

0220-05213-0004

T R A N S M I T T A L

TO City Council	DATE 2/1/21	COUNCIL FILE NO. 19-0897
FROM Municipal Facilities Committee	COUNCIL DISTRICT 11	

At its regular meeting on January 28, 2021, the Municipal Facilities Committee (MFC) considered a report from the City Administrative Officer (CAO) on the West Los Angeles Civic Center Joint City-County of Los Angeles Request for Proposals and request for authorization to enter into an Exclusive Negotiating Agreement (ENA) with the selected developer. The proposed ENA, between the City and Abode Communities and Avalon Bay Communities, is for a development (“West LA Commons”) that will result in improved municipal space, new commercial and retail space, outdoor open space, new housing units, parking and other amenities. The MFC amended the report to correct the name of the developer to Abode Communities and AvalonBay Communities – West LA Commons, and the Surplus Land Act section of the report, and transmits to the City Council for consideration and approval.



Richard H. Llewellyn, Jr.
City Administrative Officer
Chair, Municipal Facilities Committee

Attachment – Amended CAO January 28, 2021 MFC Report

RHL:YC:JVW:BLM:15210052

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

CAO File No.: 0220-05213-0004

Date: January 28, 2021

Council File No.: 19-0987

Council District: 11

To: Municipal Facilities Committee

From: Richard H. Llewellyn, Jr., City Administrative Officer

Subject: **REPORT ON THE WEST LOS ANGELES CIVIC CENTER JOINT CITY- COUNTY OF LOS ANGELES REQUEST FOR PROPOSALS AND AUTHORIZATION TO ENTER INTO AN EXCLUSIVE NEGOTIATING AGREEMENT WITH ABODE COMMUNITIES AND AVALON BAY – WEST LA COMMONS -AMENDED**

RECOMMENDATIONS

That the City Council, subject to approval by the Mayor:

1. APPROVE Abode Communities and AvalonBay Communities – West LA Commons as the selected proposal/developer for the redevelopment of the City-owned property in the West Los Angeles Civic Center, a development that will result in improved municipal space, new commercial and retail space, outdoor open space, approximately 926 new housing units, including 431 affordable units, parking and other amenities as outlined in this report;
2. AUTHORIZE the City Administrative Officer (CAO), or designee, to enter into an Exclusive Negotiation Agreement (Attachment A - Draft ENA) with Abode Communities AvalonBay Communities - West LA Commons for creation of a mixed use development on the City-owned property at 11401 – 11409 W. Iowa Avenue, 1653 - 1657 S. Purdue Avenue, 1640 - 1652 S. Purdue Avenue, 11343-11359 W. Iowa Avenue, 1645 - 1667 Corinth Avenue, 11342 – 11358 W. Idaho Avenue, 11343 – 11353 W. Idaho Avenue, 1619 S. Corinth Avenue, 11332 – 11338 W. Santa Monica Avenue (APN 4261-011-911 and a portion of 4261-010-908) in the West Los Angeles Civic Center in Council District 11;
3. AUTHORIZE the term of the Exclusive Negotiating Agreement to be 18 months, with the potential for up to four (4) 90 day extensions, solely at the discretion of the City;
4. DECLARE, based on the findings contained herein, that the City-owned property is "exempt surplus property" for the purpose of the Surplus Lands Act under Government Code Section 54221(f)(1)(F)(ii) and that no further compliance actions are required under the Act;
5. INSTRUCT the City Administrative Officer, with assistance of the Chief Legislative Analyst, City Planning, Housing and Community Investment Department, Bureau of Engineering, and other pertinent City departments, to provide regular status updates during the Exclusive

Negotiating Agreement Process to the Municipal Facilities Committee;

6. INSTRUCT the City Administrative Officer, with assistance of the Chief Legislative Analyst, City Planning, Housing and Community Investment Department, Bureau of Engineering, and other pertinent City departments, to report back to the City Council with a final development agreement for consideration; and
7. Authorize the City Administrative Officer to make technical corrections consistent with the Mayor and Council action on this matter.

SUMMARY

As directed by the Mayor and City Council on May 8, 2020, (C.F. 19-0987), the City Administrative Officer (CAO) with assistance from the Chief Legislative Analyst (CLA), Bureau of Engineering (BOE), City Planning, Housing and Community Investment Department (HCID), City Attorney's Office, and other pertinent departments, have worked with the Los Angeles County Development Authority (LACDA) to develop, release, and administer a Joint Request for Proposals (RFP) for the redevelopment of the West Los Angeles Civic Center.

The City-County team released the RFP on May 15, 2020, with a final deadline of September 1, 2020. The City-County selection committee recommends Abode Communities and AvalonBay Communities as the development team for the West Los Angeles Civic Center project. AvalonBay Communities and Abode Communities envision West LA Commons as a flourishing center of the Westside, a vibrant community core featuring equitable housing opportunities; flourishing commercial space; and robust, inclusive community programming in a highly sustainable, master plan designed by Koning Eizenberg Architecture.

The AvalonBay Communities and Abode Communities team propose 926 housing units, including 431 affordable and moderate-income units (family, senior, and supportive units) and 495 market-rate apartments. Approval of this report will authorize the City to enter into an Exclusive Negotiating Agreement (ENA) with the proposed development team for the terms as substantially outlined in Attachment A and detailed in this report.

As planned for in the RFP, the City and the County will enter into separate ENAs with the development team and coordinate our respective approvals. The County of Los Angeles Board of Supervisors has scheduled review of the request to authorize the County ENA for early March 2021. A very preliminary schematic of the project is depicted in Figure 1 below:

Figure 1 – New Plaza Vision - West LA Civic Center



BACKGROUND

In August 2019, Motion (C.F. 19-0987, Bonin – Koretz) directed the CAO to initiate a review of the City-owned property at the West Los Angeles Civic Center to determine the suitability for redevelopment purposes. In December 2019, the Council amended the motion to request that the CAO work with Council District 11 to develop a Joint Request for Proposals (RFP) with the County of Los Angeles (County) that would include the former West Los Angeles Courthouse and adjacent parking, as well as the City-owned property at the West Los Angeles Civic Center. The anticipated benefits of a Joint RFP included responses from additional, highly reputable development teams drawn to the enhanced opportunity, coordinated community outreach and engagement, shared California Environmental Quality Act (CEQA) mitigation, and the coordination of construction phasing.

RFP Process

The release of the Joint RFP was approved by the Mayor and City Council on May 8, 2020. The RFP was released on May 15, 2020, with responses due on August 11, 2020. That deadline was extended to September 1, 2020, and four responses were received, all of which were deemed “qualified” by the County Procurement Officer. The selection process took place from September to December, with the recommended development team selected on December 17, 2020, and notified on January 14, 2021.

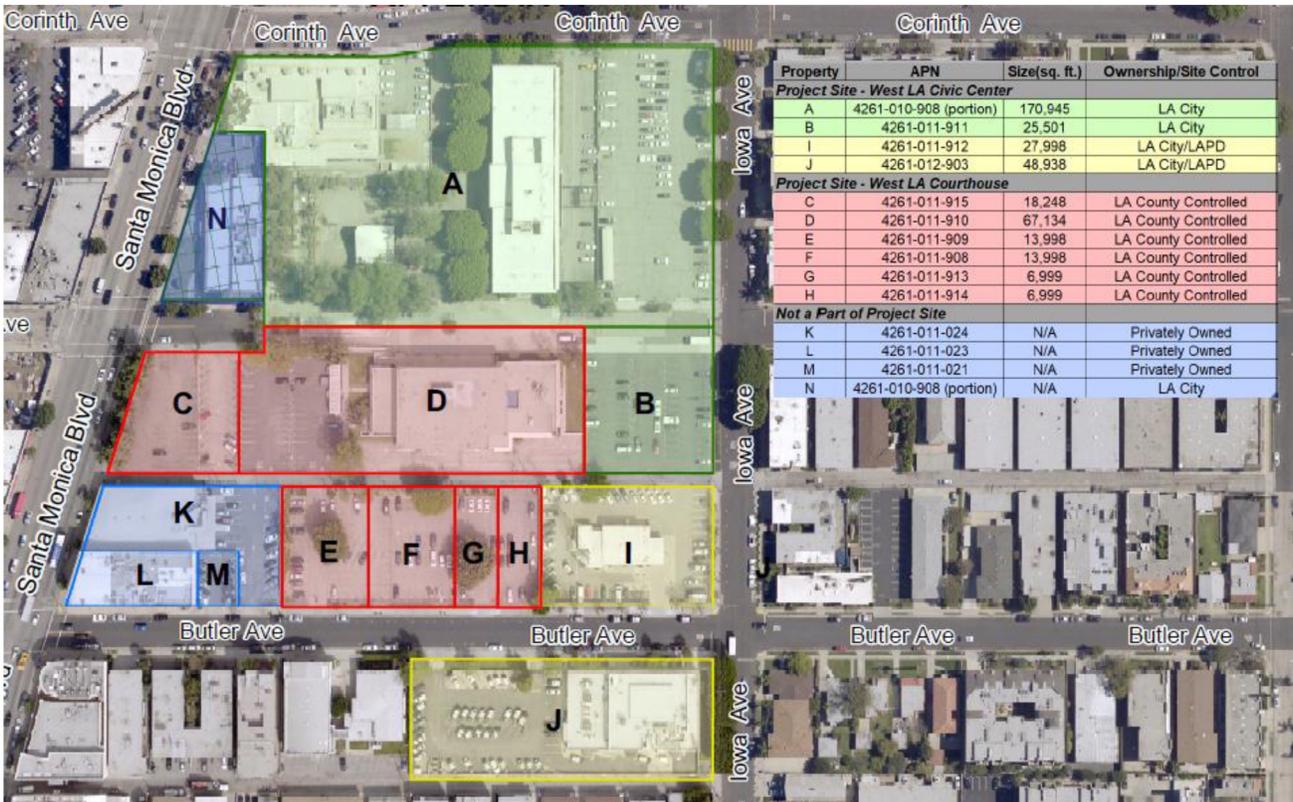
City Facilities

The West Los Angeles Civic Center (“West LA Civic Center”) is a City-owned property that falls within the boundary of Santa Monica Boulevard, Corinth Avenue, Iowa Avenue and Purdue Avenue. The site currently contains the following uses:

- West Los Angeles Regional Branch Library, 11360 Santa Monica Boulevard;
- Felicia Mahood Multipurpose Center, 11338 Santa Monica Boulevard;
- West Los Angeles Municipal Building, 1645 Corinth Avenue;
- Bandshell and open space; and
- Parking lots at 11347 W. Iowa Avenue and 1657 S. Purdue Avenue.

These areas are labeled as A and B, and color coded green on Figure 2 – Aerial Map of West Los Angeles Civic Center Campus below. The West Los Angeles Branch Library is not included in the RFP.

Figure 2 – Aerial Map of West Los Angeles Civic Center Campus



The Los Angeles Police Department (LAPD) facilities at 1663 S. Butler Avenue and 1658 S. Butler Avenue were included as optional redevelopment locations in the RFP, but the selected proposal does not include these sites.

County Facilities

The County site included the former West Los Angeles Courthouse and two large parking lots in the RFP. These areas are color coded red on Figure 2 above. The remaining parcels adjacent to the Courthouse parking lots, color coded blue on Figure 2, were not included in the RFP.

The County has negotiated a purchase price for the West Los Angeles Courthouse site with the State of California in the amount of \$35,780,000, which is based on a fair market value appraisal dated, January 18, 2019. The County executed a lease with an option to purchase which expires on February 6, 2023.

The County intends to complete the studies and outreach required under the CEQA prior to the February 2023 deadline so the developer can commit the funds to purchase the site by the deadline.

SELECTION PROCESS

On September 1, 2020, the County and City received four development proposals in response to the RFP (Figure 3). All four teams were deemed “qualified” by the County Procurement Officer.

Figure 3 – List of West LA RFP Development Teams			
Proposal Name	Lead Developer	Development Partner	Architect
CIVIC	National CORE	Trumark	JFAK Architects and City Fabrick Urban Design
LA Civic Arts	Thomas Safran & Associates	California Landmark Group and Berklee College of Music	Killefer Flammang and why Architecture
West LA Commons	AvalonBay Communities	Abode Communities	Koning Eizenberg
Westside Commons	Cityview	ReMet	Fred Fisher and Johnson Fain

The proposals were evaluated by a six-member Selection Panel, three proposed by the City and three by the County. The City’s Selection Panel members included staff from the CAO, CLA, and an architect who had previously served on the Sawtelle Neighborhood Council. The County’s representatives included staff from the County’s Department of Regional Planning, the Housing Investment and Finance Division of the LACDA, and a UCLA Professor and certified architect.

The Selection Panel scored each proposal on the following point system:

Figure 4 – Selection Panel Scoring Categories and Point System	
Category	Points
Development Team Experience and Financial Capability	Up to 300
Financing Strategy	Up to 250
Vision, Scope and Design	Up to 250
Community Outreach and Engagement Strategy	Up to 200
Bonus points for each additional affordable unit above the minimum required (one point)	Up to 100
For the shortlisted firms, after the public workshop, response to public comments	Up to 100
Total Potential Points	Up to 1200

Supplemental Review Teams

The Selection Panel received input from four Supplemental Review Teams (SRT) that evaluated each proposal in one of four areas – Organizational Capacity, Potential for Financial Success, Program and Design, and Community Outreach and Engagement Strategy. Each SRT included City and County staff. The Program and Design team also included outside architects. The SRTs ranked each of the proposals as “Recommended,” “Recommended with Reservations,” or “Not Recommended” for their specific issue area. The resulting recommendations, with a summary of the SRT’s discussions, were shared with the Selection Panel prior to their first meeting on October 6, 2020. At that meeting, the Selection Panel selected LA Civic Arts and West LA Commons as the finalists.

A financial consultant, RSG Consulting, participated in the Financial Supplemental Review Team and provided written analysis to the Selection Panel for each of their meetings. Trifiletti Consulting convened each of the Supplemental Review Team meetings and each of the Selection Panel meetings, coordinated communication, and tracked the scores. The City’s share of the consultant costs are being offset by the \$75,000 authorized for use from the CAO’s Contractual Services account.

Community Outreach

On October 14, 2020, Supervisor Sheila Kuehl’s Office (Supervisorial District 3) hosted a virtual Community Meeting on behalf of the County and the City and invited the two finalists to present an overview of their proposal at a virtual West LA Civic Center Community Meeting. The meeting was facilitated by our joint consultant, Trifiletti Consulting. Each finalist presented for 20 minutes and had a 15 minute Q&A. A video of the meeting can be found at: <https://supervisorkuehl.com/civiccenter/>

A survey was created to allow the community to provide feedback on the proposals. The survey was available during the community meeting and posted on the website, and also emailed to everyone who attended the community meeting. There were 215 total unique responses, split almost evenly between the two proposals.

As outlined in the RFP, each finalist was required to submit a Public Workshop Summary in response to the feedback at the community meeting. The Summary listed the issues and concerns raised by the attendees, and how the teams would address these concerns in their community outreach process.

Best and Final Offer and Final Scores

On October 30, 2020, the Selection Panel met to review the finalists’ Public Workshop Summaries. At that meeting, the Panel determined that it wanted to interview the finalists and requested a Best and Final Offer from each finalist. The interviews took place on November 20, 2020. The Best and Final Offers were due on December 11, 2020, and the Selection Panel met for the last time on December 17, 2020.

The scores following the interview and Best and Final Offer from the two (2) finalists are outlined in Figure 5 – Finalist Scores:

Figure 5 – Finalist Scores		
Scoring Criteria	LA Civic Arts	West LA Commons
Development team Experience and Financial Capacity	247	275
Financing Strategy	158	218
Vision, Scope and Design	219	206
Community Outreach and Engagement	170	174
Public Workshop Summary	88	86
Affordable Housing Bonus Points	39	68
Total	921	1028

Recommended Proposal Description - West LA Commons

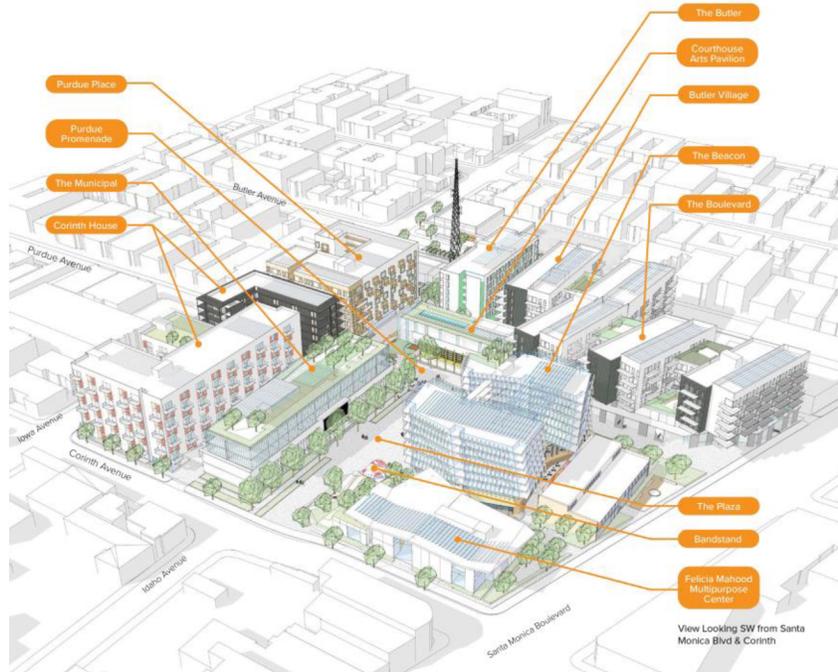
The key team members for the West LA Commons proposal include AvalonBay Communities, Abode Communities, and Koning Eizenberg Architecture.

Proposal Description – The proposal is described as “a vibrant community core featuring equitable housing opportunities; dynamic and engaging commercial space; and robust, inclusive community programming in a highly sustainable, well-thought master plan.”

Key benefits of the project are the design, which was considered highly appealing by the Selection Panel, the number of affordable units, and that the project would require no financing from the City or the County beyond typical participation in affordable housing financing, which is awarded on a competitive basis. The project team is self-financing a portion of the project which means that there is less uncertainty regarding ability to meet the timeline.

The proposal retains the Courthouse façade with a new building behind, an expanded Municipal Building to accommodate municipal workers from other local offices, and the Felicia Mahood Center rebuilt at its current location. The Best and Final proposal includes 926 units of housing, of which 83 are moderate and 348 are affordable. Of the affordable units, 99 are for seniors and 135 units are for people who have been chronically homeless. There was a tower in the initial response, which created some concern among community members. Based on this feedback, the Best and Final Offer reduces the top height to eight stories and redistributes units around the site, as illustrated in Figure 6 below. Attachment B and Attachment C are the proposed schematic and program design for the project.

Figure 6 – West LA Commons Schematic



EXCLUSIVE NEGOTIATING AGREEMENT

Upon approval and execution, this ENA commits the City to exclusive negotiations with the selected developer for an 18-month negotiating period, with the potential for up to four 90-day extensions, solely at the discretion of the City. The ENA describes the developer’s obligations to meet with community members and stakeholders, and the obligations of the parties with relation to the CEQA process. The developer will cover all staff costs related to the CEQA process except for the CLA, the CAO and the City Attorney. Figure 7 below outlines a summary of the ENA terms and Attachment A is the full Draft ENA.

Figure 7 - Proposed Exclusive Negotiating Agreement Terms and Conditions	
Facility Location	1645 West Corinth Avenue, Los Angeles
Parties	The City of Los Angeles and the development team of AvalonBay Communities and Abode Communities
Council File Reference	19-0987
Initial Term	18 months
Extensions	Four 90-day extensions, granted at the discretion of the City
Commencement Date	Upon Mayor’s approval
Staff Costs	Paid by development team, except for City staff costs

The schedule for the project is outlined in Attachment D – Proposed Project Schedule to this report.

SURPLUS LAND ACT

The Surplus Land Act (Government Code Section 54220 et seq.) (the “Act”) was amended by the California State Legislature by the adoption of AB 1486, effective on January 1, 2020. Although the Act does not, by its terms, explicitly apply to leased projects, the State interprets its provisions to be applicable to such projects and has proposed guidelines that provide that leases of any term are subject to the requirements of the Act. The draft guidelines are still pending, but if the State changes course and the final guidelines do not include leases within the coverage of the legislation, then the requirements¹ therein will not apply to this proposed project.

Under Section 54221 of the Act, the West LA Civic Center project meets the definition of “exempt surplus land” based on the following findings:

- Developers were solicited through an open, competitive bid process;
- A significant number of housing sponsors on the list published by the State’s Housing and Community Development Department (“HCD List”) were notified of the RFP and all four of the responding development teams are on the HCD list of developer’s interested in affordable housing projects;
- The proposed project is a mixed-use development that is more than one acre in size;
- The proposed project includes at least 300 housing units;
- At least 25 percent of the units will be restricted for use by lower income households under Health and Safety Code Section 50079.5;
- At least 25 percent of the units will be rented at affordable rents as defined in Health and Safety Code Section 50053; and
- An affordability covenant will be recorded against the property for at least 55 years.

Notwithstanding the aforementioned findings, the West Los Angeles Municipal Building will be redeveloped into 72,000 Sq. Ft. of office space for municipal employee and public use. This part of the proposed project is not subject to the Surplus Land Act because it will continue to be used by the City as administrative offices.

¹ The Act requires that surplus land be first offered to affordable housing developers and then to park departments and districts, school districts and developers of infill projects. If one of the entities submits a notice of interest to the government seller of the property, then the parties must negotiate in good faith the price and terms for sale of the property for 90 days. If the parties cannot reach agreement, or none of the noticed entities submits a notice of interest, then the government entity may proceed with its disposition process for the property.

FISCAL IMPACT STATEMENT

There will be no additional impact to the General Fund from approval of these recommendations.

FINANCIAL POLICIES STATEMENT

The actions recommended in this report comply with the City's Financial Policies.

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Doc Id: 15210052

- Attachment A: Draft Exclusive Negotiating Agreement
- Attachment B: West LA Commons Schematic Design
- Attachment C: West LA Commons Proposed Program
- Attachment D: Proposed Project Schedule

EXCLUSIVE NEGOTIATING AGREEMENT

BY AND BETWEEN

THE CITY OF LOS ANGELES

AND

[DEVELOPER/S]

This Exclusive Negotiating Agreement (the "Agreement") is entered into as of this ___ day of _____, 2021 by and between the City of Los Angeles acting through the Office of the City Administrative Officer ("City"), and [DEVELOPER/S] (collectively, the "Developer", as more fully defined in Section 1.3), with reference to the following facts:

RECITALS

A. The City of Los Angeles owns in fee certain real properties located at 11401 – 11409 W. Iowa Avenue, 1653 - 1657 S. Purdue Avenue, 1640 - 1652 S. Purdue Avenue, 11343-11359 W. Iowa Avenue, 1645 - 1667 Corinth Avenue, 11342 – 11358 W. Idaho Avenue, 11343 – 11353 W. Idaho Avenue, 1619 S. Corinth Avenue, 11332 – 11338 W. Santa Monica Avenue and having Assessor ID Numbers 4261-011-911, a portion of 4261-010-908, which are improved sites, and collectively commonly known as the West Los Angeles Civic Center (the "Site"), as particularly described in the attached Legal Description as Exhibit A, and set forth in the attached Site Access Map as Exhibit B, each of which are incorporated herein by this reference.

B. The improvements that comprise the Site include the West Los Angeles Civic Center Building, the Felicia Mahood Multipurpose Center, the parking lot at the corner of Iowa and Purdue, the parking lot between Corinth, Iowa and Purdue, open space including the bandshell, and the portion of Purdue used as a private drive.

C. On November 5, 2019, the County of Los Angeles ("County") authorized the execution of a Lease-to-Purchase agreement with the Judicial Council of California for the purchase of the property located at 1633 Purdue Avenue, Los Angeles, California 90025, commonly known as the West Los Angeles Courthouse and having Assessor Parcel Numbers: 4261-011-908, -909, -910, -913, -914, -915 ("County Property") which is located adjacent to the Site and subsequently began pursuing its redevelopment.

D. In furtherance of these efforts and to support a more comprehensive

development solution, the City desired to explore opportunities to develop the Site in conjunction with the County's development of the County Property, in a manner that aligns with the respective public policy goals of both parties; and

E. On April 29, 2020, the Los Angeles City Council authorized the execution of a Memorandum of Understanding with the County, as well as the issuance of a joint Request for Proposals to select a qualified development team to create a mixed-use development at the West Los Angeles Civic Center, which will include municipal space, commercial space, housing and retail.

F. On May 15, 2020, the City released a joint Request for Proposals with the County. Responses were due on August 11, 2020. The responses were scored by a selection panel and a recommendation made to City Council for the team with the highest score.

G. On [DATE], the Mayor and City Council approved of the overall development program and mix of uses for the combined properties and selected the Developer as the winner of the RFP to exclusively participate in the ENA process. The Developer's proposal, as it may be modified by subsequent negotiations and input provided during the Negotiating Period defined in Section 1.2, shall be referred to in this Agreement as the "Proposed Project." The City Council has directed City staff to enter into negotiations with the Developer for the potential disposition of the Site.

H. The purpose of this Agreement is to establish the process and standards for the negotiation between the City and the Developer (hereinafter the "Parties") with regard to the Proposed Project for consideration by City Council and Mayor. If approved by City Council and Mayor, the Parties will execute agreements for disposition (such as a Disposition and Development Agreement, Purchase and Sale Agreement, Covenant Agreement, long-term Lease, and/or other agreements as determined by the Parties) of the Site and development of the approved Project ("Definitive Agreements"). As more fully set forth in Section 3.1, this Agreement does not grant the Developer or any successor the right to acquire the Site or develop the Proposed Project or construct any improvements on the Site.

I. The execution of the Definitive Agreements by the City is subject to and contingent upon the City Council's approval after compliance with the California Environmental Quality Act ("CEQA") and the National Environmental Policy Act ("NEPA"), if and as applicable for the Proposed Project.

J. The City is required to comply with CEQA in connection with the consideration and analysis of the environmental impacts of the development of the Proposed Project. Because the City has not committed to any project, including the

Proposed Project, and has not completed environmental review pursuant to CEQA, this Agreement does not constitute or evidence an approval by the City of, or commitment of the City to, any action for which prior environmental review is required under CEQA. The City retains the absolute sole discretion to make decisions under CEQA with respect to the Proposed Project, which discretion includes: (i) deciding not to proceed with development of the Proposed Project, (ii) deciding to proceed with development of the Proposed Project, and (iii) deciding to proceed with any alternative development of any portion of the County Property. There shall be no approval or commitment by the City regarding the Proposed Project or the transactions related thereto, or any alternative development of any portion of the Site, unless and until the City, or other agency serving as the Lead Agency with respect to the Proposed Project, considers the environmental impacts of the Proposed Project, in full compliance with CEQA and NEPA, if applicable for the Proposed Project.

WITH REFERENCE TO THE FACTS RECITED ABOVE, City and the Developer agree as follows:

ARTICLE 1: RIGHT TO NEGOTIATE EXCLUSIVELY

Section 1.1 Good Faith Negotiations.

a. During the Negotiating Period described in Section 1.2, City and the Developer shall diligently and in good faith negotiate the terms of the Definitive Agreements, for the development of the Proposed Project on the Site, and shall cooperate in conducting such Proposed Project feasibility activities as each Party deems appropriate (the "Negotiations"). During the Negotiating Period, the Parties shall use good faith efforts to accomplish the respective tasks outlined in the schedule attached as Exhibit C to this Agreement (as the same may be modified in accordance with the Agreement, the "Initial Schedule of Performance") to facilitate the negotiation of mutually satisfactory Definitive Agreements.

b. The issues to be addressed during the Negotiations shall include, but will not necessarily be limited to, the following: the uses to be constructed and operated on the Site; the total development costs of the Proposed Project; the nature and amount of financial investment in the Proposed Project by the Developer; the price and terms of the potential long term lease of the Site to Developer; remediation of any adverse Site conditions; discretionary land use approvals (if applicable) and Developer's responsibility to obtain all entitlements and environmental clearances; the development schedule for the Proposed Project; financing of the Proposed Project; marketing and management of the Proposed Project; design and aesthetic considerations of the Proposed Project; Site layout; preliminary design and architectural concepts and plans; the quality and type of construction; and the provision of community benefits and public improvements related

to the Proposed Project.

c. As part of the Negotiations, Developer shall make available such additional staffing, consultants and other resources as may be required for the timely resolution of issues which may arise during Negotiations and for the expeditious review of documents to be prepared by or on behalf of City. It is anticipated that, except as City may otherwise determine the Negotiations and other meetings between the parties during the Negotiating Period shall take place at City's offices or other locations in Los Angeles, or using telephone conference or online meeting software, and, unless otherwise expressly authorized by the City, all draft Definitive Agreements shall be prepared by the City, its attorneys and/or consultants and provided to Developer and Developer's attorneys and consultants for review and comment. During the Negotiating Period, Developer agrees to participate in a community engagement process as requested and hosted by the City, in addition to all Developer-initiated community outreach. Any such City or County hosted meetings will update the community on the progress of Negotiations, and will seek community input on Proposed Project design, environmental, and other issues. During the Negotiating Period, Developer agrees to participate in meetings with local stakeholders as requested by the City.

d. Each Party acknowledges and agrees that the other Party shall be deemed to be acting in good faith so long as it makes reasonable efforts to attend scheduled meetings, directs its consultants to cooperate with the other Party, provides information necessary to the Negotiations to the other Party, and uses commercially reasonable efforts to timely review and return with comments all correspondence, reports, documents, or agreements received from the other Party that require such comments.

Section 1.2 Negotiating Period.

a. The negotiating period under this Agreement (the "Negotiating Period") shall be eighteen (18) months from the date of execution of this Agreement, unless extended pursuant to the provisions of this Section 1.2. If the Definitive Agreements have not been executed by the Parties (or by City and an entity formed by Developer for purposes of developing the Site, approved by City) by the expiration of the Negotiating Period, then this Agreement shall terminate and neither Party shall have any further rights or obligations under this Agreement, except for the indemnifications as set forth in Sections 2.2, 2.3 and 3.4. However, up to four (4) extensions of the Negotiating Period, each for an additional ninety (90) calendar days, may be granted by the City Administrative Officer, at his sole discretion. In addition, an extension to defend litigation filed against the Proposed Project or to comply with governmental regulatory requirements may be granted by the City Administrative Officer, at his/her sole discretion. Except as expressly provided in this Section 1.2, the Negotiating Period may be extended only by written amendment to this Agreement, and no other act or failure to act by City or

any of its representatives shall result in an extension of the Negotiating Period. If an extension is not granted or otherwise authorized by this Section 1.2, then this Agreement shall automatically terminate.

b. If the Definitive Agreements are executed by both Parties, then upon such execution this Agreement shall terminate, and all rights and obligations of the Parties shall be as set forth in the executed Definitive Agreements.

c. This Agreement may also be terminated if the Parties mutually agree in writing that a successful consummation of the Negotiations is impossible. In addition, the City may terminate this Agreement upon thirty (30) days' prior written notice to Developer, if the City in good faith determines any of the following: (i) a successful consummation of the transaction contemplated by this Agreement is not likely, (ii) the Proposed Project is not feasible, (iii) the Proposed Project is not capable of being financed in a commercially reasonable manner, or (iv) the Proposed Project is not likely to be developed and constructed in a timely manner.

Section 1.3 Exclusive Negotiations.

During the Negotiating Period, City shall not negotiate with any person or entity, other than the Developer, regarding development of the Site or any portion thereof, or solicit or entertain bids or proposals to do so. The term "Developer" shall mean [INSERT DEVELOPER/S NAME] as of the date of this Agreement or an entity formed by Developer, in which Developer is a general partner or managing member, for the purpose of entering into the Definitive Agreements and developing the Site, as approved by City. Developer acknowledges, however, that City may, from time to time, be contacted by other developers regarding the Site and that such contact is permitted so long as City does not initiate the contact, does not engage in substantive communications, and indicates to such other developers that City has executed this Agreement with the Developer and that City is unable to discuss these Negotiations, or entertain any offer or proposals, or to negotiate with any other developer with respect to the Site until this Agreement expires or is terminated. Notwithstanding the above, the City reserves the right to update the public regarding the project.

Section 1.4 City Consultant Costs Deposit.

a. The Developer acknowledges that the City will expend substantial resources in the negotiation and performance of this Agreement. Within five (5) business days of the Effective Date, the Developer shall deposit with the City the sum of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) (the "Deposit") which shall not accrue interest. At the City's election, the Developer may provide the Deposit in the form of cash, an irrevocable direct pay letter of credit, a pledged certificate of deposit, an interest

bearing account that is controlled by City, or such other form of security acceptable to City in its sole discretion.

b. During the Negotiating Period, whenever the Deposit balance falls below FIFTY THOUSAND DOLLARS (\$50,000.00), Developer will replenish the Deposit up to the maximum original Deposit amount of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00), promptly following written notice from the City. Application and use of the Deposit funds by the City shall be governed by this Section 1.4.

c. The Parties acknowledge and agree that the Deposit shall be used by the City to offset the City's staffing costs, third party costs, and expenses in connection with the Negotiations, preparing the Definitive Agreements, analyzing the financial feasibility of the Proposed Project, and any City-required work to comply with the terms and conditions of this Agreement. The City's staffing costs shall include, but not be limited to, administrative costs relating to the review and approval of the Proposed Project by various City departments, exclusive of the Chief Legislative Analyst, City Administrative Officer, and City Attorney, and includes the preparation, coordination, and review of necessary studies (including environmental documents and environmental and economic studies) and the Definitive Agreements ("Staffing Costs"). Such third-party costs shall include, but are not limited to, fees and expenses of outside counsel, environmental, soils, geotechnical, traffic, and economic consultants engaged by the City for services relating to the Proposed Project and the preparation of the Definitive Agreements ("Consultant Costs").

d. To the extent there is a positive balance of Deposit funds remaining by the end of the Negotiating Period and the Definitive Agreements have not been entered into (or the Definitive Agreements approved as to form and content in writing by the applicable City representative(s) have not been executed and submitted to the City by the Developer) and the Developer has negotiated in good faith and is not in breach of this Agreement, City shall return the remaining Deposit to the Developer along with an accounting of the Staffing Costs and/or Consultant Costs incurred by the City. None of the Deposit funds shall be used as a credit against the lease price for the property, or for any other consideration related to the transaction.

e. If this Agreement is terminated by the City at any time (but subject to applicable notice and cure periods as set forth herein) due to a breach of the Developer's obligation to negotiate in good faith or as the result of any other Default by Developer, then the entire balance of the Deposit shall be retained by City as liquidated damages, as more fully provided in Section 3.6.

f. If performance of this Agreement results in execution of the Definitive Agreements, the disposition of the remaining Deposit, if any, shall be as provided for in the disposition and development agreement.

Section 1.5 Definitive Agreement Terms and Conditions.

The essential terms and conditions of the Definitive Agreements to be negotiated and drafted pursuant to this Agreement shall be guided by the following requirements and conditions:

a. The Negotiations shall be based on and guided by, and the Definitive Agreements shall incorporate, the objectives, parameters, development requirements, terms, conditions, and other requirements set forth in the terms set forth in the City Council action by which negotiation and execution of this Agreement was approved, any applicable City Design for Development or Development Guidelines, the development plan, and the Proposed Project.

b. The Definitive Agreements shall be subject to all applicable ordinances, policies, and requirements of City, as well as state and federal law, including but not limited to compliance with the Standard Provisions for City Contracts, a copy of which is attached as Exhibit D.

c. The Definitive Agreements shall contain a scope of development consistent with the Proposed Project plans approved by the City during the entitlement process and analyzed for environmental impacts under the California Environmental Quality Act ("CEQA"). The Parties acknowledge and agree that the Proposed Project may be modified by the Parties, including changes to the mix of uses, total development density, and design, as may be necessary to construct a feasible development project of the Site.

d. The Definitive Agreements shall contain a comprehensive Schedule of Performance setting forth the respective times in which City and the Developer are obligated to perform their respective obligations, as further detailed in Section 2.9.

e. The Definitive Agreements shall include provisions describing the financing for the Proposed Project, including "sources and uses" budget, and a feasible method of financing reasonably demonstrating to City the availability of all funds needed to complete the Proposed Project. The Definitive Agreements shall require the submittal of documentation of all proposed construction loans and developer equity needed to carry out the proposed method of financing. The Developer agrees to make continuing full disclosure to the City of its proposed methods of financing the Proposed Project.

f. The Definitive Agreements shall set forth the price and terms of, and conditions precedent to the sale or lease of the Site by City.

g. The Definitive Agreements shall prohibit, without prior written City consent, any assignments or transfers by the Developer, including assignments of security

interests in the property for financing purposes for an agreed upon period of time to be determined and stipulated in the Definitive Agreements.

Section 1.6 Covenant Agreement

- a. The conveyance of the City's interests in real property shall be governed by City Ordinance 182500 and Los Angeles Administrative Code Section 7.27.2, pursuant to one or more agreements requiring the development, use, and maintenance of the real property for economic development. Such agreements ("Covenant Agreement") shall require as a condition precedent to the conveyance that one or more deed restrictions be recorded against the conveyed interest restricting the development and use and requiring the maintenance of such real property so as to insure that the economic development purpose for which the conveyance was made is fulfilled for such period of time as is determined to be appropriate.[Sec. 22.1008 Real Property (c) Conveyance of City Interests in Real Property]. ("ED Restrictions") The Covenant Agreement shall be an exhibit of the disposition and development agreement.
- b. The conveyance of the City's interest in the Site shall be further conditioned upon the recordation of an additional deed restriction which shall contain use and rental restrictions setting forth the amount, duration, and affordability levels of the Affordable Housing, which affordability levels shall be consistent with the Developer's RFP response ("Housing Restrictions" and, collectively with the ED Restrictions, the "Deed Restrictions").
- c. The Deed Restrictions may be recorded either separately or in a single document as agreed upon by the Parties. The Deed Restrictions, if recorded together shall be recorded in first position against the Developer's fee interest in the Site and shall not be subordinate to any other lien or restriction incurred by the Developer. In the event that the Deed Restrictions are recorded separately, the Housing Restrictions shall be recorded first and the ED Restrictions shall be recorded second, neither of which shall be subject to subordination.

Section 1.7 Confidentiality Agreement

a. The Developer acknowledges that the City will need sufficient, detailed information about the economic feasibility of the Proposed Project to negotiate and make informed decisions about the content and approval of the Definitive Agreements. As a general rule, all records (documents and materials) submitted by the Developer and received by the City ("Submitted Materials") are considered public records, and are subject to disclosure to the public under the requirements of the Public Records Act, California Government Code section 6250 et seq. ("CPRA"). The Parties shall cooperate

in good faith to, prior to public disclosure, evaluate the materials or information being requested and determine whether any additional exemptions apply under the CPRA that authorize the City to not disclose the Submitted Materials.

b. The Developer acknowledges and agrees that the City may share Submitted Materials provided by the Developer (e.g., of a financial and potential proprietary nature) with third-party consultants and attorneys who have been engaged to advise the City concerning matters related to this Agreement as part of the negotiation and decision-making process.

c. If the Developer asserts that any portion of Submitted Materials are subject to a legal exception to public disclosure under the CPRA, the Developer must: (1) clearly label the relevant Submitted Materials as "Confidential – Official Information" ("Official Information") (2) upon request from the City, provide additional information regarding the legal basis for exception from disclosure under the CPRA, and (3) defend, indemnify, and hold harmless the City regarding any claim by any third party for public disclosure of the confidential portion of the Submitted Materials.

d. To the extent that the City receives a request to disclose any Submitted Materials that are clearly marked as "Confidential – Official Information," and the City determines that there is a legal basis for withholding such Official Information from public disclosure, the City shall not disclose such Official Information unless compelled by court order; provided that the Developer shall defend, indemnify, and hold harmless the City regarding any claim or litigation by any third party for such public disclosure, and such obligation shall survive the termination of this Agreement and any expiration of the Negotiating Period.

e. To the extent that the City receives a request to disclose any Submitted Materials, and the City does not identify a legal basis to withhold the Submitted Materials, the City shall provide written notice to the Developer, and the Developer shall be given a reasonable opportunity to seek a court order to preclude the City from disclosing such Submitted Materials, or applicable portion thereof, provided that in such event the Developer shall defend, indemnify, and hold the City harmless regarding any claim or litigation by any third party, and such obligation shall survive any termination of this Agreement and any expiration of the Negotiating Period.

f. Except as expressly set forth above in this Section 1.7, City shall be entitled to publicly disclose all Submitted Materials.

Section 1.8 Identification of Negotiating Representatives.

The Developer's point of contact to negotiate the Definitive Agreements with City shall be: Yolanda Chavez, Assistant General Manager and Jacqueline Vernon Wagner,

Chief Administrative Analyst.

The representatives of Developer's development team for the Project Proposed Project shall be as follows:

- [FIRST NAME LAST NAME, DEVELOPER]
- [FIRST NAME LAST NAME, DEVELOPER]
- [FIRST NAME LAST NAME, DEVELOPER]

Either Party may designate a substitute representative and consultants by giving written notice to the other Party of the name of such substitute representative.

ARTICLE 2: NEGOTIATION TASKS

Section 2.1 Overview.

To facilitate Negotiations, the Parties shall use reasonable good faith efforts to accomplish the tasks set forth in the Initial Schedule of Performance attached hereto as Exhibit C in the timeframe set forth therein so as to support negotiation and execution of mutually acceptable Definitive Agreements prior to the expiration of the Negotiating Period. The dates set forth in the Initial Schedule of Performance for the performance of various tasks by the Developer may be extended by City in its sole discretion.

Section 2.2 Reports.

a. Developer shall provide City with copies of all final reports, studies, analyses, correspondence, schematic design drawings, and similar documents, prepared or commissioned by Developer with respect to this Agreement and the Proposed Project promptly upon their completion, all of which reports, studies, analysis, correspondence, drawings and documents shall be prepared and undertaken at Developer's sole cost and expense. City shall provide the Developer with copies of all reports, studies, analyses, correspondence, and similar documents prepared or commissioned by City with respect to this Agreement and the Proposed Project promptly upon their completion. Nothing in this Section 2.2 obligates City to undertake any studies or analyses. Any document provided to any party pursuant to this section shall be without warranty.

b. Upon request, Developer shall either provide to City, or shall otherwise make the information available for review by City's agents, negotiators and consultants, such detailed information concerning the Proposed Project that City shall require in order to make informed decisions about the content and approval of the Definitive Agreements.

c. Developer acknowledges that all documents and reports submitted to City

pursuant to this Agreement shall become the property of City, and will be subject to the California Public Records Act (Government Code Section 6250 et seq.) as provided below. All documents submitted to City are “public records” and may be subject to public disclosure. If an exemption to the California Public Records Act applies, Developer may seek to shield certain portions of its documents and reports from disclosure by marking such documents as, “Confidential,” “Trade Secrets,” or “Proprietary,” if such are the case.

d. City shall notify the Developer of any requests under the Public Record Act for documents that have been marked, “Confidential,” “Trade Secrets,” or “Proprietary,” by the Developer and City’s determination regarding whether such documents must be disclosed. Developer and City shall cooperate to retain financial and proprietary information submitted by Developer as confidential to the extent permitted by law. These steps shall include, but are not limited to the following: In the event that City obtains a request pursuant to the provisions of the California Public Records Act to disclose any of Developer’s information which City is required to keep confidential pursuant to the terms of this Agreement, City shall not disseminate such information, and shall take all reasonable steps to maintain such confidentiality, unless otherwise required by law. Further, City shall provide Developer with prompt notice thereof and, subject to the time periods imposed by the California Public Records Act for responses to public record requests, shall give Developer a reasonable opportunity to interpose an objection or to seek a protective order, subject to the time limitations. The Parties shall also cooperate with each other and use reasonable efforts to promptly identify any applicable exemptions from disclosure under the California Public Records Act. In the event City is required to defend an action under the California Public Records Act with regard to a request for disclosure of any of the documents or reports marked, “Confidential,” “Trade Secrets,” or “Proprietary,” by Developer, Developer agrees to defend and indemnify City from all costs and expenses of such defense, including attorneys’ fees incurred by City (which shall be reasonable fees) or attorneys’ fees awarded by a court arising out of such action.

Section 2.3 Test, Surveys and Site Access.

During the Negotiation Period, subject to the consent or approval of any owners of property not owned by Developer or City, Developer may conduct such tests, surveys, and other analyses of the Site as Developer deems necessary to determine the feasibility of the Proposed Project, and shall complete such tests, surveys, and other analyses as promptly as possible within the Negotiating Period, all as Developer’s sole cost and expense. City shall provide to Developer, its agents, and its representatives the right to enter onto the Site and to conduct such tests, surveys, and other procedures (the “Tests”) after entering into a written “Right of Entry” agreement with City. Each Right of Entry Agreement shall have a specified time limit and authorized activities. Developer shall indemnify and hold harmless City and the City of Los Angeles from any loss, cost, or damage (including, without limitation, reasonable attorneys’ fees) arising out of any such

entry (whether such property is owned by City or any third party) by Developer, its agents, or its representatives. Prior to making any entry upon property owned by City pursuant to this Agreement, Developer shall deliver to City documentation of certain insurance requirements as prescribed by City's Risk Manager, which are set forth on Exhibit E of this Agreement, naming City as additional insureds. The insurance policy shall cover all liability and property damage arising from the presence of Developer, its agents, or its representatives on the Site during the conduct of the Tests. Each incident of site access requires permission from the Departments that control the part of the site for which access is required. Please see Exhibit B for a site access map. As of the signing of this document, those Departments include the Department of General Services, the Department of Transportation and the Los Angeles Police Department. The City's representative listed in Section 1.8 is the contact for coordination for site access.

Section 2.4 Environmental Review.

a. Within the time set forth in the Schedule, the Developer shall prepare and submit to City such plans, specifications, drawings, and other information, as specified by City, that are reasonably necessary to undertake the environmental review process as required by the California Environmental Quality Act ("CEQA") and the National Environmental Policy Act ("NEPA"), if and as applicable for the Proposed Project. All environmental documentation required by CEQA and NEPA, as applicable, will be provided at Developer's sole cost and expense.

b. During the Negotiating Period and subject to the Developer providing the necessary information to City, the City Planning Department shall coordinate with other departments of the City to assist the Developer in conducting the required environmental review.

Section 2.5 Planning Approvals.

Developer acknowledges that the Proposed Project requires approvals and entitlements from the City. During the Negotiating Period, Developer shall submit site plans and designs for the Proposed Project to City and the appropriate City departments for their review within the time set forth in the Schedule of Performance.

Section 2.6 Financial Pro Forma.

Within the time set forth in the ENA Schedule, the Developer shall provide the City with a detailed financial pro forma for the Proposed Project containing matters typically contained in such pro forma, including without limitation, a detailed development cost budget and a detailed operating income and expense estimate ("Financial Pro Forma"). The Financial Pro Forma is intended to provide the initial basis for determining the

financial feasibility of the Proposed Project in connection with the negotiation of the Definitive Agreements. The Parties acknowledge that the Financial Pro Forma will continue to be refined in accordance with the Definitive Agreements.

Section 2.7 Financing Commitments.

Developer shall use good faith efforts to provide City, prior to entering into the Definitive Agreements, with executed written commitments (which may be subject to customary conditions) for construction and permanent financing for the Proposed Project.

Section 2.8 Community Outreach Program.

The Developer shall present to the City for its approval, the Developer's proposed plan for conducting outreach to various community groups and stakeholders for educating and soliciting input from the public with respect to the Proposed Project, and for informing the City Council and other regulatory agencies about the Proposed Project during the Negotiating Period ("Community Outreach Program"). The Community Outreach Program must be in substantial accordance with the proposed outreach plan submitted by the Developer in its RFP response. The response should include, without limitation, a plan for use of outreach tools (e.g., mailers, brochures, forums educating the public, and a budget for publicizing the Proposed Project), along with the Developer's strategy for publicizing the Proposed Project and for keeping the appropriate regulatory agencies apprised of the development status of the Proposed Project. The City may suggest reasonable revisions or changes to the proposed Community Outreach Program, which Developer shall implement unless implementation is financially infeasible, in which case the Developer shall provide the City with documentation illustrating why it cannot implement the City's requested changes. During the Negotiating Period, the Parties shall mutually agree upon the proposed Community Outreach Program, and no Party shall unreasonably withhold, condition, or delay its consent to revisions or changes. The Developer agrees and acknowledges that maintaining professional working relations with the City's constituents, the public, and regulatory agencies, is critical to the City.

Section 2.9 Schedule.

Developer and City shall negotiate a detailed Schedule of Performance to be incorporated into the Definitive Agreements which shall include, at a minimum but not be limited to the following:

- time for submittal of construction plans to City;
- time for satisfaction of all conditions precedent to conveyance of the Property;
- closing of construction financing, as applicable;
- time for commencement of construction of the Proposed Project;
- date for completion of construction; and

- opening considerations and continuing operation of the Proposed Project.

Section 2.10 Progress Reports.

Upon reasonable notice, as from time to time requested by City, Developer shall prepare and deliver written progress reports including financing and leasing activities, advising City on studies being made, and matters being evaluated by Developer with respect to this Agreement and the Proposed Project. City shall not request regular written reports more frequently than once each month. Special or ad hoc reports may be requested in addition to monthly reports.

ARTICLE 3: GENERAL PROVISIONS

Section 3.1 Limitation on Effect of Agreement.

This Agreement shall not obligate either Party to enter into the Definitive Agreements or to enter into any particular agreement. City and Developer do not intend this Agreement to be a purchase agreement, option, or any similar definitive contract, or to be bound in any way by this Agreement except to negotiate exclusively and in good faith, as provided above or as otherwise specified by this Agreement. By execution of this Agreement, City is not committing itself to or agreeing to undertake acquisition, disposition, or exercise of control over any property, or to approve any particular development project, nor is Developer committing itself to undertake the acquisition, or development of any property. Execution of this Agreement by City and the Developer is merely an agreement to take the actions that are reasonably necessary to conduct exclusive negotiations for a specified period of time. These actions may or may not lead to recommendations to the City Council and Mayor relating to such matters. This Agreement reserves the final discretion and approval regarding the execution of Definitive Agreements relating to the Site, and all proceedings and decisions in connection therewith, for the City Council and Mayor. Any Disposition and Development Agreement and Covenant Agreement resulting from Negotiations pursuant to this Agreement shall become effective only if and after such Definitive Agreements have been considered and approved by the City Council and Mayor and following conduct of all legally required proceedings. Each party assumes the risk that, notwithstanding this Agreement and good faith negotiations, the Parties may not enter into the Definitive Agreements due to the Parties' failure to agree upon essential terms of a transaction. Except as expressly provided in this Agreement, Developer agrees that City shall have no obligations or duties hereunder and no liability whatsoever in the event the Parties fail to execute the Definitive Agreements.

The Parties acknowledge and agree that the City retains the absolute discretion to (i) modify the transaction, create and enter into Definitive Agreements, and modify the

Proposed Project as may, in its sole discretion, be necessary to comply with CEQA, (ii) select other feasible alternatives to avoid significant environmental impacts, (iii) balance the benefits of the Proposed Project against any significant environmental impacts prior to taking final action if such significant impacts cannot otherwise be avoided, and/or (iv) determine not to proceed with the Proposed Project. No legal obligations with respect to allowing the Proposed Project to be constructed will exist unless and until the parties have negotiated and approved mutually acceptable Definitive Agreements and the City has issued all required entitlements based upon information produced from the CEQA environmental review process and on other public review and hearing processes.

Section 3.2 Notices.

Formal notices, demands, and communications between the Parties shall be sufficiently given if, and shall not be deemed given unless, dispatched by certified mail, postage prepaid, return receipt requested, or sent by express delivery or overnight courier service, to the office of the Parties shown as follows, or such other addresses as the Parties may designate in writing from time to time:

City: The City of Los Angeles
Office of the City Administrative Officer
Attention: Jacqueline Vernon Wagner
200 N. Main Street, Suite 1500
Los Angeles, CA 90012

With copy to: The City of Los Angeles
City Attorney
Attention: _____
200 N. Main Street, 9th Floor
Los Angeles, CA 90012

Developer: _____

Such written notices, demands, and communications shall be effective on the date shown on the delivery receipt as the date delivered or the date on which delivery was refused.

Section 3.3 Costs and Expenses.

The City anticipates that following execution of this Agreement, and through the Negotiating Period and preparation of the Definitive Agreements, the City, as well as certain consultants and attorneys for the City, will devote substantial time and effort in reviewing documents, proposals, plans, and meeting with the Developer, each other, and other necessary third parties. The City acknowledges that the Developer will also expend substantial time and financial resources hereunder, and the Parties are willing to engage in all of these activities subject to the terms and conditions set forth in this Agreement. Except as otherwise provided in this Agreement, each Party shall be responsible for and bear their respective costs and expenses incurred during and as a result of performing their activities, obligations, and negotiations pursuant to this Agreement.

Section 3.4 No Commissions.

City shall not be liable for any real estate commissions or brokerage fees that may arise from this Agreement or any Definitive Agreement that may result from this Agreement. City represents that it has engaged no broker, agent, or finder in connection with this transaction. Developer shall defend and hold City harmless from any claims by any broker, agent, or finder retained by the Developer.

Section 3.5 Use of Proposed Project Images.

Developer hereby consents to and approves the use by City of images of the Proposed Project, its models, plans, and other graphical representations of the Proposed Project and its various elements ("Proposed Project Images") in connection with marketing, public relations, special events, websites, presentations, and other uses required by City in connection with the Proposed Project during the Negotiating Period. Such right to use the Proposed Project Images shall not be assignable by City to any other party (including, without limitation, any private party) without the prior written consent of Developer. Developer shall obtain any rights and/or consents from any third parties necessary to provide these Proposed Project Image use rights to City. In the event that the Parties enter into Definitive Agreements, City's right to use the Proposed Project Images shall be as set forth in the Definitive Agreements.

Section 3.6 Default and Remedies.

a. Default. The occurrence of any one or more of the following events shall constitute a breach under this Agreement (each a "Breach"): (a) the failure of a Party to perform any obligation, or to comply with any covenant, restriction, term, or condition of this Agreement, (b) the failure by Developer to meet the milestones set forth in the Initial Schedule of Performance, unless otherwise modified and agreed to in writing by the Parties, or (c) any material representation or warranty made by a Party proves to be false or misleading in any material respect at the time made. A Breach shall become a default

under this Agreement (“Default”) if the Developer fails to cure the Breach within the following time periods: (i) for all monetary Breaches, five (5) business days after receipt of written notice of monetary breach, (ii) for all non-monetary Breaches, twenty (20) business days, and (iii) for any non-monetary Breach that is not reasonably susceptible to cure within this twenty (20) business day period, then, provided that the Party in Breach has promptly commenced to cure such Breach upon receipt of such written notice and shall continue to diligently pursue such cure to completion, the cure period shall be extended by the amount of time reasonably necessary to cure such Breach but in no event longer than forty (40) business days (the “Outside Date”).

b. **Unavoidable Delay.** If a non-monetary Breach is due to an Unavoidable Delay (as defined below), then the City shall have the right to extend the Outside Date by a period equal to the duration of the Unavoidable Delay by delivering written notice to the Developer. The duration of the Unavoidable Delay shall be deemed to commence only after written notice of such Unavoidable Delay is delivered to the Developer, provided that if written notice of such Unavoidable Delay is given within five (5) business days after the commencement of the delay, then the date of the commencement of the Unavoidable Delay shall be retroactive to the actual commencement date of the delay. A written notice of Unavoidable Delay must reasonably specify: (i) the nature of the delay; (ii) the date the delay commenced and (if not ongoing) ended; and (iii) the reason(s) such delay is an Unavoidable Delay. Upon the documentation of an Unavoidable Delay pursuant to this Section 3.6.b, the Outside Date shall be delayed by the period of the Unavoidable Delay; provided, however, under no circumstances may the Outside Date be extended by more than a total of forty (40) Business Days as a result of Unavoidable Delay without the written consent of both Developer and the City. The term Unavoidable Delay shall mean a delay that is caused by war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; litigation; severe weather; inability to secure necessary labor, materials or tools; delays of any contractor, subcontractor or supplier; acts of another party; acts or the failure to act of any public or governmental agency or entity (except that acts or the failure to act of the Developer shall not excuse performance by the Developer) or any other causes beyond the control or without the fault of the party claiming an extension of time to perform.

c. **Remedies.**

i. In the event of an uncured Default by City, Developer’s sole remedy shall be to terminate this Agreement, upon which Developer shall be entitled to the return of the remaining balance of the Deposit. Following such termination and the return of the balance of the Deposit neither Party shall have any further right, remedy, or obligation under this Agreement, except as otherwise provided herein.

iii) In the event of an uncured Default by Developer, City's sole remedy shall be to terminate this Agreement and to retain the Deposit, or remaining portion thereof, as liquidated damages and not as a penalty. It is agreed that said amount constitutes a reasonable estimate of the damages to City pursuant to California Civil Code Section 1671 et seq. City and Developer agree that it would be impractical or impossible to presently predict what monetary damages City would suffer as a result of Developer's Default hereunder. Developer desires to limit the monetary damages for which it might be liable therefore and Developer and City desire to avoid the costs and delays they would incur if a lawsuit were commenced to recover damages or otherwise enforce City's rights. Following the termination of this Agreement, neither Party shall have any right, remedy, or obligation under this Agreement, except as otherwise stated herein.

d. Except as expressly provided in this Agreement, neither Party shall have any liability to the other for damages or otherwise for any Default, nor shall either Party have any other claims with respect to performance under this Agreement. Each Party specifically waives and releases any such rights or claims it may otherwise have at law or in equity and expressly waives any rights to consequential damages or specific performance from the other Party under this Agreement.

Section 3.7 Waiver of Default.

Except as otherwise expressly provided in this Agreement, any failure or delay by either Party in asserting any of its rights or remedies as to any Default shall not operate as a waiver of said Default or of any subsequent Default, or of any rights or remedies in connection therewith. Except as otherwise expressly provided in this Agreement, any failure or delay by either Party in asserting any of its rights or remedies shall not prevent such party from exercising 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.

Section 3.8 Assignment.

This Agreement may not be assigned and there may not be any material change in the management or ownership of Developer without the prior written approval of City, which City may approve, disapprove, or withhold in its sole and absolute discretion; provided, however, that Developer may assign its rights under this Agreement to an entity that Controls or is Controlled by or is under common Control with Developer without the prior approval of City so long as written notice of assignment, along with sufficient documentation to the satisfaction of City showing that the assignee qualifies under the Control requirement above not less than ten (10) business days prior to the effective date of the assignment. "Control", "Controlled by" or words of similar import mean the possession, directly or indirectly, of the power to direct or cause the day-to-day direction of management and policies of a designated entity, whether through the direct or indirect

ownership of voting securities, general or limited partnership interests, interests in a limited liability company, by contract, or by other means.

Section 3.9 Conflict of Interests.

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

Section 3.10 Warranty Against Payment of Consideration for Agreement.

Developer warrants that it has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Agreement. The parties understand and agree that Developer has retained legal counsel and consultants in connection with this Agreement, and that such is not a violation of this Section 3.10.

Section 3.11 Non-liability of Officials, Officers, Members, and Employees.

No member, official, officer, consultant, attorney, or employee of City or the Developer shall be personally liable under this Agreement, including without limitation, in the event the Negotiations under this Agreement do not result in the Definitive Agreements for any reason, and/or in the event of any Default or breach of this Agreement, and/or for any amount which may become due under this Agreement.

Section 3.12 Developer's Obligation to Refrain from Discrimination.

Developer covenants and agrees for itself, its successors, its assigns, and every successor in interest to the Site or any part thereof, that there shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, religion, creed, national origin, ancestry, sex, sexual orientation, age, disability, medical condition, or marital status, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Site nor shall Developer, itself, or any person claiming under or through it, establish or permit such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, subleases, or vendors of the Site.

Section 3.13 Developer's Obligation Toward Equal Opportunity.

Developer shall not discriminate against any employees or applicant for employment because of race, color, religion, creed, national origin, ancestry, sex, sexual

orientation, age, disability, medical condition, or marital status. Developer shall conform to City's Equal Opportunity Policies regarding fairness in hiring.

Section 3.14 No Attorneys' Fees.

Neither Party in any action to enforce this Agreement shall be entitled to recover attorneys' fees and costs from the other Party (including fees and costs in any subsequent action or proceeding to enforce or interpret any judgment entered pursuant to an action on this Agreement). Each Party shall bear its own costs and fees.

Section 3.15 Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of California. Any action to interpret or enforce the provisions of this Agreement shall be filed in the Superior Court of the County of Los Angeles.

Section 3.16 Neutral Interpretation.

This Agreement is the product of the negotiations between the Parties, and in the interpretation and/or enforcement hereof is not to be interpreted more strongly in favor of one Party or the other.

Section 3.17 Entire Agreement.

This Agreement constitutes the entire agreement of the Parties regarding the Proposed Project and supersedes and replaces any prior agreements or understandings relating to the subject matter of this Agreement.

Section 3.18 Counterparts.

This Agreement may be executed by each Party on a separate signature page, and when the executed signature pages are combined, shall constitute one single instrument. Unless otherwise prohibited by law or City policy, an electronic or scanned signature shall have the same force and effect as an original ink signature. For the purposes of this Agreement, "electronic signature" is an electronic identifier, created by computer, attached or affixed to or logically associated with an electronic record, executed or adopted by a person with the intention of using it to have the same force and affect as the use of a manual signature, and "scanned signature" is a manual signature that has been placed on a document that has been scanned into an electronic record.

Section 3.19 Parties.

For purposes of this Agreement, the term “Parties” shall be defined as City and Developer and the term “Party” shall be defined as either City or Developer.

(Signature page follows)

Draft

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives.

THE CITY OF LOS ANGELES,
a Municipal Corporation

DEVELOPER(S)

By: _____
RICHARD H. LLEWELLYN, JR.
City Administrative Officer

By: _____
[INSERT NAME]
[INSERT TITLE]

Date: _____

Date: _____

APPROVED AS TO FORM:

ATTEST:

MICHAEL N. FEUER, City Attorney

HOLLY L. WOLCOTT, City Clerk

By: _____
CURTIS S. KIDDER
Assistant City Attorney

By: _____
Deputy City Clerk

Date: _____

Date: _____

City Business License Number: _____

Internal Revenue Service Taxpayer Identification Number: _____

Agreement Number: C- _____

Exhibits to be attached:

- Exhibit A Legal Description of the Site
- Exhibit B Site Access Map
- Exhibit C Initial Schedule of Performance
- Exhibit D Standard Provisions for City Contracts
- Exhibit E Form Gen 146 - Insurance Requirement

Draft

EXHIBIT A

Legal Description

*[To be populated in the final Agreement
to reflect the selected proposal]*

draft

EXHIBIT B

Site Access Map

*[To be populated in the final Agreement
to reflect the selected proposal]*

Draft

EXHIBIT C

Initial Schedule of Performance

*[To be determined during negotiation of Agreement
and included in the final Agreement]*

Draft

EXHIBIT D

Standard Provisions for City Contracts

[See attached]

draft

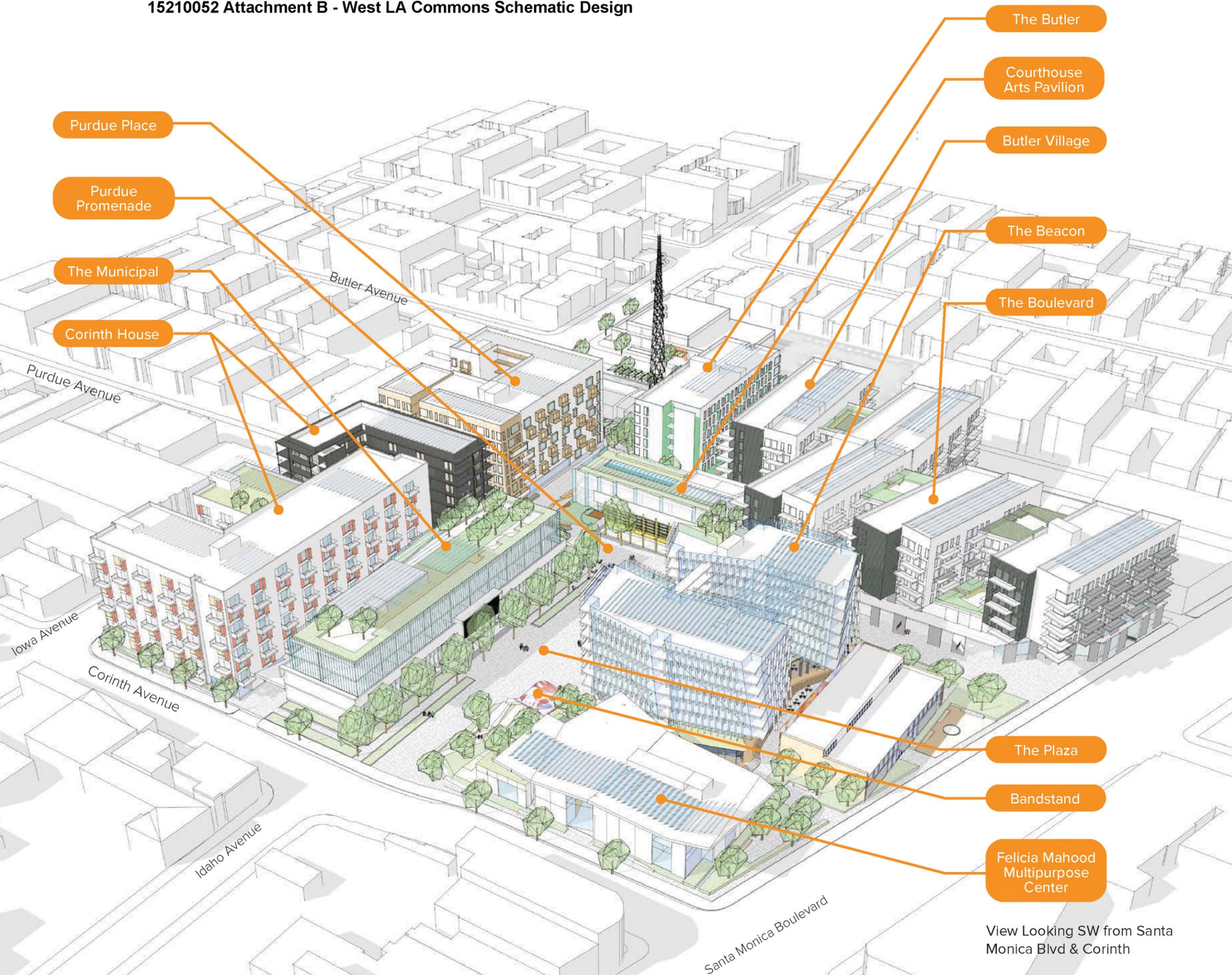
EXHIBIT E

Form Gen 146 - Insurance Requirements

[To be included in final Agreement]

draft

15210052 Attachment B - West LA Commons Schematic Design



The Plaza (Historic Community Core)
Public Plaza, Bandstand and planted terraces, fronting the Historic Municipal and Courthouse Arts Pavilion

Purdue Promenade (Flex-Use Space)
A through-block, tree-lined walk with cafes, weekly Farmers Market, and recreational amenities

Bandstand
Refurbished historic venue for public Plaza events

The Beacon
8 stories, 131 units of market-rate and moderate-income family housing and 10,600 sf retail / restaurant

The Boulevard
7 stories, 160 units of market-rate and moderate-income family housing and 23,700 sf retail

Purdue Place
7 stories, 128 units of affordable and moderate-income family and supportive housing

The Butler
7 stories, 99 units of affordable senior and supportive housing and ground floor residential amenity

Butler Village
7 stories, 158 units of affordable and moderate-income family and supportive housing

Corinth House
8 stories, 243 units of market-rate and moderate-income family housing with residential amenities

Courthouse Arts Pavilion
4 stories, 7 units of market-rate artist studio units with community arts workshop / retail and rooftop amenities

Felicia Mahood Multipurpose Center
2 stories, Ground and second floor senior community spaces with second floor garden and terrace

The Municipal
4 stories, Municipal offices with a ground floor cafe and rooftop amenity space

Open Space & Circulation

Publicly Accessible	118,000 sf
Residential	75,000 sf
Total	193,000 sf

View Looking SW from Santa Monica Blvd & Corinth

CITY OF LOS ANGELES OWNED PARCELS											
	MR	Moderate	Affordable	Studios	1 Beds	2 Beds	3 Beds	Office (sf)	Commercial (sf)	Residential (sf)	Total Area (sf)
The Municipal	-	-	-	-	-	-	-	73,400	1,800	-	75,200 sf
The Beacon - 131 units	116	15	-	7	56	55	13	-	10,600	135,800	146,400 sf
Purdue Place - 128 units	-	18	110	-	32	64	32	-	-	136,000	136,000 sf
Corinth House - 243 units	227	16	-	35	83	99	26	-	-	266,800	266,800 sf
Felicia Mahood	-	-	-	-	-	-	-	-	20,900	-	20,900 sf
Total - 502 units	343 units	49 units	110 units	42 units	171 units	218 units	71 units	73,400 sf	33,300 sf	538,600 sf	645,300 sf
								Parcel Area (City lots A,B)			198,550 sf
								Max FAR			3.25
								Total Max Floor Area Allowed			645,300 sf

COUNTY OF LOS ANGELES OWNED PARCELS											
	MR	Moderate	Affordable	Studios	1 Beds	2 Beds	3 Beds	Office (sf)	Commercial (sf)	Residential (sf)	Total Area (sf)
The Boulevard - 160 units	145	15	-	13	65	65	17	-	23,700 sf	139,500	163,200 sf
The Butler (senior housing) - 99 units	-	-	99	-	98	1	-	-	-	65,600	65,600 sf
Butler Village - 158 units	-	19	139	-	39	79	40	-	-	140,500	140,500 sf
Courthouse Arts Pavilion - 7 units	7	-	-	-	7	-	-	-	4,900 sf	12,800	17,700 sf
Total - 424 units	152 units	34 units	238 units	13 units	209 units	145 units	57 units	-	28,600 sf	358,400 sf	387,000 sf
								Parcel Area (County Lots)			129,000 sf
								Max FAR			3.0
								Total Max Floor Area Allowed			387,000 sf

PARKING (CITY + COUNTY)	
	Stalls
Residential / Guest	1,085
Office / Commercial	353
Felicia Mahood Multipurpose Center	42
Library Replacement	18
Total	1,498

SUMMARY

Housing	926 units total
Market Rate	495 units
Moderate Income	83 units
Affordable - Family	249 units
Affordable - Senior	99 units
Housing Total sf	897,000 sf

Commercial

Retail / Restaurant	41,000 sf
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Other

Felicia Mahood Multi-purpose Center	20,900 sf
Municipal Offices	73,400 sf

Parking

Vehicles	1,498 stalls
Bicycles	620 short-term and long-term spaces

Open Space / Circulation

Publicly Accessible	118,000 sf
Residential	75,000 sf
Total Open Space	193,000 sf

15210052 Attachment C - West LA Commons Proposed Program

Mid-rise
Project Data

15210052 Attachment D - West LA Commons Proposed Project Schedule

	Milestone	Date
1.	RFP Awarded	January 2021
2.	Submittal of Draft Initial Study/Notice of Preparation (NOP) to County	March 2021
3.	Issuance of NOP	May 2021
4.	First Screencheck Draft EIR submitted to County for review	October 2021
5.	County to provide applicant comments on First Screencheck Draft EIR	January 2022
6.	Draft EIR Published	March 2022
7.	Final EIR Submitted to County	September 2022
8.	Final EIR Complete	December 2022
9.	County to approve ground lease	December 2022
10.	City to approve ground lease and entitlement	March 2023