment fuel gas tanks. f) Properly contain and remove grease and oils during routine maintenance of construction equipment. g) Properly dispose of discarded containers of fuels and other chemicals. h) Prior to shipment remove the most volatile elements, including flammable natural gas liquids, as feasible. i) Identify and implement more stringent tank car safety standards. j) Improve rail transportation route analysis, and modification of routes based on that analysis. k) Use the best available inspection equipment and protocols and implement positive train control. l) Reduce train car speeds to 40 miles per hour when passing through urbanized areas of any size. m) Limit storage of crude oil tank cars in urbanized areas of any size and provide appropriate security in storage yards for all shipments. n) Notify in advance county and city emergency operations offices of all crude oil shipments, including a contact number that can provide real-time information in the event of an oil train derailment or accident. o) Report quarterly hazardous commodity flow information, including classification and characterization of materials being transported, to all first response agencies (49 Code Fed. Regs. 15.5) along the mainline rail routes used by trains carrying crude oil identified. p) Fund training and outfitting emergency response crews that includes the cost of backfilling personnel while in training. q) Undertake annual emergency responses scenario/field based training including Emergency Operations Center Training activations with local emergency response agencies.		
PMM HAZ-2: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce hazards related to the reasonably foreseeable upsets and accidents involving the release of hazardous materials, as applicable and feasible. Such measures may include the following or other comparable	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
measures identified by the Lead Agency: Require implementation of safety standards regarding transport of hazardous materials, including but not limited to the following: a) Removal of the most volatile elements, including flammable natural gas liquids, prior to shipment; b) More stringent tank car safety standards; c) Improved rail transportation route analysis, and modification of routes based on that analysis; d) Utilization of the best available inspection equipment and protocols, and implementation of positive train control; e) Reduced train car speeds to 40 miles per hour when passing through urbanized areas of any size; f) Limitations on storage of hazardous materials tank cars in urbanized areas of any size and provide appropriate security in storage yards for all shipments; g) Advance notification to county and city emergency operations offices of all crude oil and hazardous materials shipments, including a contact number that can provide real-time information in the event of an oil train derailment or accident; h) Quarterly hazardous commodity flow information, including classification and characterization of materials being transported, to all first response agencies (49 Code Fed. Regs. 15.5) along the mainline rail routes used by trains carrying hazardous materials.		
PMM HAZ-3: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to the release of hazardous materials within one-quarter mile of schools, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Where the construction and operation of projects involves the transport of hazardous materials, avoid transport of such materials within one-quarter mile of schools, when school is in session, wherever feasible. b) Where it is not feasible to avoid transport of hazardous materials, within one-quarter mile of schools on local streets, provide notifications of the anticipated schedule of transport of such materials.	Ongoing over the life of the plan	Lead Agency
PMM HAZ-4: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to projects that are located on a site which is included on the Cortese List, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) For any listed sites or sites that have the potential for residual hazardous materials as a result of historic land uses, complete a Phase I Environmental Site Assessment, including a review and consideration of data from all known databases of contaminated sites, during the process of	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
planning, environmental clearance, and construction for projects. b) Where warranted due to the known presence of contaminated materials, submit to the appropriate agency responsible for hazardous materials/wastes oversight a Phase II Environmental Site Assessment report if warranted by a Phase I report for the project site. The reports should make recommendations for remedial action, if appropriate, and be signed by a Registered Environmental Assessor, Professional Geologist, or Professional Engineer. c) Implement the recommendations provided in the Phase II Environmental Site Assessment report, where such a report was determined to be necessary for the construction or operation of the project, for remedial action. d) Submit a copy of all applicable documentation required by local, state, and federal environmental regulatory agencies, including but not limited to: permit applications, Phase I and II Environmental Site Assessments, human health and ecological risk assessments, remedial action plans, risk management plans, soil management plans, and groundwater management plans. e) Conduct soil sampling and chemical analyses of samples, consistent with the protocols established by the U.S. EPA to determine the extent of potential contamination beneath all underground storage tanks (USTs), elevator shafts, clarifiers, and subsurface hydraulic lifts when on-site demolition or construction activities would potentially affect a particular development or building. f) Consult with the appropriate local, state, and federal environmental regulatory agencies to ensure sufficient minimization of risk to human health and environmental resources, both during and after construction, posed by soil contamination, groundwater contamination, or other surface hazards including, but not limited to, underground storage tanks, fuel distribution lines, waste pits and sumps. g) Obtain and submit written evidence of approval for any remedial action if required by a local, state, or federal environmental regulatory agency. h) Cease work if soil, groundwater, or other environmental medium with suspected contamination is encountered unexpectedly during construction activities (e.g., identified by odor or visual staining, or if any underground storage tanks, abandoned drums, or other hazardous materials or wastes are encountered), in the vicinity of the suspect material. Secure the area as necessary and take all appropriate measures to protect human health and the environment, including but not limited to, notification of regulatory agencies and identification of the nature and extent of contamination. Stop work in the areas affected until the measures have been implemented consistent with the guidance of the appropriate regulatory oversight authority. i) Soil generated by construction activities should be stockpiled on-site in a secure and safe manner. All contaminated soils determined to be hazardous or non-hazardous waste must be adequately profiled (sampled) prior to acceptable reuse or disposal at an appropriate off-site facility. Complete sampling and handling and transport procedures for reuse or disposal, in accordance with applicable local, state and federal laws and policies. j) Groundwater pumped from the subsurface should be contained on-site in a secure and safe		

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
manner, prior to treatment and disposal, to ensure environmental and health issues are resolved pursuant to applicable laws and policies. Utilize engineering controls, which include impermeable barriers to prohibit groundwater and vapor intrusion into the building. k) As needed and appropriate, prior to issuance of any demolition, grading, or building permit, submit for review and approval by the Lead Agency (or other appropriate government agency) written verification that the appropriate federal, state and/or local oversight authorities, including but not limited to the Regional Water Quality Control Board (RWQCB), have granted all required clearances and confirmed that the all applicable standards, regulations, and conditions have been met for previous contamination at the site. l) Develop, train, and implement appropriate worker awareness and protective measures to assure that worker and public exposure is minimized to an acceptable level and to prevent any further environmental contamination as a result of construction. m) If asbestos-containing materials (ACM) are found to be present in building materials to be removed, submit specifications signed by a certified asbestos consultant for the removal, encapsulation, or enclosure of the identified ACM in accordance with all applicable laws and regulations, including but not necessarily limited to: California Code of Regulations, Title 8; Business and Professions Code; Division 3; California Health and Safety Code Section 25915-25919.7; and other local regulations. n) Where projects include the demolitions or modification of buildings constructed prior to 1978, complete an assessment for the potential presence or lack thereof of ACM, lead based paint, and any other building materials or stored materials classified as hazardous waste by state or federal law. o) Where the remediation of lead-based paint has been determined to be required, provide specifications to the appropriate agency, signed by a certified Lead Supervisor, Project Monitor, or Project Designer for the stabilization and/or removal of the identified lead paint in accordance with all applicable laws and regulations, including but not necessarily limited to: California Occupational Safety and Health Administration's (Cal OSHA's) Construction Lead Standard, Title 8 California Code of Regulations (CCR) Section 1532.1 and Department of Health Services (DHS) Regulation 17 CCR Sections 35001–36100, as may be amended. If other materials classified as hazardous waste by state or federal law are present, the project sponsor should submit written confirmation to the appropriate local agency that all state and federal laws and regulations should be followed when profiling, handling, treating, transporting, and/or disposing of such materials.		
SMM HAZ-5: SCAG shall continue to collaborate with key stakeholders on regional aviation planning issues through the Aviation Technical Advisory Committee (ATAC). The ATAC is a partnership between the airports, transportation agencies and commissions, experts, and other community members.	Ongoing over the life of the plan	SCAG
PMM HAZ-5: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects which may impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan, as applicable and feasible. Such	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
measures may include the following or other comparable measures identified by the Lead Agency: a) Continue to coordinate locally and regionally based on ongoing review and integration of projected transportation and circulation conditions. b) Develop new methods of conveying projected and real time information to citizens using emerging electronic communication tools including social media and cellular networks; c) Continue to evaluate lifeline routes for movement of emergency supplies and evacuation.		
Hydrology and Water Quality		
SMM HYD-1: SCAG shall continue to work with local jurisdictions and water quality agencies to encourage regional-scale planning for improved water quality management and pollution prevention. Future impacts to water quality shall be avoided to the extent practical and feasible through cooperative planning, information sharing, and comprehensive pollution control measure development within the SCAG region. This cooperative planning shall occur as part of current and existing coordination, an integral part of SCAG's ongoing regional planning efforts.	Ongoing over the life of the plan	SCAG
PMM HYD-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects from violation of any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Complete, and have approved, a Stormwater Pollution Prevention Plan (SWPPP) prior to initiation of construction. b) Implement Best Management Practices to reduce the peak stormwater runoff from the project site to the maximum extent practicable. c) Comply with the Caltrans storm water discharge permit as applicable; and identify and implement Best Management Practices to manage site erosion, wash water runoff, and spill control. d) Complete, and have approved, a Standard Urban Stormwater Management Plan, prior to occupancy of residential or commercial structures. e) Ensure adequate capacity of the surrounding stormwater system to support stormwater runoff from new or rehabilitated structures or buildings. f) Prior to construction within an area subject to Section 404 of the Clean Water Act, obtain all required permit approvals and certifications for construction within the vicinity of a watercourse: g) Where feasible, restore or expand riparian areas such that there is no net loss of impervious surface as a result of the project. h) Install structural water quality control features, such as drainage channels, detention basins, oil and grease traps, filter systems, and vegetated buffers to prevent pollution of adjacent water resources by polluted runoff where required by applicable urban storm water runoff discharge	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
permits, on new facilities. i) Provide operational best management practices for street cleaning, litter control, and catch basin cleaning are implemented to prevent water quality degradation in compliance with applicable storm water runoff discharge permits; and ensure treatment controls are in place as early as possible, such as during the acquisition process for rights-of-way, not just later during the facilities design and construction phase. j) Comply with applicable municipal separate storm sewer system discharge permits as well as Caltrans' storm water discharge permit including long-term sediment control and drainage of roadway runoff. k) Incorporate as appropriate treatment and control features such as detention basins, infiltration strips, and porous paving, other features to control surface runoff and facilitate groundwater recharge into the design of new transportation projects early on in the process to ensure that adequate acreage and elevation contours are provided during the right-of-way acquisition process. l) Upgrade stormwater drainage facilities to accommodate any increased runoff volumes. These upgrades may include the construction of detention basins or structures that will delay peak flows and reduce flow velocities, including expansion and restoration of wetlands and riparian buffer areas. System designs shall be completed to eliminate increases in peak flow rates from current levels. m) Encourage Low Impact Development (LID) and incorporation of natural spaces that reduce, treat, infiltrate and manage stormwater runoff flows in all new developments, where practical and feasible.		
SMM HYD-2: SCAG shall build from existing efforts including those at the sub-regional and local level and shall continue to work with local jurisdictions and water agencies, to encourage regional-scale planning for improved stormwater management and groundwater recharge, including consideration of alternative recharge technologies and practices. Future adverse impacts may be avoided through cooperative planning, information sharing, and comprehensive implementation efforts within the SCAG region.	Ongoing over the life of the plan	SCAG
PMM HYD-2: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects from violation of any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Avoid designs that require continual dewatering where feasible. For projects requiring continual dewatering facilities, implement monitoring systems and long-term administrative procedures to ensure proper water management that prevents degrading of surface water and minimizes adverse impacts on groundwater for the life of the project, Construction designs shall comply with appropriate building codes and standard practices including the Uniform Building	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
Code. a) Maximize, where practical and feasible, permeable surface area in existing urbanized areas to protect water quality, reduce flooding, allow for groundwater recharge, and preserve wildlife habitat. Minimize new impervious surfaces, including the use of in-lieu fees and off-site mitigation. b) Avoid construction and siting on groundwater recharge areas, to prevent conversion of those areas to impervious surface. c) Reduce hardscape to the extent feasible to facilitate groundwater recharge as appropriate.		
SMM HYD-3: SCAG shall build from existing efforts including those at the sub-regional and local level and shall continue to work with local jurisdictions to encourage regional-scale planning for maintaining and/or improving existing drainage patterns. Future adverse impacts may be avoided through cooperative planning, information sharing, and comprehensive implementation efforts within the SCAG region.	Ongoing over the life of the plan	SCAG
SMM HYD-4: SCAG shall continue to work with local jurisdictions and water quality agencies to encourage flood protection and prevent development in flood hazard areas that do not have appropriate protections. This shall be accomplished through cooperation and information sharing regarding specific alignments and rights-of-way planning for RTP projects, and regional program development as part of SCAG's ongoing regional planning efforts. These include but are not limited to web-based data distribution planning tools and sustainability programs in conjunction with local governments. Such services would potentially consist of an inventory of areas located in or near a 100-year flood hazard zone or hazard areas that would potentially be affected by a failure of a levee or dam; or inundation by seiche, tsunami, or mudflow.	Ongoing over the life of the plan	SCAG
PMM HYD-4: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures capable of avoiding or reducing the potential impacts of locating structures that would impede or redirect flood flows, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Ensure that all roadbeds for new highway and rail facilities be elevated at least one foot above the 100-year base flood elevation. Since alluvial fan flooding is not often identified on FEMA flood maps, the risk of alluvial fan flooding should be evaluated and projects should be sited to avoid alluvial fan flooding. Delineation of floodplains and alluvial fan boundaries should attempt to account for future hydrologic changes caused by global climate change.	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
Land Use and Planning		
SMM LU-1: SCAG shall coordinate with local County Transportation Commissions, Caltrans and other implementing agencies when siting new facilities in residential areas to facilitate minimizing future impacts of transportation projects on established communities, through cooperation, information sharing, and regional program development as part of SCAG's ongoing regional planning efforts to promote best planning practices.	Ongoing over the life of the plan	SCAG
PMM LU-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects that physically divide a community, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Facilitate good design for land use projects that build upon and improve existing circulation patterns b) Encourage implementing agencies to orient transportation projects to minimize impacts on existing communities by: — Selecting alignments within or adjacent to existing public rights of way. — Design sections above or below-grade to maintain viable vehicular, cycling, and pedestrian connections between portions of communities where existing connections are disrupted by the transportation project. — Wherever feasible incorporate direct crossings, overcrossings, or under crossings at regular intervals for multiple modes of travel (e.g., pedestrians, bicyclists, vehicles). c) Where it has been determined that it is infeasible to avoid creating a barrier in an established community, consider other measures to reduce impacts, including but not limited to: — Alignment shifts to minimize the area affected. — Reduction of the proposed right-of-way take to minimize the overall area of impact. — Provisions for bicycle, pedestrian, and vehicle access across improved roadways.	Ongoing over the life of the plan	Lead Agency
SMM LU-2: SCAG shall continue to promote the Intergovernmental Review (IGR) Program as an internal and external informational tool by reviewing and monitoring all projects submitted to SCAG for review and working with local jurisdictions to ensure that submitted projects support the most currently adopted Connect SoCal Plan. SCAG shall provide comment letters on regionally significant projects to recommend additional resources to help the lead agency support or develop a projects that are consistent with the Plan, as appropriate. The IGR Mapping Tool can also be utilized by local jurisdictions to assess regional impacts. To visit the IGR Mapping tool, please go to: https://maps.scag.ca.gov/IGR/. For more information on SCAG's IGR Program, please visit: http://www.scag.ca.gov/programs/Pages/IGR.aspx.	Ongoing over the life of the plan	SCAG
SMM LU-3: SCAG shall encourage cities and counties in the region to provide SCAG with electronic versions of their most recent general plan (and associated environmental document) and any updates as they are produced.	Ongoing over the life of the plan	SCAG

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
SMM LU-4: SCAG shall continue to provide targeted technical services such as GIS and data support for cities and counties to update their general plans at least every ten years, as recommended by the Governor's Office of Planning and Research.	Ongoing over the life of the plan	SCAG
SMM LU-5: SCAG shall provide technical assistance and regional leadership to encourage implementation of the Plan goals and strategies that integrate growth and land use planning with the existing and planned transportation network.	Ongoing over the life of the plan	SCAG
PMM LU-2: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects that physically divide a community, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) When an inconsistency with the adopted general plan policy or land use regulation (adopted for the purpose of avoiding or mitigating an impact) is identified modify the transportation or land use project to eliminate the conflict; or, determine if the environmental, social, economic, and engineering benefits of the project warrant an amendment to the general plan or land use regulation.	Ongoing over the life of the plan	Lead Agency
Mineral Resources		
SMM MIN-1: SCAG shall coordinate with the Department of Conservation, California Geological Survey to maintain a database of (1) available mineral resources in the SCAG region including permitted and unpermitted aggregate resources and (2) the anticipated 50-year demand for aggregate and other mineral resources. Based on the results of this survey, SCAG shall work with local agencies on strategies to address anticipated demand, including identifying future sites that may seek permitting and working with industry experts to identify ways to encourage and increase recycling to reduce the demand for aggregate.	Ongoing over the life of the plan	SCAG
PMM MIN-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce the use of mineral resources that could be of value to the region, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Provide for the efficient use of known aggregate and mineral resources or locally important mineral resource recovery sites, by ensuring that the consumptive use of aggregate resources is minimized and that access to recoverable sources of aggregate is not precluded, as a result of construction, operation and maintenance of projects. b) Where avoidance is infeasible, minimize impacts to the efficient and effective use of recoverable sources of aggregate through measures that have been identified in county and city general plans, or other comparable measures such as: 1) Recycle and reuse building materials resulting from demolition, particularly aggregate resources, to the maximum extent practicable. 2) Identify and use building materials, particularly aggregate materials, resulting from demolition at other construction sites in the SCAG region, or within a reasonable hauling	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
distance of the project site. 3) Design transportation network improvements in a manner (such as buffer zones or the use of screening) that does not preclude adjacent or nearby extraction of known mineral and aggregate resources following completion of the improvement and during long-term operations. 4) Avoid or reduce impacts on known aggregate and mineral resources and mineral resource recovery sites through the evaluation and selection of project sites and design features (e.g., buffers) that minimize impacts on land suitable for aggregate and mineral resource extraction by maintaining portions of MRZ-2 areas in open space or other general plan land use categories and zoning that allow for mining of mineral resources.		
Noise		
SMM-NOISE-1: SCAG shall coordinate with CTCs and member agencies as part of SCAG's outreach and technical assistance to local governments to encourage transportation projects and projects involving residential and commercial land uses to mitigate noise and vibration or be developed in areas that are normally acceptable or conditionally acceptable, consistent with applicable guidelines (i.e., OPR, Caltrans, etc.).	Ongoing over the life of the plan	SCAG
PMM NOISE-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects that physically divide a community, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Install temporary noise barriers during construction. b) Include permanent noise barriers and sound-attenuating features as part of the project design. Barriers could be in the form of outdoor barriers, sound walls, buildings, or earth berms to attenuate noise at adjacent sensitive uses. c) Schedule construction activities consistent with the allowable hours pursuant to applicable general plan noise element or noise ordinance d) Post procedures and phone numbers at the construction site for notifying the Lead Agency staff, local Police Department, and construction contractor (during regular construction hours and off-hours), along with permitted construction days and hours, complaint procedures, and who to notify in the event of a problem. e) Notify neighbors and occupants within 300 feet of the project construction area at least 30 days in advance of anticipated times when noise levels are expected to exceed limits established in the noise element of the general plan or noise ordinance. f) Designate an on-site construction complaint and enforcement manager for the project. g) Ensure that construction equipment are properly maintained per manufacturers' specifications and fitted with the best available noise suppression devices (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds silencers, wraps). All intake and exhaust ports on power equipment shall be muffled or	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
shielded.		
h) Use hydraulically or electrically powered tools (e.g., jack hammers, pavement breakers, and rock drills) for project construction to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust should be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves should be used, if such jackets are commercially available, and this could achieve a further reduction of 5 dBA. Quieter procedures should be used, such as drills rather than impact equipment, whenever such procedures are available and consistent with construction procedures.		
i) Where feasible, design projects so that they are depressed below the grade of the existing noise-sensitive receptor, creating an effective barrier between the roadway and sensitive receptors.		
j) Where feasible, improve the acoustical insulation of dwelling units where setbacks and sound barriers do not provide sufficient noise reduction.		
k) Using rubberized asphalt or "quiet pavement" to reduce road noise for new roadway segments, roadways in which widening or other modifications require re-pavement, or normal reconstruction of roadways where re-pavement is planned		
l) Projects that require pile driving or other construction noise above 90 dBA in proximity to sensitive receptors, should reduce potential pier drilling, pile driving and/or other extreme noise generating construction impacts greater than 90 dBA; a set of site-specific noise attenuation measures should be completed under the supervision of a qualified acoustical consultant.		
m) Use land use planning measures, such as zoning, restrictions on development, site design, and buffers to ensure that future development is compatible with adjacent transportation facilities and land uses;		
n) Monitor the effectiveness of noise reduction measures by taking noise measurements and installing adaptive mitigation measures to achieve the standards for ambient noise levels established by the noise element of the general plan or noise ordinance.		
o) Use equipment and trucks with the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds, wherever feasible) for project construction.		
p) Stationary noise sources can and should be located as far from adjacent sensitive receptors as possible and they should be muffled and enclosed within temporary sheds, incorporate insulation barriers, or use other measures as determined by the Lead Agency (or other appropriate government agency) to provide equivalent noise reduction.		
q) Use of portable barriers in the vicinity of sensitive receptors during construction.		
r) Implement noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings (for instance by the use of sound blankets), and implement if such measures are feasible and would noticeably reduce noise impacts.		
s) Monitor the effectiveness of noise attenuation measures by taking noise measurements.		
t) Maximize the distance between noise-sensitive land uses and new roadway lanes, roadways, rail		

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
lines, transit centers, park-and-ride lots, and other new noise-generating facilities. u) Construct sound reducing barriers between noise sources and noise-sensitive land uses. v) Stationary noise sources can and should be located as far from adjacent sensitive receptors as possible and they should be muffled and enclosed within temporary sheds, incorporate insulation barriers, or use other measures as determined by the Lead Agency (or other appropriate government agency) to provide equivalent noise reduction. w) Use techniques such as grade separation, buffer zones, landscaped berms, dense plantings, sound walls, reduced-noise paving materials, and traffic calming measures. x) Locate transit-related passenger stations, central maintenance facilities, decentralized maintenance facilities, and electric substations away from sensitive receptors to the maximum extent feasible. y) Consult the SCAG Environmental Justice Toolbox for potential measures to address impacts to low-income and/or minority communities.		
PMM NOISE-2: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to violating air quality standards, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) For projects that require pile driving or other construction techniques that result in excessive vibration, such as blasting, determine the potential vibration impacts to the structural integrity of the adjacent buildings within 50 feet of pile driving locations. b) For projects that require pile driving or other construction techniques that result in excessive vibration, such as blasting, determine the threshold levels of vibration and cracking that could damage adjacent historic or other structure, and design means and construction methods to not exceed the thresholds. c) For projects where pile driving would be necessary for construction due to geological conditions, utilize quiet pile driving techniques such as predrilling the piles to the maximum feasible depth, where feasible. Predrilling pile holes will reduce the number of blows required to completely seat the pile and will concentrate the pile driving activity closer to the ground where pile driving noise can be shielded more effectively by a noise barrier/curtain. d) Restrict construction activities to permitted hours in accordance with local jurisdiction regulation. e) Properly maintain construction equipment and outfit construction equipment with the best available noise suppression devices (e.g., mufflers, silences, wraps). f) Prohibit idling of construction equipment for extended periods of time in the vicinity of sensitive receptors.	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
Population and Housing		
SMM-POP-1: SCAG shall promote the Sustainability Program which will provide technical assistance to local jurisdictions that support local planning and implementation of the Connect SoCal Plan. The program recognizes sustainable solutions to local growth challenges and will result in local plans that promote sustainability through the integration of transportation and land use. For more information please visit: http://sustain.scag.ca.gov/Documents/Sustainable%20Communities%20Program%20Guidelines.pdf.	Ongoing over the life of the plan	SCAG
SMM-POP-2: SCAG shall provide technical assistance to local governments, transit agencies and developers within the region to build housing capacity to compete in the statewide Affordable Housing Sustainable Communities (AHSC) grants program. The AHSC program is one of the few state funding opportunities to address housing shortages within the state. For more information please visit: http://ahsc.scag.ca.gov/Pages/Home.aspx.	Ongoing over the life of the plan	SCAG
SMM-POP-3: SCAG shall host summits that addresses the housing crisis and provides solutions to build more housing. Examples include the 2016 Housing Summit (http://www.scag.ca.gov/SiteAssets/HousingSummit/index.html) and the Eighth Annual Economic Summit (https://www.scag.ca.gov/calendar/Pages/8thEconomicSummit.aspx).	Ongoing over the life of the plan	SCAG
SMM-POP-4: SCAG shall continue to produce the biennial Local Profile reports for all member jurisdictions in the SCAG region for the purpose of data and information sharing. The Local Profiles reports provide a variety of demographic, economic, education, housing, and transportation information that local jurisdictions can utilize like project and program planning. For more information about the most recently release 2019 Local Profiles, please visit: http://www.scag.ca.gov/DataAndTools/Pages/LocalProfiles.aspx.	Ongoing over the life of the plan	SCAG
SMM-POP-5: SCAG shall assist cities to identify funding and financing opportunities and potential partnerships for public infrastructure improvements for transit-oriented development and other smart growth projects.	Ongoing over the life of the plan	SCAG
PMM-POP-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce the displacement of existing housing, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Evaluate alternate route alignments and transportation facilities that minimize the displacement of homes and businesses. Use an iterative design and impact analysis where impacts to homes or businesses are involved to minimize the potential of impacts on housing and displacement of people. b) Prioritize the use existing ROWs, wherever feasible. c) Develop a construction schedule that minimizes potential neighborhood deterioration from protracted waiting periods between right-of-way acquisition and construction. d) Review capacities of available urban infrastructure and augment capacities as needed to accommodate demand in locations where growth is desirable to the local lead Agency and encouraged by the SCS (primarily TPAs, where applicable). e) When General Plans and other local land use regulations are amended or updated, use the most recent growth projections and RHNA allocation plan.	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
Public Services		
SMM PSF-1: SCAG shall assist planners, first responders, and recovery teams in a supporting role, in three key areas, before a major emergency and during the recovery period: • Provide a policy forum to help develop regional consensus and education on security policies and emergency responses. • Assist in expediting the planning and programming of transportation infrastructure repairs from major disasters. • Encourage integration of transportation security measures into transportation projects early in the project development process by leveraging SCAG's relevant plans, programs, and processes, including regional ITS architecture. An example includes SCAG's participation in the development of the Southern California Catastrophic Earthquake Preparedness Plan.[2]	Ongoing over the life of the plan	SCAG
SMM PSF-2: SCAG shall facilitate minimizing future impacts to fire protection services through information sharing regarding Fire-wise Land Management (data regarding fire-resistant vegetation, fire-resistant materials, locations where development is potentially hazardous in regard to wildfire, and management of brush and other fire risks in the immediate vicinity of development in areas with high fire threat) with county and city planning departments.	Ongoing over the life of the plan	SCAG
SMM PSP-1: SCAG shall facilitate minimizing future impacts to library services through cooperation, information sharing, and regional program development as part of SCAG's ongoing regional planning efforts, such as web-based planning tools for local government including CA LOTS, and other GIS tools and data services, including, but not limited to Map Gallery, GIS library, and GIS applications, and promote acceptable service ratios regarding library services.	Ongoing over the life of the plan	SCAG
SMM PSP-2: SCAG shall help to enhance the region's ability to deter and respond to acts of terrorism, human-caused or natural disasters through regionally cooperative and collaborative strategies. SCAG shall work with local officials to develop regional consensus on regional transportation safety, security, and safety security policies.	Ongoing over the life of the plan	SCAG
SMM PSP-3: SCAG shall help to enhance the region's ability to deter and respond to terrorist incidents, human-caused or natural disasters by strengthening relationship and coordination with transportation. This will be accomplished by the following: • SCAG shall work with local officials to develop regional consensus on regional transportation safety, security, and safety security policies. • SCAG shall encourage all SCAG elected officials are educated in NIMS. • SCAG shall work with partner agencies, federal, state and local jurisdictions to improve communications and interoperability and to find opportunities to leverage and effectively utilize transportation and public safety/security resources in support of this effort.	Ongoing over the life of the plan	SCAG

2 California Emergency Management Agency, *Southern California Catastrophic Earthquake Response Plan*, December 2010 https://www.caloes.ca.gov/PlanningPreparednessSite/Documents/SoCalCatastrophicConops(Public)2010.pdf, accessed October 31, 2019.

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
SMM PSP-4: SCAG shall encourage and provide a forum for local jurisdictions to develop mutual aid agreements for essential government services during any incident recovery.	Ongoing over the life of the plan	SCAG
PMM PSP-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects of constructing new emergency response facilities, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: • Coordinate with emergency response agencies to ensure that there are adequate governmental facilities to maintain acceptable service ratios, response times or other performance objectives for emergency response services and that any required additional construction of buildings is incorporated in to the project description. • Where current levels of services at the project site are found to be inadequate, provide fair share contributions towards infrastructure improvements, as appropriate and applicable, to mitigate identified CEQA impacts. • Project sponsors can and should develop traffic control plans for individual projects. Traffic control plans should include information on lane closures and the anticipated flow of traffic during the construction period. The basic objective of each traffic control plan (TCP) is to permit the contractor to work within the public right of way efficiently and effectively while maintaining a safe, uniform flow of traffic. The construction work and the public traveling through the work zone in vehicles, bicycles or as pedestrians must be given equal consideration when developing a traffic control plan.	Ongoing over the life of the plan	Lead Agency
SMM PSS-1: SCAG shall facilitate minimizing future impacts to school services through cooperation, information sharing, and regional program development as part of SCAG's ongoing regional planning efforts, such as web-based planning tools for local government including CA LOTS, and other GIS tools and data services, including, but not limited to, Map Gallery, GIS library, and GIS applications, and direct technical assistance efforts to promote school planning efforts.	Ongoing over the life of the plan	SCAG
PMM PSS-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the State CEQA Guidelines, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects of constructing new or physically altered school facilities, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Where construction or expansion of school facilities is required to meet public school service ratios, require school district fees, as applicable.	Ongoing over the life of the plan	Lead Agency
SMM PSL-1: SCAG shall facilitate minimizing future impacts to library services through cooperation, information sharing, and regional program development as part of SCAG's ongoing regional planning efforts, such as web-based planning tools for local government including CA LOTS, and other GIS tools and data services, including, but not limited to Map Gallery, GIS library, and GIS applications, and promote acceptable service ratios regarding library services.	Ongoing over the life of the plan	SCAG

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
P**MM PSL-1:** In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects of construction of new or altered library facilities, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Where construction or expansion of library facilities is required to meet public library service ratios, require library fees, as appropriate and applicable, to mitigate identified CEQA impacts.	Ongoing over the life of the plan	Lead Agency
Parks and Recreation		
SMM REC-1: SCAG shall continue the commitment to analyze public health outcomes as part of the Regional Transportation Plan/Sustainable Communities Strategy (Plan). As part of the public health analysis for the Plan, SCAG shall continue to analyze resident access to parks and recreational facilities from a county level to help local jurisdictions to improve resident access to parks. SCAG shall communicate the impacts of the Plan through its Public Health Working group, and continue to support policy changes at the city and county level through educational programs.	Ongoing over the life of the plan	SCAG
PMM REC-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects on the use of existing neighborhood and regional parks or other recreational facilities, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Prior to the issuance of permits, where projects require the construction or expansion of recreational facilities or the payment of equivalent Quimby fees, consider increasing the accessibility to natural areas and lands for outdoor recreation from the proposed project area, in coordination with local and regional open space planning and/or responsible management agencies. b) Prior to the issuance of permits, where projects require the construction or expansion of recreational facilities or the payment of equivalent Quimby fees, encourage patterns of urban development and land use which reduce costs on infrastructure and make better use of existing facilities, using strategies such as: i. Increasing the accessibility to natural areas for outdoor recreation ii. Utilizing "green" development techniques iii. Promoting water-efficient land use and development iv. Encouraging multiple uses, such as the joint use of schools v. Including trail systems and trail segments in General Plan recreation standards.	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
Transportation, Traffic, and Safety		
SMM TRA-1: SCAG shall facilitate minimizing VMT and related vehicular delay by minimizing impacts to circulation and access, improve mobility, and encourage transit and Active Transportation via workshops (i.e., Mobility 21 workshop and Regional Transportation Workgroups) and web-based planning tools for local governments, forums with policy makers, and County Transportation Planning Agencies, member cities, and state partners.	Ongoing over the life of the plan	SCAG
SMM TRA-2: SCAG shall identify further reduction in VMT, and fuel consumption that could be obtained through land-use strategies, additional car-sharing programs with linkage to public transportation, additional vanpools, additional bicycle sharing and parking programs, and implementation of a universal employee transit access pass (TAP) program.	Ongoing over the life of the plan	SCAG
SMM TRA-3: SCAG shall initiate and facilitate an SB 743 implementation program. The grant-funded project, co-sponsored by SCAG and LADOT, seeks to provide technical and mitigation strategy development guidance to local jurisdictions in the six-county SCAG region to facilitate implementation of the VMT-based CEQA transportation impact analysis provisions of SB 743. This coordinated program of technical guidance, evaluation of options, and cooperative engagement with local communities will serve to smooth the transition to the new VMT-reducing development paradigm, helping to ensure a successful region-wide implementation of SB 743 and attainment of the associated GHG reduction goals. Some of the primary features of the scope of work include: • Evaluate the feasibility of various alternative VMT mitigation options, including local and regional VMT exchange and banking programs. • Establish CEQA nexus to reduce VMT through a VMT mitigation exchange or banking program alternative. • Substantiate the legal basis of a VMT exchange program for satisfying CEQA mitigation requirements. • Collaborate with other communities and jurisdictions to reduce VMT through implementation of a VMT mitigation exchange or bank program. • Improve the dissemination of transportation project VMT mitigation options. • Support a variety of TDM strategies for Transportation Management Organization (TMO) membership agencies. • Provide guidance to facilitate establishment of VMT mitigation exchange or bank programs throughout the region and state	Ongoing over the life of the plan	SCAG
SMM TRA-4: SCAG shall continue to analyze and develop potential implementation strategies for a regional, market-based system to price or charge for auto trips during peak hours.	Ongoing over the life of the plan	SCAG
SMM TRA-5: SCAG shall develop a vanpool program for SCAG employees' commute trips.	Ongoing over the life of the plan	SCAG
SMM TRA-6: SCAG shall encourage new developments to incorporate both local and regional transit measures into the project design that promote the use of alternative modes of transportation.	Ongoing over the life of the plan	SCAG

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
PMM-TRA-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to transportation-related impacts, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: • Transportation demand management (TDM) strategies should be incorporated into individual land use and transportation projects and plans, as part of the planning process. Local agencies should incorporate strategies identified in the Federal Highway Administration's publication: Integrating Demand Management into the Transportation Planning Process: A Desk Reference (August 2012) into the planning process (FHWA 2012). For example, the following strategies may be included to encourage use of transit and non-motorized modes of transportation and reduce vehicle miles traveled on the region's roadways: — include TDM mitigation requirements for new developments; — incorporate supporting infrastructure for non-motorized modes, such as, bike lanes, secure bike parking, sidewalks, and crosswalks; — provide incentives to use alternative modes and reduce driving, such as, universal transit passes, road and parking pricing; — implement parking management programs, such as parking cash-out, priority parking for carpools and vanpools; — develop TDM-specific performance measures to evaluate project-specific and system-wide performance; — incorporate TDM performance measures in the decision-making process for identifying transportation investments; — implement data collection programs for TDM to determine the effectiveness of certain strategies and to measure success over time; and — set aside funding for TDM initiatives. — The increase in per capita VMT on facilities experiencing LOS F represents a significant impact compared to existing conditions. To assess whether implementation of these specific mitigation strategies would result in measurable traffic congestion reductions, implementing actions may need to be further refined within the overall parameters of the proposed Plan and matched to local conditions in any subsequent project-level environmental analysis.	Ongoing over the life of the plan	Lead Agency
SMM TRA-7: SCAG shall, in cooperation with local and state agencies, identify critical infrastructure needs necessary for: a) emergency responders to enter the region, b) evacuation of affected facilities, and c) restoration of utilities. In addition, SCAG shall establish transportation infrastructure practices that promote and enhance security.	Ongoing over the life of the plan	SCAG

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
SMM TRA-8: SCAG shall provide the means for collaboration in planning, communication, and information sharing before, during, or after a regional emergency. This will be accomplished by the following: • SCAG shall develop and incorporate strategies and actions pertaining to response and prevention of security incidents and events as part of the on-going regional planning activities. • SCAG shall offer a regional repository of GIS data for use by local agencies in emergency planning, and response, in a standardized format. • SCAG shall enter into mutual aid agreements with other MPOs (as feasible) to provide this data, in coordination with the California OES in the event that an event disrupts SCAG's ability to function.	Ongoing over the life of the plan	SCAG
PMM TRA-2: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects which may substantially impair implementation of an adopted emergency response plan or emergency evacuation plan, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Prior to construction, project implementation agencies can and should ensure that all necessary local and state road and railroad encroachment permits are obtained. The project implementation agency can and should also comply with all applicable conditions of approval. As deemed necessary by the governing jurisdiction, the road encroachment permits may require the contractor to prepare a traffic control plan in accordance with professional engineering standards prior to construction. Traffic control plans can and should include the following requirements: — Identification of all roadway locations where special construction techniques (e.g., directional drilling or night construction) would be used to minimize impacts to traffic flow. — Development of circulation and detour plans to minimize impacts to local street circulation. This may include the use of signing and flagging to guide vehicles through and/or around the construction zone. — Scheduling of truck trips outside of peak morning and evening commute hours. — Limiting of lane closures during peak hours to the extent possible. — Usage of haul routes minimizing truck traffic on local roadways to the extent possible. — Inclusion of detours for bicycles and pedestrians in all areas potentially affected by project construction. — Installation of traffic control devices as specified in the California Department of Transportation Manual of Traffic Controls for Construction and Maintenance Work Zones. — Development and implementation of access plans for highly sensitive land uses such as police and fire stations, transit stations, hospitals, and schools. The access plans would be developed with the facility owner or administrator. To minimize disruption of emergency vehicle access, affected jurisdictions can and should be asked to identify detours for	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
emergency vehicles, which will then be posted by the contractor. Notify in advance the facility owner or operator of the timing, location, and duration of construction activities and the locations of detours and lane closures. — Storage of construction materials only in designated areas. — Coordination with local transit agencies for temporary relocation of routes or bus stops in work zones, as necessary. — Ensure the rapid repair of transportation infrastructure in the event of an emergency through cooperation among public agencies and by identifying critical infrastructure needs necessary for: a) emergency responders to enter the region, b) evacuation of affected facilities, and c) restoration of utilities. — Enhance emergency preparedness awareness among public agencies and with the public at large.		
Tribal Cultural Resources		
SMM TCR-1: SCAG shall consult with the Native American Heritage Commission, as well as Native American tribes, to identify opportunities for early and effective consultation to identify tribal cultural resources to avoid such resources wherever practicable and feasible and reduce or mitigate for conflicts in compatible land use to the maximum extent practicable.	Ongoing over the life of the plan	SCAG
PMM TCR-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects on tribal cultural resources, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Avoidance and preservation of the resources in place, including, but not limited to, planning and construction to avoid the resources and protect the cultural and natural context, or planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria; b) Treating the resource with culturally appropriate dignity taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following: protecting the cultural character and integrity of the resource; protecting the traditional use of the resource; and protecting the confidentiality of the resource; c) Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places; and protecting the resource.	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
Utilities and Service Systems		
SMM USSW-1: During the planning, design, and project-level CEQA review process for individual development projects, SCAG shall coordinate with waste management agencies and the appropriate local and regional jurisdictions to facilitate the development of measures and to encourage diversion of solid waste such as recycling and composting programs, as needed. This includes discouraging siting of new landfills unless all other waste reduction and prevention actions have been fully explored to minimize impacts to neighborhoods.	Ongoing over the life of the plan	SCAG
SMM USSW-2: SCAG shall coordinate with waste management agencies, and the appropriate local and regional jurisdictions, measures to facilitate and encourage diversion of solid waste such as recycling and composting programs.	Ongoing over the life of the plan	SCAG
PMM USSW-2: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce the generation of solid waste, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: Integrate green building measures with CALGreen (California Building Code Title 24) into project design, including but not limited to the following: a) Reuse and minimization of construction and demolition (C&D) debris and diversion of C&D waste from landfills to recycling facilities. b) Inclusion of a waste management plan that promotes maximum C&D diversion. c) Source reduction through (1) use of materials that are more durable and easier to repair and maintain, (2) design to generate less scrap material through dimensional planning, (3) increased recycled content, (4) use of reclaimed materials, and (5) use of structural materials in a dual role as finish material (e.g., stained concrete flooring, unfinished ceilings, etc.). d) Reuse of existing structure and shell in renovation projects. e) Development of indoor recycling program and space. f) Discourage the siting of new landfills unless all other waste reduction and prevention actions have been fully explored. If landfill siting or expansion is necessary, site landfills with an adequate landfill-owned, undeveloped land buffer to minimize the potential adverse impacts of the landfill in neighboring communities. g) Discourage exporting of locally generated waste outside of the SCAG region during the construction and implementation of a project. Encourage disposal within the county where the waste originates as much as possible. Promote green technologies for long-distance transport of waste (e.g., clean engines and clean locomotives or electric rail for waste-by-rail disposal systems) and consistency with SCAQMD and Connect SoCal policies can and should be required. h) Encourage waste reduction goals and practices and look for opportunities for voluntary actions to exceed the 80 percent waste diversion target. i) Encourage the development of local markets for waste prevention, reduction, and recycling	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
practices by supporting recycled content and green procurement policies, as well as other waste prevention, reduction and recycling practices. j) Develop ordinances that promote waste prevention and recycling activities such as: requiring waste prevention and recycling efforts at all large events and venues; implementing recycled content procurement programs; and developing opportunities to divert food waste away from landfills and toward food banks and composting facilities. k) Develop and site composting, recycling, and conversion technology facilities that have minimum environmental and health impacts. l) Integrate reuse and recycling into residential industrial, institutional and commercial projects. m) Provide education and publicity about reducing waste and available recycling services. n) Implement or expand city or county-wide recycling and composting programs for residents and businesses. This could include extending the types of recycling services offered (e.g., to include food and green waste recycling) and providing public education and publicity about recycling services.		
SMM-USWW-1: SCAG shall work with local jurisdictions and wastewater agencies to encourage regional-scale planning for improved wastewater and stormwater management. Future impacts to wastewater and stormwater facilities shall be avoided to the extent practical and feasible through cooperative planning, information sharing, and comprehensive pollution control measure development within the SCAG region. This cooperative planning shall occur as part of current and existing coordination, an integral part of SCAG's ongoing regional planning efforts.	Ongoing over the life of the plan	SCAG
PMM-USWW-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects on utilities and service systems, particularly for construction of wastewater facilities, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: • During the design and CEQA review of individual future projects, implementing agencies and projects sponsors shall determine whether sufficient wastewater capacity exists for the proposed projects. There CEQA determinations must ensure that the proposed development can be served by its existing or planned treatment capacity. If adequate capacity does not exist, project sponsors shall coordinate with the relevant service provider to ensure that adequate public services and utilities could accommodate the increased demand, and if not, infrastructure improvements for the appropriate public service or utility shall be identified in each project's CEQA documentation. The relevant public service provider or utility shall be responsible for undertaking project-level review as necessary to provide CEQA clearance for new facilities.	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
SMM USWS-1: SCAG shall coordinate with local agencies as part of SCAG's Sustainability Program regarding the implementation of Urban Greening, Greenbelts and Community Separator land use strategies. Primary features of land use strategies address the following: • Increased trail and greenway connectivity; • Improved water quality, groundwater recharge and watershed health; • Strategies for stormwater and rainwater collection, infiltration, treatment and release; • Reduce urban runoff; • Expand the urban forest; • Provision of wildlife habitat and increased biodiversity; • Expand recreation opportunities and beautification; • Preserving agrarian economies; • Restore severed wildlife corridors.	Ongoing over the life of the plan	SCAG
PMM USWS-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to ensure sufficient water supplies, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Reduce exterior consumptive uses of water in public areas, and should promote reductions in private homes and businesses, by shifting to drought-tolerant native landscape plantings, using weather-based irrigation systems, educating other public agencies about water use, and installing related water pricing incentives. b) Promote the availability of drought-resistant landscaping options and provide information on where these can be purchased. Use of reclaimed water especially in median landscaping and hillside landscaping can and should be implemented where feasible. c) Implement water conservation best practices such as low-flow toilets, water-efficient clothes washers, water system audits, and leak detection and repair. d) For projects located in an area with existing reclaimed water conveyance infrastructure and excess reclaimed water capacity, use reclaimed water for non- potable uses, especially landscape irrigation. For projects in a location planned for future reclaimed water service, projects should install dual plumbing systems in anticipation of future use. Large developments could treat wastewater onsite to tertiary standards and use it for non-potable uses onsite.	Ongoing over the life of the plan	Lead Agency
~~**Wildfire**~~		
SMM WF-1: SCAG shall facilitate minimizing future impacts to fire protection services through information sharing regarding Fire-wise Land Management (vegetation data, fire-resistant building materials, locations where development is vulnerable to wildfire, and best practices for safe land management) with county and city planning departments. Furthermore, SCAG shall examine wildfire risk management strategies in areas where at-risk critical electrical infrastructure is located based on CPUC and CAL FIRE maps.	Ongoing over the life of the plan	SCAG

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
SMM WF-2: SCAG, in partnership with technical experts and stakeholders shall launch or continue existing initiatives to help local cities and counties to protect Southern California communities and economies from the disruption of wildfire occurrences. Initiatives could include but not be limited to seminars that review the risk of wildfire and approaches for preparation, including strengthening of infrastructure, emergency services, emergency evacuation plans and reviewing building safety codes.	Ongoing over the life of the plan	SCAG
SMM WF-3: SCAG shall develop a regional resilience program and identify specific strategies to reduce vulnerabilities from natural disasters related to land based or atmospheric hazards, climate change, wildfire and other extreme weather events.	Ongoing over the life of the plan	SCAG
PMM WF-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to wildfire risk, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Launch fire prevention education for local cities and counties such that local fire agencies, homeowners, as well as commercial and industrial businesses are aware of potential sources of fire ignition and the related procedures to curb or lessen any activities that might initiate fire ignition. b) Ensure structures in high fire risk areas are built to current state and federal standards which serve to greatly increase the chances the structure will survive a wildfire and also allow for people to shelter-in-place. c) Improve road access for emergency response and evacuation so people can evacuate safely and timely when necessary. d) Improve, and educate regarding, local emergency communications and notifications with residents and businesses. e) Enforce defensible space regulations to keep overgrown and unmanaged vegetation, accumulations of trash and other flammable material away from structures. f) Provide public education about wildfire risk and fire prevention measures, and safety procedures and practices to allow for safe evacuation and/or options to shelter-in-place	Ongoing over the life of the plan	Lead Agency
PMM WF-2: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to wildfire risk, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) New development or infrastructure activity within very high hazard severity zones or SRAs shall be required to — Submit a fire protection plan including the designation of fire watch staff; — Maintain water and other fire suppression equipment designated solely for firefighting on site for any construction and maintenance activities; — Locate construction and maintenance equipment in designated “safe areas” such that they do not discharge combustible materials; and — Designate trained fire watch staff during project construction to reduce risk of fire hazards.	Ongoing over the life of the plan	Lead Agency

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INNOVATING FOR A BETTER TOMORROW

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CONNECT SoCal

EXHIBIT A – MITIGATION MONITORING AND REPORTING
FOR THE FINAL CONNECT SOCAL PEIR

ADOPTED MAY 2020

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Attachment 2

Agenda Item Staff Report

To: Honorable Mayor and Members of City Council, as Successor Agency to the Former San Dimas Redevelopment Agency and City Council
For the meeting of October 11, 2022

From: Chris Constantin, Executive Director and City Manager

Subject: **CONSIDERATION OF JOINT RESOLUTION NO. 2022-53 APPROVING A DISPOSITION AND DEVELOPMENT AGREEMENT AND COVENANT AGREEMENT WITH PIONEER SQUARE, LLC FOR THE SALE AND DEVELOPMENT OF A MIXED-USE PROJECT AT PROPERTIES LOCATED AT 344 WEST BONITA AVENUE (APN: 8386-021-913), SAN DIMAS CALIFORNIA.**

SUMMARY

The Successor Agency to the Former San Dimas Redevelopment Agency owns 344 West Bonita Avenue (APN: 8386-021-913), ("Property"), and seeks to enter into a Disposition and Development Agreement and Covenant Agreement with Pioneer Square, LLC to sell and cause the development of the site with residential, commercial, retail/restaurant and hotel uses that seek to enhance economic and employment opportunities for the City and the surrounding areas.

RECOMMENDATION

City staff recommends that the City Council take the following actions:

1. Discuss the proposed Disposition and Development Agreement (DDA) and Covenant Agreement between the Successor Agency to the Former San Dimas Redevelopment Agency and Pioneer Square, LLC; and

2. Consider approval of Joint Resolution No. 2022-53 approving the Disposition and Development Agreement (DDA) and Covenant Agreement, and CEQA Sustainable Communities Project Exemption (Public Resources Code 21155 et seq).

FISCAL IMPACT

Estimated revenue to the government taxing entities (i.e. City, County, school district, etc.) of $2,635,600 of which the City will see roughly $176,000 in proceeds to the General Fund and

$89,000 in proceeds to the Lighting District fund due to the sale of the property. Based on the most recent information available from PSQ regarding the proposed project, the total future ongoing revenue when the full development is complete and in operation is estimated to be approximately $700,000/annually, which is comprised of $400,000 in Transient Occupancy Tax, $165,000 in direct/indirect sales taxes, and $137,000 in property taxes (including Motor Vehicle In Lieu Fee). The City would also experience an undetermined increase in ongoing business license fees which would vary depending on the number of new businesses, their employee counts and the final number of beds included in the lodging facility. Permit fee collections would also increase during the construction process.

BACKGROUND

City enters into an Exclusive Negotiation Agreement with Fine Hospitality Group which was unsuccessful

In November 2017, the Successor Agency/City (City) entered into an Exclusive Negotiation Agreement (ENA) with Fine Hospitality Group for Fairfield Inn by Marriott for the 3.57-acre property located at 344 West Bonita Avenue, San Dimas, between Cataract and Acacia Avenues (Property). This Property is within proximity to the City's downtown and is adjacent to Pioneer Park. After many Council discussions and community input, the ENA with Fine Hospitality expired in January 2018 and was not renewed.

City hires Kosmont Realty to conduct outreach and market research engaging interest from dozens of developers and potential tenants for the site

In February 2019, the City hired Kosmont Real Estate Services (dba Kosmont Realty) (Kosmont or Kosmont Realty) to conduct initial outreach/market research which included engaging over 60 developers and/or retail and restaurant tenants regarding their interest in the site opportunity. During April/May 2019, Kosmont presented initial findings and potential options to Council in Closed Session regarding the potential sale and disposition of the Property.

City issues initial offering for sale of the property and receives three proposals and/or letters of interests – Pioneer Square LLC was selected

In June 2019, the City issued an initial offering for the sale of the Property. The City received three developer proposals and/or letters of interest for the acquisition and/or development of the Property. Pioneer Square, LLC (PSQ) 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 for the local community and region.

City enters into Exclusive Negotiating Agreement with PSQ

On August 25, 2020, the City entered into an Exclusive Negotiating Agreement (ENA) with PSQ to negotiate the sale and ultimate development of the Property. Since then, there have been a total

of 10 ENA extensions with the most recent one set to expire on October 31, 2022. It is important to note that certain constraints on the Property (e.g. environmental contamination due to historical industrial uses) as well as a worldwide pandemic in 2020 (COVID 19) caused major unforeseen delays/development uncertainties requiring additional time to evaluate the development feasibility of PSQ's proposed mixed-use development project and negotiate sale terms.

City and PSQ negotiate towards developing a Disposition and Development Agreement and Covenant Agreement

Over the past three years, the City has been working with PSQ on multiple variations of its proposed project concept and a Disposition and Development Agreement (DDA) and Covenant Agreement regarding the sale and development of the Property.

The purpose of the DDA and Covenant Agreement (collectively "Agreement") are to allow the City an increased level of discretion when it comes to approving a development and is a voluntary contract between the City and the developer, PSQ, containing various obligations, conditions, and/or expectations for the project development. California law authorizes cities to conduct negotiations to obtain a desired development in exchange for providing specific development rights to the developer. This Agreement provides assurance to the developer to invest and proceed, and for the City, they provide certain requirements and parameters that are desired in the project development.

As with any agreement of this complexity, negotiations are a balance between the needs of the City and the needs of the developer, PSQ. In the end, this is PSQ's project being presented for the City Council's consideration. City staff and consultants worked diligently as the conduit to reflect an agreement which furthers the City's desire for a specific project with PSQ's willingness to enter into specific development restrictions and requirements codified in the Agreement. Although the Agreement is detailed, it cannot cover or address any and every eventuality and detail. As such, there is a level of risk that must be weighed with the benefits, or rewards, derived from the Agreement that is given, and in making any approval decision, the appetite of the City to accept such risk/reward is paramount. While changes to a DDA Agreement occur after initial approval in some cases, it is the initial approval which sets the direction for the project and the point at which both the City and PSQ incur obligations to each other, thus both need to be comfortable with the degree of risk/reward provided in the Project.

This report will outline the history of project development concept variations since PSQ's initial proposal in December 2019, the proposed agreed upon sale price, terms, and commitments within the DDA and Covenant Agreement, and other considerations for City Council review and consideration.

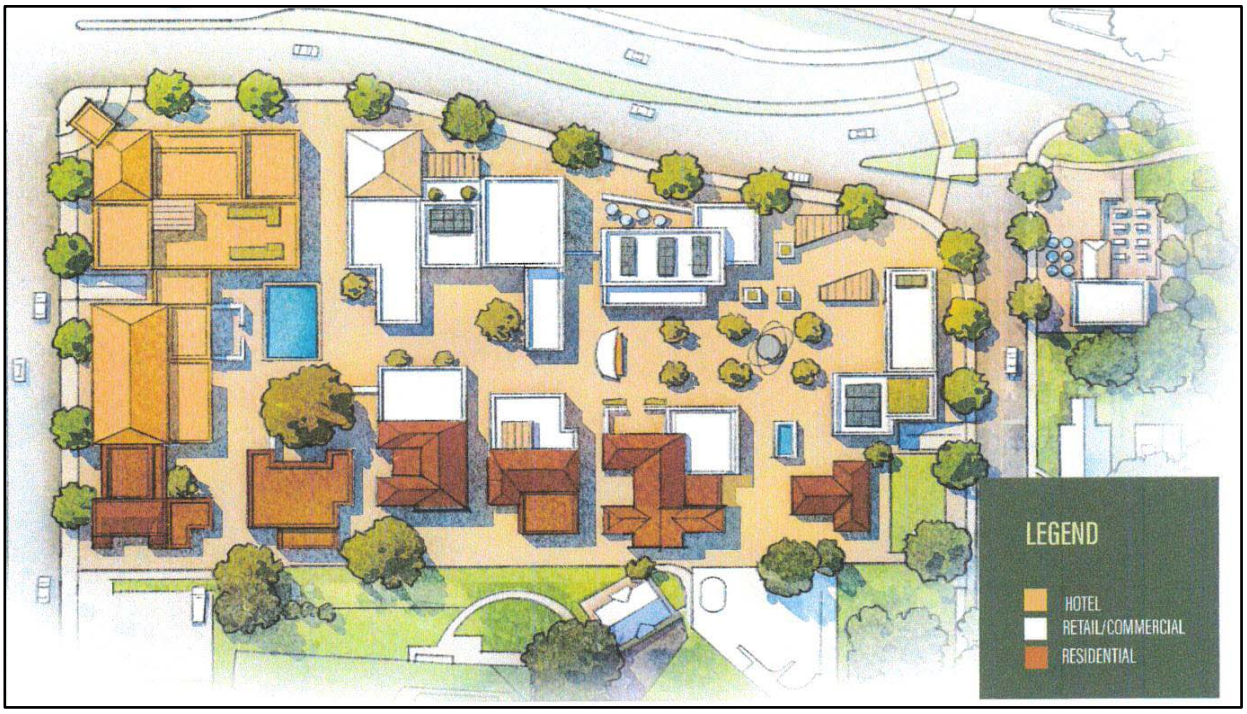
ORIGINAL PROJECT CONCEPT

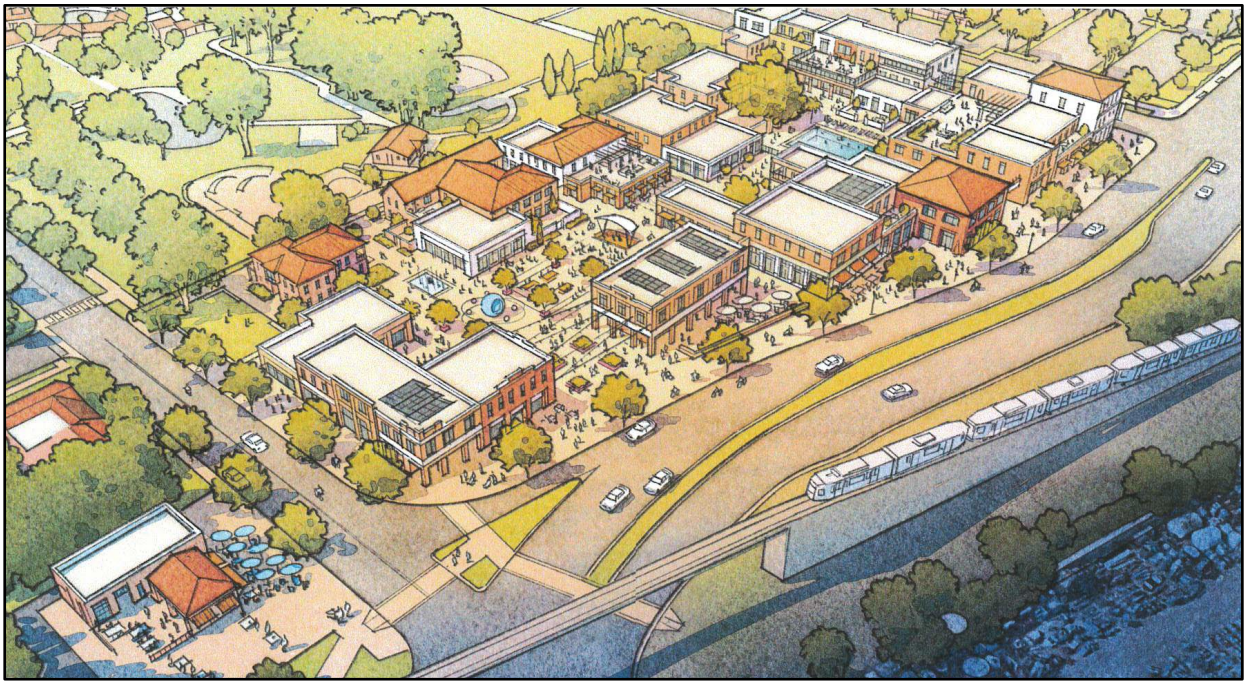
PSQ's original proposed project in December 2019 included:

- A Boutique Hotel of 60-80 Rooms (rooftop restaurant & Bar),
- 28,000 square feet (sf) of restaurant and retail space (Vromans Bookstore as an anchor),

- 15,000 sf of flex/office space,
- Public Town Square space,
- 40 Residential flats/townhouses (1,500-2,100 sf),
- 226 subterranean parking spaces, and
- Purchase price of $3,000,000.

See below concept images provided by PSQ for reference:





PROJECT CONCEPT VARIATION #1

In Summer/Fall of 2021, PSQ made modifications to their proposal to significantly increase the number of residential units from 40-60 units to 80-110 units and building heights from 2 & 3 stories (25-35 feet) to 3 & 4 stories (65 to 70 feet). Additional proposed modifications changed how the Project interfaced with the adjacent Pioneer Park and adjusted the amount of public open space and retail, and relocation of the large Heritage Oak Tree.

The proposed Project, which is illustrated in the image below, included the following revised program:

- A Boutique Hotel of 60-80 Rooms (rooftop restaurant & Bar),
- 30,000 square feet (sf) of restaurant and retail space (Vromans Bookstore as an anchor),
- 20,000 sf of flex/office space,
- Public Town Square space,
- 100 Residential flats/townhouses, and
- 326 subterranean parking spaces.

The City's response to PSQ's proposed concept included specific concerns with Pioneer Park impacts and access and limited proposed park activation, which was only provided through two

public pedestrian access points (stairs) from the development and vastly different than the original proposal. The City also expressed its desire for the Heritage Oak Tree, which was proposed to be moved to Pioneer Park, to remain in place, as well as concerns with the project elevations/massing along Cataract Avenue and Acacia Avenue, including 4-story buildings of approximately 45 feet adjacent to the park, and Americans with Disabilities Act (ADA) access.

On September 28, 2021, at the City's request, PSQ provided a public presentation to the City Council to outline the proposed project changes as well as the need to increase the residential units to make the Project financially feasible. Based on City Council and community feedback, the City requested that PSQ reconfigure its newly revised site plan concept to mitigate the scale/size and distribution of residential units and a parking program that would address the need for sufficient on-site parking.

In December 2021, the City and PSQ were in the process of finalizing a concept plan as well as a Disposition and Development Agreement (DDA) and Covenant Agreement (collectively "Agreement") to be presented to the City Council for review and approval. However, in late December 2021, PSQ proposed a new aspect of the proposed Project plan to accommodate a fire access lane for the development. This new aspect included an access easement on City property within the northern portion of Pioneer Park (that would have necessitated the relocation of the existing restroom and skatepark) to be included in the DDA. Due to timing of PSQ's proposed revisions in December 2021, City Staff set a meeting over the holiday closure, which necessitated additional negotiations between the City and PSQ and resulted in Project Variation #2.

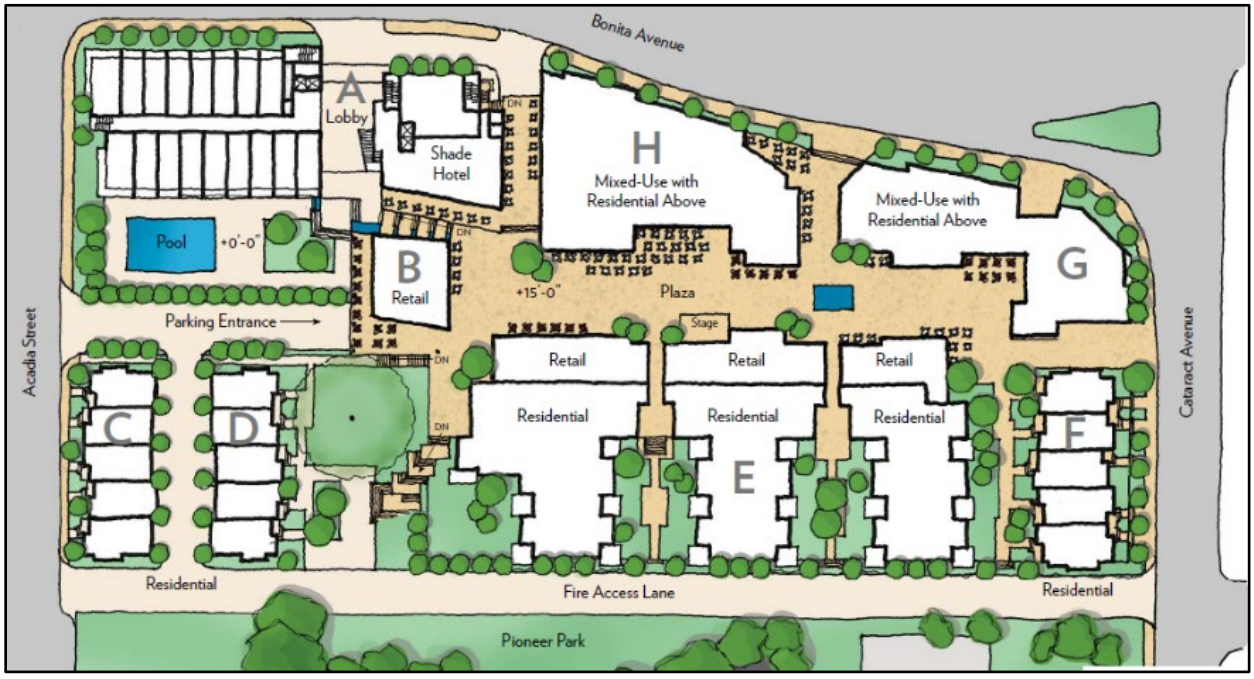
PROJECT VARIATION #2 (FINAL PROPOSED)

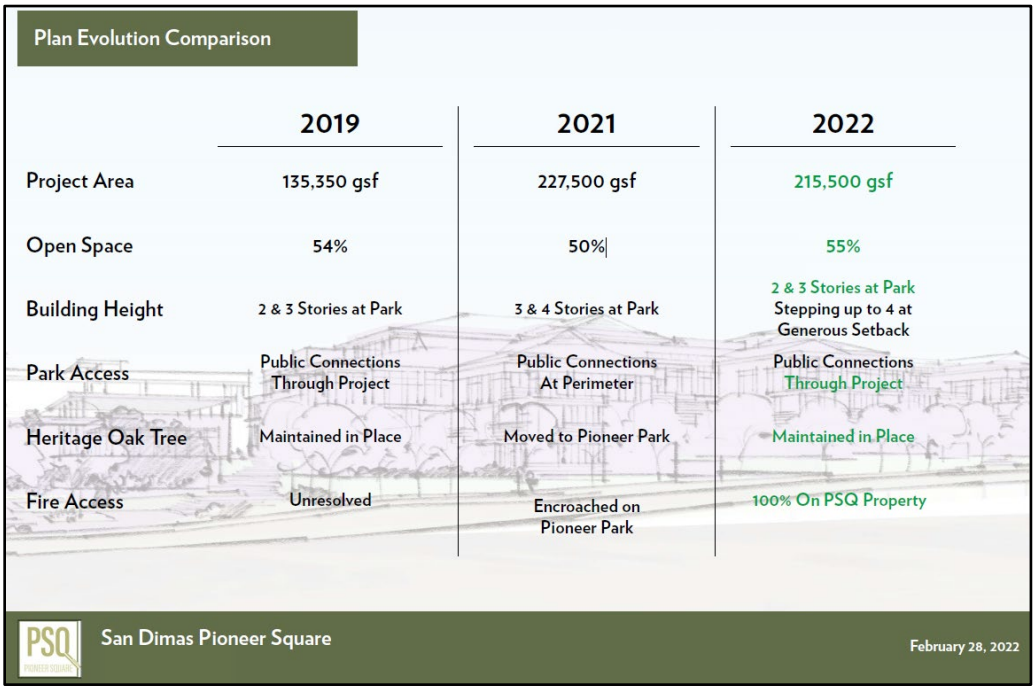
Given the additional modifications to the proposal, the City requested PSQ address some of the discussed changes to the site concept plan and engage the public on the proposed revisions to the Project plans at a City Council Workshop on February 28, 2022. At the workshop, PSQ provided a revised conceptual site plan and the following high-level information on the evolution of their proposed Project plan to address the City's concerns:

- A Boutique Hotel of 60-80 Rooms (rooftop restaurant & Bar),
- 25,000 to 30,000 square feet (sf) of restaurant and retail space (Vromans Bookstore as an anchor),
- No flex/office space,
- Public Town Square space (Meeting requirements of Sustainable Communities Project Exemption, "SCPE")[1],
- 97 Residential Units, and
- 381 subterranean and semi subterranean parking spaces (on-site).

[1] *A description of the CEQA compliance of the Sustainable Communities Project Exemption is discussed below under the TIMING & CEQA/ENTITLEMENTS section and Exhibit B of the DDA provides the full exemption report prepared by Psomas, the City's environmental consultant. The Project would comply with the required criterion by providing at least five acres per 1,000 residents as public open space. The average household size in San Dimas is 2.91 persons per household. Utilizing this figure, the Project's 97 units would include a population of approximately 282 persons. Based on this population, the Project would need to provide at least 61,419 square feet of public open space, or 1.41 acres. As shown in Project Variation #2, the Project proposes 55 percent, or approximately 2.43 acres, of the Project site as open space. Therefore, the Project would provide public open space equal to or in excess of this amount and would thus be consistent with this criterion.*

On March 11, 2022, the City responded to PSQ's February 28, 2022 community presentation and concept to emphasize that while certain changes to the project (e.g. increased density and food hall instead of traditional restaurants), were not as originally proposed, it would agree to consider these changes as long as the amount of on-site parking would not create negative secondary impacts to the surrounding neighborhood and park.





PARKING

As related to the provision of on-site parking to support the proposed Project, the City informed PSQ that it would be willing to consider a proposed reduction in the parking requirement from the current code requirement (original proposal required approximately 742 parking spaces). However, the reduced parking requirement would still need to address community concerns regarding impacts to surrounding neighborhoods and the greater downtown area, which is a critical priority for the City. To that end, the City suggested that PSQ could propose creative and innovative proposals to achieve the required number of parking in the following manner:

- Underground parking is preferred,
- Preference for underground parking is to be given to residential and hotel guests,
- Materially impacting the surrounding neighborhoods with parking impacts is not acceptable,
- Maintaining the existing parking capacity of Pioneer Park is necessary, but the City is open to expanding parking as part of some joint arrangement, and
- Any arrangement that is not onsite must have some feature of permanency so that the specified number of spaces are not reduced due to a change in the arrangement or can be negatively impacted by a lack of ownership of said parking by the PSQ development or its successors.

Staff in coordination with PSQ originally developed the following parking standards for the project:

- Hotel: 1 space/ per room;
- Hotel Accessory Uses (i.e. restaurant, bar, conference room/banquet area, etc.): 1 space/350 SF;
- Mixed-Use (restaurant, commercial, office, etc.): 1 space/250 SF;
- Multi-Family Residential:
    - 1-Bedroom and Studio: 1 space/unit
    - 2- and 3-Bedroom Units: 2 spaces/unit
    - Guest spaces are shared/included as part of the mixed-use spaces provided; and
- 15% reduction for Transit Oriented Developments (w/in ¼ mile of future Gold Line Station) of non-residential parking requirement.

The City Council reviewed the proposed parking proposal, at that time, and determined that the requested parking reduction for the residential component was insufficient to alleviate potential impacts to the adjacent park and community. Therefore, the City Council proposed increasing the residential parking standard (2 spaces per flat or 1BD unit and 3 spaces per 2+ BD units) in the best interest of the project and City.

Due to the complexity of the proposed parking strategies, the City Council requested a more detailed analysis and description of the feasibility of the proposed parking for the project. The detail would identify all aspects of the parking proposal, including the feasibility of only valet 3-car tandem parking for the hotel, and the impacts to the commercial parking by both the hotel and residential units.

On April 8, 2022, in response to the City's request, PSQ proposed two parking spaces per all residential units, a compromise from the 2 spaces per studio or 1 BD units and 3 spaces for 2- & 3-bedroom units. Additionally, PSQ proposed that the 2 parking spaces per residential unit be provided as tandem spaces and that all hotel and ancillary uses be parked in the hotel's subterranean garage would be valet/managed parking 24-hours per day and 7-days per week to facilitate the use of tandem spaces. As a result of these negotiations, PSQ and the City ultimately agreed to 381 on-site subterranean and semi-subterranean spaces for the proposed project based on its most recent contemplated project based on the required parking standard.

FINANCIAL CAPABILITY

The City hired Kosmont Realty to conduct initial outreach and marketing for the project, but the City also relied upon Kosmont Realty for their real estate and financial expertise in evaluating the viability of the project.

PROJECT FINANCIALS

October 4th, 2022 Developer Submittals

In response to an early September request by the City for updated project/hotel and development team financials, on October 4, 2022, PSQ provided to the City: updated hotel demand information; updates to prior financial statement submittals, which included updated financials for partners Creative Housing Associates/Dieden and Arteco/Tessier but not for key partner Republic Metropolitan ("ReMet")[2]; a signed addendum to a Letter of Intent ("LOI") with the Zislis Group Inc., Manhattan Inn Operating Company, LLC, and Pioneer Square Hospitality Company LLC ("Zislis" or "Zislis Entities"); and a Teaming Agreement Update with Republic Metropolitan ("ReMet").

PSQ also unexpectedly provided to the City project-pro formas for two new project concepts. The two new project concepts modify the last iteration of the project (submitted to the City in February 2022) and provide the City some additional options to consider addressing expressed City concerns over residential density and the number of parking spaces. As detailed below, the City will need additional time to evaluate the proposed changes and ask certain clarification questions of PSQ.

Developer Partnership Agreements Update

Currently, the PSQ development team consists of two managing partners (initial Project developers), Creative Housing Associates ("CHA"), led/represented by Michael Dieden, and Arteco Partners, led/represented by Gerald Tessier. Based on the Zislis Letter of Intent ("LOI") and ReMet Teaming Agreement Update provided by PSQ, the City is informed that the development partnership will likely be expanded to include a Zislis (Hotel) entity(ies) and ReMet entity(ies) based on and to be documented in follow-on binding operating agreements and/or equivalent documentation to be executed by the respective parties.

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[2] *The City received Republic Metropolitan financials previously, but more recent financials were requested to ensure financial capacity remained intact. This is discussed further in the staff report.*

These binding agreements are required, pursuant to the DDA, to be delivered to the City within 30 days of DDA approval by the Los Angeles County Fifth District Consolidated Oversight Board ("County Oversight Board"). The forthcoming Operating Agreements are essential to demonstrate acceptable Zislis and ReMet transactional and financial commitments to the project and to reinforce the development teams' ability and capacity to ultimately fund, construct, and deliver the proposed Project (with particular emphasis on the Hotel component).

The existing LOI between PSQ and Zislis (originally executed on December 30, 2021) and with the most recent addendum to the LOI (submitted on October 4, 2022) outlines initial transaction terms and defines initial roles of the Zislis entities for the development and subsequent operation of a "Shade Hotel" as the hospitality component of the proposed project. The LOI states that it is a "*a nonbinding statement of the parties' current intentions and does not include all potential terms of agreements that may be formed through further discussions and negotiations*."

The executed Teaming Agreement Update (dated September 22, 2022) by and between PSQ and ReMet, which is also non-binding, identifies that ReMet will be subsequently added as an additional General Partner/"GP" and that approval of the DDA will be required prior to completing their final due diligence process, which would include negotiating and finalizing a binding limited liability operating agreement with PSQ to fund the majority if not all of the pre-development and entitlement costs of the proposed project. In terms of updated financials, ReMet has previously provided financial statements to substantiate its ability to fund these aforementioned costs (ReMet prior submitted financials to the City were as of June 30, 2021). From the City's perspective, the passage of time and recent changes in project concept, and evolved market conditions, in the aggregate, support the need for updated financial information, which have been requested by the City and not yet received. PSQ states that the financial information previously provided by ReMet has not changed.

To provide further context, PSQ consists of a multiple partner development team that is working in a fluctuating real estate and financing environment on a multi-component mixed-use project (residential, retail, hotel, underground parking, various public amenities). As such and going forward, the City can likely expect ongoing requests for modifications to the proposed Project prior to construction.

Overall, the development team has had previous success developing mixed-use urban infill projects, including obtaining substantial 3rd party debt along with the equity needed to fund projects valued in the range of $50 to $100 million dollars. The makeup of the development/financial team identified and as ultimately proposed (when ReMet and Zislis entities are contractually obligated to the Project) have presented verifiable track records that demonstrate their capability to provide a balanced and skilled approach to a mixed-use project that can achieve the City's goals for fiscal viability, revenue generation (e.g., property tax, transient occupancy tax, and sales tax) and economic development.

Project Concept Update

As previously stated, on October 4, 2022, PSQ provided the City updated project-pro formas for two new project concepts. The project proformas for the new concepts were not received in time to be comprehensively evaluated. As it pertains to the updated pro-forma information received, there are notable changes regarding modifications to residential unit density and mix as well as parking assumptions and, as discussed in the next section, a substantial increase in the hotel average daily rate (ADR) assumptions from the last pro forma (e.g. increase from $170 to $225). To that end, the sensitivity of these multiple changes could impact the viability of the project. The City would need additional time to evaluate and vet the proposed changes as it relates to parking, pro forma return thresholds, deal structure, responsibility of entities, project sequencing, and as importantly, based on those observations/insights and related factors, a determination of which project and parking concept is ultimately preferred by City and PSQ.

Hotel Update

On October 4th, PSQ provided an updated "Market Report for Pioneer Square (PSQ) Hotel Component" ("Hotel Report") which was prepared by Zislis and incorporates updated and expanded Smith Travel Research ("STR") data (an industry standard source for hospitality market data). The Hotel Report provides room rate data on the local competitive set of hotels as well as an more expanded competitive set of branded hotels in the San Gabriel Valley than originally evaluated in the initial hotel market study provided to the City.

The Hotel Report concludes that while surrounding hotels in the market area are of a lower quality category and/or tier (1 to 3 stars) and support an average daily rate (ADR) of approximately $172, PSQ and Zislis believe that an ADR of $225 is realistically achievable for a higher-end boutique hotel with higher levels of service and accommodation than the immediate surrounding competitors. Further, the Hotel Report emphasizes that there are added benefits to co-locating in a mixed-use transit served village, as PSQ has proposed, with potential synergies with nearby high-end residences and quality commercial/retail spaces.

To support their conclusion, the Hotel Report relies on a search of comparable properties that includes the capture of higher-end branded hotel properties in the San Gabriel Valley that are more aligned with the levels of service and adjacent accommodations proposed for the hotel component of the proposed project. The Hotel Report also suggests that the success of the boutique hotel Casa 425 + Lounge ("Hotel Casa 425"), a 28-room boutique hotel located in Claremont, is additional supporting evidence of potential success of a future boutique hotel in the San Dimas market. Zislis estimates over the next 10 months that Hotel Casa 425 can achieve an ADR of over $300. PSQ and Four Sisters Inns (which is owner of a collection of distinctive and independent small hotels including Hotel Casa 425 + Lounge) have expressed interest in entering into a mutual reciprocity agreement, as of October 4, 2022, whereby their respective teams will work together to refer potential guests to each other when rooms are sold out. It should be noted that Four Sisters Inns has previously worked with Zislis's Shade Hotel Group in the past.

The use of a $225 ADR in an unproven market and the reliance on an expanded set of branded higher-tier hotels region/area to support the substantial increase in ADR from the last pro-forma

(~$170 ADR) is a notable project risk and relies on the potential success of a product that is minimally present in the immediate marketplace. Accordingly, whether or not there is sufficient demand for this higher priced/higher amenity product, remains as a speculative conclusion. At some level, Hotel Casa 425 performance and prospective reciprocity agreement can be considered a generally positive indicator. As to the relatively speculative nature of the operating success of a boutique hotel in this market and specifically in San Dimas, it should be noted that Zislis has demonstrated experience operating successful hotels similar to what is being proposed, including projects that involve multiple uses and underground parking.

Project Considerations and Next Steps

While not without risk, the PSQ Development/financing team/partners and program provides the City with an attractively designed mixed-use development opportunity to revitalize an environmentally challenged property near the existing downtown, which if successful as proposed, could generate significant economic benefits (estimated to be approximately $700,000 annually in property tax, retail sales tax, and hotel TOT revenue). When completed, the proposed Project will improve the City's jobs/ housing balance and provide local construction jobs as well as permanent employment opportunities. Further, the proposed Project is expected to enable the Developer to pay the City fair market value ($2,635,600) for this undeveloped site with soils conditions, net of adjustments for environmental cleanup and storm drain costs to be paid for by PSQ.

As previously stated, the PSQ development team consists of multiple partners working in a fluctuating real estate and financing environment on a multi-component mixed-use project (residential, retail, hotel, underground parking, various public amenities). As such and going forward, the City can likely expect ongoing project modifications. Further, there is some risk from the ultimate results of the entitlement process, and potentially ongoing post-entitlement risk in securing acceptable project funding from the financial marketplace sufficient to provide construction and take-out debt (and other capital investment components) at interest rates that are conducive to project economic viability (including acceptable debt coverages for key components such as for the hotel). In the current economic climate and supply chain marketplace, there is continued uncertainty as related to cost of materials and labor for construction of a ~$90 million mixed-use project on a relatively tight infill site, which requires integrated and costly site and soils remediation work, subterranean parking, as well as the extended timeframe and complexity of vertical construction.

In response to these risks, the proposed DDA attempts to structure the sale with deadlines for development performance, provide for force majeure, and allow the City the right to reacquire the property/terminate, if Developer's performance warrants. The City also negotiated the inclusion of certain provisions and protections in the DDA that provides some reassurance that a hotel would be built as part of the Project. Specifically, the City and PSQ agreed to performance timelines with a transient occupancy tax guarantee ("TOT Guarantee") that is triggered when specified timelines are not achieved (e.g. submission of an entitlement application, securing of building permits, and commencement of hotel construction) totaling a maximum amount of $12 million. Further, the City and PSQ have agreed to added security in the case the TOT Guarantee is not paid. In this case, the City can exercise a purchase option to acquire the Project property for the original sale price plus closing costs.

As stated, the current Zislis LOI and ReMet Teaming agreements with PSQ, as received on October 4, 2022, contain preliminary non-binding commitments to the Project until after securing DDA approval. To resolve this exposure, as noted earlier, PSQ is required (within 30 days of County Oversight Board approval of the submitted DDA) to provide a binding partnership, limited liability operating agreement, and/or similar agreements between the parties for the Project demonstrating Zislis and ReMet transactional and financial commitments to the project and to clarify and reinforce the development teams' ability to ultimately fund, construct, and deliver the proposed Project (with particular emphasis on the hotel component).

Based on the preliminary development entity partnership agreements provided to date and the expected project modifications driven by a fluid real estate market and hence relatively unknown lender requirements for construction and project loans, it is likely that the City will be exposed to future modifications to the underlying operating agreement(s) and related transaction documents, as well as ongoing project design modifications, all of which is not atypical for speculative ground-up development projects at this stage in the process.

DDA – PRIMARY DEAL TERMS/PERFORMANCE MEASURES

Subject to City Council review and approval, the City and PSQ have agreed to the following primary deal terms in the DDA for Council review and approval:

- Land Fair Market Purchase Price of $2,635,600. This price was calculated net of certain adjustments for environmental remediation/cleanup and storm drain infrastructure costs to be incurred by PSQ.

- Surplus Land Act: PSQ has agreed to assume the risks and costs to proceed with the land purchase before December 31, 2022, which will be prior to securing project entitlements in a manner to be approved by City Council in consultation with PSQ.

- Parking: PSQ's goal is to satisfy 100% of the parking demand on-site within the PSQ property with an exception for special events and holidays when professional parking management with additional valet service may be required. City/Developer have collaborated on acceptable parking ratios as follows: Residential: 2 spaces per unit. Guest parking will be satisfied within the commercial parking envelope. Hotel guests and visitors are to be parked in a 3-tandem space only valet garage managed by the hotel operator. As may be necessary, retail/commercial parking to be managed by a professional parking company.

- A covenant will be recorded on the property reflecting the relevant terms of the project's hotel-related and key conditions.

- Delivery of the hotel component is supported by conditions of approval that tie the issuance of the first Certificate of Occupancy for the commercial and residential components to the hotel being under construction, pursuant to a detailed performance timeline, and that any phasing plan shall prioritize the hotel component.

- Provision of a developer Transit Occupancy Tax (TOT) in lieu annual payment in an amount equivalent to what a hotel built per the covenant would yield to the city, if PSQ does not proceed with the project outlined in the covenants and performance timeline set for construction totaling a maximum amount of $12 million.

- An option inserted in the Covenant Agreement referenced in the DDA, which provides the City the right to acquire the property from PSQ; city re-acquisition is triggered if a hotel is not developed by a date certain, or if PSQ does not make the referenced TOT payments in a timely fashion. The option purchase price would be set at the PSQ sale price plus cost of closing.

TIMING & CEQA/ENTITLEMENTS

As it pertains to timing, City and PSQ have been operating provided several limiting factors that included, the City closing escrow by December 31, 2022 ahead of the Surplus Land Act (SLA) deadline for disposition.

The PSQ development program presented to City Council and the community on February 28, 2022, requires a General Plan Amendment and Zone Change, which normally requires CEQA review and at a minimum, the preparation of a Mitigated Negative Declaration (MND) that typically requires approximately 6-8 months to process following the DDA execution. These requirements would result in going beyond the SLA deadline.

In consultation with Developer's legal counsel (DLA Piper), PSQ has proposed options/strategies to expedite a transaction with the City prior to the SLA disposition deadline of December 31, 2022. PSQ's initial proposed options did not adequately provide the City a viable pathway forward with protections or the necessary financial assurances/commitments sufficient to ensure developer performance and delivery of the project as proposed.

In May 2022, PSQ proposed a statutory CEQA Sustainable Communities Project Exemption (SCPE), which would allow a potential pathway to finalize the project prior to the deadline. On May 18, 2022, the City confirmed its interest in reviewing an analysis of the SCPE environmental approach as submitted by PSQ in consultation with their environmental attorney.

In summary, for any project to be eligible for the SCPE, three threshold criteria must be met: (1) it has to be located within an area of an approved Sustainable Communities Strategy ("SCS"); (2) it must be consistent with the area requirements of the SCS; and (3) it must qualify as a "Transit Priority Project." (Pub. Res. Code, § 21155.).

The proposed Project meets all of the criteria insofar as (1) it is within the Southern California Association of Governments' most recent 2020-2045 Regional Transportation Plan/SCS approved October 30, 2020, (2) the City Mixed Use Place Types contain a variety of uses and building types and are located in transit-oriented, walkable areas, as outlined in the 2020-2045 SCS, and (3) the Project Site's location is near robust transit opportunities – including most notably being walking distance from a Metro Gold Line station. In July 2022, the City received the CEQA SCPE analysis

which indicated that the proposed project could be approved through this process. Since then, the City and PSQ have been working on the attached DDA.

It should be noted that, before the property may be sold, the County Oversight Board to the Successor Agency must approve the sale. Should the Council approve the DDA, the project and related land sale transaction will be presented to the County Oversight Board for its review and approval on Thursday, November 10, 2022.

Negotiated Developments Do Have Varying Amount of Risk and Are Considered in Accepting the Development Based on the Risk/Reward Provided

As with any development project that is complex, involves many aspects that are negotiated, and is designed in a way that balances the need of the developer with the City's desire for a specific project, there is risk. There are risks in both supporting and not supporting this development, and these include the risks identified earlier in the staff report.

The level of risk must be weighed with the benefits derived from the Agreement that is given, and in making any approval decision, the appetite of the City to accept such risk/reward is paramount. While changes to a DDA Agreement occur after initial approval in some cases, it is the initial approval which sets the direction for the project and the point at which both the City and PSQ incur obligations to each other, thus both need to be comfortable with the degree of risk/reward provided in the project from the start.

If this project is unsuccessful, the City will be obligated to go through the Surplus Lands Act (SLA) process and under the changing environment reducing local control on development. This includes the requirement to offer the property to affordable housing developers prior to pursuing any other development[3], the potential for reduced parking standard requirements for any development on the property, and the potential for certain type of development to be allowed by right on property zoned differently by a City. Due to this, the City loses control to some extent of the development potential of the property should the PSQ Project not be approved.

This Project has evolved and reflects changes necessary for the developer to finance the Project as well as to limit cost and up-front commitment of substantial capital investment. Further, the evolutions and shortened time prior to the SLA Deadline have resulted in deferring many project elements to the City's traditional development process after the sale of the site. Such change and resulting negotiation on an agreement introduce risk that the contemplated project may further evolve from what was proposed or change from preliminarily approved, which is evident in the new concept presented by PSQ just a week ago. This is a risk that exists; however, it is not atypical that such change can occur in this type of ground up development. Given the timeline and limitations of completing the Project prior to trigging the SLA process and gaining agreement with the developer, the City has softened requirements in the Agreement that gives less control over several aspects that it would otherwise have if the project had gone through entitlements prior to property sale. Such loss of control include control over the design concept, number of residential units, parking structure, property configuration capacity, and how the project integrates into the

[3] *However, after all the entities first in line to consider acquiring the property and after good faith negotiations, a developer, such as PSQ, can then negotiate for acquisition of the property.*

Pioneer Park. City staff have negotiated as best as possible to reduce risk, but this is PSQ's Project and reflects a compromise in what the City originally desired allowing a great deal of ambiguity for the final proposed Project and is a consideration the City Council needs to weigh in its risk/reward calculus. We should note that the Project still has to go through the City's development review process, but there are less absolute requirements on the above that the City can enforce than can be enforced through a development agreement.

The security available to ensure the planned Project is completed is not an absolute guarantee, and such guarantee would most likely not be approved by a developer. There is real risk that under certain conditions, the Project can miss deadlines, the TOT Guarantee may not be honored, and the viability for the City to exercise its Purchase Option may not be viable at the time any such situation may occur. PSQ assures the City that based on their proposed team, they will perform and complete the Project as planned, and proposed team members have demonstrated successes in delivering projects, but disclosure of this risk is important.

Negotiations over parking involved balancing the cost of underground parking, the required parking spaces, and the location and configuration of parking. Parking is important and a concern in the downtown core which is an additional risk. Each housing unit will have two tandem parking spots (this will be known to future owners before purchasing units), and the hotel will require managed parking, specifically all valet parking, to be able to accommodate the parking spots required in a tandem parking configuration. While these may be elements that are seen in other cities, they are new to San Dimas and are not tested to determine reasonableness for our area. To this extent, there is increased risk that more parking offsite may become necessary or that parking limitations may constrain the success of businesses residing on the property. PSQ assures the City that they are not concerned that the development is under parked or would result in spillover into spaces off the PSQ property except in the cases of special events and are open to adding additional underground parking to support needs related to the Gold Line[4] which may alleviate such concerns.

The hotel is a critical component of the City's desire in this Project. As is the case with the overall strength of financing and agreements with Project partners, there is risk with the assumptions provided for the hotel's success. Specifically, the hotel assumes a $225/night average daily rate which is high and is speculative with some support from hotel information on a greater geographic area than San Dimas. Previously, the City's consultants received a hotel study that supported $170/night average daily rate. As of today, the City's consultants have received additional information to provide some support for the new rate of $225/night, but the use of a $225 ADR in an unproven market and the reliance on an expanded set of branded higher-tier hotels region/area to support the substantial increase in ADR from the last pro-forma (~$170 ADR) is a notable project risk and relies on the potential success of a product that is minimally present in the immediate marketplace. Accordingly, whether or not there is sufficient demand for this higher priced/higher amenity product, remains as a speculative conclusion. As to the relatively speculative nature of the operating success of a boutique hotel in this market and specifically in San Dimas, it should be noted that Zislis has demonstrated experience operating successful hotels similar to what is being proposed, including projects that involve multiple uses and underground

[4] *We should note that is an optional item that was presented by PSQ for the first time in its design concepts provided to the City on October 4, 2022. As a result, we do not have any further details related to how this would play into the development and may require an amendment to the DDA and Covenant Agreement should it be considered.*

parking, and the overflow partnership arrangement with Casa 425 may help reduce some risk to this aspect of the Project. Further, the lack of these type of hotels may allow for competitive advantage, and with a partnership proposed with Casa 425, provide a pipeline supporting occupancy in this hotel.

Proposed Project partners have the experience and appear to have the financial strength to support the Project. On October 4, 2022, PSQ provided the City a recent project-pro forma, financial statements, balance sheets, signed initial teaming agreements and operating partnership agreements with the Zislis and ReMet to establish PSQ's financial wherewithal and expertise to fund and complete the proposed project. It should be noted that the current teaming and operating partnership agreements with Zislis and ReMet contain no material commitment to the Project until after securing DDA approval, which is an inherent risk given that financial strength is critical to Project success. Therefore, as part of the DDA, PSQ is required to provide a binding partnership and/or similar agreements between the parties for the Project demonstrating Zislis's and ReMet's commitment to the Project and ability to ultimately fund, construct, and deliver the proposed Project with special emphasis of the Hotel component. To the extent that such a contractual relationship is not formed prior to the DDA increases the risk to the Project; however, PSQ assures us that their partners are committed to the development.

Kosmont Realty has been leading the review of financial and project viability information for the Project. There are several areas discussed earlier involving the formal structure and strength of the financial arrangement and investment of all the relevant partners/entities, support for the increased Hotel Average Daily Rate of $225 and viability of the proposed type of hotel in the San Dimas market, impact of the current changing economic and financing market, and the need for changing concept design and other Project deal aspects to ensure financing and viability, there is more than moderate risk as to whether the Project as contemplated and presumed would be the final product delivered on the schedule proposed in the Agreement. This type of risk is not unusual in speculative development occurring in a changing economic environment, but given the City Council's acceptance of the original Project proposal which began this relationship, the City Council should be aware of such to properly consider the risk/reward with the Project.

To reduce some of this risk in proceeding with approval of the DDA, the Council may wish to consider adding conditions to the closing of escrow and sale in the DDA that reserves the right to approve PSQ's financial capability based on complete and reviewed financial and partner agreement information and Hotel study information supporting this component.

The Project began prior to the City engaging in the Downtown Specific Plan which is framing the development future of the downtown from Arrow Highway at Bonita to Walnut and between Bonita and Arrow Highway. Approval of this Project would have some effect on how surrounding properties to the Project may be considered in the Downtown Specific Plan. Though not a risk in of itself, this Project can be a catalyst for further development of similar or complementary projects or detract from the specific plan if such similar or complementary projects are not desired.

ENVIRONMENTAL REVIEW

The Project qualifies for a CEQA Statutory exemption as a Transit Priority Project pursuant to the CEQA "Sustainable Communities Project" exemption enacted as a part of Senate Bill 375, codified at Public Resources Code Sections 21155 et seq. Exhibit B to the Resolution provides the complete Environmental Exemption Memorandum completed by the City's consultant, Psomas.

Respectfully submitted,

Chris Constantin,
Executive Director

Attachments: 1. Joint Resolution 2022-53
Exhibit A Disposition and Development and Covenant Agreement
Exhibit B Psomas Environmental Exemption Memorandum
2. PSQ Presentation

Thank you for the City team working on
City Team:

Chris Constantin, City Manager
Jeff Malawy, City Attorney's Office – City Attorney
Fred Galante, City Attorney's Office

Brad McKinney, Assistant City Manager
Henry Noh, Community Development Director
Shari Garwick, Public Works Director
Scott Wasserman, Parks and Recreation Director
Luis Torrico, Planning Manager
Eric Beilstein, Building Official

Larry Kosmont, Kosmont Realty
Brian Moncrief, Kosmont Realty

ATTACHMENT 1

JOINT RESOLUTION 2022-53

A JOINT RESOLUTION OF THE CITY COUNCIL OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS AS SUCCESSOR AGENCY TO THE FORMER SAN DIMAS REDEVELOPMENT AGENCY AND CITY OF SAN DIMAS APPROVING THE DISPOSITION AND DEVELOPMENT AGREEMENT WITH PIONEER SQUARE, LLC FOR THE SALE AND DEVELOPMENT OF A MIXED-USE PROJECT AT PROPERTIES LOCATED AT 344 WEST BONITA AVENUE, SAN DIMAS CALIFORNIA

WHEREAS, the City of San Dimas, as Successor Agency to the San Dimas Redevelopment Agency ("Agency") owns approximately 3.57-acre property located at 344 West Bonita Avenue, San Dimas, between Cataract and Acacia Avenues (Property); and

WHEREAS, the Property is currently vacant and thus underutilized, falling substantially short of its commercial, retail, residential, revenue-generating and job-generating potential; and

WHEREAS, on August 25, 2020, the Agency entered into an Exclusive Negotiating Agreement (ENA) with Pioneer Square, LLC (Developer) to negotiate the sale and ultimate development of the Property. Since then, there have been a total of 10 ENA extensions with the most recent one set to expire on October 31, 2022. It is important to note that certain constraints on the Property (e.g. environmental contamination due to historical industrial uses) as well as a worldwide pandemic in 2020 (COVID 19), caused major unforeseen delays/development uncertainties requiring additional time to evaluate the development feasibility of PSQ's proposed mixed-use development project and negotiate sale terms; and

WHEREAS, Developer team has experience successfully developing mixed-use urban infill projects and obtaining substantial 3rd party debt and equity needed to fund $50 to $100 million projects; and

WHEREAS, the qualifications and identity of Developer are of particular concern to City and Successor Agency (collectively, the "City" or the "City Council"), and it is because of such qualifications and identity that City Council desires to enter into the Disposition and Development Agreement, which is attached hereto as Exhibit "A" and incorporated herein by this reference, with Developer (DDA); and

WHEREAS, Developer will submit an application for the City's consideration to allow the design and construction of a mixed-use project upon the Property, as set forth in the DDA (Project); and

WHEREAS, the Project qualifies for a CEQA Statutory exemption as a Transit Priority Project pursuant to the California Environmental Quality Act (CEQA) "Sustainable Communities Project" exemption enacted as a part of Senate Bill 375, codified at Public Resources Code Sections 21155 et seq.; and

WHEREAS, nothing contained in the DDA commits the City to approving the Project or any component thereof, and the City retains its full discretion and land use authority to consider, modify, condition, approve, or reject the Project; and

WHEREAS, it is anticipated the Project, if approved, would generate substantial

revenue and provide construction-related and permanent employment opportunities for the San Dimas community; and

WHEREAS, it is also anticipated that as part of the Project's subsequent land use entitlement and permitting process, the Project would be required to: reflect a high quality of development; adhere to applicable building codes and other applicable standards and requirements; implement appropriate mitigation 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); and

WHEREAS, it is anticipated that the Project will be designed to include necessary street and utility infrastructure to serve the Project; and

WHEREAS, the Property and the DDA are not subject to the Surplus Lands Act as defined by Government Code Sections 54220 to 54233 due to the fact the Property has been subject to the ENA, approved before December 31, 2020, was acquired, and always intended, to be exchanged for private development and has never been used for public/governmental purposes, and will be disposed of before December 31, 2022, and

WHEREAS, the City and Developer have reached mutual agreement and now desire to voluntarily enter into the DDA to provide, among other things, for City's disposition of the Property to Developer, subject to the terms and conditions set forth in the DDA; and

WHEREAS, the City Council conducted a duly noticed public hearing on October 11, 2022, in which the City Council received and fully considered all oral and written testimony from members of the public and City staff.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN DIMAS AS SUCCESSOR AGENCY TO THE FORMER SAN DIMAS REDEVELOPMENT AGENCY AND CITY COUNCIL OF THE CITY OF SAN DIMAS, CALIFORNIA, DO HEREBY RESOLVE AS FOLLOWS:

SECTION 1. Recitals. The recitals set forth above are true and correct and incorporated herein by this reference.

SECTION 2. Findings. Based upon the forgoing and all oral and written testimony from members of the public and City staff, the City Council finds as follows:

A. Entering into the DDA will facilitate achievement of numerous goals and policies of the City's General Plan and Downtown Specific Plan, as may be amended as part of the Project entitlements as well as in conformity with the public convenience, general welfare, and good land use practices; will not be detrimental to the health, safety, and general welfare of persons residing in the immediate area nor be detrimental or injurious to property or persons in the general neighborhood or to the general welfare of the residents of the City as a whole; and will not adversely affect the orderly development of property or the preservation of property values.

B. The execution and performance of the DDA is in the vital and best interests of the City of San Dimas and its residents and is in accord with the foregoing public purposes and

provisions of applicable laws and regulations.

C. Based upon substantial evidence, the sale of the Property is in conformance with the City's General Plan pursuant to Government Code Section 65402.

SECTION 3. The City Council hereby adopts all findings in the Pioneer Square Project Sustainable Communities Project CEQA Exemption Memorandum prepared by Psomas dated August 2022 and attached to this Resolution as Exhibit B ("Exemption Memorandum"), and incorporates those findings by reference herein. On the basis of those findings, the City Council finds that the Project qualifies for a CEQA Statutory exemption as a Transit Priority Project pursuant to the California Environmental Quality Act (CEQA) "Sustainable Communities Project" exemption enacted as a part of Senate Bill 375, codified at Public Resources Code Sections 21155 et seq. and hereby approves said exemption. All conditions of approval recommended in the Exemption Memorandum shall be required conditions of approval on PSQ's proposed development project.

SECTION 4. Approval. Based upon the foregoing and all oral and written testimony from members of the public and City staff, the City Council hereby approves the DDA as attached hereto as Exhibit A.

SECTION 5. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED by the City Council for the Successor Agency and City of San Dimas at a regular meeting held on the 11th day of October 2022.

_____
MAYOR OF THE CITY OF SAN DIMAS AND
CHAIR OF THE SUCCESSOR AGENCY

ATTEST:

_____

CITY CLERK OF THE CITY OF SAN DIMAS

I, Debra Black, City Clerk of the City of San Dimas, do hereby certify that Resolution 2022-53 was duly adopted at a regular meeting of the said City Council held on the 11th day of October 2022; by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
CITY CLERK OF THE CITY OF SAN DIMAS

DISPOSITION AND DEVELOPMENT AGREEMENT

THIS DISPOSITION AND DEVELOPMENT AGREEMENT ("Agreement") is entered into as of October 11, 2022 by and between the SUCCESSOR AGENCY TO THE FORMER COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF SAN DIMAS, a political subdivision formed pursuant to Health and Safety Code 34173 (the "Owner") and PIONEER SQUARE, LLC, a California limited liability company (the "Developer"). Owner and Developer are occasionally referred to herein jointly as the "parties" and individually as a "party".

RECITALS

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

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

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

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

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

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

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

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

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

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

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

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

G. Owner has given the required notice of its intention to consider this Agreement and has conducted the necessary public hearings thereon. Specifically, on October 11, 2022, the City Council held a duly-noticed public hearing on this matter. After taking testimony and considering the matter, the City Council closed the public hearing, deliberated, and then conducted a review pursuant to Government Code Section 65402 and other applicable laws and regulations.

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

I. (§ 100) PURPOSE OF THE AGREEMENT.

A. (§ 101) Purpose of the Agreement.

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

B. (§ 102) Site.

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

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

C. (§ 103) No Financial Assistance.

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

II. (§ 200) DEFINITIONS.

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

A. (§ 201) Agreement.

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

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

B. (§ 202) Approved Future User.

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

C. (§ 203) City.

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

D. (§ 204) CEQA Consultant.

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

E. (§ 205) CEQA Expenses Deposit.

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

F. (§ 206) Certificate of Completion.

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

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

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

H. (§ 208) Covenant Agreement.

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

I. (§ 209) Days.

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

J. (§ 210) Deposit.

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

K. (§ 211) Effective Date.

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

L. (§ 212) Enforced Delay.

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

M. (§ 213) Entitlements.

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

N. (§ 214) Escrow.

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

O. (§ 215) Escrow Agent.

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

P. (§ 216) Future User.

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

Q. (§ 217) Grant Deed.

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

R. (§ 219) Retail Lot Tie Agreement.

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

S. (§ 220) Project.

The term "**Project**" shall mean all of the improvements required to be constructed by Developer on the Site as described in the Scope of Development attached hereto as Attachment No. 2. The Project as defined herein shall not include any modifications to the Scope of Development

attached hereto as Attachment No. 2 that would cause the Project to no longer qualify for a "SCPE" statutory exemption from CEQA under Public Resources Code Section 21151.1.

T. (§ 221) Public Open Space.

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

U. (§ 222) Purchase Price.

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

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

V. (§ 223) Schedule of Performance.

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

W. (§ 224) Site.

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

X. (§ 225) Site Map.

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

Y. (§ 226) Title.

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

Z. (§ 227) Title Company.

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

AA. (§ 228) TOT Guarantee.

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

BB. (§ 229) Transfer.

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

III. (§ 300) PARTIES TO THE AGREEMENT.

A. (§ 301) Owner Identification.

Owner is the Successor Agency to the former Community Redevelopment Agency of the City of San Dimas, a political subdivision formed pursuant to Health and Safety Code 34173. The office of Owner is located at 245 East Bonita Avenue, San Dimas, CA 91773. In accordance with the California State Supreme Court's December 29, 2011 ruling on the constitutional validity of two 2011 legislative budget trailer bills, ABX1 26 (Chapter 5, Statutes of 2011) and ABX1 27 (Chapter 6, Statutes of 2011), all 425 redevelopment agencies in the State of California were dissolved, including the Community Redevelopment Agency of the City of San Dimas. The dissolution procedures under ABX1 26 include a process for the disposition and/or transfer of assets, including property holdings of former redevelopment agencies. Subsequent legislation, AB 1484 (Chapter 26, Statutes of 2012), which was passed, signed, and enacted on June 28, 2012, made significant changes to the provisions of ABX1 26, including the process for asset management/disposition/transfers, which include preparation and approval of a Long-Range Property Management Plan by Owner and State Department of Finance. As the legal successor in interest to the former San Dimas Community Redevelopment Agency and pursuant to the aforementioned redevelopment dissolution laws, Owner's Oversight Board formed pursuant to Health and Safety Code 34179 submitted Seller's Long-Range Property Management Plan dated October 13, 2014 to the State Department of Finance, which was approved by the Department of Finance pursuant to its letter to the Seller dated February 2, 2015. Nevertheless, the sale of the Site shall be subject to further approval by the Los Angeles Fifth District Consolidated Countywide Oversight Board ("Los Angeles OB"), successor to Owner's Oversight Board. For purposes of this Agreement, references to term Owner shall include the City of San Dimas.

B. (§ 302) Developer.

1. Identification and Developer's Representations.

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

2. Qualifications.

The qualifications and identity of Developer are of particular concern to Owner and it is because of such qualifications and identity that Owner has entered into this Agreement with Developer. Owner has undertaken an appropriate marketing program to identify appropriate users

for the Site. Owner has considered the experience, financial capability, and product being marketed by Developer and its affiliates, the Site location and characteristics, and the product mix necessary to produce a successful business area. Based upon these considerations, Owner has imposed the restrictions on transfer set forth in this Agreement.

3. Financial Capability

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

4. Accounting of Agency Expenses Deposit.

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

C. (§ 303) Restrictions on Transfer.

1. Restrictions Prior to Completion of Project.

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

of its interest in the Site before the issuance of the Certificate of Completion, which assignment requires Owner's written approval, Owner shall consider factors such as (i) whether the completion of the Project is jeopardized; (ii) level and sources of funding contributed to the Project; (iii) the financial strength and capability of the proposed assignee to perform Developer's obligations hereunder; (iv) the proposed assignee's experience and expertise in the planning, financing, development, ownership, and operation of similar projects; and (v) how the proposed assignee will complement the other users on the Site and in the area.

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

2. <u>Exceptions</u>.

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

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

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

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

d. **Reorganization**. A sale or transfer resulting from or in connection with a reorganization as contemplated by the provisions of the Internal Revenue Code of 1986, as amended or otherwise, in which the ownership interests of a corporation are assigned directly or by operation of law to a person or persons, firm or corporation which acquires the control of the voting capital stock of such corporation or all or substantially all of the assets of such corporation.

e. **Permitted Affiliate Assignee**. A sale or transfer to any limited liability company, partnership or corporation in which Developer retains day to day management control of at least (50.1%) in the capital and profits and in which agrees to hold such majority interest (50.1%) and consistent with the ownership entities disclosed in Developer's Conveyance and Project Implementation Plan, submitted by Developer to Owner pursuant to Section 1.E of the ENA; and further provided that such assignees/transferees reasonably satisfy Owner's criteria for acceptable levels of professionalism, experience with constructing and/or operating similar projects, available financial capacity and strength, and good moral character. Notwithstanding the foregoing authorization, Developer shall promptly notify the Owner in writing of any and all changes whatsoever in the identity of the business entities or individuals comprising the Developer.

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

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

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

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

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

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

A. (§ 401) Approval of Site Conditions.

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

City has disclosed and Developer is aware that the Site is constrained by easements, as more thoroughly described in the August 4, 2020 Preliminary Report from FNTG Builder Services, a copy of which was provided to Developer, that easements exist on the Site, including but not limited to the San Jose Ranch Company and other parties and their successors for the right to lay pipe or make ditches, a storm drain easement, and an easement to the Metro Gold Line Foothill Construction

Authority along Bonita Avenue and Cataract Avenue encompassing approximately 17.597 feet. Developer acknowledges and understands that the easements granted herein, and in particular the Metro Gold Line Foothill Construction Authority easement could impact or impair access to the Site.

B. (§ 402) Conveyance; Covenant Agreement.

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

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

C. (§ 403) Escrow.

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

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

1. Developer's Conditions to Closing.

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

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

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

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

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

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

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

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

2. Owner's Conditions to Closing.

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

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

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

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

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

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

(6) Developer is not in breach or default of this Agreement.

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

3. Both Parties' Conditions to Closing.

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

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

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

attempt to reach an agreement that will be satisfactory to Owner, Developer and the Los Angeles OB.

E. (§ 406) Conveyance of the Site.

1. Time for Conveyance.

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

2. Escrow Agent to Advise of Costs.

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

3. Deposits by Owner Prior to Closing.

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

4. Deposits by Developer Prior to Closing.

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

5. Recordation and Disbursement of Funds.

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

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

F. (§ 407) Title Matters.

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

2. Owner Not to Encumber Site. Owner hereby warrants to Developer that it has not and will not, from the Effective Date of this Agreement through close of Escrow, transfer, sell, hypothecate, pledge, or otherwise encumber the Site without express written permission of Developer. Prior to or at close of Escrow, Owner shall be required to satisfy and cause the release of any mortgage, deed of trust, tax, or mechanic's lien placed on or encumbering the Site (or any portion thereof) (collectively, "**Monetary Encumbrances**").

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

terminate this Agreement in writing as a result of any New Title Matter on or prior to the New Matter Termination Date shall constitute Developer's waiver of its right to terminate this Agreement as a result of such New Title Matter.

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

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

1. AS-IS Acquisition.

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

2. Site Assessment and Remediation.

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

3. Disclaimer of Warranties.

Upon the Close of Escrow, Developer shall acquire the Site in its "AS-IS" condition and shall be responsible for any defects in the Site, whether patent or latent, including, without limitation, the physical, environmental and geotechnical condition of the Site, and the existence of any contamination, Hazardous Materials, vaults, debris, pipelines, abandoned wells or other structures located on, under or about the Site. Owner makes no representation or warranty concerning the physical, environmental, geotechnical or other condition of the Site, the suitability of the Site for the Project, or the present use of the Site, and specifically disclaims all representations or warranties of any nature concerning the Site made by them, the Owner and their employees, agents and representatives. The foregoing disclaimer includes, without limitation, topography, climate air, water rights, utilities, present zoning soil, subsoil, existence of Hazardous Materials or similar substances,

the purpose for which the Site is suited, or drainage. Owner makes no representation or warranty concerning the compaction of soil upon the Site, nor of the suitability of the soil for construction.

4. Right to Enter Site; Indemnification.

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

Prior to entering the Site, Developer shall obtain Owner's written consent which shall not be unreasonably withheld or delayed provided Developer complies with all the following requirements. Developer shall (i) notify Owner prior to each entry of the date and the purpose of intended entry and provide to Owner the names and affiliations of the persons entering the Site; (ii) conduct all studies in a diligent, expeditious and safe manner and not allow any dangerous or hazardous conditions to occur on the Site during or after such investigation; (iii) comply with all applicable laws and governmental regulations (including issuance of City permits); (iv) allow an employee of Owner/City to be present at all times; (v) keep the Site free and clear of all materialmen's liens, lis pendens and other liens or encumbrances arising out of the entry and work performed under this paragraph; (vi) maintain or assure maintenance of workers' compensation insurance (or state approved self-insurance) on all persons entering the Site in the amounts required by the State of California; (vii) provide to Owner prior to initial entry a certificate of insurance evidencing that Developer has procured and paid premiums for an all-risk public liability insurance policy written on a per occurrence and not claims made basis in a combined single limit of not less than TWO MILLION DOLLARS ($2,000,000) which insurance names Owner as additional insured; and other requirements specified in Section 506; (viii) repair all material damage to the Site resulting from Developer's entry and investigation of the Site and leave the Site in a safe condition; (ix) provide Owner copies of all studies, surveys, reports, investigations and other tests derived from any inspection without representation or warranty but with the right of Owner to use the report without further consent from or payment to the issuer; and (x) take the Site at Closing subject to any title exceptions caused by Developer exercising this license to enter.

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

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

5. Hazardous Materials; Release of Owner.

Developer understands and agrees that in the event Developer incurs any loss or liability concerning Hazardous Materials (as hereinafter defined) and/or oil wells and/or underground storage tanks and/or pipelines whether attributable to events occurring prior to or following the Closing, then Developer may look to any prior owners of the Site, but under no circumstances shall Owner (which term includes Owner's predecessor being the San Dimas Community Redevelopment Agency or their respective governing boards) be liable directly or indirectly regarding Hazardous Materials and/or oil wells and/or underground storage tanks and/or pipelines. (In the event that Owner has indemnified any prior owner, Developer may not recover any such amounts from that Owner to the extent that such owner will seek recovery from Owner; Owner shall provide reasonable notice of any such indemnity agreements with prior owners.) Developer, and each of the entities constituting Developer, if any, from and after the Closing, hereby waives, releases, remises, acquits and forever discharges Owner, its directors, officers, share-holders, employees, and agents, and their respective heirs, successors, personal representatives and assigns, of and from any and all Environmental Claims, Environmental Cleanup Liability and Environmental Compliance Costs, as those terms are defined below, and from any and all actions, suits, legal or administrative orders or proceedings, demands, actual damages, punitive damages, loss, costs, liabilities and expenses, which concern or in any way relate to the physical or environmental conditions of the Site, the existence of any Hazardous Material thereon, or the release or threatened release of Hazardous Materials therefrom, whether existing prior to, at or after the Closing. It is the intention of the parties pursuant to this release that any and all responsibilities and obligations of Owner, and any and all rights, claims, rights of action, causes of action, demands or legal rights of any kind of Developer, its successors, assigns or any affiliated entity of Developer, against Owner arising by virtue of the physical or environmental condition of the Site, the existence of any Hazardous Materials thereon, or any release or threatened release of Hazardous Material therefrom, whether existing prior to, at or after the Closing, are by this Release provision declared null and void and of no present or future force and effect as to the parties; provided, however, that no parties shall be deemed third party beneficiaries of such release. In connection therewith, Developer and each of the entities constituting Developer, expressly agree to waive any and all rights which said party may have under Section 1542 of the California Civil Code which provides as follows:

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

DEVELOPER'S INITIALS: _____

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

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

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

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

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

4. "**Environmental Law**" means any federal, state or local statute, ordinance, rule, regulation, order, consent decree, judgment or common-law doctrine, and provisions and conditions of permits, licenses and other operating authorizations relating to (A) pollution or protection of the environment, including natural resources, (B) exposure of persons, including employees, to Hazardous Materials or other products, raw materials, chemicals or other substances, (C) protection of the public health or welfare from the effects of by-products, wastes, emissions, discharges or releases of chemical sub-stances from industrial or commercial activities, or (D) regulation of the manufacture, use or introduction into commerce of chemical substances, including, without limitation, their manufacture, formulation, labeling, distribution, transportation, handling, storage and disposal.

5. "**Hazardous Material**" is defined to include any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of California, or the United States Government. The term "**Hazardous Material**" includes, without limitation, any material or substance which is: (A) petroleum or oil or gas or any direct or derivate product or byproduct thereof; (B) defined as a "hazardous waste," "extremely hazardous waste" or "restricted hazardous waste" under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140, of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law); (C) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act); (D) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Sections 25501(j) and (k) and 25501.1 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory); (E) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances); (F) "used oil" as defined under Section 25250.1 of the California Health and Safety Code; (G) asbestos; (H) listed under Chapter 11 of Division 4.5 of Title 22 of the California Code of Regulations, or defined as hazardous or extremely hazardous pursuant to Chapter 10 of Division 4.5 of Title 22 of the California Code of Regulations; (I) defined as waste or a hazardous substance pursuant to the Porter-Cologne Act, Section 13050 of the California Water Code; (J) designated as a "toxic pollutant" pursuant to the Federal Water Pollution Control Act, 33 U.S.C. § 1317; (K) defined as a "hazardous waste" pursuant to the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq. (42 U.S.C. § 6903); (L) defined as a "hazardous substance" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq. (42 U.S.C. § 9601);

(M) defined as "Hazardous Material" pursuant to the Hazardous Materials Transportation Act, 49 U.S.C. § 5101 et seq.; or (N) defined as such or regulated by any "Superfund" or "Superlien" law, or any other federal, state or local law, statute, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning Hazardous Materials and/or oil wells and/or underground storage tanks and/or pipelines, as now, or at any time here-after, in effect.

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

H. (§ 409) Costs of Escrow.

1. Allocation of Costs.

Escrow Agent is directed to allocate costs as follows: Owner shall pay the cost of an ALTA non-extended owner's title policy while Developer shall pay premiums for any endorsements or extended coverage. Developer shall pay the cost of the recording fees for the Grant Deed. Owner shall pay any documentary transfer taxes. Developer and Owner shall each pay one-half (1/2) of all Escrow and similar fees, except that if one party defaults under this Agreement, the defaulting party shall pay all Escrow fees and charges as well as any title cancellation fees.

2. Prorations and Adjustments.

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

3. Extraordinary Services of Escrow Agent.

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

4. Escrow Agent's Right to Retain Documents.

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

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

1. Termination.

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

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

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

In the event of the foregoing, the terminating party may, in writing, demand return of its money, papers, or documents from the Escrow Agent and shall deliver a copy of such demand to the non-terminating party. No demand shall be recognized by the Escrow Agent until thirty (30) days after the Escrow Agent shall have mailed copies of such demand to the non-terminating party, and if no objections are raised in writing to the terminating party and the Escrow Agent by the non-terminating party within the thirty (30) day period; provided that such timeline shall be shortened as necessary to assure escrow may close by December 30, 2022. In the event of such objections, the opportunity to cure shall be provided as stated below in Subsection 2 of this Section. In addition, the Escrow Agent is authorized to hold all money, papers, and documents until instructed in writing by both Developer and Owner or, upon failure thereof, by a court of competent jurisdiction; provided that after expiration of the cure period provided in Subsection 2 of this Section, and if said condition has not been cured, the Deposit shall be retained by Owner as liquidated damages or the Deposit shall be disbursed to the party entitled to the Deposit as set forth in this Agreement. If no such demands are made, the Escrow shall be closed as soon as possible and neither party shall have any further liability to the other.

2. Opportunity to Cure.

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

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

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

J. (§ 411) Responsibility of Escrow Agent.

1. Deposit of Funds.

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

with other Escrow funds of Escrow Agent or transferred to any other general Escrow account or accounts.

2. Notices.

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

3. Sufficiency of Documents.

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

4. Exculpation of Escrow Agent.

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

5. Responsibilities in the Event of Controversies.

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

V. (§ 500) DEVELOPMENT OF THE SITE.

A. (§ 501) Scope of Development.

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

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

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

Developer and Owner shall cooperate to assure that the proposed Project, including development and operation, complies with all applicable governmental requirements and regulations, including but not limited to, standard reviews and approvals, Site Plan Review, any

zoning change, if applicable, and review and approval of the Entitlements and CEQA. Notwithstanding the foregoing, Developer specifically understands that Owner makes no representations or warranties with respect to approvals required by any governmental entity or with respect to approvals hereinafter required from City, City reserving full police power authority over the Project. However, Owner shall reasonably cooperate with Developer in procuring its approval of the Entitlements, subject to Owner's discretion over the final design of the Project under its Development Plan Review authority and its general Police Power authority to impose reasonable conditions of approval on the Project to ensure its construction and operation proceed in an appropriate and responsible manner in accordance with all applicable laws and policies of the City, state and federal government, which conditions of approval shall be determined by Owner in its sole and absolute discretion, subject to all applicable legal limitations. Nothing in this Agreement shall be deemed to be a prejudgment or commitment with respect to such items or a guarantee that such approvals or permits will be issued within any particular time or with or without any particular conditions. However, Owner has reviewed the proposed development program for the Project as set forth and defined in this Agreement, and hereby confirms it is supportive of the mix of uses, scale and density of the Project, and finds the Project to be consistent with the RFP issued by the City for the development of the Property. Owner further finds the Project, as proposed herein, is consistent with the City's pending vision and plans for the downtown area, which will call for increased development and density in locations such as the Property defined as high quality transit areas within walking distance of the San Dimas Gold Line Station.

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

(a) The City shall promptly notify Developer in writing of any claim or threatened claim and cooperate with Developer; (b) Developer shall immediately take control of the defense and investigation of such claim and shall employ counsel reasonably satisfactory to the City to handle and defend the same at Developer's sole cost and expense; provided, that the City shall have the right to participate in such proceedings. In the event of a conflict of interest between the Developer and City, the City shall be also entitled to retain, at Developer's expense, separate counsel as required by the applicable rules of professional conduct with respect to such matter: (c) Developer shall not settle any claim in a manner that adversely affects the rights of the City without the City's prior written consent, which shall not be unreasonably withheld or delayed; (d) In circumstances in which Developer fails to perform the obligations in this Section or the indemnity agreements provided for in this Section are unavailable or insufficient, for any reason, to hold harmless the City party in respect of any losses arising thereunder, Developer, in order to provide for just and equitable contribution, shall pay to the City the amount paid or payable by the City as a result of such losses in

proportion to the relative fault of the parties, taking into consideration the parties' relative intents, knowledge, access to information and opportunity to correct or prevent such losses, and any other equitable considerations appropriate in the circumstances; and (e) Notwithstanding anything to the contrary in this Agreement, Developer is not obligated to indemnify or defend the City against any claim (whether direct or indirect) if such claim or corresponding losses directly result from the gross negligence or willful misconduct of the City or its Representative. **This provision shall survive termination of this Agreement.**

2. Evolution of Development Plan.

Concurrently with the approval of this Agreement, City has approved Developer's Basic Concept Drawings. On or before the date set forth in the Schedule of Performance, Developer shall submit to the City drawings and specifications for the development of the Site in accordance with the Scope of Development, and all in accordance with the City's requirements for discretionary entitlement approvals. The term drawings shall be deemed to include site plans, building plans and elevations, and if applicable, grading plans, landscaping plans, parking plans, material sheets, and may include a description of anticipated structural, mechanical, and electrical systems, and all other plans, drawings and specifications. Said plans, drawings and specifications shall be consistent with the Scope of Development and the various Entitlement approvals referenced hereinabove, except as such items may be amended by City (if applicable) and by mutual consent of City and Developer. Plans (concept, preliminary and construction) shall be progressively more detailed and will be approved if a logical evolution of plans, drawings or specifications previously approved.

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

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

4. Public Open Space Component.

Developer acknowledges that the Project has been analyzed in accordance with CEQA, as detailed in the Resolution adopted by the City Council concurrently with the approval of this Agreement, pursuant to which the City Council found that the Project meets the definition of a Transit Priority Project and otherwise qualifies for the adoption of a SCPE. As such, the City Council, on behalf of the City and Agency, approved the SCPE as part of its consideration of this Agreement. Consistent with that determination and a material requirement of the SCPE for the Project to contain open space usable by the general public, Developer agrees and, pursuant to the Covenant Agreement, covenants to maintain the Public Open Space available for use by the general public so long as the Project is in operation, and not just the occupants of the Project or portions thereof. Prior

to obtaining the first Certificate of Occupancy for the Project, the Developer shall submit to the City Manager for approval a Project Public Open Space Operations Plan that is consistent with the requirements of this Agreement, which details the goals of the Project's public open space, the operations team including any third party vendors, contacts, details regarding operational planning and strategies to fulfill ongoing maintenance obligations, security, funding mechanisms, days and hours of operation, and other relevant information requested by the City Manager, the approval of which the City Manager shall not unreasonably withhold; provided the plan meets the goals and objectives of the Public Open Space, as described in this Agreement and Covenant Agreement and Developer's original Project proposal, which may include installation and operation of various courtyard and paseos, kiosks, a stage and a pop jet water feature for children. The Public Open Space will serve as a venue for year-round seasonal events and the opportunity to capitalize upon San Dimas beautiful evening breezes and sunsets. City resident community outings to be hosted within the Public Open Space may include but are not limited to, movies in the park and hosting local farmers market, and family activities. Developer shall further agree in the Covenant Agreement to properly maintain the Public Open Space in a good condition and in accordance with all applicable laws.

5. Developer Efforts to Obtain Approvals.

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

6. Owner's Reasonable Assistance.

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

7. Disapproval.

City shall approve or disapprove any submittal made by Developer pursuant to this Agreement within thirty (30) days after such submittal unless otherwise specified in this Agreement or applicable state and local law. All submittals made by Developer shall note the thirty (30) day time limit or as otherwise provided in this Agreement, and specifically reference this Agreement and this section. Any disapproval shall state in writing in reasonable detail the reason for the disapproval and

the changes which City requests be made. Developer shall make the required changes and revisions and resubmit for approval as soon as is reasonably practicable but no more than thirty (30) days of the date of disapproval. Thereafter, City shall have an additional ten (10) business days for review of the resubmittal, but if City disapproves the resubmittal, then the cycle shall repeat, until City's approval has been obtained. If the changes and revisions disapproved are substantial and reasonably requirement more than the ten (10) business days for review, the City shall have an additional thirty (30) business days for review of the resubmittal. The foregoing periods may be shortened if so specified in the Schedule of Performance and by mutual agreement of the Parties.

8. CEQA and CEQA Expenses Deposit.

Owner, through City, shall be responsible for obtaining the approval of this Agreement and the Project as required to be consistent with the SCPE approved by City and Owner concurrently with the approval of this Agreement. Owner shall promptly commence same after Opening of Escrow and diligently process same. Upon Owner's request, Developer agrees to supply information and otherwise to assist City to make a final determination regarding the applicability of the SCPE to the Project. Without limitation of the foregoing, Developer specifically acknowledges and agrees that Developer shall satisfy all conditions necessary to ensure that the Project conforms to all applicable CEQA requirements.

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

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

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

9. Construction Sales and Use Tax Allocation to City; Business Licenses.

Developer shall register with the California Department of Tax and Fee Administration to allocate all applicable construction sales and use taxes to the City so that City receives the benefit

of any sales and use taxes paid for construction activities and purchases of related equipment and materials. Developer shall ensure that any and all entities performing work within the City limits shall obtain and maintain valid business licenses.

C. (§ 503) Costs.

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

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

1. Developer to Pursue Project Diligently.

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

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

2. Boutique Hotel Feasibility Study.

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

3. Public Outreach Plan.

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

4. Leasing Activity Reports.

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

E. (§ 505) Indemnification During Construction.

During construction on the Site, including the Street Improvements, and until such time as Owner has issued a Certificate of Completion, Developer agrees to and shall indemnify and hold Owner and City harmless from and against all liability, loss, damage, costs, or expenses (including reasonable attorneys' fees and court costs) arising from or as a result of the death of any person or any accident, injury, loss, or damage whatsoever caused to any person or to the property of any person which shall occur on the Site and which shall be directly or indirectly caused by any acts done thereon or any errors or omissions of Developer or its agents, servants, employees, or contractors. Developer shall not be responsible for (and such indemnity shall not apply to) any acts errors or omissions of Owner or City or its respective agents, servants, employees or contractors. Neither Owner nor City shall be responsible for any acts, errors or omissions of any person or entity except its own agents, servants, employees or contractors subject to any and all statutory and other immunities.

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

1. Types of Insurance.

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

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

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

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

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

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

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

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

2. Policy Form, Content and Insurer.

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

3. Failure to Maintain Insurance and Proof of Compliance.

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

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

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

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

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

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

H. (§ 508) Rights of Access by Owner.

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

I. (§ 509) Applicable Laws.

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

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

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

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

Developer shall pay, when due, all real estate taxes and assessments assessed or levied subsequent to conveyance of the Site, if any. Until the date Developer is entitled to the issuance of a Certificate of Completion (as defined in Section 513) executed by Owner, Developer shall not place or allow to be placed thereon any mortgage, trust deed, encumbrance or lien (except mechanic's liens prior to suit to foreclose the same being filed) prohibited by this Agreement. Developer shall remove or have removed any levy or attachment made on the Site, or assure the satisfaction thereof, within a reasonable time, but in any event prior to a sale to any third party, subject to the terms of this Agreement. Nothing herein contained shall be deemed to prohibit Developer from contesting the validity or amounts of any tax, assessment, encumbrance or lien, nor to limit the remedies available to Developer in respect thereto.

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

1. Definitions.

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

2. No Encumbrances except Mortgages to Finance the Project.

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

than the notification requirement herein, Developer shall have the same right to encumber its right, title and interest under this Agreement and the Site that Developer would have after closing that it would absent this Agreement, pursuant to one or more mortgages, provided that any such Mortgage adheres to the requirements of this provision and the Covenant Agreement, including but not limited to, the TOT Guarantee and Option as described therein, that such mortgage be only for financing the acquisition, construction and other expenditures reasonably necessary for the development of the Site with the Project.

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

Developer's breach of any of the covenants or restrictions contained in this Agreement shall not defeat or render invalid the lien of any mortgage made in good faith and for value as to the Site, or any part thereof or interest therein, but unless otherwise provided herein, the terms, conditions, covenants, restrictions, easements, and reservations of this Agreement shall be binding and effective against the holder of any such mortgage of the Site whose interest is acquired by foreclosure, trustee's sale or otherwise.

4. Holder Not Obligated to Construct or Complete Improvements.

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

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

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

6. Modification of Article; Conflicts

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

7. Entitlement to Written Notice of Default

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

8. Right to Cure.

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

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

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

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

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

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

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

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

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

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

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

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

e. An amount equivalent to the interest that would have accrued on the aggregate of such amounts had all such amounts become part of the mortgage debt and such debt had continued in existence to the date of payment by Owner.

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

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

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

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

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

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

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

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

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

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

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

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

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

12. Minor Amendments.

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

M. (§ 513) Certificate of Completion.

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

The Certificate of Completion shall be executed and notarized and recorded in the Office of the Recorder of Los Angeles County.

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

Upon request of Developer, the Owner shall not unreasonably withhold a Certificate of Completion. If Owner refuses or fails to furnish a Certificate of Completion within thirty (30) days after written request from Developer or any entity entitled thereto, Owner shall provide a written statement of the reasons Owner refused or failed to furnish a Certificate of Completion. The statement shall also contain Owner's opinion of the action Developer must take to obtain a Certificate of Completion. If the reason for such refusal is confined to the immediate availability of specific items or materials for landscaping, or other minor so-called "punch list" items, Owner will not reasonably withhold issuing its Certificate of Completion upon the posting of a bond or other security reasonably acceptable to Owner by Developer with Owner in an amount representing one hundred fifty percent (150%) of the fair value of the work not yet completed at prevailing wage rates or other assurance reasonably satisfactory to Owner.

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

N. (§ 5I4) <u>Estoppels and SNDA's</u>.

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

O. (§ 5I5) <u>Partial Releases</u>.

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

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

II. Developer is not in breach of this DDA;

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

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

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

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

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

VI. (§ 600) USES OF THE SITE.

A. (§ 601) Uses.

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

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

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

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

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

1. Deeds.

In Deeds the following language shall appear: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, ancestry, or any other protected class as defined by federal, state and/or local law in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land herein conveyed, nor shall the grantee, or any persons claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the land herein conveyed. The foregoing covenants shall run with the land."

2. Leases.

In Leases the following language shall appear: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, ancestry, or any other protected class as defined by federal, state and/or local law in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the premises herein leased nor shall the lessee, or any person claiming under or through him or her, establish or permit any such practice or practices, of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants or vendees in the premises herein leased."

3. Contracts.

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

D. (§ 604) Maintenance of Improvements.

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

(§ 605) Beneficiary and Third-Party Beneficiary.

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

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

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

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

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

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

B. (§ 702) Legal Actions.

1. Institution of Legal Actions.

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

2. Applicable Law and Forum.

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

3. Acceptance of Service of Process.

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

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

C. (§ 703) Rights and Remedies are Cumulative.

Except as otherwise expressly stated in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by either party of one or more of its rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

D. (§ 704) Waiver.

Except as otherwise provided in this Agreement, waiver by either party of the performance of any covenant, condition, or promise shall not invalidate this Agreement, nor shall it be considered a waiver of any other covenant, condition, or promise. Waiver by either party of the time for performing any act shall not constitute a waiver of time for performing any other act or an identical act required to be performed at a later time. The delay or forbearance by either party in exercising any remedy or right as to any default shall not operate as a waiver of any default or of any rights or remedies or to deprive such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

E. (§ 705) Specific Performance.

In addition to any other remedies permitted by this Agreement, if Owner defaults hereunder by failing to perform any of its obligations herein, Owner agrees that Developer shall be entitled to the judicial remedy of specific performance, and Owner agrees (subject to its reserved right to contest whether in fact a default does exist) not to challenge or contest the appropriateness of such remedy. In this regard, Developer specifically acknowledges that Agency is entering into this Agreement for the purpose of assisting in the redevelopment of the Site and not for the purpose of enabling Developer to speculate with land.

F. (§ 706) Construction and Environmental Covenants.

In addition to any other remedies permitted by this Agreement, the parties shall execute and record Construction Covenants against the Site requiring Developer to comply with the terms of this Agreement and Conditions of Approval, which provisions include, in accordance with their terms, monetary penalties on Developer for any failure to complete certain components of the Project required by this Agreement within the time limits therein described. The Parties herein acknowledge and agree that deed restrictions, covenants, or other encumbrances may be required by an environmental oversight agency as a condition of site closure following Site remediation, that

the recordation of such a deed restriction, covenant, or other encumbrance shall not be considered a breach of this Agreement, and the Parties herein shall cooperate in good faith and take all reasonable actions to ensure any such deed restriction, covenant, or other encumbrance is properly issued and recorded.

G. (§ 707) Attorney's Fees.

If either party to this Agreement is required to initiate or defend any action or proceeding in any way arising out of the parties' agreement to, or performance of this Agreement, or is made a party to any action or proceeding by Escrow Agent or other third party, such that the parties hereto are adversarial, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees from the other. As used herein, the "**prevailing party**" shall be the party determined as such by a court of law pursuant to the definition in Code of Civil Procedure Section 1032(a)(4), as it may be subsequently amended. Attorney's fees shall include attorney's fees on any appeal, and in addition a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

VIII. (§ 800) GENERAL PROVISIONS.

A. (§ 801) Notices, Demands and Communications between the Parties.

Except as expressly provided to the contrary herein, any notice, consent, report, demand, document or other such item to be given, delivered, furnished or received hereunder shall be deemed given, delivered, furnished, and received when given in writing and personally delivered to an authorized agent of the applicable party, or upon delivery by the United States Postal Service, first-class registered or certified mail, postage prepaid, return receipt requested, or by a national "overnight courier" such as Federal Express, at the time of delivery shown upon such receipt; in either case, delivered to the address, addresses and persons as each party may from time to time by written notice designate to the other and who initially are:

To Owner:
City of San Dimas
245 East Bonita Avenue
San Dimas, CA 91773
Attention: Executive Director

With a Copy to:
Aleshire & Wynder, LLP
18881 Von Karman Avenue, Suite 1700
Irvine, CA 92612
Attention: Jeff Malawy, Esq.

To Developer:
Pioneer Square, LLC
8800 Venice Blvd, Suite 316
Los Angeles, CA 90034
Attention: Michael Dieden

191 W 4th Street
Pomona, CA 91766
Attention: Gerald Tessier

With a Copies to: Jeffrey Graham, Esq.
654 Milwood Ave
Venice, CA 90291

Jerry Neuman
Andrew Brady
DLA Piper, LLP
550 S. Hope St., Suite 2400
Los Angeles, CA 90071

To Escrow Holder: Fidelity National Title Insurance Company
21680 Gateway Center Drive, Suite 110
Diamond Bar, CA 91765
MaryLou Adame, Escrow Officer

B. (§ 802) Non-Liability of Owner Officials and Employees; Conflicts of Interest; Commissions.

1. Personal Liability.

No member, official, employee, agent or contractor of Owner shall be personally liable to Developer in the event of any default or breach by Owner or for any amount which may become due to Developer or on any obligations under the terms of the Agreement; provided, it is understood that nothing in this Section 802 is intended to limit Owner's liability. No member, official, employee, agent or contractor of Developer shall be personally liable to Owner in the event of any default or breach by Developer or for any amount which may become due to Owner or on any obligations under the terms of the Agreement; provided, it is understood that nothing in this Section 802 is intended to limit Developer's liability.

2. Conflict of Interest, Warranty, and Representation of Non-Collusion.

No official, officer, or employee of Owner has any financial interest, direct or indirect, in this Agreement, nor shall any official, officer, or employee of Owner participate in any decision relating to this Agreement which may affect his/her financial interest or the financial interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any State or municipal statue or regulation. The determination of "financial interest" shall be consistent with State law and shall not include interest found to be "remote" or non "interest" pursuant to California Government Code Sections 1091 and 1091.5. Developer warrants and represents that (s)he/it has not paid or given, and will not pay or give, to any third party including, but not limited to, any Owner official, officer, or employee, any money, consideration, or other thing of value as a result or consequence of obtaining or being awarded this Agreement. Developer further warrants and represents that (s)he/it has not engaged in any act(s), omission(s), or other conduct or collusion that would result in the payment of any money, consideration, or other thing of value to any third party including, but not limited to, any Owner official, officer, or employee, as a result or consequence of obtaining or being awarded any agreement. Developer is aware of and understands that any such act(s), omission(s) or other conduct resulting in the payment of money, consideration, or other thing of value will render this Agreement void and of no force or effect.

3. Commissions.

Owner represents it has engaged Kosmont Real Estate Services in connection with the sale of the Site and the transaction contemplated hereunder. Developer agrees to hold Owner harmless from any claim by any other broker, agent, or finder retained by Developer in connection with this transaction. Owner shall pay a real estate commission fee to Kosmont Real Estate Services consistent with the Exclusive Authorization to Sell Agreement between Owner and Kosmont Real Estate Services. Developer's indemnification obligations set forth in this Section shall survive the termination or expiration of this Agreement for a period of five (5) years from the Effective Date.

C. (§ 803) Enforced Delay: Extension of Times of Performance.

Time is of the essence in the performance of this Agreement.

Notwithstanding the foregoing, in addition to specific provisions of this Agreement, performance by either party hereunder shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; supernatural causes; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; subsurface conditions on the Site and unknown soils conditions; governmental restrictions or priority litigation actually impacting the Project; unusually severe weather; inability to secure necessary labor, materials or tools after demonstrating diligent effort to procure such; acts of the other party; acts or the failure to act of a public or governmental Owner or entity (except that acts or the failure to act of Owner shall not excuse performance by Owner); a national recession or depression as commonly defined by the governing Federal Agency commencing subsequent to the sale and close of Escrow on the Site; any time periods required for Developer to obtain approval of a cleanup plan, conduct remediation of existing subsurface contamination at the Site to required regulatory cleanup targets, and obtain a land use covenant from the applicable oversight authority allowing the proposed use of the Property by the Project, when such time period extends beyond the amount of time provided in Attachment 2 for the Project to obtain building permits for the construction of the Project, provided the commencement of such site cleanup activities occurs subject to Attachment 2 and Developer thereafter pursues the cleanup activities with commercially reasonable diligence; any third-party lawsuits challenging the approval of the Entitlements, CEQA SCPE, or challenging any other discretionary or ministerial agency approval issued by the City or other agency for the Project; or any other causes beyond the reasonable control or without the fault of the party claiming an extension of time to perform. In the event of such a delay (herein "**Enforced Delay**"), the party delayed shall continue to exercise reasonable diligence to minimize the period of the delay. An extension of time for any such cause shall be limited to the period of the Enforced Delay and shall commence to run from the time of the commencement of the cause, provided notice by the party claiming such extension is sent to the other party within ten (10) days of the commencement of the cause. Failure to provide such notice shall constitute a waiver of the claim.

The following shall not be considered as events or causes beyond the control of Developer, and shall not entitle Developer to an extension of time to perform: (i) Developer’s failure to obtain financing for the Project, (ii) Developer’s failure to secure approvals for the Project not caused by a Forced Delay; (iii) Developer’s failure to negotiate agreements with prospective users for the Project or the alleged absence of favorable market conditions for such uses; or (iv) fluctuations in the business and real estate market environment which may negatively impact pricing of labor, materials or tools and/or potential return on investment of any lease or property sale when such fluctuations do not impair the financial viability of completing the Project.

Times of performance under this Agreement may also be extended by mutual written agreement by Owner and Developer. The Executive Director of Owner shall have the authority on behalf of Owner to approve extensions of time not to exceed one hundred eighty (180) days. Other

than as specified for an Enforced Delay, nothing shall obligate the Executive Director of Owner to grant an extension or to prohibit the Executive Director of Owner from seeking City Council approval of the requested extension prior to approval.

D. (§ 804) Books and Records.

1. Developer to Keep Records.

Developer shall prepare and maintain all books, records and reports necessary to substantiate Developer's compliance with the terms of this Agreement or reasonably required by Owner.

2. Right to Inspect.

Either party shall have the right, upon not less than seventy-two (72) hours' notice, at all reasonable times, to inspect the books and records of the other party pertaining to the Site as pertinent to the purposes of this Agreement. The books and records shall be stored in a manner and location to allow the other party to conduct such inspection within a convenient physical distance and in an environment comfortable and commensurate with an office location. Either party can request duplication and presentation of physical representations of the books and records and the party in possession of such books and records shall provide them in a reasonable timeframe and at a cost borne by the requestor. Either party can provide parties electronic versions of books and records at no cost to the other party. Nothing in this section waives the confidentiality of said books and records as specified elsewhere in this Agreement or as allowed by law.

3. Ownership of Documents.

Copies of all drawings, specifications, reports, records, documents and other materials pertaining to the condition of the Site prepared by Developer, its employees, agents and subcontractors, in the performance of this Agreement, which documents are in the possession of Developer and are not confidential, except as provided in Section 804.4 below, shall be delivered to Owner upon request in the event of a termination of this Agreement, and Developer shall have no claim for additional compensation as a result of the exercise by Owner of its rights hereunder. Owner shall have no rights of reliance thereon, and (ii) Developer makes no warranty or representation regarding the completeness, accuracy or sufficiency of such documents, and Developer shall have no liability therefor or in connection therewith. Notwithstanding the foregoing, Owner shall not have any right to sell, license, convey or transfer the documents and materials to any third party, or to use the documents and materials for any other site, except in the case of a termination of this Agreement due to default of Developer, as otherwise specified in this Agreement, or as mutually agreed by the parties.

4. Confidentiality.

Owner agrees, to the maximum extent permitted by the California Public Records Act (Government Code Section 6253 et seq.) or other applicable local, state or federal disclosure laws (collectively, "Public Disclosure Laws"), to keep confidential all proprietary financial and other information submitted by Developer to Owner in connection with Developer's satisfaction of its obligations under this Agreement (collectively, "Confidential Information"). Notwithstanding the preceding sentence, City may disclose Confidential Information to its officials, employees, agents, attorneys and advisors, but only if and to the extent necessary to carry out the purpose for which the Confidential Information was disclosed consistent with the rights and obligations provided for hereunder.

Developer acknowledges that Owner has not made any representations or warranties that any Confidential Information Owner receives from Developer will be exempt from disclosure under any Public Disclosure Laws. In the event the Owner's City Attorney determines that the release of any Confidential Information is required by Public Disclosure Laws, or by order of a court of competent jurisdiction, Owner shall promptly notify Developer in writing of Owner's intention to release the Confidential Information so that Developer has the opportunity to evaluate whether to object to said disclosure and/or to otherwise take whatever steps it deems necessary or desirable to prevent disclosure, provided that Owner shall not be liable for any damages, attorneys' fees and costs for any alleged failure to provide said notice. If Owner's City Attorney, in his or her discretion, determines that only a portion of the requested Confidential Information is exempt from disclosure under the Public Disclosure Laws, Owner may redact, delete or otherwise segregate the Confidential Information that will not be released from the non-exempt portion to be released.

E. (§ 805) Assurances to Act in Good Faith.

Owner and Developer agree to execute all documents and instruments and to take all action, including deposit of funds in addition to such funds as may be specifically provided for herein, and as may be reasonably required in order to consummate conveyance and development of the Site as herein contemplated, and shall use their commercially reasonable efforts, to accomplish the Closing and subsequent development of the Site in accordance with the provisions hereof. Owner and Developer shall each diligently and in good faith pursue the satisfaction of any conditions or contingencies subject to their approval.

F. (§ 806) Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply. The section headings are for purposes of convenience only and shall not be construed to limit or extend the meaning of this Agreement. This Agreement includes all attachments attached hereto, which are by this reference incorporated in this Agreement in their entirety. This Agreement also includes the Redevelopment Plan and any other documents incorporated herein by reference, as though fully set forth herein.

G. (§ 807) Entire Agreement, Waivers and Amendments.

This Agreement integrates all of the terms and conditions mentioned herein, or incidental hereto, and this Agreement supersedes all negotiations and previous agreements between the parties with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement, unless specified otherwise herein, must be in writing and signed by the appropriate authorities of Owner or Developer, as applicable, and all amendments hereto must be in writing and signed by the appropriate authorities of Owner and Developer.

H. (§ 808) Severability.

In the event any term, covenant, condition, provision or agreement contained herein is held to be invalid, void or otherwise unenforceable, by any court of competent jurisdiction, such holding shall in no way affect the validity or enforceability of any term, covenant, condition, provision or agreement contained herein.

I. (§ 809) Time for Acceptance of Agreement by Owner.

This Agreement, when executed by Developer and delivered to Owner, must be authorized, executed and delivered by Owner, not later than the time set forth in the Schedule of Performance or this Agreement shall be void, except to the extent that Developer shall consent in writing to further extensions of time for the authorization, execution, and delivery of this Agreement. After execution by Developer, this Agreement shall be considered an irrevocable offer until such time as such offer shall become void due to the failure of Owner to authorize, execute and deliver the Agreement in accordance with this Section.

J. (§ 810) Execution.

I. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and such counterparts shall constitute one and the same instrument.

II. Owner represents and warrants that: (i) by proper action of Owner, Owner has been duly authorized to execute and deliver this Agreement, acting by and through its duly authorized officers; and (ii) the entering into this Agreement by Owner does not violate any provision of any other agreement to which Owner is a party.

III. Developer represents and warrants that: (i) it is duly organized and existing under the laws of the State of California; (ii) by proper action of Developer, Developer has been duly authorized to execute and deliver this Agreement, acting by and through its duly authorized officers; and (iii) the entering into this Agreement by Developer does not violate any provision of any other agreement to which Developer is a party.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date of execution by Owner.

REMINDER:

Developer must initial Sections 402.b, 408(5) & 410(3).
Owner must initial Section 410(3).

DEVELOPER:

PIONEER SQUARE, LLC

By: _____

Name:_____

Title:_____

By: _____

Name:_____

Title:_____

OWNER:

CITY OF SAN DIMAS, a municipal corporation

By: _____
Emmett Badar, Mayor

_____, 2022

ATTEST:

_____
Debra Black,
Secretary

ACCEPTED:

ESCROW HOLDER:

Accepted and agreed to:

By: _____
MaryLou Adame, Escrow Officer

Dated: _____, 2022

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

By: _____
Jeff Malawy, Agency Counsel

ATTACHMENT NO. 1-A

PIONEER SQUARE DDA

LEGAL DESCRIPTION OF SITE

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN DIMAS IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

Portion of APN 8386-021-913

That portion of the north half of Block 11 of Replat of a Portion of the Town of San Dimas, in the City of San Dimas, County of Los Angeles, State of California, as per map recorded in Book 37, page 31 of Miscellaneous Records, in the Office of the County Recorder of said County, more particularly identified pursuant to that certain Certificate of Compliance recorded July 13, 1995 as Instrument No. 95-1130192, of Official Records,
and described as follows:

Beginning at the Northwest corner of said Block 11, said point being the **TRUE POINT OF BEGINNING**, thence easterly along said northerly line of said Block 11, North 89°43'50" East, 310.23 feet to an angle point therein; thence continuing easterly along said northerly line South 83°39'51" East, 269.82 feet; thence South 45°15'33" East, 31.05 feet to the easterly line of said Block 11; thence southerly along the easterly line of said block South 00°14'56" East, 277.28 feet to the southerly line of said north half of Block 11; thence westerly along said southerly line South 89°43'52" West, 600.17 feet to the westerly line of said Block 11; thence Northerly along said westerly line of said block North 00°15'32" West, 330.27 feet to the **TRUE POINT OF BEGINNING.**

Excepting therefrom that portion of Block 11 of Replat of a Portion of the Town of San Dimas, in the City of San Dimas, County of Los Angeles, State of California, as per map recorded in Book 37, page 31 of Miscellaneous Records, in the Office of the County Recorder of said County, more particularly identified pursuant to that certain Record of Survey recorded in Book 281, Pages 54 through 75 of Record Maps, in the Office of the County Recorder of said County, described as follows:

Commencing at the northwest corner of said Block 11; thence easterly along the north line of said block 11 North 89°54'56" East 129.42 feet to the **TRUE POINT OF BEGINNING**; thence continuing along said north line North 89°54'56" East 180.81 feet; thence leaving said north line

South 83°17'47" East 269.82 feet; thence South 45°42'52" East 31.05 feet to the east line of said Block 11, thence southerly along said east line South 00°04'20" East 79.13 feet to a point of cusp with a curve concave to the southwest having a radius of 45.00 feet and to which point a radial line bears North 89°55'40" East; thence leaving said east line, northwesterly along said curve 63.11 feet through a central angle of 80°21'23"; thence North 80°25'43" West 157.31 feet to the beginning of a tangent curve concave to northeast having a radius of 564.01 feet; thence northwest 121.67 feet along said curve through a central angle of 12°21'37" to the beginning of a non-tangent curve concave to the southwest having a radius of 459.58 feet, a radial line through said beginning bears North 22°00'56" East; thence northwesterly 26.81 feet along said curve through a central angle of 03°20'32" to the beginning of a compound curve concave to the southwest having a radius of 235.00 feet; thence northwesterly 76.94 feet along said curve through a central angle of 18°45'28"; thence South 89°54'56" West 60.86 feet; thence North 00°04'56" West 7.00 feet to the **TRUE POINT OF BEGINNING**.

Contains approximately 4.03 acres, more or less.

Prepared by or under the direction of:

RKA CONSULTING GROUP
398 SOUTH LEMON CREEK DRIVE, SUITE E
WALNUT, CALIFORNIA 91789
TEL (909) 594-9702 • FAX (909) 594-2658

David G. Gilbertson, LS 6941
Expires 09/30/2023

ATTACHMENT NO. 1-A

PIONEER SQUARE DDA CONCEPTUAL SITE PLANS

ATTACHMENT NO. 2

PIONEER SQUARE DDA

SCHEDULE OF PERFORMANCE

	ITEM TO BE PERFORMED	TIME FOR PERFORMANCE
I.	Developer executes and delivers 3 copies of DDA and Covenant Agreement to Owner together with the Deposit.	At least 7 days before the scheduled City Council meeting (Event 2).
II.	Owner holds public hearing on DDA and approves or disapproves DDA.	On or before October 11, 2022.
III.	Owner submits DDA to Oversight Board for consideration for November 10, 2022 meeting.	After Owner approval and before October 20, 2022.
IV.	Escrow is opened with Owner delivering an executed copy of DDA and Covenant Agreement and Developer delivers the Deposit to Escrow ("**Opening of Escrow**").	Within 2 business days of Oversight Board approval
V.	Developer deposits 2nd $25,000 portion of Deposit into Escrow.	Within 5 business days of Event 2
VI.	Developer deposits the CEQA Expenses Deposit with City	Within 5 business days of Event 2
VII.	Title Company delivers Preliminary Report to Developer for Site.	Within 10 days after Opening of Escrow.
VIII.	Developer approves or disapproves title exceptions and public easements on Preliminary Report.	Within 10 days after Event 8.
IX.	Owner notifies Developer whether Owner will cure any disapproved exceptions.	Within 15 days of Event 9.
X.	Developer submits to Owner fully executed Operating Agreement and limited liability company or partnership agreement with The Zislis Group.	Within 30 days of Oversight Board and State of California Department of Finance (as may be required) approval of the DDA.
XI.	Developer to submit to Owner fully executed limited liability operating agreement with Republic Metropolitan.	Within 30 days of Oversight Board and State of California Department of Finance (as may be required) approval of the DDA
XII.	[omitted]	

	ITEM TO BE PERFORMED	TIME FOR PERFORMANCE
XIII.	[omitted]	
XIV.	Escrow Agent gives notice of fees, charges, costs and documents to close Escrow.	Within 30 business days prior to Closing
XV.	Deposits into Escrow by Owner:	
	1. Grant Deed	At least 1 business day prior to Closing Date
	2. Estoppel Certificate	At least 1 business day prior to Closing Date
	3. Taxpayer ID Certificate	At least 1 business day prior to Closing Date
	4. Owner's Certificate	At least 1 business day prior to Closing Date
	5. Covenant Agreement	As set forth in Event 1.
XVI.	Deposits into Escrow by Developer:	See below
	1. Estoppel Certificate	At least 1 business day prior to Closing Date
	2. Certificate of Acceptance	At least 1 business day prior to Closing Date
	3. The remaining amount of the Purchase Price due	At least 1 business day prior to Closing Date
	4. Payment of Developer's Share of Escrow Costs	At least 1 business day prior to Closing Date
	5. Taxpayer ID Certificate	At least 1 business day prior to Closing Date
	6. Covenant Agreement	As set forth in Event 1.
XVII.	Owner or Developer, as case may be, may cure any condition to closing disapproved or waived; or may cure any default.	Within 30 days after date established therefore, or date of breach, as the case may be
XVIII.	Escrow to close.	Not later than December 19, 2022.

	ITEM TO BE PERFORMED	TIME FOR PERFORMANCE
XIX.	Developer prepares and submits all Entitlement applications sufficient to allow the City to deem the applications complete, as well as the Architectural and Project Design Package to City which shall include preliminary plans, drawings and specifications in general accordance with Concept Drawings and Proposed Site Plan, including architectural theme and treatment for the entire Site.	Within 180 days of Oversight Board and State of California Department of Finance (as may be required) approval of the DDA, but no later than June 1, 2023.
XX.	City approves reviews and considers governmental approvals, Architectural and Project Design.	Within 180 days of Event 19.
XXI.	Developer shall submit proof of financing to the City, which shall include a copy of commitment or commitments obtained by Developer for the lines of credits, loans, grants, or other financial assistance from equity and debt financing sources to assist in financing the construction of the proposed Project.	60 days prior to the commencement of Project construction or 30 days after receipt of preliminary construction loan term sheet from lender.
XXII.	Developer diligently pursues application for building permits.	Within 360 days of Close of Escrow or Final Project Entitlements, whichever is later.
XXIII.	Developer to enter into Voluntary Cleanup Agreement for investigation and remediation of Project site and obtain approval of Cleanup Plan from DTSC.	Within 45 days of Close of Escrow.
XXIV.	City will issue all necessary permits and approvals and Developer will submit insurance documentation to Owner.	Within 180 days of Event 22.
XXV.	City provides accounting and return of any balance of CEQA Expenses Deposit to Developer.	Within 30 days of Event 23
XXVI.	Construction commences and Developer diligently pursued to completion.	Not later than 3 months from the date building permits are pulled
XXVII.	Developer completes construction of improvements.	Within 24 months of commencement of construction, which timeline can be extended for Enforced Delay as specified in Section 803
XXVIII.	Authority issues Certificate of Completion.	Within 15 days of Developer's request after satisfactory completion of all improvements.

It is understood that the foregoing Schedule of Performance is subject to all of the terms and conditions set forth in the Agreement. The summary of the items of performance in this Schedule of Performance is not intended to supersede or modify the more complete description in the text of the

Agreement; in the event of any conflict or inconsistency between this Schedule of Performance and the text of the Agreement, the text shall govern.

The time periods set forth in this Schedule of Performance may be altered or amended only by written agreement signed by both Developer and Owner. A failure by either party to enforce a breach of any particular time provision shall not be construed as a waiver of any other time provision. Additionally, should any regulatory agency with jurisdiction over the issuance of any permit required for the Project cause a delay in the time periods set forth in this Schedule of Performance, the applicable time shall be extended commensurate with such delay.

ATTACHMENT NO. 3

PIONEER SQUARE DDA

SCOPE OF DEVELOPMENT

A. General

Developer agrees that the Site shall be developed and improved in accordance with the provisions of this Agreement including all attachments, and the plans, drawings, and related documents approved by City pursuant hereto. Developer, its supervising architect, engineers, and contractor shall work with City staff to coordinate the overall design and improvements. Any questions or issues regarding the Scope of Development not included or addressed herein or in this Agreement shall be resolved in accordance with the San Dimas Municipal Code.

B. Project Concept:

A multi-modal transit integrated village combining hospitality, residential and commercial uses (retail, entertainment, restaurants) including and surrounding a public plaza that creates a sense of place and engagement, thereby intended to attract future Metro and Foothill Transit commuters, and also patrons from throughout San Gabriel Valley. Developer may have some reasonable flexibility, provided Developer shows reasonable evidence therefor, supporting the alteration of a design feature herein, subject to the City's approval; however, features described below may not be eliminated or reduced (unless otherwise agreed in writing by City/Owner). The following Future Uses shall be subject to approval by Owner pursuant to Section 303.2.f.1 of this DDA:

1. The Residential Component will include up to approximately 97 dwelling units, having a variety of for-sale housing types at diverse price points to be located on the preliminary site plan delivered by Developer. Parking will be provided with 2 spaces per unit, with guest parking to be satisfied within the commercial parking envelope.

2. The Retail Component may include commercial uses such as a bookstore, dining, a small grocer, creative office space and health & exercise uses among others, which comprise approximately twenty-five thousand (25,000) to thirty thousand (30,000) useable square feet of retail and commercial service uses. It is understood that any dining facility as part of the Retail Component shall not authorize any fast-food chain restaurant, except as expressly approved by the Owner. Parking with the minimum spaces described below will be provided. As may be necessary, retail/commercial parking to be managed by a professional parking company.

3. The Hotel Component will comprise of an Upscale or higher quality boutique hotel as defined by the August 2022 Smith Travel Research Hotel Classification list, with a minimum of 60 and a maximum of 80 rooms, located on the NW corner of the property lot at Bonita and Acacia. The hotel will have a lobby with restaurant, which shall not be a fast-food chain, providing a full assortment of food and drinks which is normal and customary of a restaurant and bar services, a pool, and a roof-top bar with views of the San Gabriel Mountains and the Metro. Hotel guests and visitors are to be parked in a 3-tandem space only valet garage managed by the hotel operator.

A parking program will be agreed upon by the Owner/City and Developer under which the parking will be sustainable both economically and environmentally. The parking facility will be sub and semi-subterranean estimated to contain a maximum of 381 onsite parking spaces.

The Project will prioritize the pedestrian experience, with buildings and spaces designed to be inviting to pedestrians, cyclists and motorists.

The Project will make for an inviting access and relationship to Pioneer Park located immediately adjacent to the Project.

The Project will provide multi-modal connections to adjacent developments and facilities in the area.

The Project will seek to achieve a high sustainability standard that will include water-wise landscaping that complements the various architectural styles and themes of the project, which may include water conservation in the landscape as not only a short-term response to the current drought but also as a long-term sustainability practice.

Developer will offer a project phasing program, subject to approval by the Owner, with the goal of holding construction inconvenience to a minimum to the neighborhood and street system.

B. Design Criteria

1. Design Guidelines. The rehabilitation of the building(s) shall be consistent with the City's approved guidelines, incorporated herein by this reference and on file in the office of the City's Director of Community Development and with the design theme of the area.

2. Architectural Quality. The building(s) shall have high quality architectural design, both individually and in terms of the context of the total complex. Open and landscaped areas shall be designed with the same degree of quality.

3. Site Plan. The Site Plan shall be substantially consistent with the Concept Plans as may be revised and approved by the City. Developer acknowledges that the City retains ultimate discretion in its consideration and approval of the architectural and design plans, consistent with City's land use authority.

C. Site Work

Developer shall not start any construction until it has acquired the Site.

Developer shall be responsible for rehabilitation and installation of all Site improvements. Developer's improvements are currently designed to include, but may not be limited to the following:

1. Developer shall grade the Site, install all necessary infrastructure as determined by the City, complete a parking lot, and create pads for the above uses and such other uses as approved by City.

2. Parking area(s) shall be provided on-site. The design and construction, as well as the number of parking spaces provided shall be in accordance with the San Dimas Municipal Code. Construction of the parking areas shall include installation of necessary drainage system(s) (including connections within the public right-of-way), paving, installation of required landscaping and irrigation, striping and labeling, all in accordance with the San Dimas Municipal Code and approved plans.

3. Paved area(s) shall be provided on-site designed to accommodate on site customer and employee parking.

4. On-site landscaping and automatic irrigation system shall be installed and maintained per approved plans consistent with the San Dimas Municipal Code.

5. On-site lighting shall be installed in a manner consistent with the approved lighting and electrical plans.

D. Public Improvements

Pursuant to a technical analysis, Developer shall construct any and all public improvements, including, but not limited to, traffic/circulation improvements identified in the technical analysis and, to the extent the Project requires shared use of City facilities as specifically agreed upon by City, shall be documented through a shared use agreement between Developer and City.

E. Landscaped Yards

Landscaped areas shall be maintained with landscaping and automatic irrigation. The irrigation system shall be installed so that it can be operated both as a part of the Site.

E. Trash and Recycling Storage

Trash storage areas shall be provided of sufficient size to ensure containment of all solid waste, recycling and organic materials generated from the Site. The size of the enclosure shall be determined by Authority staff based upon the size and nature of the facility proposed but shall not be less than the size required per the then applicable City's standards. The trash enclosure shall be constructed of solid masonry walls and shall not be less than five (5) feet in height with solid metal panel gates equipped with self-closing devices. Adequate access shall be provided to the enclosure for refuse pickup.

F. Signs

All signs shall be installed by Developer. A sign program shall be submitted to the City for approval prior to commencing construction. Building and, where necessary, electrical permits shall be obtained prior to installation, painting or erection of signs. Signs shall be consistent with the plans approved by the San Dimas Planning Commission.

G. Undergrounding Utilities

Any new utilities servicing the Site shall be installed underground, including connections to facilities within the public right-of-way.

H. Mechanical Equipment

On-site mechanical equipment, whether roof or ground mounted, shall be completely screened from public view. Screening material shall be constructed of materials which coordinate with the overall architectural theme. Where public visibility will be minimal, the Director of Community Development may permit use of landscaping to screen ground mounted equipment. No mechanical equipment, including electrical transformers shall be located in any required setback area.

I. Applicable Codes

All improvements shall be constructed in accordance with the California Building Code (with San Dimas modifications), the County of Los Angeles Fire Code (with San Dimas modifications), the San Dimas Municipal Code and current City standards.

ATTACHMENT NO. 4

PIONEER SQUARE DDA

GRANT DEED

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

SUCCESSOR AGENCY TO FORMER
SAN DIMAS REDEVELOPMENT AGENCY
245 East Bonita Avenue
San Dimas, CA 91773

Attn: Executive Director

APN: 8386-021-913

(Space above This Line for Recorder's Office Use Only)
(Exempt from Recording Fee per Gov. Code § 6103)

GRANT DEED

FOR A VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, the SUCCESSOR AGENCY TO THE FORMER COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF SAN DIMAS, a political subdivision formed pursuant to Health and Safety Code 34173 ("**Grantor**") hereby grants to PIONEER SQUARE LLC, a California limited liability company ("**Grantee**"), the real property in the City of San Dimas, County of Los Angeles, State of California, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference ("**Property**").

As conditions of this conveyance, Grantee covenants by and for itself and any successors-in-interest for the benefit of Grantor as follows:

A. Governing Documents. The Property is being conveyed pursuant to that certain Disposition and Development Agreement entered into by and between Grantor and Grantee dated _____, 2022 ("**DDA**"). The DDA is part of public records on file in the office of the City Clerk of the City of San Dimas ("**City**"), located at 245 East Bonita Avenue, San Dimas, CA 91773 , and are incorporated herein by this reference. Any capitalized terms not defined herein shall have the meanings ascribed to them in the DDA. Grantee covenants and agrees for itself and its successors and assigns to rehabilitate the Property in accordance with the DDA and thereafter to use, operate and maintain the Property in accordance with this Deed. The Property is also conveyed subject to easements and rights-of-way of record and other matters of record. In the event of any conflict between this Deed and the DDA, the provisions of the DDA shall control.

B. Development.

a. **Covenant Agreement.** Pursuant to the DDA, the fully executed Agreement Containing Covenants Affecting Real Property, Option to Purchase and Declaration of Covenants Running with Land (Covenant Agreement) for the Project in the form set forth in Attachment No. 5 to the DDA shall be recorded against the Property.

C. Uses. Grantee shall have no right to subdivide, separate, or partition the Property, except upon prior written consent of Grantor. Breach of the terms, covenants, conditions, and provisions of the DDA shall be a material breach of the covenants in this Deed. Grantee shall require that the businesses conducted on the Property be conducted in a prudent manner, exercising customary business practices and hours of operation, to maximize sales and enhance the reputation and attractiveness of the business and the Project.

D. Term of Restrictions.

a. Grantee hereby covenants and agrees for itself, its successors, its assigns, and every successor-in-interest to the Property that Grantee, such successors and such assigns, shall develop, operate, maintain and use the Property in accordance with the terms and conditions of the DDA and this Deed (unless expressly waived in writing by Grantor) for the term of thirty (30) years from the date of recordation of the Certificate of Completion (as defined in the DDA); provided, however, the covenants contained in Sections 8 and 9 shall remain in effect in perpetuity, and the Covenant Agreement shall continue for the term set forth therein.

b. Grantee may request that City release the covenants in this Deed (except Sections 8 and 9) if (i) the Certificate of Completion has been recorded, and (ii) the obligations for uses and maintenance in this Deed are contained in the Covenant Agreement and City has the right to enforce such provisions in the Covenant Agreement. Upon satisfaction of the foregoing conditions, City shall execute and acknowledge an appropriate document releasing the applicable covenants which shall be recorded in the Official Records of Los Angeles County.

I. **Transfer Restrictions**. Grantee covenants that prior to the recordation of the Certificate of Completion, Grantee shall not transfer or encumber the Property or any of its interests therein except as provided in Section 303 of the DDA.

II. **Reservation of Existing Streets.** Grantor excepts and reserves any existing street, proposed street, or portion of any street or proposed street lying outside the boundaries of the Property which might otherwise pass with a conveyance of the Property.

III. **Non-Discrimination.** Grantee covenants that there shall be no discrimination against, or segregation of, any persons, or group of persons, on account of race, color, creed, religion, sex, marital status, age, ancestry, national origin, or any other protected class as defined by federal, state and/or local law in the rental, sale, lease, sublease, transfer, use, occupancy, or enjoyment of the Property, or any portion thereof, nor shall Grantee, or any person claiming under or through Grantee, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the Property or any portion thereof. The nondiscrimination and non-segregation covenants contained herein shall remain in effect in perpetuity.

IV. **Form of Nondiscrimination Clauses in Agreements.** Grantee shall refrain from restricting the rental, sale, or lease of any portion of the Property on the basis of race, color, creed, religion, sex, marital status, age, ancestry, national origin, or any other protected class as defined by federal, state and/or local law of any person. All such deeds, leases, or contracts shall contain or be subject to substantially the following nondiscrimination or non-segregation clauses:

A. **Deeds:** In deeds the following language shall appear: "The grantee herein covenants by and for itself, its heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, age, ancestry, national origin or any other protected class as defined by federal, state and/or local law in the sale, lease, rental, sublease, transfer, use, occupancy, tenure, or enjoyment of the land herein conveyed, nor shall the grantee itself, or any persons claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the land herein conveyed. The foregoing covenants shall run with the land."

B. **Leases:** In leases the following language shall appear: "The lessee herein covenants by and for itself, its heirs, executors, administrators, successors, and assigns, and all persons claiming under or through them, and this lease is made and accepted upon and subject to the following conditions:

"That there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, age, ancestry, national origin or any other protected class as defined by federal, state and/or local law in the leasing, subleasing, renting, transferring, use, occupancy, tenure, or enjoyment of the land herein leased nor shall the lessee itself, or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, sublessees, subtenants, or vendees in the land herein leased."

C. **Contracts:** In contracts pertaining to conveyance of the realty the following language shall appear: "There shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, age, ancestry, national origin or any other protected class as defined by federal, state and/or local law in the sale, lease, rental, sublease, transfer, use, occupancy, tenure, or enjoyment of the land, nor shall the transferee itself, or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the land."

The foregoing covenants shall remain in effect in perpetuity.

E. Mortgage Protection. No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Deed shall defeat or render invalid or in any way impair the lien or charge of any mortgage, deed of trust or other financing or security instrument permitted by and approved by Grantor pursuant to the DDA; provided, however, that any successor of Grantee to the Property shall be bound by such remaining covenants, conditions, restrictions, limitations and provisions, whether such successor's title was acquired by foreclosure, deed in lieu of foreclosure, trustee's sale or otherwise. The foregoing shall limit any rights of holders of any mortgage, deed of trust, or other financing or security instrument set forth in the DDA.

V. **Covenants to Run With the Land.** The covenants contained in this Deed shall be construed as covenants running with the land and not as conditions which might result in forfeiture of title, and

shall be binding upon Grantee, its heirs, successors and assigns to the Property, whether their interest shall be fee, easement, leasehold, beneficial or otherwise.

IN WITNESS WHEREOF, Grantor and Grantee have caused this instrument to be executed on their behalf by their respective officers or agents hereunto as of _____, 2022.

GRANTOR:

SUCCESSOR AGENCY TO THE FORMER COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF SAN DIMAS, a political subdivision formed pursuant to Health and Safety Code 34173

By: _____
Emmett Badar, Mayor

_____, 20__

ATTEST:

_____
Debra Black,
City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

By: _____
Jeff Malawy, City Attorney

ACKNOWLEDGEMENT OF ACCEPTANCE

By its acceptance of this Grant Deed, Grantee hereby agrees as follows:

1. Grantee expressly understands and agrees that the terms of this Grant Deed shall be deemed to be covenants running with the land and shall apply to all of the Grantee's successors and assigns (except as specifically set forth in the Grant Deed).

2. The provisions of this Grant Deed are hereby approved and accepted.

Date:_____, 20__

"DEVELOPER"

PIONEER SQUARE LLC, a California limited liability company

By: _____

Its: _____

EXHIBIT "A" OF ATTACHMENT NO. 4

LEGAL DESCRIPTION OF PROPERTY

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN DIMAS IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

Portion of APN 8386-021-913

That portion of the north half of Block 11 of replat of a portion of the Town of San Dimas, in the City of San Dimas, County of Los Angeles, State of California, as per map recorded in Book 37, page 31 of Miscellaneous Records, in the Office of the County Recorder of said County described as follows:

Beginning at the Northwest corner of said Block 11, said point being the **TRUE POINT OF BEGINNING**, thence easterly along said northerly line of said Block 11, North 89°43'50" East, 310.23 feet to an angle point therein; thence continuing easterly along said northerly line North 83°39’51" East, 269.82 feet; thence South 45°15'33" East, 31.05 feet to the easterly line of said Block 11; thence southerly along the easterly line of said block South 00°14'56" East, 277.28 feet to the southerly line of said north half of Block 11; thence westerly along said southerly line South 89°43'52" West, 600.17 feet to the westerly line of said Block 11; thence Northerly along said westerly line of said block North 00°15’32" West, 330.27 feet to the **TRUE POINT OF BEGINNING**.

Except that portion of Block 11 of replat of a portion of the Town of San Dimas, in the City of San Dimas, County of Los Angeles, State of California, as per map recorded in Book 37, page 31 of Miscellaneous Records, in the Office of the County Recorder of said County, more particularly described as follows:

Commencing at the northwest corner of said Block 11; thence easterly along the north line of said block 11 North 89°54'56" East 129.42 feet to the **TRUE POINT OF BEGINNING**; thence continuing along said north line North 89°54’56" East 180.81 feet; thence leaving said north line South 83°17'47" East 269.82 feet; thence South 45°42,52" East 31.05 feet to the east line of said Block 11, thence southerly along said east line South 00°04’20" East 79.13 feet to a point of cusp with a curve concave to the southwest having a radius of 45.00 feet and to which point a radial line bears North 89°55'40" East; thence leaving said east line, northwesterly along said curve 63.11 feet through a central angle of 80°21'23"; thence North 80°25'43" West 157.31 feet to the beginning of a tangent curve concave to northeast having a radius of 564.01 feet; thence northwest 121.67 feet along said curve through a central angle of 12°21'37" to the beginning of a non-tangent curve concave to the southwest having a radius of 459.58 feet, a radial line through said beginning bears North 22°00'56" East; thence northwesterly 26.81 feet along said curve through a central angle of 03°20'32" to the beginning of a compound curve concave to the southwest having a radius of 235.00 feet; thence northwesterly 76.94 feet along said curve through a central angle of 18°45'28"; thence South 89°54’56" West 60.86 feet; thence North 00°04’56" West 7.00 feet to the **TRUE POINT OF BEGINNING**.

Contains approximately 4.03 acres, more or less.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On _____, 2022 before me, _____, a notary public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Notary Public

SEAL:

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On _____, 2022 before me, _____, a notary public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Notary Public

SEAL:

ATTACHMENT NO. 5

PIONEER SQUARE DDA

AGREEMENT CONTAINING COVENANTS AFFECTING REAL PROPERTY, OPTION TO PURCHASE AND DECLARATION OF COVENANTS RUNNING WITH LAND

FREE RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:

CITY OF SAN DIMAS
245 East Bonita Avenue
San Dimas, CA 91773

Attn: City Manager

APN: 8386-021-913

(Space above This Line for Recorder's Office Use Only)
(Exempt from Recording Fee per Gov. Code § 6103)

AGREEMENT CONTAINING COVENANTS AFFECTING REAL PROPERTY, OPTION TO PURCHASE AND DECLARATION OF COVENANTS RUNNING WITH LAND

THIS AGREEMENT CONTAINING COVENANTS AFFECTING REAL PROPERTY, OPTION TO PURCHASE AND DECLARATION OF COVENANTS RUNNING WITH LAND ("Covenant Agreement" or "Agreement") is made and entered into this _____ day of _____, 2022 ("Effective Date"), by and between the CITY OF SAN DIMAS, a California municipal corporation ("City"), and PIONEER SQUARE, LLC, a California limited liability company ("Owner").

R E C I T A L S:

A. Pursuant to a Disposition and Development Agreement by and between Owner and the Successor Agency to the Former Community Redevelopment Agency of the City of San Dimas ("Agency"), dated August ____, 2022, ("DDA"), Owner secured a contractual right to purchase that certain property in the City of San Dimas, County of Los Angeles, located at 344 West Bonita Avenue (APN: 8386-021-913), and related easements and more particularly described in Exhibit A hereto ("Property") on the condition that it execute and record against such Property title this Covenant Agreement.

B. Pursuant to the DDA, the parties thereto have opened that certain escrow no. _____ at Fidelity National Title Insurance Company ("Acquisition Escrow").

C. City and Owner now desire to place restrictions upon the use and operation of the Property in order to ensure that the Project, as such term is defined in the DDA, shall be operated in accordance with the requirements set forth in the DDA and herein.

D. It is the intent of the parties that this Covenant Agreement shall be recorded on title to the Property in the Office of the County Recorder for the County of Los Angeles,

and that the terms hereof shall be binding on the Owner and its successors in interest in the Property for so long as the Covenant Agreement shall remain in effect.

A G R E E M E N T:

NOW, THEREFORE, the Owner and City declare, covenant and agree, by and for themselves, their heirs, executors, administrators and assigns, and all persons claiming under or through them, that the Property shall be held, transferred, encumbered, used, sold, conveyed, leased and occupied, subject to the covenants and restrictions hereinafter set forth, all of which are declared to be in furtherance of a common plan for the sale, improvement and operation of the Property, and are established expressly and exclusively for the use and benefit of City, the residents of the City of San Dimas, and every person leasing, licensing or buying an interest in the Property.

1. MAINTENANCE.

1.1 General Maintenance Obligation. Owner, for itself and its successors and assigns, hereby covenants and agrees to maintain and repair or cause to be maintained and repaired the Property and all related on-site improvements and landscaping thereon, including, without limitation, buildings, parking areas, lighting, signs and walls in a quality condition and repair, free of rubbish, debris and other hazards to persons using the same, and in accordance with all applicable laws, rules, ordinances and regulations of all federal, state, and local bodies and agencies having jurisdiction, at Owner's sole cost and expense. Such maintenance and repair shall include, but not be limited to, the following: (i) sweeping and trash removal; (ii) the care and replacement of all shrubbery, plantings, and other landscaping in a healthy condition; and (iii) the reasonable repair, replacement and restriping of asphalt or concrete paving using the same type of material originally installed, to the end that such pavings at all times be kept in a level and smooth condition. In addition, Owner shall be required to maintain the Property or cause the Property to be maintained in such a manner as to avoid the reasonable determination of a duly authorized official of the City that a public nuisance has been created by the absence of adequate maintenance such as to be detrimental to the public health, safety or general welfare or that such a condition of deterioration or disrepair causes appreciable harm or is materially detrimental to property or improvements within one thousand (1,000) feet of such portion of the Property.

1.2 Public Open Space. Owner acknowledges and agrees that the Project has been analyzed in accordance with CEQA, as detailed in the Resolution adopted by the City Council concurrently with the approval of the DDA, pursuant to which the City Council found that the Project meets the definition of a Transit Priority Project and qualifies for a CEQA "Sustainable Communities Project" exemption ("SCPE"), enacted as a part of Senate Bill 375 and codified at Public Resources Code Sections 21155 et seq. As such, the City Council, on behalf of the City and Agency, adopted the SCPE as part of its consideration and approval of the DDA. Consistent with that determination and a material requirement of the SCPE for the Project to contain open space usable by the general public ("Public Open Space"), Owner hereby agrees and covenants to maintain the Public Open Space, as shown on Exhibit B attached hereto,

available for use by the general public so long as the Project is in operation, and not just the occupants of the Project Owner shall further maintain all access to such Public Open Space unrestricted to the general public in for so long as the Project is operation. Prior to obtaining the first Certificate of Occupancy for the Project, the Developer shall submit to the City Manager for approval a Project Public Open Space Operations Plan that is consistent with the requirements of this Agreement, which details the goals of the Project's public open space, the operations team including any third party vendors, contacts, details regarding operational planning and strategies to fulfill ongoing maintenance obligations, security, funding mechanisms, days and hours of operation, and other relevant information requested by the City Manager, the approval of which the City Manager shall not unreasonably withhold. Owner shall further maintain the Open Space, including all improvements required as part of the entitlements issued by the City for the Project consistent with the maintenance obligations of Section 1.1 herein. The parties anticipate that the Public Open Space may include installation and operation of various courtyard and paseos, kiosks, a stage and a pop jet water feature for children. The Public Open Space will serve as a venue for year-round seasonal events and the opportunity to capitalize upon San Dimas beautiful evening breezes and sunsets. City resident community outings to be hosted within the Public Open Space may include, but are not limited to movies in the park and hosting local farmers market, and family activities

1.3 Environmental Maintenance Obligation. Owner, for itself and its successors and assigns, hereby covenants and agrees to comply with the requirements of the any remediation orders and guidance, as required by DTSC.

1.4 Parking and Driveways. The driveways and traffic aisles on the Property shall be kept clear and unobstructed at all times. No vehicles or other obstruction shall project into any of such driveways or traffic aisles. Vehicles associated with the operation of the Property, including delivery vehicles, vehicles of employees and vehicles of persons with business on the Property shall park solely on the Property.

1.5 Tenant Compliance. All commercial lease agreements shall be in writing and shall contain provisions which acknowledge the tenant is subject to the terms and conditions of this Covenant Agreement.

1.6 Right of Entry. In the event Owner, or its successor or assign, fails to maintain the common area of the Property in the above-described condition, and satisfactory progress is not made in correcting the condition within thirty (30) days from the date of written notice from City, City may, at its option, and without further notice to Owner, declare the unperformed maintenance to constitute a public nuisance. Thereafter, City, its employees, contractors or agents, may cure Owner's default by entering upon the Property and performing the necessary landscaping and/or maintenance. City shall give Owner reasonable notice of the time and manner of entry, and entry shall only be at such times and in such manner as is reasonably necessary to carry out this Covenant Agreement. The Owner, or its successor and assign owing the affected portion of the Property, shall pay such costs as are reasonably incurred by City for such maintenance, including attorneys' fees and costs.

1.7 Lien. If such costs incurred by City pursuant to Section 1.6 above are not reimbursed within sixty (60) days after Owner's, or such successor's, receipt of notice thereof, the same shall be deemed delinquent, and the amount thereof shall bear interest thereafter at a rate equal to the lesser of ten percent (10%) simple interest per annum or the legal maximum until paid. Any and all delinquent amounts, together with said interest, costs and reasonable attorney's fees, shall be an obligation of the Owner or such successor as well as a lien and charge upon the property interests of Owner or such successor, and the rents, issues and profits of such property. City may bring an action at law against Owner or such successor obligated to pay any such sums or foreclose the lien against Owner's or such successor's property interests. Any such lien shall be created by recordation of a Notice of Claim of Lien against the affected portion of the Property, which Lien must be recorded with ninety (90) days after Owner's payment becomes delinquent pursuant to this provision, and may be enforced by sale by the City following recordation of a Notice of Default of Sale given in the manner and time required by law as in the case of a deed of trust; such sale to be conducted in accordance with the provisions of Section 2924, et seq., of the California Civil Code, applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted by law.

Any monetary lien provided for herein shall be subordinate to any bona fide mortgage or deed of trust covering an ownership interest or leasehold or subleasehold estate in and to the Property or the applicable portion thereof, and any purchaser at any foreclosure or trustee's sale (as well as the transferee under any deed or assignment in lieu of foreclosure or trustee's sale) under any such mortgage or deed of trust shall take title free from any monetary lien created by this Covenant Agreement, but otherwise subject to the provisions hereof; provided that, after the foreclosure of any such mortgage and/or deed of trust, all other assessments provided for herein to the extent they relate to the expenses incurred subsequent to such foreclosure and are assessed hereunder to the purchaser at the foreclosure sale, as Owner of the Property after the date of such foreclosure sale, shall become a lien upon the affected portion of the Property upon recordation of a Notice of Claim of Lien as hereinabove provided.

2. MANAGEMENT.

2.1 Project Management. Subject to the terms and conditions contained hereinbelow, Owner shall at all times during the operation of the Project located on the Property pursuant to this Covenant Agreement provide or retain an entity to perform the management and/or supervisory functions ("Project Manager") with respect to the operation of the common areas of the Project including day-to-day administration, maintenance and repair. Subject to any regulatory or licensing requirements of any other applicable governmental agency, the Management Contract may be for a term of up to fifteen (15) years and may be renewed for successive terms in accordance with its terms. Any Management Contract shall also provide that the Project Manager shall be subject to termination for failure to meet project maintenance and operational standards set forth herein or in other agreements between Owner and City. Owner shall promptly terminate any Project Manager which commits or allows such failure, unless the failure is cured within a reasonable period in no event exceeding sixty (60) days from Project Manager's

receipt of notice of the failure from Owner or City. Notwithstanding anything to the contrary in this Section, the Commercial Component may be self-managed by Owner or any successor or assign of Owner.

3. COMPLIANCE WITH LAWS.

3.1 State and Local Laws. Owner or its successors and assigns shall comply with all ordinances, regulations and standards of the State, City applicable to the Property. Owner or its successors and assigns shall comply with all rules and regulations of any assessment district of the City with jurisdiction over the Property.

4. INSURANCE.

Owner covenants and agrees for itself, and its assigns and successors-in-interest in the Property, that during construction of the Project, Owner or such successors and assigns shall procure and keep in full force and effect or cause to be procured and kept in full force and effect for the mutual benefit of Owner, Agency and City, and shall provide City and Agency evidence reasonably acceptable to the City Manager, or designee, of the existence of, insurance policies meeting the requirements of Section 506 of the DDA.

5. OBLIGATION TO REPAIR.

5.1 Obligation to Repair and Restore Damage Due to Casualty Covered by Insurance. If a portion of the Project shall be totally or partially destroyed or rendered wholly or partly uninhabitable by fire or other casualty, Owner, or its successor with respect to the affected portion of the Project, shall either (i) promptly proceed to obtain any available insurance proceeds and take all steps necessary to begin reconstruction and, upon receipt of insurance proceeds, to promptly and diligently commence and to thereafter pursue the repair or replacement of the affected portion of the Project to substantially the same condition as existed prior to such damage or destruction, or (ii) if Owner, or such successor with respect to the affected portion of the Property, elects not to restore or replace such improvements, such Owner or successor shall promptly remove all debris from the affected portion of the Property and place the affected portion of the Property in a clear and secure condition. City shall cooperate with Owner, at no expense to City, in obtaining any governmental permits required for the repair, replacement, or restoration of any improvements. Following any such event of damage or destruction, Owner, or its successor with respect to the affected portion of the Property, may also reconstruct such other improvements on the Property as are consistent with applicable land use regulations provided it shall obtain all legally required approvals from the City and other governmental agency or agencies with jurisdiction with respect to those improvements.

5.2 Continued Operations. During any period of repair, operation of the Project shall continue to the extent reasonably practicable from the standpoint of prudent business management.

6. LIMITATION ON TRANSFERS OF PROPERTY. Owner covenants and agrees that is shall not Transfer its interests, rights and obligations in the Property without the prior written consent of the City consistent with the terms of Section 303 of the DDA.

7. TOT GUARANTEE.

7.1 TOT Guarantee Obligation. Owner intends to develop an high quality Upscale or higher boutique hotel as defined by the August, 2022 Smith Travel Research Hotel Classification list) with a minimum of 60 and a maximum of 80 keys ("Hotel Component") on the Property ("Project"), which is expected to generate substantial future transient occupancy tax ("TOT") for the benefit of City in accordance with the TOT imposed by the City pursuant to Chapter 3.20 of the San Dimas Municipal Code imposing a twelve percent (12%) TOT on rent charged by hotel operators within the City of San Dimas. As a material incentive to the Agency entering into the DDA with Owner, Owner has guaranteed the development of the Hotel Component on the Property. To guarantee the development of the Hotel Component, Owner hereby guarantees to City that should such Hotel Component not be constructed and operational within the times provided in Section 7.2 below, Owner shall pay the following lost TOT revenues to City upon the times and in the amounts described in Section 7.2 (each payment described in Sections 7.2 a., b. and c. below shall collectively be referred to as "TOT Guarantee"). Owner hereby agrees and acknowledges that the TOT Guarantee, totaling a maximum amount of Twelve Million Dollars ($12,000,000), represents a reasonable estimate of the lost TOT revenues to the City should Owner fail to develop the Hotel Component within the times set forth in Section 7.2 below. Owner further hereby agrees and acknowledges that the twenty (20)-year term of the TOT Guarantee is a reasonable time to address the City's damages should Owner fail to develop the Hotel Component at the Property.

7.2 Payments of TOT Guarantee. Owner shall pay to City the following payments of the TOT Guarantee in the amounts and times described below, which amounts shall be deemed independent payment obligations such that the payments below shall be cumulative:

a. Entitlement Application TOT Payment. If Owner does not submit all the necessary Entitlement applications to City for the Project by 5:00 p.m. on April 1, 2023, as is reasonably sufficient for City to deem the applications complete ("Complete Hotel Application"), Owner shall pay to City One Hundred Thousand Dollars ($100,000) ("Application TOT Payment") annually beginning by no later than April 1, 2024 and continuing on each anniversary of April 1st for each year thereafter in which Owner fails to submit the Complete Hotel Application, or the prorated amount of such Application TOT Payment until Owner submits the Complete Hotel Application. The Application TOT Payment obligation shall continue for nineteen (19) additional years until Owner submits the Complete Hotel Application, for a total potential Application TOT Payment of Two Million Dollars ($2,000,000). The twenty (20)-year term shall be extended consistent with any extension as a result of any period of delay under Sections 7.3 through 7.6, above.

b. Building TOT Payment. If Owner does not secure building permits from City by 5:00 p.m. on the date that is twelve (12) months from the date in

which the City issues the Entitlements, as that term is defined in the DDA, for the Hotel Component ("Building Permits Deadline"), Owner shall pay to City, in addition to and not in lieu of any payment obligation of the Application TOT Payment, Two Hundred Thousand Dollars ($200,000) ("Building Permits TOT Payment") annually beginning by no later than ten (10) days after the Building Permits Deadline and continuing on each anniversary of the Building Permits Deadline another Building Permits TOT Payment for each year thereafter in which Owner fails to secure the building permits for the Hotel Component, or the prorated amount of such Building Permits TOT Payment until Owner secures the building permits from City. The Building Permits TOT Payment obligation shall continue for nineteen (19) additional years from the date of the Building Permits Deadline until Owner secures the building permits for the Hotel Component, for a total potential Building Permits TOT Payments of Four Million Dollars ($4,000,000).

c. Construction TOT Payment. If Owner does not commence construction of the Hotel Component by the date that is six (6) months from the earlier of (i) the date of securing building permits from the City, or (ii) the Building Permits Deadline described in Section 7.2 b. above, ("Commencement of Construction Deadline"), Owner shall pay to City, in addition to and not in lieu of any payment obligation of the Application TOT Payment and the Building Permits TOT Payment, Three Hundred Thousand Dollars ($300,000) ("Construction TOT Payment") annually beginning by no later than ten (10) days after the Commencement of Construction Deadline and continuing on each anniversary of the Commencement of Construction Deadline another Construction TOT Payment for each year thereafter in which Owner fails to commence construction of the Hotel Component, or the prorated amount of such Construction TOT Payment until Owner commences construction of the Hotel Component. Should Owner fail to commence construction within two (2) years of the Commencement of Construction Deadline, the Construction TOT Payment obligation shall be imposed upon Owner's failure to complete construction of the Hotel Component, measured at the time the Hotel Component is eligible for a certificate of occupancy, ("Completion Deadline") such that the Construction TOT payment shall continue to apply until completion of construction, as described herein, rather than upon the Commencement of Construction Deadline. The Construction TOT Payment shall continue for nineteen (19) additional years from the date of the Commencement of Construction Deadline until Owner completes construction of the Hotel Component, as described herein, for a total potential Construction TOT Payments of Six Million Dollars ($6,000,000).

Illustration of TOT Guarantee payments: The following is an illustrative example of how the TOT Guarantee payments described in this Section 7.2 could be applied.

Assumptions: Owner delays submission of the Complete Hotel Application beyond the April 1, 2023 deadline and instead submits the Complete Hotel Application on April 1, 2024. Thereafter, Owner fails to make the Building Permits Deadline and instead secures building permits from City 18 months after the date in which the City issues the Entitlements (6 months delayed). Thereafter, Owner commences construction 3 years

after the Commencement of Construction Deadline and completes construction 1 years later.

Calculation: Owner shall pay City $800,000, calculated based on the $100,000 Application TOT Payment for the 1 year in which the Complete Hotel Application was delayed beyond the deadline, PLUS $100,000 representing the Building Permits TOT Payment, prorated to the half-year delay in meeting the Building Permits Deadline, PLUS the $300,000 Construction Payment TOT due to Owner's failure to meet the Commencement of Construction Deadline, PLUS another $300,000 payable due to Owner's failure to meet the Commencement of Construction Deadline until completion of construction, measured by the at the time the Hotel Component is eligible for a certificate of occupancy.

7.3 Delay by City. Should City unreasonably delay any action which actually and demonstrably delays Owner in achieving any of the payment deadlines described in Sections 7.2 a., b. or c. above, Owner shall not be relieved of any of the payment deadlines provided therein unless Owner has provided the City written notice of such delay ("Delay Notice") no later than ten (10) days from the date of the alleged delay. The Delay Notice provided by Owner shall be supplemented with documentary proof of the City's actual delay. Upon receipt of the Delay Notice, the parties shall meet to discuss the delay and determine whether any extension to the above deadlines are warranted. Any disagreement on such extension, if any, shall be decided by the City's City Manager and his/her decision shall constitute a final agency action on the matter. Should an extension be approved, this Covenant Agreement shall be amended to reflect the City-approved extension and the parties will cooperate in preparing a recording such amendment.

7.4 Delay Caused By Environmental Cleanup. If, through the exercise of commercially reasonable diligence, Owner is unable to finalize the required environmental investigation, cleanup, and regulatory closure of the Site in accordance with applicable cleanup targets adopted by an appropriate regulatory agency, and the same actually and demonstrably delays Owner in achieving any of the payment deadlines described in Sections 7.2 a., b. or c. above, Owner shall not be relieved of any of the payment deadlines provided therein unless Owner has provided the City written Delay Notice no later than ten (10) days from the date of the alleged delay, as said time is calculated under Section 803 of the DDA relating to Forced Delays. The Delay Notice provided by Owner shall be supplemented with documentary proof of the actual delay. Upon receipt of the Delay Notice, the parties shall meet to discuss the delay and determine in good faith whether any extension to the above deadlines are warranted. If proof is provided that Owner has exercised commercially reasonable diligence in pursuing the cleanup and closure of the Site but that finalizing said cleanup has delayed Owner's ability to comply with the payment deadlines described in Sections 7.2 a., b. or c. above, the City shall not refuse to grant an extension of time sufficient to enable the environmental remediation and regulatory closure of the Site to be completed.

7.5 Delay Caused by Third Party Litigation. Any third-party lawsuits challenging the approval of the Entitlements, CEQA SCPE, or challenging any other discretionary or ministerial agency approval issued by the City or other agency for the Project shall automatically toll all deadlines described in Sections 7.2 a., b. or c. until such time as any such litigation is subject to a final resolution.

7.6 Forced Delay. For clarity, any Forced Delay under Section 803 of the DDA shall automatically toll all deadlines described in Sections 7.2 a., b. or c. until such time as the Forced Delay ends.

7.7 Default by Owner; Security. Should Owner fail to meet the deadlines provided in Sections 7.2 a., b. or c. above toward development of the Hotel Component and complete the Hotel Component by April, 2026, or pay the TOT Guarantee, or any portion thereof by the times set for in said Sections 7.2 a., b. or c., owner shall be deemed in breach ("Owner's TOT Guarantee Breach") thereby triggering City's Option to purchase the Property pursuant to Section 8 below. Owner hereby agrees and acknowledges that the Option in favor of City is reasonable to secure Owner's obligations to develop the Hotel Component or pay the TOT Guarantee. The Owner's TOT Guarantee Breach deadline listed above shall be extended by any period of delay under Sections 7.3 through 7.6, above.

7.8 TOT Guarantee Not Subject to Subordination. City's rights to the TOT Guarantee under this Agreement, including without limitation City's rights to receive the payments of the Application TOT Payment, Building Permits TOT Payment or Construction TOT Payment, as provided in Section 7.2, shall not be subordinated to the rights of any person or entity of any kind ("Person") holding an encumbrance, lien, or other interest in the Property of any type or any kind (collectively, "Encumbrance"). Notwithstanding any other provision of this Agreement, Owner shall not enter into any agreement with any Person granting an Encumbrance that would affect the rights or interests of the City to the TOT Guarantee under the terms of this Agreement. For the avoidance of doubt, the City's rights in the event of default, termination or expiration, the City's rights to payment, and Owner's obligation to maintain the TOT Guarantee will remain superior in interest to that of any Person under any and all sets of circumstance, including without limited, any case or proceeding involving Owner under the United States Bankruptcy Code, 11 U.S.C. sections 101 et seq. and any action to enforce any agreement to which Owner is a party.

8. OPTION TO PURCHASE.

8.1 Grant of Option to Purchase. Immediately as of the recordation of the Grant Deed, as such term is defined in the DDA, Owner grants, subject to the terms and conditions stated in this Section 7, to City the exclusive, irrevocable right and option to purchase (the "Option") all of Owner's right, title and interest in and to the Property, together with all improvements thereon and all privileges, easements and appurtenances of every kind relating thereto subject to the terms of this provision.

8.2 Option Consideration. As of the Effective Date of the DDA, Owner has secured the right to purchase the Property, which right the parties hereby acknowledge and agree constitute adequate and satisfactory consideration for the grant of the Option by Owner to City pursuant to this Covenant Agreement.

8.3 Option Term, Expiration & Termination.

a. Option Term. The Option shall be exercisable by City commencing on the first day upon an Owner's TOT Guarantee Breach, as defined in Section 7.4 above, and ending on the date that is two (2) years from the date of commencement of such breach ("Option Term").

b. Expiration of Option Term. The Option Term shall expire at 11:59 p.m. of the last day of the Option Term, unless the last day is a weekend or holiday recognized in the California Government Code, in which event the Option Term shall be automatically extended to the next following business day and shall expire at 11:59 p.m. on such day.

c. Termination of Option Term. City shall have the right to terminate during the inspection and contingency period as provided in Section 8.18 b. [Inspection & Contingency Period] of this Covenant Agreement, City may, at its election and in its sole discretion, terminate the Option during the Option Term, by delivering a written notice to Owner and recording a release of all of City's unexercised Option rights under this Covenant Agreement. In such event, Escrow and/or Owner shall refund the Option Consideration to City within thirty (30) days of City's notice of termination.

8.4 Option Exercise. The Option shall be exercisable by City, in the manner provided herein, as to the Property from time to time, during the then current Option Term. The City may exercise the Option at any time during the then current Option Term by delivering written notice (the "Notice of Exercise") to Owner stating that the City elects to exercise the Option. The Notice of Exercise shall specify the time and date when the recording of the transfer of the Property from Owner to City shall take place ("Closing"), which date shall be not more than thirty (30) days after the date of the Notice of Exercise. The Parties shall deposit with Escrow at the Notice of Exercise a Purchase & Sale Agreement ("Acquisition PSA") or other transfer document to facilitate and memorialize the conveyance of the Property.

8.5 Option Purchase Price. The purchase price for the Property to be paid by City to Owner pursuant to the Option ("Purchase Price") shall be calculated as follows: (i) the actual purchase price paid by Owner for the Property under the DDA ($2,635,600), plus escrow costs for the purchase from Agency to Owner. Owner acknowledges that the Purchase Price is not intended to include all costs or expenses Owner incurred relative to the Property. To this end, no other costs or expenses incurred by Owner in the negotiation of the DDA, or any other agreement, financing, architectural, permitting, entitlement, construction or any other costs or expenses of any kind shall be included in the Purchase Price.

8.6 Owner's Obligations During Option Term.

a. No Clouds to Title. During the Option Term, Owner shall take no action to cloud title to the Property, or any portion thereof, and shall not place, permit, or suffer any lien, judgment, or other encumbrance to attach to the Property, or portion thereof, or convey or otherwise transfer any right, title, or interest in the Property, or portion thereof, that would frustrate, impair, restrict, or prohibit the operation or enforcement of City's rights under Section 8 of this Covenant Agreement.

b. Authority to Contract. Owner represents, warrants, and covenants that, as of the Effective Date of this Covenant Agreement, Owner is the sole owner of each of the Property, and has full power and authority to enter into this Covenant Agreement and to convey all right, title and interest to the Property to City and that there is no contract, lease, option, agreement, instrument, or other agreement that would frustrate, impair, restrict, or prohibit the operation or enforcement of Section 8 of this Covenant Agreement.

8.7 Closing of Acquisition PSA. City shall promptly notify Owner of the closing under the Acquisition PSA and provide copies of the recorded Acquisition Deed (as defined in the Acquisition PSA).

8.8 Approvals under Acquisition PSA. Any approvals or waivers which City is required to provide under the Acquisition PSA, as such term is defined in Section 8.4 above, (including, but not limited to, title review, natural hazard disclosure review, due diligence review, etc.), City shall provide notice to Owner which shall have a right to have input on the applicable decisions regarding issuing approvals or waivers. Owner shall cooperate promptly with City with respect to all such obligations under the Acquisition PSA.

8.9 Memorandum of Option. Prior to the close of the Acquisition Escrow and recordation of the Acquisition Deed, Owner and City shall execute and acknowledge a memorandum of option in the form of Exhibit C attached hereto ("Option Memorandum"). Promptly following recordation of the Acquisition Deed, Owner shall record the Option Memorandum in the Official Records of Los Angeles County.

8.10 Termination of Option.

a. Owner Termination. Owner may not terminate the Option for any reason after the Effective Date and prior to the termination of the Option Term. City may, in its sole discretion, elect to terminate the Option any time during the Option Term by delivering written notice of such election to Owner. If City does not exercise the Option within the Option Term, the Option shall terminate automatically terminate.

b. Termination of Option by Completion of the Project. The Option shall automatically terminate upon the receipt by City of the first TOT Payment from commencement of Hotel Component operations on the Project. This shall not relieve Owner of any obligation to make TOT Payments pursuant to Section 7.1 for any delays by Owner consistent with the provisions of Section 7.1. This provision is intended to be

self-executing without the need for any further action by the Parties, though the Parties shall ensure the filing of Termination Documents under Subsection c., below when this provision is triggered.

c. Termination Documents. If the Option is terminated after recordation of the Option Memorandum, City shall promptly deliver to Owner an executed and acknowledged document to terminate the Option Memorandum in a form acceptable to a reputable title company ("Option Termination Agreement").

8.11 Option Escrow.

a. Opening of Escrow. Within three (3) business days following delivery of the Notice of Exercise, Owner and City shall deliver a copy of this executed Covenant Agreement and the Acquisition PSA to an escrow company ("Escrow Holder"), selected by City, with the consent of Owner, which consent shall not be unreasonably withheld. For purposes of this Covenant Agreement, the escrow shall be deemed opened on the date Escrow Holder shall have received said executed Covenant Agreement. In addition, Owner and City agree to execute, deliver and be bound by any reasonable or customary supplemental escrow instructions of Escrow Holder or other instruments as may reasonably be required by Escrow Holder or City in order to consummate the transaction contemplated by this Covenant Agreement. Any such supplemental instructions shall not conflict with, amend or supersede any portions of this Covenant Agreement. If there is any inconsistency between such supplemental instructions and this Covenant Agreement, this Covenant Agreement shall control.

b. Close of Escrow. City's Notice of Exercise shall specify the time and date when the recording of the transfer of the Property from Owner to City shall take place ("Closing or "Close of Escrow"). The date for the Closing shall not be more than thirty (30) days after the date of the Notice of Exercise.

8.12 Option Title.

a. Title Policy. Owner shall cause a national title company ("Title Company") selected by City with the consent of Owner, which consent Owner shall not unreasonably withhold, to issue its standard ALTA Owner's Title Insurance Policy ("Title Policy") in the amount of the Purchase Price, showing good and marketable title to the Property as of the Closing subject only to the exceptions to title permitted under Section 8.12 a. and b. below.

b. Preliminary Title Report. Within ten (10) days from the Notice to Exercise, Owner shall, at its sole cost, provide City with a Preliminary Title Report ("PTR") reflecting the current status of title to the Property including copies of all Schedule B documents and a parcel map(s) plotting all easements. City shall notify Owner in writing ("Title Notice") of City's approval of all matters contained in the PTR or of any title objections ("Disapproved Exceptions") other than those exceptions specified in Section 8.12 b.[Conditions of Title] of this Covenant Agreement within thirty (30) calendar days after City's receipt of the PTR ("Approval of Title Period"). If City fails to

deliver City's Title Notice within Approval of Title Period, City shall be conclusively deemed to have disapproved the PTR and all matters shown therein unless a time extension to this provision has been approved in writing amongst the Parties. Owner's failure to provide City with a PTR pursuant to this Section shall automatically toll the Approval of Title Period one day for each day, or partial day, beyond the ten (10) calendar days described above that Owner fails to satisfy its obligations set forth in this Section. Upon the issuance of any amendment or supplement to the PTR which adds additional exceptions, the foregoing right of review and approval shall also apply to said amendment or supplement, provided, however, that Owner's initial period of review and approval or disapproval of any such additional exceptions shall be limited to ten (10) calendar days following receipt of notice of such additional exceptions. Nothing to the contrary herein withstanding, City shall be deemed to have automatically objected to all deeds of trust, mortgages, judgment liens, estate taxes, federal and state income tax liens, delinquent general and special real property taxes and assessments and similar monetary encumbrances affecting the Property, and Owner shall discharge any such non-permitted title matter of record prior to or concurrently with the Close of Escrow.

c. Conditions of Title. Owner shall convey to City fee simple title to the Property by Deed which is free and clear of all liens and encumbrances except:

(1) The effect of this Covenant Agreement;

(2) Any easement, right-of-way or other encumbrance for public streets, highways, utilities, or for other public purposes;

(3) Any lien for current taxes and assessments not yet due and payable for taxes and assessments accruing subsequent to recordation of the deed; and

(4) Those title exceptions reflected in a Preliminary Title Report to which City has not objected or waives its objection pursuant to Section 8.12 b. [Preliminary Title Report] of this Covenant Agreement.

d. Vesting. City, in its sole and absolute discretion shall have the unimpeded right to vest title in its or other designee's name.

8.13 Owner's Deliveries.

a. Prior to the Close of Escrow as to the Property pursuant to the Option, Owner shall deposit or cause to be deposited into Escrow for delivery to City at closing the following:

(1) A duly executed and acknowledged grant deed(s) in a form satisfactory to City;

(2) The ALTA Title Policy insuring fee title to the Property in the full amount of the applicable Purchase Price.

8.14 City's Deliveries. Prior to the Close of Escrow, City shall deposit or cause to be deposited into escrow, to be delivered to Owner any cash amount required in accordance with Section 8.5 [Payment of Purchase Price].

8.15 Authorization to Record Documents and Disburse Funds.

a. Escrow Holder is hereby authorized and directed to record the documents and disburse the funds and documents called for hereunder, provided each of the following conditions have been, or will concurrently with the Close of Escrow, be fulfilled:

(1) Title Company has committed to issue to City, or its designee a title insurance policy with liability equal to the Purchase Price, in accordance with Section 8.12 above.

(2) Owner shall have deposited into escrow the grant deed(s) and the funds, if any, required of it hereunder.

b. City shall deposit into escrow the documents and funds required of City under this Covenant Agreement.

c. Escrow Holder is authorized to record any instrument delivered through this escrow if necessary or proper for the issuance of the Title Policy referred to above.

d. City has approved in writing the condition to Title of the Property on or before the date set forth in Section 8.12 of this Covenant Agreement.

e. City has approved in writing, within the time set forth in Section 8.18.a, Inspection and Contingency Period, all investigations, due diligence, entitlement processing, approvals, etc.

f. Owner shall remove any debris or improvements from the Property to the satisfaction of City.

8.16 Costs and Expenses. The cost and expense of the Title Policy and Natural Hazard Disclosure Report (NHD) shall be paid by City. The escrow fee of Escrow Holder shall be borne by the City. City shall pay all documentary transfer taxes payable in connection with the recordation of any grant deed. City shall pay recording and miscellaneous charges in accordance with the standard custom and practice in Los Angeles County.

8.17 Tax Prorations. Real property taxes, special taxes, and assessments shall be prorated as of the Close of Escrow. Owner shall be responsible for all taxes, special taxes and assessments levied against the Property that are due and payable before the Close of Escrow.

8.18 Condition of the Property.

a. Inspection and Contingency Period. Upon the commencement of the Option Term, and continuing thereafter for a period of twenty-four months (24) thereafter ("Inspection and Contingency Period"), City shall have the right to make an analysis of the Property including of such engineering, feasibility studies, economic analyses, soils tests, environmental studies and other investigations as City in its sole discretion may desire, to permit City to determine the suitability of the Property for City's contemplated uses and to conduct such other review, investigation, and entitlement processing which City deems appropriate to satisfy itself to acquire the Property. City shall further have the right to make an examination of all permits, approvals and governmental regulations which affect the Property, including zoning and land use issues and conditions imposed upon the Property by governmental agencies. If necessary, Owner shall execute any documents as the owner of the Property to effectuate the inspections and or entitlement processing.

b. Furthermore, City is authorized to conduct inspections, testing, sampling, and studies in order for City to determine the presence or absence of any Hazardous Substances, as that term is defined in Section 8.20 f., any geologic hazard, any environmental condition, including the presence of any listed, threatened or endangered species of plant or animal or its habitat, and whether the Property are suitable for the intended purpose. If City determines, in its sole and absolute discretion, that the Property is inadequate for the use intended, detects the presence of any Hazardous Substances, geologic hazard, environmental problem or other condition affecting the use of the Property, then City may terminate the Option and the Escrow Holder shall release back to City all consideration deposited and the Option shall be terminated. The Option consideration shall become non-refundable and inure to the benefit of Owner the first business day following the expiration of the Inspection and Contingency Period.

c. Due Diligence Items. Owner shall make available to City all pertinent information and documents relating to the Property in Owner's possession and control, within ten (10) business days, the following:

(1) Copies of all contracts entered into by Owner, including but not limited to management agreements, unrecorded easements and CC&Rs, leases, leasing commission agreements, and service contracts.

(2) For any improvements on the Property, final approved "as-built" plans and specifications, to the extent available, including soils reports and structural, mechanical and electrical calculations.

d. Copies of any and all reports and studies relating to environmental, soils, geological and ground water conditions or the presence or use of any toxic or Hazardous Substances, as that term is defined in Section 8.20. f. on the Property and any wetlands or endangered species reports.

e. Copies of all use permits, building permits, certificates of occupancy, and other similar kinds of governmental approvals or permits, if any.

f. Copies of any insurance policies attaching to the Property, and any claims or losses filed against said policies.

g. Listing of any personal property that would be included in the transaction, if any.

Owner and acknowledges and agrees that City, at City's discretion, may disclose and provide to third parties copies of the foregoing information and documents, as well as any other information documents related to this Covenant Agreement.

8.19 Approval of Due Diligence, Inspection and Notification to Owner. City shall notify Owner in writing ("City's Due Diligence Notice") on or before the expiration of the Inspection and Contingency Period of City's approval or disapproval of the condition of the Property and City's investigations with respect thereto which approval may be withheld in City's sole and absolute discretion. City's failure to deliver City's Due Diligence Notice on or before the expiration of the Inspection and Contingency Period shall be conclusively deemed City's disapproval thereof.

8.20 Owner's Representations and Covenants.

a. In consideration of City entering into this Covenant Agreement as to the Option and as an inducement to City to purchase the Property, Owner makes the following representations, each of which (i) is a condition to Close of Escrow, (ii) is true as of the Effective Date, and (iii) is material and is being relied upon by City:

b. Authority. Owner has full power and authority to enter into this Covenant Agreement and to consummate the transactions contemplated herein without obtaining the consent or approval of any other person, entity or governmental authority. The persons whose names are set forth below hereby personally represent and warrant that they have full power and authority to sign the name of Owner to this Covenant Agreement and to cause this Covenant Agreement to be a binding obligation of Owner.

c. Third Party Consents. No consents or waivers of or by any third party are necessary to permit the consummation by Owner of the transaction contemplated pursuant to the Option under this Covenant Agreement.

d. Compliance With Laws. Owner shall provide to City within five (5) days of receipt of any notice or actual knowledge of any violation of applicable law, ordinance, rule, regulation or requirement of any governmental agency, body or subdivision affecting or relating to the Property, including, without limitation, any subdivision, building, use or environmental law, ordinance, rule, requirement or regulation.

e. Governmental Notices. Owner shall deliver to City each and every notice or communication Owner receives from any governmental body other than City relating to the Property or any portion thereof upon Owner's receipt of the same.

f. Hazardous Substances. Owner shall not cause, allow or suffer any (i) Hazardous Substances, as that term is defined below, to be deposited or to exist on or below the surface of the Property, including, without limitation, contamination of the soil, subsoil or ground water, which constitute a violation of any law, rule or regulation of any government entity having jurisdiction thereof or which expose Owner or City to liability to third parties, or (ii) underground fuel or chemical storage tanks to be located on the Property, and (iii) generation, treatment, storage or disposal of Hazardous Substances, or other condition or use that could result in or cause a discharge of any Hazardous Substances on or below the Property. The term "Hazardous Substances" shall mean (i) any substance, product, waste or other material of any nature whatsoever which is or becomes listed, regulated, or for which liability arises for misuse, pursuant to the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), 42 U.S.C. §9601, *et seq.;* the Hazardous Materials Transportation Act, 49 U.S.C. §1801, *et seq.;* the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §6901, *et seq.;* the Toxic Substances Control Act, 15 U.S.C.S. §2601, *et seq.;* the Clean Water Act, 33 U.S.C. § 1251, *et seq.;* the Insecticide, Fungicide, Rodenticide Act, 7 U.S. C. § 136, *et seq.;* the Superfund Amendments and Reauthorization Act, 42 U.S.C. §6901, *et seq.;* the Clean Air Act, 42 U.S.C. §7401, *et seq.;* the Safe Drinking Water Act, 42 U.S.C. §300f, *et seq.;* the Solid Waste Disposal Act, 42 U.S.C. §6901, *et seq.;* the Surface Mining Control and Reclamation Act, 30 U.S.C. § 1201, *et seq.;* the Emergency Planning and Community Right to Know Act, 42 U.S. C. §11001, *et seq.;* the Occupational Safety and Health Act, 29 U.S.C. §§656 and 657; the Hazardous Waste Control Act, California Health and Safety Code ("H.&S.C.") §25100, *et seq.;* the Hazardous Substance Account Act, H.&S.C. §25330, *et seq.;* the California Safe Drinking Water and Toxic Enforcement Act, H.&S.C. §25249.5, *et seq.;* the Underground Storage of Hazardous Substances, H.&S.C. §25280, *et seq.;* the Carpenter-Presley-Tanner Hazardous Substance Account Act, H.&S.C. §25300, *et seq.;* the Hazardous Waste Management Act, H.&S.C. §25170.1, *et seq.;* the Hazardous Materials Response Plans and Inventory, H.&S.C. §25001, *et seq.;* the Porter-Cologne Water Quality Control Act, Water Code §13000, *et seq.,* all as they may from time to time be amended; (ii) any substance, product, waste or other material of any nature whatsoever which is or becomes listed, regulated, *or* for which liability for misuse arises pursuant to any other federal, state or local statute, law, ordinance, resolution, code, rule, regulation, order or decree due to its hazardous, toxic or dangerous nature; (iii) any petroleum, crude oil or any substance, product, waste, or other material of any nature whatsoever which contains gasoline, diesel fuel or other petroleum hydrocarbons other than petroleum and petroleum products contained within regularly operated motor vehicles; and (iv) polychlorinated biphenyls (PCB), radon gas, urea formaldehyde, asbestos, and lead.

g. Environmental Violations. Owner shall not cause, allow or suffer any condition or use of the Property that constitutes, or if unremedied, with the passage of time would constitute, a violation of any federal or California law controlling or regulating the use or condition of land, water or air (including the California Environmental Quality Act) or any federal or California laws or regulations relating to use of or conservation of wetlands or other natural topographical conditions. Further, Owner shall provide to City within fifteen (15) days of receipt any notification, warning or citation regarding any violation, or potential or pending violation, of any such laws or regulations.

h. Work and Materials Furnished. All bills for work done and materials furnished with respect to the Property shall be paid in full by Owner or be discharged and paid in full by Owner by the date of Closing.

8.21 City's Representations.

a. City has full power and authority to enter into this Covenant Agreement as to the Option and to consummate the transactions contemplated herein without obtaining the consent or approval of any other person, entity or governmental authority. The persons whose names are set forth below hereby personally represent and warrant that they have full power and authority to sign the name of City to this Covenant Agreement as to the Option and to cause this Covenant Agreement as to the Option to be a binding obligation of City.

8.22 Owner's Default. In the event that Owner shall fail to perform Owner's obligations hereunder, City shall have the option to: (i) seek specific performance and/or damages for Owner's breach, (ii) extend the Closing for such time as City chooses to allow Owner to remedy such default, (iii) waive such default in writing, (iv) proceed to Closing and deduct from the Purchase Price such amount as required to cure Owner's default hereunder; or (v) terminate this Covenant Agreement as to the Option by written notice to Owner prior to cure of the default. In the event of termination of the Covenant Agreement as to the Option pursuant to this Section 8.22 or otherwise as a result of Owner's default, the parties shall be discharged from any further obligations and liabilities hereunder, except that City shall be entitled to damages arising from Owner's default and the resulting termination of this Covenant Agreement as to the Option.

8.23 Brokers' Commissions. If any claims for brokers' or finders' fees for the consummation of this Covenant Agreement arise, then City and Owner agree to indemnify, save harmless and defend the other from and against such claims if they shall be based upon any statement or representation or agreement by City or Owner respectively.

8.24 Assignment. City may, without consent of Owner assign, transfer or convey its rights or obligations under this Covenant Agreement as to the Option.

8.25 Owner's Use of the Property. From and after the date of Owner's execution hereof, Owner shall not violate, or allow the violation of any law, ordinance, rule or regulation affecting the Property. Owner shall do or cause to be done all things reasonably within its control to preserve intact and unimpaired any and all easements, grants, appurtenances, privileges and licenses in favor of or constituting any portion of Property. Further, Owner agrees to pay, as and when due, all payments on any liens or encumbrances presently affecting the Property and any and all taxes, assessments and levies in respect of the Property through the Closing Date.

8.26 Survival and Conditions Precedent. Agreements, representations, covenants and warranties contained in this Covenant Agreement or any amendment or supplement hereto shall survive Closing and delivery of deed(s) hereunder and shall not

be merged thereby, and, in addition to any effect any of the same have in law or in equity, all of the same will be deemed to be conditions precedent to City's obligations hereunder, whether so expressed or not. Owner acknowledges that all of the conditions to this Covenant Agreement which are for the sole benefit of City may unilaterally be waived in writing by City.

8.27 Indemnification. Owner agrees to protect, defend, indemnify and hold City harmless from and against any claims, losses, demands, liabilities, suits, costs and damages, including consequential damages and attorneys' fees and other costs of defense, incurred, arising against or suffered by City as a direct or indirect consequence of (i) any breach of any representation, warranty, covenant or indemnification made in this Covenant Agreement by Owner, whether discovered before or after the closing, or (ii) any facts, circumstances or occurrences existing or occurring with regard to the Property prior to the Close of Escrow, except such as are caused by City.

9. ENFORCEMENT.

In the event Owner defaults in the performance or observance of any covenant, agreement or obligation of Owner pursuant to this Covenant Agreement, and if such default remains uncured for a period of thirty (30) days after written notice thereof shall have been given by Agency, or, in the event said default cannot reasonably be cured within said time period, Owner has failed to commence to cure such default within said thirty (30) days and thereafter fails to diligently prosecute said cure to completion, then Agency shall declare an "Event of Default" to have occurred hereunder, and, at its option, may take one or more of the following steps:

9.1 By mandamus or other suit, action or proceeding at law or in equity, require Owner to perform its obligations and covenants hereunder or enjoin any acts or things which may be unlawful or in violation of this Covenant Agreement; or

9.2 Take such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants and agreements of Owner hereunder; or

9.3 Enter the Property and cure the Event of Default.

Except as otherwise expressly stated in this Covenant Agreement, the rights and remedies of the parties are cumulative, and the exercise by any party of one or more of its rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by another party.

10. NONDISCRIMINATION.

There shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, creed, religion, sex, marital status, national origin, ancestry or any other protected class as defined by federal, state and/or local law in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, or any

part thereof, nor shall Owner, or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Property, or any part thereof (except as permitted by this Covenant Agreement).

11. COVENANTS TO RUN WITH THE LAND.

Owner hereby subjects the Property to the covenants, reservations, and restrictions set forth in this Covenant Agreement. City and Owner hereby declare their express intent that all such covenants, reservations, and restrictions shall be deemed covenants running with the land and shall pass to and be binding upon Owner's successors in title to the Property; provided, however, that on the termination of this Covenant Agreement said covenants, reservations and restrictions shall expire. All covenants without regard to technical classification or designation shall be binding for the benefit of City, and such covenants shall run in favor of City for the entire term of this Covenant Agreement, without regard to whether City is or remains an owner of any land or interest therein to which such covenants relate. Each and every contract, deed or other instrument hereafter executed covering or conveying the Property or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations, and restrictions, regardless of whether such covenants, reservations, and restrictions are set forth in such contract, deed or other instrument.

City and Owner hereby declare their understanding and intent that the burden of the covenants set forth herein touch and concern the land. City and Owner hereby further declare their understanding and intent that the benefit of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Project by the intended beneficiaries of such covenants, reservations, and restrictions, and by furthering the public purposes for which the City was formed.

Owner, in exchange for Agency entering into the DDA, hereby agrees to hold, sell, and convey the Property subject to the terms of this Covenant Agreement. Owner also grants to City the right and power to enforce the terms of this Covenant Agreement against the Owner and all persons having any right, title or interest in the Property or any part thereof, their heirs, successive owners and assigns.

All covenants, if any, set forth herein concerning construction and development of any improvements on the Property, the insurance requirements set forth in Section 4.1 (but not the Environmental Insurance Requirements of Section 4.3), the restrictions on Transfer set forth in Section 6, and any rights of City or Agency to satisfy liens shall cause and terminate upon issuance of a Final Certificate of Completion pursuant to Section 3,03. 3 of the DDA. The covenants against discrimination set forth herein shall remain in effect in perpetuity.

12. Third Party Litigation.

Owner agrees to indemnify and defend City and/or Agency and its elected boards, commissions, officers, agents and employees and will hold and save them and each of them harmless from any and all actions, suits, claims, liabilities, losses, damages, penalties, obligations and expenses (including but not limited to attorneys' fees and costs) against the City and/or Agency for any Claims or Litigation which arise during the term of this Covenant Agreement. This obligation shall include providing defense costs that fall in the retention levels of the Environment Insurance Policy. Agency shall promptly provide Owner with notice of the pendency of any such Claims or Litigation and request that Owner defend the same. If Agency fails promptly to notify Owner of any such Claims or Litigation or if City or Agency fails to cooperate fully in the defense thereof, Owner shall not, thereafter, be responsible to defend, indemnify, or hold harmless City and/or Agency or their elected boards, commissions, officers, agents and employees. Owner may utilize the Agency Attorney's office or use legal counsel of Owner's choosing, but shall reimburse Agency for any necessary legal cost incurred by Agency. If Owner fails to do so, Agency may defend the Claims or Litigation and Owner shall pay the cost thereof, but if Agency chooses not to defend the Claims or Litigation, it shall have no liability to Owner. Owner's obligation to pay the defense cost shall extend until judgment and thereafter through any appeals. In the event of an appeal, or a settlement offer, the Parties will confer in good faith as to how to proceed and the resolution of any such appeal and the Parties' response to any such settlement offer shall require the consent of both Parties, which consent shall not be unreasonably withheld. Notwithstanding the foregoing however, Agency shall have the unilateral right to settle such Claims or Litigation brought against it in its sole and absolute discretion at any time after the elapse of two (2) years from the filing of any Claims or Litigation and Owner shall remain liable hereunder for the Claims and Litigation provided that (i) if the settlement would reduce the density or intensity of the potential development on the Property by ten percent (10%) or more, and (ii) Owner opposes the settlement, then if Agency still unilaterally determines to settle such Claims or Litigation, then Agency and City shall be responsible for their own litigation expenses and shall promptly reimburse Owner for reasonable litigation costs actually paid by Owner (with the burden on Owner to document and prove such costs) but shall bear no other liability to Owner.

13. INDEMNIFICATION.

Owner, while in possession of the Property, and each successor or assign of Owner while in possession of the Property, shall remain fully obligated for the payment of any property taxes and assessments applicable to its interest in the Property. Owner, and its successors and assigns, shall indemnify, defend and hold harmless Agency and City from and against any loss, liability, claim or judgment arising from their breach of the foregoing covenant. The foregoing indemnification, defense, and hold harmless agreement shall only be applicable to and binding upon the party then owning the Property or applicable portion thereof.

14. ATTORNEYS' FEES.

In the event that a party to this Covenant Agreement brings an action against the other party hereto by reason of the breach of any condition, covenant, representation or

warranty in this Covenant Agreement, or otherwise arising out of this Covenant Agreement, the prevailing party in such action shall be entitled to recover from the other reasonable expert witness fees, and its reasonable attorney's fees and costs. Attorney's fees shall include attorney's fees on any appeal, and in addition a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, including the conducting of discovery.

15. AMENDMENTS.

This Covenant Agreement shall be amended only by a written instrument executed by the parties hereto or their successors in title, and duly recorded in the real property records of the County of Los Angeles.

16. NOTICE.

Any notice required to be given hereunder shall be made in writing and shall be given by personal delivery, certified or registered mail, postage prepaid, return receipt requested, at the addresses specified below, or at such other addresses as may be specified in writing by the parties hereto:

To City:	City of San Dimas 245 East Bonita Avenue San Dimas, CA 91773 Attention: Executive Director
With a Copy to:	Aleshire & Wynder, LLP 18881 Von Karman Avenue, Suite 1700 Irvine, CA 92612 Attention: Jeff Malawy, Esq.
To Owner:	Pioneer Square, LLC 8800 Venice Blvd, Suite 316 Los Angeles, CA 90034 Attention: Michael Dieden 191 W 4th Street Pomona, CA 91766 Attention: Gerald Tessier
With a Copy to:	Jeffrey Graham, Esq. 654 Milwood Ave Venice, CA 90291

The notice shall be deemed given three (3) business days after the date of mailing, or, if personally delivered, when received.

17. SEVERABILITY/WAIVER/INTEGRATION/LENDER PROTECTION.

17.1 Severability. If any provision of this Covenant Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.

17.2 Waiver. A waiver by either party of the performance of any covenant or condition herein shall not invalidate this Covenant Agreement nor shall it be considered a waiver of any other covenants or conditions, nor shall the delay or forbearance by either party in exercising any remedy or right be considered a waiver of, or an estoppel against, the later exercise of such remedy or right.

17.3 Integration. This Covenant Agreement contains the entire Agreement between the parties and neither party relies on any warranty or representation not contained in this Covenant Agreement.

17.4 Owner's Breach Does Not Defeat Mortgage Lien. Owner's breach of any of the covenants or restrictions contained in this Covenant Agreement shall not defeat or render void or invalid the lien of any mortgage, deed of trust or other security interest encumbering the Property made in good faith and for value but, unless otherwise provided herein, the terms, covenants, conditions, restrictions, easements and reservations of this Covenant Agreement shall be binding and effective against the holder of such encumbrance whose interest is acquired by foreclosure, trustee's sale, deed or assignment in lieu thereof, or otherwise.

18. FUTURE ENFORCEMENT.

The parties hereby agree that should the Agency cease to exist as an entity at any time during the term of this Covenant Agreement, the City of San Dimas shall have the right to enforce all of the terms and conditions herein.

19. GOVERNING LAW.

This Covenant Agreement shall be governed by the laws of the State of California.

20. COUNTERPARTS.

This Covenant Agreement may be executed in any number of counterparts, each of which shall constitute one original and all of which shall be one and the same instrument.

[END -- SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the Owner has executed this Covenant Agreement by duly authorized representatives on the date first written hereinabove.

OWNER:

PIONEER SQUARE, LLC

By: _____

Name:_____

Title:_____

By: _____

Name:_____

Title:_____

CITY:

CITY OF SAN DIMAS, a municipal corporation

By: _____
Emmett Badar, Mayor

_____, 2022

ATTEST:

_____,
Debra Black, City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

By: _____
Jeff Malawy, City Attorney

[END OF SIGNATURES]

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On _____, before me, _____, personally appeared

_____

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

_____
Notary Public

[SEAL]

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On _____, before me, _____, personally appeared

_____

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

_____
Notary Public

[SEAL]

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On _____, before me, _____, personally appeared

_____

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

_____
Notary Public

[SEAL]

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On _____, before me, _____, personally appeared

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personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

_____
Notary Public

[SEAL]

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN DIMAS IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

Portion of APN 8386-021-913

That portion of the north half of Block 11 of replat of a portion of the Town of San Dimas, in the City of San Dimas, County of Los Angeles, State of California, as per map recorded in Book 37, page 31 of Miscellaneous Records, in the Office of the County Recorder of said County described as follows:

Beginning at the Northwest corner of said Block 11, said point being the **TRUE POINT OF BEGINNING**, thence easterly along said northerly line of said Block 11, North 89°43'50" East, 310.23 feet to an angle point therein; thence continuing easterly along said northerly line North 83°39'51" East, 269.82 feet; thence South 45°15'33" East, 31.05 feet to the easterly line of said Block 11; thence southerly along the easterly line of said block South 00°14'56" East, 277.28 feet to the southerly line of said north half of Block 11; thence westerly along said southerly line South 89°43'52" West, 600.17 feet to the westerly line of said Block 11; thence Northerly along said westerly line of said block North 00°15'32" West, 330.27 feet to the **TRUE POINT OF BEGINNING**.

Except that portion of Block 11 of replat of a portion of the Town of San Dimas, in the City of San Dimas, County of Los Angeles, State of California, as per map recorded in Book 37, page 31 of Miscellaneous Records, in the Office of the County Recorder of said County, more particularly described as follows:

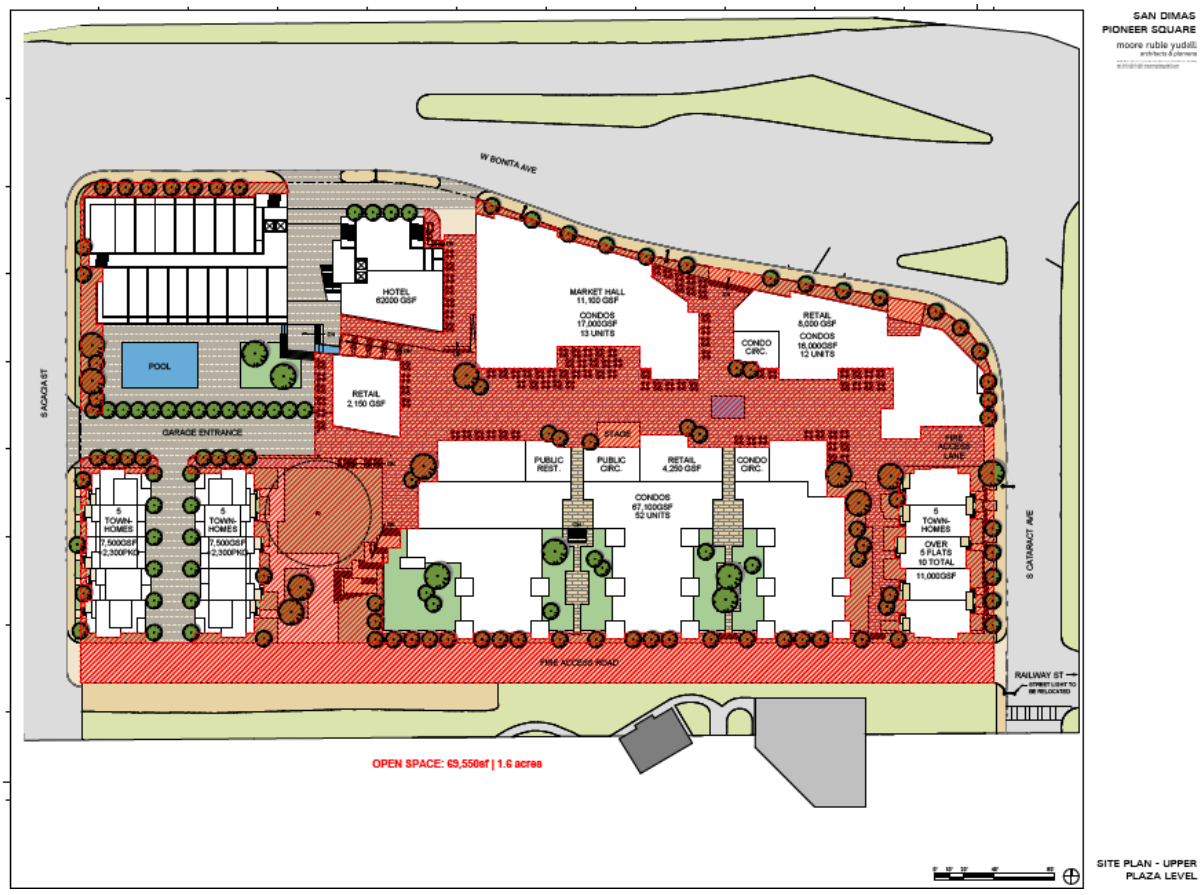
Commencing at the northwest corner of said Block 11; thence easterly along the north line of said block 11 North 89°54'56" East 129.42 feet to the **TRUE POINT OF BEGINNING**; thence continuing along said north line North 89°54'56" East 180.81 feet; thence leaving said north line South 83°17'47" East 269.82 feet; thence South 45°42,52" East 31.05 feet to the east line of said Block 11, thence southerly along said east line South 00°04'20" East 79.13 feet to a point of cusp with a curve concave to the southwest having a radius of 45.00 feet and to which point a radial line bears North 89°55'40" East; thence leaving said east line, northwesterly along said curve 63.11 feet through a central angle of 80°21'23"; thence North 80°25'43" West 157.31 feet to the beginning of a tangent curve concave to northeast having a radius of 564.01 feet; thence northwest 121.67 feet along said curve through a central angle of 12°21'37" to the beginning of a non-tangent curve concave to the southwest having a radius of 459.58 feet, a radial line through said beginning bears North 22°00'56" East; thence northwesterly 26.81 feet along said curve through a central angle of 03°20'32" to the beginning of a compound curve concave to the southwest having a radius of 235.00 feet; thence northwesterly 76.94 feet along said curve through a central angle of 18°45'28"; thence South 89°54'56" West 60.86 feet; thence North 00°04'56" West 7.00 feet to the **TRUE POINT OF BEGINNING**.

Contains approximately 4.03 acres, more or less.

EXHIBIT "B"

DEPICTION OF OPEN SPACE

The Project would need to provide at least 61,419 square feet of public open space, or 1.41 acres. As shown in the Figure below, which shows the Project proposes 55 percent, or approximately 2.43 acres, of the Project site as open space



ATTACHMENT NO. 6

PIONEER SQUARE DDA

CERTIFICATE OF COMPLETION

FREE RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:

PIONEER SQUARE, LLC
_____
_____
Attn _____

APN: 8386-021-913 (Space above This Line for Recorder's Office Use Only)

CERTIFICATE OF COMPLETION

Pursuant to that certain Disposition and Development Agreement dated _____, 2022 ("**DDA**") by and between the SUCCESSOR AGENCY TO THE FORMER COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF SAN DIMAS, a political subdivision formed pursuant to Health and Safety Code 34173 ("Agency") and PIONEER SQUARE, LLC, a California limited liability company ("Developer"), Developer has agreed to develop that certain real property situated in the City of San Dimas, California, described on Exhibit "A" attached hereto and made a part hereof ("**Property**").

RECITALS:

1. As referenced in the DDA, City is required to furnish Developer with a Certificate of Completion upon completion of construction and development and the opening of the business on the Property, which certificate shall be in such form as to permit it to be recorded in the Official Records of Los Angeles County, California.

2. The DDA provides for certain covenants to run with the land, which covenants were incorporated in the Grant Deed (as defined in the DDA) or in that certain Declaration of Covenants, Conditions and Restrictions recorded as Instrument No. _____ of the Official Records of the Los Angeles County ("**Declaration**").

3. This Certificate of Completion shall constitute a conclusive determination by City of the satisfactory completion by Developer of the construction and development required by the DDA and of Developer's full compliance with the terms of the DDA with respect to such construction and development, but not of the Grant Deed nor the Declaration, the provisions of which shall continue to run with the land pursuant to their terms.

4. Authority has conclusively determined that the construction and development on the real property described in Exhibit "A" required by the DDA has been satisfactorily completed by Developer in full compliance with the terms of the Agreement and that the business has opened.

NOW, THEREFORE,

1. The improvements required to be constructed have been satisfactorily completed and the business has opened in accordance with the provisions of the DDA.

2. This Certificate of Completion shall constitute a conclusive determination of satisfaction of the agreements and covenants contained in the DDA with respect to the obligations of Developer, and its successors and assigns, to construct the improvements and the dates for the beginning and completion thereof.

3. This Certificate of Completion shall not constitute evidence of Developer's compliance with the Grant Deed or the Declaration, the provisions of which shall continue to run with the land.

4. This Certificate of Completion shall not constitute evidence of compliance with or satisfaction of any obligation of Developer to any holder of a mortgage or any insurer of a mortgage, securing money loaned to finance the improvements or any part thereof.

5. This Certificate of Completion is not a Notice of Completion as referred to in California Civil Code Section 3093.

6. Except as stated herein, nothing contained in this instrument shall modify in any way any other provisions of the DDA or any other provisions of the documents incorporated therein.

IN WITNESS WHEREOF, Agency has executed this Certificate of Completion this ____ day of _____, 2022.

"AGENCY"

SUCCESSOR AGENCY TO THE FORMER COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF SAN DIMAS, a political subdivision formed pursuant to Health and Safety Code 34173

By: _____

_____, Mayor

ATTEST

By:_____

_____, City Clerk

APPROVED AS TO FORM

ALESHIRE & WYNDER, LLP

By: _____

Jeff Malawy, City Attorney

CONSENT TO RECORDATION

PIONEER SQUARE, LLC, a California limited liability company, as the Developer (defined herein) and the owner of the fee title to the real property legally described herein, hereby consents to the recordation of this Certificate of Completion against the Property (defined herein).

Date: _____, 2022

"DEVELOPER"

PIONEER SQUARE, LLC, a California limited liability company

By: _____

Its: _____

EXHIBIT "A" TO ATTACHMENT NO. 6

PIONEER SQUARE DDA

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN DIMAS IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

Portion of APN 8386-021-913

That portion of the north half of Block 11 of replat of a portion of the Town of San Dimas, in the City of San Dimas, County of Los Angeles, State of California, as per map recorded in Book 37, page 31 of Miscellaneous Records, in the Office of the County Recorder of said County described as follows:

Beginning at the Northwest corner of said Block 11, said point being the **TRUE POINT OF BEGINNING**, thence easterly along said northerly line of said Block 11, North 89°43'50" East, 310.23 feet to an angle point therein; thence continuing easterly along said northerly line North 83°39’51" East, 269.82 feet; thence South 45°15'33" East, 31.05 feet to the easterly line of said Block 11; thence southerly along the easterly line of said block South 00°14'56" East, 277.28 feet to the southerly line of said north half of Block 11; thence westerly along said southerly line South 89°43'52" West, 600.17 feet to the westerly line of said Block 11; thence Northerly along said westerly line of said block North 00°15’32" West, 330.27 feet to the **TRUE POINT OF BEGINNING**.

Except that portion of Block 11 of replat of a portion of the Town of San Dimas, in the City of San Dimas, County of Los Angeles, State of California, as per map recorded in Book 37, page 31 of Miscellaneous Records, in the Office of the County Recorder of said County, more particularly described as follows:

Commencing at the northwest corner of said Block 11; thence easterly along the north line of said block 11 North 89°54'56" East 129.42 feet to the **TRUE POINT OF BEGINNING**; thence continuing along said north line North 89°54’56" East 180.81 feet; thence leaving said north line South 83°17'47" East 269.82 feet; thence South 45°42,52" East 31.05 feet to the east line of said Block 11, thence southerly along said east line South 00°04’20" East 79.13 feet to a point of cusp with a curve concave to the southwest having a radius of 45.00 feet and to which point a radial line bears North 89°55'40" East; thence leaving said east line, northwesterly along said curve 63.11 feet through a central angle of 80°21'23"; thence North 80°25'43" West 157.31 feet to the beginning of a tangent curve concave to northeast having a radius of 564.01 feet; thence northwest 121.67 feet along said curve through a central angle of 12°21'37" to the beginning of a non-tangent curve concave to the southwest having a radius of 459.58 feet, a radial line through said beginning bears North 22°00'56" East; thence northwesterly 26.81 feet along said curve through a central angle of 03°20'32" to the beginning of a compound curve concave to the southwest having a radius of 235.00 feet; thence northwesterly 76.94 feet along said curve through a central angle of 18°45'28"; thence South 89°54’56" West 60.86 feet; thence North 00°04’56" West 7.00 feet to the **TRUE POINT OF BEGINNING**.

Contains approximately 4.03 acres, more or less.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On _____, 2022 before me, _____, a notary public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Notary Public

SEAL:

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On _____, 2022 before me, _____, a notary public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Notary Public

SEAL:

ATTACHMENT NO. 7

PIONEER SQUARE DDA

DEPICTION OF OPEN SPACE

The Project would need to provide at least 61,419 square feet of public open space, or 1.41 acres. As shown in the Figure below, which shows the Project proposes 55 percent, or approximately 2.43 acres, of the Project site as open space

EXHIBIT B - ATTACHMENT 1

Pioneer Square Project

Sustainable Communities Project
CEQA Exemption Memorandum

Lead Agency

City of San Dimas
Community Development Department
245 E. Bonita Avenue
San Dimas, California 91773
Contact: Luis Torrico

Prepared by

Psomas
5 Hutton Centre Drive, Suite 300
Santa Ana, California 92707
Contact: Sean Noonan, AICP

August 2022

SECTION 1.0 PROJECT DESCRIPTION

The Project consists of a mixed-use development located at 344 West Bonita Avenue in the City of San Dimas in Los Angeles County, California approximately one-quarter mile west of the San Dimas Gold Line Station. The Project site is approximately 4.42 acres in size and is currently vacant. The Project would construct a new mixed-use development that would include approximately 97 residential dwelling units, a 68-room hotel, and 25,000 square feet of ground floor community-serving retail uses. The Project would construct eleven buildings across the Project site that together, would total 215,000 square feet of new development with 62,000 square feet of hotel uses, 128,000 square feet of residential uses, and 25,000 square feet of retail uses. The total proposed height of the Project would be four stories maximum, with three-story step backs adjacent to Pioneer Square Park to the south. The Project would include a total of 55 percent of the Project site as open space and 298 total off-street parking spaces located within two subterranean parking garages. A preliminary site plan and a public open space plan are provided as Exhibits 1 and 2 respectively.

SECTION 2.0 SUSTAINABLE COMMUNITIES STRATEGY CRITERIA

A Sustainable Communities Project Exemption (SCPE) may be prepared for a project that: (a) is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in a sustainable community's strategy (see Public Resources Code (PRC) Section 21155(a)); and (b) is a "transit priority project" (as defined in PRC Section 21155(b)).

An analysis of the Project relative to each of the SCPE criteria is provided below in Table 1. As shown in Table 1, the Project has been determined to meet each of these criteria and, thus, the Project is eligible to be fully exempted from the California Environmental Quality Act (CEQA).

Where required to ensure consistency with the SCPE criteria, Conditions of Approvals (COA) are recommended in Table 1.

Some information in this document has been adapted from the *CEQA SCPE Exemption for the Pioneer Square Project*, which was prepared by DLA Piper US, LLP on behalf of the Project Applicant in May 2022.

Table 1 – Evaluation of the Project Relative to the SCPE Criteria:

SUSTAINABLE COMMUNITIES' STRATEGY CRITERIA – Public Resources Code (PRC) Section 21155		
PRC § 21155(a). Consistency with the general use designation, density, building intensity, and applicable policies specified for the project area in a sustainable communities' strategy.	Consistent?	
	Yes	No
The Project would construct a new mixed-use development that would include 97 residential dwelling units, a 68-room hotel, and 25,000 square feet of ground floor community-serving retail uses. The Project would construct 11 buildings across the Project site that, together, would total 215,000 square feet of new development, with 62,000 square feet of hotel uses, 128,000 square feet of residential uses, and the aforementioned 25,000 square feet of retail uses. The Project proposes a total of 55 percent of the Project site as open space and 298 total off-street parking spaces located within two subterranean garages. The Southern California Association of Governments (SCAG) is the metropolitan planning and transportation organization covering the Project site, and in that capacity bears the responsibility under Senate Bill 375 to implement and administer regional transportation plans (RTP) and sustainable communities' strategies (SCS) for purposes of achieving the goal of reducing greenhouse gases as envisioned by Assembly Bill 32. Under the requirements of Senate Bill 375, SCAG prepared Connect SoCal, which is the region's RTP/SCS and which represents the vision for Southern California's future, including policies, strategies, and projects for advancing the region's mobility, economy, and sustainability through 2040. Connect SoCal details how the region will address its transportation and land use challenges and opportunities in order to achieve its regional emissions standards and greenhouse gas (GHG) reduction targets. Connect SoCal was approved and certified by the California Air Resources Board (CARB) though Executive Order G-20-239, issued on October 30, 2020. Specifically, Connect SoCal is a long-range visioning plan that builds upon and expands land use and transportation strategies established over several planning cycles to increase mobility options and achieve a more sustainable growth pattern. It charts a path toward a more mobile, sustainable, and prosperous region by making connections between transportation networks, between planning strategies and between the people whose collaboration can improve the quality of life for Southern Californians. The Project site is located within a "Compact" land use development categories (LDC) under the RTP/SCS. The Compact LDC is defined as follows in the RTP/SCS: • Less intense than Urban LDC, but highly walkable with rich mix of retail, commercial, residential and civic uses. Most likely to occur as new growth on the urban edge, or large-scale redevelopment. Rich mix of housing, from multifamily and attached single family	x	

(townhome) to small- and medium-lot single family homes. A Compact LDC area is well-served by regional and local transit service, but may not benefit from as much service as urban growth, and is less likely to occur around major multimodal hubs. Streets are well connected and walkable, and destinations such as schools, shopping and entertainment areas can typically be reached via a walk, bike, transit or short auto trip.

The Compact LDC is consistent with, among others, the following Place Types under the 2020-2045 RTP/SCS:

- **City Mixed Use:** As outlined in the 2020-2045 RTP/SCS, the City Mixed Use Place Types contain a variety of uses and building types and are located in transit-oriented, walkable areas. Typical buildings are between 3 and 40 stories tall, with ground-floor retail space, and office and/or residences on the floors above and parking is usually structured above or below ground. The land use mix for Town Mixed Use areas is typically approximately 28 percent residential, 17 percent employment, 35 percent mixed use, and 20 percent open space/civic. The residential mix is 97 percent multi-family and 3 percent townhome. The average total net Floor Area Ratio ("FAR") is 3.4, floors range from 2-8 feet, and the gross density ranges from 25-165 employees per acre and 10-75 households per acre.
- **Town Mixed Use:** As outlined in the 2020-2045 RTP/SCS, the Town Mixed Use Place Types contain a variety of uses and building types and are generally located in transit-oriented and walkable areas. Typical buildings are between 3 and 8 stories tall, with ground-floor retail space, and office and/or residences on the floors above and parking is usually structured above or below ground. The land use mix for Town Mixed Use areas is typically approximately 26 percent residential, 20 percent employment, 29 percent mixed use, and 25 percent open space/civic. The residential mix is 100 percent multi-family. The average total net FAR is 1.9, floors range from 2-8 feet, and the gross density ranges from 25-70 employees per acre and 7-35 households per acre.
- **Town Residential**: Town Residential Place Types are moderately dense residential neighborhoods interspersed with occasional retail areas. Residents tend to use transit, walking, and bicycling for transportation needs and has limited off-street parking. The land use mix for this place type is typically approximately 68 percent residential, 0 percent employment, 10 percent mixed use and 22 percent open space/civic. The residential mix is 53 percent multi-family and 47 percent townhome. The average total net FAR is 1.2, floors range from 2-8, and the gross density ranges from 0-25 employees per acre and 12-35 households per acre.

The Project is substantially consistent with the general use designation, density, and building intensity set forth in the 2020-2045 RTP/SCS for these Place Types. The Project is a mixed-use development located in close proximity to transit and a wide variety of services and retail uses within walking and biking distance. It is between 3-4 stories in height, with

a proposed land use mix square-footage wise of 60 percent residential, 28 percent hotel, and 12 percent commercial retail. 100 percent of the proposed residential units are multi-family units, and the proposed FAR is 1.16:1. The proposed residential density of the Project is just under 22 units per acre, and it would provide 55 percent of the total land area as open space. Based on these key characteristics, the Project is easily consistent with the general designation (zoning and land use types), density (units per acre), and building intensity (FAR) requirements of the applicable 2020-2045 RTP/SCS. The Project also generally complies with 2020-2045 RTP/SCS policies. It includes the reuse of an infill parcel to develop a mixed-use development including hotel, retail and multi-family housing near light rail transit and a variety of retail, service and employment opportunities, leveraging existing infrastructure and reducing the length of vehicle trips for residents, employees, and guests. Given the increasingly urbanized nature of the immediately surrounding area, Project residents and workers would be able to walk and bike to work, home and to shop. In addition, the Project site's location near robust transit opportunities – including most notably being walking distance from a Metro Gold Line station - would further reduce dependence on automobile travel, reducing the need to own an automobile and pay for parking for future residents and workers. The inclusion of a new hotel use close to transit and a variety of nearby retail and service uses would also reduce the dependence on automobile travel for persons visiting the City. Therefore, the Project is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in a sustainable communities' strategy.		
PRC § 21155(b). To be considered a Transit Priority Project (TPP), as defined by § 21155(b), the project must meet all of the following criteria. A TPP shall:	Consistent?	
	Yes	No
(1) Contain at least 50 percent residential use, based on total building square footage and, if the project contains between 26 percent and 50 percent nonresidential uses, a floor area ratio of not less than 0.75; As stated above, the Project meets this definition: it is 60 percent residential based on building square footage, has a FAR of 1.16:1. Therefore, the Project would meet this criterion.	x	
(2) Provide a minimum net density of at least 20 dwelling units per acre; and The Project will have a residential density of approximately 22 units per acre. Therefore, the Project qualifies as a Transit Priority Project. Therefore, the Project would meet this criterion.	x	

(3) Be within one-half mile of a major transit stop or high-quality transit corridor included in a regional transportation plan. A major transit stop is as defined in PRC Section 21064.3, except that, for purposes of this section, it also includes major transit stops that are included in the applicable regional transportation plan. For purposes of this section, a high quality transit corridor means a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours. A project shall be considered to be within one-half mile of a major transit stop or high- quality transit corridor if all parcels within the project have no more than 25 percent of their area farther than one-half mile from the stop or corridor and if not more than 10 percent of the residential units or 100 units, whichever is less, in the project are farther than one half mile from the stop or corridor. The Project site is located approximately one quarter mile west of the San Dimas Gold Line Station. The San Dimas Station is a component of the fully approved and funded first phase of the Azusa to Montclair Extension of the Metro Gold Line Foothill Extension Project. The Project was approved in 2013, construction commenced in 2017, and it is presently expected to be completed in 2025. The Gold Line Foothill Extension Project, Azusa to Claremont is included in the 2020-2045 RTP/SCS as a "Selected Transit Capital Project," and the Project site is located within an identified High Quality Transit Area as mapped by SCAG. Therefore, the Project would meet this criterion.	x	
PRC § 21155.1(a). The TPP complies with all of the following environmental criteria:	Consistent?	
	Yes	No
(1) The TPP and other projects approved prior to the approval of the TPP but not yet built can be adequately served by existing utilities, and the TPP applicant has paid, or has committed to pay, all applicable in-lieu or development fees. The Project site is an infill site surrounded by fully developed uses, and is located on W. Bonita Avenue, a major City thoroughfare that is served by water, wastewater, and electrical service utilities. As required by COA #1, the Project Applicant will prepare engineering studies and coordinate with utility service providers to obtain "will serve" letters to document adequacy of existing off-site utility infrastructure. With implementation of COA #1, the Project would be consistent with this criterion. • ***COA #1: Prior to construction, the Project Applicant will prepare engineering studies and coordinate with utility service providers to obtain "will serve" letters. Prior to approval of building plans, copies of the "will serve" letters for water, wastewater, and electricity will be submitted by the Project Applicant to the City's Planning Division. If a Tentative Map is proposed to subdivide the Project site, a Senate Bill 221-compliant Water Supply Verification (WSV) is required, which would demonstrate the Golden State Water***	x	

Company's capacity to supply water to the Project. The Project Applicant would also be required to pay all applicable utility-related fees.		
(2) The site of the TPP does not contain wetlands or riparian areas, does not have significant value as a wildlife habitat, and implementation of the project would not harm protected species. The Project site is located within an urbanized, built out area and has been previously developed. However, the Project would require the removal of existing mature trees and vegetation within the Project site; therefore, the Project could result in impacts to nesting birds. As such, as outlined in COA #2 it is recommended that vegetation be cleared outside of the nesting bird season. It is also recommended that prior to commencement of any vegetation removal that needs to occur during the peak bird breading season of February 1 to August 31, a preconstruction nesting bird survey be conducted by a qualified biologist to ensure that active bird nests would not be disturbed or destroyed. The following condition of approval is recommended to ensure consistency with this criterion. • ***COA #2: Vegetation shall be cleared outside of the nesting bird season (February 1 to August 31) if feasible. If vegetation must be removed during the nesting bird season, then a preconstruction nesting bird survey shall be conducted by a qualified biologist to ensure that active bird nests would not be disturbed. The surveys shall be completed no more than 14 days prior to initial ground disturbance. If an active nest is identified, a qualified biologist shall establish an appropriate buffer around the nest and no construction activities shall occur within the buffer until the nest is deemed inactive by a qualified biologist. The Project Applicant will submit a memorandum summarizing the results of any nesting bird surveys that are conducted to the City's Planning Division.***	x	
(3) The site of the TPP site is not included on any list of facilities and sites compiled pursuant to Section 65962.5 of the Government Code. Section 65962.5 of the Government Code identifies the "Cortese List" of hazardous waste sites. A review of information on the Department of Toxic Substances Control's ("DTSC") Envirostor database and the State Water Resources Control Board's Geotracker database indicates the Project site is the location of a former Texaco gas station at the southwest corner of W. Bonita Ave. and S. Cataract Street that was listed on the Cortese List by the Los Angeles Regional Water Quality Control Board as a Leaking Underground Storage Tank ("LUST") site in 1990 (Converse Consultants 2021). However, the case was closed on November 11, 2000 following remedial actions at the Project site in 1994 and 1998. As of today, the site is listed on the Cortese List as a "former" cleanup site with the designation "completed – case closed." As set forth in Citizens for	x	

Environmental Responsibility v. State ex rel. 14th Dist. Ag. Assn. (2015) 242 Cal.App.4th 555, 567, where a site is listed on the Cortese List as a LUST site but a cleanup is later completed and the site is closed by the relevant environmental oversight agency, that listing is effectively "annulled." Therefore, since the Project site is listed as a "former" cleanup site, the Project would meet this criterion.		
(4) The site of the TPP is subject to a preliminary endangerment assessment prepared by a registered environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future Phase I and Phase II environmental site assessments have been prepared for the Project site that indicate the continued presence of volatile orange compound (VOC) contamination in soil and soil vapor underneath the ground's surface (Converse Consultants 2021). As such, the adoption of the SCPE for the Project requires the implementation of COA #3 to ensure the Project would, in accordance with the requirement of this provision, result in a less than significant impact through the removal of the release or the mitigation of the release to a level of insignificance under applicable state or federal standards. The Project would thus be consistent with this criterion with the adoption and implementation of COA #3. • ***COA #3: Prior to issuance of a Project grading permit, the Project Applicant shall submit a Supplemental Phase II Environmental Site Assessment or similar documentation for the City Planning Division's review and approval identifying appropriate next steps for further analyses and remedial action(s) that are needed for the Project site to be utilized as proposed by the Project. Also, prior to issuance of a Project grading permit, documentation regarding the implementation of recommended additional hazardous waste analyses, remedial action(s), and coordination with the Department of Toxics and Substances Control (DTSC) will be provided to the City Planning Division for review and approval.***	x	
(5) The TPP does not have a significant effect on historical resources pursuant to Section 21084.1. The Project site was previously developed, but all structures have since been removed and the Project site is now vacant (NETRonline 2022). Therefore, the Project would not impact any known historical resources and is consistent with this criterion.	x	
(6) The TPP site is not subject to any of the following: **(a) A wildland fire hazard, as determined by the Department of Forestry and Fire Protection, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a wildland fire hazard.**	x	

The Project site is not located in a high risk wildland fire hazard zone (CALFIRE 2022). The Project is thus consistent with this criterion.

(b) An unusually high risk of fire or explosion from materials stored or used on nearby properties;

Since the Project's proposed uses and structure are similar to what exists in the vicinity, no aspect of the Project would result in an unusually high risk of fire or explosion. Similarly, there are no nearby industrial uses or other aspects of nearby properties that would present an unusually high risk of fire or explosion. There is a machinery and equipment company located north of the Project site on the other side of both the Gold Line right-of-way and Cataract Avenue (NETRonline 2022). Machinery shops do not typically contain large amounts of fuel or other flammable materials. Further, due to the distance, it is unlikely that if a fire or explosion occurred at this property that it would affect the Project site. The Project is thus consistent with this criterion.

(c) Risk of a public health exposure at a level that would exceed the standards established by any state or federal agency.

With implementation of the COA #3 discussed above, the Project would effectively mitigate the risk of a health exposure that would exceed the standards established by a state or federal agency with respect to subsurface hazardous materials. There is presently no other risk of a public health exposure presented by the Project that would exceed standards established by a state or federal agency. The Project would thus be consistent with this criterion with the adoption of COA #3.

(d) Seismic risk as a result of being within a delineated earthquake fault zone, as determined pursuant to Section 2622, or a seismic hazard zone, as determined pursuant to Section 2696, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of an earthquake fault or seismic hazard zone.

(e) Landslide hazard, flood plain, flood way, or restriction zone unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a landslide or flood.

The Project site is not identified by the USGS as containing or being within a short distance of any identified active fault lines, and the State of California Department of Conservation has not identified the Project site as being within an Alquist Priolo Earthquake Fault Zone (Geocon 2022). Also, the Project site is in a generally flat, developed urban area and is not located in or near an area prone to landslides. Also, the Project site is not located within the 100, 200 or 500-year flood plains (Geocon 2022). The Project is therefore consistent with this criterion.

- ***COA #4: Prior to issuance of a Project grading permit, the Project Applicant shall submit a Geotechnical Report for City Planning Division's review and approval identifying any geotechnical hazards for the Project as well as any remedial measures needed. The Project Applicant shall implement***

suggested remedial measures identified in the Geotechnical Report during construction.		
(7) The TPP site is not located on developed open space. **(a) For the purposes of this paragraph, "developed open space" means land that meets all of the following criteria:** **i. Is publicly owned or financed in whole or in part by public funds.** **ii. Is generally open to, and available for use by, the public.** **iii. Is predominantly lacking in structural development other than structures associated with open spaces, including, but not limited to, playgrounds, swimming pools, ballfields, enclosed play areas, and picnic facilities.** The Project site is currently a vacant lot and is not zoned or developed as open space (San Dimas 2022, NETRonline 2022). The Project is thus consistent with this criterion.	x	
(8) The buildings in the TPP are 15 percent more energy efficient than required by Chapter 6 of Title 24 of the California Code of Regulations, and the buildings and landscaping are designed to achieve 25 percent less water usage than the average household use in the region. COA #5 would be implemented to ensure consistency with this criterion. • ***COA #5: All buildings associated with the Project will be 15 percent more energy efficient than required by Chapter 6 of Title 24 of the California Code of Regulations, and the buildings and landscaping will be designed to achieve 25 percent less water usage than the average household use in the region.***	x	
PRC § 21155.1(b). The TPP complies with all of the following land use criteria:	Consistent?	
	Yes	No
(1) The site of the TPP is not more than eight acres in total area. The Project site is 4.2 acres in size and is thus consistent with this criterion.	x	
(2) The TPP does not contain more than 200 residential units. The Project contains 97 residential housing units and is thus consistent with this criterion	x	

(3) The TPP does not result in any net loss in the number of affordable housing within the project area. The Project site does not currently contain any housing units, so the Project would be consistent with this criterion.	x	
(4) The TPP does not include any single level building exceeding 75,000 square feet. The Project would construct eleven buildings across the Project site that together, would total 215,000 square feet of new development with 62,000 square feet of hotel uses, 128,000 square feet of residential uses, and 25,000 square feet of retail uses. None of the Project's eleven buildings would be single level buildings exceeding 75,000 square feet. Therefore, the Project would be consistent with this criterion.	x	
(5) Any applicable mitigation measures or performance standards or criteria set forth in the prior environmental impacts, and adopted in findings, have been or will be incorporated into the TPP. The following conditions of approval are based on the applicable project-level mitigation measures from the Connect SoCal Final Programmatic Environmental Impact Report, or their equivalents (SCAG, May 2020). • ***COA #6: The Project Applicant shall implement the measures the Connect SoCal Final Programmatic Environmental Impact Report that are identified with a red box around them within Appendix B of the SCPE Memorandum that was prepared by the City for this Project.***	x	
(6) The TPP is determined not to conflict with nearby operating industrial uses. The Project is located on a vacant site that does not contain any operating industrial uses. The area immediately surrounding the Project site is generally defined by a variety of residential and commercial retail uses. There are operating industrial uses on the opposite, northern side of W. Bonita Avenue, north of the existing rail line that would be utilized by the under-construction Gold Line, including the Machinery & Equipment Company facility located at 115 N. Cataract Avenue. The Project would be designed in a manner that would avoid conflicts with this and other nearby operating industrial uses. The Project would thus be consistent with this criterion.	x	
(7) The TPP is located within one-half mile of a rail transit station or a ferry terminal included in a RTP or within one-quarter mile of a high-quality transit corridor included in an RTP. The Project site is located approximately one-quarter mile from the San Dimas Gold Line Station. The San Dimas Gold Line Station is part of the Gold Line Foothill Extension Project, Azusa to Claremont, and is currently under construction. The Gold Line Foothill Extension Project, Azusa to Claremont is included in the 2020-2045 RTP/SCS as a "Selected Transit	x	

Capital Project," and the Project site is located within an identified High Quality Transit Area as mapped by SCAG. As defined in PRC Section 21155(b)(3), a major transit stop is as defined in Section 21064.3 of the PRC, except that for the purposes of implementing the Sustainable Communities Strategy, the definition of a major transit stop is extended to also include major transit stops that are included in the applicable regional transportation plan. Accordingly, the Project is consistent with this criterion.		
PRC § 21155.1(c). The TPP complies meets at least one of the following three criteria:	Consistent?	
	Yes	No
(1) The TPP meets both of the following: **(a) At least 20 percent of the housing would be sold to families of moderate income, or not less than 10 percent of the housing would be rented to families of low income, or not less than 5 percent of the housing is rented to families of very low income.** **(b) The TPP developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for very low, low-, and moderate-income households at monthly housing costs with an affordable housing cost or affordable rent, as defined in Section 50052.5 or 50053 of the Health and Safety Code, respectively, for the period required by the applicable financing. Rental units shall be affordable for at least 55 years. Ownership units shall be subject to resale restrictions or equity sharing requirements for at least 30 years.** **(2) The transit priority project developer has paid or will pay in-lieu fees pursuant to a local ordinance in an amount sufficient to result in the development of an equivalent number of units that would otherwise be required pursuant to paragraph (1).** **(3) The transit priority project provides public open space equal to or greater than five acres per 1,000 residents of the project.** The Project would comply with the third criterion by providing at least five acres per 1,000 residents as public open space. The average household size in San Dimas is 2.91 persons per household. Utilizing this figure for the Project, the Project's 97 units would include a population of approximately 282 persons. Based on this population, the Project would need to provide at least 61,419 square feet of public open space, or 1.41 acres. As shown in Figure 2, the Project proposes 55 percent, or approximately 2.43 acres, of the Project site as open space. Therefore, the Project would provide public open space equal to or in excess of this amount and would thus be consistent with this criterion, with implementation of COA #7 and COA #8. • ***COA #7: Prior to issuance of an occupancy permit, the Project Applicant shall convey a deed restriction, restrictive***	x	

covenant, or public access easement to the City of San Dimas covering the public open space areas. The conveyance mechanism would be subject to the review and approval of the City Attorney and Planning Division. • ***COA #8: Prior to the issuance of a Project grading permit, the Project Applicant shall submit to the City's Planning Division a public open space plan showing the locations and types of seating, landscaping, programming, and other amenities for review and approval.***		

SECTION 3.0 REFERENCES

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Exhibit 1

Preliminary Site Plan

PSQ Development Site Plan

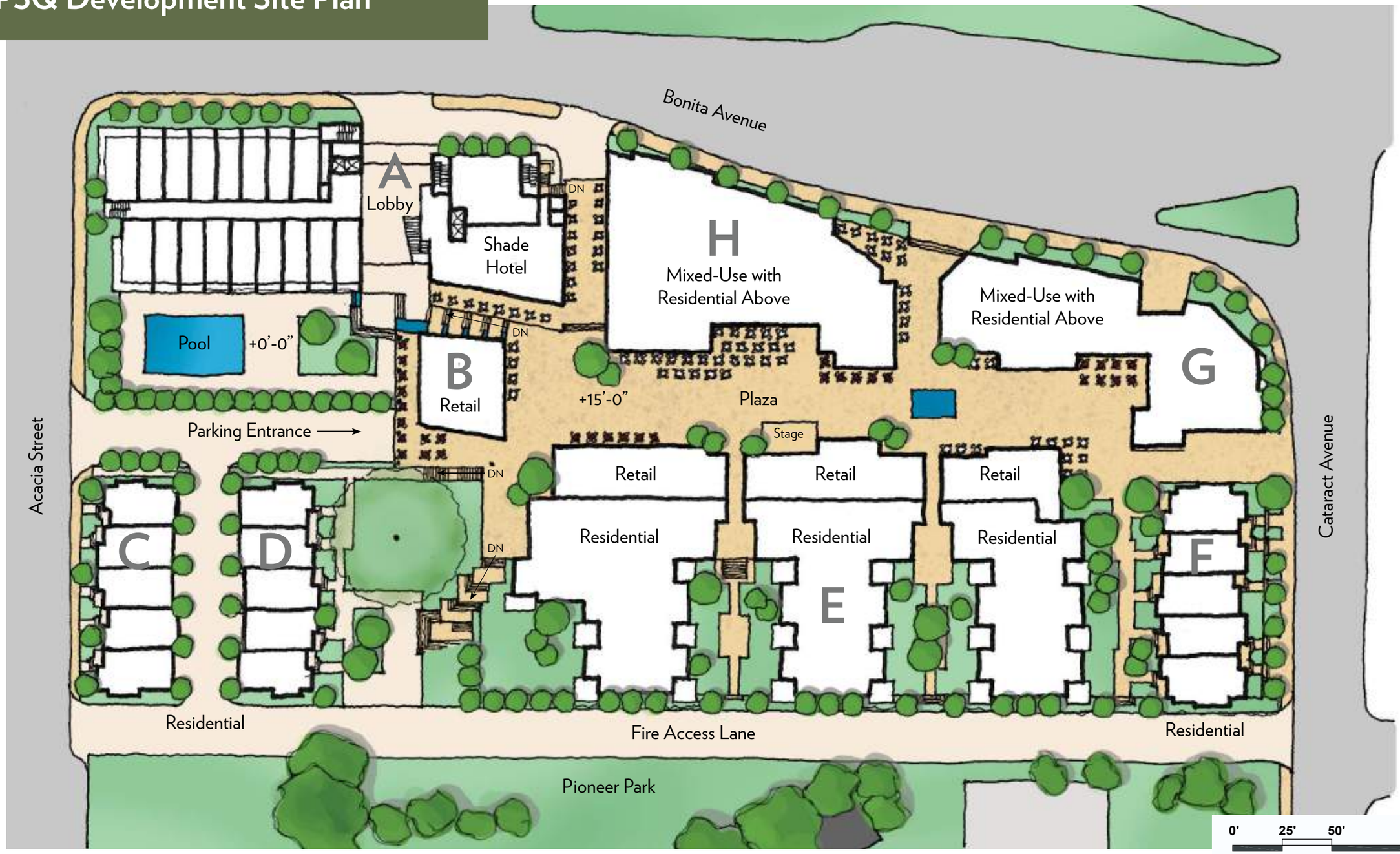


Exhibit 2

Public Open Space Exhibit

SAN DIMAS
PIONEER SQUARE

moore ruble yudell
architects & planners
933 Pico Boulevard Santa Monica, California 90405
tel 310 450 1400 mooreruble yudell.com

W BONITA AVE

S ACACIA ST

S CATARACT AVE

RAILWAY ST

STREET LIGHT TO BE RELOCATED

POOL

GARAGE ENTRANCE

HOTEL
62000 GSF

RETAIL
2,150 GSF

MARKET HALL
11,100 GSF

CONDOS
17,000GSF
13 UNITS

CONDO
CIRC.

RETAIL
8,000 GSF

CONDOS
16,000GSF
12 UNITS

FIRE
ACCESS
LANE

STAGE

PUBLIC
REST.

PUBLIC
CIRC.

RETAIL
4,250 GSF

CONDO
CIRC.

CONDOS
67,100GSF
52 UNITS

5
TOWN-
HOMES
7,500GSF
2,300PKG

5
TOWN-
HOMES
7,500GSF
2,300PKG

5
TOWN-
HOMES

OVER
5 FLATS
10 TOTAL
11,000GSF

FIRE ACCESS ROAD

DN

UP

OPEN SPACE: 69,550sf | 1.6 acres

0' 10' 20' 40' 80'

SITE PLAN - UPPER PLAZA LEVEL

Appendix A

Preliminary Geotechnical Memorandum

PRELIMINARY GEOTECHNICAL EVALUATION

PROPOSED MIXED-USE DEVELOPMENT
344 WEST BONITA AVENUE
SAN DIMAS CALIFORNIA

AIN: 8386-021-913

GEOCON
WEST, INC.

GEOTECHNICAL
ENVIRONMENTAL
MATERIALS

PREPARED FOR

PIONEER SQUARE, LLC
LOS ANGELES, CALIFORNIA

PROJECT NO. W1627-06-01

JULY 28, 2022

Project No. W1627-06-01
July 28, 2022

Mr. Jorge Loor
Pioneer Square, LLC
8800 Venice Boulevard, Suite 316
Los Angeles, California 90034

Subject: PRELIMINARY GEOTECHNICAL EVALUATION
PROPOSED MIXED-USE DEVELOPMENT
344 WEST BONITA AVENUE
SAN DIMAS, CALIFORNIA
AIN: 8386-021-913

Dear Mr. Loor:

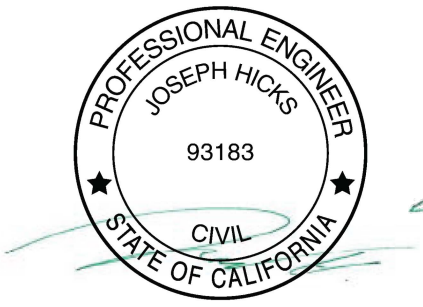
In accordance with your authorization of our proposal dated July 19, 2022, we have performed a preliminary geotechnical evaluation for the proposed mixed-use development located at 344 West Bonita Avenue in the City of San Dimas, California. The purpose of this study is to address potential geologic hazards and geotechnical conditions that could impact the project.

It is our understanding that this report will be used for support of a CEQA exemption memo. A comprehensive, design level geotechnical study should be performed prior to finalizing grading, structural, or shoring plans.

If you have any questions regarding this report, or if we may be of further service, please contact the undersigned.

Very truly yours,

GEOCON WEST, INC.



Joe Hicks, M.S.
PE 93183

Susan F. Kirkgard
CEG 1754

Harry Derkalousdian
PE 79694

(EMAIL) Addressee

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PRELIMINARY GEOTECHNICAL EVALUATION

1. PURPOSE AND SCOPE

This report presents the results of a preliminary geotechnical evaluation for the proposed mixed-use development located at 344 West Bonita Avenue in the City of San Dimas, California (see Vicinity Map, Figure 1). The purpose of this study was to evaluate subsurface soil and geologic conditions at the site and identify potential geotechnical conditions and geologic hazards that could impact the proposed project. It is our understanding that the report will be used to evaluate the feasibility of the development and to provide support for a CEQA exemption memo.

The scope of this evaluation included a satellite reconnaissance, review of previous geotechnical reports for nearby developments, review of planning documents available from the City of San Dimas, and review of existing published geologic information as it pertains to the proposed project, and the preparation of this report.

References reviewed to prepare this report are provided in the *List of References* section. No subsurface explorations were performed as part of this evaluation.

2. SITE AND PROJECT DESCRIPTION

The subject site is approximately 4.4 acres in size and is currently vacant land. The site is bounded by West Bonita Avenue to the north, North Cataract Avenue to the east, South Acacia Street to the west and Pioneer Park to the south (see Site Plan, Figure 2). A railroad ROW for the proposed eastern extension of the METRO Gold Line (AKA the L Line) traverses the intersection of North Cataract Avenue and West Bonita Avenue to the northeast. Aerial images (Google Earth, 2022) of the property show several stockpiles of gravel and other construction-related items in the northeast portion of the site. The site is relatively level with no pronounced highs or lows. Surface water drainage at the site appears to be via sheet flow along the existing ground contours towards city streets. Vegetation onsite consists of trees along much of the perimeter of the site and several trees in the southern portion of the site.

It is our understanding that the proposed development at the site consists of six or seven 4-story structures constructed at grade or near present grade or over one- to two-subterranean parking levels.

This preliminary evaluation report is based on our understanding of the project as described above. Any changes in the design, location or elevation of any structure, as outlined in this report, should be reviewed by this office. Geocon should be contacted to determine the necessity for review and possible revision of this report.

3. PRIOR INVESTIGATION

Geologic and geotechnical data is available from a prior geotechnical investigation at the San Dimas Station commercial center, located approximately 1,800 feet to the west (Geocon, 2011). The western portion of the commercial center was explored for rehabilitation of an existing 77-foot-tall sign foundation system. The prior investigation included drilling of one large-diameter boring to a depth of approximately 20½ feet below the ground surface. Direct shear tests were completed on selected samples.

4. GEOLOGIC SETTING

The site is located in an alluvial valley between the San Gabriel Mountains to the north and the San Jose Hills to the south. Alluvial deposits in the valley consist primarily of older Pleistocene age alluvial fans that are dissected by younger fan deposits originating from San Dimas Canyon. Regionally, the site is located within the northern portion of the Peninsular Ranges geomorphic province. This geomorphic province is characterized by northwest-trending physiographic and geologic features such as the nearby Chino Fault.

5. SOIL AND GEOLOGIC CONDITIONS

Based on our review of the prior geotechnical report (Geocon, 2011) as well as published geologic maps of the area, the site is underlain by Pleistocene older alluvial fan deposits consisting primarily of interbedded sand and silt with lesser amounts of clay (California Geological Survey [CGS], 2012: Dibblee, 2002). The geologic conditions at the site and in the local vicinity are presented on Figure 3, Local Geologic Map.

5.1 Artificial Fill

Due to the undeveloped nature of the site, we do not anticipate significant amounts of artificial fill at the site. However, all existing artificial fill soils will need to be removed as part of the planned development.

5.2 Alluvium

The Pleistocene age older alluvial fan deposits in the immediate area generally consists of interbedded silt with sand, silty sand and sandy silt. The alluvial soils are generally characterized as firm to medium dense and moist.

6. GROUNDWATER

Review of the Seismic Hazard Zone Report for the San Dimas 7.5-Minute Quadrangle (California Division of Mines and Geology [CDMG], 1998) indicates the historically highest groundwater level in the area is reported to be approximately 80 to 90 feet beneath the ground surface. Groundwater information presented in this document is generated from data collected in the early 1900's to the late 1990's. Based on current groundwater basin management practices, it is unlikely that groundwater levels will ever reach the historic high levels.

Groundwater was not encountered in the prior boring drilled by Geocon at a nearby site to a maximum depth of 20½ feet beneath the existing ground surface in 2011. Considering the reported historic high groundwater level (CDMG, 1998), the lack of groundwater encountered at the nearby site, and the depth of proposed construction, static groundwater is neither expected to be encountered during construction, nor have a detrimental effect on the project. However, it is not uncommon for groundwater levels to vary seasonally or for groundwater seepage conditions to develop where none previously existed, especially in impermeable fine-grained soils which are heavily irrigated or after seasonal rainfall. In addition, recent requirements for stormwater infiltration could result in shallower seepage conditions in the immediate site vicinity. Proper surface drainage of irrigation and precipitation will be critical for future performance of the project.

7. GEOLOGIC HAZARDS

7.1 Surface Fault Rupture

The numerous faults in Southern California include Holocene-active, pre-Holocene, and inactive faults. The criteria for these major groups are based on criteria developed by the California Geological Survey (CGS, formerly known as CDMG) for the Alquist-Priolo Earthquake Fault Zone Program (CGS, 2018a). By definition, a Holocene-active fault is one that has had surface displacement within Holocene time (about the last 11,700 years). A pre-Holocene fault has demonstrated surface displacement during Quaternary time (approximately the last 1.6 million years) but has had no known Holocene movement. Faults that have not moved in the last 1.6 million years are considered inactive.

The site is not within a state-designated Alquist-Priolo Earthquake Fault Zone for surface fault rupture hazards (CGS, 2022a; 2022b). No Holocene-active or pre-Holocene faults with the potential for surface fault rupture are known to pass directly beneath the site. Therefore, the potential for surface rupture due to faulting occurring beneath the site during the design life of the proposed development is considered low. However, the site is located in the seismically active Southern California region and could be subjected to moderate to strong ground shaking in the event of an earthquake on one of the many active Southern California faults. The faults in the vicinity of the site are shown in Figure 4, Regional Fault Map.

The closest active fault to the site is the Sierra Madre Fault Zone located approximately 1.5 miles to the north (USGS, 2006). Other nearby active faults are the Chino Fault, the Raymond Fault, the Whittier Fault, the Elsinore Fault, the San Andreas Fault Zone, and the San Jacinto Fault Zone located approximately 11 miles south-southeast, 11.7 miles northwest, 12.1 miles southwest, 19 miles southeast, 20 miles north-northeast, and 21.5 miles east-northeast of the site, respectively (USGS, 2006).

The pre-Holocene Indian Hill Fault is located approximately 550 feet north of the site. This fault is a known groundwater barrier in the area and groundwater levels south of the fault (near the site location) are significantly deeper than groundwater levels north of the fault. The Indian Hill Fault is not considered Holocene-active and the potential for a future earthquake along this fault is considered very low.

Several buried thrust faults, commonly referred to as blind thrusts, underlie the Los Angeles area at depth. These faults are not exposed at the ground surface and are typically identified at depths greater than 3.0 kilometers. The October 1, 1987, M_w 5.9 Whittier Narrows earthquake and the January 17, 1994, M_w 6.7 Northridge earthquake were a result of movement on the Puente Hills Blind Thrust and the Northridge Thrust, respectively. These thrust faults and others in the Los Angeles area are not exposed at the surface and do not present a potential surface fault rupture hazard at the site; however, these deep thrust faults are considered active features capable of generating future earthquakes that could result in moderate to significant ground shaking at the site.

7.2 Seismicity

As with all of Southern California, the site has experienced historic earthquakes from various regional faults. The seismicity of the region surrounding the site was formulated based on research of an electronic database of earthquake data. The epicenters of recorded earthquakes with magnitudes equal to or greater than 5.0 in the site vicinity are depicted on Figure 5, Regional Seismicity Map. A partial list of moderate to major magnitude earthquakes that have occurred in the Southern California area within the last 100 years is included in the following table.

LIST OF HISTORIC EARTHQUAKES

Earthquake (Oldest to Youngest)	Date of Earthquake	Magnitude	Distance to Epicenter (Miles)	Direction to Epicenter
Near Redlands	July 23, 1923	6.3	33	ESE
Long Beach	March 10, 1933	6.4	35	SSW
Tehachapi	July 21, 1952	7.5	92	NW
San Fernando	February 9, 1971	6.6	40	WNW
Whittier Narrows	October 1, 1987	5.9	16	W
Sierra Madre	June 28, 1991	5.8	15	NW
Landers	June 28, 1992	7.3	79	E
Big Bear	June 28, 1992	6.4	57	E
Northridge	January 17, 1994	6.7	42	W
Hector Mine	October 16, 1999	7.1	94	ENE
Ridgecrest	July 5, 2019	7.1	115	N

The site could be subjected to strong ground shaking in the event of an earthquake. However, this hazard is common in Southern California and the effects of ground shaking can be minimized if the proposed structures are designed and constructed in conformance with current building codes and engineering practices.

7.3 Seismic Design Criteria

The following table summarizes the site-specific design criteria obtained from the 2019 California Building Code (CBC; Based on the 2018 International Building Code [IBC] and ASCE 7-16), Chapter 16 Structural Design, Section 1613 Earthquake Loads. The data was calculated using the online application *Seismic Design Maps*, provided by OSHPD. The short spectral response uses a period of 0.2 second. We evaluated the Site Class based on the discussion in Section 1613.2.2 of the 2019 CBC and Table 20.3-1 of ASCE 7-16. The values presented below are for the risk-targeted maximum considered earthquake (MCE_R).

2019 CBC SEISMIC DESIGN PARAMETERS

Parameter	Value	2019 CBC Reference
Site Class	D	Section 1613.2.2
MCE_R Ground Motion Spectral Response Acceleration – Class B (short), S_S	1.685g	Figure 1613.2.1(1)
MCE_R Ground Motion Spectral Response Acceleration – Class B (1 sec), S_1	0.63g	Figure 1613.2.1(2)
Site Coefficient, F_A	1	Table 1613.2.3(1)
Site Coefficient, F_V	1.7*	Table 1613.2.3(2)
Site Class Modified MCE_R Spectral Response Acceleration (short), S_{MS}	1.685g	Section 1613.2.3 (Eqn 16-36)
Site Class Modified MCE_R Spectral Response Acceleration – (1 sec), S_{M1}	1.072g*	Section 1613.2.3 (Eqn 16-37)
5% Damped Design Spectral Response Acceleration (short), S_{DS}	1.124g	Section 1613.2.4 (Eqn 16-38)
5% Damped Design Spectral Response Acceleration (1 sec), S_{D1}	0.714g*	Section 1613.2.4 (Eqn 16-39)

Note:

*Per Section 11.4.8 of ASCE/SEI 7-16, a ground motion hazard analysis shall be performed for projects for Site Class "E" sites with Ss greater than or equal to 1.0g and for Site Class "D" and "E" sites with S1 greater than 0.2g. Section 11.4.8 also provides exceptions which indicates that the ground motion hazard analysis may be waived provided the exceptions are followed. Using the code-based values presented in the table above, in lieu of a performing a ground motion hazard analysis, requires the exceptions outlined in ASCE 7-16 Section 11.4.8 be followed.

The table below presents the mapped maximum considered geometric mean (MCE_G) seismic design parameters for projects located in Seismic Design Categories of D through F in accordance with ASCE 7-16.

ASCE 7-16 PEAK GROUND ACCELERATION

Parameter	Value	ASCE 7-16 Reference
Mapped MCE_G Peak Ground Acceleration, PGA	0.895g	Figure 22-7
Site Coefficient, F_{PGA}	1.1	Table 11.8-1
Site Class Modified MCE_G Peak Ground Acceleration, PGA_M	0.984g	Section 11.8.3 (Eqn 11.8-1)

The Maximum Considered Earthquake Ground Motion (MCE) is the level of ground motion that has a 2 percent chance of exceedance in 50 years, with a statistical return period of 2,475 years. According to the 2019 California Building Code and ASCE 7-16, the MCE is to be utilized for the evaluation of liquefaction, lateral spreading, seismic settlements, and it is our understanding that the intent of the Building Code is to maintain "Life Safety" during a MCE event. The Design Earthquake Ground Motion (DE) is the level of ground motion that has a 10 percent chance of exceedance in 50 years, with a statistical return period of 475 years.

Deaggregation of the MCE peak ground acceleration was performed using the USGS online Unified Hazard Tool, 2014 Conterminous U.S. Dynamic edition (v4.2.0). The result of the deaggregation analysis indicates that the predominant earthquake contributing to the MCE peak ground acceleration is characterized as a 6.99 magnitude event occurring at a hypocentral distance of 11.88 kilometers from the site.

Deaggregation was also performed for the Design Earthquake (DE) peak ground acceleration, and the result of the analysis indicates that the predominant earthquake contributing to the DE peak ground acceleration is characterized as a 6.91 magnitude occurring at a hypocentral distance of 17.0 kilometers from the site.

Conformance to the criteria in the above tables for seismic design does not constitute any kind of guarantee or assurance that significant structural damage or ground failure will not occur if a large earthquake occurs. The primary goal of seismic design is to protect life, not to avoid all damage, since such design may be economically prohibitive.

7.4 Liquefaction Potential

Liquefaction is a phenomenon in which loose, saturated, relatively cohesionless soil deposits lose shear strength during strong ground motions. Primary factors controlling liquefaction include intensity and duration of ground motion, gradation characteristics of the subsurface soils, in-situ stress conditions, and the depth to groundwater. Liquefaction is typified by a loss of shear strength in the liquefied layers due to rapid increases in pore water pressure generated by earthquake accelerations.

The current standard of practice, as outlined in the "Recommended Procedures for Implementation of DMG Special Publication 117, Guidelines for Analyzing and Mitigating Liquefaction in California" and "Special Publication 117A, Guidelines for Evaluating and Mitigating Seismic Hazards in California" requires liquefaction analysis to a depth of 50 feet below the lowest portion of the proposed structure. Liquefaction typically occurs in areas where the soils below the water table are composed of poorly consolidated, fine- to medium-grained, primarily sandy soil. In addition to the requisite soil conditions, the ground acceleration and duration of the earthquake must also be of a sufficient level to induce liquefaction.

The State of California Seismic Hazard Zone Map for the San Dimas Quadrangle (CDMG, 1999) indicates that the site is not located within an area designated as having a potential for liquefaction. In addition, a review of the County of Los Angeles Safety Element (Leighton, 1990) and the San Dimas General Plan (1991, updated 2008) indicate that the site is not located within an area identified as having a potential for liquefaction. The site is underlain by Pleistocene age alluvial fan deposits that are primarily stiff to hard or medium dense to dense and are not prone to liquefaction. Also, the historic high groundwater level in the site vicinity is reported to be on the order of 80 to 90 feet beneath the ground surface (CDMG, 1998), Based on these considerations, it is our opinion that the potential for liquefaction and associated ground deformations beneath the site is very low

7.5 Slope Stability

The topography at the site is relatively level and the topography in the immediate site vicinity slopes gently to the south. Review of the County of Los Angeles Safety Element (Leighton, 1990) and the City of San Dimas Safety Element (1999, revised 2008), the site is not located in a hillside area or an area designated as having a potential for slope stability hazards. Also, the site is not located within an area identified as having a potential for seismic slope instability (CDMG, 1999). There are no known landslides near the site, nor is the site in the path of any known or potential landslides. Therefore, the potential for slope stability hazards to adversely affect the proposed development is considered low.

7.6 Earthquake-Induced Flooding

Earthquake-induced flooding is inundation caused by failure of dams or other water-retaining structures due to earthquakes. Based on a review of the Los Angeles County Safety Element (Leighton, 1990) and the City of San Dimas Safety Element (1999, revised 2008), the site is not located within a potential inundation area for an earthquake-induced dam failure. Therefore, the probability of earthquake-induced flooding is considered very low.

7.7 Tsunamis, Seiches, and Flooding

The site is not located within a coastal area. Therefore, tsunamis are not considered a significant hazard at the site.

Seiches are large waves generated in enclosed bodies of water in response to ground shaking. No major water-retaining structures are located immediately up gradient from the project site. Therefore, flooding resulting from a seismically induced seiche is considered unlikely.

The site is within an area of minimal flooding (Zone X) as defined by the Federal Emergency Management Agency (LACDPW, 2022; FEMA, 2022).

7.8 Oil Fields & Methane Potential

Based on a review of the California Geologic Energy Management Division (CalGEM) Well Finder website, the site is not located within the limits of an oilfield and oil or gas wells are not located within he immediate vicinity of the site (CalGEM, 2022). However, due to the voluntary nature of record reporting by the oil well drilling companies, wells may be improperly located or not shown on the location map and undocumented wells could be encountered during construction. Any wells encountered during construction will need to be properly abandoned in accordance with the current requirements of the CalGEM.

Since the site is not located within an oil field, the potential for methane or other volatile gases to occur at the site is considered very low. However, should it be determined that a methane study is required for the proposed development it is recommended that a qualified methane consultant be retained to perform the study and provide mitigation measures as necessary.

7.9 Subsidence

Subsidence occurs when a large portion of land is displaced vertically, usually due to the withdrawal of groundwater, oil, or natural gas. Soils that are particularly subject to subsidence include those with high silt or clay content. The site is not located within an area of known ground subsidence (U.S. Geological Survey, 2022). No large-scale extraction of groundwater, gas, oil, or geothermal energy is occurring or planned at the site or in the general site vicinity. There appears to be little or no potential for ground subsidence due to withdrawal of fluids or gases at the site.

8. PRELIMINARY CONCLUSIONS AND RECOMMENDATIONS

8.1 General

8.1.1 This report is intended to address the feasibility of the proposed site development and is preliminary. A comprehensive geotechnical investigation that includes subsurface exploration, laboratory testing, and engineering analyses should be performed for the proposed project and will be required to provide conclusions and recommendations for the design and construction of the site. Based on our understanding of the project, it is our opinion that neither soil nor geologic conditions are known to exist at the site that would preclude the construction of the proposed project.

8.1.2 Potential geologic hazards at the site include seismic shaking.

8.1.3 The site could be subjected to strong ground shaking in the event of an earthquake. However, this hazard is common in Southern California and this site does not have an increased level of risk as compared to other sites in the immediate vicinity. The future geotechnical report will address the potential for seismic shaking, as well as provide recommendations for the mitigation of the potential consequences, if any.

8.1.4 The potential for other geologic hazards to impact the proposed development, such as landsliding, seismic slope instability and other slope stability hazards, subsidence, peat oxidation, flooding, seiches, inundation, tsunamis, and volcanic hazards, is considered very low.

8.1.5 The historic high groundwater level is reported to be greater than 80 feet below the existing ground surface. Therefore, it is unlikely that groundwater will be encountered during the excavation of the proposed subterranean levels, which are anticipated to extend to depths of 20 feet below the existing ground surface.

8.1.6 Based on data from the prior geotechnical investigations performed to the west of the site and our in-house experience in the site vicinity, it is anticipated that the proposed project will be able to utilize typical design and construction techniques. The soils at the proposed foundation level are anticipated to consist of Pleistocene age alluvium, which generally consists of interbedded sand and silt with varying amounts of clay, gravels and cobbles. The soils are anticipated to be subject to relatively small settlements which would occur during the initial loading of the foundation system.

8.1.7 It is anticipated that a conventional spread foundation system will be appropriate for structures constructed on grade, or over one- or two-subterranean levels. If constructed at-grade, foundations may derive support in newly placed engineered fill subsequent to the recommended grading and/or competent alluvial soils. If constructed over subterranean levels, footings may derive support in competent alluvial soils found at the subterranean levels. Conformation of the appropriate foundation system will depend on the results of the comprehensive geotechnical investigation and coordination with the project structural engineer.

8.1.8 Excavations must be conducted in a manner that maintains stability. It is anticipated that shoring may be required to maintain a stable excavation during construction of the below grade parking levels, and shoring design recommendations should be provided as a part of the comprehensive geotechnical report.

8.2 Additional Future Geotechnical Investigation

8.2.1 The purpose of this report was to provide preliminary recommendations pertaining to the geotechnical aspects of developing the property based on available geologic data. While it is our opinion that neither soil nor geologic conditions would preclude the construction of the proposed development, site exploration and a comprehensive geotechnical report will be required to provide conclusions and recommendations for the design and construction of the proposed development.

8.2.2 The future geotechnical work should include site-specific borings, laboratory testing, and engineering analyses.

LIMITATIONS AND UNIFORMITY OF CONDITIONS

1. The recommendations of this report pertain only to the site investigated and are based upon the assumption that the soil conditions do not deviate from those disclosed in the investigation. If any variations or undesirable conditions are encountered during construction, or if the proposed construction will differ from that anticipated herein, Geocon West, Inc. should be notified so that supplemental recommendations can be given. The evaluation or identification of the potential presence of hazardous or corrosive materials was not part of the scope of services provided by Geocon West, Inc.

2. This report is issued with the understanding that it is the responsibility of the owner, or of his representative, to ensure that the information and recommendations contained herein are brought to the attention of the architect and engineer for the project and incorporated into the plans, and the necessary steps are taken to see that the contractor and subcontractors carry out such recommendations in the field.

3. The findings of this report are valid as of the date of this report. However, changes in the conditions of a property can occur with the passage of time, whether they are due to natural processes or the works of man on this or adjacent properties. In addition, changes in applicable or appropriate standards may occur, whether they result from legislation or the broadening of knowledge. Accordingly, the findings of this report may be invalidated wholly or partially by changes outside our control. Therefore, this report is subject to review and should not be relied upon after a period of three years.

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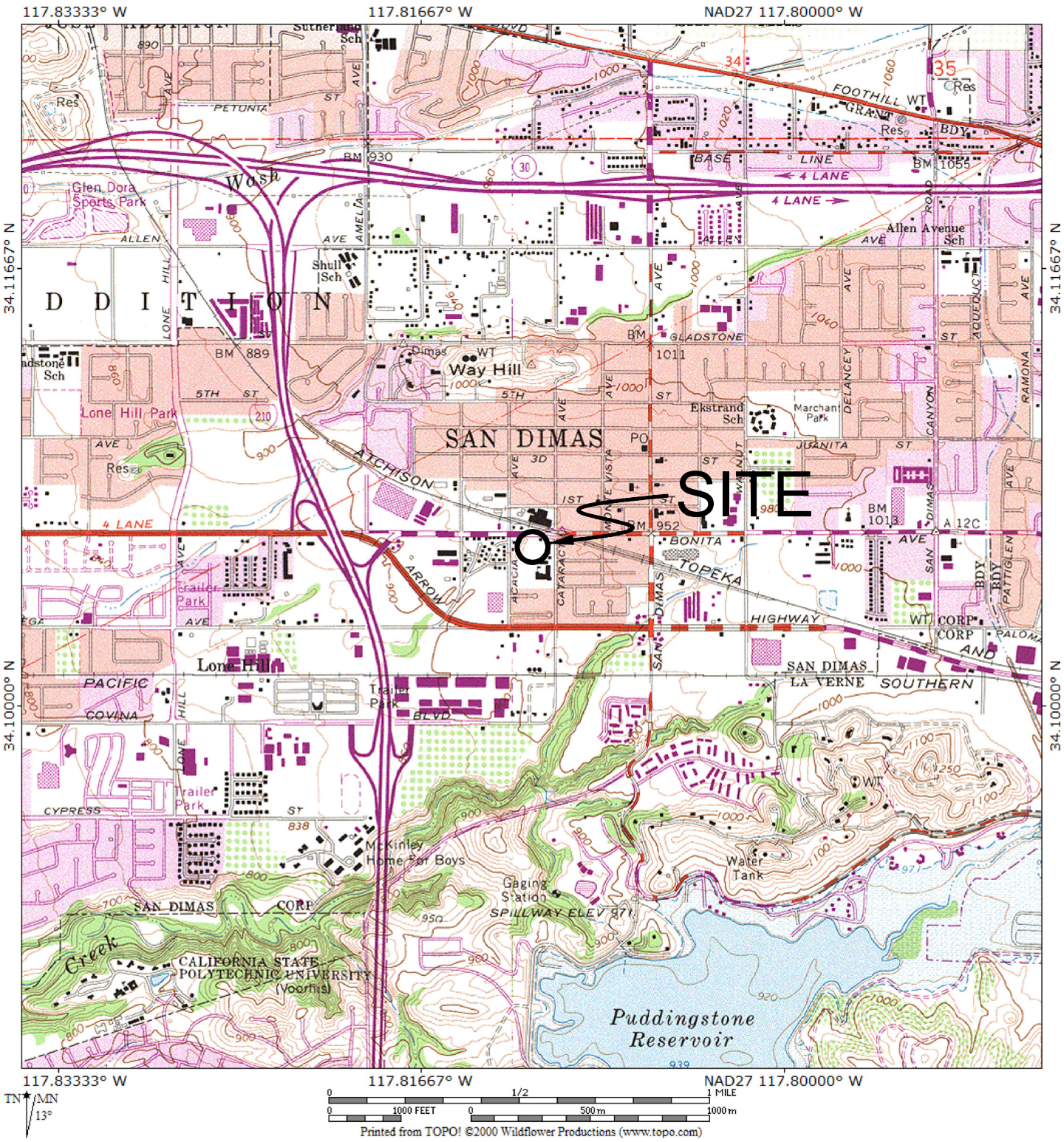

U.S.G.S. TOPOGRAPHIC MAPS, 7.5 MINUTE SERIES, SAN DIMAS, CA QUADRANGLES

GEOCON
WEST, INC.

ENVIRONMENTAL GEOTECHNICAL MATERIALS
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PHONE (818) 841-8388 - FAX (818) 841-1704

VICINITY MAP

344 WEST BONITA AVENUE
SAN DIMAS, CALIFORNIA

DRAFTED BY: CB	CHECKED BY: SFK

JULY 2022	PROJECT NO. W1627-06-01	FIG. 1

LEGEND

Approximate Location of Property Line

0 60' 120'

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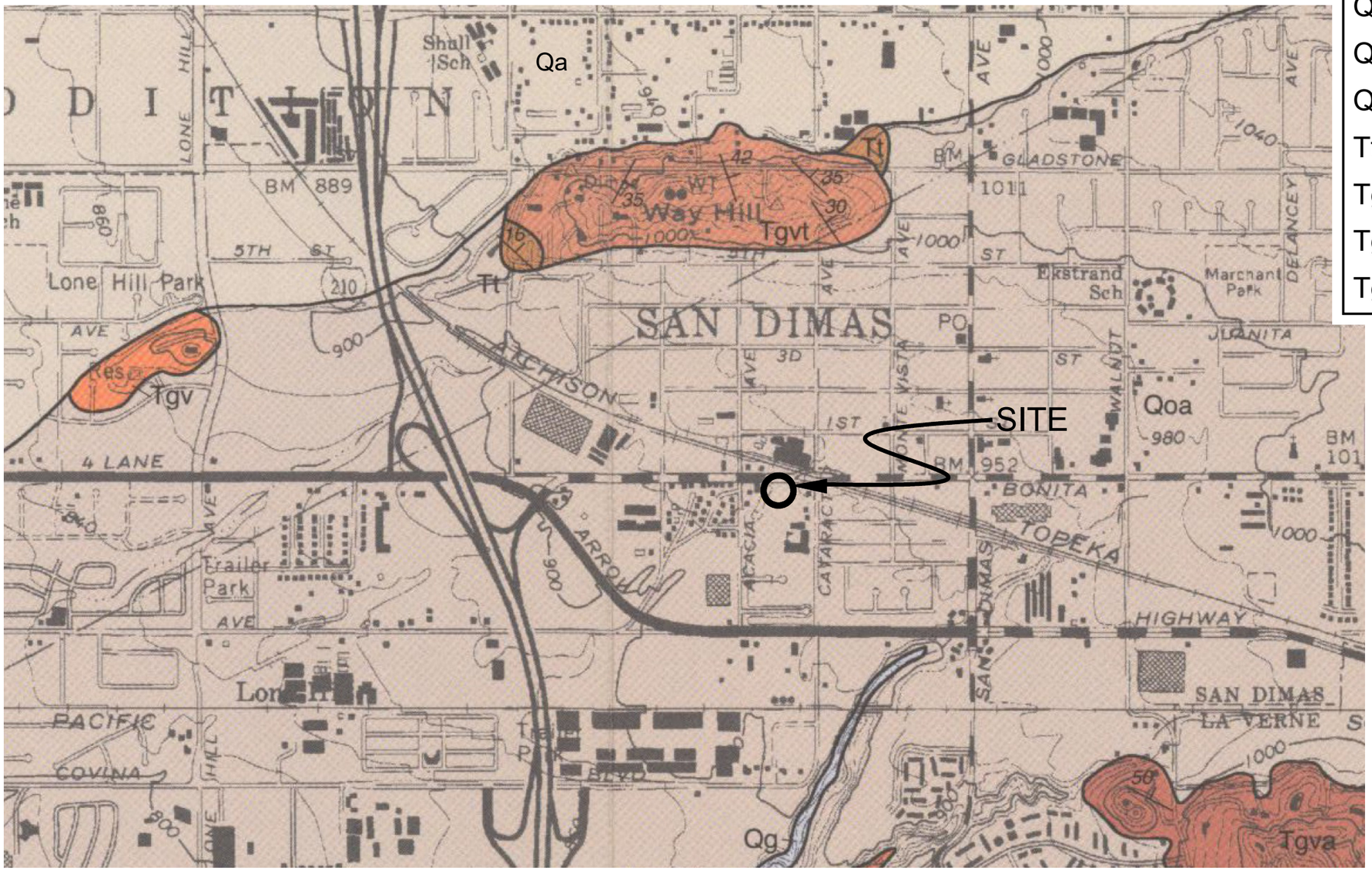
DRAFTED BY: JMH	CHECKED BY: HHD

SITE PLAN

344 WEST BONITA AVENUE
SAN DIMAS, CALIFORNIA

JULY 2022	PROJECT NO. W1627-06-01	FIG. 2



LEGEND

Qa	Quaternary Alluvial Valley Deposits
Qg	Quaternary Stream Channel Deposits
Qoa	Older Quaternary Alluvial Deposits
Tt	Topanga Formation
Tgv	Glendora Volcanics - Undifferentiated
Tgva	Glendora Volcanics - Andesite Flows and Breccia
Tgvt	Glendora Volcanics - Rhyolitic Tuff Breccia

Map Reference: Geologic Map of the San Dimas and Ontario Quadrangles
Los Angeles and San Bernardino Counties, California
T. W. Dibblee, Jr., 2002; DF - 91

NORTH

0 1000 2000

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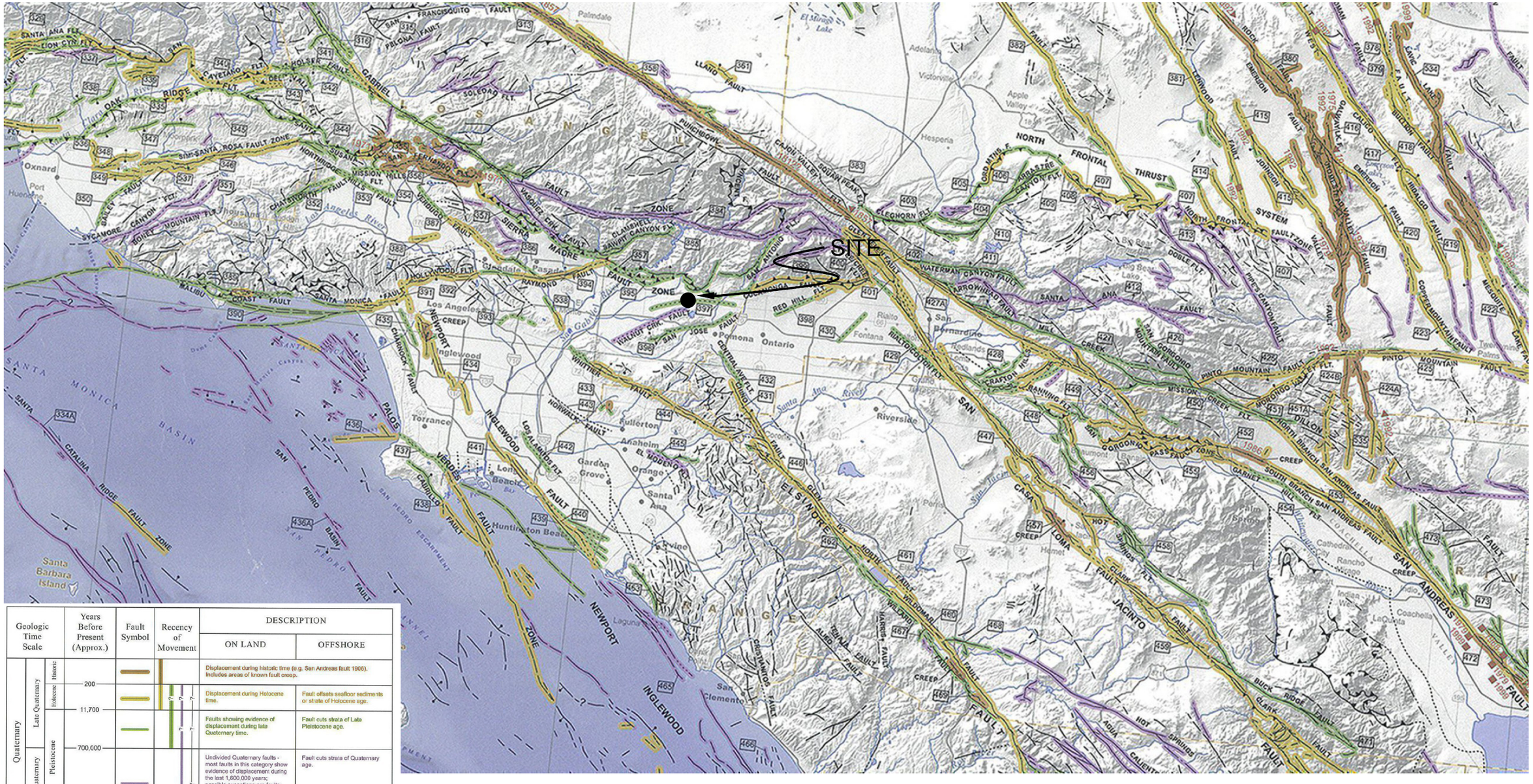
LOCAL GEOLOGIC MAP

344 WEST BONITA AVENUE
SAN DIMAS, CALIFORNIA

JULY 2022 | PROJECT NO. W1627-06-01 | FIG. 3

Reference: Jennings, C.W. and Bryant, W. A., 2010, Fault Activity Map of California, California Geological Survey Geologic Data Map No. 6.



Geologic Time Scale			Years Before Present (Approx.)	Fault Symbol	Recency of Movement	DESCRIPTION	
						ON LAND	OFFSHORE
Quaternary	Late Quaternary	Historic				Displacement during historic time (e.g. San Andreas fault 1906). Includes areas of known fault creep.	
		Holocene	200			Displacement during Holocene time.	Fault offsets seafloor sediments or strata of Holocene age.
			11,700			Faults showing evidence of displacement during late Quaternary time.	Fault cuts strata of Late Pleistocene age.
	Early Quaternary	Pleistocene	700,000			Undivided Quaternary faults - most faults in this category show evidence of displacement during the last 1,600,000 years; possible exceptions are faults which displace rocks of undifferentiated Plio-Pleistocene age.	Fault cuts strata of Quaternary age.
Pre-Quaternary			1,600,000*			Faults without recognized Quaternary displacement or showing evidence of no displacement during Quaternary time. Not necessarily inactive.	Fault cuts strata of Pliocene or older age.
			4.5 billion (Age of Earth)				

* Quaternary now recognized as extending to 2.6 Ma (Walker and Geissman, 2009). Quaternary faults in this map were established using the previous 1.8 Ma criterion.

N

0 12 24 Miles

GEOCON WEST, INC.

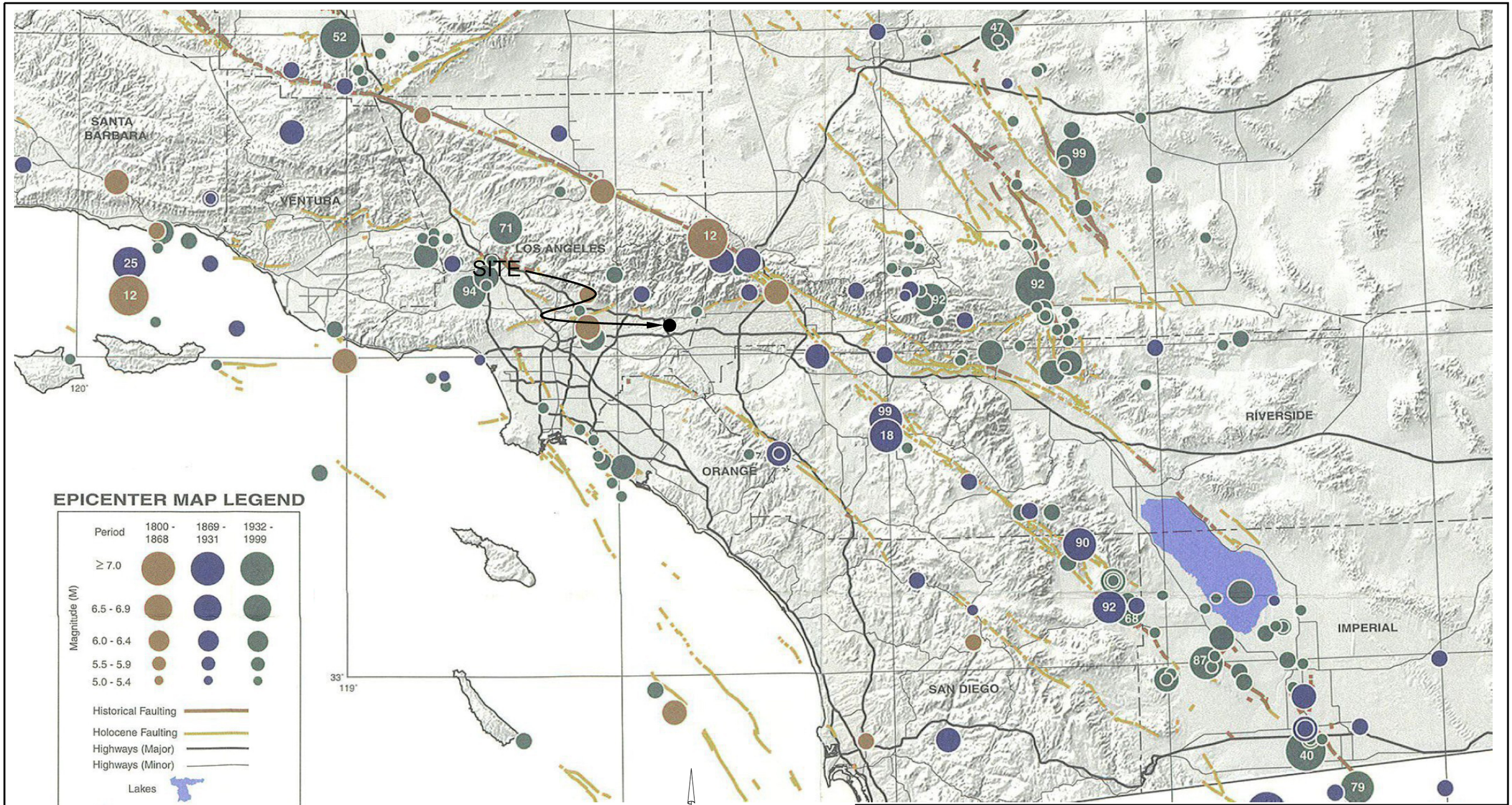
ENVIRONMENTAL GEOTECHNICAL MATERIALS
3303 N. SAN FERNANDO BLVD. - SUITE 100 - BURBANK, CA 91504
PHONE (818) 841-8388 - FAX (818) 841-1704

DRAFTED BY: CB | CHECKED BY: SFK

REGIONAL FAULT MAP

344 WEST BONITA AVENUE
SAN DIMAS, CALIFORNIA

JULY 2022 | PROJECT NO. W1627-06-01 | FIG. 4



EPICENTER MAP LEGEND

Period	1800 - 1868	1869 - 1931	1932 - 1999
Magnitude (M) ≥ 7.0			
6.5 - 6.9			
6.0 - 6.4			
5.5 - 5.9			
5.0 - 5.4			

Historical Faulting

Holocene Faulting

Highways (Major)

Highways (Minor)

Lakes

65 Last two digits of M ≥ 6.5 earthquake year

Reference: Toppozada, T., Branum, D., Petersen, M., Hallstrom, C., Cramer, C., and Reichle, M., 2000, Epicenters and Areas Damaged by M≥5 California Earthquakes, 1800 - 1999, California Geological Survey, Map Sheet 49.

0 20 40 Miles

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REGIONAL SEISMICITY MAP

344 WEST BONITA AVENUE
SAN DIMAS, CALIFORNIA

JULY 2022 | PROJECT NO. W1627-06-01 | FIG.5

Appendix B

Mitigation Monitoring and Reporting Program (MMRP)

from the Final Program Environmental Impact Report for the

Southern California Association of Governments (SCAG)

Connect SoCal 2020-2045 Regional Transportation Plan/

Sustainable Communities Strategy (2020-2045 RTP/SCS)

**** Measures in the MMRP that are identified with a red box***

around them are applicable to the Project.

THE 2020-2045 REGIONAL TRANSPORTATION PLAN/
SUSTAINABLE COMMUNITIES STRATEGY OF THE
SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS

CONNECT SoCal

EXHIBIT A

Mitigation Monitoring and Reporting Program for the Final Connect SoCal PEIR

SCAG™
INNOVATING FOR A BETTER TOMORROW

ADOPTED MAY 2020

STATE CLEARINGHOUSE #20199011061

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EXHIBIT A – MITIGATION MONITORING AND REPORTING PROGRAM

1.0 PURPOSE

The Mitigation Monitoring and Reporting Program (MMRP) has been prepared in conformance with Section 21081.6 of the California Environmental Quality Act (CEQA) and Section 15097 of the CEQA Guidelines. It is the intent of this program to: (1) verify satisfaction of the required mitigation measures of the EIR; (2) provide a methodology to document implementation of the required mitigation measures; (3) provide a record of the Monitoring Program; (4) identify monitoring responsibility; (5) establish administrative procedures for the clearance of mitigation measures; (6) establish the frequency and duration of monitoring; and (7) utilize existing review processes wherever feasible.

2.0 INTRODUCTION

This Mitigation Monitoring and Reporting Program describes the procedures that will be used to implement the mitigation measures adopted in connection with the approval of the project and the methods of monitoring such actions. This MMRP takes the form of a table that identifies the responsible entity for monitoring each mitigation measure and the timing of each measure.

This EIR identifies programmatic mitigation measures to be implemented by SCAG and identifies project-level mitigation measures that SCAG will encourage local agencies to implement, as appropriate and feasible, as part of project-specific environmental review.

SCAG has no authority to impose mitigation measures on individual projects for which it is not the lead agency. However, for projects seeking to use CEQA streamlining and/or tier from the Connect SoCal Program EIR, project-level mitigation measures included in this Program EIR (or comparable measures) should be required by the local lead agency as appropriate and feasible. Many lead agencies have existing regulations, policies, and/or standard conditions of approval that address potential impacts. Nothing in the Program EIR is intended to supersede existing regulations and policies of individual jurisdictions. Since SCAG has no authority to impose mitigation measures, mitigation measures to be implemented by local jurisdictions are subject to a lead agency's independent discretion as to whether measures are applicable to projects in their respective jurisdictions. Lead agencies may use, amend, or not use measures identified in this Program EIR as appropriate to address project-specific conditions. The determination of significance and identification of appropriate mitigation is *solely* the responsibility of the lead agency.

To assure consistent documentation of its direction at the May 7, 2020 Regional Council meeting regarding Connect SoCal, the Regional Council finds that conforming changes to the enacting resolution, findings and other decisional documents that fully effectuate the direction of the Regional Council, shall be presented to the Regional Council at a subsequent meeting for review and approval. If there is any inconsistency between the enacting resolutions, findings and other decisional documents and the Regional Council direction, the Regional Council direction shall govern.

Table A-1
Mitigation Monitoring and Reporting Program Matrix

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
Aesthetics		
SMM AES-1: SCAG shall facilitate minimizing impacts to scenic vistas through cooperation, information sharing regarding the locations of designated scenic vistas, and regional program development as part of SCAG's ongoing regional planning efforts, such as web-based planning tools for local government including REVISION, and other GIS tools and data services, including, but not limited to, Map Gallery, GIS library, and GIS applications, and direct technical assistance efforts such as sharing of associated online training materials. Caltrans and lead agencies, such as county and city planning departments, shall be consulted during this update process.	Ongoing over the life of the plan	SCAG
PMM AES-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to address potential aesthetic impacts to scenic vistas, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Use a palette of colors, textures, building materials that are graffiti-resistant, and/or plant materials that complement the surrounding landscape and development. b) Use contour grading to better match surrounding terrain. Contour edges of major cut-and-fill to provide a more natural looking finished profile. c) Design new corridor landscaping to respect existing natural and man-made features and to complement the dominant landscaping of the surrounding areas. d) Replace and renew landscaping along corridors with road widenings, interchange projects, and related improvements. e) Retain or replace trees bordering highways, so that clear-cutting is not evident. f) Provide new corridor landscaping that respects and provides appropriate transition to existing natural and man-made features and is complementary to the dominant landscaping or native habitats of surrounding areas. g) Reduce the visibility of construction staging areas by fencing and screening these areas with low contrast materials consistent with the surrounding environment, and by revegetating graded slopes and exposed earth surfaces at the earliest opportunity; h) Use see-through safety barrier designs (e.g. railings rather than walls)	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
PMM AES-2: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to address potential aesthetic impacts that substantially degrade visual character, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Minimize contrasts in scale and massing between the projects and surrounding natural forms and development, minimize their intrusion into important viewsheds, and use contour grading to better match surrounding terrain in accordance with county and city hillside ordinances, where applicable. b) Design landscaping along highway corridors to add significant natural elements and visual interest to soften the hard-edged, linear transportation corridors. c) Require development of design guidelines for projects that make elements of proposed buildings/facilities visually compatible or minimize visibility of changes in visual quality or character through use of hardscape and softscape solutions. Specific measures to be addressed include setback buffers, landscaping, color, texture, signage, and lighting criteria. d) Design projects consistent with design guidelines of applicable general plans. e) Require that sites are kept in a blight/nuisance-free condition. Remove blight or nuisances that compromise visual character or visual quality of project areas including graffiti abatement, trash removal, landscape management, maintenance of signage and billboards in good condition, and replace compromised native vegetation and landscape. f) Where sound walls are proposed, require sound wall construction and design methods that account for visual impacts as follows: — use transparent panels to preserve views where sound walls would block views from residences; — use landscaped earth berm or a combination wall and berm to minimize the apparent sound wall height; — construct sound walls of materials whose color and texture complements the surrounding landscape and development; g) Design sound walls to increase visual interest, reduce apparent height, and be visually compatible with the surrounding area; and landscape the sound walls with plants that screen the sound wall, preferably with either native vegetation or landscaping that complements the dominant landscaping of surrounding areas.	Ongoing over the life of the plan	Lead Agency
SMM AES-2: SCAG shall facilitate minimizing impacts on aesthetics related to new sources of light or glare through cooperation, information sharing regarding guidelines and policies, design approaches, building materials, siting, and technology, such as web-based planning tools for local government including CA LOTS, and other GIS tools and data services, including, but not limited to, Map Gallery, GIS library, and GIS applications, and direct technical assistance efforts and sharing of associated online training materials. Lead agencies, such as county and city planning departments, shall be consulted during this update process.	Ongoing over the life of the plan	SCAG

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
PMM AES-3: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to address potential aesthetic impacts that substantially degrade visual character, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Use lighting fixtures that are adequately shielded to a point below the light bulb and reflector and that prevent unnecessary glare onto adjacent properties. b) Restrict the operation of outdoor lighting for construction and operation activities to the hours of 7:00 a.m. to 10:00 p.m. or as otherwise required by applicable local rules or ordinances. c) Use high pressure sodium and/or cut-off fixtures instead of typical mercury-vapor fixtures for outdoor lighting. d) Use unidirectional lighting to avoid light trespass onto adjacent properties. e) Design exterior lighting to confine illumination to the project site, and/or to areas which do not include light-sensitive uses. f) Provide structural and/or vegetative screening from light-sensitive uses. g) Shield and direct all new street and pedestrian lighting away from light-sensitive off-site uses. h) Use non-reflective glass or glass treated with a non-reflective coating for all exterior windows and glass used on building surfaces. i) Architectural lighting shall be directed onto the building surfaces and have low reflectivity to minimize glare and limit light onto adjacent properties.	Ongoing over the life of the plan	Lead Agency
Agriculture and Forestry		
SMM AG-1: SCAG shall host a Natural & Farm Lands Conservation Working Group which will provide a forum for stakeholders to share best practices and develop recommendations for natural and agricultural land conservation throughout the region, including the development of a Natural Lands Conservation Strategy for the Connect SoCal Plan.	Ongoing over the life of the plan	SCAG
SMM AG-2: SCAG shall expand on the Natural Resource Inventory Database and Conservation Framework & Assessment by incorporating strategic mapping layers to build the database and further refine the priority conservation areas by (1) further investing in mapping and farmland data tracking and (2) working with County Transportation Commissions (CTCs) and SCAG's subregions to support their county-level efforts at data building. SCAG shall encourage CTCs to develop advanced mitigation programs or include them in future transportation measures by (1) funding pilot programs that encourage advance mitigation including data and replicable processes, (2) participating in state-level efforts that would support regional advanced mitigation planning in the SCAG region, and (3) supporting the inclusion of advance mitigation programs at county level transportation measures.	Ongoing over the life of the plan	SCAG

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
SMM AG-3: SCAG shall align with funding opportunities and pilot programs to begin implementation of conservation strategies through (1) seeking planning and implementation funds, such as cap and trade auction proceeds that could advance local action on acquisition and restoration projects locally and regionally, (2) supporting CTCs and other partners, and (3) continuing policy alignment with the State Wildlife Action Plan 2015 Update and its implementation.	Ongoing over the life of the plan	SCAG
SMM AG-4: SCAG shall provide incentives to jurisdictions that cooperate across county lines to protect and restore natural habitat corridors, especially where corridors cross county boundaries, as detailed in the Natural & Farm Lands Appendix strategies of Connect SoCal. SCAG will work with stakeholders to identify incentives and leverage resources that help protect habitat corridors.	Ongoing over the life of the plan	SCAG
PMM AG-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to address potential adverse effects on agricultural resources, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Require project sponsors to mitigate for loss of farmland by providing permanent protection of in-kind farmland in the form of easements, fees, or elimination of development rights/potential. b) Project relocation or corridor realignment to avoid Prime Farmland, Unique Farmland, or Farmland of Local or Statewide Importance. c) Maintain and expand agricultural land protections such as urban growth boundaries. d) Provide for mitigation fees to support a mitigation bank[1] that invests in farmer education, agricultural infrastructure, water supply, marketing, etc. that enhance the commercial viability of retained agricultural lands. e) Minimize severance and fragmentation of agricultural land by constructing underpasses and overpasses at reasonable intervals to provide property access. f) Use berms, buffer zones, setbacks, and fencing to reduce conflicts between new development and farming uses and protect the functions of farmland.	Ongoing over the life of the plan	Lead Agency

1 The California Department of Fish and Wildlife provides a definition for conservation or mitigation banks on their website (please see https://www.wildlife.ca.gov/Conservation/Planning/Banking).

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
PMM AG-2: Project level mitigation measures can and should be considered by Lead Agencies as applicable and feasible. Measures to reduce substantial adverse effects on Williamson Act contracts to the maximum extent practicable, as determined appropriate by each Lead Agency, may include the following, or other comparable measures: a) Project relocation or corridor realignment to avoid lands in Williamson Act contracts. b) Establish conservation easements consistent with the recommendations of the Department of Conservation, or 20-year Farmland Security Zone contracts (Government Code Section 51296 et seq.), 10-year Williamson Act contracts (Government Code Section 51200 et seq.), or use of other conservation tools available from the California Department of Conservation Division of Land Resource Protection.	Ongoing over the life of the plan	Lead Agency
PMM AG-3: Project level mitigation measures can and should be considered by Lead Agencies as applicable and feasible. Measures to reduce substantial adverse effects, through the conversion of Farmland to maximum extent practicable, as determined appropriate by each Lead Agency, may include the following, or other comparable measures: a) Minimize construction related impacts to agricultural and forestry resources by locating materials and stationary equipment in such a way as to prevent conflict with agriculture and forestry resources**.**	Ongoing over the life of the plan	Lead Agency
PMM AG-4: Project level mitigation measures can and should be considered by Lead Agencies as applicable and feasible. Measures to reduce substantial adverse effects, through the conversion of Farmland, to the maximum extent practicable, as determined appropriate by each Lead Agency, may include the following, or other comparable measures: a) Design proposed projects to minimize, to the greatest extent feasible, the loss of the highest valued agricultural land. b) Redesign project features to minimize fragmenting or isolating Farmland. Where a project involves acquiring land or easements, ensure that the remaining non-project area is of a size sufficient to allow economically viable farming operations. The project proponents shall be responsible for acquiring easements, making lot line adjustments, and merging affected land parcels into units suitable for continued commercial agricultural management. c) Reconnect utilities or infrastructure that serve agricultural uses if these are disturbed by project construction. If a project temporarily or permanently cuts off roadway access or removes utility lines, irrigation features, or other infrastructure, the project proponents shall be responsible for restoring access as necessary to ensure that economically viable farming operations are not interrupted.	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
PMM AG-5: Project level mitigation measures can and should be considered by Lead Agencies as applicable and feasible. Measures to reduce substantial adverse effects, through the conversion of Farmland, to the maximum extent practicable, as determined appropriate by each Lead Agency, may include the following, or other comparable measures: a) Manage project operations to minimize the introduction of invasive species or weeds that may affect agricultural production on adjacent agricultural land. Where a project has the potential to introduce sensitive species or habitats or have other spill-over effects on nearby agricultural lands, the project proponents shall be responsible for acquiring easements on nearby agricultural land and/or financially compensating for indirect effects on nearby agricultural land. Easements (e.g., flowage easements) shall be required for temporary or intermittent interruption in farming activities (e.g., because of seasonal flooding or groundwater seepage). Acquisition or compensation would be required for permanent or significant loss of economically viable operations.	Ongoing over the life of the plan	Lead Agency
Air Quality		
SMM AQ-1: SCAG shall develop the Southern California Disadvantaged Communities Planning Initiative which would provide funds to selected applicants to develop a low-cost, high-impact model which leverages SCAG's staff, data, and outreach resources to deliver context-sensitive plans in high-need, low-resourced active transportation infrastructure and frameworks. As part of the initiative, the model will be operationalized through the development of plans in six communities and refined to provide a sustainable resource for SCAG staff partner with local agencies to develop local active transportation plans.	Ongoing over the life of the plan	SCAG
SMM AQ-2: SCAG shall continue its commitment to analyze public health outcomes as part of Connect SoCal. As part of the public health analysis for the Plan, SCAG shall continue to analyze the Plan's impacts on air quality through its Public Health Working group and continue to support policy change at the city and country level through education programs.	Ongoing over the life of the plan	SCAG
SMM AQ-3: SCAG shall continue to conduct air quality-related technical analyses on the region, specifically in vulnerable areas that are typically environmental justice areas. For example, SCAG staff conducted technical analysis of emissions impacts on populations within 500 feet of freeways and highly travelled corridors in the Connect SoCal Environmental Justice Appendix. SCAG staff shall also continue to work with districts and relevant stakeholders to be informed of any updates new and/or changes to air quality issue areas through various forums like the Environmental Justice Working Group.	Ongoing over the life of the plan	SCAG
PMM AQ-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to violating air quality standards. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Minimize land disturbance. b) Suspend grading and earth moving when wind gusts exceed 25 miles per hour unless the soil is wet enough to prevent dust plumes.	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
c) Cover trucks when hauling dirt. d) Stabilize the surface of dirt piles if not removed immediately. e) Limit vehicular paths on unpaved surfaces and stabilize any temporary roads. f) Minimize unnecessary vehicular and machinery activities. g) Sweep paved streets at least once per day where there is evidence of dirt that has been carried on to the roadway. h) Revegetate disturbed land, including vehicular paths created during construction to avoid future off-road vehicular activities. ~~i) On Caltrans projects, Caltrans Standard Specifications 10-Dust Control, 17-Watering, and 18-Dust Palliative shall be incorporated into project specifications.~~ j) Require contractors to assemble a comprehensive inventory list (i.e., make, model, engine year, horsepower, emission rates) of all heavy-duty off-road (portable and mobile) equipment (50 horsepower and greater) that could be used an aggregate of 40 or more hours for the construction project. Prepare a plan for approval by the applicable air district demonstrating achievement of the applicable percent reduction for a CARB-approved fleet. k) Ensure that all construction equipment is properly tuned and maintained. l) Minimize idling time to 5 minutes—saves fuel and reduces emissions. m) Provide an operational water truck on-site ~~at all times~~. Use watering trucks to minimize dust; watering should be sufficient to confine dust plumes to the project work areas. Sweep paved streets at least once per day where there is evidence of dirt that has been carried on to the roadway. n) Utilize existing power sources (e.g., power poles) or clean fuel generators rather than temporary power generators. o) Develop a traffic plan to minimize community impacts as a result of traffic flow interference from construction activities. The plan may include advance public notice of routing, use of public transportation, and satellite parking areas with a shuttle service. Schedule operations affecting traffic for off-peak hours. Minimize obstruction of through-traffic lanes. Provide a flag person to guide traffic properly and ensure safety at construction sites. Project sponsors should consider developing a goal for the minimization of community impacts. p) As appropriate require that portable engines and portable engine-driven equipment units used at the project work site, with the exception of on-road and off-road motor vehicles, obtain CARB Portable Equipment Registration with the state or a local district permit. Arrange appropriate consultations with the CARB or the District to determine registration and permitting requirements prior to equipment operation at the site. q) Require projects to use Tier 4 Final equipment or better for all engines above 50 horsepower (hp). In the event that construction equipment cannot meet to Tier 4 Final engine certification, the Project representative or contractor must demonstrate through future study with written findings supported by substantial evidence that is approved by SCAG before using other		

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
technologies/strategies. Alternative applicable strategies may include, but would not be limited to, construction equipment with Tier 4 Interim or reduction in the number and/or horsepower rating of construction equipment and/or limiting the number of construction equipment operating at the same time. All equipment must be tuned and maintained in compliance with the manufacturer's recommended maintenance schedule and specifications. All maintenance records for each equipment and their contractor(s) should make available for inspection and remain on-site for a period of at least two years from completion of construction, unless the individual project can demonstrate that Tier 4 engines would not be required to mitigate emissions below significance thresholds. Project sponsors should also consider including ZE/ZNE technologies where appropriate and feasible.		
~~r) Projects located within the South Coast Air Basin should consider applying for South Coast AQMD "SOON" funds which provides funds to applicable fleets for the purchase of commercially available low-emission heavy-duty engines to achieve near-term reduction of NOx emissions from in-use off-road diesel vehicles.~~ ~~s) Projects located within AB 617 communities should review the applicable Community Emissions Reduction Plan (CERP) for additional mitigation that can be applied to individual projects.~~ ~~t) Where applicable, projects should provide information about air quality related programs to schools, including the Environmental Justice Community Partnerships (EJCP), Clean Air Ranger Education (CARE), and Why Air Quality Matters programs.~~ ~~u) Projects should work with local cities and counties to install adequate signage that prohibits truck idling in certain locations (e.g., near schools and sensitive receptors).~~ ~~v) As applicable for airport projects, the following measures should be considered:~~ ~~a. Considering operational improvements to reduce taxi time and auxiliary power unit usage, where feasible. Additionally, consider single engine taxing, if feasible as allowed per Federal Aviation Administration guidelines.~~ ~~b. Set goals to achieve a reduction in emissions from aircraft operations over the lifetime of the proposed project.~~ ~~c. Require the use of ground service equipment (GSE) that can operate on battery-power. If electric equipment cannot be obtained, require the use of alternative fuel, the cleanest gasoline equipment, or Tier 4, at a minimum.~~ ~~w) As applicable for port projects, the following measures should be considered:~~ ~~a. Develop specific timelines for transitioning to zero emission cargo handling equipment (CHE).~~ ~~b. Develop interim performance standards with a minimum amount of CHE replacement each year to ensure adequate progress.~~ ~~c. Use short side electric power for ships, which may include tugboats and other ocean-going vessels or develop incentives to gradually ramp up the usage of shore power.~~ ~~d. Install the appropriate infrastructure to provide shore power to operate the ships. Electrical~~		

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
hookups should be appropriately sized. e. Maximize participation in the Port of Los Angeles' Vessel Speed Reduction Program or the Port of Long Beach's Green Flag Initiation Program in order to reduce the speed of vessel transiting within 40 nautical miles of Point Fermin. f. Encourage the participation in the Green Ship Incentives. g. Offer incentives to encourage the use of on-dock rail. x) As applicable for rail projects, the following measures should be considered: a. Provide the highest incentives for electric locomotives and then locomotives that meet Tier 5 emission standards with a floor on the incentives for locomotives that meet Tier 4 emission standards. y) Projects that will introduce sensitive receptors within 500 feet of freeways and other sources should consider installing high efficiency of enhanced filtration units, such as Minimum Efficiency Reporting Value (MERV) 13 or better. Installation of enhanced filtration units can be verified during occupancy inspection prior to the issuance of an occupancy permit. z) Develop an ongoing monitoring, inspection, and maintenance program for the MERV filters. a. Disclose potential health impacts to prospective sensitive receptors from living in close proximity to freeways or other sources of air pollution and the reduced effectiveness of air filtration systems when windows are open or residents are outside. b. Identify the responsible implementing and enforcement agency to ensure that enhanced filtration units are installed on-site before a permit of occupancy is issued. c. Disclose the potential increase in energy costs for running the HVAC system to prospective residents. d. Provide information to residents on where MERV filters can be purchased. e. Provide recommended schedule (e.g., every year or every six months) for replacing the enhanced filtration units. f. Identify the responsible entity such as future residents themselves, Homeowner's Association, or property managers for ensuring enhanced filtration units are replaced on time. g. Identify, provide, and disclose ongoing cost-sharing strategies, if any, for replacing the enhanced filtration units. h. Set criteria for assessing progress in installing and replacing the enhanced filtration units; and i. Develop a process for evaluating the effectiveness of the enhanced filtration units. aa) Consult the SCAG Environmental Justice Toolbox for potential measures to address impacts to low-income and/or minority communities		

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
Biological Resources		
SMM BIO-1: SCAG shall facilitate reducing future impacts to species identified as a candidate, sensitive, or special status species and its habitats through cooperation, information sharing, and program development. SCAG shall consult with the resource agencies, such as the USFWS, NMFS, USACE, USFS, BLM, and CDFW, as well as local jurisdictions including cities and counties, to incorporate designated critical habitat, federally protected wetlands, the protection of sensitive natural communities and riparian habitats, designated open space or protected wildlife habitat, local policies and tree preservation ordinances, applicable HCPs and NCCPs, or other related planning documents into SCAG's ongoing regional planning efforts, such as web-based planning tools for local government including CA LOTS, and other GIS tools and data services, including, but not limited to, Map Gallery, GIS library, and GIS applications, and direct technical assistance efforts and sharing of associated online Training materials. Planning efforts shall be consistent with the approach outlined in the California Wildlife Action Plan.	Ongoing over the life of the plan	SCAG
SMM BIO-2: SCAG shall continue to develop a regional conservation strategy in coordination with local jurisdictions and other stakeholders, including the county transportation commissions. The conservation strategy will build upon existing efforts including those at the sub-regional and local levels to identify potential priority conservation areas. SCAG shall develop new regional tools, like the Regional Data Platform and Regional Greenprint to help local jurisdictions identify areas well suited for infill and redevelopment as well as critical habitat and natural lands to be preserved, including natural habitat corridors. SCAG will also collaborate with stakeholders to establish a new Regional Advanced Mitigation Program (RAMP) initiative to preserve habitat. The RAMP will be supplemental initiative to regional conservation and mitigation banks and other approaches by evaluating, advocating and highlighting projects that support per capita VMT reduction.	Ongoing over the life of the plan	SCAG
PMM BIO-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to threatened and endangered species, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Require project design to avoid occupied habitat, potentially suitable habitat, and designated critical habitat, wherever practicable and feasible. b) Where avoidance is determined to be infeasible, provide conservation measures to fulfill the requirements of the applicable authorization for incidental take pursuant to Section 7 or 10(a) of the federal ESA, Section 2081 of the California ESA to support issuance of an incidental take permit, and/or as identified in local or regional plans. Conservation strategies to protect the survival and recovery of federally and state-listed endangered and local special status species may include: i. Impact minimization strategies ii. Contribution of in-lieu fees for in-kind conservation and mitigation efforts iii. Use of in-kind mitigation bank credits	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
iv. Funding of research and recovery efforts v. Habitat restoration vi. Establishment of conservation easements vii. Permanent dedication of in-kind habitat c) Design projects to avoid desert native plants protected under the California Desert Native Plants Act, salvage and relocate desert native plants, and/or pay in lieu fees to support off-site long-term conservation strategies. d) Temporary access roads and staging areas will not be located within areas containing sensitive plants, wildlife species or native habitat wherever feasible, so as to avoid or minimize impacts to these species. e) Develop and implement a Worker Environmental Awareness Program (environmental education) to inform project workers of their responsibilities to avoid and minimize impacts on sensitive biological resources. f) Retain a qualified botanist to document the presence or absence of special status plants before project implementation. g) Appoint a qualified biologist to monitor construction activities that may occur in or adjacent to occupied sensitive species' habitat to facilitate avoidance of resources not permitted for impact. h) Appoint a qualified biologist to monitor implementation of mitigation measures. i) Schedule construction activities to avoid sensitive times for biological resources (e.g. steelhead spawning periods during the winter and spring, nesting bird season) and to avoid the rainy season when erosion and sediment transport is increased. j) Develop an invasive species control plan associated with project construction. k) If construction occurs during breeding seasons in or adjacent to suitable habitat, include appropriate sound attenuation measures required for sensitive avian species and other best management practices appropriate for potential local sensitive wildlife. l) Conduct pre-construction surveys to delineate occupied sensitive species' habitat to facilitate avoidance. m) Where projects are determined to be within suitable habitat and may impact listed or sensitive species that have specific field survey protocols or guidelines outlined by the USFWS, CDFW, or other local agency, conduct preconstruction surveys that follow applicable protocols and guidelines and are conducted by qualified and/or certified personnel.		
PMM BIO-2: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to riparian habitats and other sensitive natural communities, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Consult with the USFWS and NMFS where such state-designated sensitive or riparian habitats provide potential or occupied habitat for federally listed rare, threatened, and endangered	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
species afforded protection pursuant to the federal ESA. b) Consult with the USFS where such state-designated sensitive or riparian habitats provide potential or occupied habitat for federally listed rare, threatened, and endangered species afforded protection pursuant to the federal ESA and any additional species afforded protection by an adopted Forest Land Management Plan or Resource Management Plan for the four national forests in the six-county area: Angeles, Cleveland, Los Padres, and San Bernardino. c) Consult with the CDFW where such state-designated sensitive or riparian habitats provide potential or occupied habitat for state-listed rare, threatened, and endangered species afforded protection pursuant to the California ESA, or Fully Protected Species afforded protection pursuant to the State Fish and Game Code. d) Consult with the CDFW pursuant to the provisions of Section 1600 of the State Fish and Game Code as they relate to Lakes and Streambeds. e) Consult with the USFWS, USFS, CDFW, and counties and cities in the SCAG region, where state-designated sensitive or riparian habitats are occupied by birds afforded protection pursuant to the MBTA during the breeding season. f) Consult with the CDFW for state-designated sensitive or riparian habitats where furbearing mammals, afforded protection pursuant to the provisions of the State Fish and Game Code for fur-beaming mammals, are actively using the areas in conjunction with breeding activities. g) Require project design to avoid sensitive natural communities and riparian habitats, wherever practicable and feasible. h) Where avoidance is determined to be infeasible, develop sufficient conservation measures through coordination with local agencies and the regulatory agency (i.e., USFWS or CDFW) to protect sensitive natural communities and riparian habitats and develop appropriate compensatory mitigation, where required. i) Appoint a qualified wetland biologist to monitor construction activities that may occur in or adjacent to sensitive communities. j) Appoint a qualified wetland biologist to monitor implementation of mitigation measures. k) Schedule construction activities to avoid sensitive times for biological resources and to avoid the rainy season when erosion and sediment transport is increased. l) When construction activities require stream crossings, schedule work during dry conditions and use rubber-wheeled vehicles, when feasible. Have a qualified wetland scientist determine if potential project impacts require a Notification of Lake or Streambed Alteration to CDFW during the planning phase of projects. m) Consult with local agencies, jurisdictions, and landowners where such state-designated sensitive or riparian habitats are afforded protection pursuant an adopted regional conservation plan. n) Install fencing and/or mark sensitive habitat to be avoided during construction activities. o) Salvage and stockpile topsoil (the surface material from 6 to 12 inches deep) and perennial native plants, when recommended by the qualified wetland biologist, for use in restoring native		

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
vegetation to areas of temporary disturbance within the project area. Salvage of soils containing invasive species, seeds and/or rhizomes will be avoided as identified by the qualified wetland biologist. p) Revegetate with appropriate native vegetation following the completion of construction activities, as identified by the qualified wetland biologist. q) Complete habitat enhancement (e.g., through removal of non-native invasive wetland species and replacement with more ecologically valuable native species). r) Use Best Management Practices (BMPs) at construction sites to minimize erosion and sediment transport from the area. BMPs include encouraging growth of native vegetation in disturbed areas, using straw bales or other silt-catching devices, and using settling basins to minimize soil transport.		
PMM BIO-3: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to wetlands, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency. a) Require project design to avoid federally protected aquatic resources consistent with the provisions of Sections 404 and 401 of the CWA, wherever practicable and feasible. b) Where the lead agency has identified that a project, or other regionally significant project, has the potential to impact other wetlands or waters, such as those considered Waters Of the State of California under the State Wetland Definition and Procedures for Dischargers of Dredged or Fill Material to Waters of the State, not protected under Section 404 or 401 of the CWA, seek comparable coverage for these wetlands and waters in consultation with the SWRCB, applicable RWQCB, and CDFW. c) Where avoidance is determined to be infeasible, develop sufficient conservation measures to fulfill the requirements of the applicable authorization for impacts to federal and state protected aquatic resource to support issuance of a permit under Section 404 of the CWA as administered by the USACE. The use of an authorized Nationwide Permit or issuance of an individual permit requires the project applicant to demonstrate compliance with the USACE's Final Compensatory Mitigation Rule. The USACE reviews projects to ensure environmental impacts to aquatic resources are avoided or minimized as much as possible. Consistent with the administration's performance standard of "no net loss of wetlands" a USACE permit may require a project proponent to restore, establish, enhance or preserve other aquatic resources in order to replace those affected by the proposed project. This compensatory mitigation process seeks to replace the loss of existing aquatic resource functions and area. Project proponents required to complete mitigation are encouraged to use a watershed approach and watershed planning information. The new rule establishes performance standards, sets timeframes for decision making, and to the extent possible, establishes equivalent requirements and standards for the three sources of compensatory mitigation: — Permittee-responsible mitigation	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
— Contribution of in-kind in-lieu fees — Use of in-kind mitigation bank credits — Where avoidance is determined to be infeasible and d) Where avoidance is determined to be infeasible and proposed projects' impacts exceed an existing Nationwide Permit (NWP) and/or California SWRCB-certified NWP, or applicable County Special Area Management Plan (SAMP), the lead agency should provide USACE and SWRCB (where applicable) an alternative analysis consistent with the Least Environmentally Damaging Practicable Alternatives in this order of priorities: — Avoidance — Impact Minimization — On-site alternatives — Off-site alternatives e) Require review of construction drawings by a certified wetland delineator as part of each project-specific environmental analysis to determine whether aquatic resources will be affected and, if necessary, perform formal wetland delineation.		
SMM BIO-3: SCAG shall encourage and facilitate research, programs and policies to identify, protect and restore natural habitat corridors, especially where corridors cross county boundaries. Additionally, continue support for preserving wildlife corridors and wildlife crossings to minimize the impact of transportation projects on wildlife species and habitat fragmentation.	Ongoing over the life of the plan	SCAG
PMM BIO-4: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to wildlife movement, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Consult with the USFS where impacts to migratory wildlife corridors may occur in an area afforded protection by an adopted Forest Land Management Plan or Resource Management Plan for the four national forests in the six-County area: Angeles, Cleveland, Los Padres, and San Bernardino. b) Consult with counties, cities, and other local organizations when impacts may occur to open space areas that have been designated as important for wildlife movement related to local ordinances or conservation plans. c) Prohibit construction activities within 500 feet of occupied breeding areas for wildlife afforded protection pursuant to Title 14 § 460 of the California Code of Regulations protecting fur-bearing mammals, during the breeding season. d) Conduct a survey to identify active raptor and other migratory nongame bird nests by a qualified biologist at least two weeks before the start of construction at project sites from February 1 through August 31. e) Prohibit construction activities with 300 feet of occupied nest of birds afforded protection	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
pursuant to the Migratory Bird Treaty Act, during the breeding season. f) Ensure that suitable nesting sites for migratory nongame native bird species protected under the Migratory Bird Treaty Act and/or trees with unoccupied raptor nests should only be removed prior to February 1, or following the nesting season. g) When feasible and practicable, proposed projects will be designed to minimize impacts to wildlife movement and habitat connectivity and preserve existing and functional wildlife corridors. h) Conduct site-specific analyses of opportunities to preserve or improve habitat linkages with areas on- and off-site. i) Long linear projects with the possibility of impacting wildlife movement should analyze habitat linkages/wildlife movement corridors on a broad scale to avoid critical narrow choke points that could reduce function of recognized movement corridor. j) Require review of construction drawings and habitat connectivity mapping by a qualified biologist to determine the risk of habitat fragmentation. k) Pursue mitigation banking to preserve habitat linkages and corridors (opportunities to purchase, maintain, and/or restore offsite habitat). l) When practicable and feasible design projects to promote wildlife corridor redundancy by including multiple connections between habitat patches. m) Evaluate the potential for installation of overpasses, underpasses, and culverts to create wildlife crossings in cases where a roadway or other transportation project may interrupt the flow of species through their habitat. Retrofitting of existing infrastructure in project areas should also be considered for wildlife crossings for purposes of mitigation. n) Install wildlife fencing where appropriate to minimize the probability of wildlife injury due to direct interaction between wildlife and roads or construction. o) Where avoidance is determined to be infeasible, design sufficient conservation measures through coordination with local agencies and the regulatory agency (i.e., USFWS or CDFW) and in accordance with the respective counties and cities general plans to establish plans to mitigate for the loss of fish and wildlife movement corridors and/or wildlife nursery sites. The consideration of conservation measures may include the following measures, in addition to the measures outlined in MM-BIO-1(b), where applicable: — Wildlife movement buffer zones — Corridor realignment — Appropriately spaced breaks in center barriers — Stream rerouting — Culverts — Creation of artificial movement corridors such as freeway under- or overpasses — Other comparable measures		

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
p) Where the lead agency has identified that a RTP/SCS project, or other regionally significant project, has the potential to impact other open space or nursery site areas, seek comparable coverage for these areas in consultation with the USFWS, CDFW, NMFS, or other local jurisdictions. q) Incorporate applicable and appropriate guidance (e.g. FHWA-HEP-16-059), as well as best management practices, to benefit pollinators with a focus on native plants.		
PMM BIO-5: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce conflicts with local policies and ordinances protecting biological resources, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Consult with the appropriate local agency responsible for the administration of the policy or ordinance protecting biological resources. b) Prioritize retention of trees on-site consistent with local regulations. Provide adequate protection during the construction period for any trees that are to remain standing, as recommended by an International Society of Arboriculture (ISA) certified arborist. c) If specific project area trees are designated as "Protected Trees," "Landmark Trees," or "Heritage Trees," obtain approval for encroachment or removals through the appropriate entity, and develop appropriate mitigation measures at that time, to ensure that the trees are replaced. Mitigation trees shall be locally collected native species, as directed by a qualified biologist. d) Appoint an ISA certified arborist to monitor construction activities that may occur in areas with trees are designated as "Protected Trees," "Landmark Trees," or "Heritage Trees," to facilitate avoidance of resources not permitted for impact. Before the start of any clearing, excavation, construction or other work on the site, securely fence off every protected tree deemed to be potentially endangered by said site work. Keep such fences in place for duration of all such work. Clearly mark all trees to be removed. e) Establish a scheme for the removal and disposal of logs, brush, earth and other debris that will avoid injury to any protected tree. Where proposed development or other site work could encroach upon the protected perimeter of any protected tree, incorporate special measures to allow the roots to breathe and obtain water and nutrients. Minimize any excavation, cutting, filing, or compaction of the existing ground surface within the protected perimeter. Require that no change in existing ground level occur from the base of any protected tree at any time. Require that no burning or use of equipment with an open flame occur near or within the protected perimeter of any protected tree. f) Require that no storage or dumping of oil, gas, chemicals, or other substances that may be harmful to trees occur from the base of any protected trees, or any other location on the site from which such substances might enter the protected perimeter. Require that no heavy construction equipment or construction materials be operated or stored within a distance from the base of any protected trees. Require that wires, ropes, or other devices not be attached to any protected tree, except as needed for support of the tree. Require that no sign, other than a tag showing the	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
botanical classification, be attached to any protected tree. g) Thoroughly spray the leaves of protected trees with water periodically during construction to prevent buildup of dust and other pollution that would inhibit leaf transpiration, as directed by the certified arborist. h) If any damage to a protected tree should occur during or as a result of work on the site, the appropriate local agency will be immediately notified of such damage. If, such tree cannot be preserved in a healthy state, as determined by the certified arborist, require replacement of any tree removed with another tree or trees on the same site deemed adequate by the local agency to compensate for the loss of the tree that is removed. Remove all debris created as a result of any tree removal work from the property within two weeks of debris creation, and such debris shall be properly disposed of in accordance with all applicable laws, ordinances, and regulations. Design projects to avoid conflicts with local policies and ordinances protecting biological resources i) Where avoidance is determined to be infeasible, sufficient conservation measures to fulfill the requirements of the applicable policy or ordinance shall be developed, such as to support issuance of a tree removal permit. The consideration of conservation measures may include: — Avoidance strategies — Contribution of in-lieu fees — Planting of replacement trees — Re-landscaping areas with native vegetation post-construction — Other comparable measures developed in consultation with local agency and certified arborist.		
PMM BIO-6: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects on HCPs and NCCPs, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Consult with the appropriate federal, state, and/or local agency responsible for the administration of HCPs or NCCPs. b) Wherever practicable and feasible, the project shall be designed to avoid lands preserved under the conditions of an HCP or NCCP. c) Where avoidance is determined to be infeasible, sufficient conservation measures to fulfill the requirements of the HCP and/or NCCP, which would include but not be limited to applicable authorization for incidental take pursuant to Section 7 or 10(a) of the federal Endangered Species Act or Section 2081 of the California ESA, shall be developed to support issuance of an incidental take permit or any other permissions required for development within the HCP/NCCP boundaries. The consideration of additional conservation measures would include the measures outlined in SMM-BIO-2, where applicable.	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
Cultural Resources		
SMM CULT-1: Impacts to cultural resources shall be minimized through cooperation, information sharing, and SCAG's ongoing regional planning efforts such as web-based planning tools for local governments including CA LOTS, and other GIS tools and data services, including, but not limiting to, Map Gallery, GIS library, and GIS applications (note that no confidential cultural or tribal cultural resource location information will be housed in this database. All regulations pertaining to cultural resources site location confidentiality will be respected); and direct technical assistance efforts such as Toolbox Tuesday series and sharing of associated online Training materials. SCAG shall consult with resource agencies such as the National Park Service, Office of Historic Preservation, and Native American Heritage Commission, and with Native American tribes, to identify opportunities for early and effective consultation to identify archaeological sites, historical resources, and cemeteries to avoid such resources wherever practicable and feasible and reduce or mitigate for conflicts in compatible land use to the maximum extent practicable.	Ongoing over the life of the plan	SCAG
PMM CULT-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to historical resources, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Pursuant to *CEQA Guidelines* Section 15064.5, conduct a record search during the project planning phase at the appropriate Information Center to determine whether the project area has been previously surveyed and whether historical resources were identified. b) During the project planning phase, retain a qualified architectural historian, defined as an individual who meets the Secretary of the Interior's (SOI) Professional Qualification Standards (PQS) in Architectural History, to conduct historic architectural surveys if a built environment resource greater than 45 years in age may be affected by the project or if recommended by the Information Center. c) Comply with Section 106 of the National Historic Preservation Act (NHPA) including, but not limited to, projects for which federal funding or approval is required for the individual project. This law requires federal agencies to evaluate the impact of their actions on resources included in or eligible for listing in the National Register. Federal agencies must coordinate with the State Historic Preservation Officer in evaluating impacts and developing mitigation. These mitigation measures may include, but are not limited to the following: — Employ design measures to avoid historical resources and undertake adaptive reuse where appropriate and feasible. If resources are to be preserved, as feasible, carry out the maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction in a manner consistent with the Secretary of the Interior's Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings. If resources would be impacted, impacts should be minimized to the extent feasible. — Where feasible, noise buffers/walls and/or visual buffers/landscaping should be constructed to preserve the contextual setting of significant built resources. d) If a project requires the relocation, rehabilitation, or alteration of an eligible historical resource,	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
the Secretary of the Interior's Standards for the Treatment of Historic Properties should be used to the maximum extent possible to ensure the historical significance of the resource is not impaired. The application of the standards should be overseen by an architectural historian or historic architect meeting the SOI PQS. Prior to any construction activities that may affect the historical resource, a report, meeting industry standards, should identify and specify the treatment of character-defining features and construction activities and be provided to the Lead Agency for review and approval. e) If a project would result in the demolition or significant alteration of a historical resource eligible for or listed in the National Register of Historic Places (NRHP), California Register of Historical Resources (CRHR), or local register, recordation should take the form of Historic American Buildings Survey (HABS), Historic American Engineering Record (HAER), or Historic American Landscape Survey (HALS) documentation, and should be performed by an architectural historian or historian who meets the SOI PQS. Recordation should meet the SOI Standards and Guidelines for Architectural and Engineering, which defines the products acceptable for inclusion in the HABS/HAER/HALS collection at the Library of Congress. The specific scope and details of documentation should be developed at the project level in coordination with the Lead Agency. f) During the project planning phase, obtain a qualified archaeologist, defined as one who meets the SOI PQS for archaeology, to conduct a record search at the appropriate Information Center of the California Historical Resources Information System (CHRIS) to determine whether the project area has been previously surveyed and whether resources were identified. g) Contact the NAHC to request a Sacred Lands File search and a list of relevant Native American contacts who may have additional information. h) During the project planning phase, obtain a qualified archaeologist or architectural historian (depending on applicability) to conduct archaeological and/or historic architectural surveys as recommended by the qualified professional, the Lead Agency, or the Information Center. In the event the qualified professional or Information Center will make a recommendation on whether a survey is warranted based on the sensitivity of the project area for archaeological resources. Survey shall be conducted where the records indicate that no previous survey has been conducted, or if survey has not been conducted within the past 10 years. If tribal resources are identified during tribal outreach, consultation, or the record search, a Native American representative traditionally affiliated with the project area, as identified by the NAHC, shall be given the opportunity to provide a representative or monitor to assist with archaeological surveys. i) If potentially significant archaeological resources are identified through survey, and impacts to these resources cannot be avoided, a Phase II Testing and Evaluation investigation should be performed by a qualified archaeologist prior to any construction-related ground-disturbing activities to determine significance. If resources determined significant or unique through Phase II testing, and avoidance is not possible, appropriate resource-specific mitigation measures should be established by the lead agency, in consultation with consulting tribes, where appropriate, and undertaken by qualified personnel. These might include a Phase III data		

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
recovery program implemented by a qualified archaeologist and performed in accordance with the OHP's Archaeological Resource Management Reports (ARMR): Recommended Contents and Format and Guidelines for Archaeological Research Designs. Additional options can include 1) interpretative signage, or 2) educational outreach that helps inform the public of the past activities that occurred in this area. Should the project require extended Phase I testing, Phase II evaluation, or Phase III data recovery, a Native American representative traditionally affiliated with the project area, as indicated by the NAHC, shall be given the opportunity to provide a representative or monitor to assist with the archaeological assessments. The long-term disposition of archaeological materials collected from a significant resource should be determined in consultation with the affiliated tribe(s), where relevant; this could include curation with a recognized scientific or educational repository, transfer to the tribe, or respectful reinternment in an area designated by the tribe.		
j) In cases where the project area is developed and no natural ground surface is exposed, sensitivity for subsurface resources should be assessed based on review of literature, geology, site development history, and consultation with tribal parties. If this archaeological desktop assessment indicates that the project is located in an area sensitive for archaeological resources, as determined by the Lead Agency in consultation with a qualified archaeologist, the project should retain an archaeological monitor and, in the case of sensitivity for tribal resources, a tribal monitor, to observe ground disturbing operations, including but not limited to grading, excavation, trenching, or removal of existing features of the subject property. The archaeological monitor should be supervised by an archaeologist meeting the SOI PQS		
k) Conduct construction activities and excavation to avoid cultural resources (if identified). If avoidance is not feasible, further work may be needed to determine the importance of a resource. Retain a qualified archaeologist, and/or as appropriate, a qualified architectural historian who should make recommendations regarding the work necessary to assess significance. If the cultural resource is determined to be significant under state or federal guidelines, impacts to the cultural resource will need to be mitigated.		
l) Stop construction activities and excavation in the area where cultural resources are found until a qualified archaeologist can determine whether these resources are significant, and tribal consultation can be conducted, in the case of tribal resources. If the archaeologist determines that the discovery is significant, its long-term disposition should be determined in consultation with the affiliated tribe(s); this could include curation with a recognized scientific or educational repository, transfer to the tribe, or respectful reinternment in an area designated by the tribe.		

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
PMM CULT-2: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to human remains, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) In the event of discovery or recognition of any human remains during construction or excavation activities associated with the project, in any location other than a dedicated cemetery, cease further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the coroner of the county in which the remains are discovered has been informed and has determined that no investigation of the cause of death is required. b) If any discovered remains are of Native American origin, as determined by the county Coroner, an experienced osteologist, or another qualified professional: — Contact the County Coroner to contact the NAHC to designate a Native American Most Likely Descendant (MLD). The MLD should make a recommendation to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods. This may include obtaining a qualified archaeologist or team of archaeologists to properly excavate the human remains. In some cases, it is necessary for the Lead Agency, qualified archaeologist, or developer to also reach out to the NAHC to coordinate and ensure notification in the event the Coroner is not available. — If the NAHC is unable to identify a MLD, or the MLD fails to make a recommendation within 48 hours after being notified by the commission, or the landowner or his representative rejects the recommendation of the MLD and the mediation by the NAHC fails to provide measures acceptable to the landowner, obtain a culturally affiliated Native American monitor, and an archaeologist, if recommended by the Native American monitor, and rebury the Native American human remains and any associated grave goods, with appropriate dignity, on the property and in a location that is not subject to further subsurface disturbance.	Ongoing over the life of the plan	Lead Agency
Geology and Soils		
SMM-GEO-1: SCAG shall facilitate the minimization of substantial soil erosion or loss of topsoil through cooperation, information sharing, and regional program development as part of SCAG's ongoing regional planning efforts. Such efforts shall include web-based planning tools for local government including CA LOTS, and other GIS tools and data services, including, but not limited to, Map Gallery, GIS library, and GIS applications, and direct technical assistance efforts such as training series and sharing of associated online training materials. Resource agencies, such as the U.S. Geology Survey, shall be consulted during this update process.	Ongoing over the life of the plan	SCAG
PMM-GEO-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to historical resources, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Consistent with the CBC and local regulatory agencies with oversight of development associated	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
with the Plan, ensure that site-specific geotechnical investigations conducted by a qualified geotechnical expert are conducted to ascertain soil types prior to preparation of project designs. These investigations can and should identify areas of potential failure and recommend remedial geotechnical measures to eliminate any problems. b) Consistent with the requirements of the State Water Resources Control Board (SWRCB) for projects over one acre in size, obtain coverage under the General Construction Activity Storm Water Permit (General Construction Permit) issued by the SWRCB and prepare a stormwater pollution prevention plan (SWPPP) and submit the plan for review and approval by the Regional Water Quality Control Board (RWQCB). At a minimum, the SWPPP should include a description of construction materials, practices, and equipment storage and maintenance; a list of pollutants likely to contact stormwater; site-specific erosion and sedimentation control practices; a list of provisions to eliminate or reduce discharge of materials to stormwater; best management practices (BMPs); and an inspection and monitoring program. c) Consistent with the requirements of the SWRCB and local regulatory agencies with oversight of development associated with the Plan, ensure that project designs provide adequate slope drainage and appropriate landscaping to minimize the occurrence of slope instability and erosion. Design features should include measures to reduce erosion caused by storm water. Road cuts should be designed to maximize the potential for revegetation. d) Consistent with the CBC and local regulatory agencies with oversight of development associated with the Plan, ensure that, prior to preparing project designs, new and abandoned wells are identified within construction areas to ensure the stability of nearby soils.		
SMM GEO-2: Impacts to paleontological resources shall be minimized through cooperation, information sharing, and SCAG's ongoing regional planning efforts such as web-based planning tools for local governments including CA LOTS, and other GIS tools and data services, including, but not limiting to, Map Gallery, GIS library, and GIS applications; and direct technical assistance efforts such as training series and sharing of associated online training materials. SCAG shall consult with resource agencies such as the National Park Service, United States Forest Service, and Bureau of Land Management to identify opportunities for early and effective consultation to identify unique paleontological resources and unique geological features to avoid such resources wherever practicable and feasible and reduce or mitigation for conflicts in compatible land use to the maximum extent practicable.	Ongoing over the life of the plan	SCAG
PMM GEO-2: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the State CEQA Guidelines, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to paleontological resources. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Ensure compliance with the Paleontological Resources Preservation Act, the Federal Land Policy and Management Act, the Antiquities Act, Section 5097.5 of the Public Resources Code (PRC), adopted county and city general plans, and other federal, state and local regulations, as applicable and feasible, by adhering to and incorporating the performance standards and practices from the 2010 Society for Vertebrate Paleontology (SVP) standard procedures for the	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
assessment and mitigation of adverse impacts to paleontological resources. b) Obtain review by a qualified paleontologist (e.g. who meets the SVP standards for a Principal Investigator or Project Paleontologist or the Bureau of Land Management (BLM) standards for a Principal Investigator), to determine if the project has the potential to require ground disturbance of parent material with potential to contain unique paleontological or resources, or to require the substantial alteration of a unique geologic feature. The assessment should include museum records searches, a review of geologic mapping and the scientific literature, geotechnical studies (if available), and potentially a pedestrian survey, if units with paleontological potential are present at the surface. c) Avoid exposure or displacement of parent material with potential to yield unique paleontological resources. d) Where avoidance of parent material with the potential to yield unique paleontological resources is not feasible: 1. All on-site construction personnel receive Worker Education and Awareness Program (WEAP) training prior to the commencement of excavation work to understand the regulatory framework that provides for protection of paleontological resources and become familiar with diagnostic characteristics of the materials with the potential to be encountered. 2. A qualified paleontologist prepares a Paleontological Resource Management Plan (PRMP) to guide the salvage, documentation and repository of unique paleontological resources encountered during construction. The PRMP should adhere to and incorporate the performance standards and practices from the 2010 SVP Standard procedures for the assessment and mitigation of adverse impacts to paleontological resources. If unique paleontological resources are encountered during construction, use a qualified paleontologist to oversee the implementation of the PRMP. 3. Monitor ground disturbing activities in parent material, with a moderate to high potential to yield unique paleontological resources using a qualified paleontological monitor meeting the standards of the SVP or the BLM to determine if unique paleontological resources are encountered during such activities, consistent with the specified or comparable protocols. 4. Identify where ground disturbance is proposed in a geologic unit having the potential for containing fossils and specify the need for a paleontological monitor to be present during ground disturbance in these areas. e) Avoid routes and project designs that would permanently alter unique geological features. f) Salvage and document adversely affected resources sufficient to support ongoing scientific research and education. g) Significant recovered fossils should be prepared to the point of curation, identified by qualified experts, listed in a database to facilitate analysis, and deposited in a designated paleontological curation facility. h) Following the conclusion of the paleontological monitoring, the qualified paleontologist should		

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
prepare a report stating that the paleontological monitoring requirement has been fulfilled and summarize the results of any paleontological finds. The report should be submitted to the lead CEQA and the repository curating the collected artifacts, and should document the methods and results of all work completed under the PRMP, including treatment of paleontological materials, results of specimen processing, analysis, and research, and final curation arrangements.		
Greenhouse Gases		
SMM GHG-1: SCAG, in partnership with local air districts, shall continue to work with the counties and cities to adopt qualified GHG reduction plans (e.g., climate action plans [CAPs], develop GHG-reducing planning policies, and implement local climate initiatives. These reductions can be achieved through a combination of programs that implement plans developed collaboratively, including ZNE in new construction, retrofits of existing buildings, incentivizing the development of renewable energy sources that serve both new and existing land uses, as well as measures to reduce GHG emissions form transportation sources.	Ongoing over the life of the plan	SCAG
SMM GHG-2: SCAG shall encourage energy efficient design for buildings, through SCAG's Sustainable Communities Program potentially including strengthening local building codes for new construction and renovation to achieve a higher level of energy efficiency.	Ongoing over the life of the plan	SCAG
SMM GHG-3: SCAG shall continue working with partners including universities, utilities, regulating agencies, the private sector and NGO's, and member agencies to support deployment of electric vehicle (EV) charging in the region. SCAG shall provide resources to member agencies and supply them with available information and data so that they can better take advantage of legislation and funding for EV charging.	Ongoing over the life of the plan	SCAG
SMM GHG-4: SCAG shall continue to pursue partnerships with SCE, municipal utilities, locally operated electricity providers and CPUC to promote energy efficient development in the SCAG region, through coordinated planning and data and information sharing activities.	Ongoing over the life of the plan	SCAG
PMM-GHG-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to greenhouse gas emissions, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Integrate green building measures consistent with CALGreen (California Building Code Title 24), local building codes and other applicable laws, into project design including: i) Use energy efficient materials in building design, construction, rehabilitation, and retrofit. ii) Install energy-efficient lighting, heating, and cooling systems (cogeneration); water heaters; appliances; equipment; and control systems. iii) Reduce lighting, heating, and cooling needs by taking advantage of light-colored roofs, trees for shade, and sunlight. iv) Incorporate passive environmental control systems that account for the characteristics of the natural environment. v) Use high-efficiency lighting and cooking devices.	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
vi) Incorporate passive solar design. vii) Use high-reflectivity building materials and multiple glazing. viii) Prohibit gas-powered landscape maintenance equipment. ix) Install electric vehicle charging stations. x) Reduce wood burning stoves or fireplaces. xi) Provide bike lanes accessibility and parking at residential developments. b) Reduce emissions resulting from projects through implementation of project features, project design, or other measures, such as those described in Appendix F of the State CEQA Guidelines. c) Include off-site measures to mitigate a project's emissions. d) Measures that consider incorporation of Best Available Control Technology (BACT) during design, construction and operation of projects to minimize GHG emissions, including but not limited to: i) Use energy and fuel-efficient vehicles and equipment; ii) Deployment of zero- and/or near zero emission technologies; iii) Use lighting systems that are energy efficient, such as LED technology; iv) Use the minimum feasible amount of GHG-emitting construction materials; v) Use cement blended with the maximum feasible amount of flash or other materials that reduce GHG emissions from cement production; vi) Incorporate design measures to reduce GHG emissions from solid waste management through encouraging solid waste recycling and reuse; vii) Incorporate design measures to reduce energy consumption and increase use of renewable energy; viii) Incorporate design measures to reduce water consumption; ix) Use lighter-colored pavement where feasible; x) Recycle construction debris to maximum extent feasible; xi) Plant shade trees in or near construction projects where feasible; and xii) Solicit bids that include concepts listed above. e) Measures that encourage transit use, carpooling, bike-share and car-share programs, active transportation, and parking strategies, including, but not limited to the following: i) Promote transit-active transportation coordinated strategies; ii) Increase bicycle carrying capacity on transit and rail vehicles; iii) Improve or increase access to transit; iv) Increase access to common goods and services, such as groceries, schools, and day care; v) Incorporate affordable housing into the project;		

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
vi) Incorporate the neighborhood electric vehicle network; vii) Orient the project toward transit, bicycle and pedestrian facilities; viii) Improve pedestrian or bicycle networks, or transit service; ix) Provide traffic calming measures; x) Provide bicycle parking; xi) Limit or eliminate park supply; xii) Unbundle parking costs; xiii) Provide parking cash-out programs; xiv) Implement or provide access to commute reduction program; f) Incorporate bicycle and pedestrian facilities into project designs, maintaining these facilities, and providing amenities incentivizing their use; and planning for and building local bicycle projects that connect with the regional network; g) Improving transit access to rail and bus routes by incentives for construction of transit facilities within developments, and/or providing dedicated shuttle service to transit stations; and h) Adopting employer trip reduction measures to reduce employee trips such as vanpool and carpool programs, providing end-of-trip facilities, and telecommuting programs including but not limited to measures that: i) Provide car-sharing, bike sharing, and ride-sharing programs; ii) Provide transit passes; iii) Shift single occupancy vehicle trips to carpooling or vanpooling, for example providing ride-matching services; iv) Provide incentives or subsidies that increase that use of modes other than single-occupancy vehicle; v) Provide on-site amenities at places of work, such as priority parking for carpools and vanpools, secure bike parking, and showers and locker rooms; vi) Provide employee transportation coordinators at employment sites; vii) Provide a guaranteed ride home service to users of non-auto modes. i) Designate a percentage of parking spaces for ride-sharing vehicles or high-occupancy vehicles, and provide adequate passenger loading and unloading for those vehicles; j) Land use siting and design measures that reduce GHG emissions, including: i) Developing on infill and brownfields sites; ii) Building compact and mixed-use developments near transit; iii) Retaining on-site mature trees and vegetation, and planting new canopy trees; iv) Measures that increase vehicle efficiency, encourage use of zero and low emissions vehicles, or reduce the carbon content of fuels, including constructing or encouraging construction of		

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
electric vehicle charging stations or neighborhood electric vehicle networks, or charging for electric bicycles; and v) Measures to reduce GHG emissions from solid waste management through encouraging solid waste recycling and reuse. k) Consult the SCAG Environmental Justice Toolbox for potential measures to address impacts to low-income and/or minority communities. The measures provided above are also intended to be applied in low income and minority communities as applicable and feasible.		
Hazards and Hazardous Materials		
SMM HAZ-1: SCAG shall work with the U.S. DOT, the Office of Environmental Service Caltrans, and the private sector to continue to conduct driver safety training programs and enforce speed limits on roadways. In an effort to reduce risks associated with the transport of hazardous materials in the SCAG region, SCAG shall encourage the U.S. Department of Transportation and the California Highway Patrol to continue to enforce speed limits and existing regulations governing goods movement and hazardous materials transportation.	Ongoing over the life of the plan	SCAG
SMM HAZ-2: SCAG shall notify member agencies of the importance of ensuring that construction and operation of transportation projects provide for the safe transport and disposal of hazardous waste, consistent with the provisions of HMR, 49 CFR Parts 171–180.	Ongoing over the life of the plan	SCAG
SMM HAZ-3: SCAG shall coordinate with the Office of Environmental Services to identify any transportation infrastructure elements within the SCAG region where risks to people and property occur at an above-average incident level, potentially warranting consideration for remedial design in future regional transportation plans (RTPs).	Ongoing over the life of the plan	SCAG
PMM HAZ-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to the routine transport, use, or disposal of hazardous materials, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Where the construction or operation of projects involves the transport of hazardous material, provide a written plan of proposed routes of travel demonstrating use of roadways designated for the transport of such materials. b) Specify Project requirements for interim storage and disposal of hazardous materials during construction and operation. Storage and disposal strategies must be consistent with applicable federal, state, and local statutes and regulations. Specify the appropriate procedures for interim storage and disposal of hazardous materials, anticipated to be required in support of operations and maintenance activities, in conformance with applicable federal, state, and local statutes and regulations, in the business plan for projects as applicable and appropriate. c) Submit a Hazardous Materials Business/Operations Plan for review and approval by the appropriate local agency. Once approved, keep the plan on file with the Lead Agency (or other appropriate government agency) and update, as applicable. The purpose of the Hazardous Materials Business/Operations Plan is to ensure that employees are adequately trained to handle	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
the materials and provides information to the local fire protection agency should emergency response be required. The Hazardous Materials Business/Operations Plan should include the following: — The types of hazardous materials or chemicals stored and/or used on-site, such as petroleum fuel products, lubricants, solvents, and cleaning fluids. — The location of such hazardous materials. — An emergency response plan including employee training information. — A plan that describes the way these materials are handled, transported and disposed. d) Follow manufacturer's recommendations on use, storage, and disposal of chemical products used in construction. e) Avoid overtopping construction equipment fuel gas tanks. f) Properly contain and remove grease and oils during routine maintenance of construction equipment. g) Properly dispose of discarded containers of fuels and other chemicals. h) Prior to shipment remove the most volatile elements, including flammable natural gas liquids, as feasible. i) Identify and implement more stringent tank car safety standards. j) Improve rail transportation route analysis, and modification of routes based on that analysis. k) Use the best available inspection equipment and protocols and implement positive train control. l) Reduce train car speeds to 40 miles per hour when passing through urbanized areas of any size. m) Limit storage of crude oil tank cars in urbanized areas of any size and provide appropriate security in storage yards for all shipments. n) Notify in advance county and city emergency operations offices of all crude oil shipments, including a contact number that can provide real-time information in the event of an oil train derailment or accident. o) Report quarterly hazardous commodity flow information, including classification and characterization of materials being transported, to all first response agencies (49 Code Fed. Regs. 15.5) along the mainline rail routes used by trains carrying crude oil identified. p) Fund training and outfitting emergency response crews that includes the cost of backfilling personnel while in training. q) Undertake annual emergency responses scenario/field based training including Emergency Operations Center Training activations with local emergency response agencies.		
PMM HAZ-2: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce hazards related to the reasonably foreseeable upsets and accidents involving the release of hazardous materials, as applicable and feasible. Such measures may include the following or other comparable	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
measures identified by the Lead Agency: Require implementation of safety standards regarding transport of hazardous materials, including but not limited to the following: a) Removal of the most volatile elements, including flammable natural gas liquids, prior to shipment; b) More stringent tank car safety standards; c) Improved rail transportation route analysis, and modification of routes based on that analysis; d) Utilization of the best available inspection equipment and protocols, and implementation of positive train control; e) Reduced train car speeds to 40 miles per hour when passing through urbanized areas of any size; f) Limitations on storage of hazardous materials tank cars in urbanized areas of any size and provide appropriate security in storage yards for all shipments; g) Advance notification to county and city emergency operations offices of all crude oil and hazardous materials shipments, including a contact number that can provide real-time information in the event of an oil train derailment or accident; h) Quarterly hazardous commodity flow information, including classification and characterization of materials being transported, to all first response agencies (49 Code Fed. Regs. 15.5) along the mainline rail routes used by trains carrying hazardous materials.		
PMM HAZ-3: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to the release of hazardous materials within one-quarter mile of schools, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Where the construction and operation of projects involves the transport of hazardous materials, avoid transport of such materials within one-quarter mile of schools, when school is in session, wherever feasible. b) Where it is not feasible to avoid transport of hazardous materials, within one-quarter mile of schools on local streets, provide notifications of the anticipated schedule of transport of such materials.	Ongoing over the life of the plan	Lead Agency
PMM HAZ-4: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to projects that are located on a site which is included on the Cortese List, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) For any listed sites or sites that have the potential for residual hazardous materials as a result of historic land uses, complete a Phase I Environmental Site Assessment, including a review and consideration of data from all known databases of contaminated sites, during the process of	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
planning, environmental clearance, and construction for projects. b) Where warranted due to the known presence of contaminated materials, submit to the appropriate agency responsible for hazardous materials/wastes oversight a Phase II Environmental Site Assessment report if warranted by a Phase I report for the project site. The reports should make recommendations for remedial action, if appropriate, and be signed by a Registered Environmental Assessor, Professional Geologist, or Professional Engineer. c) Implement the recommendations provided in the Phase II Environmental Site Assessment report, where such a report was determined to be necessary for the construction or operation of the project, for remedial action. d) Submit a copy of all applicable documentation required by local, state, and federal environmental regulatory agencies, including but not limited to: permit applications, Phase I and II Environmental Site Assessments, human health and ecological risk assessments, remedial action plans, risk management plans, soil management plans, and groundwater management plans. e) Conduct soil sampling and chemical analyses of samples, consistent with the protocols established by the U.S. EPA to determine the extent of potential contamination beneath all underground storage tanks (USTs), elevator shafts, clarifiers, and subsurface hydraulic lifts when on-site demolition or construction activities would potentially affect a particular development or building. f) Consult with the appropriate local, state, and federal environmental regulatory agencies to ensure sufficient minimization of risk to human health and environmental resources, both during and after construction, posed by soil contamination, groundwater contamination, or other surface hazards including, but not limited to, underground storage tanks, fuel distribution lines, waste pits and sumps. g) Obtain and submit written evidence of approval for any remedial action if required by a local, state, or federal environmental regulatory agency. h) Cease work if soil, groundwater, or other environmental medium with suspected contamination is encountered unexpectedly during construction activities (e.g., identified by odor or visual staining, or if any underground storage tanks, abandoned drums, or other hazardous materials or wastes are encountered), in the vicinity of the suspect material. Secure the area as necessary and take all appropriate measures to protect human health and the environment, including but not limited to, notification of regulatory agencies and identification of the nature and extent of contamination. Stop work in the areas affected until the measures have been implemented consistent with the guidance of the appropriate regulatory oversight authority. i) Soil generated by construction activities should be stockpiled on-site in a secure and safe manner. All contaminated soils determined to be hazardous or non-hazardous waste must be adequately profiled (sampled) prior to acceptable reuse or disposal at an appropriate off-site facility. Complete sampling and handling and transport procedures for reuse or disposal, in accordance with applicable local, state and federal laws and policies. j) Groundwater pumped from the subsurface should be contained on-site in a secure and safe		

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
manner, prior to treatment and disposal, to ensure environmental and health issues are resolved pursuant to applicable laws and policies. Utilize engineering controls, which include impermeable barriers to prohibit groundwater and vapor intrusion into the building. k) As needed and appropriate, prior to issuance of any demolition, grading, or building permit, submit for review and approval by the Lead Agency (or other appropriate government agency) written verification that the appropriate federal, state and/or local oversight authorities, including but not limited to the Regional Water Quality Control Board (RWQCB), have granted all required clearances and confirmed that the all applicable standards, regulations, and conditions have been met for previous contamination at the site. l) Develop, train, and implement appropriate worker awareness and protective measures to assure that worker and public exposure is minimized to an acceptable level and to prevent any further environmental contamination as a result of construction. m) If asbestos-containing materials (ACM) are found to be present in building materials to be removed, submit specifications signed by a certified asbestos consultant for the removal, encapsulation, or enclosure of the identified ACM in accordance with all applicable laws and regulations, including but not necessarily limited to: California Code of Regulations, Title 8; Business and Professions Code; Division 3; California Health and Safety Code Section 25915-25919.7; and other local regulations. n) Where projects include the demolitions or modification of buildings constructed prior to 1978, complete an assessment for the potential presence or lack thereof of ACM, lead based paint, and any other building materials or stored materials classified as hazardous waste by state or federal law. o) Where the remediation of lead-based paint has been determined to be required, provide specifications to the appropriate agency, signed by a certified Lead Supervisor, Project Monitor, or Project Designer for the stabilization and/or removal of the identified lead paint in accordance with all applicable laws and regulations, including but not necessarily limited to: California Occupational Safety and Health Administration's (Cal OSHA's) Construction Lead Standard, Title 8 California Code of Regulations (CCR) Section 1532.1 and Department of Health Services (DHS) Regulation 17 CCR Sections 35001–36100, as may be amended. If other materials classified as hazardous waste by state or federal law are present, the project sponsor should submit written confirmation to the appropriate local agency that all state and federal laws and regulations should be followed when profiling, handling, treating, transporting, and/or disposing of such materials.		
SMM HAZ-5: SCAG shall continue to collaborate with key stakeholders on regional aviation planning issues through the Aviation Technical Advisory Committee (ATAC). The ATAC is a partnership between the airports, transportation agencies and commissions, experts, and other community members.	Ongoing over the life of the plan	SCAG
PMM HAZ-5: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects which may impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan, as applicable and feasible. Such	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
measures may include the following or other comparable measures identified by the Lead Agency: a) Continue to coordinate locally and regionally based on ongoing review and integration of projected transportation and circulation conditions. b) Develop new methods of conveying projected and real time information to citizens using emerging electronic communication tools including social media and cellular networks; c) Continue to evaluate lifeline routes for movement of emergency supplies and evacuation.		
Hydrology and Water Quality		
SMM HYD-1: SCAG shall continue to work with local jurisdictions and water quality agencies to encourage regional-scale planning for improved water quality management and pollution prevention. Future impacts to water quality shall be avoided to the extent practical and feasible through cooperative planning, information sharing, and comprehensive pollution control measure development within the SCAG region. This cooperative planning shall occur as part of current and existing coordination, an integral part of SCAG's ongoing regional planning efforts.	Ongoing over the life of the plan	SCAG
PMM HYD-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects from violation of any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Complete, and have approved, a Stormwater Pollution Prevention Plan (SWPPP) prior to initiation of construction. b) Implement Best Management Practices to reduce the peak stormwater runoff from the project site to the maximum extent practicable. c) Comply with the Caltrans storm water discharge permit as applicable; and identify and implement Best Management Practices to manage site erosion, wash water runoff, and spill control. d) Complete, and have approved, a Standard Urban Stormwater Management Plan, prior to occupancy of residential or commercial structures. e) Ensure adequate capacity of the surrounding stormwater system to support stormwater runoff from new or rehabilitated structures or buildings. f) Prior to construction within an area subject to Section 404 of the Clean Water Act, obtain all required permit approvals and certifications for construction within the vicinity of a watercourse: g) Where feasible, restore or expand riparian areas such that there is no net loss of impervious surface as a result of the project. h) Install structural water quality control features, such as drainage channels, detention basins, oil and grease traps, filter systems, and vegetated buffers to prevent pollution of adjacent water resources by polluted runoff where required by applicable urban storm water runoff discharge	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
permits, on new facilities. i) Provide operational best management practices for street cleaning, litter control, and catch basin cleaning are implemented to prevent water quality degradation in compliance with applicable storm water runoff discharge permits; and ensure treatment controls are in place as early as possible, such as during the acquisition process for rights-of-way, not just later during the facilities design and construction phase. j) Comply with applicable municipal separate storm sewer system discharge permits as well as Caltrans' storm water discharge permit including long-term sediment control and drainage of roadway runoff. k) Incorporate as appropriate treatment and control features such as detention basins, infiltration strips, and porous paving, other features to control surface runoff and facilitate groundwater recharge into the design of new transportation projects early on in the process to ensure that adequate acreage and elevation contours are provided during the right-of-way acquisition process. l) Upgrade stormwater drainage facilities to accommodate any increased runoff volumes. These upgrades may include the construction of detention basins or structures that will delay peak flows and reduce flow velocities, including expansion and restoration of wetlands and riparian buffer areas. System designs shall be completed to eliminate increases in peak flow rates from current levels. m) Encourage Low Impact Development (LID) and incorporation of natural spaces that reduce, treat, infiltrate and manage stormwater runoff flows in all new developments, where practical and feasible.		
SMM HYD-2: SCAG shall build from existing efforts including those at the sub-regional and local level and shall continue to work with local jurisdictions and water agencies, to encourage regional-scale planning for improved stormwater management and groundwater recharge, including consideration of alternative recharge technologies and practices. Future adverse impacts may be avoided through cooperative planning, information sharing, and comprehensive implementation efforts within the SCAG region.	Ongoing over the life of the plan	SCAG
PMM HYD-2: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects from violation of any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Avoid designs that require continual dewatering where feasible. For projects requiring continual dewatering facilities, implement monitoring systems and long-term administrative procedures to ensure proper water management that prevents degrading of surface water and minimizes adverse impacts on groundwater for the life of the project, Construction designs shall comply with appropriate building codes and standard practices including the Uniform Building	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
Code. a) Maximize, where practical and feasible, permeable surface area in existing urbanized areas to protect water quality, reduce flooding, allow for groundwater recharge, and preserve wildlife habitat. Minimize new impervious surfaces, including the use of in-lieu fees and off-site mitigation. b) Avoid construction and siting on groundwater recharge areas, to prevent conversion of those areas to impervious surface. c) Reduce hardscape to the extent feasible to facilitate groundwater recharge as appropriate.		
SMM HYD-3: SCAG shall build from existing efforts including those at the sub-regional and local level and shall continue to work with local jurisdictions to encourage regional-scale planning for maintaining and/or improving existing drainage patterns. Future adverse impacts may be avoided through cooperative planning, information sharing, and comprehensive implementation efforts within the SCAG region.	Ongoing over the life of the plan	SCAG
SMM HYD-4: SCAG shall continue to work with local jurisdictions and water quality agencies to encourage flood protection and prevent development in flood hazard areas that do not have appropriate protections. This shall be accomplished through cooperation and information sharing regarding specific alignments and rights-of-way planning for RTP projects, and regional program development as part of SCAG's ongoing regional planning efforts. These include but are not limited to web-based data distribution planning tools and sustainability programs in conjunction with local governments. Such services would potentially consist of an inventory of areas located in or near a 100-year flood hazard zone or hazard areas that would potentially be affected by a failure of a levee or dam; or inundation by seiche, tsunami, or mudflow.	Ongoing over the life of the plan	SCAG
PMM HYD-4: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures capable of avoiding or reducing the potential impacts of locating structures that would impede or redirect flood flows, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Ensure that all roadbeds for new highway and rail facilities be elevated at least one foot above the 100-year base flood elevation. Since alluvial fan flooding is not often identified on FEMA flood maps, the risk of alluvial fan flooding should be evaluated and projects should be sited to avoid alluvial fan flooding. Delineation of floodplains and alluvial fan boundaries should attempt to account for future hydrologic changes caused by global climate change.	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
Land Use and Planning		
SMM LU-1: SCAG shall coordinate with local County Transportation Commissions, Caltrans and other implementing agencies when siting new facilities in residential areas to facilitate minimizing future impacts of transportation projects on established communities, through cooperation, information sharing, and regional program development as part of SCAG's ongoing regional planning efforts to promote best planning practices.	Ongoing over the life of the plan	SCAG
PMM LU-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects that physically divide a community, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Facilitate good design for land use projects that build upon and improve existing circulation patterns b) Encourage implementing agencies to orient transportation projects to minimize impacts on existing communities by: — Selecting alignments within or adjacent to existing public rights of way. — Design sections above or below-grade to maintain viable vehicular, cycling, and pedestrian connections between portions of communities where existing connections are disrupted by the transportation project. — Wherever feasible incorporate direct crossings, overcrossings, or under crossings at regular intervals for multiple modes of travel (e.g., pedestrians, bicyclists, vehicles). c) Where it has been determined that it is infeasible to avoid creating a barrier in an established community, consider other measures to reduce impacts, including but not limited to: — Alignment shifts to minimize the area affected. — Reduction of the proposed right-of-way take to minimize the overall area of impact. — Provisions for bicycle, pedestrian, and vehicle access across improved roadways.	Ongoing over the life of the plan	Lead Agency
SMM LU-2: SCAG shall continue to promote the Intergovernmental Review (IGR) Program as an internal and external informational tool by reviewing and monitoring all projects submitted to SCAG for review and working with local jurisdictions to ensure that submitted projects support the most currently adopted Connect SoCal Plan. SCAG shall provide comment letters on regionally significant projects to recommend additional resources to help the lead agency support or develop a projects that are consistent with the Plan, as appropriate. The IGR Mapping Tool can also be utilized by local jurisdictions to assess regional impacts. To visit the IGR Mapping tool, please go to: https://maps.scag.ca.gov/IGR/. For more information on SCAG's IGR Program, please visit: http://www.scag.ca.gov/programs/Pages/IGR.aspx.	Ongoing over the life of the plan	SCAG
SMM LU-3: SCAG shall encourage cities and counties in the region to provide SCAG with electronic versions of their most recent general plan (and associated environmental document) and any updates as they are produced.	Ongoing over the life of the plan	SCAG

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
SMM LU-4: SCAG shall continue to provide targeted technical services such as GIS and data support for cities and counties to update their general plans at least every ten years, as recommended by the Governor's Office of Planning and Research.	Ongoing over the life of the plan	SCAG
SMM LU-5: SCAG shall provide technical assistance and regional leadership to encourage implementation of the Plan goals and strategies that integrate growth and land use planning with the existing and planned transportation network.	Ongoing over the life of the plan	SCAG
PMM LU-2: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects that physically divide a community, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) When an inconsistency with the adopted general plan policy or land use regulation (adopted for the purpose of avoiding or mitigating an impact) is identified modify the transportation or land use project to eliminate the conflict; or, determine if the environmental, social, economic, and engineering benefits of the project warrant an amendment to the general plan or land use regulation.	Ongoing over the life of the plan	Lead Agency
Mineral Resources		
SMM MIN-1: SCAG shall coordinate with the Department of Conservation, California Geological Survey to maintain a database of (1) available mineral resources in the SCAG region including permitted and unpermitted aggregate resources and (2) the anticipated 50-year demand for aggregate and other mineral resources. Based on the results of this survey, SCAG shall work with local agencies on strategies to address anticipated demand, including identifying future sites that may seek permitting and working with industry experts to identify ways to encourage and increase recycling to reduce the demand for aggregate.	Ongoing over the life of the plan	SCAG
PMM MIN-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce the use of mineral resources that could be of value to the region, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Provide for the efficient use of known aggregate and mineral resources or locally important mineral resource recovery sites, by ensuring that the consumptive use of aggregate resources is minimized and that access to recoverable sources of aggregate is not precluded, as a result of construction, operation and maintenance of projects. b) Where avoidance is infeasible, minimize impacts to the efficient and effective use of recoverable sources of aggregate through measures that have been identified in county and city general plans, or other comparable measures such as: 1) Recycle and reuse building materials resulting from demolition, particularly aggregate resources, to the maximum extent practicable. 2) Identify and use building materials, particularly aggregate materials, resulting from demolition at other construction sites in the SCAG region, or within a reasonable hauling	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
distance of the project site. 3) Design transportation network improvements in a manner (such as buffer zones or the use of screening) that does not preclude adjacent or nearby extraction of known mineral and aggregate resources following completion of the improvement and during long-term operations. 4) Avoid or reduce impacts on known aggregate and mineral resources and mineral resource recovery sites through the evaluation and selection of project sites and design features (e.g., buffers) that minimize impacts on land suitable for aggregate and mineral resource extraction by maintaining portions of MRZ-2 areas in open space or other general plan land use categories and zoning that allow for mining of mineral resources.		
Noise		
SMM-NOISE-1: SCAG shall coordinate with CTCs and member agencies as part of SCAG's outreach and technical assistance to local governments to encourage transportation projects and projects involving residential and commercial land uses to mitigate noise and vibration or be developed in areas that are normally acceptable or conditionally acceptable, consistent with applicable guidelines (i.e., OPR, Caltrans, etc.).	Ongoing over the life of the plan	SCAG
PMM NOISE-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects that physically divide a community, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Install temporary noise barriers during construction. b) Include permanent noise barriers and sound-attenuating features as part of the project design. Barriers could be in the form of outdoor barriers, sound walls, buildings, or earth berms to attenuate noise at adjacent sensitive uses. c) Schedule construction activities consistent with the allowable hours pursuant to applicable general plan noise element or noise ordinance d) Post procedures and phone numbers at the construction site for notifying the Lead Agency staff, local Police Department, and construction contractor (during regular construction hours and off-hours), along with permitted construction days and hours, complaint procedures, and who to notify in the event of a problem. e) Notify neighbors and occupants within 300 feet of the project construction area at least 30 days in advance of anticipated times when noise levels are expected to exceed limits established in the noise element of the general plan or noise ordinance. f) Designate an on-site construction complaint and enforcement manager for the project. g) Ensure that construction equipment are properly maintained per manufacturers' specifications and fitted with the best available noise suppression devices (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds silencers, wraps). All intake and exhaust ports on power equipment shall be muffled or	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
shielded.		
h) Use hydraulically or electrically powered tools (e.g., jack hammers, pavement breakers, and rock drills) for project construction to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust should be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves should be used, if such jackets are commercially available, and this could achieve a further reduction of 5 dBA. Quieter procedures should be used, such as drills rather than impact equipment, whenever such procedures are available and consistent with construction procedures.		
i) Where feasible, design projects so that they are depressed below the grade of the existing noise-sensitive receptor, creating an effective barrier between the roadway and sensitive receptors.		
j) Where feasible, improve the acoustical insulation of dwelling units where setbacks and sound barriers do not provide sufficient noise reduction.		
k) Using rubberized asphalt or "quiet pavement" to reduce road noise for new roadway segments, roadways in which widening or other modifications require re-pavement, or normal reconstruction of roadways where re-pavement is planned		
l) Projects that require pile driving or other construction noise above 90 dBA in proximity to sensitive receptors, should reduce potential pier drilling, pile driving and/or other extreme noise generating construction impacts greater than 90 dBA; a set of site-specific noise attenuation measures should be completed under the supervision of a qualified acoustical consultant.		
m) Use land use planning measures, such as zoning, restrictions on development, site design, and buffers to ensure that future development is compatible with adjacent transportation facilities and land uses;		
n) Monitor the effectiveness of noise reduction measures by taking noise measurements and installing adaptive mitigation measures to achieve the standards for ambient noise levels established by the noise element of the general plan or noise ordinance.		
o) Use equipment and trucks with the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds, wherever feasible) for project construction.		
p) Stationary noise sources can and should be located as far from adjacent sensitive receptors as possible and they should be muffled and enclosed within temporary sheds, incorporate insulation barriers, or use other measures as determined by the Lead Agency (or other appropriate government agency) to provide equivalent noise reduction.		
q) Use of portable barriers in the vicinity of sensitive receptors during construction.		
r) Implement noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings (for instance by the use of sound blankets), and implement if such measures are feasible and would noticeably reduce noise impacts.		
s) Monitor the effectiveness of noise attenuation measures by taking noise measurements.		
t) Maximize the distance between noise-sensitive land uses and new roadway lanes, roadways, rail		

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
lines, transit centers, park-and-ride lots, and other new noise-generating facilities. u) Construct sound reducing barriers between noise sources and noise-sensitive land uses. v) Stationary noise sources can and should be located as far from adjacent sensitive receptors as possible and they should be muffled and enclosed within temporary sheds, incorporate insulation barriers, or use other measures as determined by the Lead Agency (or other appropriate government agency) to provide equivalent noise reduction. w) Use techniques such as grade separation, buffer zones, landscaped berms, dense plantings, sound walls, reduced-noise paving materials, and traffic calming measures. x) Locate transit-related passenger stations, central maintenance facilities, decentralized maintenance facilities, and electric substations away from sensitive receptors to the maximum extent feasible. y) Consult the SCAG Environmental Justice Toolbox for potential measures to address impacts to low-income and/or minority communities.		
PMM NOISE-2: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to violating air quality standards, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) For projects that require pile driving or other construction techniques that result in excessive vibration, such as blasting, determine the potential vibration impacts to the structural integrity of the adjacent buildings within 50 feet of pile driving locations. b) For projects that require pile driving or other construction techniques that result in excessive vibration, such as blasting, determine the threshold levels of vibration and cracking that could damage adjacent historic or other structure, and design means and construction methods to not exceed the thresholds. c) For projects where pile driving would be necessary for construction due to geological conditions, utilize quiet pile driving techniques such as predrilling the piles to the maximum feasible depth, where feasible. Predrilling pile holes will reduce the number of blows required to completely seat the pile and will concentrate the pile driving activity closer to the ground where pile driving noise can be shielded more effectively by a noise barrier/curtain. d) Restrict construction activities to permitted hours in accordance with local jurisdiction regulation. e) Properly maintain construction equipment and outfit construction equipment with the best available noise suppression devices (e.g., mufflers, silences, wraps). f) Prohibit idling of construction equipment for extended periods of time in the vicinity of sensitive receptors.	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
Population and Housing		
SMM-POP-1: SCAG shall promote the Sustainability Program which will provide technical assistance to local jurisdictions that support local planning and implementation of the Connect SoCal Plan. The program recognizes sustainable solutions to local growth challenges and will result in local plans that promote sustainability through the integration of transportation and land use. For more information please visit: http://sustain.scag.ca.gov/Documents/Sustainable%20Communities%20Program%20Guidelines.pdf.	Ongoing over the life of the plan	SCAG
SMM-POP-2: SCAG shall provide technical assistance to local governments, transit agencies and developers within the region to build housing capacity to compete in the statewide Affordable Housing Sustainable Communities (AHSC) grants program. The AHSC program is one of the few state funding opportunities to address housing shortages within the state. For more information please visit: http://ahsc.scag.ca.gov/Pages/Home.aspx.	Ongoing over the life of the plan	SCAG
SMM-POP-3: SCAG shall host summits that addresses the housing crisis and provides solutions to build more housing. Examples include the 2016 Housing Summit (http://www.scag.ca.gov/SiteAssets/HousingSummit/index.html) and the Eighth Annual Economic Summit (https://www.scag.ca.gov/calendar/Pages/8thEconomicSummit.aspx).	Ongoing over the life of the plan	SCAG
SMM-POP-4: SCAG shall continue to produce the biennial Local Profile reports for all member jurisdictions in the SCAG region for the purpose of data and information sharing. The Local Profiles reports provide a variety of demographic, economic, education, housing, and transportation information that local jurisdictions can utilize like project and program planning. For more information about the most recently release 2019 Local Profiles, please visit: http://www.scag.ca.gov/DataAndTools/Pages/LocalProfiles.aspx.	Ongoing over the life of the plan	SCAG
SMM-POP-5: SCAG shall assist cities to identify funding and financing opportunities and potential partnerships for public infrastructure improvements for transit-oriented development and other smart growth projects.	Ongoing over the life of the plan	SCAG
PMM-POP-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce the displacement of existing housing, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Evaluate alternate route alignments and transportation facilities that minimize the displacement of homes and businesses. Use an iterative design and impact analysis where impacts to homes or businesses are involved to minimize the potential of impacts on housing and displacement of people. b) Prioritize the use existing ROWs, wherever feasible. c) Develop a construction schedule that minimizes potential neighborhood deterioration from protracted waiting periods between right-of-way acquisition and construction. d) Review capacities of available urban infrastructure and augment capacities as needed to accommodate demand in locations where growth is desirable to the local lead Agency and encouraged by the SCS (primarily TPAs, where applicable). e) When General Plans and other local land use regulations are amended or updated, use the most recent growth projections and RHNA allocation plan.	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
Public Services		
SMM PSF-1: SCAG shall assist planners, first responders, and recovery teams in a supporting role, in three key areas, before a major emergency and during the recovery period: • Provide a policy forum to help develop regional consensus and education on security policies and emergency responses. • Assist in expediting the planning and programming of transportation infrastructure repairs from major disasters. • Encourage integration of transportation security measures into transportation projects early in the project development process by leveraging SCAG's relevant plans, programs, and processes, including regional ITS architecture. An example includes SCAG's participation in the development of the Southern California Catastrophic Earthquake Preparedness Plan.[2]	Ongoing over the life of the plan	SCAG
SMM PSF-2: SCAG shall facilitate minimizing future impacts to fire protection services through information sharing regarding Fire-wise Land Management (data regarding fire-resistant vegetation, fire-resistant materials, locations where development is potentially hazardous in regard to wildfire, and management of brush and other fire risks in the immediate vicinity of development in areas with high fire threat) with county and city planning departments.	Ongoing over the life of the plan	SCAG
SMM PSP-1: SCAG shall facilitate minimizing future impacts to library services through cooperation, information sharing, and regional program development as part of SCAG's ongoing regional planning efforts, such as web-based planning tools for local government including CA LOTS, and other GIS tools and data services, including, but not limited to Map Gallery, GIS library, and GIS applications, and promote acceptable service ratios regarding library services.	Ongoing over the life of the plan	SCAG
SMM PSP-2: SCAG shall help to enhance the region's ability to deter and respond to acts of terrorism, human-caused or natural disasters through regionally cooperative and collaborative strategies. SCAG shall work with local officials to develop regional consensus on regional transportation safety, security, and safety security policies.	Ongoing over the life of the plan	SCAG
SMM PSP-3: SCAG shall help to enhance the region's ability to deter and respond to terrorist incidents, human-caused or natural disasters by strengthening relationship and coordination with transportation. This will be accomplished by the following: • SCAG shall work with local officials to develop regional consensus on regional transportation safety, security, and safety security policies. • SCAG shall encourage all SCAG elected officials are educated in NIMS. • SCAG shall work with partner agencies, federal, state and local jurisdictions to improve communications and interoperability and to find opportunities to leverage and effectively utilize transportation and public safety/security resources in support of this effort.	Ongoing over the life of the plan	SCAG

2 California Emergency Management Agency, *Southern California Catastrophic Earthquake Response Plan*, December 2010 https://www.caloes.ca.gov/PlanningPreparednessSite/Documents/SoCalCatastrophicConops(Public)2010.pdf, accessed October 31, 2019.

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
SMM PSP-4: SCAG shall encourage and provide a forum for local jurisdictions to develop mutual aid agreements for essential government services during any incident recovery.	Ongoing over the life of the plan	SCAG
PMM PSP-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects of constructing new emergency response facilities, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: • Coordinate with emergency response agencies to ensure that there are adequate governmental facilities to maintain acceptable service ratios, response times or other performance objectives for emergency response services and that any required additional construction of buildings is incorporated in to the project description. • Where current levels of services at the project site are found to be inadequate, provide fair share contributions towards infrastructure improvements, as appropriate and applicable, to mitigate identified CEQA impacts. • Project sponsors can and should develop traffic control plans for individual projects. Traffic control plans should include information on lane closures and the anticipated flow of traffic during the construction period. The basic objective of each traffic control plan (TCP) is to permit the contractor to work within the public right of way efficiently and effectively while maintaining a safe, uniform flow of traffic. The construction work and the public traveling through the work zone in vehicles, bicycles or as pedestrians must be given equal consideration when developing a traffic control plan.	Ongoing over the life of the plan	Lead Agency
SMM PSS-1: SCAG shall facilitate minimizing future impacts to school services through cooperation, information sharing, and regional program development as part of SCAG's ongoing regional planning efforts, such as web-based planning tools for local government including CA LOTS, and other GIS tools and data services, including, but not limited to, Map Gallery, GIS library, and GIS applications, and direct technical assistance efforts to promote school planning efforts.	Ongoing over the life of the plan	SCAG
PMM PSS-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the State CEQA Guidelines, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects of constructing new or physically altered school facilities, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Where construction or expansion of school facilities is required to meet public school service ratios, require school district fees, as applicable.	Ongoing over the life of the plan	Lead Agency
SMM PSL-1: SCAG shall facilitate minimizing future impacts to library services through cooperation, information sharing, and regional program development as part of SCAG's ongoing regional planning efforts, such as web-based planning tools for local government including CA LOTS, and other GIS tools and data services, including, but not limited to Map Gallery, GIS library, and GIS applications, and promote acceptable service ratios regarding library services.	Ongoing over the life of the plan	SCAG

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
P**MM PSL-1:** In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects of construction of new or altered library facilities, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Where construction or expansion of library facilities is required to meet public library service ratios, require library fees, as appropriate and applicable, to mitigate identified CEQA impacts.	Ongoing over the life of the plan	Lead Agency
Parks and Recreation		
SMM REC-1: SCAG shall continue the commitment to analyze public health outcomes as part of the Regional Transportation Plan/Sustainable Communities Strategy (Plan). As part of the public health analysis for the Plan, SCAG shall continue to analyze resident access to parks and recreational facilities from a county level to help local jurisdictions to improve resident access to parks. SCAG shall communicate the impacts of the Plan through its Public Health Working group, and continue to support policy changes at the city and county level through educational programs.	Ongoing over the life of the plan	SCAG
PMM REC-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects on the use of existing neighborhood and regional parks or other recreational facilities, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Prior to the issuance of permits, where projects require the construction or expansion of recreational facilities or the payment of equivalent Quimby fees, consider increasing the accessibility to natural areas and lands for outdoor recreation from the proposed project area, in coordination with local and regional open space planning and/or responsible management agencies. b) Prior to the issuance of permits, where projects require the construction or expansion of recreational facilities or the payment of equivalent Quimby fees, encourage patterns of urban development and land use which reduce costs on infrastructure and make better use of existing facilities, using strategies such as: i. Increasing the accessibility to natural areas for outdoor recreation ii. Utilizing "green" development techniques iii. Promoting water-efficient land use and development iv. Encouraging multiple uses, such as the joint use of schools v. Including trail systems and trail segments in General Plan recreation standards.	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
Transportation, Traffic, and Safety		
SMM TRA-1: SCAG shall facilitate minimizing VMT and related vehicular delay by minimizing impacts to circulation and access, improve mobility, and encourage transit and Active Transportation via workshops (i.e., Mobility 21 workshop and Regional Transportation Workgroups) and web-based planning tools for local governments, forums with policy makers, and County Transportation Planning Agencies, member cities, and state partners.	Ongoing over the life of the plan	SCAG
SMM TRA-2: SCAG shall identify further reduction in VMT, and fuel consumption that could be obtained through land-use strategies, additional car-sharing programs with linkage to public transportation, additional vanpools, additional bicycle sharing and parking programs, and implementation of a universal employee transit access pass (TAP) program.	Ongoing over the life of the plan	SCAG
SMM TRA-3: SCAG shall initiate and facilitate an SB 743 implementation program. The grant-funded project, co-sponsored by SCAG and LADOT, seeks to provide technical and mitigation strategy development guidance to local jurisdictions in the six-county SCAG region to facilitate implementation of the VMT-based CEQA transportation impact analysis provisions of SB 743. This coordinated program of technical guidance, evaluation of options, and cooperative engagement with local communities will serve to smooth the transition to the new VMT-reducing development paradigm, helping to ensure a successful region-wide implementation of SB 743 and attainment of the associated GHG reduction goals. Some of the primary features of the scope of work include: • Evaluate the feasibility of various alternative VMT mitigation options, including local and regional VMT exchange and banking programs. • Establish CEQA nexus to reduce VMT through a VMT mitigation exchange or banking program alternative. • Substantiate the legal basis of a VMT exchange program for satisfying CEQA mitigation requirements. • Collaborate with other communities and jurisdictions to reduce VMT through implementation of a VMT mitigation exchange or bank program. • Improve the dissemination of transportation project VMT mitigation options. • Support a variety of TDM strategies for Transportation Management Organization (TMO) membership agencies. • Provide guidance to facilitate establishment of VMT mitigation exchange or bank programs throughout the region and state	Ongoing over the life of the plan	SCAG
SMM TRA-4: SCAG shall continue to analyze and develop potential implementation strategies for a regional, market-based system to price or charge for auto trips during peak hours.	Ongoing over the life of the plan	SCAG
SMM TRA-5: SCAG shall develop a vanpool program for SCAG employees' commute trips.	Ongoing over the life of the plan	SCAG
SMM TRA-6: SCAG shall encourage new developments to incorporate both local and regional transit measures into the project design that promote the use of alternative modes of transportation.	Ongoing over the life of the plan	SCAG

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
PMM-TRA-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects related to transportation-related impacts, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: • Transportation demand management (TDM) strategies should be incorporated into individual land use and transportation projects and plans, as part of the planning process. Local agencies should incorporate strategies identified in the Federal Highway Administration's publication: Integrating Demand Management into the Transportation Planning Process: A Desk Reference (August 2012) into the planning process (FHWA 2012). For example, the following strategies may be included to encourage use of transit and non-motorized modes of transportation and reduce vehicle miles traveled on the region's roadways: — include TDM mitigation requirements for new developments; — incorporate supporting infrastructure for non-motorized modes, such as, bike lanes, secure bike parking, sidewalks, and crosswalks; — provide incentives to use alternative modes and reduce driving, such as, universal transit passes, road and parking pricing; — implement parking management programs, such as parking cash-out, priority parking for carpools and vanpools; — develop TDM-specific performance measures to evaluate project-specific and system-wide performance; — incorporate TDM performance measures in the decision-making process for identifying transportation investments; — implement data collection programs for TDM to determine the effectiveness of certain strategies and to measure success over time; and — set aside funding for TDM initiatives. — The increase in per capita VMT on facilities experiencing LOS F represents a significant impact compared to existing conditions. To assess whether implementation of these specific mitigation strategies would result in measurable traffic congestion reductions, implementing actions may need to be further refined within the overall parameters of the proposed Plan and matched to local conditions in any subsequent project-level environmental analysis.	Ongoing over the life of the plan	Lead Agency
SMM TRA-7: SCAG shall, in cooperation with local and state agencies, identify critical infrastructure needs necessary for: a) emergency responders to enter the region, b) evacuation of affected facilities, and c) restoration of utilities. In addition, SCAG shall establish transportation infrastructure practices that promote and enhance security.	Ongoing over the life of the plan	SCAG

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
SMM TRA-8: SCAG shall provide the means for collaboration in planning, communication, and information sharing before, during, or after a regional emergency. This will be accomplished by the following: • SCAG shall develop and incorporate strategies and actions pertaining to response and prevention of security incidents and events as part of the on-going regional planning activities. • SCAG shall offer a regional repository of GIS data for use by local agencies in emergency planning, and response, in a standardized format. • SCAG shall enter into mutual aid agreements with other MPOs (as feasible) to provide this data, in coordination with the California OES in the event that an event disrupts SCAG's ability to function.	Ongoing over the life of the plan	SCAG
PMM TRA-2: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects which may substantially impair implementation of an adopted emergency response plan or emergency evacuation plan, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Prior to construction, project implementation agencies can and should ensure that all necessary local and state road and railroad encroachment permits are obtained. The project implementation agency can and should also comply with all applicable conditions of approval. As deemed necessary by the governing jurisdiction, the road encroachment permits may require the contractor to prepare a traffic control plan in accordance with professional engineering standards prior to construction. Traffic control plans can and should include the following requirements: — Identification of all roadway locations where special construction techniques (e.g., directional drilling or night construction) would be used to minimize impacts to traffic flow. — Development of circulation and detour plans to minimize impacts to local street circulation. This may include the use of signing and flagging to guide vehicles through and/or around the construction zone. — Scheduling of truck trips outside of peak morning and evening commute hours. — Limiting of lane closures during peak hours to the extent possible. — Usage of haul routes minimizing truck traffic on local roadways to the extent possible. — Inclusion of detours for bicycles and pedestrians in all areas potentially affected by project construction. — Installation of traffic control devices as specified in the California Department of Transportation Manual of Traffic Controls for Construction and Maintenance Work Zones. — Development and implementation of access plans for highly sensitive land uses such as police and fire stations, transit stations, hospitals, and schools. The access plans would be developed with the facility owner or administrator. To minimize disruption of emergency vehicle access, affected jurisdictions can and should be asked to identify detours for	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
emergency vehicles, which will then be posted by the contractor. Notify in advance the facility owner or operator of the timing, location, and duration of construction activities and the locations of detours and lane closures. — Storage of construction materials only in designated areas. — Coordination with local transit agencies for temporary relocation of routes or bus stops in work zones, as necessary. — Ensure the rapid repair of transportation infrastructure in the event of an emergency through cooperation among public agencies and by identifying critical infrastructure needs necessary for: a) emergency responders to enter the region, b) evacuation of affected facilities, and c) restoration of utilities. — Enhance emergency preparedness awareness among public agencies and with the public at large.		
Tribal Cultural Resources		
SMM TCR-1: SCAG shall consult with the Native American Heritage Commission, as well as Native American tribes, to identify opportunities for early and effective consultation to identify tribal cultural resources to avoid such resources wherever practicable and feasible and reduce or mitigate for conflicts in compatible land use to the maximum extent practicable.	Ongoing over the life of the plan	SCAG
PMM TCR-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects on tribal cultural resources, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Avoidance and preservation of the resources in place, including, but not limited to, planning and construction to avoid the resources and protect the cultural and natural context, or planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria; b) Treating the resource with culturally appropriate dignity taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following: protecting the cultural character and integrity of the resource; protecting the traditional use of the resource; and protecting the confidentiality of the resource; c) Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places; and protecting the resource.	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
Utilities and Service Systems		
SMM USSW-1: During the planning, design, and project-level CEQA review process for individual development projects, SCAG shall coordinate with waste management agencies and the appropriate local and regional jurisdictions to facilitate the development of measures and to encourage diversion of solid waste such as recycling and composting programs, as needed. This includes discouraging siting of new landfills unless all other waste reduction and prevention actions have been fully explored to minimize impacts to neighborhoods.	Ongoing over the life of the plan	SCAG
SMM USSW-2: SCAG shall coordinate with waste management agencies, and the appropriate local and regional jurisdictions, measures to facilitate and encourage diversion of solid waste such as recycling and composting programs.	Ongoing over the life of the plan	SCAG
PMM USSW-2: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce the generation of solid waste, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: Integrate green building measures with CALGreen (California Building Code Title 24) into project design, including but not limited to the following: a) Reuse and minimization of construction and demolition (C&D) debris and diversion of C&D waste from landfills to recycling facilities. b) Inclusion of a waste management plan that promotes maximum C&D diversion. c) Source reduction through (1) use of materials that are more durable and easier to repair and maintain, (2) design to generate less scrap material through dimensional planning, (3) increased recycled content, (4) use of reclaimed materials, and (5) use of structural materials in a dual role as finish material (e.g., stained concrete flooring, unfinished ceilings, etc.). d) Reuse of existing structure and shell in renovation projects. e) Development of indoor recycling program and space. f) Discourage the siting of new landfills unless all other waste reduction and prevention actions have been fully explored. If landfill siting or expansion is necessary, site landfills with an adequate landfill-owned, undeveloped land buffer to minimize the potential adverse impacts of the landfill in neighboring communities. g) Discourage exporting of locally generated waste outside of the SCAG region during the construction and implementation of a project. Encourage disposal within the county where the waste originates as much as possible. Promote green technologies for long-distance transport of waste (e.g., clean engines and clean locomotives or electric rail for waste-by-rail disposal systems) and consistency with SCAQMD and Connect SoCal policies can and should be required. h) Encourage waste reduction goals and practices and look for opportunities for voluntary actions to exceed the 80 percent waste diversion target. i) Encourage the development of local markets for waste prevention, reduction, and recycling	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
practices by supporting recycled content and green procurement policies, as well as other waste prevention, reduction and recycling practices. j) Develop ordinances that promote waste prevention and recycling activities such as: requiring waste prevention and recycling efforts at all large events and venues; implementing recycled content procurement programs; and developing opportunities to divert food waste away from landfills and toward food banks and composting facilities. k) Develop and site composting, recycling, and conversion technology facilities that have minimum environmental and health impacts. l) Integrate reuse and recycling into residential industrial, institutional and commercial projects. m) Provide education and publicity about reducing waste and available recycling services. n) Implement or expand city or county-wide recycling and composting programs for residents and businesses. This could include extending the types of recycling services offered (e.g., to include food and green waste recycling) and providing public education and publicity about recycling services.		
SMM-USWW-1: SCAG shall work with local jurisdictions and wastewater agencies to encourage regional-scale planning for improved wastewater and stormwater management. Future impacts to wastewater and stormwater facilities shall be avoided to the extent practical and feasible through cooperative planning, information sharing, and comprehensive pollution control measure development within the SCAG region. This cooperative planning shall occur as part of current and existing coordination, an integral part of SCAG's ongoing regional planning efforts.	Ongoing over the life of the plan	SCAG
PMM-USWW-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to reduce substantial adverse effects on utilities and service systems, particularly for construction of wastewater facilities, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: • During the design and CEQA review of individual future projects, implementing agencies and projects sponsors shall determine whether sufficient wastewater capacity exists for the proposed projects. There CEQA determinations must ensure that the proposed development can be served by its existing or planned treatment capacity. If adequate capacity does not exist, project sponsors shall coordinate with the relevant service provider to ensure that adequate public services and utilities could accommodate the increased demand, and if not, infrastructure improvements for the appropriate public service or utility shall be identified in each project's CEQA documentation. The relevant public service provider or utility shall be responsible for undertaking project-level review as necessary to provide CEQA clearance for new facilities.	Ongoing over the life of the plan	Lead Agency

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
SMM USWS-1: SCAG shall coordinate with local agencies as part of SCAG's Sustainability Program regarding the implementation of Urban Greening, Greenbelts and Community Separator land use strategies. Primary features of land use strategies address the following: • Increased trail and greenway connectivity; • Improved water quality, groundwater recharge and watershed health; • Strategies for stormwater and rainwater collection, infiltration, treatment and release; • Reduce urban runoff; • Expand the urban forest; • Provision of wildlife habitat and increased biodiversity; • Expand recreation opportunities and beautification; • Preserving agrarian economies; • Restore severed wildlife corridors.	Ongoing over the life of the plan	SCAG
PMM USWS-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to ensure sufficient water supplies, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Reduce exterior consumptive uses of water in public areas, and should promote reductions in private homes and businesses, by shifting to drought-tolerant native landscape plantings, using weather-based irrigation systems, educating other public agencies about water use, and installing related water pricing incentives. b) Promote the availability of drought-resistant landscaping options and provide information on where these can be purchased. Use of reclaimed water especially in median landscaping and hillside landscaping can and should be implemented where feasible. c) Implement water conservation best practices such as low-flow toilets, water-efficient clothes washers, water system audits, and leak detection and repair. d) For projects located in an area with existing reclaimed water conveyance infrastructure and excess reclaimed water capacity, use reclaimed water for non- potable uses, especially landscape irrigation. For projects in a location planned for future reclaimed water service, projects should install dual plumbing systems in anticipation of future use. Large developments could treat wastewater onsite to tertiary standards and use it for non-potable uses onsite.	Ongoing over the life of the plan	Lead Agency
~~**Wildfire**~~		
SMM WF-1: SCAG shall facilitate minimizing future impacts to fire protection services through information sharing regarding Fire-wise Land Management (vegetation data, fire-resistant building materials, locations where development is vulnerable to wildfire, and best practices for safe land management) with county and city planning departments. Furthermore, SCAG shall examine wildfire risk management strategies in areas where at-risk critical electrical infrastructure is located based on CPUC and CAL FIRE maps.	Ongoing over the life of the plan	SCAG

Mitigation Measure	Mitigation Monitoring Timing	Responsible Monitoring Entity
SMM WF-2: SCAG, in partnership with technical experts and stakeholders shall launch or continue existing initiatives to help local cities and counties to protect Southern California communities and economies from the disruption of wildfire occurrences. Initiatives could include but not be limited to seminars that review the risk of wildfire and approaches for preparation, including strengthening of infrastructure, emergency services, emergency evacuation plans and reviewing building safety codes.	Ongoing over the life of the plan	SCAG
SMM WF-3: SCAG shall develop a regional resilience program and identify specific strategies to reduce vulnerabilities from natural disasters related to land based or atmospheric hazards, climate change, wildfire and other extreme weather events.	Ongoing over the life of the plan	SCAG
PMM WF-1: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to wildfire risk, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) Launch fire prevention education for local cities and counties such that local fire agencies, homeowners, as well as commercial and industrial businesses are aware of potential sources of fire ignition and the related procedures to curb or lessen any activities that might initiate fire ignition. b) Ensure structures in high fire risk areas are built to current state and federal standards which serve to greatly increase the chances the structure will survive a wildfire and also allow for people to shelter-in-place. c) Improve road access for emergency response and evacuation so people can evacuate safely and timely when necessary. d) Improve, and educate regarding, local emergency communications and notifications with residents and businesses. e) Enforce defensible space regulations to keep overgrown and unmanaged vegetation, accumulations of trash and other flammable material away from structures. f) Provide public education about wildfire risk and fire prevention measures, and safety procedures and practices to allow for safe evacuation and/or options to shelter-in-place	Ongoing over the life of the plan	Lead Agency
PMM WF-2: In accordance with provisions of sections 15091(a)(2) and 15126.4(a)(1)(B) of the *State CEQA Guidelines*, a Lead Agency for a project can and should consider mitigation measures to wildfire risk, as applicable and feasible. Such measures may include the following or other comparable measures identified by the Lead Agency: a) New development or infrastructure activity within very high hazard severity zones or SRAs shall be required to — Submit a fire protection plan including the designation of fire watch staff; — Maintain water and other fire suppression equipment designated solely for firefighting on site for any construction and maintenance activities; — Locate construction and maintenance equipment in designated “safe areas” such that they do not discharge combustible materials; and — Designate trained fire watch staff during project construction to reduce risk of fire hazards.	Ongoing over the life of the plan	Lead Agency

SCAG™
INNOVATING FOR A BETTER TOMORROW

MAIN OFFICE

900 Wilshire Blvd., Ste. 1700
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Tel: (213) 236-1800

REGIONAL OFFICES

IMPERIAL COUNTY
1405 North Imperial Ave., Ste.104
El Centro, CA 92243
Tel: (213) 236-1967

ORANGE COUNTY
OCTA Building
600 South Main St., Ste. 741
Orange, CA 92868
Tel: (213) 236-1997

RIVERSIDE COUNTY
3403 10th St., Ste. 805
Riverside, CA 92501
Tel: (951) 784-1513

SAN BERNARDINO COUNTY
1170 West 3rd St., Ste. 140
San Bernardino, CA 92410
Tel: (213) 236-1925

VENTURA COUNTY
4001 Mission Oaks Blvd., Ste. L
Camarillo, CA 93012
Tel: (213) 236-1960

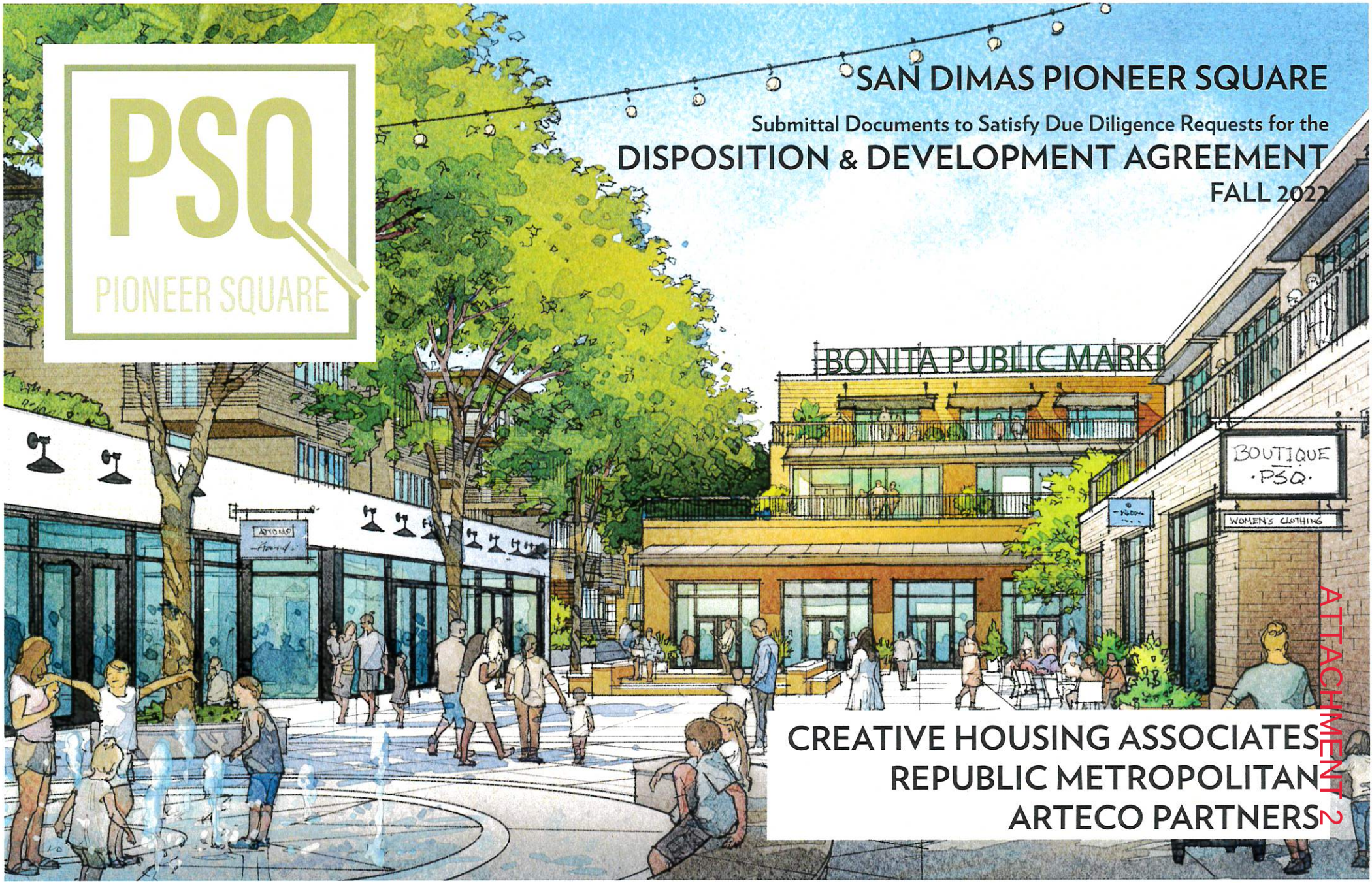
CONNECT SoCal

EXHIBIT A – MITIGATION MONITORING AND REPORTING
FOR THE FINAL CONNECT SOCAL PEIR

ADOPTED MAY 2020

connectsocal.org

PLEASERECYCLE29072020.04.23



SAN DIMAS PIONEER SQUARE

Submittal Documents to Satisfy Due Diligence Requests for the

DISPOSITION & DEVELOPMENT AGREEMENT

FALL 2022

CREATIVE HOUSING ASSOCIATES
REPUBLIC METROPOLITAN
ARTECO PARTNERS

ATTACHMENT 2

PSQ Goals & Aspirations

- *Serves* as the western gateway to downtown San Dimas
- *Enhances* the public realm and amenities
- *Connects* to the park, city, and beyond
- *Creates* a vibrant transit-oriented, walkable, sustainable community
- *Complements* the San Dimas Downtown Specific Plan
- *Engages* with neighbors and the public

Delivering High Quality Public Spaces

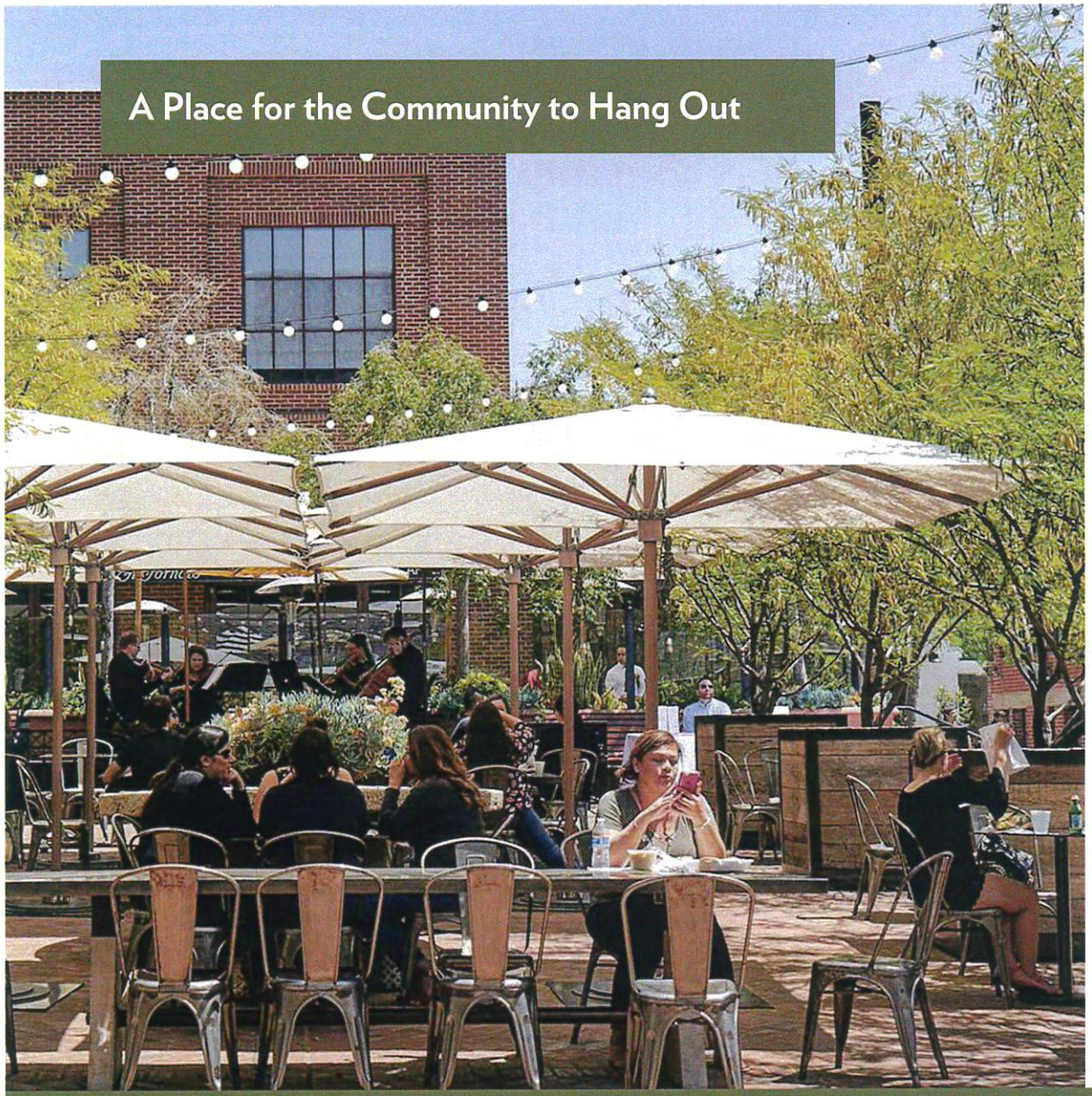
PSQ
PIONEER SQUARE

San Dimas Pioneer Square

moore ruble yudell

Fall 2022

A Place for the Community to Hang Out



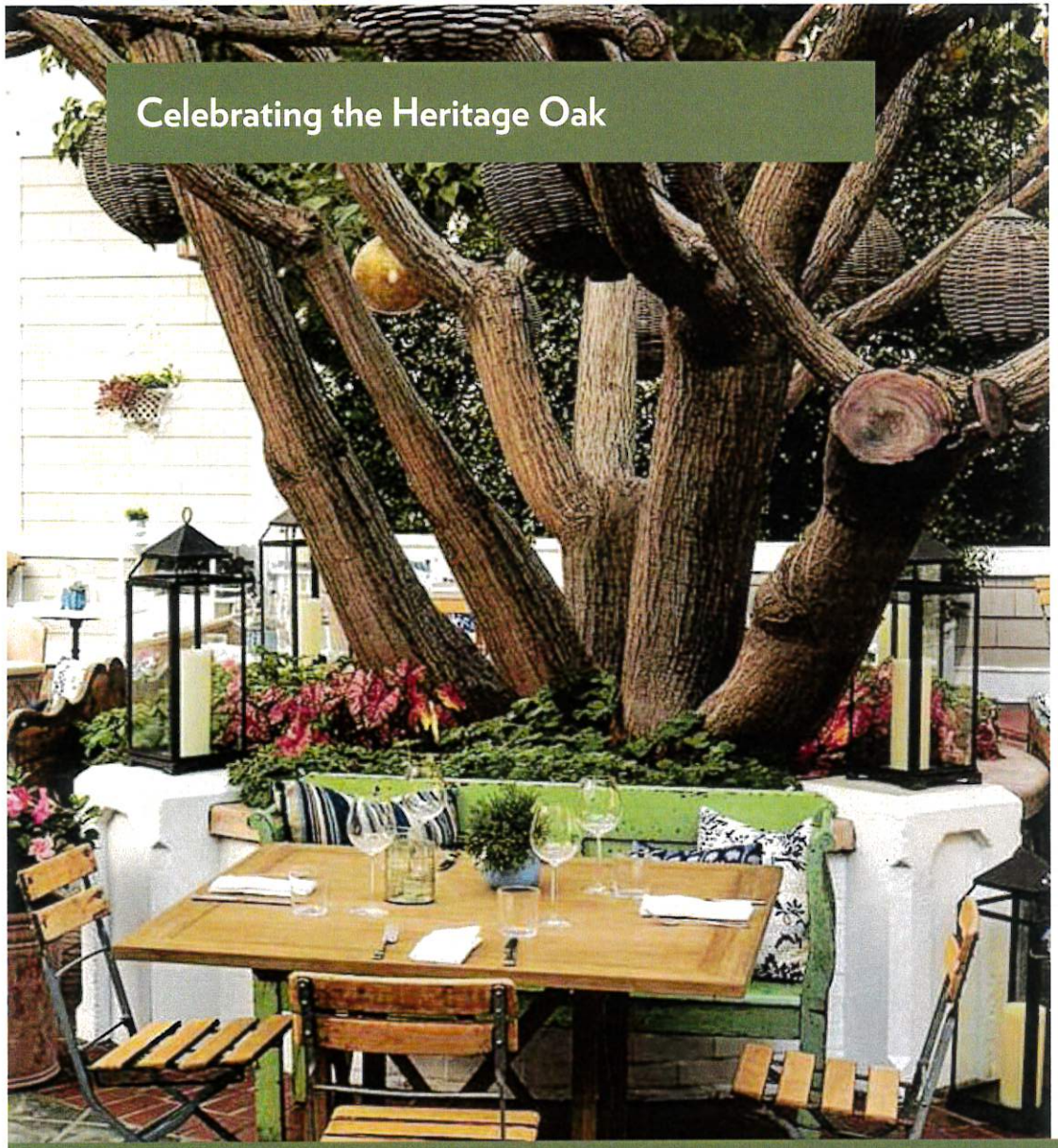
PSQ PIONEER SQUARE

San Dimas Pioneer Square

moore ruble yudell

Fall 2022

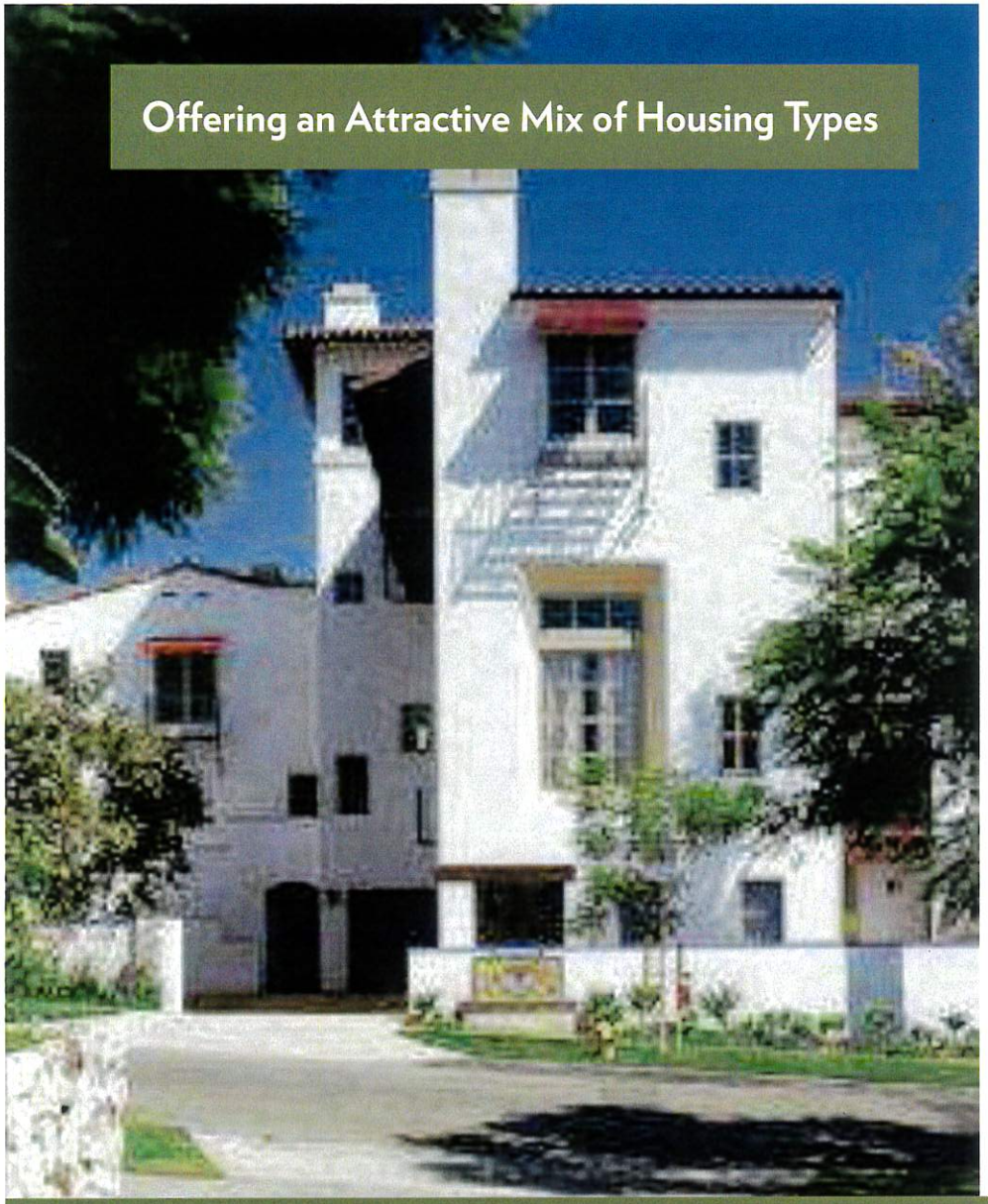
Celebrating the Heritage Oak

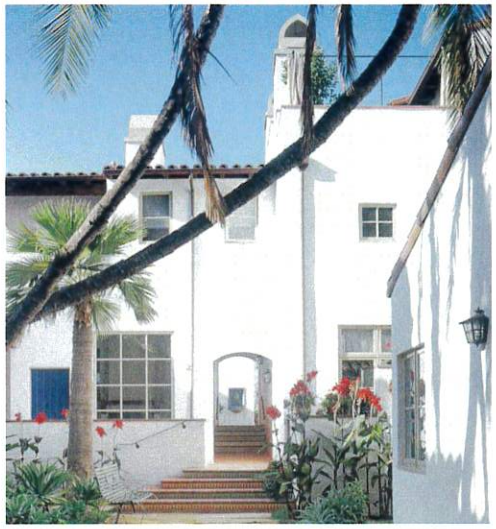


San Dimas Pioneer Square
moore ruble yudell

Fall 2022

Offering an Attractive Mix of Housing Types





PSQ PIONEER SQUARE

San Dimas Pioneer Square

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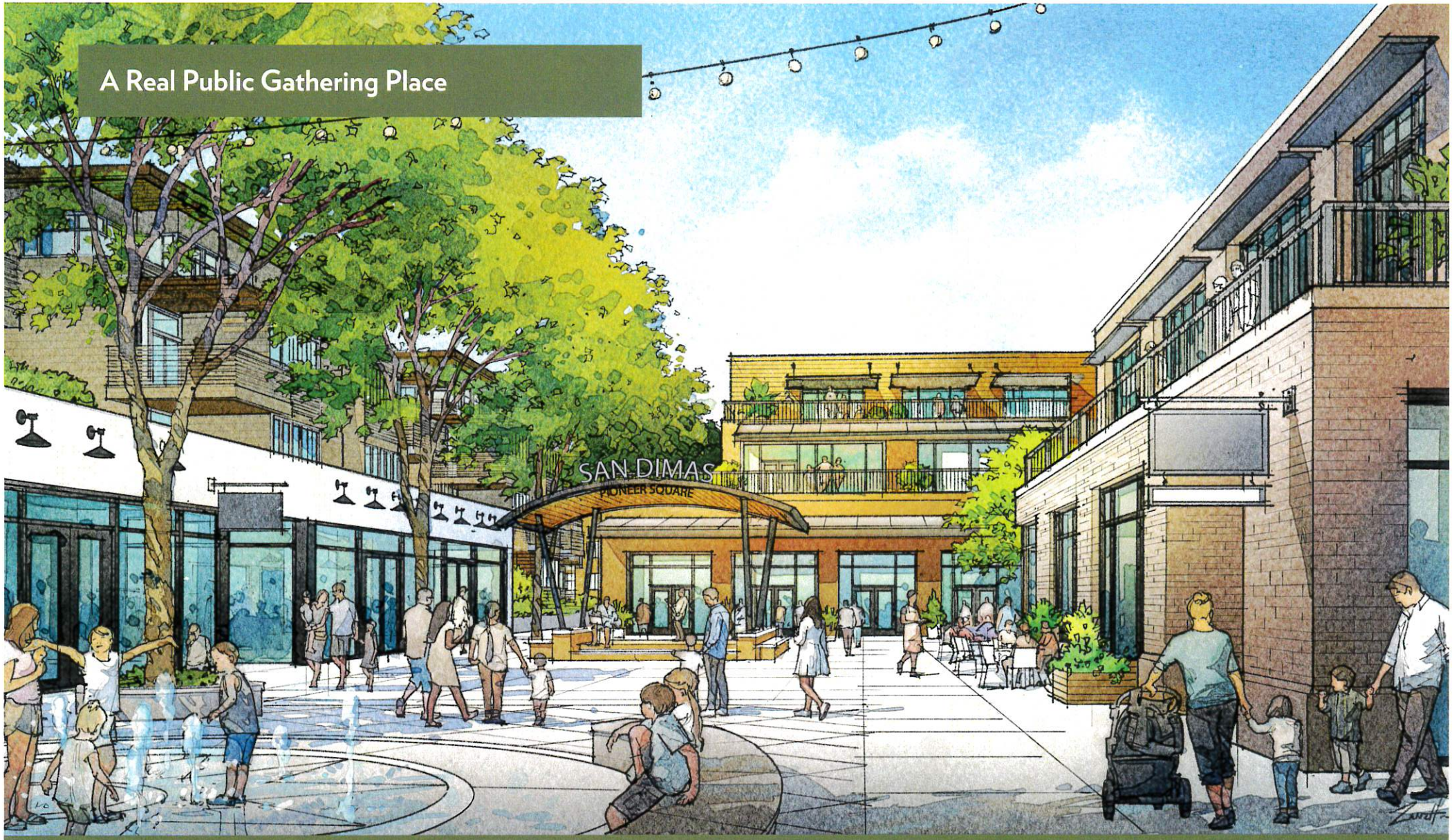
Fall 2022

A Real Public Gathering Place



PSQ
PIONEER SQUARE

San Dimas Pioneer Square

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Fall 2022

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PIONEER SQUARE

San Dimas Pioneer Square

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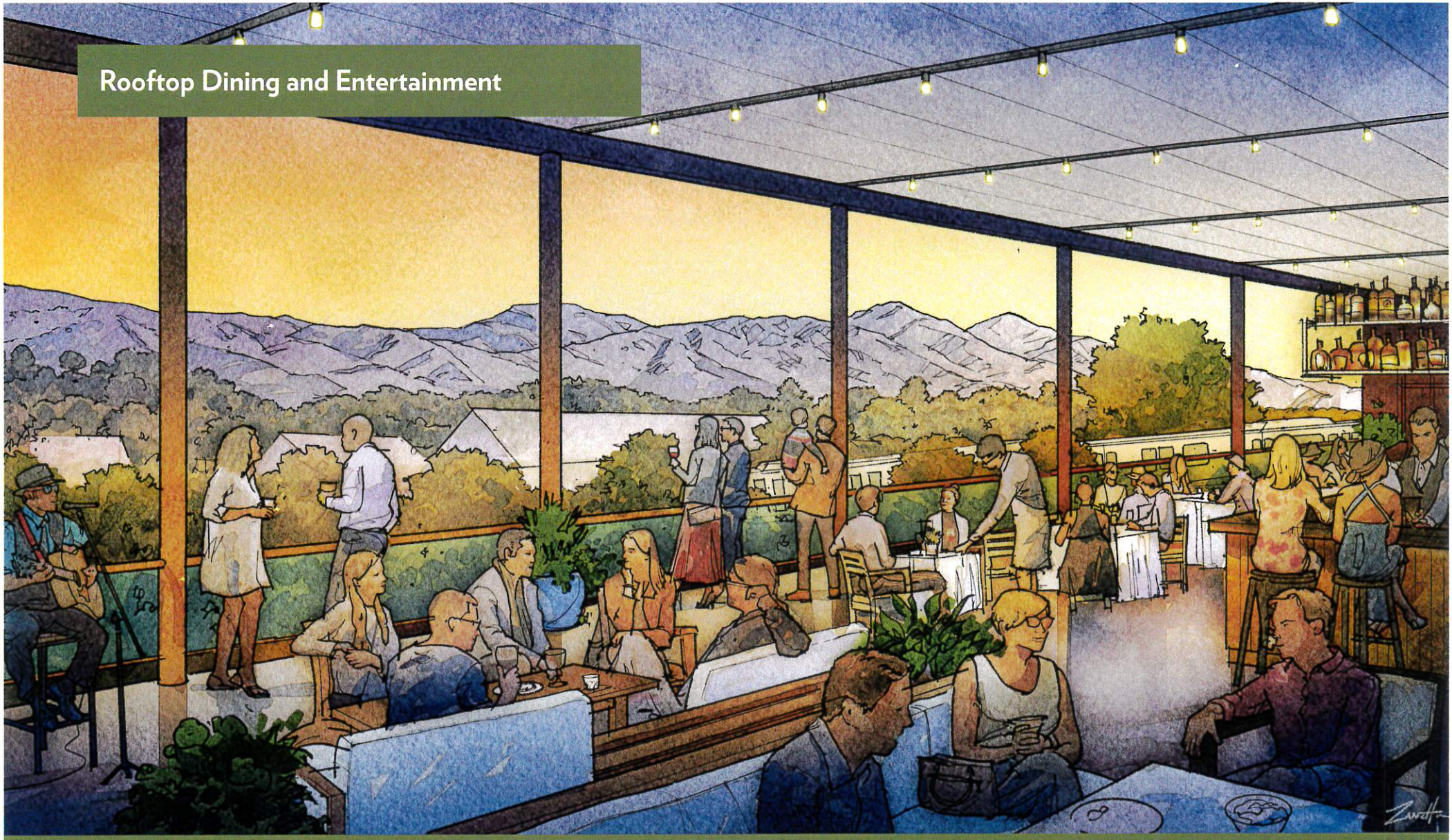
Fall 2022



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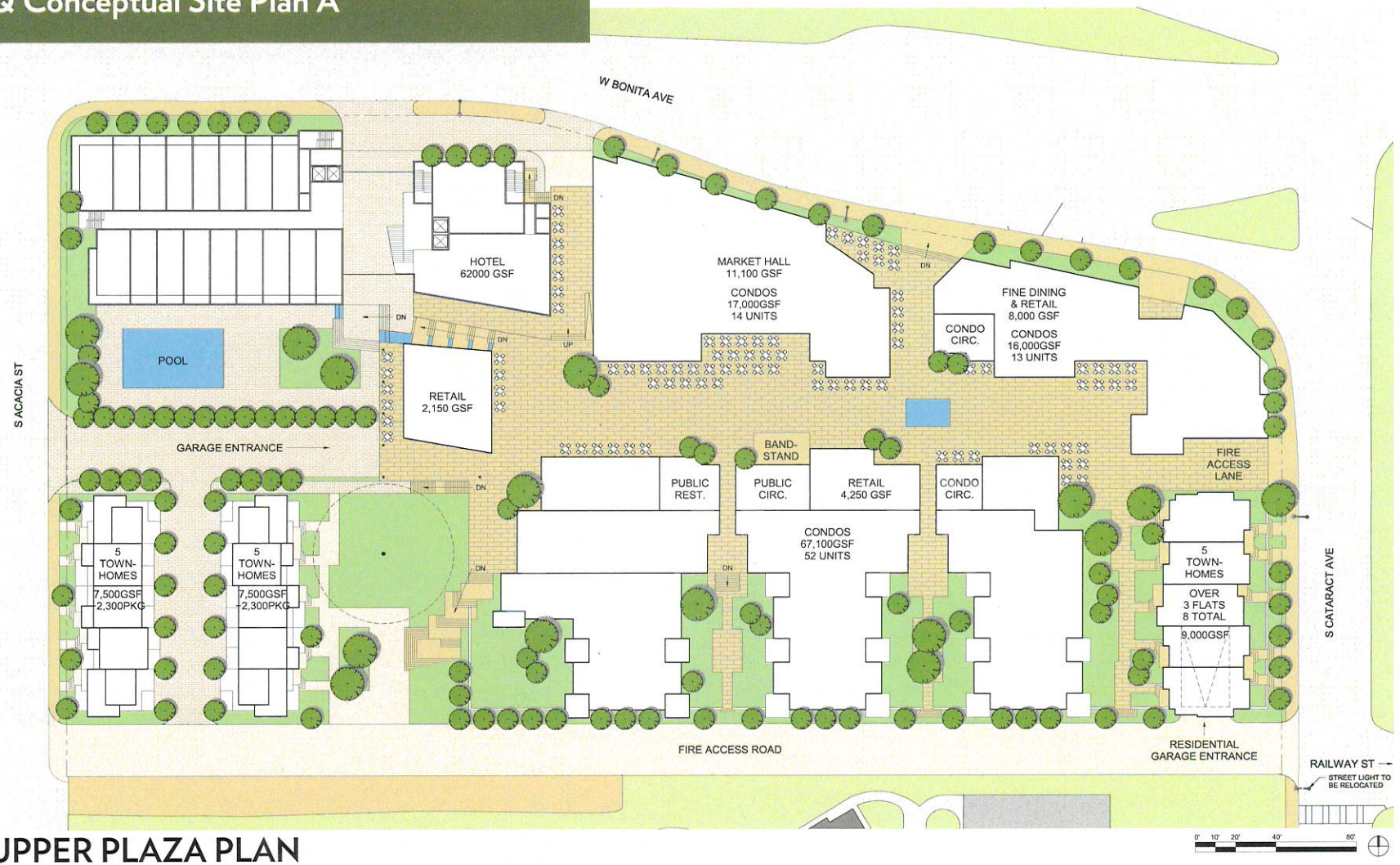
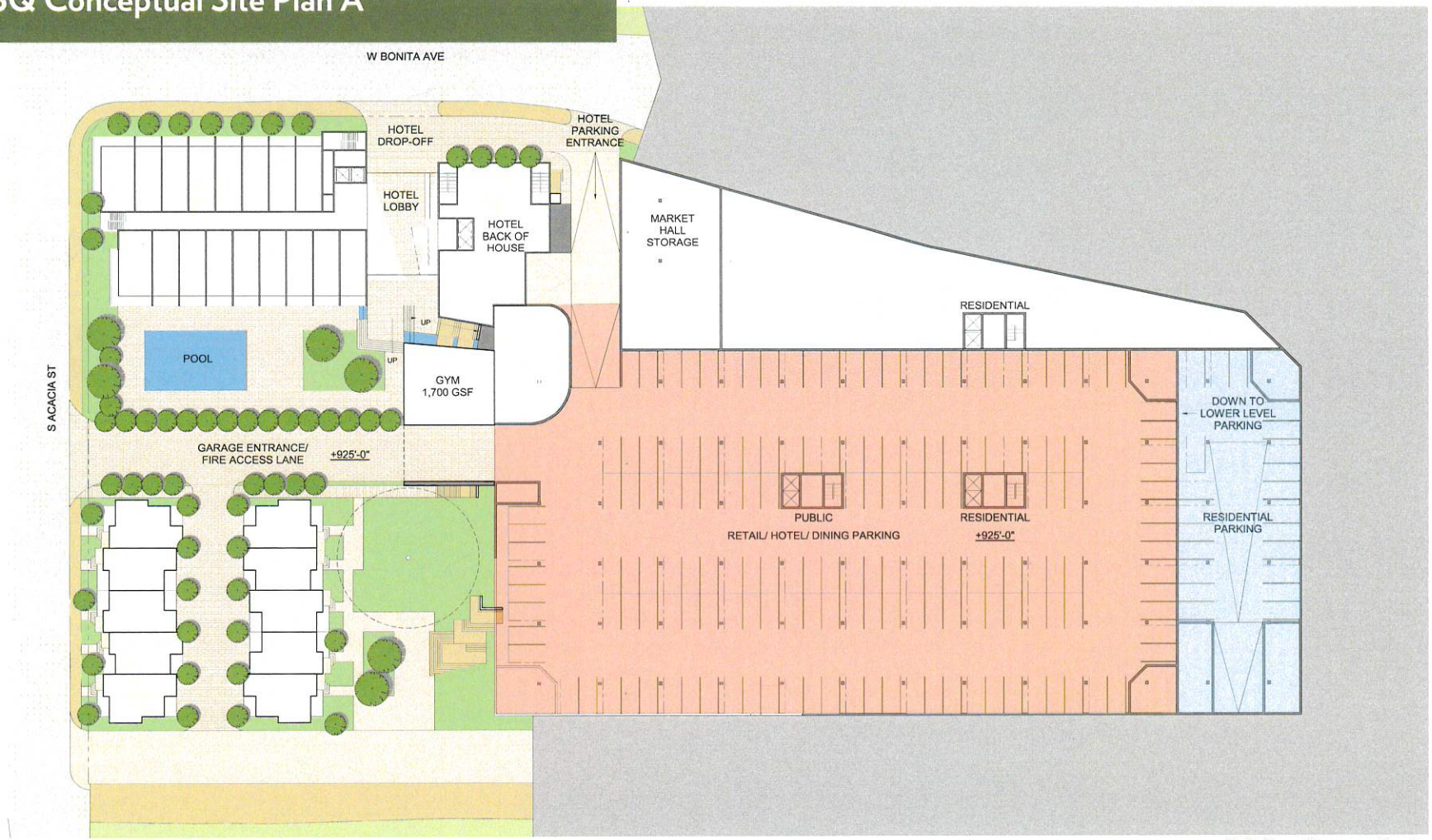
Fall 2022

PSQ Conceptual Site Plan A



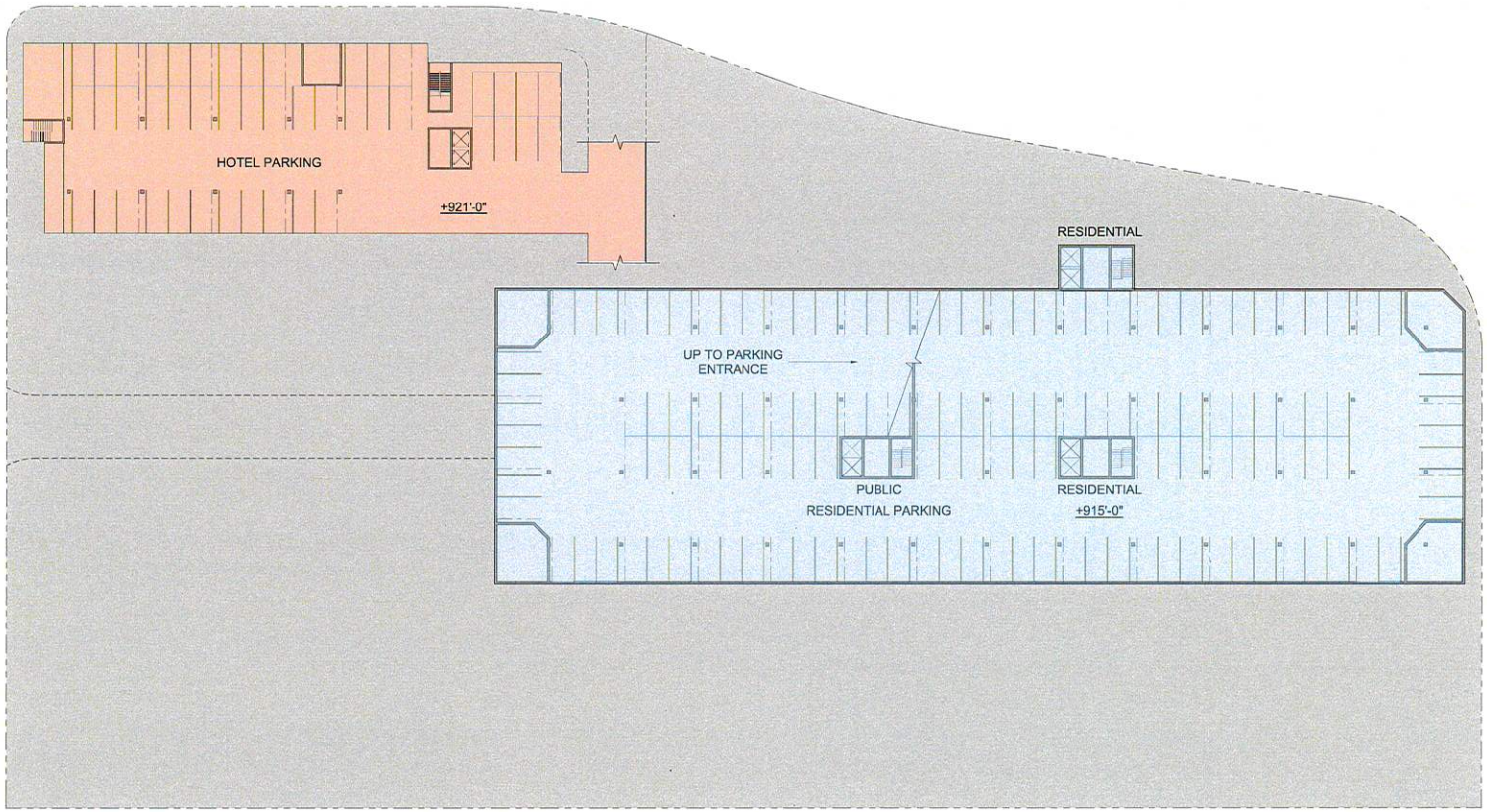
UPPER PLAZA PLAN

PSQ Conceptual Site Plan A



LOWER PLAZA PLAN

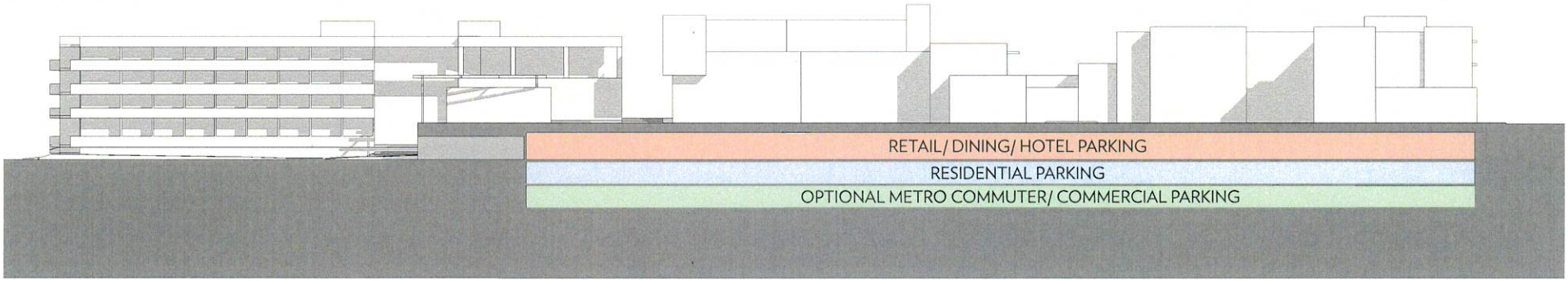
PSQ Conceptual Site Plan A



LOWER PARKING PLAN

0' 10' 20' 40' 80'

PSQ Conceptual Section A



PARKING GARAGE SECTION

Note: Metro commuter parking shown as a conceptual option for city's consideration.

PSQ Parking Program

Required Parking

Residential

97 Residences x 2 per Home =	194 Spaces

Commercial & Hotel

Commercial: 25,500sf x 1 per 250sf =	102 Spaces
Outdoor Dining: 5,000sf x 1 per 250sf =	20 Spaces
Hotel/ Public Use: 10,000sf x 1 per 350sf =	30 Spaces
Hotel Rooms: 70 Rooms x 1 per Room =	70 Spaces
Total Commercial & Hotel =	222 Spaces

Total Parking Requirement **416 Spaces**

Commercial and Hotel parking subject to a 15% non-residential TOD reduction of spaces.

Provided Parking

Residential

Tuck-Under Townhome Parking =	20 Spaces
Upper Level Garage Parking =	20 Spaces
Lower Level Garage Parking =	169 Spaces
Total Residential Parking =	209 Spaces

Commercial & Hotel

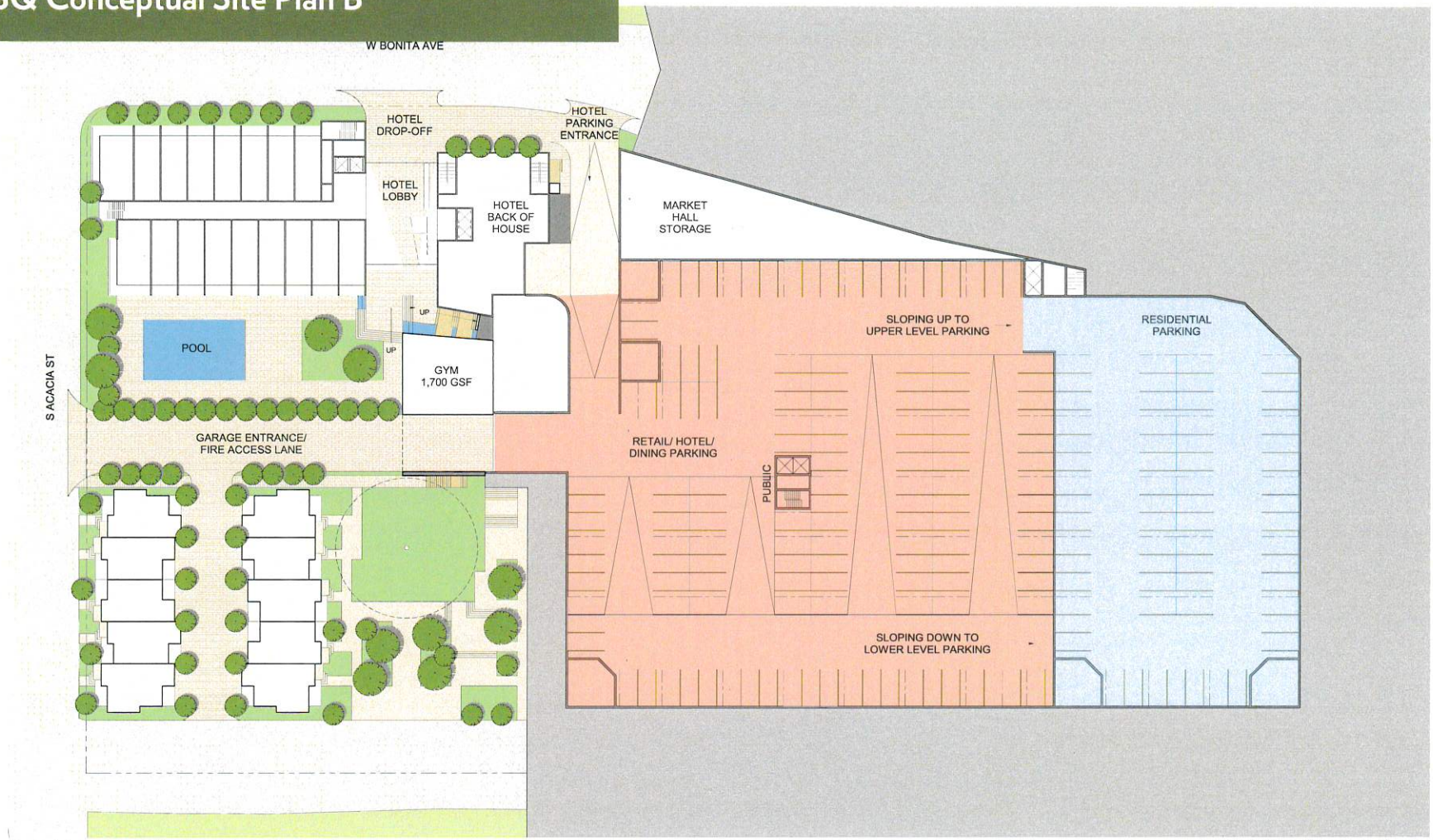
Hotel Valet Parking =	45 Spaces
Upper Level Garage Parking =	164 Spaces
Total Commercial & Hotel =	209 Spaces

Total Provided Parking **418 Spaces**

PSQ Conceptual Site Plan B

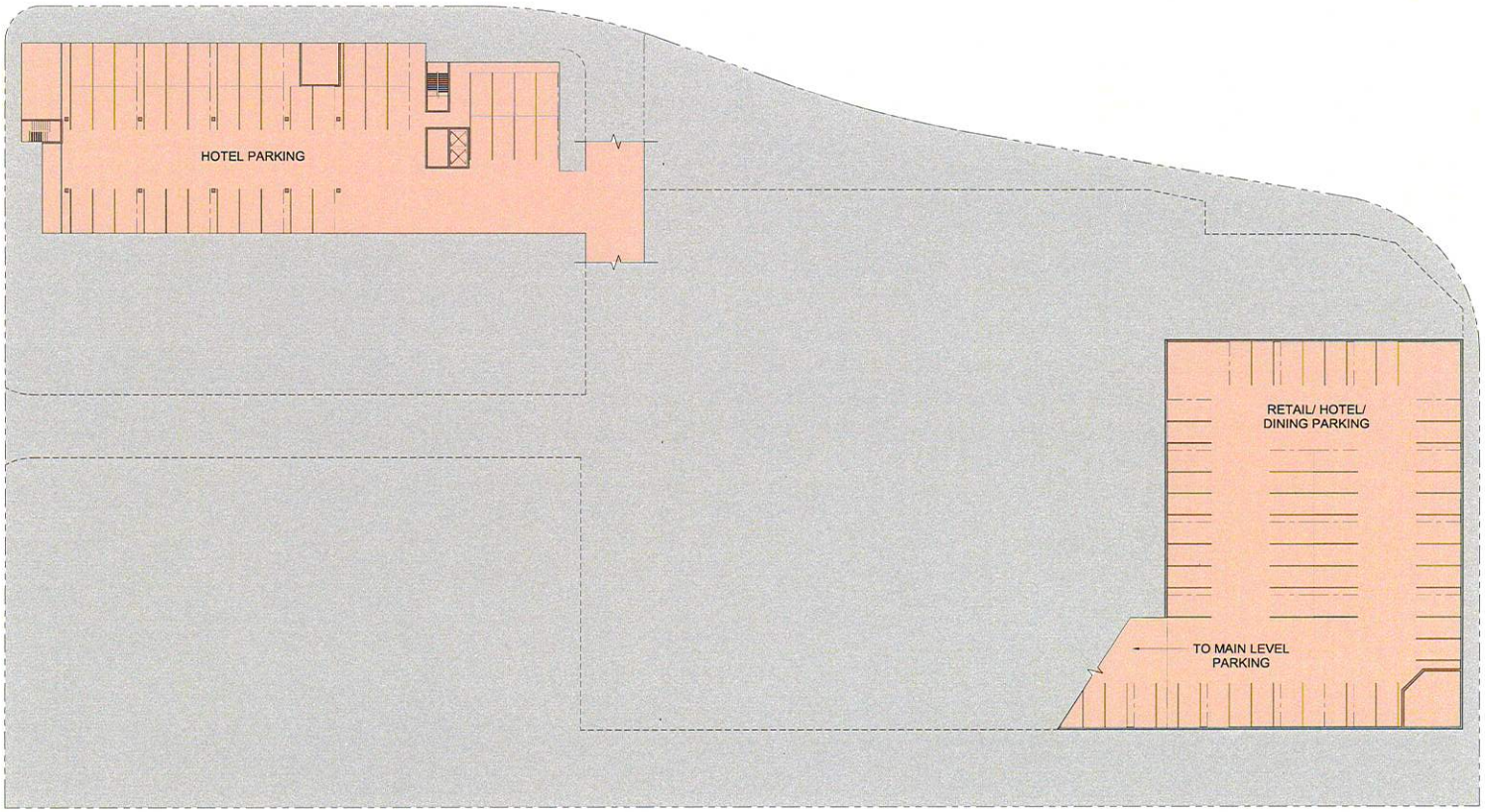
UPPER PLAZA PLAN

PSQ Conceptual Site Plan B



LOWER PLAZA PLAN

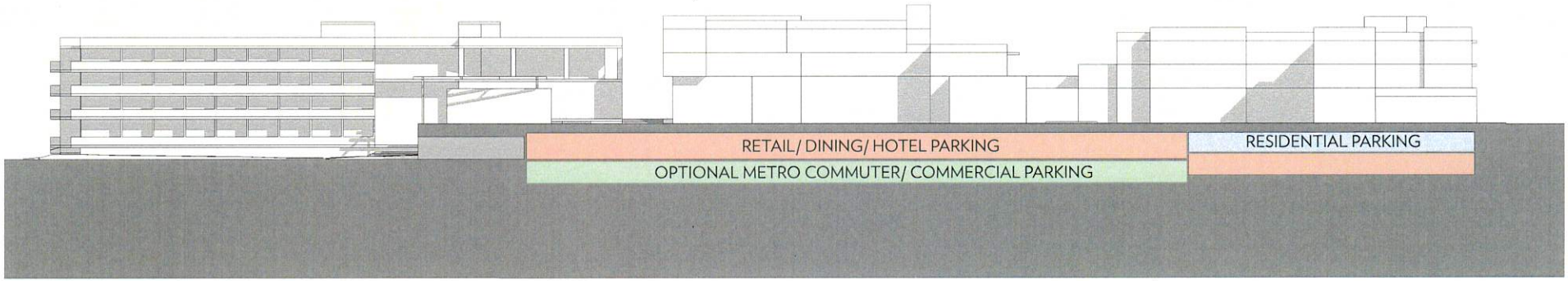
PSQ Conceptual Site Plan B



LOWER PARKING PLAN

0' 10' 20' 40' 80'

PSQ Conceptual Section B



PARKING GARAGE SECTION

Note: Metro commuter parking shown as a conceptual option for city's consideration.

PSQ Parking Program

Required Parking

Residential

60 Residences x 2 per Home =	120 Spaces

Commercial & Hotel

Commercial: 25,500sf x 1 per 250sf =	102 Spaces
Outdoor Dining: 5,000sf x 1 per 250sf =	20 Spaces
Hotel/ Public Use: 10,000sf x 1 per 350sf =	30 Spaces
Hotel Rooms: 70 Rooms x 1 per Room =	70 Spaces
Total Commercial & Hotel =	222 Spaces

Total Parking Requirement **342 Spaces**

Commercial and Hotel parking subject to a 15% non-residential TOD reduction of spaces.

Provided Parking

Residential

Tuck-Under Townhome Parking =	70 Spaces
Garage Parking	63 Spaces
Total Residential Parking =	133 Spaces

Commercial & Hotel

Hotel Valet Parking =	45 Spaces
Upper Level Garage Parking =	134 Spaces
Lower Level Garage Parking =	51 Spaces
Total Commercial & Hotel =	230 Spaces

Total Provided Parking **363 Spaces**

View of Plan A Looking North from Pioneer Park

PSQ
PIONEER SQUARE

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Looking Southwest on Bonita Avenue

PSQ PIONEER SQUARE

San Dimas Pioneer Square

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Fall 2022

Looking Southeast to the Bonita Hotel

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