ITEM #25-0045

Recording Requested By,
And When Recorded Return To:

CITY OF SANTA FE
200 LINCOLN AVENUE
SANTA FE, NM 87501
ATTN: ERIN MCSHERRY, CITY ATTORNEY

DEVELOPMENT AND DISPOSITION AGREEMENT

BY AND BETWEEN

CITY OF SANTA FE

AND

ASPECT QOZB, LLC

Dated: 2/5, 2025

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

AGREEMENT
PAGES: 267

I Hereby Certify That This Instrument Was Filed for
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Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Katharine E. Clark
County Clerk, Santa Fe, NM

Deputy

COUNTY CLERK
KATHARINE E. CLARK
SANTA FE COUNTY NEW MEXICO
CRESCIT EUNDO

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TABLE OF CONTENTS

		Page
ARTICLE 1 DEFINITIONS		**2**
ARTICLE 2 EFFECTIVE DATE; TERM OF AGREEMENT		**13**
2.1	Effective Date	13
2.2	Term	13
2.3	Lease	13
2.4	Furniture, Fixtures & Equipment	13
ARTICLE 3 DEVELOPER REPRESENTATIONS, WARRANTIES AND COVENANTS		**13**
ARTICLE 4 PROJECT CONSIDERATION		**15**
4.1	Consideration	15
ARTICLE 5 DEVELOPER ROLE; PROJECT APPROVALS AND TIMELINE		**15**
5.1	Developer Role	15
5.2	Phase 1 Plans; Phase 1 Construction Schedule	16
5.3	Phase 2 Plans; Phase 2 Construction Schedule	18
5.4	Phase 3 Plans; Phase 3 Construction Schedule	20
5.5	Defects in Plans	22
5.6	Cooperation with the City	22
ARTICLE 6 CONDITIONS PRECEDENT TO COMMENCEMENT OF CONSTRUCTION		**22**
6.1	Master Plan Amendment	22
6.2	Phase 1 Condition Precedent	23
6.3	Phase 2 Conditions Precedent.	24
6.4	Phase 3 Conditions Precedent	24
ARTICLE 7 PRIVATE IMPROVEMENTS		**24**
7.1	Phase 1 Improvements	24
7.2	Phase 2 Improvements	25
7.3	Phase 3 Improvements	26
7.4	Construction Standard; Other Requirements	26
7.5	Site Restoration	26
ARTICLE 8 RIGHT OF WAY IMPROVEMENTS		**27**
8.1	Right of Way Plans	27
8.2	Right of Way Completion	27
8.3	Cost of Project ROW Improvements	28
8.4	Coordination; Cooperation	28
8.5	Ancillary Midtown ROW Improvements; City Delay	28
8.6	Gas Loop Declaration; Existing Utilities and Utilities Agreement	29
ARTICLE 9 SUBDIVISION		**30**
9.1	Subdivision Plat	30
ARTICLE 10 CONVEYANCE OF PROPERTY		**30**
10.1	Closing; Closing Costs	30
10.2	Phase 1 Closing	30
10.3	Phase 2 Closing.	31
10.4	Phase 3 Closing.	32
10.5	Title and Permitted Exceptions	33
10.6	No Warranties as to Property; As-Is.	35
ARTICLE 11 COMMUNITY BENEFITS		**35**
11.1	Economic Impact Requirements	35
11.2	Economic Impact Benefit	35
11.3	Economic Opportunity Requirements	36
11.4	Commercial Use Requirements	36
11.5	Film and Multi-Media Internship Requirements	36

SFC CLERK RECORDED 02/12/2025

TABLE OF CONTENTS

Page

11.6 Cultural Elements 37
11.7 Dedication of Educational Space 38
11.8 Housing Elements 38
11.9 Midtown District Assessments 38
11.10 Building Names 38
11.11 Environmental Elements 38
11.12 Environmental and Energy Design Requirements 39
ARTICLE 12 MAINTENANCE AND REPAIR **39**
12.1 Maintenance and Repair 39
12.2 Damage 39
ARTICLE 13 RESERVED **40**
ARTICLE 14 RELEASE & INDEMNIFICATION **40**
14.1 Release 40
14.2 General Indemnity 40
14.3 Environmental Indemnity 41
14.4 Survival 41
ARTICLE 15 ASSIGNMENT; TRANSFER **41**
15.1 Assignment; Transfer 41
15.2 Permitted Transfer 41
15.3 Collateral Assignment 42
15.4 Financing 42
ARTICLE 16 LIENS **43**
ARTICLE 17 REPORTING REQUIREMENTS **43**
17.1 Reporting Requirements 43
17.2 Audits and Inspections 44
17.3 IPRA Compliance 44
17.4 . Developer understands that records in the possession of the City are subject to IPRA, and to the extent required, Developer will comply with IPRA 44
ARTICLE 18 DEFAULT AND REMEDIES **44**
18.1 Default by Developer 44
18.2 Remedies 46
18.3 Liquidated Damages 47
18.4 Community Benefit and Commercial Use Requirements 48
18.5 Rights and Remedies Cumulative 48
18.6 Event of Default by City 48
18.7 Waiver 49
18.8 Cross-Termination 49
ARTICLE 19 RIGHT OF FIRST REFUSAL **49**
19.1 City Right of First Refusal 49
19.2 Contract Negotiation 50
19.3 Termination of Right of First Refusal 50
ARTICLE 20 GENERAL PROVISIONS **50**
20.1 Compliance with Laws 50
20.2 Discrimination Prohibited 50
20.3 Recordation 51
20.4 Covenants Running With the Land 51
20.5 Notices 51
20.6 Relationship Between Parties 52
20.7 No Third-Party Rights 52

SFC CLERK RECORDED 02/12/2025

TABLE OF CONTENTS

Page

20.8 Counterparts 52
20.9 Exhibits; Ancillary Documents 52
20.10 Time of Essence 52
20.11 Computation of Time 53
20.12 Effect and Duration of Agreement Provisions 53
20.13 Force Majeure 53
20.14 Severability 53
20.15 Interpretation 54
20.16 Sections 54
20.17 Gender, Singular/Plural 54
20.18 Headings and Captions 54
20.19 Further Assurances 54
20.20 Waiver 54
20.21 Modifications; City Approval 54
20.22 Legal Advice 55
20.23 Non-Liability of Officials and Employees of the City 55
20.24 New Mexico Tort Claims Act 55
20.25 Governing Law 55
20.26 Legal Proceedings; Attorneys' Fees and Costs 55
20.27 Waiver of Jury Trial 55
20.28 Approval Required 56
20.29 Appropriations 56
20.30 No Pecuniary Liability of City 56
20.31 Officials, Agents and Employees Not Personally Liable 56
20.32 No Collusion 56
20.33 Public Records 56
20.34 Governmental Right and Powers 57
20.35 Survival 57

EXHIBITS

Exhibit A	Depiction of Midtown Site
Exhibit B-1	Depiction of Property
Exhibit B-2	Legal Description of Property
Exhibit C	Lease Agreement
Exhibit D	Developer Owner and Control Parties
Exhibit E	Phase 1 MRA-Approved Conceptual Plans
Exhibit F	LEED Requirements
Exhibit G-1	Form of Guaranty
Exhibit G-2	Form of Bond
Exhibit H	Aspect Electrical Loop Plans
Exhibit I	Location of Project ROW Improvements
Exhibit J	Utilities Agreement
Exhibit K	Form of Educational Use Covenants
Exhibit L	Form of Assignment of Plans
Exhibit M	Form of Report
Exhibit N	Required Uses
Exhibit O	Phasing Depiction

SFC CLERK RECORDED 02/12/2025

DEVELOPMENT AND DISPOSITION AGREEMENT

THIS DEVELOPMENT AND DISPOSITION AGREEMENT (this "**Agreement**") is entered into by and between the CITY OF SANTA FE, a municipal corporation and political subdivision of the State of New Mexico (the "**City**"), and ASPECT QOZB, LLC, a Delaware limited liability company ("**Developer**"), effective as of the Effective Date (defined below). The City and Developer are sometimes referred to herein individually as a "**Party**" and together as the "**Parties**."

RECITALS

A. The City owns the real property and improvements consisting of approximately 60 acres generally located within the block defined by Cerrillos Road, St. Michaels Drive, Llano Street, Siringo Road, and Camino Carlos Rey in the City of Santa Fe, County of Santa Fe, State of New Mexico, as generally depicted on Exhibit A attached hereto (the "**Midtown Site**").

B. By Resolution No. 2022-68, approved on November 30, 2022, the governing body of the City (the "**Governing Body**") adopted the Midtown Master Plan (the "**Master Plan**"), which, together with the Midtown Community Development Plan adopted on January 25, 2023 by Resolution No. 2023-5 (the "**Community Development Plan**"), sets forth the City's vision for development of the Midtown Site and establishes certain form-based zoning standards and certain other standards and policies for the future redevelopment of the Midtown Site as a sustainable, pedestrian-friendly, mixed-use neighborhood that provides employment and housing opportunities, improved mobility options, and access to recreation, public spaces, and cultural venues.

C. On August 9, 2023, the Governing Body, by Ordinance No. 2023-21, revised the City of Santa Fe metropolitan redevelopment code (the "**City Redevelopment Code**"), under which the Governing Body updated its ordinance establishing a metropolitan redevelopment agency (the "**MRA**"), comprised of the commission of the MRA (the "**MRA Commission**"), the director of the MRA ("**MRA Director**"), and staff, as the official body for making advisory recommendations to the Governing Body, at such time as an area is designated by the Governing Body with respect thereto, and for taking certain actions delegated to the MRA pursuant to the City Redevelopment Code. In the absence of a MRA Director, the City Manager or the City Manager's designee will act for the MRA Director hereunder.

D. The City released a Request for Proposals on December 1, 2022 (the "**Studio RFP**"), for the redevelopment and operation of the portion of the Midtown Site to, among other things, expand the existing film production studio facilities with the addition of more state-of-the art sound stages, pre- and post-production offices and work facilities to meet the needs of the industry and support film and multi-media production in the City, all as more specifically set forth in the Studio RFP. The City will subdivide the Property into parcels as set forth in Section 9.1 below.

E. Midtown Santa Fe Productions QOF, LLC, a Delaware limited liability company affiliated with Developer ("**QOF**"), submitted the only response to the Studio RFP on March 2, 2023, to redevelop the Property consistent with the Studio RFP (the "**Proposed Project**"). QOF proposed combining the Proposed Project with the adjacent Midtown Santa Fe Production Studio at the Shellaberger Property (defined below), and envisions that the combined projects will become the largest studio in northern New Mexico, featuring multi-family housing, six soundstages and nearly 180,000 square feet of production and support space across five different buildings.

SFC CLERK RECORDED 02/12/2025

F. Pursuant to the Studio RFP, the City established an Evaluation Committee to review and evaluate the response based on the factors set forth in the Studio RFP, following which the Evaluation Committee determined that QOF had the experience, qualifications, and capacity to implement the scope of work and achieve the vision and goals articulated in the Studio RFP.

G. The City and QOF entered into the Exclusive Negotiation Agreement approved by the Governing Body on July 26, 2023 (as extended, the "**ENA**"), for the redevelopment of the Proposed Project consistent with the Studio RFP. The ENA included, among other things, that the City and QOF would negotiate and enter into a disposition and development agreement setting forth the scope of the Proposed Project and the requirements and conditions for the design, development, operation and disposition of the completed Proposed Project.

H. The City intends to approve the Lease Agreement between the City and Developer attached hereto as Exhibit C (the "**Lease**"), for the purpose of leasing the Property to Developer to enable Developer to perform its obligations under this Agreement, until such time as the City conveys the Property (or a portion thereof) to Developer pursuant to the terms hereof.

I. Concurrently with Developer's lease of the Property, Developer will redevelop the Property in three phases (each, a "**Phase**" and, collectively, the "**Phases**"), as depicted on Exhibit B-1. The real property and the improvements now existing or hereinafter constructed pursuant to this Agreement, collectively, comprising the first, second and third Phases of the Property are referred to herein as "**Phase 1**", "**Phase 2**" and "**Phase 3**," respectively.

J. This Agreement sets forth the terms, conditions, covenants and obligations concerning (i) Developer's completion of the Private Improvements (defined below), (ii) the City's completion of the applicable Project ROW Improvements (defined below) applicable to Phase 1 and Phase 2, and (iii) the conveyance of each Phase to Developer upon satisfaction of the conditions for such Phase set forth in Article 10.

K. The City is authorized, pursuant to the City Code (defined below) to enter into a binding development and disposition agreement to carry out the plan for the development of the Property.

SFC CLERK RECORDED 02/12/2025

AGREEMENT

NOW THEREFORE, for and in consideration of the mutual promises, covenants and conditions contained herein, the receipt and sufficiency of which are hereby acknowledged, the City and Developer hereby agree that the foregoing recitals are true and correct and incorporated herein and as follows:

ARTICLE 1
DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings:

1.1 "**ADA**" is defined in Section 20.1.

1.2 "**Adjacent Improvements**" is defined in Section 12.2.

1.3 "**Adjacent Land**" is defined in Section 12.2.

1.4 "**Affiliate**" means any Person (as defined below) which Controls, is Controlled by, or is under common Control with Developer.

1.5 "**Aggregate Spend Period**" is defined in Section 11.1.

1.6 "**Agreement**" is defined in the introductory paragraph.

1.7 "**Applicable Rules**" means, collectively, the provisions of this Agreement and the then-current versions of the following: (a) the City Code, including, but not limited to, the Midtown Local Innovation Corridor District adopted by the Governing Body on October 26, 2016 pursuant to Ordinance No. 2016-39, and all other rules, regulations, ordinances and officially adopted policies of the City; (b) the Master Plan, the Community Development Plan and the Plat (as of recordation thereof), in each case as may be amended pursuant to the City Code and this Agreement; and (c) any and all applicable local, state and federal laws, rules and regulations affecting the Property or otherwise applicable to the Parties. Subject to applicable laws, in the event of a conflict among the Applicable Rules, the more specific standard, limitation or requirement shall govern or prevail to the extent of the conflict. If neither standard is more specific, then the more stringent standard, limitation or requirement shall govern or prevail to the extent of the conflict unless otherwise specified by applicable laws.

1.8 "**Approvals**" is defined in Section 5.1.5.

1.9 "**Approved Designee**" has the meaning given in Section 15.1 of the Lease.

1.10 "**Approved Exceptions**" is defined in Section 10.5.5(a).

1.11 "**ArtHouse ROW Improvements**" is defined in Section 8.3.

1.12 "**Benildus Name**" is defined in Section 11.10.

1.13 "**Buildings**" is defined in Section 1.154.

1.14 "**Business Day**" means Monday through Friday and specifically excludes Federal, State, and City holidays and any additional days on which City offices are closed (other than essential services).

1.15 "**Certificate of Completion**" means a letter provided by the MRA Director for each Phase upon Developer's satisfactory achievement of Final Completion of such Phase, acknowledging satisfaction of the Private Improvement Project Specifications (defined below) required for each Phase.

1.16 "**City**" is defined in the introductory paragraph.

1.17 "**City Code**" means The Santa Fe City Code of 1987, as amended from time-to-time.

1.18 "**City Parties**" is defined in Section 5.5.

1.19 "**City Redevelopment Code**" is defined in Recital C above.

1.20 "**Claims**" is defined in Section 14.2.

SFC CLERK RECORDED 02/12/2025

1.21 "**Closing**" and "**Closings**" have the meaning set forth in Section 4.1.4.

1.22 "**Commercial Use Requirement**" is defined in Section 11.4.

1.23 "**Community Benefit Requirements**" is defined in Section 18.4.

1.24 "**Community Development Plan**" is defined in Recital B above.

1.25 "**Conceptual Plans**" means standard conceptual design and development plans required for development projects in the City of Santa Fe, including the following plans and information: dimensioned conceptual site plan(s) indicating building setbacks and frontages, circulation plans and landscape plans; conceptual building elevations indicating heights and massing, and conceptual renderings showing building elevations and site sections; and, as necessary, other concept drawings to indicate consistency with the Master Plan design concepts; together with the conceptual development program setting forth the number of buildings, square footage of building, space types, and uses, as well as any other conceptual uses, including affordability, that achieve requirements or goals of the Master Plan and Community Development Plan.

1.26 "**Construction Activities**" is defined in Section 12.1.

1.27 "**Construction Commencement**" or "**Commence Construction**" means, with respect to the construction of the applicable Private Improvements, such time as (a) the MRA Director has delivered to Developer a Notice to Proceed for the applicable Phase, (b) all Approvals required by any Governmental Authorities under the Applicable Rules have been issued, including payment of the required fees and the provision of required bonds, (c) Developer commences work or activities related to the grading, foundations, demolition or other site work at the Project, and (d) unless waived by the City, Developer has hosted a ground breaking ceremony in coordination with the City.

1.28 "**Consumer Price Index**" means the Consumer Price Index for All Urban Consumers for the West Region for all Items (1982-1984= 100) as published by the United States Department of Labor, Bureau of Labor Statistics. If the manner in which the Consumer Price Index is determined by the Bureau of Labor Statistics shall be substantially revised (including a change in the base index year), an adjustment shall be made by the City Manager in such revised index that produces results equivalent, as nearly as possible, to those which would have been obtained if the Consumer Price Index had not been so revised. If the Consumer Price Index is discontinued, then "Consumer Price Index" shall mean an index chosen by City Manager which is, in City Manager's reasonable judgment, comparable to the index specified above.

1.29 "**Control**" or "**Controlling**" (or any similar conjugated form thereof) means, when used with respect to any specified Person, the (a) possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities or other ownership interests, by contract or otherwise, and (b) ownership, directly or indirectly, in the aggregate, of at least 51% of the beneficial ownership interests of such Person.

1.30 "**Cultural Elements Requirements**" is defined in Section 11.6.

1.31 "**Deed**" is defined in Section 10.5.1.

SFC CLERK RECORDED 02/12/2025

1.32 "**Developer**" is defined in the introductory paragraph.

1.33 "**Developer Parties**" is defined in Section 12.1.

1.34 "**Developer's Principal**" means Phillip Gesue.

1.35 "**Developer's Share**" is defined in Section 8.3.

1.36 "**Discretionary Modifications**" is defined in Section 6.1

1.37 "**Disputes**" is defined in Section 20.26.

1.38 "**Driscoll Retail Space**" is defined in Section 7.1.5(b).

1.39 "**Economic Impact Benefit**" is defined in Section 11.1.

1.40 "**Effective Date**" is defined in Section 2.1.

1.41 "**Election Notice**" is defined in Section 19.1.

1.42 "**ENA**" is defined in Recital G above.

1.43 "**Environmental Laws**" means all federal, state and local environmental, health and safety statutes, as may from time to time be in effect, including but not limited to federal laws such as, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §§ 9602 *et seq.*, the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. § 9601(20)(D), the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6901 *et seq.*, the Federal Water Pollution Control Act, as amended by the Clean Water Act Amendments of 1977, 33 U.S.C. §§ 1251 *et seq.* (CWA), the Clean Air Act of 1966, as amended, 42 U.S.C. §§ 7401 *et seq.*, the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §§ 136 *et seq.*, the Occupational Safety and Health Act, 29 U.S.C. §§ 651 *et seq.*, the Safe Drinking Water Act, 42 U.S.C. §§ 300f *et seq.*, the Toxic Substances Control Act, 15 U.S.C. §§ 2601 *et seq.*, and any and all federal, state and local rules, regulations, authorizations, judgments, decrees, court decisions, concessions, grants, franchises, agreements, orders and other governmental restrictions and other agreements relating to the environment or to any Pollutants, as may from time to time be in effect.

1.44 "**Escrow Agent**" is defined in Section 8.3.

1.45 "**Escrow Amount**" is defined in Section 8.3.

1.46 "**Event of Default**" is defined in Section 18.1.

1.47 "**Film Internship Requirements**" is defined in Section 11.5.

1.48 "**Final Application**" is defined in Section 6.1.

1.49 "**Final Completion**" means, with respect to the applicable Phase, such time as (a) the Private Improvements for such Phase have been completed in accordance with the Final Design Plans and the Applicable Rules, subject only to minor punch list items (i.e., items that, individually and in

SFC CLERK RECORDED 02/12/2025

the aggregate, do not and will not prohibit, delay or adversely affect, under the Applicable Rules, the commencement and continued operation of business for the permitted use and can be corrected and completed within 60 days after identification), and if applicable, any land dedications required to be made and accepted by the City in accordance with the Applicable Rules, (b) a final or temporary certificate of occupancy (or its equivalent as the context requires) for all components of the applicable Private Improvements has been issued, (c) Developer has obtained all required approvals, permits, licenses, and certificates of any Governmental Authorities required under the Applicable Rules for the lawful occupancy and use of the applicable Private Improvements and applicable portion of the Property for its intended purpose, (d) the Developer has completed all obligations and liabilities of Developer set forth in this Agreement with respect to the Private Improvements for the applicable Phase to the City Manager's satisfaction, and (e) Developer has hosted a ribbon cutting ceremony in coordination with the City.

1.50 "**Final Design Plans**" means, collectively, the Phase 1 Component Final Design Plans, the Phase 2 Final Design Plans and the Phase 3 Final Design Plans.

1.51 "**Final Response Deadline**" is defined in Section 10.5.3.

1.52 "**Financial Statements**" is defined in Section 17.1.3.

1.53 "**Force Majeure Event**" is defined in Section 20.13.

1.54 "**Garson Name**" is defined in Section 11.10.

1.55 "**Gas Loop Declaration**" is defined in Section 8.6.1.

1.56 "**Gas Loop Regulations**" is defined in Section 8.6.1.

1.57 "**Guaranty**" is defined in Section 6.2.

1.58 "**Governance Documents**" is defined in Section 3.4.

1.59 "**Governing Body**" is defined in Recital B above.

1.60 "**Governmental Authorities**" means any and all federal, state, county, city, town, other municipal corporation, governmental or quasi-governmental board, agency, authority, department or body having jurisdiction over the Project.

1.61 "**Guaranty**" is defined in Section 6.2.

1.62 "**Historical Names**" is defined in Section 11.10.

1.63 "**Initial Spend Period**" is defined in Section 11.1.

1.64 "**IPRA**" means the New Mexico Inspection of Public Records Act (Sections 14-2-1 et seq., NMSA 1978).

1.65 "**Lease**" is defined in Recital H above.

SFC CLERK RECORDED 02/12/2025

1.66 "**Lease Term**" means the "Term" of the Lease, as such term is defined therein.

1.67 "**Leasing Deadline**" is defined in Section 11.4.

1.68 "**Legal Description**" is defined in Section 9.1.

1.69 "**Liabilities**" is defined in Section 5.5.

1.70 "**Lien**" is defined in Article 16.

1.71 "**Master Plan**" is defined in Recital B above.

1.72 "**Master Plan Amendment**" is defined in Section 6.1.

1.73 "**Midtown Engagement Partners**" means the community-based partners acting in concert with the City to provide outreach to the community, which partners are selected by the City from time to time.

1.74 "**Midtown Gas Loop**" is defined in Section 8.6.1.

1.75 "**Midtown ROW Improvements**" is defined in Section 8.1.

1.76 "**Midtown Site**" is defined in Recital A above.

1.77 "**Minimum Aggregate Amount**" is defined in Section 11.1.

1.78 "**Minimum Initial Amount**" is defined in Section 11.1.

1.79 "**Monetary Encumbrances**" is defined in Section 10.5.3.

1.80 "**MRA**" is defined in Recital C above.

1.81 "**MRA Director**" is defined in Recital C above.

1.82 "**New Exception**" is defined in Section 10.5.4.

1.83 "**New Exception Review Period**" is defined in Section 10.5.4.

1.84 "**Non-Compliance Fee**" is defined in Section 18.4.

1.85 "**Notice to Proceed**" means written notice from the MRA Director to Developer confirming that the conditions precedent to the commencement of a particular Phase have been satisfied.

1.86 "**Objection Deadline**" is defined in Section 10.5.3.

1.87 "**Objection Notice**" is defined in Section 10.5.3.

1.88 "**Offer Contract**" is defined in Section 19.2.

SFC CLERK RECORDED 02/12/2025

1.89 "**Offer Contract Deadline**" is defined in Section 19.2.

1.90 "**Offer Land**" is defined in Section 19.1.

1.91 "**Offer Notice**" is defined in Section 19.1.

1.92 "**Offer Party**" is defined in Section 19.1.

1.93 "**Official Records**" is defined in Section 20.3.

1.94 "**Party**" and "**Parties**" are defined in the introductory paragraph.

1.95 "**Permitted Exceptions**" is defined in Section 10.5.5.

1.96 "**Person**" means any individual, partnership, corporation, limited liability company, trust, estate, other legal entity or Governmental Authorities.

1.97 "**Phase**" is defined in Recital I above.

1.98 "**Phase 1**", "**Phase 2**", and "**Phase 3**" are defined in Recital I above.

1.99 "**Phase 1 Building Permit Submission Date**" is defined in Section 5.2.7.

1.100 "**Phase 1 Closing**" is defined in Section 10.2.2.

1.101 "**Phase 1 Closing Conditions**" is defined in Section 10.2.1.

1.102 "**Phase 1 Closing Date**" is defined in Section 10.2.2.

1.103 "**Phase 1 Commencement Date**" is defined in Section 5.2.8.

1.104 "**Phase 1 Component Final Design Plans**" is defined in Section 5.2.4.

1.105 "**Phase 1 Conceptual Plans**" is defined in Section 5.2.1.

1.106 "**Phase 1 Conveyance**" is defined in Section 10.2.1.

1.107 "**Phase 1 Final Completion Date**" means the date Developer achieves Final Completion of the Phase 1 Improvements.

1.108 "**Phase 1 Improvements**" is defined in Section 7.1.

1.109 "**Phase 1 MRA-Approved Component Design Plans**" is defined in Section 5.2.3.

1.110 "**Phase 1 Preliminary Component Design Plans**" is defined in Section 5.2.2.

1.111 "**Phase 1 Purchase Installment**" is defined in Section 4.1.2.

1.112 "**Phase 1 Purchase Notice**" is defined in Section 10.2.1(b).

SFC CLERK RECORDED 02/12/2025

1.113 "**Phase 2 Building Permit Submission Date**" is defined in Section 5.3.7.

1.114 "**Phase 2 Closing**" is defined in Section 10.3.2.

1.115 "**Phase 2 Closing Conditions**" is defined in Section 10.3.1.

1.116 "**Phase 2 Closing Date**" is defined in Section 10.3.2.

1.117 "**Phase 2 Commencement Date**" is defined in Section 5.2.8.

1.118 "**Phase 2 Conceptual Plans**" is defined in Section 5.3.1.

1.119 "**Phase 2 Conveyance**" is defined in Section 10.3.1.

1.120 "**Phase 2 Final Design Plans**" is defined in Section 5.3.4.

1.121 "**Phase 2 Improvements**" is defined in Section 7.2.

1.122 "**Phase 2 MRA-Approved Conceptual Plans**" is defined in Section 5.3.1.

1.123 "**Phase 2 MRA-Approved Design Plans**" is defined in Section 5.3.3.

1.124 "**Phase 2 Preliminary Design Plans**" is defined in Section 5.3.2.

1.125 "**Phase 2 Purchase Installment**" is defined in Section 4.1.3.

1.126 "**Phase 2 Purchase Notice**" is defined in Section 10.3.1(b).

1.127 "**Phase 3 Closing**" is defined in Section 10.4.2.

1.128 "**Phase 3 Closing Conditions**" is defined in Section 10.4.1.

1.129 "**Phase 3 Closing Date**" is defined in Section 10.4.2.

1.130 "**Phase 3 Commencement Date**" is defined in Section 5.4.8.

1.131 "**Phase 3 Conceptual Plans**" is defined in Section 5.4.1.

1.132 "**Phase 3 Conveyance**" is defined in Section 10.4.1.

1.133 "**Phase 3 Final Design Plans**" is defined in Section 5.4.4

1.134 "**Phase 3 Improvements**" is defined in Section 7.3.

1.135 "**Phase 3 MRA-Approved Conceptual Plans**" is defined in Section 5.4.1.

1.136 "**Phase 3 MRA-Approved Design Plans**" is defined in Section 5.4.3.

1.137 "**Phase 3 Preliminary Design Plans**" is defined in Section 5.4.2.

SFC CLERK RECORDED 02/12/2025

1.138 "**Phase 3 Purchase Installment**" is defined in Section 4.1.4.

1.139 "**Phase 3 Purchase Notice**" is defined in Section 10.4.1(c).

1.140 "**Phasing Plan**" is defined in Section 8.5.

1.141 "**Plans and Specifications**" means collectively any and all plans, site plans, specifications, architectural drawings, renderings, plans, plats, agreements, contracts, permits, certificates, entitlements and approvals, reports, assessments, studies, and surveys relating to the Property.

1.142 "**Plat**" is defined in Section 9.1.

1.143 "**Pollutant**" means any material, waste or substance that is now or may become regulated or governed by any Environmental Laws, or the presence of which requires investigation under any Environmental Laws, or any flammable, explosive, corrosive, reactive, carcinogenic, radioactive material, hazardous waste, toxic substance or related material and any other substance or material defined or designated as a hazardous or toxic substance, material or waste by any Environmental Laws.

1.144 "**Preliminary Approval Notice**" is defined in Section 5.2.

1.145 "**Preliminary Design Plans**" include detailed and dimensioned site plans indicating building setbacks and frontages, vehicular circulation, areas for parking and deliveries, pedestrian and bicycle circulation areas and facilities; landscape plans indicating plant and color palette, outdoor amenities, and materials identification; building elevations and floor plans indicating facade materials, color, entries/exits, and design features; site sections and general description of building systems, construction type, and green-building features, (for building rehabilitation, a general description of code compliance, accessibility, fire, health, and safety improvements) to indicate the design and construction intent of the proposed development, and consistency with the Master Plan. Preliminary Design Plans also includes a detailed development program with square footage of building area, space types, and uses, as well as any uses, including affordability, that achieve requirements or goals of the Master Plan and Community Development Plan.

1.146 "**Preliminary Disapproval Notice**" is defined in Section 5.2.

1.147 "**Private Improvement Project Specifications**" means, individually or collectively, as applicable, the obligations set forth in Article 7 required to be performed by Developer in order to achieve Final Completion of the Private Improvements for each Phase.

1.148 "**Private Improvements**" means, individually or collectively, as applicable, the Phase 1 Improvements, the Phase 2 Improvements, and the Phase 3 Improvements, or the applicable portion thereof.

1.149 "**Prohibited Person**" means any of the following: (a) a Person that is listed in the Annex to, or is otherwise subject to the provisions of, Executive Order No. 13224 on Terrorist Financing (effective September 24, 2001) (the "**Executive Order**"); (b) a Person owned or controlled by, or acting for or on behalf of any person or entity that is listed in the Annex to, or is otherwise

SFC CLERK RECORDED 02/12/2025

subject to the provisions of, the Executive Order; (c) a Person that is named as a "specially designated national" or "blocked person" on the most current list published by the U.S. Treasury Department's Office of Foreign Assets Control ("**OFAC**") at its official website, https://ofac.treasury.gov/sanctions-list-service; (d) a Person that is otherwise the target of any economic sanctions program currently administered by OFAC; or (e) a Person that is affiliated with any person or entity identified in clause (a), (b), (c) and/or (d) above.

1.150 "**Project**" means the Proposed Project, as developed and operated by Developer pursuant to the terms of this Agreement, including, but not limited to Developer's obligations under Article 7 and Article 11.

1.151 "**Project Employer**" is defined in Section 11.3.

1.152 "**Project Employment Opportunities**" is defined in Section 11.3.

1.153 "**Project ROW Improvements**" is defined in Section 8.1.

1.154 "**Property**" means the approximately 11 acres of land, together with the buildings known as Benildus Hall, Onate Hall, Driscoll Fitness Center and Garson Studios (collectively, the "**Buildings**"), and all other existing accessory structures and improvements located thereon, and rights of egress across adjacent roadways, located within in the Midtown Site and generally depicted on Exhibit B-1.

1.155 "**Proposed Project**" is defined in Recital E above.

1.156 "**Purchase Price**" is defined in Section 4.1.

1.157 "**QOF**" is defined in Recital E above.

1.158 "**Qualified Expenditures**" is defined in Section 11.1.

1.159 "**Qualified New Mexico Film School**" means any of the following: (a) a state authorized (in accordance with the Post-Secondary Educational Institution Act) or publicly-funded academic, vocational, technical, business, professional, or other post-secondary or other organization or Person offering or purporting to offer a curriculum that includes courses, instruction, training, or education in film and/or television production from a physical site in New Mexico; or (b) a nonprofit organization having a principal office in New Mexico that provides training and or academic curriculum in the film industry in partnership with a New Mexico-based film trade union.

1.160 "**Qualified New Mexico Internship Program**" means an internship program based in the State of New Mexico that offers on-the-job training to individuals pursuing or considering a career in the film or television industry.

1.161 "**Quarterly Construction Report**" is defined in Section 17.1.1.

1.162 "**Report**" is defined in Section 17.1.1.

1.163 "**Required Uses**" is defined in Section 6.1

SFC CLERK RECORDED 02/12/2025

1.164 "**Residential Project**" is defined in Section 7.2.

1.165 "**Response Deadline**" is defined in Section 10.5.3.

1.166 "**Response Notice**" is defined in Section 10.5.3.

1.167 "**Right of Way Plans**" is defined in Section 8.1.

1.168 "**Right of Way Schedule**" is defined in Section 8.2.

1.169 "**Shellaberger Property**" means the real property and improvements owned by Developer or an Affiliate of Developer and located at 1954 Siringo Road, Santa Fe, New Mexico 87505.

1.170 "**Solar Facilities**" is defined in Section 7.2.

1.171 "**Studio RFP**" is defined in Recital D above.

1.172 "**Survey**" is defined in Section 10.5.2.

1.173 "**Term**" is defined in Section 2.2.

1.174 "**Termination Event**" is defined in Section 18.2.1(b).

1.175 "**The Screen**" means the 165-seat theater located within the building known as Garson Studios.

1.176 "**TIF District**" is defined in Section 11.9.

1.177 "**Title Commitment**" is defined in Section 10.5.2.

1.178 "**Title Company**" is defined in Section 10.1.

1.179 "**Title Documents**" is defined in Section 10.5.2.

1.180 "**Title Objections**" is defined in Section 10.5.3.

1.181 "**Title Policy**" is defined in Section 10.5.2.

1.182 "**Title Receipt Deadline**" is defined in Section 10.5.2.

1.183 "**Transfer**" is defined in Section 15.1.

1.184 "**Uncontrollable Events**" means the occurrence of any (a) Force Majeure Event, (b) delay caused by Developer Parties, including Developer Parties' interference or failure to cooperate with the City's design and construction of the Midtown ROW Improvements, and/or (c) insufficiency of appropriations or authorizations as set forth in Section 20.29, that adversely impacts the ability of the City to complete any portion of the Project ROW Improvements.

SFC CLERK RECORDED 02/12/2025

1.185 "**Utilities**" is defined in Section 8.6.2.

1.186 "**Utilities Agreement**" is defined in Section 8.6.2.

ARTICLE 2
EFFECTIVE DATE; TERM OF AGREEMENT

2.1 Effective Date. This Agreement shall become effective on the date that is 45 days after the Governing Body adopts an ordinance approving this Agreement (the "**Effective Date**"); provided, however, if a referendum election is held, as required by Section 3-54-1, NMSA 1978, the Effective Date shall be suspended pending the outcome of the referendum election. If the results of the election are in favor of this Agreement, the Effective Date will commence on the date of the certification of a favorable election. If the referendum election results are against this Agreement, this Agreement shall be immediately null and void. Notwithstanding the foregoing, if the City has not recorded a new plat map to subdivide the Property into parcels (the "**Plat**") in the real property records of the Clerk's Office of Santa Fe County, New Mexico ("**Official Records**") prior to the Effective Date, the Effective Date shall be suspended until the recording date of the Plat.

2.2 Term. The term of this Agreement (the "**Term**") shall commence upon the Effective Date and shall continue until the earlier of (i) the expiration of the Lease, (ii) the consummation of the Phase 3 Conveyance, or (iii) the City's notice of termination pursuant to Article 18, provided that the provisions of Article 11 shall continue in effect for the duration of the terms set forth therein.

2.3 Lease. Concurrently herewith, the City and Developer shall enter into the Lease on the form attached hereto as Exhibit C, pursuant to which the City will lease the Property to Developer during the Lease Term for Developer to access, construct and operate the Project, all on the terms and conditions set forth herein and in the Lease.

2.4 Furniture, Fixtures & Equipment. As of the Effective Date, for good and valuable consideration forming a portion of the Initial Deposit, the sufficiency of which is hereby acknowledged, the City hereby conveys to Developer all furniture, fixtures and equipment located within or affixed to any Building at the Property.

ARTICLE 3
DEVELOPER REPRESENTATIONS, WARRANTIES AND COVENANTS

From and after the Effective Date, Developer represents and warrants to the City that:

3.1 Developer is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware, and has its principal office at 1954 Siringo Road, Santa Fe, New Mexico 87505. Developer is in good standing under the laws of the state of New Mexico.

3.2 Developer has full power and authority to execute, deliver and perform its obligations under this Agreement, and has taken all required entity actions and obtained all required approvals therefor, if any, and no other approvals or consents not obtained by Developer as of the Effective Date are necessary in connection with Developer's execution of or performance of obligations under this Agreement.

SFC CLERK RECORDED 02/12/2025

3.3 The individual signing this Agreement on behalf of Developer is authorized to sign this Agreement on Developer's behalf and to bind Developer hereto, and this Agreement is binding upon and enforceable against Developer in accordance with its terms.

3.4 The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and Developer's compliance with the terms and conditions of this Agreement will not violate the terms of Developer's certificate of formation or limited liability company agreement (collectively, the "**Governance Documents**"), true and complete copies of which have been provided to the MRA Director prior to the Effective Date, or conflict with or result in a breach of any of the terms, conditions, or provisions of any restriction, agreement, or any instrument to which Developer is a party or by which it is bound, nor will it result in the creation or imposition of any prohibited lien, charge, or encumbrance of any nature whatsoever upon the Property or the Project, except for any permitted encumbrances.

3.5 Developer shall not amend or change its Governance Documents, including the addition of members or partners, in any manner that would conflict with or result in a breach of the terms of this Agreement.

3.6 Neither Developer nor Developer's Principal has (a) made a general assignment for the benefit of creditors, (b) filed for any voluntary petition in bankruptcy or, to Developer's knowledge, suffered the filing of an involuntary petition by Developer's creditors, (c) suffered the appointment of a receiver to take possession (or the attachment or other judicial seizure) of all, or substantially all, of such Person's assets, (d) admitted in writing its inability to pay its debts as they generally come due or (e) made an offer of settlement, extension or composition to its creditors generally.

3.7 There are no legal actions or proceedings pending or, to Developer's knowledge, threatened against Developer which would, if adversely determined, have a material adverse effect on Developer or the ability of Developer to perform its obligations under this Agreement.

3.8 Neither any member of the Governing Body nor any officer or employee of the City has any direct, indirect, legal, or beneficial interest in Developer, the Project, this Agreement or in any contract or agreement between the City and Developer or in any franchise, concession, right or privilege of any nature granted by the City to Developer in this Agreement.

3.9 Developer is not a Prohibited Person.

3.10 This Agreement is entered into by Developer without collusion on the part of Developer with any Person, without fraud and in good faith.

3.11 No gratuities, in the form of entertainment, gifts or otherwise, were, or during the Term of this Agreement, will be offered or given by Developer or any agent or representative of Developer to any officer or employee of the City with a view towards securing this Agreement or for securing more favorable treatment in connection with any matter hereunder for which a determination or performance invokes the City's discretion.

3.12 All members and officers of Developer, as well as all Persons (or their principals) holding an interest in any member of Developer, are set forth on Exhibit D attached hereto, and Developer shall provide the City with written notification of any change of Control of Developer within 30 days after any such change through the Term of this Agreement.

SFC CLERK RECORDED 02/12/2025

3.13 Developer has sufficient funds to enable Developer to develop and complete the construction of the Phase 1 Improvements and pay all fees and expenses necessary or related thereto, and prior to the commencement of construction of the Phase 2 Improvements and Phase 3 Improvements, Developer shall have sufficient funds and/or binding commitments from third parties to provide such funds to enable Developer to develop and complete the Phase 2 Improvements and Phase 3 Improvements and to pay all fees and expenses necessary or related thereto.

ARTICLE 4
PROJECT CONSIDERATION

4.1 Consideration. The purchase price for the Property (the "**Purchase Price**") to be paid by Developer to the City is $5,000,000.00. The Purchase Price, subject to the prorations and adjustments as provided in Article 10, shall be payable by Developer in immediately available funds as follows:

4.1.1 *Initial Deposit.* A portion of the Purchase Price in the amount of $1,000,000.00 (the "**Initial Deposit**") shall be payable in full on the Effective Date. The Initial Deposit shall be nonrefundable to Developer, except in the event Developer terminates this Agreement in accordance with Section 6.1 (Master Plan Amendment) or Section 18.6 (City Default).

4.1.2 *Phase 1 Purchase Installment.* A portion of the Purchase Price in the amount of $2,250,000 (the "**Phase 1 Purchase Installment**") shall be payable in full at the Phase 1 Closing.

4.1.3 *Phase 2 Purchase Installment.* A portion of the Purchase Price in the amount of $1,250,000 (the "**Phase 2 Purchase Installment**") shall be payable in full at the Phase 2 Closing.

4.1.4 *Phase 3 Purchase Installment.* A portion of the Purchase Price in the amount of $500,000 (the "**Phase 3 Purchase Installment**") shall be payable in full at the Phase 3 Closing. The Phase 1 Closing, Phase 2 Closing and Phase 3 Closing are referred to herein, collectively, as the "**Closings**" and, individually, as a "**Closing**."

ARTICLE 5
DEVELOPER ROLE; PROJECT APPROVALS AND TIMELINE

5.1 Developer Role. Developer shall be responsible for the overall conceptualization, design, and construction of the Project in accordance with the Final Design Plans and the Applicable Rules. In connection with the foregoing, Developer shall be responsible, at its sole cost and expense, for the entitlement, development, construction, and operation of the Project, including without limitation:

5.1.1 Assembling a Project team with the necessary expertise, experience, and capacity to develop and manage the Project.

5.1.2 Attending and/or facilitating public forums, hearings, and briefings with relevant stakeholders, adjacent neighborhood associations, the Governing Body, elected officials, City agencies, and other organizations as required to obtain the final permits for the Project.

5.1.3 Designing all Private Improvements related to the Project.

SFC CLERK RECORDED 02/12/2025

5.1.4 Securing all financing for the Project, including horizontal and vertical development and construction cost, acquisition costs, pre-development costs, soft costs, off-site costs, and infrastructure costs.

5.1.5 Preparing, processing and obtaining in a timely manner all required approvals, permits, licenses, and certificate(s) of any Governmental Authorities relating to the development and construction of the Project required under the Applicable Rules (collectively, as applicable, "**Approvals**").

5.1.6 Constructing the Project in accordance with the Approvals, and in compliance with the Project Standards. For purposes of this Agreement, "**Project Standards**" means the general standards of quality for construction, maintenance, operations, security and other activities applicable to the Project's use, in a first class manner consistent with reputable business standards and practices typical of similar projects within the Santa Fe metropolitan area.

5.1.7 Maintaining and operating the Project, including the community benefits set forth in Article 11, in compliance with the Project Standards.

5.1.8 Paying all property taxes and other taxes associated with the Project in accordance with this Agreement and the Lease.

5.2 Phase 1 Plans; Phase 1 Construction Schedule.

5.2.1 *Conceptual Plans*. Developer previously submitted its Conceptual Plans for Phase 1 to the MRA Director in the form attached hereto as Exhibit E (the "**Phase 1 Conceptual Plans**"), which Phase 1 Conceptual Plans have been reviewed by the MRA Director and deemed to be consistent with the Master Plan and Community Development Plan.

5.2.2 *Design Plans*. At least 30 days before Developer submits an application to the City and the State of New Mexico Construction Industries Division (the "**State CID**") for development plan and/or building permit approval for each component of Phase 1, Developer shall deliver to the MRA Director its Preliminary Design Plans for each such component of Phase 1 (the "**Phase 1 Preliminary Component Design Plans**"). The Phase 1 Preliminary Component Design Plans shall be in a format customarily acceptable to the City of Santa Fe Planning and Land Use Department. In addition to the foregoing, Developer shall provide a written affidavit to the City (a) setting forth Developer's estimate, based on Developer's initial modeling, of the total points the Phase 1 Improvements will receive within each of the subcategories designated as 'Required in RFP' on the Project Checklist attached as Appendix A to the Community Development Plan, as such subcategories and point system are further described in the United States Green Building Council (USGBC) Leadership in Environmental and Energy Design: Neighborhood Development (LEED-ND) attached hereto as Exhibit F (the "**LEED Requirements**"), and (b) identifying the fixtures, materials, systems and/or design elements incorporated within the Phase 1 Preliminary Component Design Plans that will cause the Phase 1 Improvements to meet the applicable LEED Requirements (i.e., those applicable to existing buildings and/or major renovation, as applicable) and which form the basis for Developer's estimate of the point totals for the Phase 1 Improvements. As of the Effective Date, to the City's knowledge, the Buildings known as Garson Studios, Benildus Hall, and Driscoll Hall either conform to the requirements of City Code or are legal nonconforming structures, as such term is defined in Article 14-12 of the City Code. Developer may submit individual Phase 1 Preliminary Component Design Plans for each building or parcel within Phase 1 to the MRA Director and the City or the State

SFC CLERK RECORDED 02/12/2025

CID, as applicable, and not all components must be completed simultaneously so long as all component submissions have been made by the date that is 120 days after the Effective Date.

5.2.3 *MRA Comments*. The MRA Director shall review each set of Phase 1 Preliminary Component Design Plans for consistency with the Phase 1 Conceptual Plans, the Master Plan and the Community Development Plan, and shall provide to Developer written notice of its approval or disapproval thereof (respectively, as applicable, the "**Preliminary Approval Notice**" or "**Preliminary Disapproval Notice**") within 20 Business Days following receipt of such Phase 1 Preliminary Component Design Plans, provided that any Preliminary Disapproval Notice shall identify the inconsistency or inconsistencies with the Phase 1 Conceptual Plans on which the disapproval is based. Any failure by the MRA Director to timely deliver Preliminary Approval Notice or Preliminary Disapproval Notice will be deemed to constitute the MRA Director's approval of the Phase 1 Preliminary Component Design Plans. If the MRA Director delivers a Preliminary Disapproval Notice, Developer shall revise the Phase 1 Preliminary Component Design Plans accordingly and deliver the Phase 1 Preliminary Component Design Plans, as revised, to the MRA Director for further review, following which the Preliminary Approval Notice or Preliminary Disapproval Notice and revision procedure detailed above shall continue until the MRA Director has delivered a Preliminary Approval Notice with respect to the Phase 1 Preliminary Component Design Plans (the "**Phase 1 MRA-Approved Component Design Plans**").

5.2.4 *Final Plans*. Any revisions to the Phase 1 MRA-Approved Component Design Plans required for approvals by the City in connection with any site improvements (other than vertical improvements) or by the State CID or other applicable Governmental Authorities in connection with the design or construction of the vertical improvements shall be incorporated into and made a part of the Phase 1 MRA-Approved Component Design Plans, without further approval of the MRA Director being required, and the Phase 1 MRA-Approved Component Design Plans, as revised and approved by the City or the State CID, as applicable, shall hereinafter be referred to as the "**Phase 1 Component Final Design Plans**."

5.2.5 *Development Approvals*. Developer acknowledges that Chapter 14 of the City Code sets forth certain review and approval requirements applicable to the Phase 1 Improvements which are not within the State CID's jurisdiction or authority pursuant to the Construction Industries Licensing Act, Chapter 60, Article 13, NMSA 1978 and Chapter 5, Title 14, N.M. Admin Code (collectively, the "**CIL Rules**"), including but not limited to zoning compliance and compliance with City Code provisions applicable to grading, landscaping, lighting, pedestrian and vehicular circulation, parking, infrastructure serving the site, and open space. Developer shall be required to complete the City review and approval process for each of the foregoing matters. Prior to submission of any application to the State CID for building permits in connection with the construction of the Phase 1 Improvements, Developer shall obtain a letter from the City Planning and Land Use Department confirming that the Phase 1 Component Final Design Plans comply with said regulations, and Developer acknowledges that Developer is not entitled to commence construction of the Phase 1 Improvements until Developer has obtained such letter.

5.2.6 *Inspection Approvals*. Developer shall not be deemed to have achieved Final Completion until such time as the City and State CID have inspected and approved the construction or installation of the Phase 1 Improvements for which the City or State CID, as applicable, approved the plans pursuant to Section 5.2.5, as the Phase 1 Improvements (or the applicable portion thereof) that correspond to such plans are completed. For the avoidance of doubt, the City's approval of plans shall

SFC CLERK RECORDED 02/12/2025

not be required for the issuance by the State CID of a temporary or permanent certificate of occupancy, but shall be required for Final Completion.

5.2.7 *Building Permit Submission Date.* Developer shall submit for building permits and all other Approvals for the Phase 1 Improvements (including each component thereof) no later than 30 days after the approval of the Phase 1 MRA-Approved Component Design Plans by all applicable Governmental Authorities ("**Phase 1 Building Permit Submission Date**").

5.2.8 *Commencement of Construction.* Developer shall Commence Construction for each component of Phase 1 within 45 days after Developer receives its building permit and zoning approval for said component. The date on which Developer is obligated to Commence Construction with respect to the first building permit obtained for Phase 1 is referred to herein as the "**Phase 1 Commencement Date.**" Subject to the foregoing, Developer reserves the right to Commence Construction for components of Phase 1 at different times, and no provision hereof shall be construed to require Developer to commence all components of Phase 1 simultaneously. Notwithstanding the foregoing, if Developer has submitted applications for building permits to State CID in accordance with Section 5.2.7 prior to Developer's receipt of zoning approval from the City, but has not obtained zoning approval from the City despite commercially reasonable efforts to secure such approval, then Developer shall not be required to Commence Construction until such approval is granted so long as Developer diligently and continuously pursues such approvals.

5.2.9 *Completion of Construction.* Developer shall achieve substantial completion of the Phase 1 Improvements (as shall be evidenced by the issuance and receipt of applicable temporary or conditional certificates of occupancy therefor) on or before the first anniversary of the Phase 1 Commencement Date.

5.3 Phase 2 Plans; Phase 2 Construction Schedule.

5.3.1 *Conceptual Plans.* No later than nine months after the Effective Date, Developer shall deliver to the MRA Director its Conceptual Plans for Phase 2 (the "**Phase 2 Conceptual Plans**"). The MRA Director will have 20 Business Days after its receipt of the Phase 2 Conceptual Plans to review the same consistency with the requirements of this Agreement, the Master Plan and the Community Development Plan and deliver to Developer either a Preliminary Approval Notice or a Preliminary Disapproval Notice (which shall set forth the inconsistency or inconsistencies identified in the Phase 2 Conceptual Plans on which the MRA Director's disapproval is based). Any failure by the MRA Director to timely deliver a Preliminary Approval Notice or Preliminary Disapproval Notice will be deemed to constitute the MRA's approval of the Phase 2 Conceptual Plans. If the MRA Director delivers a Preliminary Disapproval Notice, Developer shall revise the Phase 2 Conceptual Plans accordingly and deliver the Phase 2 Conceptual Plans, as revised, to the MRA Director for further review, following which the Preliminary Approval Notice or Preliminary Disapproval Notice and revision procedure detailed above shall continue until the MRA Director has delivered a Preliminary Approval Notice with respect to the Phase 2 Conceptual Plans (the "**Phase 2 MRA-Approved Conceptual Plans**").

5.3.2 *Preliminary Design.* At least 30 days before Developer submits an application to the City or the State CID for development plan and/or building permits, Developer shall submit to the MRA Director Preliminary Design Plans for Phase 2 that are consistent with the Phase 2 MRA-Approved Conceptual Plans (the "**Phase 2 Preliminary Design Plans**"). Developer shall also provide a written affidavit to the City written affidavit to the City (a) setting forth Developer's estimate, based

SFC CLERK RECORDED 02/12/2025

on Developer's initial modeling, of the total points the Phase 2 Improvements will receive within each of the subcategories comprising the LEED Requirements, and (b) identifying the fixtures, materials, systems and/or design elements incorporated within the Phase 2 Preliminary Design Plans that will cause the Phase 2 Improvements to meet the applicable LEED Requirements and which form the basis for Developer's estimate of the point totals for the Phase 2 Improvements. Developer shall submit Phase 2 Preliminary Design Plans to the City or the State CID, as applicable, for approval on or before the first anniversary of the Effective Date.

5.3.3 *MRA Comment.* The MRA Director will have 20 Business Days following receipt from Developer to review the Phase 2 Preliminary Design Plans for consistency with the Phase 2 MRA-Approved Conceptual Plans and deliver to Developer either a Preliminary Approval Notice or a Preliminary Disapproval Notice, provided that any Preliminary Disapproval Notice shall identify the inconsistency or inconsistencies with the Phase 2 Preliminary Design Plans on which the disapproval is based. Any failure by the MRA Director to timely deliver a Preliminary Approval Notice or Preliminary Disapproval Notice will be deemed to constitute the MRA's approval of the Phase 2 Preliminary Design Plans. If the MRA Director delivers a Preliminary Disapproval Notice, Developer shall use commercially reasonable efforts to incorporate the MRA Director's comments into the Phase 2 Preliminary Design Plans in its next submission of the same to the City. Such submission shall be referred to herein as the "**Phase 2 MRA-Approved Design Plans.**"

5.3.4 *Final Plans.* Any revisions to the Phase 2 MRA-Approved Design Plans required for approvals by the City in connection with any site improvements (other than vertical improvements) or by the State CID or other applicable Governmental Authorities in connection with the design or construction of the vertical improvements shall be incorporated into and made a part of the Phase 2 MRA-Approved Design Plans, without further approval of the MRA Director being required, upon which the Phase 2 MRA-Approved Design Plans, as revised and approved by the City, shall be referred to as the "**Phase 2 Final Design Plans.**"

5.3.5 *Development Approvals.* Developer acknowledges that Chapter 14 of the City Code sets forth certain review and approval requirements applicable to the Phase 2 Improvements which are not within the State CID's jurisdiction or authority pursuant to the CIL Rules, including but not limited to zoning compliance and compliance with City Code provisions applicable to grading, landscaping, lighting, pedestrian and vehicular circulation, parking, infrastructure serving the site, and open space. Developer shall be required to complete the City review and approval process for each of the foregoing matters. Prior to submission of any application to the State CID for building permits in connection with the construction of the Phase 2 Improvements, Developer shall obtain a letter from the City Planning and Land Use Department confirming that the Phase 2 Final Design Plans comply with said regulations, and Developer acknowledges that Developer is not entitled to commence construction of the Phase 2 Improvements until Developer has obtained such letter.

5.3.6 *Inspection Approvals.* Developer shall not be deemed to have achieved Final Completion until such time as the City and State CID have inspected and approved the construction or installation of the Phase 2 Improvements for which the City or State CID, as applicable, approved the plans pursuant to Section 5.3.5, as the Phase 2 Improvements (or the applicable portion thereof) that correspond to such plans are completed. For the avoidance of doubt, the City's approval of plans shall not be required for the issuance by the State CID of a temporary or permanent certificate of occupancy, but shall be required for Final Completion.

SFC CLERK RECORDED 02/12/2025

5.3.7 *Building Permit Submission Date.* Developer shall submit for building permit and development plan approval for the Phase 2 Improvements no later than 60 days after the approval of the Phase 2 MRA-Approved Design Plans by all applicable Governmental Authorities (the "**Phase 2 Building Permit Submission Date**").

5.3.8 *Commencement of Construction.* Developer shall Commence Construction for each component of Phase 2 within 45 days after Developer receives its building permit and zoning approval for Phase 2. The date on which Developer is obligated to Commence Construction with respect to the first building permit obtained for Phase 2 is referred to herein as the "**Phase 2 Commencement Date.**" Notwithstanding the foregoing, if Developer has submitted applications for building permits to State CID in accordance with Section 5.3.7 prior to Developer's receipt of zoning approval from the City, but has not obtained zoning approval from the City despite commercially reasonable efforts to secure such approval, then Developer shall not be required to Commence Construction until such approval is granted so long as Developer diligently and continuously pursues such approvals.

5.3.9 *Completion of Construction.* Developer shall achieve substantial completion of the Phase 2 Improvements (as shall be evidenced by the issuance and receipt of applicable temporary or conditional certificates of occupancy therefor) on or before the date that is 18 months after the Phase 2 Commencement Date.

5.4 Phase 3 Plans; Phase 3 Construction Schedule.

5.4.1 *Conceptual Plans.* No later than 27 months after the Effective Date, Developer shall deliver to the MRA Director the Conceptual Plans for Phase 3 (the "**Phase 3 Conceptual Plans**"). The MRA Director will have 15 Business Days after its receipt of the Phase 3 Conceptual Plans to review the same consistency with the requirements of this Agreement, the Master Plan and the Community Development Plan and deliver to Developer either a Preliminary Approval Notice or a Preliminary Disapproval Notice (which shall set forth the inconsistency or inconsistencies identified in the Phase 3 Conceptual Plans on which the MRA Director's disapproval is based). Any failure by the MRA Director to timely deliver a Preliminary Approval Notice or Preliminary Disapproval Notice will be deemed to constitute the MRA Director's approval of the Phase 3 Conceptual Plans. If the MRA Director delivers a Preliminary Disapproval Notice, Developer shall revise the Phase 3 Conceptual Plans accordingly and deliver the Phase 3 Conceptual Plans, as revised, to the MRA Director for further review, following which the Preliminary Approval Notice or Preliminary Disapproval Notice and revision procedure detailed above shall continue until the MRA Director has delivered a Preliminary Approval Notice with respect to the Phase 3 Conceptual Plans (the "**Phase 3 MRA-Approved Conceptual Plans**").

5.4.2 *Preliminary Design.* At least 30 days before Developer submits an application to the City and the State CID for development plan and/or building permit, Developer shall submit to the MRA Director the Preliminary Design Plans for Phase 3 that are consistent with the Phase 3 MRA-Approved Conceptual Plans (the "**Phase 3 Preliminary Design Plans**"). Developer shall also provide a written affidavit to the City (a) setting forth Developer's estimate, based on Developer's initial modeling, of the total points the Phase 3 Improvements will receive within each of the subcategories comprising the LEED Requirements, and (b) identifying the fixtures, materials, systems and/or design elements incorporated within the Phase 3 Preliminary Design Plans that will cause the Phase 3 Improvements to meet the applicable LEED Requirements and which form the basis for Developer's

SFC CLERK RECORDED 02/12/2025

estimate of the point totals for the Phase 3 Improvements. Developer shall submit Phase 3 Preliminary Design Plans to the City or the State CID, as applicable, for approval no later than 33 months after the Effective Date.

5.4.3 *MRA Comment.* The MRA Director will have 20 Business Days following receipt from Developer to review the Phase 3 Preliminary Design Plans for consistency with the Phase 3 MRA-Approved Conceptual Plans and deliver to Developer either a Preliminary Approval Notice or a Preliminary Disapproval Notice, provided that any Preliminary Disapproval Notice shall identify the inconsistency or inconsistencies with the Phase 3 Preliminary Design Plans on which the disapproval is based. Any failure by the MRA Director to timely deliver a Preliminary Approval Notice or Preliminary Disapproval Notice will be deemed to constitute the MRA's approval of the Phase 3 Preliminary Design Plans. If the MRA Director delivers a Preliminary Disapproval Notice, Developer shall use commercially reasonable efforts to incorporate the MRA Director's comments into the Phase 3 Preliminary Design Plans in its next submission of the same to the City. Such submission shall be referred to herein as the "**Phase 3 MRA-Approved Design Plans**."

5.4.4 *Final Plans.* Any revisions to the Phase 3 MRA-Approved Design Plans required for approvals by the City in connection with any site improvements (other than vertical improvements) or by the State CID or other applicable Governmental Authorities in connection with the design or construction of the vertical improvements shall be incorporated into and made a part of the Phase 3 MRA-Approved Design Plans, without further approval of the MRA Director being required, and the Phase 3 MRA-Approved Design Plans, as revised and approved by the City, shall hereinafter be referred to as the "**Phase 3 Final Design Plans**."

5.4.5 *Development Approvals.* Developer acknowledges that Chapter 14 of the City Code sets forth certain review and approval requirements applicable to the Phase 3 Improvements which are not within the State CID's jurisdiction or authority pursuant to the CIL Rules, including but not limited to zoning compliance and compliance with City Code provisions applicable to grading, landscaping, lighting, pedestrian and vehicular circulation, parking, infrastructure serving the site, and open space. Developer shall be required to complete the City review and approval process for each of the foregoing matters. Prior to submission of any application to the State CID for building permits in connection with the construction of the Phase 3 Improvements, Developer shall obtain a letter from the City Planning and Land Use Department confirming that the Phase 3 Final Design Plans comply with said regulations, and Developer acknowledges that Developer is not entitled to commence construction of the Phase 3 Improvements until Developer has obtained such letter.

5.4.6 *Inspection Approvals.* Developer shall not be deemed to have achieved Final Completion until such time as the City and State CID have inspected and approved the construction or installation of the Phase 3 Improvements for which the City or State CID, as applicable, approved the plans pursuant to Section 5.4.5, as the Phase 3 Improvements (or the applicable portion thereof) that correspond to such plans are completed. For the avoidance of doubt, the City's approval of plans shall not be required for the issuance by the State CID of a temporary or permanent certificate of occupancy, but shall be required for Final Completion.

5.4.7 *Building Permit Submission Date.* Developer shall submit for building permit and development plan approval for Phase 3 Improvements no later than 60 days after the approval of the Phase 3 MRA-Approved Design Plans by all applicable Governmental Authorities.

SFC CLERK RECORDED 02/12/2025

5.4.8 *Commencement of Construction.* Developer shall Commence Construction for Phase 3 no later than 45 days after Developer receives its first building permit and zoning approval for Phase 3. The date on which Developer is obligated to Commence Construction with respect to Phase 3 is referred to herein as the "**Phase 3 Commencement Date.**" Notwithstanding the foregoing, if Developer has submitted applications for building permits to State CID in accordance with Section 5.4.7 prior to Developer's receipt of zoning approval from the City, but has not obtained zoning approval from the City despite commercially reasonable efforts to secure such approval, then Developer shall not be required to Commence Construction until such approval is granted so long as Developer diligently and continuously pursues such approvals.

5.4.9 *Completion of Construction.* Developer shall achieve substantial completion of the Phase 3 Improvements (as shall be evidenced by the issuance and receipt of applicable temporary or conditional certificates of occupancy therefor) on or before the date that is 18 months after the Phase 3 Commencement Date.

5.5 Defects in Plans. Developer acknowledges and agrees that neither the City, the MRA nor or any department, governing body, commission, agency, official, officer, employee, agent, representative or volunteer of the City or the MRA (collectively, the "**City Parties**") has made any representation or warranty, through this Agreement or otherwise, concerning the condition of the Property or the sufficiency of the development plans for any purpose, and no such City Parties shall be responsible either to Developer or to third parties in any way for defects in any development plans approved by any of the City Parties, nor for any structural, environmental or other defects in any work performed pursuant thereto. Developer, on behalf of itself and its successors and assigns, hereby waives and releases any claims, encumbrances, liens, demands, suits, judgments, proceedings, damages, losses, liabilities, penalties, fines, costs and expenses (including reasonable attorneys' fees and court costs) of any kind or nature (collectively, "**Liabilities**") against the City Parties for any monetary damages or compensation as a result of defects in such plans, including the violation of any laws or regulations, and for defects in any work done according to the such plans. The provisions of this Section shall survive any expiration or termination of this Agreement.

5.6 Cooperation with the City. Developer shall provide the MRA Director with copies of all applications for rezoning, site plans, any changes thereto, and any Approvals relating thereto made by or obtained from any Governmental Authorities with respect to the Property, the Private Improvements, and the Project.

ARTICLE 6
CONDITIONS PRECEDENT TO COMMENCEMENT OF CONSTRUCTION

6.1 Master Plan Amendment. Developer acknowledges that as of the Effective Date (a) the permitted uses for the parcels comprising Phase 1 include film related uses as existing nonconforming uses, but the Master Plan does not include film and multi-media production, cinema or supportive retail as permitted uses, and any development of Phase 1 for film and multi-media production, cinema or supportive retail uses is contingent upon the adoption of an amendment to the Master Plan approving such uses, (b) residential use is identified as an accessory use under the Master Plan, and any development of Phase 2 that includes a residential component that is not an accessory use is contingent upon the adoption of an amendment to the Master Plan approving such uses, and (c) the permitted uses under the Master Plan for the parcel(s) comprising Phase 3 do not include film and multi-media production and light industrial, and any development of Phase 3 for film and multi-media

SFC CLERK RECORDED 02/12/2025

production and/or light industrial use is contingent upon the adoption of an amendment to the Master Plan approving such uses. No later than 60 days after the Effective Date, Developer shall, at its sole cost and expense, prepare and deliver to the MRA Director, a draft application for an amendment to the Master Plan (the "**Master Plan Amendment**"), together with all documents and information required to be submitted for the Governing Body's consideration thereof, which provides for (i) the modifications to the permitted uses and ancillary uses for the Properties set forth on Exhibit N attached hereto (the "**Required Uses**"), and (ii) such additional modifications to the Master Plan in connection with the Project as Developer may reasonably request ("**Discretionary Modifications**"). Within 10 Business Days after the MRA Director's receipt of the draft application, the MRA Director shall review the draft application and deliver written notice to Developer either of the MRA Director's approval of the draft application or of any modifications required by the MRA Director (including, to the extent necessary, any supplemental or clarifying information required for Developer to implement the same). Developer acknowledges that the MRA Director may reject or change any Discretionary Modifications or require any additional modifications as the MRA Director determines in its sole discretion, provided that Developer's approval shall be required for any modifications that would further restrict the Required Uses or otherwise impose any additional obligations on Developer or reduce any rights of Developer, in any material respect, which are not provided for in this Agreement. Subject to the foregoing provision, within five Business Days after receipt of the MRA Director's required modifications, Developer shall incorporate the same and deliver an updated draft application to the MRA Director, and said review and approval or modification process shall be repeated until such time as the MRA Director approves the draft application (the "**Final Application**"). The Governing Body hereby authorizes and empowers the MRA Director to submit, or cause Developer (acting as agent on behalf of the MRA) to submit, the Final Application to the City Planning and Land Use Department for its review and recommendation. If, at the conclusion of the City's review of and decision concerning the Master Plan Amendment, the Governing Body issues a final action either denying the proposed Master Plan Amendment or approving or conditionally approving the Master Plan Amendment with modifications to the form that eliminate, limit or modify the Required Uses in a manner that materially adversely affects Developer's ability to develop and operate the Project consistent with the Required Uses, then on or before the date that is 30 days after the effective date of the Governing Body's final action, Developer may terminate this Agreement by delivering written notice of termination to the City, upon which the Lease shall automatically terminate, the City shall refund Developer's Initial Deposit and, except for the provisions which expressly survive termination, neither Party shall have any further rights or obligations under this Agreement. Developer shall be responsible for all costs related to the preparation and submission of the amendment to the Master Plan. For the avoidance of doubt, nothing in this Section 6.1 shall, at any time prior to the applicable Construction Commencement, operate to terminate or modify Developer's right to continue to operate Developer's business for film studio uses in the Buildings in their current existing nonconforming status.

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6.2 Phase 1 Condition Precedent. To secure Developer's completion of the Phase 1 Improvements, as a condition precedent to Construction Commencement for the Phase 1 Improvements, Developer shall provide to the City or its designee (a) such documentation as the City or its designee may reasonably require, including, without limitation, financial statements (i.e., balance sheet, a statement of income, and contingent obligations in each case prepared in accordance with generally accepted accounting principles, consistently applied (collectively, "**Financial Statements**")), of Developer and Developer's Principal, subscription agreements or similar agreements obligating Developer's equity owners to make capital contributions to Developer and/or a

legally binding, firm loan commitment made to Developer, and the total project construction budget, in order to determine that Developer has secured available funds in an amount sufficient to complete Phase 1 in accordance with the Phase 1 Component Final Design Plans (i.e., evidence of debt and equity commitments at least equal to the total project construction budget), and (b) a personal payment and performance guaranty from Developer's Principal in an amount equal to the cost to complete the Phase 1 Improvements in accordance with the Phase 1 Component Final Design Plans, in the form attached hereto as Exhibit G-1 (a "**Guaranty**").

6.3 Phase 2 Conditions Precedent. To secure Developer's completion of the Phase 2 Improvements, as a condition precedent to Construction Commencement for the Phase 2 Improvements, Developer shall provide to the City or its designee (a) such documentation as the City or its designee may reasonably require, including, without limitation, Financial Statements of Developer and Developer's Principal, subscription agreements or similar agreements obligating Developer's equity owners to make capital contributions to Developer and/or a legally binding, firm loan commitment made to Developer, and the total project construction budget, in order to determine that Developer has secured available funds in an amount sufficient to complete Phase 2 in accordance with the Phase 2 Final Design Plans (i.e., evidence of debt and equity commitments at least equal to the total project construction budget), and (b) a cash bond or a bond from a surety licensed in the State of New Mexico, each (i) substantially in the form required by the City under then-current City standards (i.e., as of the date civil plans are approved for the applicable improvement) to secure the performance of the applicable obligation hereunder, and (ii) on a form substantially similar to the form of bond attached hereto as Exhibit G-2 (as applicable, a "**Bond**"), which Bond shall be in an amount equal to the cost to complete the Phase 2 Improvements in accordance with the Phase 2 Final Design Plans.

6.4 Phase 3 Conditions Precedent. To secure Developer's completion of the Phase 3 Improvements, as a condition precedent to Construction Commencement for the Phase 3 Improvements, Developer shall provide to the City or its designee (a) such documentation as the City or its designee may reasonably require, including, without limitation, Financial Statements of Developer and Developer's Principal, subscription agreements or similar agreements obligating Developer's equity owners to make capital contributions to Developer and/or a legally binding, firm loan commitment made to Developer, and the total project construction budget, in order to determine that Developer has secured available funds in an amount sufficient to complete Phase 3 in accordance with the Phase 3 Final Design Plans (i.e., evidence of debt and equity commitments at least equal to the total project construction budget), and (b) a Bond in an amount equal to the cost to complete the Phase 3 Improvements in accordance with the Phase 3 Final Design Plans.

Within five Business Days after the MRA Director's receipt of documentation in form and substance sufficient for the MRA Director to reasonably determine that Developer has satisfied the foregoing conditions precedent with respect to the applicable Phase, the MRA Director shall deliver to Developer a Notice to Proceed for such Phase.

ARTICLE 7
PRIVATE IMPROVEMENTS

7.1 Phase 1 Improvements. As part of Developer's obligations for Phase 1, Developer shall cause the Final Completion of the following work and improvements with a minimum investment

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of not less than $5,000,000.00 in actual out-of-pocket expenditures, as evidenced by such documentation as the City may reasonably require (collectively, the "**Phase 1 Improvements**"):

7.1.1 the demolition or deconstruction of the existing building known as Onate Hall;

7.1.2 the disconnection of Garson Studios, Driscoll Hall, and the adjacent Shellaberger Property from the Midtown PNM electrical system and the construction and completion of the Aspect Electrical Loop pursuant to Exhibit H;

7.1.3 the construction and/or installation of all landscaping, signage, wayfinding, fencing, parking, and pedestrian circulation infrastructure, as applicable, set forth on Exhibit E;

7.1.4 the installation of (i) bicycle storage fixtures/facilities near the primary entrance of each building equal to or exceeding the minimum requirements set forth in the Master Plan, (ii) a minimum of two 'Level 3' charging facilities and two 'Level 2' charging facilities for electric vehicles and bicycles, each of which shall be operable and accessible to the public for at least 20 years; and

7.1.5 the construction of major renovations to Benildus Hall, Garson Studios, and Driscoll Hall necessary to operate the Project as a state-of-the-art film production studio and related office space, including without limitation:

(a) with respect to Garson Studios, the construction and installation of (i) The Screen theater renovations and all public accessibility renovations required by the Applicable Rules for such space to be available for public use as a movie theater or performance space, (ii) all demising improvements required to separate The Screen theater area (which will be accessible to the public) from the film production studio spaces, and (iii) the façade improvements according to the requirements set forth on Exhibit E, to the extent permitted by the Applicable Rules;

(b) with respect to Driscoll Hall, to the extent permitted under the Master Plan Amendment, the construction of a portion of the first floor having storefront exposure along the street frontage and consisting of no less than 2,000 rentable square feet for retail sales and services or food and beverage (restaurant) use (the "**Driscoll Retail Space**"), which Driscoll Retail Space shall, following execution of a lease and/or completion of tenant improvements, if applicable, be open for service to the general public at all times during normal business hours (subject to such customary exceptions as Developer may determine); and

(c) the issuance of temporary or permanent certificates of occupancy for each such Building.

7.2 Phase 2 Improvements. Prior to the Phase 2 Conveyance, Developer shall cause the Final Completion of: (a) the Residential Project, (b) the Solar Facilities, and (c) all landscaping, private utility facilities and other infrastructure and improvements required by the Applicable Rules (collectively, the "**Phase 2 Improvements**"). For purposes hereof, "**Residential Project**" means the multifamily residential building to be constructed on Phase 2 by Developer consisting of no less than 99 and no more than 150 dwelling units, of which (i) no less than 15% of said units will be accessible and affordable pursuant to the City's inclusionary housing program and in compliance with City Code Section 26-1, and (ii) no more than 15% of the total residential units may be reserved for occupancy by film production personnel; and "**Solar Facilities**" means the photovoltaic systems to be installed

SFC CLERK RECORDED 02/12/2025

on the roof (or such other location as may be set forth in the plans) of each building on Phase 2 and Phase 3, as applicable, for the purpose of generating electricity to serve such buildings, which systems shall (a) cover a minimum of 40% of the total square footage of each such roof, or (b) supply a minimum of 20% of the estimated electric demand for such building, as determined in Developer's discretion.

7.3 Phase 3 Improvements. Prior to the Phase 3 Conveyance, Developer shall cause the Final Completion of the construction of: (a) either (i) a film and multi-media production studio consisting of no less than 65,000 interior square feet, *or* (ii) subject to the prior approval of the Governing Body (or the MRA commission, when established by the Governing Body), acting in its reasonable discretion, a comparable development project having a use that constitutes a permitted use under the Master Plan (as amended) and is complementary to and supportive of the film and multi-media production uses, provided that Developer shall submit an alternative use proposal concurrently with the Phase 3 Conceptual Plans submission in accordance with Section 5.4.1; (b) the Solar Facilities; and (c) all landscaping, private utility facilities and other infrastructure and improvements required by the Applicable Rules (collectively, as applicable, the "**Phase 3 Improvements**"). No residential development is permitted as part of the Phase 3 Improvements.

7.4 Construction Standard; Other Requirements.

7.4.1 All construction performed in connection with the Project shall be conducted in a good and workmanlike manner, and in compliance with the construction and completion requirements for each Phase of the Project, and in accordance with all Applicable Rules and Project Standards.

7.4.2 Developer shall construct no more than 150 residential units on the Property (inclusive of all lots).

7.5 Site Restoration.

7.5.1 *Removal of Partially Constructed Improvements.* If Developer Abandons construction of the Project, Developer must, within 60 days after receipt by Developer of written notice from the City, either recommence construction on the Project or: (a) remove any partially constructed or partially completed structures or Private Improvements from the applicable Phase; and (b) perform Site Restoration on that portion of the Phase on which Developer has failed to achieve substantial completion of the applicable structures or other Private Improvements or related to the expired building permit, all in accordance with plans approved by the City. For purposes of this Agreement, "**Site Restoration**" means and includes the restoring of the original ground or paved hard surface area in compliance with the Project Standards, and includes but is not limited to the removal or elimination of all debris; the remediation and restoration of any environmental conditions; the elimination of conditions that may create a fire or pollution hazard; the minimization of erosion; and any repair, cleanup, backfilling, compaction, and stabilization, paving and other work necessary to place the site in acceptable condition following the conclusion of the work, or the expiration or revocation of the permit.

7.5.2 *Removal and Restoration by City.* In the event Developer fails or refuses to remove any partially completed Project Improvements, or to perform Site Restoration, as required pursuant to Section 7.5.1, the City will have, and is hereby granted, the right, at its option, to: (i) demolish and/or remove any of the partially completed Private Improvements from any and all portions

SFC CLERK RECORDED 02/12/2025

of the applicable Phase; (ii) perform Site Restoration; and/or (iii) cause the Private Improvements to be completed in accordance with the applicable final plans. Developer must fully reimburse the City for all costs and expenses, including legal and administrative costs, incurred by the City for such work. If Developer does not so fully reimburse the City, the City will have the right to enforce its rights and remedies under the Bond provided by Developer pursuant to Article 6, as necessary to cause such completion and/or to defray the entire cost of the work, including legal fees and administrative expenses. If Developer does not so fully reimburse the City, and the Bond proceeds are insufficient or otherwise unavailable to finance such work, then the City will have the right to place a lien on the applicable Phase for all such costs and expenses in the manner provided by law. The rights and remedies provided in this Section 7.5 are in addition to, and not in limitation of, any other rights and remedies otherwise available to the City in this Agreement, at law, and/or in equity.

ARTICLE 8
RIGHT OF WAY IMPROVEMENTS

8.1 Right of Way Plans. The City shall engage a third party to prepare the plans, specifications and drawings (the "**Right of Way Plans**") for the development and construction of certain public right of way improvements, storm drainage facilities and related infrastructure within the Midtown Site (the "**Midtown ROW Improvements**"), including, without limitation, the sections of roadway, any related curb and gutter, sidewalk, landscaping and irrigation, water, sewer, stormwater, electrical and other utilities, as applicable, within the areas of the Midtown Site identified as roadway segments 'C.1', 'D.2' and 'D.4' depicted on Exhibit I (the "**Project ROW Improvements**"). The City anticipates that the Right of Way Plans will be complete on or after June 30, 2026. Developer shall provide the final design and construction plans, survey and as-built plans for Developer's proposed PNM electrical loop lying below the Project ROW Improvements, and the City and Developer shall coordinate to ensure the Right of Way Plans are designed to reasonably accommodate the construction of said electrical loop. The City shall make best faith efforts to expedite the completion of the plans prior to June 30, 2026.

8.2 Right of Way Completion. Within 90 days after the City's completion of the Right of Way Plans, the City will provide Developer with a construction schedule, setting forth the anticipated commencement and completion of the applicable portions of the Project ROW Improvements (the "**Right of Way Schedule**"). Subject to extension for Uncontrollable Events, the City will substantially complete, or cause the substantial completion of, the portions of the Project ROW Improvements by the deadlines set forth in the Right of Way Schedule in a manner sufficient to prevent the denial or rejection of the issuance and receipt of applicable temporary or conditional certificates of occupancy for such Phase on the basis of the Project ROW Improvements, subject to Developer's proper application therefor and payment of applicable fees in connection therewith. If the City does not complete the Project ROW Improvements (or applicable portion thereof) by the applicable deadline set forth in the Right of Way Schedule, the City shall have the right to extend the applicable deadline(s) prior to the expiration of the then applicable deadline by delivering written notice to Developer of such election to extend, together with a copy of the updated Right of Way Schedule. An extension of time for any Uncontrollable Event shall commence from the commencement date of the Uncontrollable Event set forth in the City's written notice to Developer of such Uncontrollable Event. After the cessation of any such Uncontrollable Event, the City's obligation to perform shall recommence with a day-for-day delay extension to the applicable deadline. In no event shall any delay in completion of the Project ROW Improvements constitute a default by the City. Upon the City's completion of the Project ROW Improvements required in connection with the temporary or conditional certificates of

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occupancy for any Phase, the City shall provide written notice to Developer of such completion. Subject to the provisions of Section 20.29, the City shall make best faith efforts to commence and complete construction prior to the dates set forth in the Right of Way Schedule.

8.3 Cost of Project ROW Improvements. The City shall complete the Project ROW Improvements at its sole cost and expense; provided, however, Developer shall be responsible for 100% of the cost ("**Developer's Share**") for the construction and completion of the section of roadway located immediately adjacent to the real property owned by Developer commonly known as 'The ArtHouse' and depicted on Exhibit I as the 'ArtHouse Frontage' (the "**ArtHouse ROW Improvements**"), which Developer's Share shall be equal to the portion of the total costs to complete the Project ROW Improvements obtained by dividing the total linear footage of the Midtown ROW Improvements by the total linear footage of the 'ArtHouse Frontage'. On or before the later of the date that is 10 days after the City's delivery of written notice to Developer of the estimated amount of Developer's Share of the ArtHouse ROW Improvements (such amount, the "**Escrow Amount**") and the date the City commences construction of the Midtown ROW Improvements, Developer shall deposit into escrow with a title company selected by the City (the "**Escrow Agent**"), the Escrow Amount to be held by the Escrow Agent pursuant to an escrow agreement reasonably acceptable to the City, Developer and the Escrow Agent. Upon completion of the ArtHouse ROW Improvements, the City shall deliver to Developer and the Escrow Agent written notice of the actual amount of Developer's Share of the completed ArtHouse ROW Improvements, and within 10 days following such written notice, the Escrow Agent shall disburse the Escrow Amount to the City, by wire transfer or other good funds as directed by the City. If the actual amount of the Developer's Share is less than the Escrow Amount, the Escrow Agent shall return to Developer the amount remaining in escrow after disbursing the actual Developer's Share to the City. If the actual amount of the Developer's Share is greater than the amount held in escrow, then within 10 days after receipt of the City's written notice of the actual Developer's Share, Developer shall deliver such shortfall directly to the City as instructed in the written notice. At least 30 days prior to the City's commencement of construction of the Midtown ROW Improvements, the City shall deliver to Developer its written estimate of Developer's Share of the ArtHouse ROW Improvements, which shall include the City's total projected budget for the ArtHouse ROW Improvements and the total linear footage of streets included in such construction.

8.4 Coordination; Cooperation. Developer shall cooperate with the City to avoid any interference between the City's construction of the Project ROW Improvements and the Developer's activities on the Property and/or the ArtHouse property. In addition, the City and Developer will coordinate the respective schedules for the City's construction of the Project ROW Improvements and Developer's construction of the roadway improvements for the Project and adjacent ArtHouse project so that the Developer's (or its affiliates) construction commences following the City's construction of the adjacent Midtown ROW Improvements (or roadway portion thereof) in order to maintain elevations, alignment and roadway finish construction consistency. Developer and the City shall meet quarterly to coordinate their respective design and construction activities. If during the City's construction of the Project ROW Improvements it becomes necessary for Developer to move or relocate any permanent or temporary ADA access to any portion of the Property or the ArtHouse property, Developer shall, within 60 days following written notice from the City and at Developer's sole cost and expense, move or relocate such access to an alternative ADA compliant location.

8.5 Ancillary Midtown ROW Improvements; City Delay. Subject to the provisions of Section 20.29, the City agrees to construct the necessary improvements to the Alumni Drive collector road that connects the Midtown Site to Siringo Road and neither Developer nor its affiliates shall be

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responsible for the construction or cost of such improvements other than as otherwise provided in this Article 8. In addition, the City acknowledges it will provide access to Benildus Hall for automobile and pedestrian ingress and egress and that, prior to the City's completion of said access, Developer shall construct or install temporary ADA improvements in the locations depicted on plan attached hereto as Exhibit O (the "**Phasing Depiction**") and in accordance with all Applicable Rules. The City acknowledges that Developer may achieve substantial completion of one or more Phases or the ArtHouse development prior to the City's completion of the Midtown ROW Improvements. To the extent any Phase or the ArtHouse development is substantially completed prior to the City's completion of the applicable roadways or sidewalks, then so long as Developer has constructed or installed the temporary applicable ADA improvements in the locations generally shown on the Phasing Depiction and in compliance with all Applicable Rules, including the improvements to and from Alumni Drive in the locations depicted on the Phasing Depiction, the City agrees that it will not pursue any actions that impede the issuance of Developer's temporary certificates of occupancy to the extent Developer would be entitled to such issuance but for the ongoing construction of the applicable roadways or sidewalks in roadways.

8.6 Gas Loop Declaration; Existing Utilities and Utilities Agreement.

8.6.1 Developer acknowledges that the existing natural gas line serving the Midtown Site (the "**Midtown Gas Loop**") is owned and operated by the City of Santa Fe Public Works Department, under procedures, rules and regulations of the New Mexico Public Regulations Commission, Pipeline Safety Bureau, Parts 191 & 192, NMAC 18.60.2, and the Pipeline Safety Act 70-3-10 to 70-3-20 NMSA 1978, 1995 (as may be amended from time to time, the "**Gas Loop Regulations**"). Developer further acknowledges that the Midtown Gas Loop runs under a portion of the Property and other properties at the Midtown Site, and disconnecting or capping certain sections of the Midtown Gas Loop at the Property may have the effect of terminating or adversely affecting the provision of natural gas to other properties and tenants. Accordingly, if the Private Improvements (or any part thereof) will intersect with or be constructed above the Midtown Gas Loop, Developer may be required to relocate sections of the line and/or install temporary connections, in each case in compliance with the Gas Loop Regulations and at Developer's sole cost. In addition, Developer acknowledges that the City intends to prepare and record a declaration of covenants, conditions and restrictions, or similar instrument (as applicable, the "**Gas Loop Declaration**"), for the purpose of establishing an easement and setting forth certain rights and obligations related to the operation, safety conditions, maintenance, repair, replacement and removal of the Midtown Gas Loop and related facilities in compliance with the Gas Loop Regulations, and the coordination with the City to comply with minimum safety requirements for the operation of, and managing emergencies related to the Midtown Gas Loop. The Gas Loop Declaration, which will encumber the Property and all other properties on which the Midtown Gas Loop is located, shall be in the form adopted by the City, provided that no provision thereof shall impose on any property owner at the Midtown Site any material obligations or costs in excess of those set forth in the Gas Loop Regulations.

8.6.2 The City and Developer executed a utility services agreement attached hereto as Exhibit J (the "**Utilities Agreement**"), which Utilities Agreement outlines the provision of natural gas, water, stormwater and sanitary, and electrical service (collectively, the "**Utilities**") to the Buildings and the timeline for disconnection of the Buildings from the existing natural gas service line serving the Midtown Site.

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ARTICLE 9
SUBDIVISION

9.1 Subdivision Plat. The City has recorded or will record a new plat map (the "**Plat**") that subdivides the Property into the parcels generally depicted on Exhibit B-1. Upon the recordation of a new plat map, the MRA Director will deliver written notice thereof to Developer, together with a copy of the recorded plat map and the platted legal description of the Property (the "**Legal Description**"), and the Developer shall execute and deliver to the City an acknowledgment including the Legal Description as Exhibit B-2 of this Agreement.

ARTICLE 10
CONVEYANCE OF PROPERTY

10.1 Closing; Closing Costs. Each Closing shall take place through a title company selected by the City (the "**Title Company**") by an escrow closing by mail or electronic delivery as mutually agreed upon by the City and Developer, and otherwise in accordance with the provisions of this Article 10. At each Closing, Developer shall pay any customary statutory transfer, sales, use, gross receipts or similar taxes, the cost of recording the Deed (including, without limitation, any documentary fees), the base premium and all fees for the Title Policy and any endorsements ordered by Developer, and all of the customary closing costs of the Title Company.

10.2 Phase 1 Closing.

10.2.1 *Phase 1 Closing Conditions.* The conveyance of Phase 1 by the City to Developer (the "**Phase 1 Conveyance**") shall be subject to the satisfaction, on or prior to the date that is 90 days after the deadline for substantial completion of the Phase 1 Improvements pursuant to Section 5.2.9 (as may be extended in accordance with this Agreement), of the following conditions (collectively, the "**Phase 1 Closing Conditions**"):

(a) Developer shall have achieved Final Completion of the Phase 1 Improvements;

(b) Developer shall have delivered to the City written notice of election to the City to purchase Phase 1 ("**Phase 1 Purchase Notice**"), which Phase 1 Purchase Notice must be delivered within 30 days after Final Completion of the Phase 1 Improvements, provided that Developer shall be entitled to notice and 10 days' opportunity to cure any failure to deliver such notice;

(c) Developer shall have delivered the Phase 1 Purchase Installment into escrow with the Title Company, along with all recording fees and other amounts required to consummate the Phase 1 Conveyance;

(d) Developer shall have complied in all material respects with (i) the obligations contained in this Agreement, including but not limited to Developer's compliance with the Community Benefit Requirements, and (ii) the obligations contained in the Lease;

(e) All of Developer's representations and warranties contained in this Agreement shall be true and correct in all material respects as of the Phase 1 Closing Date (with appropriate modifications permitted under this Agreement);

SFC CLERK RECORDED 02/12/2025

(f) Developer shall have paid in full the applicable Annual Assessment (as defined in the Lease) for Phase 1 for the period ending on the day immediately preceding the Closing (based on the number of days in such calendar year in which the City owns Phase 1); and

(g) Developer shall have delivered to the Title Company any and all reasonable and customary documentation, in a form reasonably acceptable to each Party, that may be required by the Title Company to consummate the Phase 1 Conveyance.

10.2.2 *Phase 1 Closing Date.* The consummation of the Phase 1 Conveyance (the "**Phase 1 Closing**") shall occur on the date that is 15 Business Days after all of the Phase 1 Closing Conditions have been satisfied, or on such other date as may be agreed upon by the Parties (as applicable, the "**Phase 1 Closing Date**"). At the Phase 1 Closing, the City will convey Phase 1 to Developer in its as-is condition by delivery of the Deed, without any warranty, express or implied, including but not limited to the presence of Pollutants, and subject to all matters of record. On the Phase 1 Closing Date, the Parties shall, by written instructions from each Party to the Title Company, authorize the Title Company to proceed to release the Phase 1 Purchase Installment to the City, record the quit claim deed to convey Phase 1 to Developer, and carry out such other tasks necessary to complete the Phase 1 Conveyance.

10.3 Phase 2 Closing.

10.3.1 *Phase 2 Closing Conditions.* The conveyance of Phase 2 by the City to Developer (the "**Phase 2 Conveyance**") shall be subject to the satisfaction, on or prior to the date that is 90 days after the deadline for substantial completion of the Phase 2 Improvements pursuant to Section 5.3.9 (as may be extended in accordance with this Agreement), of the following conditions (collectively, the "**Phase 2 Closing Conditions**"):

(a) Developer shall have achieved Final Completion of the Phase 2 Improvements;

(b) Developer shall have delivered to the City written notice of election to the City to purchase Phase 2 ("**Phase 2 Purchase Notice**"), which Phase 2 Purchase Notice must be delivered within 30 days after Final Completion of the Phase 2 Improvements, provided that Developer shall be entitled to notice and 10 days' opportunity to cure any failure to deliver such notice;

(c) Developer shall have delivered the Phase 2 Purchase Installment into escrow with the Title Company, along with all recording fees and other amounts required to consummate the Phase 1 Conveyance;

(d) Developer shall have complied in all material respects with (i) the obligations contained in this Agreement, including but not limited to Developer's compliance with the Community Benefit Requirements, and (ii) the obligations contained in the Lease;

(e) All of Developer's representations and warranties contained in this Agreement shall be true and correct in all material respects as of the Phase 2 Closing Date (with appropriate modifications permitted under this Agreement);

(f) The City shall have recorded, or delivered into escrow with the Title Company for recording at the Phase 2 Closing (prior to the Deed), the land use restriction in accordance with Section 11.8;

SFC CLERK RECORDED 02/12/2025

(g) Developer shall have paid in full the applicable Annual Assessment (as defined in the Lease) for Phase 2 for the period ending on the day immediately preceding the Closing (based on the number of days in such calendar year in which the City owns Phase 2); and

(h) The Parties shall have delivered to the Title Company any and all reasonable and customary documentation, in a form reasonably acceptable to each Party, that may be required by the Title Company to consummate the Phase 2 Conveyance.

10.3.2 *Phase 2 Closing Date.* The consummation of the Phase 2 Conveyance (the "**Phase 2 Closing**") shall occur on the date that is 15 Business Days after all of the Phase 2 Closing Conditions have been satisfied, or on such other date as may be agreed upon by the Parties (as applicable, the "**Phase 2 Closing Date**"). At the Phase 2 Closing, the City will convey Phase 2 to Developer in its as-is condition by delivery of the Deed, without any warranty, express or implied, including but not limited to the presence of Pollutants, and subject to all matters of record. On the Phase 2 Closing Date, the Parties shall, by written instructions from each Party to the Title Company, authorize the Title Company to proceed to release the Phase 2 Purchase Installment to the City, record the quit claim deed to convey Phase 2 to Developer, and carry out such other tasks necessary to complete the Phase 2 Conveyance.

10.4 Phase 3 Closing.

10.4.1 *Phase 3 Closing Conditions.* The conveyance of Phase 3 by the City to Developer (the "**Phase 3 Conveyance**") shall be subject to the satisfaction, on or prior to the date that is 90 days after the deadline for substantial completion of the Phase 3 Improvements pursuant to Section 5.4.9 (as may be extended in accordance with this Agreement), of the following conditions (collectively, the "**Phase 3 Closing Conditions**"):

(a) Developer shall have achieved Final Completion of the Phase 3 Improvements;

(b) Developer shall have delivered the Phase 3 Purchase Installment into escrow with the Title Company, along with all recording fees and other amounts required to consummate the Phase 3 Conveyance;

(c) Developer shall have delivered to the City written notice of election to the City to purchase Phase 3 ("**Phase 3 Purchase Notice**"), which Phase 3 Purchase Notice must be delivered within 30 days after Final Completion of the Phase 3 Improvements, provided that Developer shall be entitled to notice and 10 days' opportunity to cure any failure to deliver such notice;

(d) Developer shall have complied in all material respects with (i) the obligations contained in this Agreement, including but not limited to Developer's compliance with the Community Benefit Requirements, and (ii) the obligations contained in the Lease;

(e) All of Developer's representations and warranties contained in this Agreement shall be true and correct in all material respects as of the Phase 3 Closing Date (with appropriate modifications permitted under this Agreement);

(f) Developer shall have paid in full the applicable Annual Assessment (as defined in the Lease) for Phase 3 for the period ending on the day immediately preceding the Closing (based on the number of days in such calendar year in which the City owns Phase 3); and

SFC CLERK RECORDED 02/12/2025

(g) The Parties shall have delivered to the Title Company any and all reasonable and customary documentation, in a form reasonably acceptable to each Party, that may be required by the Title Company to consummate the Phase 3 Conveyance.

10.4.2 *Phase 3 Closing Date.* The consummation of the Phase 3 Conveyance (the "**Phase 3 Closing**") shall occur on the date that is 15 Business Days after all of the Phase 3 Closing Conditions have been satisfied, or on such other date as may be agreed upon by the Parties (as applicable, the "**Phase 3 Closing Date**"). At the Phase 3 Closing, the City will convey Phase 3 to Developer in its as-is condition by delivery of the Deed, without any warranty, express or implied, including but not limited to the presence of Pollutants, and subject to all matters of record. On the Phase 3 Closing Date, the Parties shall, by written instructions from each Party to the Title Company, authorize the Title Company to proceed to release the Phase 3 Purchase Installment to the City, record the quit claim deed to convey Phase 3 to Developer, and carry out such other tasks necessary to complete the Phase 3 Conveyance.

10.5 Title and Permitted Exceptions.

10.5.1 *Conveyance of Title.* At each Closing, subject to the terms and conditions of this Agreement, the City will convey title to the real property underlying the applicable Phase to Developer by New Mexico statutory form quitclaim deed (the "**Deed**"). Title to each applicable Phase will be free of all liens, encumbrances, easements, restrictions, rights and conditions of record, except for the Permitted Exceptions (defined below).

10.5.2 *Title Commitment; Survey.* On or before the date that is 30 days prior to Construction Commencement for each Phase (the "**Title Receipt Deadline**"), Developer shall obtain a commitment for title insurance (a "**Title Commitment**") from the Title Company for the applicable Phase for an ALTA owner's title insurance policy (a "**Title Policy**"), together with legible copies of the documents underlying each exception therein (collectively with the Title Commitment, the "**Title Documents**"). Developer shall cause the Title Company to concurrently distribute copies of the Title Documents to the City. In addition, at any time prior to the applicable Construction Commencement, Developer may order at its sole cost a new survey of the applicable Phase (a "**Survey**").

10.5.3 *Review of Title.* Developer shall have 15 days following the Title Receipt Deadline (with respect to each Phase, the "**Objection Deadline**") to deliver written notice to the City (the "**Objection Notice**") of any matters within the Title Documents to which Developer objects (the "**Title Objections**"), provided that Developer shall not be entitled to object to any matters which are Approved Exceptions (defined below), and no such Approved Exceptions shall constitute a Title Objection. Except as otherwise set forth in Section 10.5.4, if Developer fails to tender an Objection Notice on or before the Objection Deadline, Developer shall be deemed to have approved and irrevocably waived any objections to any matters covered by the Title Documents and the Survey. Within 10 days after the City's receipt of the Objection Notice (the "**Response Deadline**"), the City may, in the City's sole discretion, give Developer notice (the "**Response Notice**") of those Title Objections which the City is willing to cure, if any. If the City fails to deliver a Response Notice by the Response Deadline, the City shall be deemed to have elected not to cure or otherwise resolve any matter set forth in the Objection Notice. If Developer is dissatisfied with the Response Notice, Developer may, as its exclusive remedy, elect by written notice given to the City on or before Construction Commencement for such Phase (the "**Final Response Deadline**"), either to (a) accept the Title Documents and Survey with resolution, if any, of the Title Objections as set forth in the

SFC CLERK RECORDED 02/12/2025

Response Notice (or if no Response Notice is tendered, without any resolution of the Title Objections) and without any reduction or abatement of the Purchase Price, or (b) terminate this Agreement, in which event neither Party shall have any further rights or obligations hereunder, except for those that expressly survive termination hereof. Except as otherwise set forth in Section 10.5.4, if Developer fails to give notice to terminate this Agreement on or before the Final Response Deadline, Developer shall be deemed to have elected to approve and irrevocably waived any objections to any matters covered by the Title Documents or the Survey, subject only to resolution, if any, of the Title Objections as set forth in the Response Notice from the City (or if no Response Notice is tendered, without any resolution of the Title Objections). Notwithstanding anything to the contrary in this Agreement or in a Response Notice, (a) the City shall be obligated to remove, insure over or bond over any Monetary Encumbrances (as defined below), and (b) Developer shall not be required to tender any Title Objections to any Monetary Encumbrances. "**Monetary Encumbrances**" means any mechanics or materialmen's liens, any monetary lien or claim and the lien of any mortgage, deed of trust or similar security instrument encumbering the Property (or any part thereof) that is created by, under or through the City, except that no Approved Exceptions shall be deemed to constitute Monetary Encumbrances.

10.5.4 *New Title Exceptions.* If at any time after the expiration of the Objection Deadline, any update to the Title Commitment or Survey discloses any additional material item (other than any Approved Exceptions) that materially and adversely affects title to the applicable Phase which was not disclosed on any version of the Title Documents or Survey delivered to Developer prior to the expiration of the Objection Deadline (each, a "**New Exception**"), Developer shall have a period of 5 days from the date of Developer's receipt of such update (the "**New Exception Review Period**") to review and to approve or disapprove of the same. If the New Exception is unacceptable to it, Developer, at its sole option, may elect either (a) to terminate this Agreement, in which event neither Party shall have any further rights or obligations hereunder, except for those that expressly survive termination hereof, or (b) to waive such objections and proceed with the transactions contemplated by this Agreement, in which event Developer shall be deemed to have approved the New Exception. If Developer fails to timely notify the City of its election to terminate this Agreement in accordance with the foregoing clause prior to the expiration of the New Exception Review Period, Developer shall be deemed to have approved and irrevocably waived any objections to the New Exception, and such New Exception will constitute an additional Permitted Exception (as defined below). The provisions in Section 10.5.3 of this Agreement concerning Monetary Encumbrances shall apply to New Exceptions.

10.5.5 The applicable portion of the Property conveyed to Developer at each Closing shall be subject to the following, all of which shall be deemed "**Permitted Exceptions**":

(a) all exceptions appearing in the Title Commitment that were recorded before the date of Developer's execution of this Agreement and each document to be recorded pursuant to and in accordance with the terms of this Agreement, including without limation, the Plat, the Master Plan Amendment, the Gas Loop Declaration, this Agreement and the Lease (the "**Approved Exceptions**");

(b) all matters shown in the Title Documents and the Survey, other than those Title Objections the City has agreed to cure pursuant to the Response Notice under Section 10.5.3;

(c) applicable zoning and governmental regulations and ordinances; and

SFC CLERK RECORDED 02/12/2025

(d) any defects in or objections to title to the applicable Property, or title exceptions or encumbrances, arising by, through or under Developer (or with Developer's prior written approval).

10.6 No Warranties as to Property; As-Is. Except as otherwise expressly provided in this Agreement, at each Closing, the Property is and shall be delivered by the City to Developer in "as-is" condition, with no warranty expressed or implied by the City, including without limitation, the presence of Pollutants, the existence of refuse, or the condition of the soil, its geology, the presence of known or unknown seismic faults, or the suitability of the Property for the Project.

ARTICLE 11
COMMUNITY BENEFITS

11.1 Economic Impact Requirements. Developer shall commit to the recruitment of film, television and media productions that will generate qualifying direct production expenditures in New Mexico ("**Qualified Expenditures**") in accordance with the Film Production Tax Credit Act (Chapter 7, Article 2F NMSA 1978), as amended (the "**FPTCA**"), of at least $30,000,000.00 ("**Minimum Initial Amount**") during the period commencing on the Effective Date and ending on the fifth anniversary of the Phase 1 Final Completion Date (the "**Initial Spend Period**"). Commencing on the Phase 1 Final Completion Date and continuing for 15 years thereafter (the "**Aggregate Spend Period**"), Developer shall commit to securing productions that will generate Qualified Expenditures of at least $150,000,000.00, inclusive of the Minimum Initial Amount (the "**Minimum Aggregate Amount**").

11.2 Economic Impact Benefit. If Developer fails to secure productions that generate Qualified Expenditures of at least the Minimum Initial Amount by the expiration of the Initial Spend Period, or the Minimum Aggregate Amount by the expiration of the Aggregate Spend Period, Developer shall pay the City an amount equal to the percentage shortfall of the Qualified Expenditures multiplied by the applicable Economic Impact Benefit as the City's sole remedy for Developer's failure. For purposes hereof, "**Economic Impact Benefit**" means the estimated value of the economic impact to the City that will result from the generation of Qualified Expenditures of, (A) with respect to the Minimum Initial Amount, $300,000, and (B) with respect to the Minimum Aggregate Amount, $2,700,000. By way of example, if Developer sources productions that generate Qualified Expenditures of $20,000,000 during the Initial Spend Period and $120,000,000 during the Aggregate Spend Period (i.e., $100,000,000 during the period beginning on the next day following the fifth anniversary of the Phase 1 Final Completion Date and ending on the 15th anniversary of the Phase 1 Final Completion Date), then Developer would be required to pay the City the sum of (i) $100,000 (i.e., $300,000 × (($30,000,000 - $20,000,000) ÷ $30,000,000)) for Developer's failure to generate Qualified Expenditures of at least the Minimum Initial Amount by the expiration of the Initial Spend Period, and (ii) $540,000 (i.e., $2,700,000 × (($150,000,000 - $120,000,000) ÷ $150,000,000)) for Developer's failure to generate Qualified Expenditures of at least the Minimum Aggregate Amount by the expiration of the Aggregate Spend Period. In order to ensure Developer obtains and maintains accurate data related to the total Qualified Expenditures, Developer shall use commercially reasonable efforts to cause each written agreement between Developer and any film production company (as such term is defined in the FPTCA) – or any other Person that may qualify for a film and television tax credit pursuant to the FPTCA – whether such agreement is for the purpose of leasing or licensing all or any portion of the Property or for any other purpose related to the Property, to provide that such Person agrees, as a condition of such agreement, to timely submit to the City Office of Economic

SFC CLERK RECORDED 02/12/2025

Development all applications and information required to be submitted pursuant to Section 7-2F-6 in order to obtain the film and television tax credit, whether or not such Person qualifies or otherwise desires to obtain such credit. If any Qualified Expenditures arise in connection with a third-party agreement that provides for the use of space and/or equipment at the Property and at the Shellaberger Property, Developer shall be entitled to credit the Qualified Expenditures arising from both the Property and the Shellaberger Property.

11.3 Economic Opportunity Requirements. For a period of 20 years following the Phase 1 Commencement Date, Developer shall use commercially reasonable efforts to coordinate among local community organizations, the Midtown Engagement Partners, the Office of Economic Development and/or other stakeholders from time to time identified by the City and each Project Employer, on the other hand, to cause to be posted or advertised, and to otherwise utilize the available and offered services of such organizations, for the purpose of disseminating information regarding Project Employment Opportunities among residents of the City for prospective employment. For purposes hereof, "**Project Employer**" means any business or other entity that employs at least one employee for at least 20 hours per week at the Project, whether in connection with the design, construction, maintenance or operation of the Project, with the expectation that such employment at the site will continue at the Project for at least eight weeks, which Project Employers may include (but are not limited to) Developer, Developer's Affiliates, tenants, subtenants, contractors and subcontractors (but specifically excluding the City); and "**Project Employment Opportunities**" means all unfilled employment positions at the Project with any Project Employer during the applicable tax year, whether full-time or part-time, for which the Project Employer reasonably anticipates a majority of the responsibilities of the position during the six-month period following the desired hire date will relate to the Project.

11.4 Commercial Use Requirements. On or before the date that is three months after the Final Completion of Phase 1 (the "**Leasing Deadline**"), Developer shall secure tenants for the Driscoll Retail Space and The Screen for the purpose of operating commercial establishments in compliance with Applicable Rules, which are open to the public during normal business hours, consistent with similar establishments to those operated by tenants. Following the Leasing Deadline, Developer shall use its best efforts to ensure the Building currently known as Driscoll Hall and The Screen remain occupied and open to the public. Developer shall not permit either such space to remain vacant or otherwise closed to public use or access for more than nine months during any three-year period, including and shall, if so required, take such actions as are reasonably necessary in order to secure satisfactory tenants, including, without limitation, reducing the offered rent and/or accepting or conceding such other terms as may be reasonably necessary to secure tenants to operate commercial establishments, in compliance with Applicable Rules, in said spaces (the "**Commercial Use Requirement**"). The Commercial Use Requirement shall remain in effect for a period of 20 years following the Leasing Deadline. Notwithstanding the foregoing or any other provision of this Agreement to the contrary, the provisions of this Section 11.4 shall be applicable only to the extent the uses contemplated herein for the Driscoll Retail Space and The Screen constitute permitted uses pursuant to the Master Plan (as amended).

11.5 Film and Multi-Media Internship Requirements. Commencing on the date that is six months after the Phase 1 Final Completion Date and continuing for 20 years thereafter, Developer shall require that production companies operating at the Property offer and fill an aggregate total of up to 20 six-week internships per year (based on the Average Occupancy Rate defined below) in partnership with a Qualified New Mexico Film School or Qualified New Mexico Internship Program, to the extent

SFC CLERK RECORDED 02/12/2025

that such program exists in New Mexico in connection with such filming (the "**Film Internship Requirements**"). The number of internships required to be offered and filled each year shall equal the product of (i) 20, multiplied by (ii) the Average Occupancy Rate. For purposes hereof, "**Average Occupancy Rate**" means, for each one-year period beginning on the date that is six months after the Phase 1 Final Completion Date, the quotient, expressed as a percentage, of the "average occupied square footage" of the Studio Area divided by the Studio Area, rounded to the nearest multiple of 5%; and the term "average occupied square footage" means, with respect to each one-year period measured, the net rentable square footage of the Studio Area for which Developer is collecting rent or other revenue as of each day of the one-year period measured divided by the total number of days in such one-year period; and "**Studio Area**" means the net rentable square footage of the Property designated for film or multi-media production, including any industrial or light manufacturing area but excluding, without limitation, all areas for which office, commercial or retail are the sole permitted uses; and "**Base Rentable Studio Area**" means the total Studio Area at the Property determined pursuant to a measurement of the Buildings to be obtained by Developer and approved by the MRA Director prior to the operation of Developer's business at the Property. By way of example, if the Base Rentable Studio Area is 350,000 square feet, and during the course of an applicable one-year period consisting of 365 days, Developer licenses (a) 308,000 square feet of Studio Area (i.e., 88%) for 180 days, (b) 262,500 square feet of Studio Area (i.e., 75%) for 90 days, and (c) 227,500 square feet of Studio Area (i.e., 65%) for 95 days, the Average Occupancy Rate would be equal to 78.81% (i.e., **43.40%** *(88% × (180/365))* + **18.49%** *(75% × (90/365))* + **16.92%** *(90% × (95/365))*), which would round to 80% and result in a requirement of 16 internships (i.e., 20 × 80%) during said period.

11.6 Cultural Elements. Commencing no later than six months after the Phase 1 Final Completion Date and continuing for a minimum of 20 years thereafter, Developer shall (collectively, the "**Cultural Elements Requirements**"):

11.6.1 Provide local community organizations, the Midtown Engagement Partners, or other stakeholders identified from time to time by the City, access to The Screen at least eight days per year at no additional fees beyond reasonable operating costs, including security, staff, and maintenance. Such access shall be at times not normally reserved for normal public theater programming.

11.6.2 Include in the programing of the screening theater at least four events including but not limited to movie showings, guest speakers, and other related programs that are coordinated and/or co-created with local community organizations, the Midtown Engagement Partners, or other stakeholders identified from time to time by the City. Programs shall be inclusive and shall represent the interests of one or more groups historically subject to discrimination or underrepresented, such as the LGBTQ+ community, communities of color, low-income households, Spanish-speaking people, and Indigenous people, and/or causes supportive of any such group's interests, including but not limited to racial equity, social equity or gender equity.

11.6.3 From time-to-time following notice from the City, coordinate with the City to (a) select a mutually acceptable location at the Project for placement of up to three outdoor sculptures selected by the City which are currently located at the Property, and (b) relocate such sculptures onto the Project (at the City's expense). For the avoidance of doubt, the City shall retain the ownership and control of any such sculpture from and following relocation onto the Project, and may remove the same at any time and from time to time upon notice to Developer.

SFC CLERK RECORDED 02/12/2025

11.7 Dedication of Educational Space. Prior to the date that the City conveys Phase 1 to Developer, the City will record against the Property (or a portion thereof) the educational use covenant attached hereto as Exhibit K.

11.8 Housing Elements. If the Phase 2 Improvements consist of one or more residential units, then prior to the date that the City conveys Phase 2 to Developer, the City's Office of Affordable Housing will record against the real property comprising Phase 2 (or a portion thereof) the City's standard form of land use restriction that will include, among other things, the following obligations that will bind Developer and its successor and assigns:

11.8.1 15% of the total number of residential units developed on-site shall be affordable in compliance with the Santa Fe Homes Program, SFCC 1987, Section 26-1.

11.8.2 Developer shall prohibit property owners and property management entities of residential units from discriminating regarding the use of housing vouchers or source of income; as well as based on race; color, nation origin, religion, sex (including gender identity and sexual orientation), familial status, disability and other protected groups identified in the City's code or charter, in addition to the State of New Mexico's Human Rights Act, NMSA 1978, Section 28-1-7, or federal fair housing law.

11.9 Midtown District Assessments. In the event that the Property is included in a Tax Increment Finance district ("**TIF District**"), Developer shall properly indicate inclusion in the TIF District on all relevant documents submitted to the New Mexico State Department of Tax and Revenue. Developer shall contractually require all tenants occupying the Property to properly indicate inclusion in the TIF District on all relevant documents submitted to the New Mexico State Department of Taxation and Revenue. The City may require Developer to provide proof of compliance with the foregoing obligation.

11.10 Building Names. Commencing on the Effective Date and for a period of 20 years thereafter, Developer, for itself and its successors and assigns, hereby agrees that Developer shall not be entitled to change the names of the Buildings currently known as 'Benildus Hall' (the "**Benildus Name**") and 'Garson Studios' (the "**Garson Name**" and, together with the Benildus Name, the "**Historical Names**") without the prior written approval of the MRA Director, which approval shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, Developer, or the then current owner of either such Building, may, at no cost or expense to the City, may from time to time upon at least 30 days prior written notice to the MRA Director, effect a change of (a) the Benildus Name to a different name that includes the words "Benildus" or "Benildus Hall" or (b) the Garson Name to a different name that includes the words "Garson" or "Garson Studios."

11.11 Environmental Elements.

11.11.1 *Stormwater Management.* Developer shall follow the guidelines established in the Master Plan and Community Development Plan and implement best practices for site construction to ensure that completed stormwater features perform as designed, including implementing procedures to ensure that Developer's contractors avoid pre-compaction of infiltration areas with heavy equipment traffic. Developer shall incorporate water quality treatments for the 90th percentile storm event at the Midtown Site, provided that Developer may incorporate water quality treatments for the 80th percentile storm event following the City's written approval (which shall not be unreasonably withheld) if Developer submits a Technical Memorandum (defined below) to the City that incorporating the 90th

SFC CLERK RECORDED 02/12/2025

percentile treatments would (a) result in additional costs that exceed 115% of the cost of the 80th percentile treatments, or (b) be infeasible or otherwise result in site constraints that adversely affect the proposed development. For an estimation of the 90th percentile storm event discharge volume, Developer shall refer to U.S. Environmental Protection Agency's (EPA) Technical Report entitled "Estimating Pre-development Hydrology in the Urbanized Areas in New Mexico," and shall elect either the (i) site-specific 90th percentile storm event discharge volume using methodology specified in the referenced EPA Technical Report, or (ii) site-specific pre-development hydrology and associated storm event discharge volume using methodology specified in the referenced EPA Technical Report. If the obligations set forth in this Section are inconsistent with those contained in the Applicable Rules, the more stringent standard or obligation shall control unless a more stringent standard or obligation is expressly precluded by the Applicable Rules. Notwithstanding any provision of this Agreement to the contrary, the Applicable Rules regarding the design of the Project, if any, shall be those that are in effect at the time the Project plans are being processed for approval. "**Technical Memorandum**" means a memorandum, signed by a registered engineer in the state of New Mexico, substantiating the infeasibility of the site meeting the discharge requirements for the 90th percentile storm event, which includes a comprehensive demonstration of why compliance is not possible. Additionally, Developer shall be required to provide such supporting documentation, modeling, and drainage calculations related to the feasibility assessment as the City may reasonably request.

11.12 Environmental and Energy Design Requirements. Developer shall construct all new buildings and renovate all existing Buildings to earn the maximum eligible points for the subcategories designated as 'Required in RFP' on the Project Checklist attached as Appendix A to the Community Development Plan, as further described in the United States Green Building Council (USGBC) Leadership in Environmental and Energy Design: Neighborhood Development (LEED-ND) attached hereto as Exhibit F.

ARTICLE 12
MAINTENANCE AND REPAIR

12.1 Maintenance and Repair. Developer shall keep the Property, including sidewalks and driveways, in safe, good and clean condition, free and clear of equipment, building materials, trash, and debris, other than building materials needed immediately for the construction of the Private Improvements. All building materials stored by Developer Parties (defined below) on the Property in shall be kept in a safe and secure manner. At all times during which Developer, its officers, directors, managers, members, affiliates, agents, employees, representatives, contractors or subcontractors or any other person or entity acting at the direction or with the consent of Developer (each, including Developer, a "**Developer Party**" and, collectively, the "**Developer Parties**") are engaged in the performance of construction activities ("**Construction Activities**"), Developer shall: (a) bear the exclusive responsibility and expense of keeping roads and access ways within and in the vicinity of the Property in safe and clean condition, reasonably free of dirt, mud, and debris which result from Developer's Construction Activities, (b) maintain dumpsters or other trash receptacles at all times and shall empty such dumpsters and trash receptacle before they overflow, but not less frequently than once per week to prevent blowing trash, and (c) install a temporary chain link fence or other protective barriers and caution signage around applicable construction areas.

12.2 Damage. At all times during which the Developer Parties are engaged in Construction Activities, Developer shall take reasonable measures to prevent any damage to adjacent or nearby land, including land owned or maintained by the third parties, governmental entities, utility companies or

SFC CLERK RECORDED 02/12/2025

the City (the "**Adjacent Land**"), and any Adjacent Improvements located on the Adjacent Land from damage caused by the Construction Activities. "**Adjacent Improvements**" shall include, but shall not be limited to, the Midtown ROW Improvements and all other streets, curbs, gutters, sidewalks, streetlights, underground utilities, walls, landscaping and irrigation improvements, irrigation ditches, and all entry, parking and paving facilities, as well as any other improvements not owned by Developer. Developer shall notify the MRA Director within 10 days following the occurrence of damage to any portion of the Adjacent Land or Adjacent Improvements caused by a Developer Party. Developer shall, at its sole cost and expense, repair such damage and restore the Adjacent Land and/or Adjacent Improvements so damaged to the condition existing immediately prior to the date of such damage. Developer shall indemnify and hold harmless the City Parties from any loss, cost, claim, or damage, including reasonable attorneys' fees, arising from such damage, and shall pay the costs of repairing any damage to the Adjacent Land and/or Adjacent Improvements to the extent such damage results from Construction Activities of Developer or Developer Parties. If Developer fails to properly repair such damage within 30 days follow the occurrence of such damage, the City may elect, pursuant to the City Code, to repair such damage and restore the Adjacent Land and/or Adjacent Improvements so damaged to the condition existing immediately prior to the date of such damage, in which event, Developer shall pay the City for the cost of such repair within 10 days following written notice thereof. Notwithstanding any provision of this Article 12 to the contrary, if any damage caused by a Developer Party to any portion of the Adjacent Land or Adjacent Improvements poses imminent danger to the health, safety or welfare of persons located thereon or persons or property in the vicinity thereof, the City may, without providing written notice to Developer or opportunity to cure, repair such damage and property so affected, in which event Developer shall reimburse the City for the cost of such repair within 10 days following written notice thereof.

SFC CLERK RECORDED 02/12/2025

ARTICLE 13
RESERVED

ARTICLE 14
RELEASE & INDEMNIFICATION

14.1 Release. Developer releases the City Parties from, and covenants and agrees that the City Parties shall not be liable to Developer for, any loss or damage to property or any injury to or death of any Person or Persons occasioned by any cause whatsoever pertaining to the Project, the Property, the use thereof, or any other transaction contemplated by this Agreement; provided that such release shall not apply to any loss or damage to the extent caused by the negligence, acts or omissions of the City Parties.

14.2 General Indemnity. Developer shall indemnify, defend (with counsel reasonably approved by the City, as applicable) and hold harmless the City Parties from all Liabilities, arising from any all claims ("**Claims**") brought against one or more City Parties by any third-party which arise out of or in connection with the Property or any activities, acts or omissions of any of the Developer Parties; provided, however, such indemnity shall not apply to any Liabilities caused by the negligence, acts or omissions of any City Parties and shall be subject to the limitations of NMSA 1978, Section 56-7-1. Developer's indemnity obligations owing to the City Parties under this Section are not limited by applicable insurance coverage required under the Lease. The City shall, after receipt of notice of the existence of a Claim for which it is entitled to indemnity hereunder, notify Developer in writing of the existence of such Claim or commencement of such action.

14.3 Environmental Indemnity. Developer hereby agrees to indemnify, defend (with counsel reasonably approved by the City, as applicable) and hold harmless the City Parties, from all Liabilities (including, but not limited to expenses, penalties and clean-up costs) arising from and against any and all Claims brought against one or more City Parties related to this Project, arising out of or in any way relating to (a) the presence, release, use, generation, transportation, discharge, storage or as a consequence of disposal by Developer Parties, or the presence of any Pollutants in, on or about the Property occurring as a result of or in connection with Developer Parties' use or occupancy of the Property, and in the removal, remediation and disposal of any Pollutants, and (b) the violation, or alleged violation, of any Environmental Laws relating to the use, generation, release, discharge, storage, disposal or transportation of Pollutants on, under, in or about, to or from the Property or migrating onto or under the Property from neighboring properties or otherwise affecting the Property, to the extent caused or permitted by any Developer Parties.

14.4 Survival. The provisions of this Article 14 shall survive any expiration or earlier termination of this Agreement.

ARTICLE 15
ASSIGNMENT; TRANSFER

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15.1 Assignment; Transfer. The qualifications and identity of Developer are of particular concern to the City. It is because of those unique qualifications and identity that the City has entered into this Agreement with Developer. Accordingly, Developer shall not directly or indirectly (including by a direct or indirect transfer of the equity in Developer), sell, assign, transfer, convey, or otherwise dispose of, its right, title or interest in this Agreement or a Controlling interest in Developer, whether voluntarily or involuntary by foreclosure, trustee's sale, assignment in lieu thereof or other enforcement of a pledge, hypothecation or collateral assignment of this Agreement (in each case, a "**Transfer**"), without the prior written consent of the City, which consent may be withheld in the City's sole and absolute discretion. Any such attempted Transfer, other than as permitted in this Article 15, without such consent shall be null and void. No Transfer, whether with or without consent, shall operate to release Developer or alter Developer's primary liability to perform its obligations under this Agreement.

15.2 Permitted Transfer. Notwithstanding anything in this Article 15 to the contrary, and provided there is no uncured Event of Default by Developer under this Agreement or the Lease, Developer shall have the right, without the prior written consent of the Governing Body, to Transfer this Agreement or a direct or indirect ownership interest in Developer to (a) a third party, provided that Developer's Principal or an entity Controlled by Developer's Principal, remains the Controlling member of Developer, (b) a Leasehold Mortgagee (as such term is defined in the Lease), or (c) a purchaser of all or substantially all of Developer's assets from the Leasehold Mortgagee or its designee or nominee approved by the City following a Mortgagee Transfer Event (as defined in the Lease) (each, a "**Permitted Transfer**"); provided, however, that, except as otherwise set forth in Section 15.4, (i) such Permitted Transfer is for a valid business purpose and not to avoid any obligations under this Agreement, (ii) no later than 15 days prior to the effective date of the Permitted Transfer, Developer shall give notice to the City, which notice shall include the full name and address of the assignee, and a copy of all agreements executed between Developer and the assignee with respect to the Project or part thereof, as may be the case, (iii) no later than five days after the effective date of the Permitted Transfer, the assignee shall provide a written instrument satisfactory to the City evidencing assignee's assumption of all of the obligations of Developer hereunder, and (iv) within 10 days after the City's

written request, provide such reasonable documents or information which the City reasonably requests for the purpose of substantiating whether or not the Permitted Transfer is to an Affiliate or is otherwise in accordance with the terms and conditions of this Section 15.2. Developer shall not have the right to perform a Permitted Transfer, if, as of the date of the effective date of the Permitted Transfer, an Event of Default is then continuing.

15.3 Collateral Assignment. Notwithstanding the foregoing, Developer may collaterally assign this Agreement to a Leasehold Mortgagee (as defined in the Lease), provided that (i) Developer provides written notice to the MRA Director along with a copy of the collateral assignment at least 10 days prior to the closing of such Leasehold Mortgage, and (ii) the Leasehold Mortgagee complies with the terms and conditions of Section 15.4.

15.4 Financing.

15.4.1 If any interest of Developer in any Phase is Transferred by reason of any foreclosure, deed in lieu of foreclosure, trustee's deed or any other proceeding for enforcement of a Leasehold Mortgage, then the Leasehold Mortgagee thereunder (or any Approved Designee (as defined in the Lease) of the Leasehold Mortgagee) shall agree to assume the obligations of Developer hereunder without the necessity of entering into a an assignment and assumption agreement, except as otherwise provided in this Section 15.4. Notwithstanding the foregoing, the City shall not have the right to terminate this Agreement as a result of any Leasehold Mortgagee failing to assume the obligations of Developer hereunder unless such Leasehold Mortgagee or its Approved Designee fails to do so within 90 days after such Leasehold Mortgagee's acquisition of Developer's leasehold interest in the applicable Phase; it being acknowledged that such Leasehold Mortgagee may intend to Transfer its interest in the such Phase to an Approved Designee and such Approved Designee shall assume the obligations of Developer hereunder.

15.4.2 In no event may Developer represent that the City is or in any way may be liable for the obligations of Developer in connection with (i) any financing agreement or (ii) any public or private offering of securities. Developer agrees to indemnify, defend or hold the City and its respective officers, directors, agents and employees free and harmless from, any and all liabilities, costs, damages, claims or expenses arising out of or related to the breach of its obligations under this Section 15.4.

15.4.3 Developer's breach of this Agreement shall not defeat, render invalid, diminish or impair the lien of any Leasehold Mortgage on the applicable Phase made in good faith and for value.

15.4.4 Prior to terminating this Agreement or exercising any other right or remedy due to an Event of Default, the City will give written notice of any the Event of Default to each Leasehold Mortgagee that previously notified the City of its name, notice address, and of the Leasehold Mortgage's existence (together with a copy thereof), and shall afford the Leasehold Mortgagee a period of 30 days after delivery of such notice in which to cure the Event of Default; provided, however, if any such Event of Default arises from a non-monetary breach or violation that is susceptible to cure by the Leasehold Mortgagee but cannot reasonably be cured within such 30-day period, then so long as the Leasehold Mortgagee commences to cure the Event of Default within the 30-day period and diligently pursues such cure to completion, the Leasehold Mortgagee shall have up to 90 days after notice from the City in which to complete such cure.

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15.4.5 Notwithstanding Section 15.4.4 to the contrary, in the event of a non-monetary default which cannot be cured without obtaining possession of the applicable Phase or that is otherwise personal to Developer (i.e., 18.1.1(d) (*General Assignment*), 18.1.1(e) (*Voluntary Petition*), 18.1.1(f) (*Involuntary Petition*) and 18.1.1(g) (*Appointment of Receiver*)) and not susceptible of being cured, the City will not seek any legal remedies under this Agreement without first giving each Leasehold Mortgagee (or its Approved Designee) reasonable time within which exercise its rights and remedies under the Leasehold Mortgage to obtain possession of the applicable Phase, including possession by a receiver, or to institute and complete foreclosure proceedings, and to the extent the Leasehold Mortgagee exercises such rights and remedies (and notifies the City of the same), no cure period set forth in Section 15.4.4 shall commence to run until the Leasehold Mortgagee obtains possession or control of Developer's interest in the applicable Phase. Upon acquisition of Developer's interest in the applicable Phase and performance by the Leasehold Mortgagee of all covenants and agreements of Developer, except those which by their nature cannot be performed or cured by any Person other than Developer (i.e., Sections 18.1.1(d) through 18.1.1(g)), the City's right to seek legal remedies for such non-monetary default shall be waived with respect to the matters which cannot be cured by the Leasehold Mortgagee; provided, however, the City shall not be deemed to have waived any remedies it may have against Developer or Developer's Principal, including without limitation, pursuant to Section 18.2.1(e).

ARTICLE 16
LIENS

Except with respect to leasehold financing permitted under the Lease, (a) Developer shall not place or allow to be placed on the Property (excluding any portion of the Property conveyed pursuant to Section 10.1). any mortgage, deed of trust, security interest, monetary encumbrance or lien (statutory or otherwise), or any agreement to enter into or create any of the foregoing (collectively, a "**Lien**"), on or affecting all or any portion of the Property. Notwithstanding the foregoing, no such Lien shall constitute an Event of Default if, within 30 days after Developer becomes aware of a Lien on or affecting the Property or the Private Improvements, Developer causes the debt secured by such Lien to be satisfied or other security (including a bond) to be deposited with the court in the amount determined by the court to be sufficient to cancel such Lien.

ARTICLE 17
REPORTING REQUIREMENTS

17.1 Reporting Requirements.

17.1.1 *Construction Related Reports*. Developer shall provide written reports substantially in the form attached hereto as Exhibit M (each, a "**Report**") to the MRA Director detailing: (a) the progress of all entitlements, permits, approvals and construction financing required for the commencement of construction of each Phase, (b) during construction, the progress of construction (expressed as a percentage of the completion of each Phase) and any concerns or perceived delays to complete the applicable Phase, and (c) any other information relating to the construction of the Project that the MRA Director may request in its sole discretion. The form of Report may be amended from time to time by the MRA Director. No later than January 31, April 30, July 31, and October 31 of each year, Developer shall deliver to the MRA Director a Report containing the applicable information described above for the prior three-month period (each, a "**Quarterly Construction Report**"). In addition to each Quarterly Construction Report, within 15 days following

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the MRA Director's written request, Developer shall deliver to the MRA Director a Report containing the information specified in the MRA Director request.

17.1.2 *Program Related Reports.* On or before January 31st of each year following the Effective Date, Developer shall provide a report to the MRA Director summarizing the extent of Developer's material compliance with the terms of Developer's obligations contained in Sections 11.1 through 11.8 during the preceding calendar year or, with respect to the year in which this Agreement becomes effective, the preceding partial calendar year, provided that no report shall be required for calendar year 2024. This Section 17.1.2 shall survive the expiration or termination of this Agreement for the duration of Developer's obligations under Sections 11.1 through 11.8.

17.1.3 *Developer's Financial Statements.* During the Term of this Agreement, Developer agrees to furnish the MRA Director a copy of Developer's annual Financial Statements within 90 days after the end of Developer's fiscal year. All Financial Statements shall be certified as true and correct by Developer's Principal and reviewed by a certified public accountant who is not an employee or principal of Developer or its Affiliates.

17.2 Audits and Inspections. Not more than twice per calendar year, and at any time after the City has provided written notice to Developer of its reasonable, good faith belief that Developer has materially breached this Agreement (together with documentation or other evidence of such breach), Developer shall make available to the MRA Director for examination all of Developer's records with respect to all matters for which reports or statements are provided pursuant to Section 17.1 of this Agreement. The MRA Director shall give reasonable notice to Developer of such examination, and in any event, a minimum of 14-days' prior notice. Developer shall permit the MRA Director to audit, examine, and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement. This Section 17.2 shall survive the expiration or termination of this Agreement for the duration of Developer's obligations under Sections 11.1 through 11.8.

17.3 IPRA Compliance. Developer understands that records in the possession of the City are subject to IPRA, and to the extent required, Developer will comply with IPRA.

ARTICLE 18
DEFAULT AND REMEDIES

18.1 Default by Developer.

18.1.1 *Events of Default.* The following constitute an "**Event of Default**" under this Agreement:

(a) *General Breach.* Developer's breach, or failure to perform in any material respect, any Applicable Rule or any commitment, agreement, covenant, term or condition of this Agreement (other than those specifically described in any other subparagraph of this Section 18.1.1), and failure to remedy any such breach or failure within 30 days after receipt of written notice from the City with respect thereto; provided, however, that such breach or failure will not constitute an Event of Default if such breach or failure cannot reasonably be cured within said 30-day period so long as (i) Developer, within said 30-day period, initiates and diligently and continuously pursues

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appropriate measures to remedy the breach or failure, and (ii) such default is cured within 90 days after Developer's receipt of the notice from the City with respect thereto.

(b) *Abandonment.* Developer Abandons the construction of the Project. For purposes hereof, "**Abandon**" and "**Abandonment**" means the stoppage of construction of a Phase of the Project for more than 120 consecutive calendar days after Commencement of Construction of the Phase and prior to Final Completion of the Phase for any reason other than a Force Majeure Event or the City's failure to perform its obligations under Section 8.2 through no fault of Developer.

(c) *Failure to Complete.* Subject to a Force Majeure Event, (i) Developer's failure to cause the Final Completion of Phase 1 by the Phase 1 Final Completion Date, (ii) following Construction Commencement for the Phase 2 Improvements, Developer's failure to cause the Final Completion of the Phase 2 Improvements by the Phase 2 Final Completion Date, or (iii) following Construction Commencement for the Phase 3 Improvements, Developer's failure to cause the Final Completion of the Phase 3 Improvements by the Phase 3 Final Completion Date.

(d) *General Assignment.* Developer makes a general assignment for the benefit of creditors or admits in writing its inability to pay its debts as they become due.

(e) *Voluntary Petition.* Developer files a voluntary petition under any title of the United States Bankruptcy Code, as amended from time to time, or such petition is filed against Developer and an order for relief is entered, or Developer files any petition or answer seeking, consenting to or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or any future federal bankruptcy code or any other present or future applicable federal, state or similar statute or law, or seeks or consents to or acquiesces to or suffers the appointment of any trustee, receiver, custodian, assignee, liquidator or similar official of Developer, or of all or any substantial part of its properties or of the Project or any interest therein of Developer; provided, however, that Developer shall have the right, within 180 days after filing or receiving notice of any such petition or similar action or proceeding described in this subparagraph, to cause such petition or similar action or proceeding to be dismissed, in which case such petition or similar action or proceeding shall not be an Event of Default.

(f) *Involuntary Petition.* Any proceeding against Developer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other present or future applicable federal, state or similar statute or law, has not been dismissed within 180 days after the commencement thereof.

(g) *Appointment of Receiver.* The appointment of any trustee, receiver, custodian, assignee, liquidator or other similar official of Developer or of all or any substantial part of its properties or of the Project or any interest therein of Developer, which appointment has not been vacated or stayed on appeal or otherwise within 180 days after the appointment, or such appointment has not been vacated within 180 days after the expiration of any such stay.

(h) *Breach of Representations.* Any material representation or warranty made by Developer in this Agreement, or in any certificate, notice, demand or request made by Developer in writing and delivered to the City pursuant to or in connection with this Agreement or the Lease, is untrue, false or misleading in any material respect as of the date made or furnished; provided, however, to the extent a representation or warranty is untrue, false or misleading for reasons other than an intentional, material misrepresentation by Developer, such untrue, false or misleading

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representation or warranty shall not cause an Event of Default if (i) it is susceptible to cure (i.e., Developer's actions can cause the facts or circumstances relative to the applicable circumstance to change such that the representation or warranty as originally made will become correct), and (ii) such cure is made by Developer within 30 days after receipt by Developer of written notice from the City of the same, provided that if such cure cannot reasonably be completed within said 30-day period, then such longer period of time not to exceed 90 days after Developer's receipt of the notice from the City with respect thereto, so long as Developer, within said 30-day period, initiates and diligently and continuously pursues appropriate measures to cure such breach.

(i) *Failure to Maintain Insurance*. Developer fails to replace or otherwise maintain in full force and effect, without any gap in coverage, any insurance required to be maintained by Developer pursuant to Section 11 of the Lease.

(j) *Monetary Default*. Developer fails to make any payments required to be made by Developer hereunder as and when due, and fails to make any such payment within 30 days after receiving written notice of such failure from the City.

18.2 Remedies.

18.2.1 Upon the occurrence and during the continuance of an Event of Default, the City may, at the City's election:

(a) enter into a workout agreement with Developer to modify this Agreement in the City's sole discretion;

(b) terminate this Agreement and, if the City so elects, in its sole discretion, require the demolition and removal of any partially constructed or partially completed Private Improvements associated with the applicable Phase and the performance of Site Restoration pursuant to and in accordance with Section 7.5, but only if such Event of Default arises in connection with any of the following events (each, a "**Termination Event**"):

(i) any Event of Default arising in connection with any acts or omissions of Developer constituting gross negligence, willful or wanton misconduct, fraud or a knowing violation of any Applicable Rules;

(ii) any Event of Default under 18.1.1(d) (*General Assignment*), 18.1.1(e) (*Voluntary Petition*), 18.1.1(f) (*Involuntary Petition*) or 18.1.1(g) (*Appointment of Receiver*);

(iii) any Event of Default under Sections 18.1.1(b) (*Abandonment*);

(iv) any Event of Default under Section 18.1.1(c) (*Final Completion*) that continues for more than 12 months following the required date for Final Completion for any Phase thereunder;

(v) any Event of Default under Section 18.1.1(i) (*Failure to Maintain Insurance*), or, if the City obtains insurance on Developer's behalf pursuant to Section 18.2.1(d), Developer's failure to reimburse the City within 90 days after the City's written demand therefor; and

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(vi) the occurrence of more than two Events of Default under any subsection of Section 18.1.1, exclusive of any other Terminating Event, in any 12-month period; and

(c) if the Developer Abandons the construction of the Project or fails to cause Final Completion of any applicable Phase, (i) do such acts and expend such reasonable funds at the expense of Developer as are reasonably necessary to construct and complete the applicable Private Improvements, in which event all funds expended by the City for such work shall be due and payable by Developer within 30 days after demand by the City, together with accrued interest thereon at 12% per annum from the date incurred until paid, *or* (ii) receive liquidated damages under the circumstances set forth in Section 18.3;

(d) if Developer fails to replace or otherwise maintain in full force and effect, without any gap in coverage, any insurance required to be maintained by Developer pursuant to Section 11 of the Lease, obtain such insurance on Developer's behalf, in which event Developer shall reimburse the City for the cost of such insurance premium within 30 days after written demand by the City, together with accrued interest thereon at 12% per annum from the date incurred until paid;

(e) exercise its rights and remedies under the Guaranty or Bond, as applicable;

(f) seek to enjoin or restrain Developer from commencing or continuing said Event of Default;

(g) seek to cause by injunction Developer to correct and cure said Event of Default; and/or

(h) exercise any and all remedies at law, in equity or otherwise available under this Agreement.

18.2.2 Upon the City's election to exercise its remedy to terminate this Agreement under Section 18.2.1(b) or construct the Private Improvements under Section 18.2.1(c)(i), Developer shall deliver to the City an Assignment of Plans in the form attached hereto as Exhibit L, pursuant to which Developer shall assign to the City all of Developer's right, title and interest in and to all Plans and Specifications and Approvals. Developer acknowledges and agrees that, as a condition of the City's consummation of the transactions herein, each written agreement between Developer and any Person performing work at or for the Project, including work relating to the preparation or modification of the Plans and Specifications, shall include such Person's consent to the assignment by Developer to the City of all right, title and interest of Developer in and to Plans and Specifications.

18.2.3 Upon the occurrence and during the continuance of any material breach, failure or other condition that, but for the City's delivery of notice or the lapse of time thereafter, would constitute an Event of Default, the City may withhold the release of any final maps and/or building permits or other City approvals until the breach or failure is resolved to the reasonable satisfaction of the City; provided, however, the City will not withhold the release of any of the foregoing maps, permits or approvals if Developer delivers written notice to the City of its commencement of actions to cure such breach, failure or other condition within the applicable cure period.

18.3 Liquidated Damages. The City and Developer covenant and agree that because of the difficulty and/or impossibility of determining the City's damages upon the occurrence of an Event of

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Default pursuant to Section 18.1.1(c) (*Failure to Complete*), by way of detriment to the public benefit and welfare of the City through lost employment opportunities, degradation of the economic health of the City and loss of revenue, both directly and indirectly, if the City elects its remedy to receive liquidated damages under Section 18.2.1(c)(ii), Developer shall pay to the City, and the City shall accept as an exclusive remedy, as liquidated damages and as a reasonable forecast of such potential damages and not as penalties, $500 per calendar day commencing on the date that the City delivers written notice to Developer of its election to receive liquidated damages pursuant to this Section 18.3 and continuing until earlier of (a) the date that such Event of Default is cured, or (b) the termination of this Agreement pursuant to a Termination Event. Developer agrees to waive any and all affirmative defenses that the amount of liquidated damages provided herein constitutes a penalty.

18.4 Community Benefit and Commercial Use Requirements. Notwithstanding any provision of this Article 18 to the contrary, if Developer fails to satisfy or comply with any of the Community Benefit Requirements, and such failure or non-compliance continues for 30 days after the City provides written notice thereof (a "**Non-Compliance Event**"), Developer shall be obligated to pay to the City a fee (each, a "**Non-Compliance Fee**") for each such Non-Compliance Event, the amount of which shall be $25,000 as of the Effective Date and shall increase annually by the percentage increase in the Consumer Price Index from the Effective Date to the most recent anniversary of the Effective Date prior to the date such Non-Compliance Fee becomes due; provided, however, Developer shall not (i) be required to pay a Non-Compliance Fee more than one time in a calendar year for the same Non-Compliance Event, or (ii) be liable for payment of a Non-Compliance Fee for any Non-Compliance Events in excess of four such events (i.e., $100,000, subject to adjustment based on the Consumer Price Index). For purposes hereof, "**Community Benefit Requirements**" means each of the following independent requirements: (a) the economic opportunity requirements in Section 11.3, (b) the Commercial Use Requirements in Section 11.4, (c) the Film Internship Requirements in Section 11.5, and (d) the Cultural Element Requirements in Section 11.6. The Non-Compliance Fee shall constitute the City's sole and exclusive remedy with respect to Developer's failure to satisfy any such Community Benefit Requirements in any calendar year, except that Developer's failure to pay the City any Non-Compliance Fee within five days after the date such Non-Compliance Fee becomes due shall constitute an Event of Default upon which the City shall be entitled to exercise its remedies under this Article 18.

18.5 Rights and Remedies Cumulative. Except as otherwise expressly stated in Sections 18.3 (Liquidated Damages) and 18.4 (Community Benefit and Commercial Use Requirements), the rights and remedies of the City are cumulative and in addition to any other right or remedy given hereunder or now or hereafter existing by agreement, Applicable Rules, or in equity, and the exercise by the City of one or more of such 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 Event of Default or any other Event of Default, to the extent permitted by law. The provisions of this Article 18 shall survive the expiration or termination of this Agreement. No waiver made by the City or Developer shall apply to obligations beyond those expressly waived in writing.

18.6 Event of Default by City. If the City defaults in its obligation to convey title to any Phase to Developer at the applicable Closing for such Phase pursuant to and in accordance with this Agreement, Developer shall deliver to the City a written notice of default and, upon the City's receipt of the notice of default, the City shall commence and complete the cure of such default. If the City has not completed the cure of the default within 60 days after receipt of the written notice of default, or such longer period as may be reasonably required by the City, provided that the City continuously and

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diligently pursues the cure of the default at all times during such period until such cure is completed, then the City's failure to convey title shall constitute a "**City Default**" hereunder. Upon any City Default, Developer may elect, by written notice to the City, as Developer's sole remedy, either to (i) terminate this Agreement, in which case the Initial Deposit will be returned to Developer and, the parties will be relieved of all further obligations under this Agreement except for those obligations that survive termination of this Agreement, or (ii) treat this Agreement as being in full force and effect and, within 30 days following written notice to the City of its election, file a suit for specific performance to compel the City to convey title to the applicable Phase to Developer in accordance with this Agreement. Developer irrevocably waives any right to bring an action for damages of any nature or type, including, without limitation, actual, consequential, incidental or punitive damages. As material consideration for the City entering into this Agreement with Developer, Developer expressly waives any right to record or file a lis pendens or a notice of pendency of action or similar notice against all of any portion of the Project. No part of this Agreement shall be deemed to abrogate or limit any immunities or defenses the City may otherwise have with respect to claims for monetary damages.

18.7 Waiver. Any failures or delays by either Party in asserting any of such Party's rights and remedies as to any Event of Default or City Default, as applicable, shall not operate as a waiver of such Event of Default or City Default, or of any of such Party's rights or remedies hereunder. The provisions of this Article 18 shall survive the expiration or termination of this Agreement.

18.8 Cross-Termination. The City does not desire to lease the Property to Developer pursuant to the Lease without Developer's commitment to develop and purchase the Project pursuant to this Agreement, and Developer does not desire to lease the Property from the City pursuant to the Lease without having the right to develop and acquire the Project pursuant to this Agreement. Therefore, the parties hereto agree that notwithstanding any other provision hereof, in the event (a) the Lease is terminated for any reason (other than termination with respect to a single, conveyed Phase), then this Agreement shall also terminate and be of no further force and effect, except for those obligations that survive termination of this Agreement, and (b) this Agreement is terminated for any reason, then the Lease shall also terminate and be of no further force and effect, except for those obligations that survive termination of the Lease, and in each such case, each party shall be entitled to pursue its applicable rights or remedies, if any, provided for under this Agreement and/or the Lease.

ARTICLE 19
RIGHT OF FIRST REFUSAL

19.1 City Right of First Refusal. If, at any time prior to the ROFR Termination Date (as defined in Section 19.3), Developer receives a bona fide offer from an unaffiliated third-party ("**Offer Party**") to acquire all or any portion of the Property that Developer intends to accept, then Developer shall promptly provide written notice to the City, setting forth the material terms of the offer, including the legal description of the applicable portion of the Property (the "**Offer Land**"), offer price, earnest money deposit, due diligence period, closing time, and other material terms and conditions (the "**Offer Notice**"). The City may elect to acquire all of the Offer Land (but not less than all) in accordance with the same material terms and conditions contained in the Offer Notice, by delivering written notice to Developer of the City's willingness to enter into a contract for the purchase of the Offer Land (the "**Election Notice**") no later than 45 days following the City's receipt of the Offer Notice (the "**Election Deadline**"); provided, however, the City shall not be required to accept any terms for which the City's agreement would constitute a violation of Applicable Rules.

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19.2 Contract Negotiation. Within 10 days after Developer's receipt of the City's Election Notice to Developer, Developer shall provide a draft purchase and sale agreement consistent with the material terms of the offer, and the City and Developer shall endeavor in good faith to negotiate a mutually agreeable purchase and sale agreement containing the material terms of the offer ("**Offer Contract**") within 45 days after Developer's receipt of the Election Notice ("**Offer Contract Deadline**"). Each Party shall be responsible for all expenses, including, without limitation, all legal fees, incurred by such Party with respect thereto. The execution and delivery of the Offer Contract will be subject to approval by the Governing Body in accordance with the City Code.

19.3 Termination of Right of First Refusal. The City's right of first refusal under this Article 19 shall terminate with respect to the Offer Land on the earlier of (a) the expiration of the Election Deadline if the City fails to timely deliver its Election Notice for the Offer Land, or (b) the expiration of the Offer Contract Deadline if the City and Developer, despite their commercially reasonable efforts to do so, are unable to agree upon an Offer Contract for the Offer Land following delivery of any Election Notice. Upon any such termination, the City shall have no further right or interest in the Offer Land, and Developer shall thereafter be free to sell or transfer the Offer Land to the Offer Party, subject to this Agreement, the Applicable Rules and matters of record. Notwithstanding the foregoing, if the Offer Party fails to acquire the Offer Land on terms materially consistent with the original offer within 180 days after the referenced termination, the City's option under this Article 19 shall be reinstated with respect to the unacquired Offer Land. The City's right of first refusal under this Article 19 shall expire and be of no further force or effect on the earlier of (i) the fifth anniversary of the Phase 1 Closing Date, or (ii) the date Developer has conveyed all of the Property to one or more unaffiliated third parties in accordance with this Agreement (as applicable, the "**ROFR Termination Date**"). For the avoidance of doubt, prior to the ROFR Termination Date, the City's right of first refusal shall continue with respect any portion of the Property owned by Developer that is not subject to an Offer Contract.

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ARTICLE 20
GENERAL PROVISIONS

20.1 Compliance with Laws. Developer shall carry out the design and construction of the Private Improvements and the operation of the Project in conformity with all Applicable Rules, including all applicable state labor standards, building, plumbing, mechanical, and electrical codes, and the Americans With Disabilities Act of 1990 (42 U.S.C. Section 12101, et seq., as amended, the "**ADA**"), as such Applicable Rules exist on the Effective Date or the date of the relevant application or request for permit, as applicable. During any Construction Activities, Developer shall comply, and cause the other Developer Parties to comply, with all Applicable Rules, including the ADA. Developer, through any contractor, agrees to be responsible for knowing all applicable requirements of the ADA and to defend, indemnify and hold harmless the City, its officials, agents and employees from and against any and all claims, actions, suits or proceedings of any kind brought against said parties as a result of any acts or omissions of Developer Parties or its agents in violation of the ADA.

20.2 Discrimination Prohibited. Developer shall comply, and cause the Developer Parties to comply, with Applicable Rules relating to discrimination against or segregation of any Person or group of Person, and will not on the grounds of ethnicity, race, age, religion, creed, color, national origin, ancestry, sex, gender, sexual orientation, sexual preference, marital status, source of income, physical or mental disability, medical condition, or citizenship status, discriminate or permit discrimination against any Person or group of Persons in any manner prohibited by Title 49 CFR Parts

21 and 23, the Civil Rights Act of 1964, as amended, the Equal Pay Act of 1963, the Rehabilitation Act of 1973, the New Mexico Human Rights Act, and SFCC 1987 Section 2.02. Without limiting the generality of the foregoing, Developer will not discriminate against any employee or applicant for employment or tenancy because of ethnicity, race, age, religion, creed, color, national origin, ancestry, sex, gender, sexual orientation, sexual preference, physical or mental disability, medical condition, or citizenship status. Such covered actions include, without limitation: employment, promotion, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; selection for training; and disciplinary actions and grievances. Developer agrees to post in conspicuous places available to employees, and applicants for employment, notice to be provided setting forth the provisions of this non-discrimination clause.

20.3 Recordation. Promptly after the later of the Effective Date and the recordation of the Plat, the City shall record an executed original of this Agreement in the real property records of the Clerk's Office of Santa Fe County, New Mexico (the "**Official Records**"). All amendments, transfers, and assignments hereto must be in writing signed by the appropriate officers of the City and Developer in a form suitable for recordation in the Official Records. Upon completion of the Private Improvements based on a Certificate of Completion for the final Phase, or the earlier revocation or termination of this Agreement, the final Certificate of Completion, revocation, or termination shall be signed by the appropriate officers of the City and Developer, and the City shall record such document in the Official Records; provided, however, such document or the recording thereof shall not effect or eliminate any obligations in this Agreement that expressly survive the termination or expiration hereof.

20.4 Covenants Running With the Land. This Agreement, including all covenants, agreements, rights, restrictions and obligations contained herein (subject to certain term limitations as contained in this Agreement) (i) shall run with the Property, (ii) shall be binding upon the Developer, the owner(s) of any portion of the Property, and each of its and their successors (by merger, consolidation, operation of law or otherwise), successors-in-title, assigns, and lessees, whether by operation of law or in any manner whatsoever, and (iii) shall inure to the benefit of the City, as the intended beneficiary of the terms and provisions of this Agreement and of the covenants running with the Property, without regard to whether the City has been, remains, or is an owner of any interest in the Property or the Midtown Site. In the event this Agreement is terminated by the City, this Agreement may be released of record, in whole or in part, upon execution and recording by the City of a notice of termination or other instrument evidencing such termination.

20.5 Notices. Any notice, request, demand, instruction or other document to be given or served hereunder or under any document or instrument executed pursuant hereto shall be in writing and shall be delivered either personally with a receipt requested therefor, or by overnight courier, or by certified mail, return receipt requested, postage prepaid, in any case addressed to the Parties at their respective addresses set forth below, and the same shall be effective (a) upon receipt or refusal if delivered personally, (b) one Business Day after depositing with such an overnight courier service, (c) three Business Days after deposit in the mail if mailed, or (d) upon successful electronic mail transmission evidenced by an electronic "read receipt" and provided that such notice is also delivered by the means described in clauses (a) or (b) within two Business Days after such electronic mail notice. All notices to the City or Developer shall be sent to the persons and addresses set forth below. A Party may change its address for receipt of notices by service of a notice of such change in accordance herewith.

If to the City: City of Santa Fe

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Attention: City Attorney's Office
200 Lincoln Avenue
Santa Fe, NM 87501

with a copy to: Midtown Redevelopment Agency
Attention: MRA Director
200 Lincoln Avenue
Santa Fe, NM 87501

If to Developer: Aspect QOZB LLC
Attention: Phillip Gesue
1954 Siringo Road
Santa Fe, NM 87505

with a copy to: Long, Komer & Associates, P.A.
Attention: Nancy R. Long
P.O. Box 5098
1800 Old Pecos Trail, Suite A
Santa Fe, NM 87505

20.6 Relationship Between Parties. Notwithstanding any language in this Agreement or any representation or warranty to the contrary, the relationship between Developer and the City shall be as independent contractors, and neither the City nor Developer shall be deemed or constitute an employee, servant, agent, partner or joint venturer of the other.

20.7 No Third-Party Rights. This Agreement is for the sole and exclusive benefit of the Parties and their respective successors and permitted assigns, and no third party other than a permitted assignee of the City or Developer is contemplated to or shall have any rights hereunder.

20.8 Counterparts. This Agreement may be signed in multiple counterparts or with detachable signature pages, but either or both circumstances shall constitute one instrument, binding upon all parties thereto as if all parties signed the same document. If so executed, each such counterpart of this Agreement is to be deemed an original for all purposes and all such counterparts will collectively constitute one Agreement, but in making proof of this Agreement, it will not be necessary to produce or account for more than one such counterpart.

20.9 Exhibits; Ancillary Documents. All certificates, documents, exhibits, attachments, riders, and addenda referred to in this Agreement are hereby incorporated into this Agreement by reference and made a part hereof as though set forth in full in this Agreement to the extent they are consistent with its conditions and terms. In the event of any conflict between the terms set forth in this Agreement for any exhibit or ancillary document and the terms set forth in the agreed-upon exhibit or ancillary document, the terms of the agreed-upon exhibit or ancillary document, as applicable, shall control.

20.10 Time of Essence. Time is expressly made of the essence with respect to the performance by Developer of every obligation and condition of this Agreement.

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20.11 Computation of Time. All references herein to "days" mean calendar days. All references herein to "months" mean the period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that, solely with respect to the last month of any period (a) if the numerically corresponding day is not a Business Day, that period will be deemed to end on the next Business Day, (b) if there is no numerically corresponding day in the next calendar month, then that period shall end on the first Business Day after the last day of that month. In computing any period of time under this Agreement in which days define the period, (i) the date of the act or event from which the designated period of time begins to run shall not be included, and (ii) the last day of the period so computed shall be included unless it is a day other than a Business Day, in which event the day for performance thereof shall be extended to the next Business Day. If any act is to be done by or within a period of time, the last day of said period of time shall be deemed to end at 5:00 p.m. MT.

20.12 Effect and Duration of Agreement Provisions. All obligations, covenants and agreements contained herein which are not performed at or before Final Completion of the Project (or any Phase thereof) but which are to be performed after Final Completion of the Project or the Phase, as applicable, as provided in this Agreement, shall survive the Final Completion of the Project or Phase, as applicable. Subject to the foregoing and any other provisions of this Agreement that by their terms expressly survive the performance, expiration or earlier termination of this Agreement, as applicable, the provisions of this Agreement applicable to any Private Improvement Project Specifications shall terminate with respect to each Phase upon the issuance of the Certificate of Completion for such Phase.

20.13 Force Majeure. Neither the City nor Developer shall be deemed to be in default hereunder if either Party is prevented from performing any of the obligations, other than monetary obligations hereunder, by reason of strikes, boycotts, labor disputes, embargoes, industry-wide or regional shortages of labor, energy or materials (to the extent not caused by the failure of any person to adequately plan materials orders or labor allocation as necessitated by the then-current markets therefor), acts of the public enemy, infectious disease or pandemic, weather conditions and the results of acts of nature, riots, rebellion, sabotage, any approval required by the City (not including any period of time normally expected for the processing of such approvals in the ordinary course of affairs), or any other similar circumstances for which it is not responsible or which are not within such Party's control (each a "**Force Majeure Event**"); provided, however, the Parties stipulate and agree that none of the following events or occurrences shall be deemed a Force Majeure Event: (a) the novel coronavirus COVID-19 pandemic (except to the extent the pandemic is the direct cause of any of the delay events listed above), (b) financial distress or the inability of a Party to earn a profit or avoid a financial loss, and (c) a Party's inability to perform its financial obligations hereunder, including Developer's inability to secure funds in an amount sufficient to complete the Private Improvements. An extension of time for any Force Majeure Event shall commence to run from the time of the commencement of the Force Majeure Event if notice by the Party claiming such extension is sent to the other Party within 30 days after said commencement. If such notice is delivered after such 30-day period, the extension period shall commence to run from the date of such notice. After the termination of any such Force Majeure Event, the obligation to perform shall recommence with a day-for-day delay extension to any deadlines.

20.14 Severability. In the event any covenant, condition or provision herein is held to be invalid, illegal, or unenforceable by any court of competent jurisdiction, such covenant, condition or provision shall be deemed amended to conform to Applicable Rules so as to be valid or enforceable or, if it cannot be so amended without materially altering the intention of the parties, it shall be stricken.

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If stricken, all other covenants, conditions and provisions of this Agreement shall remain in full force and effect provided that the striking of such covenants, conditions or provisions does not materially prejudice either the City or Developer in its respective rights and obligations contained in the valid covenants, conditions or provisions of this Agreement.

20.15 Interpretation. Whenever the words "include," "includes" or "including" are used in this Agreement they shall be deemed to be followed by the words "without limitation." The words "hereof", "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. Unless otherwise expressly provided herein, any agreement, instrument or statute defined or referred to herein or in any agreement or instrument defined or referred to herein means such agreement, instrument or statute as from time to time amended, modified or supplemented, including (in the case of agreements or instruments) by waiver or consent and (in the case of statutes) by succession of comparable successor statutes, and references to all attachments thereto and instruments incorporated therein.

20.16 Sections. References to section numbers are to sections in this Agreement, unless otherwise expressly stated.

20.17 Gender, Singular/Plural. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

20.18 Headings and Captions. Headings and captions of sections and paragraphs are for convenience, not limitation, and are not to be construed as modifying text.

20.19 Further Assurances. Developer and the City covenant that they shall do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered such instrument, supplemental hereto and further acts, instruments and transfers as may be required hereunder. All such ancillary agreements shall be in accordance with and not contradictory to the terms and conditions set forth in this Agreement.

20.20 Waiver. No provisions of this Agreement shall be deemed to have been waived by either Party unless such waiver is in writing, signed by the Party making the waiver and addressed to the other Party, nor shall any custom or practice which may evolve between the Parties in the administration of the terms of this Agreement be construed to waiver or lessen the right of either Party to insist upon the performance of the other Party in strict accordance with the terms of this Agreement. Further, the waiver by any Party of a breach by the other Party or any term, covenant, or condition hereof shall not operate as a waiver of any subsequent breach of the same or any other term, covenant, or condition thereof. No acceptance by the City of any partial payment shall constitute an accord or satisfaction but shall only be deemed a partial payment.

20.21 Modifications; City Approval. Any amendment, alteration, change or modification of or to this Agreement, in order to become effective, shall be made in writing and in each instance signed on behalf of each Party and, if applicable, approved by the Governing Body and in accordance with any applicable City signature policy. The MRA Director shall record amendments, alterations, changes, and modifications to this Agreement in the Official Records, though a failure to so record shall not impair the effectiveness of such as between the Parties. The MRA Director may extend the time for the performance of any term or satisfaction of any condition hereunder for up to 180 days by the execution of a letter countersigned by Developer. The City Manager may approve changes to the

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Project requested by Developer to the extent the value of such changes is not in excess of the City Manager's contractual authority and to the extent equal value is received by the City. At any time during which the MRA Director position is unoccupied or in the event the MRA ceases to exist, references in this Agreement to the "MRA Director" shall be deemed to refer instead to the City Manager who shall fulfill the role and assume the responsibilities of the MRA Director under this Agreement.

20.22 Legal Advice. Each Party represents to the other that it has carefully read this Agreement; and in signing this Agreement, it does so with full knowledge of any right which it may have; it has received independent legal advice from its legal counsel as to the matter set forth in this Agreement; and it has freely signed this Agreement without any reliance upon any agreement, promise, statement or representation by or on behalf of the other Party, or its agents, employees, or attorneys, except as specifically set forth in this Agreement, and without duress or coercion, whether economic or otherwise. This Agreement shall not be construed more strictly against one Party than against the other merely by virtue of the fact that it may have been prepared primarily by counsel for one of the Parties, it being recognized that both the City and Developer have contributed substantially and materially to the preparation of this Agreement.

20.23 Non-Liability of Officials and Employees of the City. No member, official or employee of the City shall be personally liable to Developer, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to Developer or its successors, or on any obligations under the terms of this Agreement.

20.24 New Mexico Tort Claims Act. The City's liability in connection with the Agreement is limited by the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et seq. NMSA 1978, as amended. The City and its "public employees", as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense, and do not waive any limitation of liability pursuant to law. No provision of this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

20.25 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New Mexico.

20.26 Legal Proceedings; Attorneys' Fees and Costs. The Parties agree that the exclusive venue for any claims, disputes, disagreements, controversies, lawsuits, or causes of action by or between Developer and the City arising out of or relating to this Agreement, the Project, the Property, or the Construction Activities (collectively, "**Disputes**"), shall be the First Judicial District Court located in Santa Fe, New Mexico. Any and all Disputes shall be tried as a bench trial and not as a jury trial. In the event it becomes necessary for the City to enforce any of the terms and provisions of this Agreement, whether or not suit be instituted, Developer shall pay all costs and expenses incurred by the City in connection with the City's enforcement of this Agreement, including, but not limited to, reasonable attorneys' fees.

20.27 Waiver of Jury Trial. TO THE EXTENT PERMITTED BY LAW, THE PARTIES HEREBY KNOWINGLY, INTENTIONALLY AND VOLUNTARILY, WITH AND UPON THE ADVICE OF COMPETENT COUNSEL, WAIVE, RELINQUISH AND FOREVER FORGO THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED UPON, ARISING OUT OF, OR IN ANY WAY RELATING TO A DISPUTE.

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EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY DISPUTE WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE IT HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO ANY DISPUTE. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE SUCH WAIVERS; (B) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF SUCH WAIVERS; (C) IT MAKES SUCH WAIVERS VOLUNTARILY; AND (D) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 20.27.

20.28 Approval Required. This Agreement shall not become effective or binding until approved by the highest approval authority required by the City under this Agreement.

20.29 Appropriations. Notwithstanding any other provisions in this Agreement, the terms of this Agreement are contingent upon the Governing Body making the appropriations necessary for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the Governing Body, or if unspent appropriations from any prior fiscal year are not appropriated in the then current fiscal year, this Agreement may be terminated upon 30 days' written notice given by the City to Developer. Such event shall not constitute a City Default or other default by the City. All obligations of the City and all of its interest in this Agreement will cease upon the date of termination. The City's decision as to whether sufficient appropriations are available shall be accepted by all parties and shall be final.

20.30 No Pecuniary Liability of City. No provision of this Agreement shall constitute an indebtedness of the City within the meaning of any constitutional provision or statutory limitations of the State of New Mexico, nor constitute or give rise to a pecuniary liability of the City or a charge against its general credit or taxing powers.

20.31 Officials, Agents and Employees Not Personally Liable. No official, agent, or employee of the City nor member of the Governing Body shall be personally liable to any person by virtue of any provision of this Agreement.

20.32 No Collusion. Developer represents that this Agreement is entered into by Developer without collusion on the part of Developer with any person or firm, without fraud and in good faith. Developer also represents that no gratuities, in the form of entertainment, gifts or otherwise, were, or during the term of this Agreement, will be offered or given by Developer or any agent or representative of Developer to any officer or employee of the City with a view towards securing this Agreement or for securing more favorable treatment with respect to making any determinations with respect to performing this Agreement.

20.33 Public Records. The Parties acknowledge that the City is a government entity and subject to the IPRA. Notwithstanding anything contained herein to the contrary, the City shall not be responsible to Developer or any third-party contractor for any disclosure of confidential information pursuant to the IPRA or pursuant to the City's public records act laws, rules, regulations, instructions or other legal requirement.

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IN WITNESS WHEREOF, this Agreement has been executed and delivered by the City and Developer as of the Effective Date.

Date of City of Santa Fe Governing Body
Approval: 12/12, 2024

CITY:

CITY OF SANTA FE,
a municipal corporation and political subdivision of the State of New Mexico

By: _____
Mayor

APPROVED AS TO FORM:

By: _____
Assistant City Attorney

ATTEST:

By: _____
City Clerk

SEAL CITY OF SANTA FE NEW MEXICO ORGANIZED 13 AD

CITY CLERK RECORDED 02/12/2025

STATE OF NEW MEXICO }
} ss.
COUNTY OF SANTA FE }

This instrument was acknowledged before me on February 5, 2025 by Alan Webber, as Mayor of City of Santa Fe, a municipal corporation and political subdivision of the State of New Mexico.

(Seal, if any)

_____
(Signature of Notarial Officer)

[*Signatures and acknowledgements continue on the following page*]

XAVIER I. VIGIL
Notary Public - State of New Mexico
Commission # 1132968
My Comm. Expires Mar 25, 2025

DEVELOPER:

ASPECT QOZB, LLC,
a Delaware limited liability company

By:_____
Name: Phillip Gesue
Title: Managing Member

STATE OF NEW MEXICO }
} ss.
COUNTY OF SANTA FE }

This instrument was acknowledged before me on October 24, 2024 by Phillip Gesue as Managing Member of Aspect QOZB, LLC, a Delaware limited liability company.

(Seal, if any)

_____
(Signature of Notarial Officer)

STATE OF NEW MEXICO
NOTARY PUBLIC
KANDRA LYNN PAYNE
COMMISSION # 1139277
COMMISSION EXPIRES 12/02/2026

SFC CLERK RECORDED 02/12/2025

JOINDER OF DEVELOPER'S PRINCIPAL

FOR GOOD AND VALUABLE CONSIDERATION as set forth in this Development and Disposition Agreement, the receipt and sufficiency of which is hereby acknowledged, PHILLIP GESUE, as Developer's Principal, hereby joins in the execution of this Agreement in order to evidence and confirm its agreement to be bound by the provisions hereof relating to or expressly obligating Developer under Section 14.3 hereof.

Developer's Principal, by its execution hereof, agrees that it shall be personally liable and responsible to the City for Developer's default under Section 14.3 of this Agreement. Nothing contained in this Joinder shall be deemed to waive, release, limit, or otherwise modify any obligation or liability that Developer currently has or may have in the future pursuant to this Agreement or any binding agreement between the City and Developer or any other Person or any obligation or liability arising under or pursuant to law or equity.

Phillip Gesue

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20.34 Governmental Right and Powers. Nothing in this Agreement will be construed or interpreted as limiting, relinquishing, or waiving any rights of ownership enjoyed by the City in the Property or waiving or limiting the City's control over the management, operations or maintenance of the Property, except as specifically provided in this Agreement, or impairing exercising or defining governmental rights and the police powers of the City.

20.35 Survival. All obligations, covenants and agreements contained herein which are intended to be performed in whole or in part after the completion of construction of the Project or termination of this Agreement shall survive the completion of construction of the Project or termination of this Agreement and shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

[Remainder of this page intentionally left blank]
[Signatures and acknowledgements appear on the following pages]

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EXHIBIT A

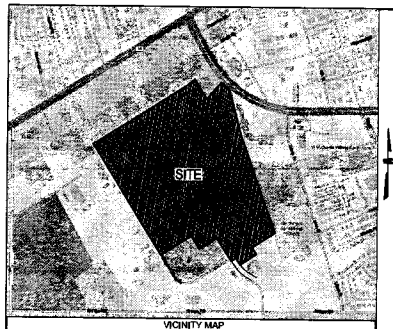
DEPICTION OF THE MIDTOWN SITE

[attached]

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Lot Line Adjustment to Create Right-of-Way

for PLAT OF EXISTING
College of Santa Fe
within Projected Section 34, T.17N., R.9E., N.M.P.M.
City of Santa Fe
Santa Fe County, New Mexico
August 2024



VICINITY MAP
N.T.S.

NOTES:

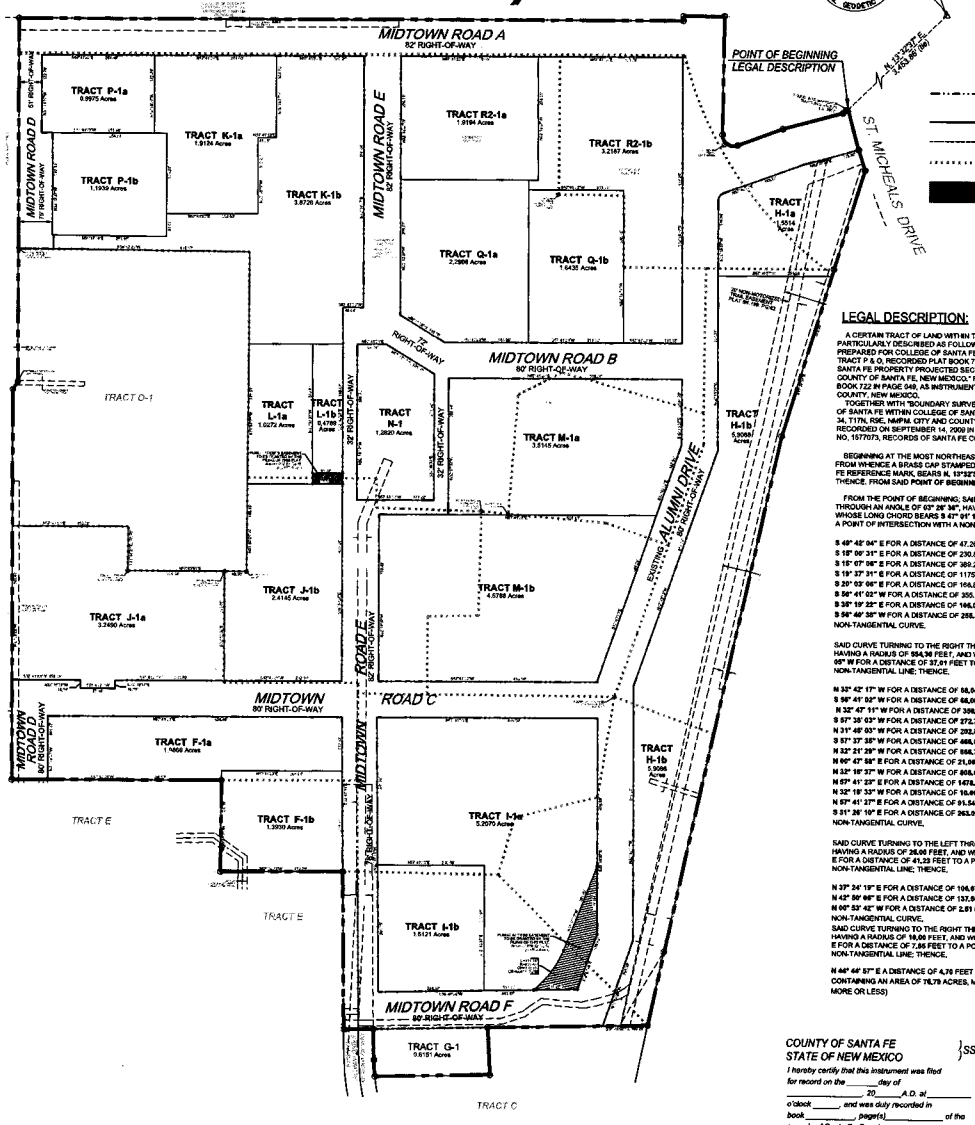
1. FIELD SURVEY WAS PERFORMED NOVEMBER 2021.
2. BEARINGS ARE NEW MEXICO STATE PLANE, CENTRAL ZONE. DISTANCES ARE GROUND DISTANCES. COMBINED GRID TO GROUND SCALE FACTOR: 1.0004066253 (SCALED AROUND 0,0) BASED ON A LINE FROM "SANTA FE EAST BASE RM3" TO "BM B-439, 1984", BEARING = S.49°36'22"W.
3. BENCHMARK USED FOR THIS PROJECT IS "SANTA FE EAST BASE RM3".
4. FEDERAL FLOODPLAIN MAP 35049C0411E WITH AN EFFECTIVE DATE OF DECEMBER 4, 2012 AS PUBLISHED BY THE FEDERAL EMERGENCY AGENCY SHOW THIS SITE AS BEING WITHIN ZONE X (DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN).
5. THIS PLAT SHOWS ALL AVAILABLE RECORD OF EASEMENTS.
6. THIS PLAT SUBJECT TO RESTRICTIONS, COVENANTS AND EASEMENTS OF RECORD AS SHOWN ON PLATS REFERENCED HEREON.

REFERENCED DOCUMENTS:

THE FOLLOWING DOCUMENTS AND INSTRUMENTS WERE USED FOR THE PERFORMANCE AND PREPARATION OF THIS PLAT:

1. PLAT OF SURVEY ENTITLED, "REPLAT PREPARED FOR THE COLLEGE OF SANTA FE", recorded SEPTEMBER 14, 2006 in PLAT BOOK 707, PAGE 050-051.
2. DIVISION PLAT FOR THE COLLEGE OF SANTA FE, recorded MAY 19, 2006 in PLAT BOOK 682, PAGE 06.
3. REPLAT FOR COLLEGE OF SANTA FE. recorded JANUARY 2, 2008 in PLAT BOOK 672, PAGE 33.
4. REPLAT FOR COLLEGE OF SANTA FE, recorded SEPTEMBER 19, 2008 in PLAT BOOK 635, PAGE 46, 47.
5. REPLAT FOR COLLEGE OF SANTA FE. recorded OCTOBER 12, 2010 in PLAT BOOK 722, PAGE 049.
6. REPLAT FOR COLLEGE OF SANTA FE, recorded OCTOBER 12, 2010 in BOOK 719, PAGE 044.
7. BOUNDARY EASEMENT SURVEY PLAT FOR COLLEGE OF SANTA FE, recorded JULY 15, 2010 in BOOK 719, PAGE 047.
8. PLAT OF ALTA/ACSM LAND TITLE SURVEY, recorded OCTOBER 10, 2008 in BOOK 691, PAGE 029.
9. BOUNDARY SURVEY OF TRACT E "COLLEGE OF SANTA FE", recorded JUNE 28, 2011 in BOOK 735, PAGE 045.
10. BOUNDARY SURVEY OF TRACT E "COLLEGE OF SANTA FE", recorded OCTOBER 28, 2022 in BOOK 886, PAGE 14.
11. PLAT OF EASEMENT SURVEY FOR COLLEGE OF THE CHRISTIAN BROTHERS OF NEW MEXICO, recorded 08/17/ 2009.
12. REPLAT OF TRACT 3A & 3B FOR COLLEGE OF THE BOARD OF EDUCATION OF THE CITY OF SANTA FE, recorded MARCH 12, 1991 in BOOK 220, PAGE 037.
13. BOUNDARY SURVEY PLAT FOR PRESBYTERIAN MEDICAL SERVICES, recorded NOVEMBER 30, 2004 in BOOK 574, PAGE 035.
14. LOT CONSOLIDATION FOR THE STATE OF NEW MEXICO DEPARTMENT OF FINANCE & ADMINISTRATION, recorded OCTOBER 4, 1990 in BOOK 215, PAGE 013.
15. QUITCLAIM DEED from U.S.A. to COLLEGE OF THE CHRISTIAN, filed MAY 23, 1949 in BOOK 40, PAGE 437.
16. DECLARATION from U.S.A. to COLLEGE OF THE CRISTIAN, filed DECEMBER 22, 1969 in BOOK 269, PAGE 858.
17. SPECIAL WARRANTY DEED from COLLEGE OF THE CRISTIAN BROTHERS to CITY OF SANTA FE, filed SEPTEMBER 16, 2009 as INSTRUMENT 1577356.
18. EASEMENT from COLLEGE OF SANTA FE to PNM, filed JULY 9, 1990 in BOOK 882, PAGE 916.
19. EASEMENT from COLLEGE OF SANTA FE to BOARD OF EDUCATION, filed JUNE 10, 1991 in BOOK 730, PAGE 568.
20. EASEMENT from COLLEGE OF SANTA FE to FIRST COMMUNITY BANK, filed SEPTEMBER 21, 2007 as INSTRUMENT 1500540.
21. VACATION OF EASEMENT from COLLEGE OF SANTA FE to FIRST COMMUNITY BANK, filed JULY 20, 2009 as INSTRUMENT 1571651.
22. EASEMENT from COLLEGE OF SANTA FE to PNM, filed AUGUST 13, 1998 in BOOK 1299, PAGE 74.
23. EASEMENT from COLLEGE OF SANTA FE to NEW MEXICO STATE BANK , filed JUNE 12, 2009 as INSTRUMENT 1566667.
24. VACATION OF EASEMENT from COLLEGE OF SANTA FE to FIRST COMMUNITY BANK, filed AUGUST 17, 2009 as INSTRUMENT 1574183.

GRAPHIC SCALE
(IN FEET)
1 inch = 100 ft.



LEGEND:

- RIGHT-OF-WAY, TO BE DEDICATED BY THE FILING OF THIS PLAT.
- NEW LOT LINE
- EASEMENT LINE (AS NOTED)
- LOT LINE TO BE ELIMINATED
- PUBLIC ACCESS EASEMENT TO BE GRANTED BY THE FILING OF THIS PLAT.

LEGAL DESCRIPTION:

A CERTAIN TRACT OF LAND WITHIN THE PERIMETER BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, ALL AS SHOWN ON "REPLAT PREPARED FOR COLLEGE OF SANTA FE, LOT LINE ADJUSTMENT OF EXISTING TRACT P & Q, RECORDED PLAT BOOK 707, PAGES 50-50A WITHIN COLLEGE OF SANTA FE PROPERTY PROJECTED SECTION 34, T.17N, R9E, NMPM, CITY AND COUNTY OF SANTA FE, NEW MEXICO," RECORDED ON OCTOBER 12, 2010 IN BOOK 722 IN PAGE 049, AS INSTRUMENT NO. 1613546, RECORDS OF SANTA FE COUNTY, NEW MEXICO.

TOGETHER WITH "BOUNDARY SURVEY PLAT PREPARED FOR THE COLLEGE OF SANTA FE WITHIN COLLEGE OF SANTA FE PROPERTY PROJECTED SECTION 34, T.17N, R9E, NMPM, CITY AND COUNTY OF SANTA FE, NEW MEXICO" RECORDED ON SEPTEMBER 14, 2006 IN BOOK 707 IN PAGE 50, AS INSTRUMENT NO. 1577073, RECORDS OF SANTA FE COUNTY, NEW MEXICO.

BEGINNING AT THE MOST NORTHEASTERLY CORNER OF SAID PERIMETER, FROM WHENCE A BRASS CAP STAMPED "EAST BASE 1945, NO.3 1976" A SANTA FE REFERENCE MARK, BEARS N. 18°43'07" E., A DISTANCE OF 3,463.96 FEET; THENCE, FROM SAID POINT OF BEGINNING,

FROM THE POINT OF BEGINNING, SAID CURVE TURNING TO THE LEFT THROUGH AN ANGLE OF 03° 26' 36", HAVING A RADIUS OF 1516.20 FEET, AND WHOSE LONG CHORD BEARS S 47° 01' 15" E FOR A DISTANCE OF 92.93 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENTIAL LINE; THENCE,

S 48° 42' 04" E FOR A DISTANCE OF 47.20 FEET TO AN ANGLE POINT; THENCE,
S 18° 09' 31" E FOR A DISTANCE OF 230.86FEET TO AN ANGLE POINT; THENCE,
S 15° 07' 06" E FOR A DISTANCE OF 389.2444 FEET TO AN ANGLE POINT; THENCE,
S 19° 37' 31" E FOR A DISTANCE OF 1175.00 FEET TO AN ANGLE POINT; THENCE,
S 20° 03' 06" E FOR A DISTANCE OF 156.02 FEET TO AN ANGLE POINT; THENCE,
S 56° 41' 02" W FOR A DISTANCE OF 355.69 FEET TO AN ANGLE POINT; THENCE,
S 38° 19' 22" E FOR A DISTANCE OF 166.04 FEET TO AN ANGLE POINT; THENCE,
S 56° 40' 38" W FOR A DISTANCE OF 255.28 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE.

SAID CURVE TURNING TO THE RIGHT THROUGH AN ANGLE OF 03° 49' 35", HAVING A RADIUS OF 954.30 FEET, AND WHOSE LONG CHORD BEARS N 36° 53' 05" W FOR A DISTANCE OF 37.01 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENTIAL LINE; THENCE,

N 32° 42' 17" W FOR A DISTANCE OF 58.04 FEET TO AN ANGLE POINT; THENCE,
S 56° 41' 02" W FOR A DISTANCE OF 66.00 FEET TO AN ANGLE POINT; THENCE,
N 32° 47' 11" W FOR A DISTANCE OF 309.06 FEET TO AN ANGLE POINT; THENCE,
S 57° 36' 03" W FOR A DISTANCE OF 272.75 FEET TO AN ANGLE POINT; THENCE,
N 31° 49' 03" W FOR A DISTANCE OF 292.87 FEET TO AN ANGLE POINT; THENCE,
S 57° 37' 35" W FOR A DISTANCE OF 466.53 FEET TO AN ANGLE POINT; THENCE,
N 32° 21' 29" W FOR A DISTANCE OF 666.72 FEET TO AN ANGLE POINT; THENCE,
N 56° 47' 56" E FOR A DISTANCE OF 21.09 FEET TO AN ANGLE POINT; THENCE,
N 32° 16' 37" W FOR A DISTANCE OF 868.06 FEET TO AN ANGLE POINT; THENCE,
N 57° 41' 23" E FOR A DISTANCE OF 1478.51 FEET TO AN ANGLE POINT; THENCE,
N 32° 19' 33" W FOR A DISTANCE OF 10.46 FEET TO AN ANGLE POINT; THENCE,
N 57° 41' 37" E FOR A DISTANCE OF 81.54 FEET TO AN ANGLE POINT; THENCE,
S 31° 26' 19" E FOR A DISTANCE OF 263.07 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE,

SAID CURVE TURNING TO THE LEFT THROUGH AN ANGLE OF 119° 06' 12", HAVING A RADIUS OF 20.00 FEET, AND WHOSE LONG CHORD BEARS S 87° 04' 17" E FOR A DISTANCE OF 41.23 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENTIAL LINE; THENCE,

N 37° 24' 19" E FOR A DISTANCE OF 104.67 FEET TO AN ANGLE POINT; THENCE,
N 43° 50' 06" E FOR A DISTANCE OF 137.00 FEET TO AN ANGLE POINT; THENCE,
N 00° 53' 42" W FOR A DISTANCE OF 2.81 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE,
SAID CURVE TURNING TO THE RIGHT THROUGH AN ANGLE OF 44° 58' 39.1", HAVING A RADIUS OF 10.00 FEET, AND WHOSE LONG CHORD BEARS N 21° 36' 19" E FOR A DISTANCE OF 7.66 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENTIAL LINE; THENCE,

N 44° 44' 57" E A DISTANCE OF 4.78 FEET TO THE POINT OF BEGINNING AND CONTAINING AN AREA OF 76.79 ACRES, MORE OR LESS (3,341,172.87 SQ. FT., MORE OR LESS)

STATEMENT OF DECLARATION:

THE PURPOSE OF THIS PLAT IS TO:

ADJUST LOT LINES AND TO DEDICATE RIGHT-OF-WAY, AS SHOWN HEREON.

AFFIDAVIT:

KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED OWNER HAS CAUSED TO BE REPLATTED THOSE LANDS SHOWN HEREON. THE SAID REPLAT IS MADE WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE SAID OWNER. THIS REPLAT CONTAINS 4.88 ACRES, MORE OR LESS. ALL TRACTS SHOWN HEREON ARE SUBJECT TO RECIPROCAL PRIVATE ACCESS AND PARKING EASEMENTS ALONG AND OVER EXISTING DRIVEWAYS AND PARKING AREAS. EASEMENTS ARE GRANTED FOR EXISTING UTILITIES. THERE IS NO ROAD DEDICATION.
THIS REPLAT LIES WITHIN THE PLANNING AND PLATTING JURISDICTION OF THE CITY OF SANTA FE, N.M.

OWNER: _____

BY: _____ ALAN WEBBER, MAYOR DATE: _____

CITY CLERK: _____ DATE: _____

STATE OF NEW MEXICO
COUNTY OF SANTA FE
THE FOREGOING INSTRUMENT WAS SWORN, ACKNOWLEDGED AND SUBSCRIBED BEFORE ME ON THIS _____ DAY OF _____, 20____.

NOTARY PUBLIC _____ MY COMMISSION EXPIRES _____

REVIEWED BY COUNTY OF SANTA FE:

COUNTY TREASURER _____ DATE: _____

REVIEWED BY CITY OF SANTA FE:

CITY ENGINEER FOR LAND USE _____ DATE: _____

CITY PLANNER _____ DATE: _____

SURVEYOR'S CERTIFICATION:

I, BENJAMIN M. ARAGON, NEW MEXICO PROFESSIONAL SURVEYOR No. 15268, DO HEREBY CERTIFY THAT THIS BOUNDARY SURVEY PLAT AND THE ACTUAL SURVEY ON THE GROUND UPON WHICH IT IS BASED WERE PERFORMED BY ME OR UNDER MY DIRECT SUPERVISION; THAT I AM RESPONSIBLE FOR THIS SURVEY; THAT THIS SURVEY MEETS THE MINIMUM STANDARDS FOR SURVEYING IN NEW MEXICO; AND THAT IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER CERTIFY THAT THIS SURVEY IS NOT A LAND DIVISION OR SUBDIVISION AS DEFINED IN THE NEW MEXICO SUBDIVISION ACT AND THAT THIS INSTRUMENT IS A BOUNDARY SURVEY PLAT OF AN EXISTING TRACT OR TRACTS.

BENJAMIN M. ARAGON N.M.P.L.S. #15268

DATE

WILSON & COMPANY
4401 MASTHEAD ST. NE, SUITE 150
ALBUQUERQUE, NEW MEXICO 87109
OFFICE: 505-348-4000
FAX: 505-348-4155
www.wilsonco.com

COUNTY OF SANTA FE
STATE OF NEW MEXICO } SS

I hereby certify that this instrument was filed for record on the _____ day of _____, 20____, A.D. at _____ o'clock _____, and was duly recorded in book _____ page(s) _____ of the records of Santa Fe County.

Witness my Hand and Seal of office
KATHARINE E. CLARK
County Clerk, Santa Fe county, N.M.

_____ Deputy

County Clerk

Seal

SFC CLERK RECORDED 02/12/2025

SHEET 1 OF 1

EXHIBIT B-1

DEPICTION OF THE PROPERTY

The following Tracts, as depicted on the following maps, comprise Phase 1, Phase 2 and Phase 3 of the Property, as follows:

Phase 1:	Phase 2:	Phase 3:
Tract F-1b	Tract F-1a	Tract G-1
Tract I-1a		Tract I-1b
Tract L-1a		

SFC CLERK RECORDED 02/12/2025

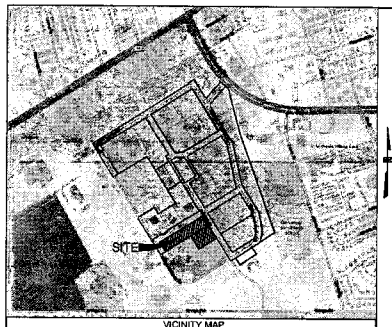
B-1

5 pages

Lot Split to create TRACTS F-1a and F-1b

LOT LINE ADJUSTMENT PLAT OF EXISTING TRACT F and TRACT J

within Projected Section 34, T.17N., R.9E., N.M.P.M.
City of Santa Fe
Santa Fe County, New Mexico
August 2024



VICINITY MAP
N.T.S.

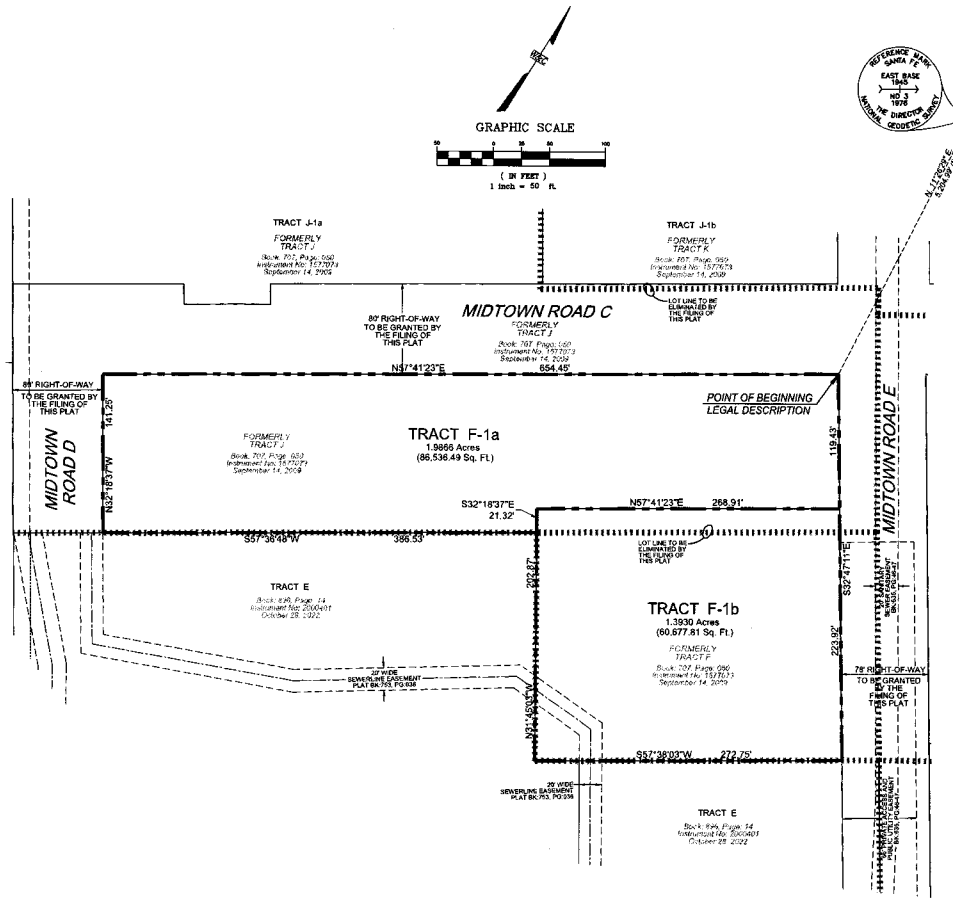
NOTES:

1. FIELD SURVEY WAS PERFORMED NOVEMBER 2021.
2. BEARINGS ARE NEW MEXICO STATE PLANE, CENTRAL ZONE. DISTANCES ARE GROUND DISTANCES. COMBINED GRID TO GROUND SCALE FACTOR: 1.0004056253 (SCALED AROUND 0,0) BASED ON A LINE FROM "SANTA FE EAST BASE RM3" TO "BM B-439, 1984". BEARING = S.49°38'22"W.
3. BENCHMARK USED FOR THIS PROJECT IS "SANTA FE EAST BASE RM3".
4. FEDERAL FLOODPLAIN MAP 35049C0411E WITH AN EFFECTIVE DATE OF DECEMBER 4, 2012 AS PUBLISHED BY THE FEDERAL EMERGENCY AGENCY SHOW THIS SITE AS BEING WITHIN ZONE X (DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN).
5. THIS PLAT SHOWS ALL AVAILABLE RECORD OF EASEMENTS.
6. THIS PLAT SUBJECT TO RESTRICTIONS, COVENANTS AND EASEMENTS OF RECORD AS SHOWN ON PLATS REFERENCED HEREON.

REFERENCED DOCUMENTS:

THE FOLLOWING DOCUMENTS AND INSTRUMENTS WERE USED FOR THE PERFORMANCE AND PREPARATION OF THIS PLAT:

1. PLAT OF SURVEY ENTITLED, "REPLAT PREPARED FOR THE COLLEGE OF SANTA FE", recorded SEPTEMBER 14, 2006 in PLAT BOOK 707, PAGE 050-051.
2. DIVISION PLAT FOR THE COLLEGE OF SANTA FE, recorded MAY 19, 2006 in PLAT BOOK 682, PAGE 06.
3. REPLAT FOR COLLEGE OF SANTA FE, recorded JANUARY 2, 2006 in PLAT BOOK 672, PAGE 33.
4. REPLAT FOR COLLEGE OF SANTA FE, recorded SEPTEMBER 19, 2006 in PLAT BOOK 635, PAGE 46, 47.
5. REPLAT FOR COLLEGE OF SANTA FE, recorded OCTOBER 12, 2010 in PLAT BOOK 722 PAGE 049.
6. REPLAT FOR COLLEGE OF SANTA FE, recorded OCTOBER 12, 2010 in BOOK 719, PAGE 044.
7. BOUNDARY EASEMENT SURVEY PLAT FOR COLLEGE OF SANTA FE, recorded JULY 15, 2010 in BOOK 719, PAGE 047.
8. PLAT OF ALTA/ACSM LAND TITLE SURVEY, recorded OCTOBER 10, 2008 in BOOK 691, PAGE 029.
9. BOUNDARY SURVEY OF TRACT E "COLLEGE OF SANTA FE", recorded JUNE 28, 2011 in BOOK 735, PAGE 045.
10. BOUNDARY SURVEY OF TRACT E "COLLEGE OF SANTA FE", recorded OCTOBER 28, 2022 in BOOK 896, PAGE 14.
11. PLAT OF EASEMENT SURVEY FOR COLLEGE OF THE CHRISTIAN BROTHERS OF NEW MEXICO, recorded 06/17/ 2009.
12. REPLAT OF TRACT 3A & 3B FOR COLLEGE OF THE BOARD OF EDUCATION OF THE CITY OF SANTA FE, recorded MARCH 12, 1991 in BOOK 220, PAGE 037.
13. BOUNDARY SURVEY PLAT FOR PRESBYTERIAN MEDICAL SERVICES, recorded NOVEMBER 30, 2004 in BOOK 574, PAGE 035.
14. LOT CONSOLIDATION FOR THE STATE OF NEW MEXICO DEPARTMENT OF FINANCE & ADMINISTRATION, recorded OCTOBER 4, 1990 in BOOK 215, PAGE 013.
15. QUITCLAIM DEED from U.S.A. to COLLEGE OF THE CHRISTIAN, filed MAY 23, 1949 in BOOK 40, PAGE 437.
16. DECLARATION from U.S.A. to COLLEGE OF THE CRISTIAN, filed DECEMBER 22, 1969 in BOOK 269, PAGE 555.
17. SPECIAL WARRANTY DEED from COLLEGE OF THE CRISTIAN BROTHERS to CITY OF SANTA FE, filed SEPTEMBER 16, 2009 as INSTRUMENT 1577356.
18. EASEMENT from COLLEGE OF SANTA FE to PNM, filed JULY 9, 1990 in BOOK 682, PAGE 916.
19. EASEMENT from COLLEGE OF SANTA FE to BOARD OF EDUCATION, filed JUNE 10, 1991 in BOOK 730, PAGE 568.
20. EASEMENT from COLLEGE OF SANTA FE to FIRST COMMUNITY BANK, filed SEPTEMBER 21, 2007 as INSTRUMENT 1500540.
21. VACATION OF EASEMENT from COLLEGE OF SANTA FE to FIRST COMMUNITY BANK, filed JULY 20, 2008 as INSTRUMENT 1571651.
22. EASEMENT from COLLEGE OF SANTA FE to PNM, filed AUGUST 13, 1996 in BOOK 1299, PAGE 74.
23. EASEMENT from COLLEGE OF SANTA FE to NEW MEXICO STATE BANK , filed JUNE 12, 2009 as INSTRUMENT 1556667.
24. VACATION OF EASEMENT from COLLEGE OF SANTA FE to FIRST COMMUNITY BANK, filed AUGUST 17, 2009 as INSTRUMENT 1574183.



LEGAL DESCRIPTION:

A CERTAIN TRACT OF LAND WITHIN THE PERIMETER BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, ALL AS SHOWN ON "BOUNDARY SURVEY PLAT PREPARED FOR THE COLLEGE OF SANTA FE WITHIN COLLEGE OF SANTA FE PROPERTY PROJECTED SECTION 34, T17N, R9E, NMPM, CITY AND COUNTY OF SANTA FE, NEW MEXICO", RECORDED ON SEPTEMBER 14, 2009 IN BOOK 707 IN PAGE 50, AS INSTRUMENT NO. 1577073, RECORDS OF SANTA FE COUNTY, NEW MEXICO:

BEGINNING AT THE MOST NORTHERLY CORNER OF SAID PERIMETER FROM WHENCE A BRASS CAP STAMPED "EAST BASE 1945, NO 3 1976" A SANTA FE REFERENCE MARK, BEARS N. 11°20'29" E., A DISTANCE OF **5,204.99** FEET; THENCE, FROM SAID POINT OF BEGINNING,

S. 32°47'11" E., A DISTANCE OF **343.35** FEET TO AN ANGLE POINT; THENCE,

S. 57°38'03" W., A DISTANCE OF **272.75** FEET TO AN ANGLE POINT; THENCE,

N. 31°48'15" W., A DISTANCE OF **224.19** FEET TO AN ANGLE POINT; THENCE,

S. 57°37'35" W., A DISTANCE OF **386.53** FEET TO AN ANGLE POINT; THENCE,

N. 32°18'37" W., A DISTANCE OF **141.17** FEET TO AN ANGLE POINT; THENCE,

N. 57°41'23" E., A DISTANCE OF **654.45** FEET TO THE POINT OF BEGINNING AND CONTAINING AN AREA OF **3.3796** ACRES , MORE OR LESS (**147,214.30** SQ. FT., MORE OR LESS)

LEGEND:

- ○ FOUND, REBAR w/CAP (DESCRIPTION, AS NOTED)
- ——— NEW LOT LINE
- //////// LOT LINE TO BE ELIMINATED
- - - - - - - - - - EASEMENT LINE (AS NOTED)

STATEMENT OF DECLARATION:

THE PURPOSE OF THIS PLAT IS TO:

REPLAT TRACT F-1a AND F-1b, BY LOT LINE ADJUSTMENT AND/OR LOT SPLIT FROM THE ORIGINAL CONFIGURATION & TO DEDICATE RIGHT-OF-WAY, AS SHOWN HEREON.

AFFIDAVIT:

KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED OWNER HAS CAUSED TO BE REPLATTED THOSE LANDS SHOWN HEREON, THE SAID REPLAT IS MADE WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE SAID OWNER. THIS REPLAT CONTAINS 4.88 ACRES, MORE OR LESS. ALL TRACTS SHOWN HEREON ARE SUBJECT TO RECIPROCAL PRIVATE ACCESS AND PARKING EASEMENTS ALONG AND OVER EXISTING DRIVEWAYS AND PARKING AREAS. EASEMENTS ARE GRANTED FOR EXISTING UTILITIES. THERE IS NO ROAD DEDICATION.
THIS REPLAT LIES WITHIN THE PLANNING AND PLATTING JURISDICTION OF THE CITY OF SANTA FE, N.M.

OWNER: _____

BY: _____ ALAN WEBBER, MAYOR DATE: _____

CITY CLERK: _____ DATE: _____

STATE OF NEW MEXICO
COUNTY OF SANTA FE
THE FOREGOING INSTRUMENT WAS SWORN, ACKNOWLEDGED AND SUBSCRIBED BEFORE ME ON THIS _____ DAY OF _____, 20 ____.

NOTARY PUBLIC _____ MY COMMISSION EXPIRES _____

REVIEWED BY COUNTY OF SANTA FE:

COUNTY TREASURER _____ DATE: _____

REVIEWED BY CITY OF SANTA FE:

CITY ENGINEER FOR LAND USE _____ DATE: _____

CITY PLANNER _____ DATE: _____

SURVEYOR'S CERTIFICATION:

I, BENJAMIN M. ARAGON, NEW MEXICO PROFESSIONAL SURVEYOR No. 15268, DO HEREBY CERTIFY THAT THIS BOUNDARY SURVEY PLAT AND THE ACTUAL SURVEY ON THE GROUND UPON WHICH IT IS BASED WERE PERFORMED BY ME OR UNDER MY DIRECT SUPERVISION; THAT I AM RESPONSIBLE FOR THIS SURVEY; THAT THIS SURVEY MEETS THE MINIMUM STANDARDS FOR SURVEYING IN NEW MEXICO; AND THAT IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER CERTIFY THAT THIS SURVEY IS NOT A LAND DIVISION OR SUBDIVISION AS DEFINED IN THE NEW MEXICO SUBDIVISION ACT AND THAT THIS INSTRUMENT IS A BOUNDARY SURVEY PLAT OF AN EXISTING TRACT OR TRACTS.

BENJAMIN M. ARAGON N.M.P.L.S. #15268

DATE

WILSON & COMPANY
4401 MASTHEAD ST. NE, SUITE 150
ALBUQUERQUE, NEW MEXICO 87109
OFFICE: 505-348-4000
FAX: 505-348-4155
www.wilsonco.com

COUNTY OF SANTA FE } SS
STATE OF NEW MEXICO

I hereby certify that this instrument was filed for record on the _____ day of _____, 20____, A.D. at _____ o'clock _____ and was duly recorded in book _____, page(s) _____ of the records of Santa Fe County.

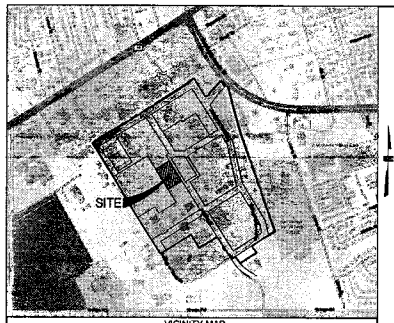
Witness my Hand and Seal of office
KATHARINE E. CLARK
County Clerk, Santa Fe, New Mexico

Deputy

County Clerk Seal

SFC CLERK RECORDED 02/12/2025

Lot Split to create
TRACTS L-1a and L-1b
LOT LINE ADJUSTMENT PLAT OF EXISTING TRACT P-1
within Projected Section 34, T.17N., R.9E., N.M.P.M.
City of Santa Fe
Santa Fe County, New Mexico
August 2024



VICINITY MAP
N.T.S.

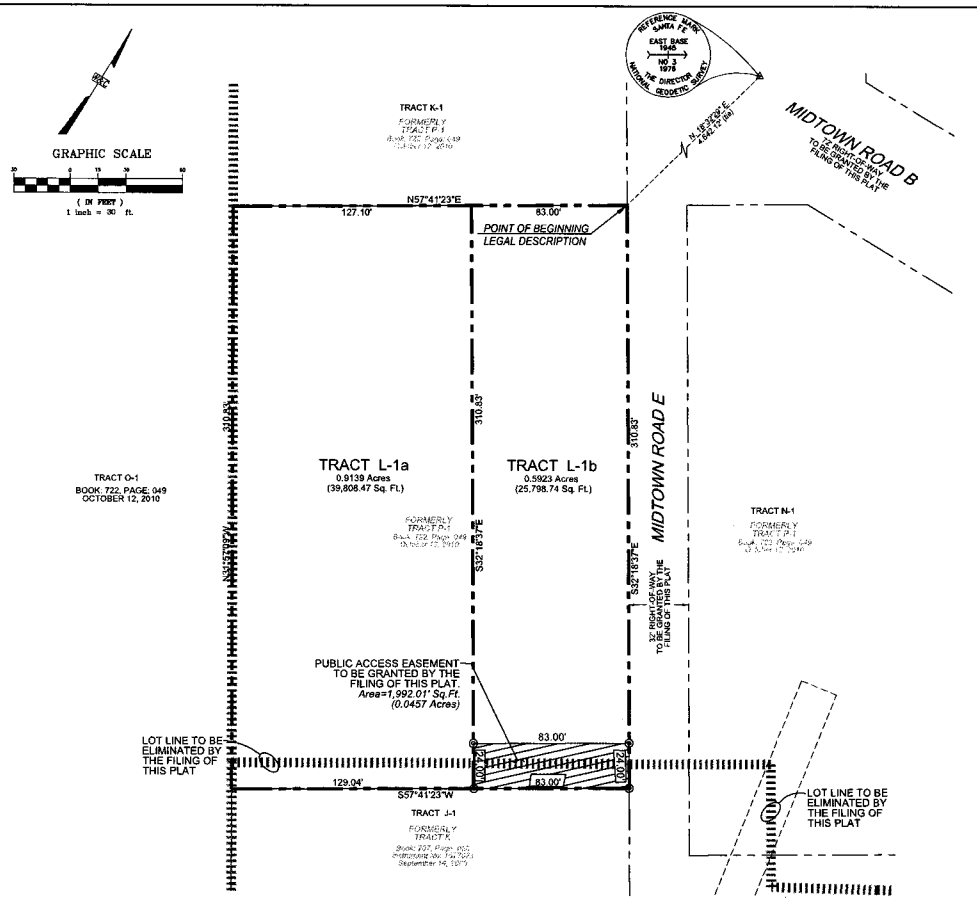
NOTES:

1. FIELD SURVEY WAS PERFORMED NOVEMBER 2021.
2. BEARINGS ARE NEW MEXICO STATE PLANE, CENTRAL ZONE. DISTANCES ARE GROUND DISTANCES. COMBINED GRID TO GROUND SCALE FACTOR: 1.0004066253 (SCALED AROUND 0,0) BASED ON A LINE FROM "SANTA FE EAST BASE RM3" TO "BM B-439, 1984", BEARING = S.49°39'22"W.
3. BENCHMARK USED FOR THIS PROJECT IS "SANTA FE EAST BASE RM3".
4. FEDERAL FLOODPLAIN MAP 35049C0411E WITH AN EFFECTIVE DATE OF DECEMBER 4, 2012 AS PUBLISHED BY THE FEDERAL EMERGENCY AGENCY SHOW THIS SITE AS BEING WITHIN ZONE X (DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN).
5. THIS PLAT SHOWS ALL AVAILABLE RECORD OF EASEMENTS.
6. THIS PLAT SUBJECT TO RESTRICTIONS, COVENANTS AND EASEMENTS OF RECORD AS SHOWN ON PLATS REFERENCED HEREON.

REFERENCED DOCUMENTS:

THE FOLLOWING DOCUMENTS AND INSTRUMENTS WERE USED FOR THE PERFORMANCE AND PREPARATION OF THIS PLAT:

1. PLAT OF SURVEY ENTITLED, "REPLAT PREPARED FOR THE COLLEGE OF SANTA FE", recorded SEPTEMBER 14, 2006 in PLAT BOOK 707, PAGE 050-051.
2. DIVISION PLAT FOR THE COLLEGE OF SANTA FE, recorded MAY 19, 2006 in PLAT BOOK 682, PAGE 06.
3. REPLAT FOR COLLEGE OF SANTA FE, recorded JANUARY 2, 2006 in PLAT BOOK 672, PAGE 33.
4. REPLAT FOR COLLEGE OF SANTA FE, recorded SEPTEMBER 19, 2008 in PLAT BOOK 635, PAGE 46, 47.
5. REPLAT FOR COLLEGE OF SANTA FE, recorded OCTOBER 12, 2010 in PLAT BOOK 722, PAGE 049.
6. REPLAT FOR COLLEGE OF SANTA FE, recorded OCTOBER 12, 2010 in BOOK 719, PAGE 044.
7. BOUNDARY EASEMENT SURVEY PLAT FOR COLLEGE OF SANTA FE, recorded JULY 15, 2010 in BOOK 719, PAGE 047.
8. PLAT OF ALTA/ACSM LAND TITLE SURVEY, recorded OCTOBER 10, 2008 in BOOK 691, PAGE 029.
9. BOUNDARY SURVEY OF TRACT E "COLLEGE OF SANTA FE", recorded JUNE 28, 2011 in BOOK 735, PAGE 045.
10. BOUNDARY SURVEY OF TRACT E "COLLEGE OF SANTA FE", recorded OCTOBER 28, 2022 in BOOK 896, PAGE 14.
11. PLAT OF EASEMENT SURVEY FOR COLLEGE OF THE CHRISTIAN BROTHERS OF NEW MEXICO, recorded 08/17/ 2009.
12. REPLAT OF TRACT 3A & 3B FOR COLLEGE OF THE BOARD OF EDUCATION OF THE CITY OF SANTA FE, recorded MARCH 12, 1991 in BOOK 220, PAGE 037.
13. BOUNDARY SURVEY PLAT FOR PRESBYTERIAN MEDICAL SERVICES, recorded NOVEMBER 30, 2004 in BOOK 574, PAGE 035.
14. LOT CONSOLIDATION FOR THE STATE OF NEW MEXICO DEPARTMENT OF FINANCE & ADMINISTRATION, recorded OCTOBER 4, 1990 in BOOK 215, PAGE 013.
15. QUITCLAIM DEED from U.S.A. to COLLEGE OF THE CHRISTIAN, filed MAY 23, 1949 in BOOK 40, PAGE 437.
16. DECLARATION from U.S.A. to COLLEGE OF THE CRISTIAN, filed DECEMBER 22, 1969 in BOOK 299, PAGE 555.
17. SPECIAL WARRANTY DEED from COLLEGE OF THE CRISTIAN BROTHERS to CITY OF SANTA FE, filed SEPTEMBER 16, 2009 as INSTRUMENT 1577356.
18. EASEMENT from COLLEGE OF SANTA FE to PNM, filed JULY 9, 1990 in BOOK 682, PAGE 916.
19. EASEMENT from COLLEGE OF SANTA FE to BOARD OF EDUCATION, filed JUNE 10, 1991 in BOOK 730, PAGE 568.
20. EASEMENT from COLLEGE OF SANTA FE to FIRST COMMUNITY BANK, filed SEPTEMBER 21, 2007 as INSTRUMENT 1506540.
21. VACATION OF EASEMENT from COLLEGE OF SANTA FE to FIRST COMMUNITY BANK, filed JULY 20, 2009 as INSTRUMENT 1571651.
22. EASEMENT from COLLEGE OF SANTA FE to PNM, filed AUGUST 13, 1996 in BOOK 1299, PAGE 74.
23. EASEMENT from COLLEGE OF SANTA FE to NEW MEXICO STATE BANK , filed JUNE 12, 2009 as INSTRUMENT 1566667.
24. VACATION OF EASEMENT from COLLEGE OF SANTA FE to FIRST COMMUNITY BANK, filed AUGUST 17, 2009 as INSTRUMENT 1574183.



LEGAL DESCRIPTION:

A CERTAIN TRACT OF LAND WITHIN THE PERIMETER BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, ALL AS SHOWN ON "REPLAT PREPARED FOR COLLEGE OF SANTA FE, LOT LINE ADJUSTMENT OF EXISTING TRACT P & O, RECORDED PLAT BOOK 707, PAGES 50-50A WITHIN COLLEGE OF SANTA FE PROPERTY PROJECTED SECTION 34, T17N, R9E, NMPM, CITY AND COUNTY OF SANTA FE, NEW MEXICO," RECORDED ON OCTOBER 12, 2010 IN BOOK 722 IN PAGE 049, AS INSTRUMENT NO. 1613544, RECORDS OF SANTA FE COUNTY, NEW MEXICO:

BEGINNING AT THE MOST NORTHERLY CORNER OF SAID PERIMETER FROM WHENCE A BRASS CAP STAMPED "EAST BASE 1945, NO 3 1976" A SANTA FE REFERENCE MARK, BEARS **N. 18°32'29" E.**, A DISTANCE OF **4,642.12** FEET; THENCE, FROM SAID POINT OF BEGINNING,

S. 32°18'37" E., A DISTANCE OF **310.83** FEET TO AN ANGLE POINT; THENCE,

S. 57°41'23" W., A DISTANCE OF **212.04** FEET TO AN ANGLE POINT; THENCE,

N. 31°57'09" W., A DISTANCE OF **310.83** FEET TO AN ANGLE POINT; THENCE,

N. 57°41'23" E., A DISTANCE OF **216.10** FEET TO THE POINT OF BEGINNING AND CONTAINING AN AREA OF **1.5061** ACRES, MORE OR LESS (**65,607.21** SQ. FT., MORE OR LESS)

LEGEND:

- ○ FOUND: REBAR w/CAP (DESCRIPTION, AS NOTED)
- NEW LOT LINE
- LOT LINE TO BE ELIMINATED
- EASEMENT LINE (AS NOTED)

COUNTY OF SANTA FE
STATE OF NEW MEXICO } SS

I hereby certify that this instrument was filed for record on the _____ day of _____ 20____ A.D. at _____ o'clock _____, and was duly recorded in book _____ page(s) _____ of the records of Santa Fe County.

Witness my Hand and Seal of office
KATHARINE E. CLARK
County Clerk, Santa Fe, New Mexico

_____ Deputy

County Clerk

Seal

SFC CLERK RECORDED 02/12/2025

STATEMENT OF DECLARATION:

THE PURPOSE OF THIS PLAT IS TO:

REPLAT TRACT L-1, BY LOT LINE ADJUSTMENT AND/OR LOT SPLIT FROM THE ORIGINAL CONFIGURATION & TO DEDICATE RIGHT-OF-WAY, AS SHOWN HEREON.

AFFIDAVIT:

KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED OWNER HAS CAUSED TO BE REPLATTED THOSE LANDS SHOWN HEREON, THE SAID REPLAT IS MADE WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE SAID OWNER. THIS REPLAT CONTAINS 4.88 ACRES, MORE OR LESS. ALL TRACTS SHOWN HEREON ARE SUBJECT TO RECIPROCAL PRIVATE ACCESS AND PARKING EASEMENTS ALONG AND OVER EXISTING DRIVEWAYS AND PARKING AREAS. EASEMENTS ARE GRANTED FOR EXISTING UTILITIES. THERE IS NO ROAD DEDICATION.
THIS REPLAT LIES WITHIN THE PLANNING AND PLATTING JURISDICTION OF THE CITY OF SANTA FE, N.M.

OWNER: _____

BY: ALAN WEBBER, MAYOR DATE: _____

CITY CLERK: DATE: _____

STATE OF NEW MEXICO
COUNTY OF SANTA FE
THE FOREGOING INSTRUMENT WAS SWORN, ACKNOWLEDGED AND SUBSCRIBED BEFORE ME ON THIS _____ DAY OF _____, 20____.

NOTARY PUBLIC MY COMMISSION EXPIRES

REVIEWED BY COUNTY OF SANTA FE:

COUNTY TREASURER DATE

REVIEWED BY CITY OF SANTA FE:

CITY ENGINEER FOR LAND USE DATE: _____

CITY PLANNER DATE: _____

SURVEYOR'S CERTIFICATION:

I, BENJAMIN M. ARAGON, NEW MEXICO PROFESSIONAL SURVEYOR No. 15268, DO HEREBY CERTIFY THAT THIS BOUNDARY SURVEY PLAT AND THE ACTUAL SURVEY ON THE GROUND UPON WHICH IT IS BASED WERE PERFORMED BY ME OR UNDER MY DIRECT SUPERVISION; THAT I AM RESPONSIBLE FOR THIS SURVEY; THAT THIS SURVEY MEETS THE MINIMUM STANDARDS FOR SURVEYING IN NEW MEXICO; AND THAT IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER CERTIFY THAT THIS SURVEY IS NOT A LAND DIVISION OR SUBDIVISION AS DEFINED IN THE NEW MEXICO SUBDIVISION ACT AND THAT THIS INSTRUMENT IS A BOUNDARY SURVEY PLAT OF AN EXISTING TRACT OR TRACTS.

BENJAMIN M. ARAGON N.M.P.L.S. #15268

DATE

NEW MEXICO 15268 BENJAMIN M. ARAGON REGISTERED PROFESSIONAL SURVEYOR

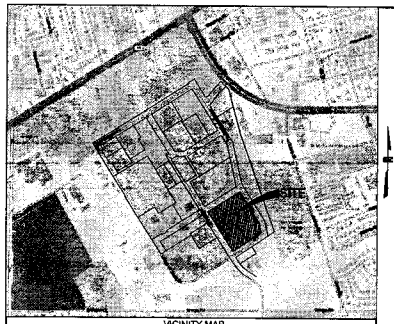
WILSON & COMPANY
4401 MASTHEAD ST. NE, SUITE 150
ALBUQUERQUE, NEW MEXICO 87109
OFFICE: 505-348-4000
FAX: 505-348-4155
www.wilsonco.com

M:\2021\21-200-194-001\2_Plan\Plans\Survey\Drawings_Plat\TRACT L-1\TRACTS L-1a AND L-1b\Lot Split for TRACT L-1a and L-1b.dwg

Lot Split to create TRACTS I-1a and I-1b

LOT LINE ADJUSTMENT PLAT OF EXISTING TRACT G, H and TRACT I

within Projected Section 34, T.17N., R.9E., N.M.P.M.
City of Santa Fe
Santa Fe County, New Mexico
August 2024



VICINITY MAP
N.T.S.

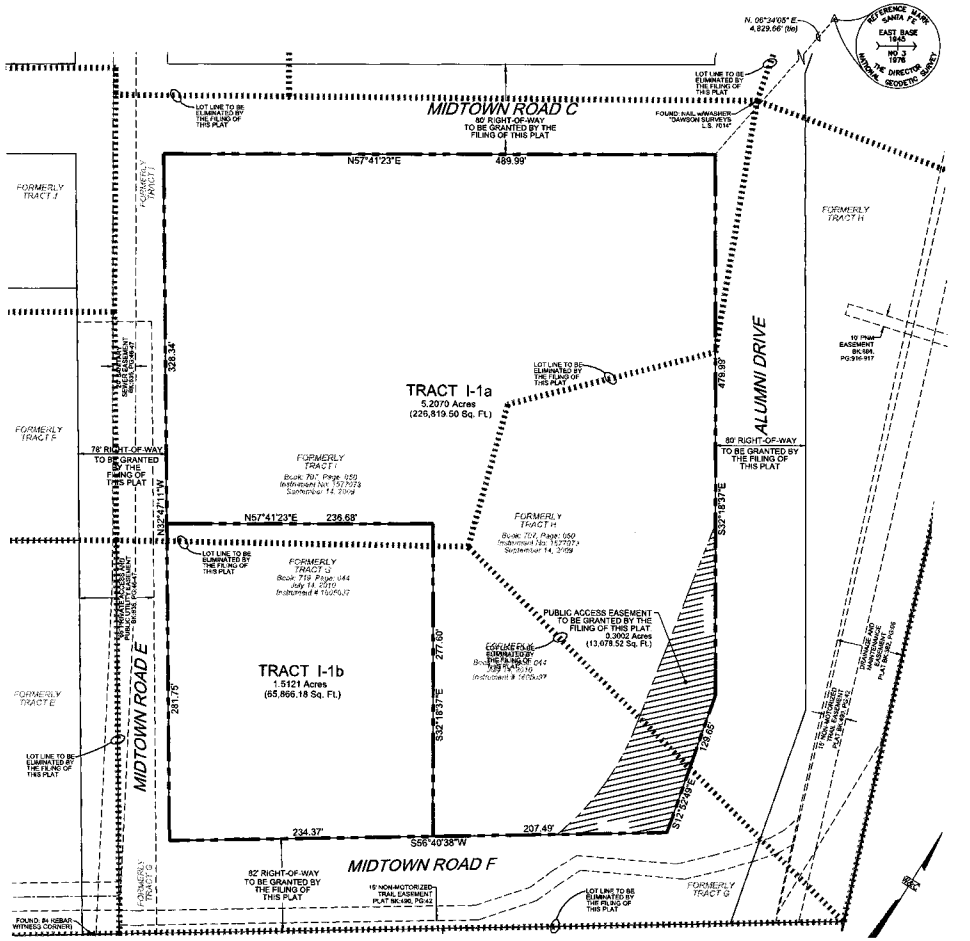
NOTES:

1. FIELD SURVEY WAS PERFORMED NOVEMBER 2021.
2. BEARINGS ARE NEW MEXICO STATE PLANE, CENTRAL ZONE.
   DISTANCES ARE GROUND DISTANCES.
   COMBINED GRID TO GROUND SCALE FACTOR: 1.0004066253 (SCALED AROUND 0,0)
   BASED ON A LINE FROM "SANTA FE EAST BASE RM3" TO "BM B-439, 1984".
   BEARING = S.49°38'22"W.
3. BENCHMARK USED FOR THIS PROJECT IS "SANTA FE EAST BASE RM3".
4. FEDERAL FLOODPLAIN MAP 35049C0411E WITH AN EFFECTIVE DATE OF DECEMBER 4, 2012 AS PUBLISHED BY THE FEDERAL EMERGENCY AGENCY SHOW THIS SITE AS BEING WITHIN ZONE X (DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN).
5. THIS PLAT SHOWS ALL AVAILABLE RECORD OF EASEMENTS.
6. THIS PLAT SUBJECT TO RESTRICTIONS, COVENANTS AND EASEMENTS OF RECORD AS SHOWN ON PLATS REFERENCED HEREON.

REFERENCED DOCUMENTS:

THE FOLLOWING DOCUMENTS AND INSTRUMENTS WERE USED FOR THE PERFORMANCE AND PREPARATION OF THIS PLAT:

1. PLAT OF SURVEY ENTITLED, "REPLAT PREPARED FOR THE COLLEGE OF SANTA FE", recorded SEPTEMBER 14, 2006 in PLAT BOOK 707, PAGE 050-051.
2. DIVISION PLAT FOR THE COLLEGE OF SANTA FE, recorded MAY 19, 2006 in PLAT BOOK 682, PAGE 06.
3. REPLAT FOR COLLEGE OF SANTA FE, recorded JANUARY 2, 2006 in PLAT BOOK 672, PAGE 33.
4. REPLAT FOR COLLEGE OF SANTA FE, recorded SEPTEMBER 19, 2006 in PLAT BOOK 635, PAGE 46, 47.
5. REPLAT FOR COLLEGE OF SANTA FE, recorded OCTOBER 12, 2010 in PLAT BOOK 722, PAGE 049.
6. REPLAT FOR COLLEGE OF SANTA FE, recorded OCTOBER 12, 2010 in BOOK 719, PAGE 044.
7. BOUNDARY EASEMENT SURVEY PLAT FOR COLLEGE OF SANTA FE, recorded JULY 15, 2010 in BOOK 719, PAGE 047.
8. PLAT OF ALTA/ACSM LAND TITLE SURVEY, recorded OCTOBER 10, 2008 in BOOK 691, PAGE 029.
9. BOUNDARY SURVEY OF TRACT E "COLLEGE OF SANTA FE", recorded JUNE 28, 2011 in BOOK 735, PAGE 045.
10. BOUNDARY SURVEY OF TRACT E "COLLEGE OF SANTA FE", recorded OCTOBER 28, 2022 in BOOK 896, PAGE 14.
11. PLAT OF EASEMENT SURVEY FOR COLLEGE OF THE CHRISTIAN BROTHERS OF NEW MEXICO, recorded 08/17/ 2009.
12. REPLAT OF TRACT 3A & 3B FOR COLLEGE OF THE BOARD OF EDUCATION OF THE CITY OF SANTA FE, recorded MARCH 12, 1991 in BOOK 220, PAGE 037.
13. BOUNDARY SURVEY PLAT FOR PRESBYTERIAN MEDICAL SERVICES, recorded NOVEMBER 30, 2004 in BOOK 574, PAGE 035.
14. LOT CONSOLIDATION FOR THE STATE OF NEW MEXICO DEPARTMENT OF FINANCE & ADMINISTRATION, recorded OCTOBER 4, 1990 in BOOK 215, PAGE 013.
15. QUITCLAIM DEED from U.S.A. to COLLEGE OF THE CHRISTIAN, filed MAY 23, 1949 in BOOK 40, PAGE 437.
16. DECLARATION from U.S.A. to COLLEGE OF THE CRISTIAN, filed DECEMBER 22, 1969 in BOOK 269, PAGE 855.
17. SPECIAL WARRANTY DEED from COLLEGE OF THE CRISTIAN BROTHERS to CITY OF SANTA FE, filed SEPTEMBER 16, 2009 as INSTRUMENT 1577356.
18. EASEMENT from COLLEGE OF SANTA FE to PNM, filed JULY 9, 1990 in BOOK 682, PAGE 916.
19. EASEMENT from COLLEGE OF SANTA FE to BOARD OF EDUCATION, filed JUNE 10, 1991 in BOOK 730, PAGE 568.
20. EASEMENT from COLLEGE OF SANTA FE to FIRST COMMUNITY BANK, filed SEPTEMBER 21, 2007 as INSTRUMENT 1500540.
21. VACATION OF EASEMENT from COLLEGE OF SANTA FE to FIRST COMMUNITY BANK, filed JULY 20, 2009 as INSTRUMENT 1571651.
22. EASEMENT from COLLEGE OF SANTA FE to PNM, filed AUGUST 13, 1996 in BOOK 1299, PAGE 74.
23. EASEMENT from COLLEGE OF SANTA FE to NEW MEXICO STATE BANK , filed JUNE 12, 2009 as INSTRUMENT 1566667.
24. VACATION OF EASEMENT from COLLEGE OF SANTA FE to FIRST COMMUNITY BANK, filed AUGUST 17, 2009 as INSTRUMENT 1574183.



GRAPHIC SCALE
50 0 25 50 100
(IN FEET)
1 inch = 50 ft.

LEGAL DESCRIPTION:

A CERTAIN TRACT OF LAND WITHIN THE PERIMETER BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, ALL AS SHOWN ON "BOUNDARY SURVEY PLAT PREPARED FOR THE COLLEGE OF SANTA FE WITHIN COLLEGE OF SANTA FE PROPERTY PROJECTED SECTION 34, T17N, R9E, NMPM, CITY AND COUNTY OF SANTA FE, NEW MEXICO", RECORDED ON SEPTEMBER 14, 2009 IN BOOK 707 IN PAGE 50, AS INSTRUMENT NO. 1577073, RECORDS OF SANTA FE COUNTY, NEW MEXICO:

BEGINNING AT THE MOST NORTHERLY CORNER OF SAID PERIMETER FROM WHENCE A BRASS CAP STAMPED "EAST BASE 1945, NO 3 1976" A SANTA FE REFERENCE MARK, BEARS N. 05°34'05" E., A DISTANCE OF 4,829.66 FEET; THENCE, FROM SAID POINT OF BEGINNING,

S. 32°18'37" E., A DISTANCE OF 479.99 FEET TO AN ANGLE POINT; THENCE,

S. 12°52'49" E., A DISTANCE OF 129.65 FEET TO AN ANGLE POINT; THENCE,

S. 56°40'38" W., A DISTANCE OF 441.86 FEET TO AN ANGLE POINT; THENCE,

N. 32°47'11" W., A DISTANCE OF 616.09 FEET TO AN ANGLE POINT; THENCE,

N. 57°41'23" E. A DISTANCE OF 489.99 FEET TO THE POINT OF BEGINNING AND CONTAINING AN AREA OF 5.7191 ACRES , MORE OR LESS (292,585.68 SQ. FT., MORE OR LESS)

LEGEND:

- ○ FOUND: REBAR w/CAP (DESCRIPTION, AS NOTED)
- NEW LOT LINE
- LOT LINE TO BE ELIMINATED
- EASEMENT LINE (AS NOTED)

COUNTY OF SANTA FE } SS
STATE OF NEW MEXICO

I hereby certify that this instrument was filed for record on the _____ day of _____ 20____ A.D. at _____ o'clock _____, and was duly recorded in book _____ page(s) _____ of the records of Santa Fe County.

Witness my Hand and Seal of office
KATHARINE E. CLARK
County Clerk, Santa Fe, New Mexico

SFC CLERK RECORDED 02/12/2025

Deputy

County Clerk

Seal

STATEMENT OF DECLARATION:

THE PURPOSE OF THIS PLAT IS TO:

REPLAT TRACT I-1a AND I-1b, BY LOT LINE ADJUSTMENT AND/OR LOT SPLIT FROM THE ORIGINAL CONFIGURATION & TO DEDICATE RIGHT-OF-WAY, AS SHOWN HEREON.

AFFIDAVIT:

KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED OWNER HAS CAUSED TO BE REPLATTED THOSE LANDS SHOWN HEREON, THE SAID REPLAT IS MADE WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE SAID OWNER. THIS REPLAT CONTAINS 4.88 ACRES, MORE OR LESS. ALL TRACTS SHOWN HEREON ARE SUBJECT TO RECIPROCAL PRIVATE ACCESS AND PARKING EASEMENTS ALONG AND OVER EXISTING DRIVEWAYS AND PARKING AREAS. EASEMENTS ARE GRANTED FOR EXISTING UTILITIES. THERE IS NO ROAD DEDICATION.
THIS REPLAT LIES WITHIN THE PLANNING AND PLATTING JURISDICTION OF THE CITY OF SANTA FE, N.M.

OWNER: _____

BY: ALAN WEBBER, MAYOR DATE: _____

CITY CLERK: DATE: _____

STATE OF NEW MEXICO
COUNTY OF SANTA FE
THE FOREGOING INSTRUMENT WAS SWORN, ACKNOWLEDGED AND SUBSCRIBED BEFORE ME ON THIS _____ DAY OF _____, 20____.

NOTARY PUBLIC MY COMMISSION EXPIRES

REVIEWED BY COUNTY OF SANTA FE:

COUNTY TREASURER DATE:

REVIEWED BY CITY OF SANTA FE:

CITY ENGINEER FOR LAND USE DATE:

CITY PLANNER DATE:

SURVEYOR'S CERTIFICATION:

I, BENJAMIN M. ARAGON, NEW MEXICO PROFESSIONAL SURVEYOR No. 15268, DO HEREBY CERTIFY THAT THIS BOUNDARY SURVEY PLAT AND THE ACTUAL SURVEY ON THE GROUND UPON WHICH IT IS BASED WERE PERFORMED BY ME OR UNDER MY DIRECT SUPERVISION; THAT I AM RESPONSIBLE FOR THIS SURVEY; THAT THIS SURVEY MEETS THE MINIMUM STANDARDS FOR SURVEYING IN NEW MEXICO; AND THAT IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER CERTIFY THAT THIS SURVEY IS NOT A LAND DIVISION OR SUBDIVISION AS DEFINED IN THE NEW MEXICO SUBDIVISION ACT AND THAT THIS INSTRUMENT IS A BOUNDARY SURVEY PLAT OF AN EXISTING TRACT OR TRACTS.

BENJAMIN M. ARAGON N.M.P.L.S. #15268

DATE

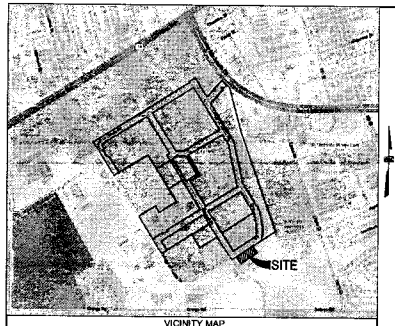
WILSON & COMPANY
4401 MASTHEAD ST. NE, SUITE 150
ALBUQUERQUE, NEW MEXICO 87109
OFFICE: 505-348-4000
FAX: 505-348-4155
www.wilsonco.com

N:\SER\21-300\194-000\6_Disciplines\Survey\Drawings_PLAT\NM\TRACT I-1\TRACTS I-1a AND I-1b\Lot Split for TRACT I-1a AND I-1b.dwg

Lot Split and Lot Line Adjustment to create TRACT G-1

LOT LINE ADJUSTMENT PLAT OF EXISTING TRACT G

within Projected Section 34, T.17N., R.9E., N.M.P.M.
City of Santa Fe
Santa Fe County, New Mexico
June 2024



VICINITY MAP
N.T.S.

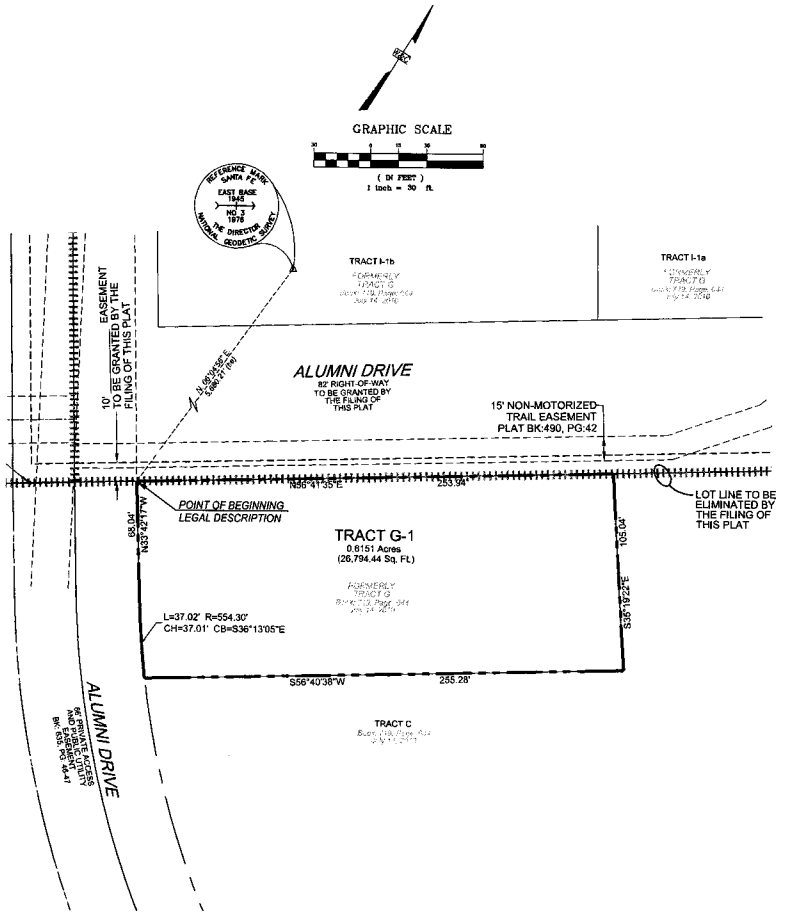
NOTES:

1. FIELD SURVEY WAS PERFORMED NOVEMBER 2021.
2. BEARINGS ARE NEW MEXICO STATE PLANE, CENTRAL ZONE. DISTANCES ARE GROUND DISTANCES. COMBINED GRID TO GROUND SCALE FACTOR: 1.0004066253 (SCALED AROUND 0,0) BASED ON A LINE FROM "SANTA FE EAST BASE RM3" TO "BM B-439, 1984", BEARING = S 45°38'22"W.
3. BENCHMARK USED FOR THIS PROJECT IS "SANTA FE EAST BASE RM3".
4. FEDERAL FLOODPLAIN MAP 35049C0411E WITH AN EFFECTIVE DATE OF DECEMBER 4, 2012 AS PUBLISHED BY THE FEDERAL EMERGENCY AGENCY SHOW THIS SITE AS BEING WITHIN ZONE X (DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN).
5. THIS PLAT SHOWS ALL AVAILABLE RECORD OF EASEMENTS.
6. THIS PLAT SUBJECT TO RESTRICTIONS, COVENANTS AND EASEMENTS OF RECORD AS SHOWN ON PLATS REFERENCED HEREON.

REFERENCED DOCUMENTS:

THE FOLLOWING DOCUMENTS AND INSTRUMENTS WERE USED FOR THE PERFORMANCE AND PREPARATION OF THIS PLAT:

1. PLAT OF SURVEY ENTITLED, "REPLAT PREPARED FOR THE COLLEGE OF SANTA FE", recorded SEPTEMBER 14, 2006 in PLAT BOOK 707, PAGE 050-051.
2. DIVISION PLAT FOR THE COLLEGE OF SANTA FE, recorded MAY 19, 2006 in PLAT BOOK 682, PAGE 06.
3. REPLAT FOR COLLEGE OF SANTA FE, recorded JANUARY 2, 2006 in PLAT BOOK 672, PAGE 33.
4. REPLAT FOR COLLEGE OF SANTA FE, recorded SEPTEMBER 19, 2006 in PLAT BOOK 635, PAGE 46, 47.
5. REPLAT FOR COLLEGE OF SANTA FE, recorded OCTOBER 12, 2010 in PLAT BOOK 722, PAGE 049.
6. REPLAT FOR COLLEGE OF SANTA FE, recorded OCTOBER 12, 2010 in BOOK 719, PAGE 044.
7. BOUNDARY EASEMENT SURVEY PLAT FOR COLLEGE OF SANTA FE, recorded JULY 15, 2010 in BOOK 719, PAGE 047.
8. PLAT OF ALTA/ACSM LAND TITLE SURVEY, recorded OCTOBER 10, 2008 in BOOK 691, PAGE 029.
9. BOUNDARY SURVEY OF TRACT E "COLLEGE OF SANTA FE", recorded JUNE 28, 2011 in BOOK 736, PAGE 045.
10. BOUNDARY SURVEY OF TRACT E "COLLEGE OF SANTA FE", recorded OCTOBER 28, 2022 in BOOK 896, PAGE 14.
11. PLAT OF EASEMENT SURVEY FOR COLLEGE OF THE CHRISTIAN BROTHERS OF NEW MEXICO, recorded 08/17/ 2009.
12. REPLAT OF TRACT 3A & 3B FOR COLLEGE OF THE BOARD OF EDUCATION OF THE CITY OF SANTA FE, recorded MARCH 12, 1991 in BOOK 220, PAGE 037.
13. BOUNDARY SURVEY PLAT FOR PRESBYTERIAN MEDICAL SERVICES, recorded NOVEMBER 30, 2004 in BOOK 574, PAGE 035.
14. LOT CONSOLIDATION FOR THE STATE OF NEW MEXICO DEPARTMENT OF FINANCE & ADMINISTRATION, recorded OCTOBER 4, 1990 in BOOK 215, PAGE 013.
15. QUITCLAIM DEED from U.S.A. to COLLEGE OF THE CHRISTIAN, filed MAY 23, 1949 in BOOK 40, PAGE 437.
16. DECLARATION from U.S.A. to COLLEGE OF THE CRISTIAN, filed DECEMBER 22, 1969 in BOOK 269, PAGE 855.
17. SPECIAL WARRANTY DEED from COLLEGE OF THE CRISTIAN BROTHERS to CITY OF SANTA FE, filed SEPTEMBER 16, 2009 as INSTRUMENT 1577356.
18. EASEMENT from COLLEGE OF SANTA FE to PNM, filed JULY 9, 1990 in BOOK 682, PAGE 916.
19. EASEMENT from COLLEGE OF SANTA FE to BOARD OF EDUCATION, filed JUNE 10, 1991 in BOOK 730, PAGE 568.
20. EASEMENT from COLLEGE OF SANTA FE to FIRST COMMUNITY BANK, filed SEPTEMBER 21, 2007 as INSTRUMENT 1500540.
21. VACATION OF EASEMENT from COLLEGE OF SANTA FE to FIRST COMMUNITY BANK, filed JULY 20, 2009 as INSTRUMENT 1571651.
22. EASEMENT from COLLEGE OF SANTA FE to PNM, filed AUGUST 13, 1998 in BOOK 1290, PAGE 74.
23. EASEMENT from COLLEGE OF SANTA FE to NEW MEXICO STATE BANK, filed JUNE 12, 2009 as INSTRUMENT 1566667.
24. VACATION OF EASEMENT from COLLEGE OF SANTA FE to FIRST COMMUNITY BANK, filed AUGUST 17, 2009 as INSTRUMENT 1574183.



LEGAL DESCRIPTION:

A CERTAIN TRACT OF LAND WITHIN THE PERIMETER BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, ALL AS SHOWN ON "REPLAT PREPARED FOR COLLEGE OF SANTA FE" LOT LINE ADJUSTMENT OF EXISTING TRACT C & G, RECORDED PLAT BOOK 707, PAGES 50-50A WITHIN COLLEGE OF SANTA FE PROPERTY PROJECTED SECTION 34, T.17N, R9E, NMPM, CITY AND COUNTY OF SANTA FE, NEW MEXICO." RECORDED ON JULY 14, 2010 IN BOOK 719 IN PAGE 044, AS INSTRUMENT NO. 1605037, RECORDS OF SANTA FE COUNTY, NEW MEXICO:

BEGINNING AT THE MOST NORTHERLY CORNER OF SAID PERIMETER FROM WHENCE A BRASS CAP STAMPED "EAST BASE 1945, NO 3 1976" A SANTA FE REFERENCE MARK, BEARS N. 66°04'56" E., A DISTANCE OF 5,880.21 FEET; THENCE, FROM SAID POINT OF BEGINNING,

N. 56°41'35" E., A DISTANCE OF 253.94 FEET TO AN ANGLE POINT; THENCE,

S. 35°19'22" E., A DISTANCE OF 105.04 FEET TO AN ANGLE POINT; THENCE,

S. 56°40'38" W., A DISTANCE OF 255.28 FEET TO A CURVE; THENCE,

37.02 FEET ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 554.30 FEET, DELTA OF 3°49'35", CHORD BEARING AND DISTANCE OF N. 36°13'05" E., 37.01' FEET TO A POINT; THENCE,

N. 33°42'17" W., A DISTANCE OF 68.04 FEET TO THE POINT OF BEGINNING AND CONTAINING AN AREA OF 0.6151 ACRES, MORE OR LESS (26,794.44 SQ. FT., MORE OR LESS)

LEGEND:

- ○ FOUND: REBAR w/CAP (DESCRIPTION, AS NOTED)
- NEW LOT LINE
- LOT LINE TO BE ELIMINATED
- EASEMENT LINE (AS NOTED)

STATEMENT OF DECLARATION:

THE PURPOSE OF THIS PLAT IS TO:

REPLAT TRACT G-1, BY LOT LINE ADJUSTMENT AND/OR LOT SPLIT FROM THE ORIGINAL CONFIGURATION & TO DEDICATE RIGHT-OF-WAY, AS SHOWN HEREON.

AFFIDAVIT:

KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED OWNER HAS CAUSED TO BE REPLATTED THOSE LANDS SHOWN HEREON, THE SAID REPLAT IS MADE WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE SAID OWNER, THIS REPLAT CONTAINS 4.88 ACRES, MORE OR LESS. ALL TRACTS SHOWN HEREON ARE SUBJECT TO RECIPROCAL PRIVATE ACCESS AND PARKING EASEMENTS ALONG AND OVER EXISTING DRIVEWAYS AND PARKING AREAS. EASEMENTS ARE GRANTED FOR EXISTING UTILITIES. THERE IS NO ROAD DEDICATION.
THIS REPLAT LIES WITHIN THE PLANNING AND PLATTING JURISDICTION OF THE CITY OF SANTA FE, N.M.

OWNER: _____

BY: _____ ALAN WEBBER, MAYOR DATE: _____

CITY CLERK: _____ DATE: _____

STATE OF NEW MEXICO
COUNTY OF SANTA FE
THE FOREGOING INSTRUMENT WAS SWORN, ACKNOWLEDGED AND SUBSCRIBED BEFORE ME ON THIS _____ DAY OF _____, 20 ____.

NOTARY PUBLIC _____ MY COMMISSION EXPIRES _____

REVIEWED BY COUNTY OF SANTA FE:

COUNTY TREASURER _____ DATE: _____

REVIEWED BY CITY OF SANTA FE:

CITY ENGINEER FOR LAND USE _____ DATE: _____

CITY PLANNER _____ DATE: _____

SURVEYOR'S CERTIFICATION:

I, BENJAMIN M. ARAGON, NEW MEXICO PROFESSIONAL SURVEYOR No. 15268, DO HEREBY CERTIFY THAT THIS BOUNDARY SURVEY PLAT AND THE ACTUAL SURVEY ON THE GROUND UPON WHICH IT IS BASED WERE PERFORMED BY ME OR UNDER MY DIRECT SUPERVISION; THAT I AM RESPONSIBLE FOR THIS SURVEY; THAT THIS SURVEY MEETS THE MINIMUM STANDARDS FOR SURVEYING IN NEW MEXICO; AND THAT IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER CERTIFY THAT THIS SURVEY IS NOT A LAND DIVISION OR SUBDIVISION AS DEFINED IN THE NEW MEXICO SUBDIVISION ACT AND THAT THIS INSTRUMENT IS A BOUNDARY SURVEY PLAT OF AN EXISTING TRACT OR TRACTS.

BENJAMIN M. ARAGON N.M.P.L.S. #15268

DATE

WILSON & COMPANY
4401 MASTHEAD ST. NE, SUITE 150
ALBUQUERQUE, NEW MEXICO 87109
OFFICE: 505-348-4000
FAX: 505-348-4155
www.wilsonco.com

COUNTY OF SANTA FE
STATE OF NEW MEXICO } ss
I hereby certify that this instrument was filed for record on the _____ day of _____, 20____, A.D. at _____ o'clock _____ and was duly recorded in book _____, page(s) _____ of the records of Santa Fe County.
Witness my Hand and Seal of office
KATHARINE E. CLARK
County Clerk, Santa Fe County, NM
Deputy
County Clerk
Seal

SFC CLERK RECORDED 02/12/2025

EXHIBIT B-2

LEGAL DESCRIPTION OF THE PROPERTY

[To be attached upon recording of subdivision plat]

SFC CLERK RECORDED 02/12/2025

B-2

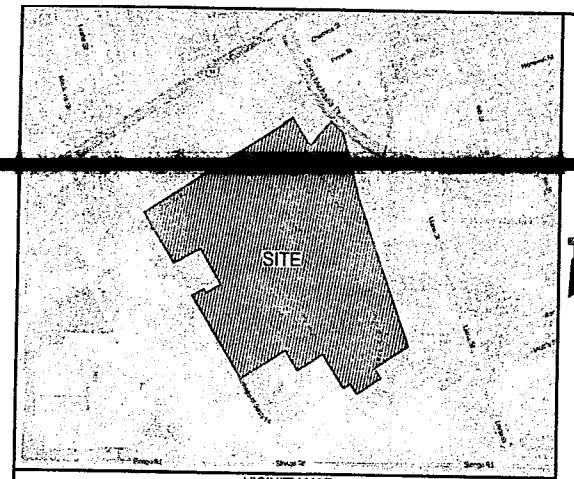
3 pages

921-13

Lot Line Adjustment and Right-of-Way Dedication for PLAT OF EXISTING Midtown Site

within Projected Section 34, T.17N., R.9E., N.M.P.M.
City of Santa Fe
Santa Fe County, New Mexico
November 2024

Plat amendment to correct missing metes and bounds calls on plat recorded for "Lot Line Adjustment and Right-of-Way Dedication for Plat of existing Midtown Site" recorded in Book 920, Pages 1+2 as instrument #2050258.



VICINITY MAP
N.T.S.

SFC CLERK RECORDED 02/12/2025

NOTES:

1. FIELD SURVEY WAS PERFORMED NOVEMBER 2021.
2. BEARINGS ARE NEW MEXICO STATE PLANE, CENTRAL ZONE. DISTANCES ARE GROUND DISTANCES. COMBINED GRID TO GROUND SCALE FACTOR: 1.0004066253 (SCALED AROUND 0,0) BASED ON A LINE FROM "SANTA FE EAST BASE RM3" TO "BM B-439, 1984", BEARING = S.49°36'22"W.
3. BENCHMARK USED FOR THIS PROJECT IS "SANTA FE EAST BASE RM3".
4. FEDERAL FLOODPLAIN MAP 35049C0411E WITH AN EFFECTIVE DATE OF DECEMBER 4, 2012 AS PUBLISHED BY THE FEDERAL EMERGENCY AGENCY SHOW THIS SITE AS BEING WITHIN ZONE X (DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN).
5. THIS PLAT SHOWS ALL AVAILABLE RECORD OF EASEMENTS.
6. ALL CORNERS IDENTIFIED AS —o— WILL BE SET POINTS IN THE FIELD AS 5/8" REBAR WITH CAP STAMPED "BM ARAGON, PS 15268", UNLESS OTHERWISE INDICATED.

REFERENCED DOCUMENTS:

THE FOLLOWING DOCUMENTS AND INSTRUMENTS WERE USED FOR THE PERFORMANCE AND PREPARATION OF THIS PLAT:

1. PLAT OF SURVEY ENTITLED, "REPLAT PREPARED FOR THE COLLEGE OF SANTA FE", recorded SEPTEMBER 14, 2006 in PLAT BOOK 707, PAGE 050-051.
2. DIVISION PLAT FOR THE COLLEGE OF SANTA FE, recorded MAY 19, 2006 in PLAT BOOK 682, PAGE 06.
3. REPLAT FOR COLLEGE OF SANTA FE, recorded JANUARY 2, 2006 in PLAT BOOK 672, PAGE 33.
4. REPLAT FOR COLLEGE OF SANTA FE, recorded SEPTEMBER 19, 2006 in PLAT BOOK 635, PAGE 46, 47.
5. REPLAT FOR COLLEGE OF SANTA FE, recorded OCTOBER 12, 2010 in PLAT BOOK 722, PAGE 049.
6. REPLAT FOR COLLEGE OF SANTA FE, recorded OCTOBER 12, 2010 in BOOK 719, PAGE 044.
7. BOUNDARY EASEMENT SURVEY PLAT FOR COLLEGE OF SANTA FE, recorded JULY 15, 2010 in BOOK 719, PAGE 047.
8. PLAT OF ALTA/ACSM LAND TITLE SURVEY, recorded OCTOBER 10, 2008 in BOOK 691, PAGE 029.
9. BOUNDARY SURVEY OF TRACT E "COLLEGE OF SANTA FE", recorded JUNE 28, 2011 in BOOK 733, PAGE 043.
10. BOUNDARY SURVEY OF TRACT E "COLLEGE OF SANTA FE", recorded OCTOBER 28, 2022 in BOOK 896, PAGE 14.
11. PLAT OF EASEMENT SURVEY FOR COLLEGE OF THE CHRISTIAN BROTHERS OF NEW MEXICO, recorded 08/17/ 2009.
12. REPLAT OF TRACT 3A & 3B FOR COLLEGE OF THE BOARD OF EDUCATION OF THE CITY OF SANTA FE, recorded MARCH 12, 1991 in BOOK 220, PAGE 037.
13. BOUNDARY SURVEY PLAT FOR PRESBYTERIAN MEDICAL SERVICES, recorded NOVEMBER 30, 2004 in BOOK 574, PAGE 035.

REFERENCED DOCUMENTS: (CONTINUED)

THE FOLLOWING DOCUMENTS AND INSTRUMENTS WERE USED FOR THE PERFORMANCE AND PREPARATION OF THIS PLAT:

14. LOT CONSOLIDATION FOR THE STATE OF NEW MEXICO DEPARTMENT OF FINANCE & ADMINISTRATION, recorded OCTOBER 4, 1990 in BOOK 215, PAGE 013.
15. QUITCLAIM DEED from U.S.A. to COLLEGE OF THE CHRISTIAN, filed MAY 25, 1949 in BOOK [illegible], PAGE [illegible].
16. DECLARATION from U.S.A. to COLLEGE OF THE CRISTIAN, filed DECEMBER 22, 1969 in BOOK 269, PAGE 855.
17. SPECIAL WARRANTY DEED from COLLEGE OF THE CRISTIAN BROTHERS to CITY OF SANTA FE, filed SEPTEMBER 16, 2009 as INSTRUMENT 1577356.
18. EASEMENT from COLLEGE OF SANTA FE to PNM, filed JULY 9, 1990 in BOOK 682, PAGE 916.
19. EASEMENT from COLLEGE OF SANTA FE to BOARD OF EDUCATION, filed JUNE 10, 1991 in BOOK 730, PAGE 568.
20. EASEMENT from COLLEGE OF SANTA FE to FIRST COMMUNITY BANK, filed SEPTEMBER 21, 2007 as INSTRUMENT 1500540.
21. VACATION OF EASEMENT from COLLEGE OF SANTA FE to FIRST COMMUNITY BANK, filed JULY 20, 2009 as INSTRUMENT 1571651.
22. EASEMENT from COLLEGE OF SANTA FE to PNM, filed AUGUST 13, 1996 in BOOK 1299, PAGE 74.
23. EASEMENT from COLLEGE OF SANTA FE to NEW MEXICO STATE BANK , filed JUNE 12, 2009 as INSTRUMENT 1566867.
24. VACATION OF EASEMENT from COLLEGE OF SANTA FE to FIRST COMMUNITY BANK, filed AUGUST 17, 2009 as INSTRUMENT 1574183.
25. This document Legal Lot of record, recorded in Book: 920, Page: 2 Pages 1+2

STATEMENT OF DECLARATION:

THE PURPOSE OF THIS PLAT IS TO:

ADJUST EXISTING LOT LINES AND TO DEDICATE RIGHT-OF-WAY, AS SHOWN HEREON.

AFFIDAVIT:

NOTICE IS HEREBY GIVEN THAT THE UNDERSIGNED OWNER HAS CAUSED THE LANDS SHOW ON THIS DOCUMENT TO BE REPLATTED. THE REPLAT IS MADE WITH THE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF SAID OWNER. THIS REPLAT CONTAINS 68.5327 ACRES MORE OR LESS. ALL TRACTS SHOWN HERE ARE SUBJECT TO RECIPROCAL PRIVATE ACCESS AND PARKING EASEMENTS ALONG AND OVER EXISTING DRIVEWAYS AND PARKING AREAS. EASEMENTS ARE GRANTED FOR EXISTING UTILITIES. ALL ROADS AND UTILITIES ARE DEDICATED TO THE CITY FOR PUBLIC USE.
THIS REPLAT LIES WITHIN THE PLANNING AND PLATTING JURISDICTION OF THE CITY OF SANTA FE, N.M.

OWNER: City of Santa Fe

BY: _____ 01/31/2025
ALAN M. WEBBER, MAYOR — DATE:

_____ 1/31/2025
CITY CLERK — DATE:

STATE OF NEW MEXICO
COUNTY OF SANTA FE
THE FOREGOING INSTRUMENT WAS SWORN, ACKNOWLEDGED AND SUBSCRIBED BEFORE ME ON THIS 31st DAY OF January, 2025.

_____ 3/25/25
NOTARY PUBLIC — MY COMMISSION EXPIRES

SANTA FE COUNTY:

_____ 02/12/25
COUNTY TREASURER — DATE:

City Signatures to acknowledge Plat amendment for missing metes and bounds calls on plat recorded for "Lot Line Adjustment and Right-of-Way Dedication for Plat of existing Midtown Site" recorded in Book 920, Pages 1+2, instrument #2050258.

REVIEWED BY CITY OF SANTA FE:

_____ 2/6/25
CITY ENGINEER FOR LAND USE — DATE:

_____ 2-6-25
CITY PLANNER — DATE:

CASE NUMBER:

Tract	Case #
Midtown Site	2024-9265

COUNTY OF SANTA FE) SS
STATE OF NEW MEXICO) #2052055
I hereby certify that this instrument was filed for record on the 13th day of February, 20 25 A.D. at 2:42 o'clock PM, and was duly recorded in book 921, page(s) 13-14 of the records of Santa Fe County.

Witness my Hand and Seal of office
KATHARINE E. CLARK
County Clerk, Santa Fe county, N.M.

_____
Deputy

County Clerk Seal

SURVEYOR'S CERTIFICATION:

I, BENJAMIN M. ARAGON, NEW MEXICO PROFESSIONAL SURVEYOR No. 15268, DO HEREBY CERTIFY THAT THIS BOUNDARY SURVEY PLAT AND THE ACTUAL SURVEY ON THE GROUND UPON WHICH IT IS BASED WERE PERFORMED BY ME OR UNDER MY DIRECT SUPERVISION; THAT I AM RESPONSIBLE FOR THIS SURVEY; THAT THIS SURVEY MEETS THE MINIMUM STANDARDS FOR SURVEYING IN NEW MEXICO; AND THAT IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER CERTIFY THAT THIS SURVEY IS NOT A LAND DIVISION OR SUBDIVISION AS DEFINED IN THE NEW MEXICO SUBDIVISION ACT AND THAT THIS INSTRUMENT IS A BOUNDARY SURVEY PLAT OF AN EXISTING TRACT OR TRACTS.

_____
BENJAMIN M. ARAGON N.M.P.L.S. #15268

1/28/25
DATE

BENJAMIN M. ARAGON NEW MEXICO 15268 PROFESSIONAL SURVEYOR

WILSON & COMPANY
4401 MASTHEAD ST. NE, SUITE 150
ALBUQUERQUE, NEW MEXICO 87109
OFFICE: 505-348-4000
FAX: 505-348-4155
www.wilsonco.com

INDEXING INFORMATION FOR THE COUNTY CLERK
OWNER: CITY OF SANTA FE
LOCATION: WITHIN PROJECTED SECTION 34, T.17N., R.9E., N.M.P.M. CITY OF SANTA FE, SANTA FE COUNTY, NEW MEXICO

Lot Line Adjustment and Right-of-Way Dedication for PLAT OF EXISTING Midtown Site

within Projected Section 34, T.17N., R.9E., N.M.P.M.
City of Santa Fe
Santa Fe County, New Mexico
November 2024

Plat amendment to correct missing metes and bounds calls on plat recorded for "Lot Line Adjustment and Right-of-Way Dedication for plat of existing Midtown Site" recorded in Book 920, pages 1 + 2 as instrument #2050258.

SFC CLERK RECORDED 02/12/2025

GRAPHIC SCALE

100 0 50 25 100

(IN FEET)
1 inch = 100 ft.

LEGEND:

- NEW LOT LINE
- EASEMENT LINE (AS NOTED)
- LOT LINE TO BE ELIMINATED
- PUBLIC ACCESS EASEMENT TO BE GRANTED BY THE FILING OF THIS PLAT.
- RETENTION POND DRAINAGE EASEMENT, AS SHOWN.
- ALL CORNERS IDENTIFIED WILL BE SET POINTS IN THE FIELD AS 5/8" REBAR WITH CAP STAMPED "BM ARAGON, PS 15268", UNLESS OTHERWISE INDICATED.
- FOUND PROPERTY CORNER

WILSON & COMPANY
4401 MASTHEAD ST. NE, SUITE 150
ALBUQUERQUE, NEW MEXICO 87109
OFFICE: 505-348-4000
FAX: 505-348-4155
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INDEXING INFORMATION FOR THE COUNTY CLERK

OWNER: CITY OF SANTA FE

LOCATION: WITHIN PROJECTED SECTION 34, T.17N., R.9E., N.M.P.M. CITY OF SANTA FE, SANTA FE COUNTY, NEW MEXICO

EXHIBIT C

FORM OF LEASE AGREEMENT

[attached]

SFC CLERK RECORDED 02/12/2025

ITEM # 25-0046

Recording Requested By,
And When Recorded Return To:

CITY OF SANTA FE
200 LINCOLN AVENUE
SANTA FE, NM 87501
ATTN: ERIN MCSHERRY, CITY ATTORNEY

LEASE AGREEMENT BETWEEN THE CITY OF SANTA FE AND ASPECT QOZB, LLC

THIS LEASE AGREEMENT (this "**Lease**") is made and executed as of the _____ day of _____ 20__, between the CITY OF SANTA FE, a municipal corporation and political subdivision of the State of New Mexico (the "**City**"), and ASPECT QOZB, LLC, a Delaware limited liability company ("**Developer**"), effective as of the Lease Commencement Date (defined below). The City and Developer are sometimes referred to herein individually as a "**Party**" and together as the "**Parties**."

SANTA FE COUNTY CLERK RECORDED 02/12/2025

Recitals

A. The City owns the real property and improvements consisting of approximately 60 acres generally located within the block defined by Cerrillos Road, St. Michaels Drive, Llano Street, Siringo Road, and Camino Carlos Rey in the City of Santa Fe, County of Santa Fe, State of New Mexico, as generally depicted on Exhibit A attached hereto (the "**Midtown Site**").

B. By Resolution No. 2022-68, approved on November 30, 2022, the governing body of the City (the "**Governing Body**") adopted the Midtown Master Plan (the "**Master Plan**"), which, together with the Midtown Community Development Plan adopted on January 25, 2023 by Resolution No. 2023-5 (the "**Community Development Plan**"), sets forth the City's vision for development of the Midtown Site and establishes certain form-based zoning standards and certain other standards and policies for the future redevelopment of the Midtown Site as a sustainable, pedestrian-friendly, mixed-use neighborhood that provides employment and housing opportunities, improved mobility options, and access to recreation, public spaces, and cultural venues.

C. On August 9, 2023, the Governing Body, by Ordinance No. 2023-21, revised the City of Santa Fe metropolitan redevelopment code (the "**City Redevelopment Code**"), under which the Governing Body updated its ordinance establishing a metropolitan redevelopment agency (the "**MRA**"), comprised of the commission of the MRA, director of the MRA ("**MRA Director**"), and staff, as the official body for making advisory recommendations to the Governing Body, at such time as an area is designated by the Governing Body with respect thereto, and for taking certain actions delegated to the MRA pursuant to the City Redevelopment Code. In the absence of a MRA Director, the City Manager or the City Manager's designee will act for the MRA Director hereunder.

D. The City released a Request for Proposals on December 1, 2022 (the "**Studio RFP**"), for the redevelopment and operation of the portion of the Midtown Site to, among other

things, expand the existing film production studio facilities with the addition of more state-of-the art sound stages, pre- and post-production offices and work facilities to meet the needs of the industry and support film and multi-media production in the City, all as more specifically set forth in the Studio RFP. The City will subdivide the Property (defined below) into parcels as set forth in Section 2.1 below.

E. Midtown Santa Fe Productions QOF, LLC, a Delaware limited liability company, affiliated with Developer ("**QOF**"), submitted the only response to the Studio RFP on March 2, 2023, to redevelop the Property consistent with the Studio RFP (the "**Proposed Project**"). QOF proposed combining the Proposed Project with the adjacent Midtown Santa Fe Production Studio, formerly the Shellaberger Tennis Center, and envisions that the combined projects will become the largest studio in northern New Mexico, featuring multi-family housing, six soundstages and nearly 180,000 square feet of production and support space across five different buildings.

F. Pursuant to the Studio RFP, the City established an Evaluation Committee to review and evaluate the response based on the factors set forth in the Studio RFP, following which the Evaluation Committee determined that QOF had the experience, qualifications, and capacity to implement the scope of work and achieve the vision and goals articulated in the Studio RFP.

G. The City and QOF entered into the Exclusive Negotiation Agreement approved by the Governing Body on July 26, 2023 (as extended, the "**ENA**"), for the redevelopment of the Proposed Project consistent with the Studio RFP. The ENA included, among other things, that the City and QOF would negotiate and enter into a disposition and development agreement setting forth the scope of the Proposed Project and the requirements and conditions for the design, development, operation and disposition of the completed Proposed Project.

H. Concurrent with the execution of this Lease, the City and Developer are entering into a Development and Disposition Agreement (the "**DDA**"), the purpose of which is to set forth the scope of the Project (as defined in the DDA) and the requirements and conditions for the design, development, operation and disposition of the completed Project.

I. The purpose of this Lease is to lease to Developer for the Term (defined below) the Property (or portion thereof) for Developer to perform its obligations set forth in the DDA, until such time as the City coveys the Property (or portion thereof) to Developer pursuant to the terms of the DDA.

J. The City is authorized, pursuant to the Santa Fe City Code of 1987, as amended from time to time (the "**City Code**") to enter into binding leases to carry out the plan for the development of the Property.

AGREEMENT

NOW THEREFORE, for and in consideration of the mutual promises, covenants and conditions contained herein, the receipt and sufficiency of which are hereby acknowledged, the

CITY CLERK RECORDED 02/12/2025

City, as landlord, and Developer, as tenant, hereby agree that the foregoing recitals are true and correct and incorporated herein and as follows:

ARTICLE 1
DEMISE AND DESCRIPTION OF PROPERTY

1.1 The City leases to Developer and Developer leases from City upon the terms and conditions contained herein, approximately 11 acres of land, together with the buildings known as Benildus Hall, Onate Hall, Driscoll Fitness Center and Garson Studios (collectively, the "**Buildings**"), and all other existing accessory structures and improvements located thereon, and rights of egress across adjacent roadways (collectively, the "**Property**"), located within in the Midtown Site and generally depicted on Exhibit B.

1.2 As of the Lease Commencement Date, pursuant to Section 2.4 of the DDA, the City conveyed to Developer all furniture, fixtures and equipment located within or affixed to any Building at the Property.

ARTICLE 2
COMMENCEMENT AND TERM.

2.1 This Lease shall become effective on the date that is 45 days after the Governing Body adopts an ordinance approving the DDA (the "**Lease Commencement Date**"); provided, however, if a referendum election is held, as required by Section 3-54-1, NMSA 1978, the Lease Commencement Date shall be suspended pending the outcome of the referendum election. If the results of the election are in favor of DDA, the Lease Commencement Date will commence on the date of the favorable election results. If the referendum election results are against the DDA, this Lease shall be immediately null and void. Notwithstanding the foregoing, if the City has not recorded a new plat map to subdivide the Property into parcels (the "**Plat**") in the real property records of the Clerk's Office of Santa Fe County, New Mexico ("**Official Records**") prior to the Lease Commencement Date, the Lease Commencement Date shall be suspended until the recording date of the Plat. Developer shall have the right to enter the Property to perform its obligations under the DDA on the Lease Commencement Date.

2.2 Upon the recordation of the Plat in the Official Records, the MRA Director will deliver written notice thereof to Developer ("**Plat Recording Notice**"), together with a copy of the recorded plat map and the platted legal description of the Property (the "**Legal Description**"), and the Developer shall execute and deliver to the City an acknowledgment including the Legal Description as Exhibit C to this Lease. Upon attachment of the Legal Description hereto, the City shall record this Lease in the Official Records. If the DDA is not approved, or if the DDA is approved and the referendum results are against the DDA, the City shall not be required to record the Plat or deliver a Plat Recording Notice to Developer.

2.3 This Lease shall expire 10 years following the Lease Commencement Date, unless earlier terminated (the "**Term**").

SFC CLERK RECORDED 02/14/2025

2.4 If Developer elects to acquire any Phase upon completion of an applicable Phase pursuant to the terms of the DDA, then upon the closing of the conveyance of such Phase (each a "**Closing**"), the Lease shall terminate with respect to such Phase and the Legal Description will be amended to remove the Phase so conveyed in accordance with Section 17.2 hereof. This Lease shall terminate in its entirety upon the earlier of (a) the expiration of the Term, (b) Developer's default under the terms of the DDA or this Lease, (c) upon the City's conveyance of all of the Property to Developer pursuant to the terms of the DDA, or (d) Developer's termination of the DDA as permitted under the DDA.

ARTICLE 3
RENT; TRIPLE NET LEASE; NO OFFSET

3.1 Developer hereby agrees to pay to the City the total base rent of $300,000.00 during the Term of the Lease ("**Rent**"), payable in annual installments of $30,000.00, without offset or reduction for any Partial Release (defined below). Such Rent shall be payable annually in advance, commencing on the Lease Commencement Date and on the same day of each year during the Term. Payment shall be made in good funds and shall be made to whomever the City designates in writing, from time to time.

3.2 In the event Developer fails to pay Rent when due and such failure continues beyond any notice and cure period provided in Section 13.1.3 hereof, then interest shall accrue at the rate of 18% per annum ("**Default Interest**") on the amount due and unpaid, compounded monthly, so long as said amount remains unpaid. The assessment and collection of the Default Interest is in addition to any other rights of the City, if the Developer does not faithfully perform the terms, covenants and conditions of this Lease.

3.3 It is expressly understood and agreed by and between the City and Developer that this Lease is a triple net lease, and the Rent, and all other sums payable hereunder to or on behalf of the City, shall be paid without notice or demand and without offset, counterclaim, abatement, suspension, deduction, or defense. This Lease shall yield to the City the Rent specified during the Term, and all costs and obligations of every kind and nature whatsoever relating to the Property shall be performed and paid by Developer. Developer shall perform all of its obligations under this Lease at its sole cost and expense.

ARTICLE 4
UTILITIES AND SERVICES

4.1 The City will provide gas and electricity to the Property pursuant to the terms of a utility agreement to be entered into by and between Developer and the City (the "**Utility Agreement**") and will invoice Developer for such gas and electric services as more specifically set forth in the Utility Agreement. Developer shall pay, when due, all charges for all other utility services used on the Property during the Term directly to the applicable utility provider, and for any other services in connection with Developer's operation of the Property. Developer may cause the installation of internet fiber in the existing utility rights-of-way located on the Property.

RECORDED 01/21/2025 CLERK

4.2 Developer shall be solely responsible for connection of such utilities to the Property, meter installation, tap and connection fees and all other costs and expense in connection with such utilities, as more specifically set forth in Utility Agreement.

ARTICLE 5
"AS IS" CONDITION OF PROPERTY

5.1 The Parties hereto intend that this Lease is made on an "as is, where is" basis with all faults. In connection therewith, the Parties hereto hereby agree as follows:

5.1.1 Developer acknowledges and agrees that the City has not made, does not make, will not make, and specifically disclaims, any representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express, implied, or statutory, oral or written, past, present or future, of, as to, concerning or with respect to: the nature, quality or condition of the Property or any part thereof, including, without limitation, the water, soil and geology; the economic feasibility of the Property or the income to be derived from the Property; the suitability of the Property for any and all activities and uses which Developer may conduct thereon; the nature and extent of any right-of-way, possession or title matter; the compliance of or by the Property, or the operation of any business or other enterprise thereon, with any laws, rules, ordinances or regulations of any applicable governmental authority or body; the rentability, habitability, merchantability or fitness for a particular purpose of the Property; or any other matter with respect to the Property.

5.1.2 Developer represents that it has investigated the Property prior to Lease Commencement Date, and that in leasing the Property, Developer has relied solely upon its independent examination, study, inspection and knowledge of the Property, including Developer's determination of the value of the Property and uses to which the Property may be put, and not on any information provided or to be provided by the City. Developer will make or cause to be made all inspections, investigations and analyses necessary or appropriate, in Developer's discretion, for the purpose of determining compliance or non-compliance by the Property with all building, health, environmental, zoning and land use laws, ordinances, rules and regulations, and the City makes no representation or warranty, express, implied or statutory, concerning the Property's compliance with such building, health, environmental, zoning and land use laws, ordinances, rules and regulations.

SHOT CLERK RECORDED 12/12/2025

ARTICLE 6
TAXES

6.1 Taxes. Beginning on the Lease Commencement Date and throughout the Term, Developer shall pay, before they become delinquent, all taxes and assessments of any kind whatsoever levied, taxed or assessed against the Property, Developer, or the City during the Term related to or arising out of this Lease and the activities of the Parties hereunder, including without limitation, (i) all taxes or assessments upon the Property or any part thereof and upon any personal property, trade fixtures and improvements located on the Property, whether belonging to the City or Developer, or any tax or charge levied in lieu of such taxes and assessments; (ii) all taxes, charges, license fees and or similar fees imposed by reason of the use of the Property by Developer;

and (iii) all excise, franchise, transaction, privilege, license, sales, use and other taxes upon the Rent hereunder, the leasehold estate or the activities of Developer pursuant to this Lease.

6.2 Payment in Lieu of Taxes. In addition to the foregoing, commencing on January 1, 2026, and continuing through the Term, Developer shall pay to the City, in arrears, an annual payment in lieu of taxes for the preceding calendar year, in the following amounts for each Phase: (a) Phase 1: $37,500.00; (b) Phase 2: $10,700.00; and (c) Phase 3: $5,350.00 (collectively, the "**Annual Assessment**"). Developer shall pay to the City the total Annual Assessment due for the 2026 calendar no later than May 31, 2027, and shall pay to the City the Annual Assessment due for each calendar year thereafter no later than May 31st of each following calendar (including the calendar year following the expiration of the Term). In any calendar year in which the City conveys a Phase to Developer pursuant to the terms of the DDA, Developer shall pay to the City the prorata portion of the Annual Assessment for such Phase based on the number of days in such calendar year in which the City owned the applicable Phase. If the Santa Fe County Assessor levies a property tax for the assessed value of Developer's leasehold interest in the Property ("**County Assessment**"), the amount of the Annual Assessment then due to the City shall be reduced by the amount of the County Assessment paid by Developer to the Santa Fe County Assessor.

ARTICLE 7
ASSIGNMENT AND SUBLEASE

7.1 Developer shall not be permitted to Transfer (as defined in the DDA) all or any portion of Developer's rights or other interests under this Lease, without the prior written consent of the City, which consent may be withheld in the City's sole and absolute discretion. Any such attempted Transfer (except in connection with a Permitted Transfer as defined in and permitted in Article 15 of the DDA), without such consent shall be null and void. No Transfer, whether with or without consent, shall operate to release Developer or alter Developer's primary liability to perform its obligations under this Lease.

7.2 Based on the Lease Purpose (defined below), without the prior written consent of the City, which consent may be withheld in the City's sole and absolute discretion, Developer will not be permitted to sublease any of Developer's rights or obligations under this Lease; provided, however, Developer may, without the prior written consent of the City, sublease space within any building on the Property following substantial completion thereof to any residential, restaurant, retail and other commercial tenants for the use and occupancy of such buildings as contemplated under the DDA.

ARTICLE 8
PERMITTED USES; CONSTRUCTION; MAINTENANCE; APPLICABLE RULES.

8.1 Developer is permitted to use the Property solely for the purpose of carrying out Developer's obligations under the DDA, which includes Developer's development and operation of the Property in accordance with DDA ("**Lease Purpose**").

SFC CLERK RECORDED 12/11/2025

8.2 Subject to the development rights and obligations under the DDA, Developer shall, at Developer's sole cost and expense, be responsible for maintaining the Property in good condition and repair and in compliance with all laws.

8.3 Developer shall comply with all maintenance, repair and indemnification obligations under Article 12 of the DDA.

8.4 Developer shall comply with all Applicable Rules, as such term is defined in the DDA. Developer shall pay all costs, expenses, liabilities, losses, damages, fines, penalties, Claims (defined below) and demands, including reasonable attorney's fees, that may in any manner arise out of or be imposed because of the failure of Developer to comply with Applicable Rules.

8.5 Developer shall comply with Section 12.2 of the DDA regarding damage to Adjacent Land and Adjacent Improvements (each as defined in the DDA).

8.6 The City shall not be responsible for any maintenance, repair or replacement of any improvements located on the Property.

ARTICLE 9
USES PROHIBITED; ENVIRONMENTAL INDEMNITY

9.1 Developer shall not use or permit the use of the Property, or any part thereof, for any illegal purpose or purposes, nor shall Developer maintain a nuisance on the Property. The Property may not be used as a toxic waste dump or storage facility, a solid waste disposal site or any use which could have a harmful effect on the land itself.

9.2 Developer hereby agrees to indemnify, defend (with counsel reasonably approved by the City, as applicable) and hold harmless the City, the MRA or any department, governing body, commission, agency, official, officer, employee, agent, representative or volunteer of the City or the MRA (collectively, the "**City Parties**"), from any and all claims, encumbrances, liens, demands, suits, judgments, proceedings, damages, losses, liabilities, penalties, fines, costs and expenses (including reasonable attorneys' fees and court costs) ("**Liabilities**") (including, but not limited to expenses, penalties and clean-up costs) arising from and against any and all Claims brought against one or more City Parties related to the Project, arising out of or in any way relating to (a) the presence, release, use, generation, transportation, discharge, storage or as a consequence of disposal by Developer or Developer's officers, directors, managers, members, affiliates, agents, employees, representatives, contractors, subcontractors, any other person or entity acting at the direction or with the consent of Developer, assignees, subtenants, or licensees (collectively, including Developer, "**Developer Parties**", and individually, a "**Developer Party**"), or the presence of any Pollutants (as defined in the DDA) in, on or about the Property occurring as a result of or in connection with Developer Parties' use or occupancy of the Property, and in the removal, remediation and disposal of any Pollutants, and (b) the violation, or alleged violation, of any Environmental Laws (as defined in the DDA) relating to the use, generation, release, discharge, storage, disposal or transportation of Pollutants on, under, in or about, to or from the Property or migrating onto or under the Property from neighboring properties or otherwise affecting the Property, to the extent caused or permitted by any Developer Parties.

SFC CLERK RECORDED 02/12/2025

9.3 No Developer Party shall (i) manufacture, treat, use, improperly store or dispose of any Pollutant (as defined below) on the Property, or (ii) permit the release of a Pollutant on or from the Property, or (iii) permit the use of materials containing Pollutants on the Property in violation of applicable Environmental Laws (as defined in the DDA).

ARTICLE 10
GENERAL RELEASE & INDEMNIFICATION

10.1 Developer releases City Parties from, and covenants and agrees that the City Parties shall not be liable to Developer for, any loss or damage to property or any injury to or death of any person or persons caused by Developer Parties by any cause whatsoever pertaining to the Project, the Property, the use thereof, or any other transaction contemplated by this Lease; provided that such release shall not apply to any loss or damage caused by the negligence, acts or omissions of the City Parties.

10.2 Developer shall indemnify, defend (with counsel reasonably approved by the City, as applicable) and hold harmless the City Parties from all Liabilities, arising from any all claims ("**Claims**") brought against one or more City Parties by any third-party which arise out of or in connection with the Property or any activities, acts or omissions of any of the Developer Parties; provided, however, such indemnity shall not apply to any Liabilities caused by the negligence, acts or omissions of any City Parties and shall be subject to the limitations of NMSA 1978, Section 56-7-1. Developer's indemnity obligations owing to the City Parties under this Section are not limited by applicable insurance coverage required hereunder. The City shall, after receipt of notice of the existence of a Claim for which it is entitled to indemnity hereunder, notify Developer in writing of the existence of such Claim or commencement of such action.

10.3 The provisions of this Article 10 shall survive any expiration or earlier termination of this Lease.

ARTICLE 11
INSURANCE

11.1 During the Term, and for such other time as specified hereinbelow, Developer shall comply with the following insurance requirements:

11.1.1 *Workers' Compensation.* During the Term, Developer shall, at its sole cost and expense, fully comply with the terms of the laws of the State of New Mexico concerning workers' compensation. Said compliance shall include maintaining in full force and effect one or more policies of insurance insuring against any liability Developer may have for workers' compensation. Said policy shall also include Employer's Liability coverage no less than $1,000,000 per accident; $1,000,000 policy limit bodily injury by disease; $1,000,000 each employee bodily injury by disease. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City and City Parties.

11.1.2 *General Liability Insurance.* During the Term and for a period of 10 years following Final Completion (as defined in the DDA) of the Project, Developer shall, at its sole cost and expense, obtain and keep in full force and effect commercial general liability

SFC CLERK RECORDED 02/12/2025

insurance with contractual liability coverage, which policy shall be written on an occurrence basis providing coverage at least as broad as Insurance Services Office (ISO) form CG 00 01, for claims against bodily injury (including death), personal injury, and property damage with limits not less than $5,000,000 per occurrence, $5,000,000 in the aggregate, and Products and Completed Operations of $5,000,000 in the aggregate, and property damage and shall be endorsed with a waiver of subrogation in favor of the City Parties. Said policy shall be primary, and any insurance or self-insurance maintained by the City Parties shall not be required to contribute with it. Any excess or umbrella coverage shall not include any limitations or exclusions from the primary coverage and shall also be endorsed to name the City Parties as additional insureds. Developer's Commercial General Liability coverage shall:

(a) include the following endorsements:

(i) An Aggregate Limit Per Project endorsement;

(ii) ISO Additional Insured endorsements with coverage at least as broad as CG 20 10 (ongoing operations) and CG 20 37 (completed operations) or a blanket additional insured endorsement, in each case naming the City Parties as additional insureds, provided that, if the blanket additional insured endorsement is used, premises and operations, as well as products-completed operations coverage must be provided to the City Parties;

(iii) A Waiver of Subrogation endorsement in favor of the City Parties or a blanket waiver of subrogation endorsement; and

(iv) A Primary, Non-contributory endorsement in favor of the City Parties or a blanket primary, non-contributory endorsement.

(b) The Commercial General Liability policy shall <u>not</u> include the following endorsements:

(i) Amendment of Contractual Liability;

(ii) Total Pollution Exclusion;

(iii) Cross Claims or Cross Suits Liability Exclusion;

(iv) X, C, U Exclusion (Explosion, Collapse, and Underground Hazard); and

(v) Subsidence of Soil or Earth Movement Exclusion.

11.1.3 *Automobile Liability Insurance.* In the event Developer utilizes automobiles as part of its operations, use, or occupancy of the Property. during the term of this Agreement, Developer shall, at its sole cost and expense, obtain and keep in full force and effect a policy of automobile liability insurance, with a combined single limit (CSL) in the amount of $2,000,000 per accident for bodily injury and property damage for any owned, hired and non-owned vehicles used in the performance of this Agreement. Said policy shall include Contractual Liability and the following coverages and endorsements: (a) a Broadened Pollution Coverage endorsement; (b) an endorsement naming the City Parties or a blanket additional insured endorsement; (c) A Waiver

SFC CLERK RECORDED 02/12/2025

of Subrogation endorsement in favor of the City Parties or a blanket waiver of subrogation endorsement; (d) a Primary, Non-contributory endorsement in favor of the City Parties or a blanket primary, non-contributory endorsement; and (e) notice of cancellation/non-renewal to the City, providing 30-days prior notice of cancellation or non-renewal, excepting only non-payment of premium, which will be 10-days prior notice.

11.1.4 *Course of Construction/Builder's Risk Insurance.* During all construction and/or renovation work on the Property, Developer shall, at its sole cost and expense, obtain and keep (or cause its contractors to maintain and keep) in full force and effect Course of Construction/Builder's Risk insurance covering "Special Form" (All Risks) of direct physical loss, including, but not limited to, fire, theft, water, explosion, vandalism, mechanical breakdown, electrical arcing, ordinance or law, in an amount to cover the total value of the construction Project, including all subsequent change orders, without co-insurance penalties. Such coverage shall include all items of labor and material, soft costs such as loss of income, architect and engineering fees, building permits and any other non-recurring costs as may be appropriate for Developer or its Contractor. Said insurance policy shall: (a) include Developer, its contractors and subcontractors, and the City as insureds; (b) be maintained until the completion of the applicable construction; and (c) provide coverage from the time any covered property becomes the responsibility of Developer, and continue without interruption during construction, renovation, or installation.

11.1.5 *Contractors Pollution Liability Insurance.* A contractor's pollution liability policy with limits of at least $2,000,000 per claim and an aggregate limit of $2,000,000 with a deductible not to exceed $25,000. Coverage must be included for bodily injury and property damage, including coverage for loss of use and/or diminution in property value, and for clean-up costs, arising out of, pertaining to, or in any way related to the actual or alleged discharge, dispersal, seepage, migration, release or escape of contaminants or pollutants resulting from any services or work performed by Developer or its contractors under this Agreement, including the transportation of hazardous wastes, hazardous materials, or contaminants. Developer warrants that any retroactive date applicable to the coverage under the policy is the same as or precedes the Lease Commencement Date and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of three years beginning from the time any construction performed under this Agreement is completed or if coverage is cancelled for any reason the extended discovery period will be exercised for the maximum time allowed by the policy. The Pollution Liability coverage shall include the following endorsements:

(a) ISO Additional Insured endorsements with coverage at least as broad as ISO forms CG 20 10 (ongoing operations) and CG 20 37 (completed operations) naming the City Parties or a blanket additional insured endorsement applicable "when required by written contract or agreement", provided that, if the blanket additional insured endorsement is used, premises and operations as well as products-completed operations coverage must be provided for the City Parties;

(b) A Waiver of Subrogation endorsement in favor of the City Parties or a blanket waiver of subrogation endorsement; and

(c) A Primary, Non-contributory endorsement in favor of the City Parties or a blanket primary, non-contributory endorsement.

SFC CLERK RECORDED 02/12/2025

11.1.6 *Professional Liability*. If Developer provides project management, design-build, engineer, architect or other types of professional services to the City, Developer shall obtain and maintain Professional Liability coverage with limits not less than $5,000,000 per claim and $5,000,000 aggregate limit. Such insurance coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Developer in this Agreement, and shall include (a) a retroactive date no later than the Lease Commencement Date; and (b) an extended reporting period of not less than five years after the termination of this contract.

11.1.7 *Property Insurance*. Developer shall maintain "Special Form" (All-Risks) property insurance upon property of every description owned by Developer and located on the Premises, or for which Developer is legally liable, including without limitation, furnishings, fixtures, and equipment. Such insurance shall be in an amount equal to one hundred percent (100%) of the full insurable replacement value of the property. The City shall be included as loss payee.

11.1.8 *Subcontractor Insurance*. Developer shall ensure that all contractors and subcontractors are licensed in the State of New Mexico and as otherwise required by the Applicable Rules. Developer shall cause all subcontractors performing work at the Property to maintain appropriate insurance, including, but not limited to, Workers' Compensation, Commercial General Liability and Automobile Insurance in a form and with limits deemed appropriate by Developer for work performed in connection with this Agreement. Developer acknowledges that Developer is solely responsible for obtaining, prior to the commencement of any work at the Property by such Persons and maintaining from time to time thereafter current certificates of insurance and applicable endorsements from its contractors/subcontractors, and this information shall be promptly made available to the City upon request. Developer shall require all subcontractors to obtain the following endorsements:

(a) ISO Additional Insured endorsements with coverage at least as broad as ISO forms CG 20 10 and CG 20 37 naming Developer and the City Parties as additional insureds or a blanket additional insured endorsement applicable "when required by written contract or agreement", provided that, if the blanket additional insured endorsement is used, premises and operations as well as products-completed operations coverage must be provided for Developer and the City Parties;

(b) A Waiver of Subrogation endorsement in favor of the City Parties or a blanket waiver of subrogation endorsement; and

(c) A Primary, Non-contributory endorsement in favor of the City Parties or a blanket primary, non-contributory endorsement.

11.1.9 *Provisions Applicable to All Insurance Requirements*. Prior to the Construction Commencement (as defined in the DDA) at the Property or any portion thereof and annually thereafter, Developer shall furnish or cause to be furnished to the City certificates of insurance and all applicable endorsements evidencing the foregoing insurance coverages and limits. If any coverage is maintained on a claims-made basis, the following shall apply:

(a) The retroactive date must be shown and must be before the date of this Agreement or the beginning of any work or services under this Agreement;

SFC CLERK RECORDED 02/12/2025

(b) Except as otherwise set forth herein, coverage must be maintained and evidence of coverage must be provided for at least five years after termination of this Agreement;

(c) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Lease Commencement Date, Developer must purchase an extended reporting period for a minimum of five years after termination of this Agreement; and

(d) All insurance policies shall be written by an insurer with an A.M. Best rating of not less than A- (Excellent), Financial Size Category VII, and must be authorized to do business within the state of New Mexico; and

(e) Developer shall cause its insurer to deliver written notice to the City no later than 30-days prior to any cancellation or nonrenewal, and shall deliver to the City a copy of any notice of cancellation or nonrenewal within five days of Developer's receipt of such notice from its insurer.

ARTICLE 12
CONDEMNATION; CASUALTY

12.1 Condemnation.

12.1.1 Should the entire Property be taken (which term, as used in this Section, shall include any conveyance in avoidance or settlement of eminent domain, condemnation or other similar proceedings) by any governmental authority, corporation or other entity, excluding the City, under the right of eminent domain, condemnation or similar right, then this Lease shall terminate as of the date of taking possession by the condemning authority, and the award therefor will be distributed to the City and the Developer pro rata to their actual losses. After the distribution of the condemnation award as herein provided, this Lease shall terminate, and the parties shall have no further rights, duties or obligations under this Lease.

12.1.2 Should any portion of any Phase be taken by any governmental authority, corporation or other entity under the right of eminent domain, condemnation or similar right, such that (a) the untaken portion of such Phase is, in either Party's reasonable discretion, insufficient for the economic or feasible operation thereof by Developer; or (b) any access is taken that materially prohibits use of such Phase, unless reasonable alternate access is provided by the City, then Developer may either terminate this Lease and DDA with respect to the affected Phase as of the date of taking possession by the condemning authority in the same manner as provided in Section 12.1.1 for the entire Property and the award therefor shall be distributed as provided in Section 12.1.1, or Developer may continue to pursue its obligations under this Lease and the DDA with respect to the affected Phase. Should any other partial taking of the Property occur, then this Lease nevertheless shall continue in effect as to the Property, or the remainder thereof, as the case may be. In the event of a partial taking where this Lease is not terminated, the Rent payable during the remainder of the Term after taking of possession by the condemning authority shall be reduced on a just and proportionate basis having due regard to the relative value and square footage of the portion of the Property thus taken as compared to the remainder thereof and taking into

SFC CLERK RECORDED 02/12/2025

consideration the extent, if any, to which Developer's use of the remainder of the Property shall have been impaired or interfered with by reason of such partial taking.

12.2 Casualty. Developer covenants and agrees that in the event of damage to the Property or destruction of the whole or any part thereof, by any cause whatsoever, Developer shall proceed immediately and diligently to restore the Property to the same or equivalent condition or status as on the Lease Commencement Date.

ARTICLE 13
EVENT OF DEFAULT

13.1 The following constitute an "**Event of Default**" under this Lease:

13.1.1 an Event of Default (as such term is defined in the DDA) occurs under the DDA; or

13.1.2 Developer fails to pay in full when due any installment of Rent or other amount due hereunder within 30 days after such due date; or

13.1.3 Developer breaches or fails perform or observe any other requirement of this Lease not otherwise specifically referred to in this Article 13, and such failure continues for 30 days after written notice thereof from the City to Developer, provided, however, that such breach or failure will not constitute an Event of Default if such breach or failure cannot reasonably be cured within said 30-day period so long as (i) Developer, within said 30-day period, initiates and diligently and continuously pursues appropriate measures to remedy the breach or failure, and (ii) such breach or failure is cured within 90 days after Developer's receipt of the notice from the City with respect thereto.

13.2 Remedies. Upon the occurrence of an Event of Default, the City may take any of the following actions, and without limiting the City in the exercise of any other right and/or remedy which the City may have by reason of such Event of Default under this Lease:

13.2.1 If such Event of Default results in a Termination Event (as defined in the DDA), the City may terminate this Lease (in whole or in part) by giving Developer written notice thereof, effective at such time as may be specified by notice to Developer. The City may through any permitted legal process reenter and take possession of the Property and the improvements thereon without prejudice to any remedies for arrears of Rent or existing breaches hereof. In the event of such termination, Developer shall be liable to the City for damages immediately payable in an amount equal to the actual damages incurred by the City, including all expenses incurred by the City in enforcing its rights hereunder.

13.2.2 The City may through any permitted legal process reenter and take possession of the Property and the Buildings and without prejudice to any remedies for arrears of Rent or existing breaches hereof, lease, manage and operate the Property and collect the rents, issues and profits therefrom all for the account of Developer, and credit to the satisfaction of Developer's obligations hereunder the net rental thus received (after deducting therefrom all

SFC CLERK RECORDED 02/12/2025

reasonable costs and expenses of repossessing, leasing, managing and operating the Property, including, but not limited to brokerage commissions and any costs associated with advertising, remodeling, alterations or repair of the Property). If the net rental so received by the City exceeds the amounts necessary to satisfy all of Developer's obligations under this Lease, nevertheless the City shall retain such excess. The City shall use commercially reasonable efforts to mitigate its damages.

13.2.3 The City may bring an action against Developer for actual damages incurred by the City or any equitable relief available to the City and to the extent not prohibited by applicable law, to seize all personal property or fixtures upon the Property which Developer owns or in which it has an interest, in which the City shall have a landlord's lien and/or security interest, and to dispose thereof in accordance with the laws prevailing at the time and place of such seizure or to remove all or any portion of such property and cause the same to be stored in a public warehouse or elsewhere at Developer's sole expense, without becoming liable for any loss or damage resulting therefrom and without resorting to legal or judicial process, procedure or action.

13.2.4 If, after the City exercises its remedies in Section 13.2.1 or Section 13.2.2, Developer remains in possession of the Property or any portion thereof without express written approval of the City for such holdover possession, such possession may, at the sole option of the City, continue as a month-to-month tenancy, during which period Developer shall pay the City Holdover Rent on a monthly basis in advance on the first day of each calendar month thereafter, and all other terms and conditions of this Lease shall otherwise apply. "**Holdover Rent**" shall mean the then current market rent, as of the commencement of the holdover possession, for similar properties located in Santa Fe County, NM, as determined by the City in its sole discretion. The City may terminate such holdover possession in accordance with applicable law.

ARTICLE 14
SURRENDER

With respect to any portion of the Property remaining under this Lease upon the expiration or earlier termination of this Lease, Developer shall peaceably and quietly leave, surrender and deliver such Property to the City, together with all alterations, changes, additions and improvements located thereon, all of the foregoing to be surrendered in good and sufficient repair, order and condition, reasonable use, wear and tear excepted, and free of liens and occupants. Notwithstanding the foregoing, on or prior to the expiration or earlier termination of this Lease, Developer shall have the right to remove any and all personal property of Developer. Developer shall pay for the cost to repair or remedy any damage caused by Developer's removal of any such personal property, providing that no item may be removed if its removal would impair the structural integrity of any Building or any part thereof. All personal property not so removed shall be deemed abandoned and may either be retained by the City as its property or disposed of, without accountability, in such manner as the City may see fit.

ARTICLE 15
DEVELOPER FINANCING

15.1 Leasehold Mortgages. Throughout the Term, Developer may from time to time and without the City's consent, execute and deliver a mortgage, deed of trust, security agreement

SFC CLERK RECORDED 02/12/2025

or other hypothecating instrument (a "**Leasehold Mortgage**") encumbering Developer's leasehold interest in the Property (the "**Leasehold Estate**") for the benefit of a leasehold lender providing financing for Developer's obligations under the DDA (a "**Leasehold Mortgagee**"); provided, however, (a) no Leasehold Mortgage may constitute a lien on the fee title of the City, (b) the City shall not be required to encumber or subordinate, and nothing in this Lease will be construed as the City agreeing to encumber or subordinate, the City's right, title or interest in and to the fee interest to the Property, this Lease, the DDA, or the City's ROFR in the Property under the DDA, and (c) the City shall not be required to undertake any personal liability for the obligations of Developer secured or to be secured by any Leasehold Mortgage. Any Leasehold Mortgage and all rights acquired thereunder shall be subject all covenants, conditions and restrictions set forth in this Lease, including all obligations to comply with the terms and conditions of the DDA, and to all rights and interests of the City. Within 30 days after the recordation of a Leasehold Mortgage, Developer shall furnish to the City a complete copy of such recorded Leasehold Mortgage. In the event of a default by Developer under a Leasehold Mortgage, the City consents to the exercise by the Leasehold Mortgagee of any of its rights and remedies permitted under such Leasehold Mortgage, provided that such Leasehold Mortgagee delivers written notice to the City of such default prior to the exercise of any such remedies, and upon a Mortgagee Transfer Event (defined below), Leasehold Mortgagee (or its nominee or designee approved by the City ("**Approved Designee**")) shall assume all of Developer obligations under the DDA. A "**Mortgagee Transfer Event**" means that the Leasehold Mortgagee (or its Approved Designee) obtained possession of the Property through one of the following by Leasehold Mortgagee: (x) foreclosure or exercise of other remedies under the Leasehold Mortgage, (y) assumption of this Lease, or (z) a Replacement Lease (defined below). In no event shall a Leasehold Mortgage's exercise of remedies under a Leasehold Mortgage affect the City's rights or Developer's obligations under this Lease.

15.2 Leasehold Mortgagee's Rights to Cure a Lease Default. Prior to terminating this Lease or exercising any other right or remedy due to an Event of Default, the City will give written notice to the Leasehold Mortgagee, provided that the Leasehold Mortgage previously notified the City of its name, its address for notices and the fact that it is a Leasehold Mortgagee of a Leasehold Mortgage and includes with such notice a copy of the Leasehold Mortgage by virtue of which it became a Leasehold Mortgagee (a "**Notice Mortgagee**"), of any such Event of Default and shall afford the Notice Mortgagee a period of 30 days after notice is given in which to cure such Event of Default; provided, however, that (a) if such Event of Default is not a failure to pay Rent and is susceptible of cure by the Notice Mortgagee but cannot reasonably be cured within such 30-day period, then so long as the Notice Mortgagee commences a cure within such 30-day period (and notifies the City that it has done so), its cure period will be extended for as long as reasonably necessary for it to diligently pursue the cure to completion, but in no event longer than 90 days; and (b) if such Event of Default is not a failure to pay Rent and is susceptible of cure by the Notice Mortgagee but cannot reasonably be cured until the Notice Mortgagee obtains possession of the Property, then so long as the Notice Mortgagee commences to foreclose or otherwise enforce its Leasehold Mortgage (or assumes this Lease in lieu thereof) and thereafter diligently pursues such foreclosure, remedy or assumption to completion (and notifies the City that it has done so), Notice Mortgagee's 30-day cure period will be extended for as long as reasonably necessary for it to obtain possession of the Property and then promptly commence and thereafter diligently pursue the cure to completion, but in no event longer than 90 days after Notice Mortgagee obtains possession.

SFC CLERK RECORDED 02/12/2025

15.3 Notice Mortgagee's Right to Attorn. If, by virtue of an Event of Default, the City reenters and repossesses the Property without terminating this Lease or terminates this Lease, the City will give notice thereof to the Notice Mortgagee within 10 days prior to such reentry and repossession or termination, as the case may be. If the Notice Mortgagee notifies the City within 30 days after the City gives such notice that the Notice Mortgagee would like to attorn to the City and either assume Developer's obligations under this Lease (in the case of a reentry and repossession without termination of this Lease) or enter into a new lease with the City for the Property pursuant to the terms hereof (a "**Replacement Lease**") (in the case of a termination of this Lease), and provided that the Notice Mortgagee (a) pays the City all Rent, penalties and Default Interest due the City under this Lease at the date of reentry and repossession or termination and which thereafter becomes due or would have become due if this Lease had not been terminated up to and including the date the Notice Mortgagee's attornment to the City becomes effective, together with all of the City's expenses incident to the reentry and repossession or termination; and (b) covenants to promptly thereafter cure any Event of Default existing at the time of such reentry and repossession or termination that is not a failure to pay Rent and is susceptible of cure by the Notice Mortgagee pursuant to Section 15.2(b), then (i) the City will accept such attornment and either deliver possession of the Property to the Notice Mortgagee (or its Approved Designee) if the City has reentered and repossessed the same without terminating this Lease, whereupon the Notice Mortgagee (or its Approved Designee) will assume in writing all obligations of Developer arising under this Lease and the DDA from and after the date possession is so delivered and this Lease will continue in full force and effect as a direct obligation between the City and the Notice Mortgagee (or its Approved Designee), or (ii) the City will execute and deliver one Replacement Lease for the Property to the Notice Mortgagee (or its Approved Designee) for the balance of what would have been the Term had this Lease not been so terminated and otherwise upon all of the same terms and conditions set forth in this Lease. The lessee under the Replacement Lease will have the same leasehold interest in the Property as Developer had under this Lease.

15.4 Notice Mortgagee Limitation on Liability. Except for Developer's obligations under the DDA assumed by the Leasehold Mortgagee as required by this Lease, a Notice Mortgagee shall not have any other obligations under this Lease arising prior to the earlier of the date that the Notice Mortgagee assumes the obligations of Developer under this Lease or obtains absolute title to the Leasehold Estate. Any such Notice Mortgagee shall be liable to perform obligations under this Lease only for and during the period of time that such Notice Mortgagee directly holds such absolute title to the Leasehold Estate, except for any outstanding obligations of Developer's to be performed under the DDA. Further, in the event that a Notice Mortgagee elects to (a) perform Developer's obligations under this Lease, (b) continue operations on the Property, (c) acquire Developer's Leasehold Estate, or (d) enter into a Replacement Lease, then such Notice Mortgagee shall not have any personal liability to the City in connection therewith, and the City's sole recourse in the event of default by such Notice Mortgagee shall be to execute against such Notice Mortgagee's interest in the Leasehold Estate. Moreover, any Notice Mortgagee who acquires Developer's interest in the Leasehold Estate pursuant a Mortgagee Transfer Event shall not be liable to perform any obligations thereunder to the extent the same are incurred or accrue after such Notice Mortgagee no longer has ownership of the Leasehold Estate created thereby.

SFC CLERK RECORDED 02/12/2025

15.5 Prohibition Against Mutual Rescission. Except for a Partial Release (defined below), no mutual termination, cancellation or rescission of this Lease by the City and Developer will be effective unless and until the same is approved in writing by the Notice Mortgagee.

15.6 Bankruptcy. If this Lease is rejected in connection with a bankruptcy proceeding by Developer or a trustee in bankruptcy for Developer, such rejection, to the extent permitted under the Bankruptcy Code, shall be deemed an assignment by Developer to the Notice Mortgagee of the Leasehold Estate and all of Developer's interest under this Lease, and this Lease shall not terminate, and the Notice Mortgagee shall have all the rights of the Developer under this Lease as if such bankruptcy proceeding had not occurred, unless such Notice Mortgagee rejects such deemed assignment by notice in writing to the City within 30 days following rejection of this Lease by Developer or Developer's trustee in bankruptcy. If any court of competent jurisdiction shall determine that this Lease shall have been terminated notwithstanding the terms of the preceding sentence as a result of rejection by Developer or the trustee in connection with any such proceedings, the rights of one Notice Mortgagee to a Replacement Lease from the City pursuant to Section 15.2 hereof shall not be affected thereby.

ARTICLE 16
LEASE SUBORDINATE

16.1 This Lease and all of Developer's rights hereunder shall be subordinate to the lien and terms of any mortgage, deed of trust and related documents now or hereafter placed upon the Property by any lender of the City (if any, a "**City Mortgagee**") (including all advances made thereunder), and to all amendments, renewals, replacements, or restatements thereof (collectively, "**Mortgage**") unless any City Mortgagee elects to have this Lease superior to the lien and terms of its Mortgage pursuant to Section 16.2 below. Developer agrees that no documentation other than this Lease is required to evidence such subordination.

16.2 If any City Mortgagee elects to have this Lease superior to the lien of its Mortgage and gives notice to Developer, this Lease will be deemed prior to such Mortgage whether this Lease is dated prior or subsequent to the date of such Mortgage or the date of recording thereof.

16.3 In confirmation of subordination or superior position, as the case may be, Developer will execute such documents as may be required by any City Mortgagee and if it fails to do so within 10 days after demand, Developer hereby irrevocably appoints the City as Developer's attorney-in-fact and in Developer's name, place, and stead, to do so.

16.4 Following Developer's request therefor, the City shall use commercially reasonable efforts to obtain from any future City Mortgagee, a subordination, non-disturbance and attornment agreement on such City Mortgagee's form.

16.5 Developer hereby attorns to all successor owners of the Property, whether such ownership is acquired by sale, foreclosure of a Mortgage, or otherwise.

ARTICLE 17
PARTIAL RELEASE

SFC CLERK RECORDED 02/12/2025

17.1 During the Term, Developer will redevelop the Property in three phases (each, a "**Phase**" and, collectively, the "**Phases**"), as depicted in the Property delineation map set forth on Exhibit B attached hereto. The real property and improvements, collectively, comprising the first, second and third Phases of the Property are referred to herein as "**Phase 1**", "**Phase 2**" and "**Phase 3**," respectively.

17.2 It is the intention of the Parties that the City shall convey the Phase 1, Phase 2, and Phase 3 portions of the Property in accordance with the DDA as the Developer completes the Phase 1 Closing Conditions, the Phase 2 Closing Conditions, and the Phase 3 Closing Conditions, as those are defined in the DDA, as applicable. pursuant to the terms of Article 10 of the DDA. As each Phase is conveyed to Developer, the Legal Description shall be automatically amended to remove the legal description of the applicable Phase to reflect the conveyance of such Phase to Developer (each, a "**Partial Release**").

ARTICLE 18
MISCELLANEOUS

18.1 Commissions. Developer hereby represents and warrants that it has not entered into contracts with any brokers or finders nor has Developer obligated itself to pay any real estate commissions or finder's fees on account of the execution of this Lease. The City hereby represents and warrants that it has not entered into contracts with any brokers or finders nor has the City obligated itself to pay any real estate commissions or finder's fees on account of the execution of this Lease. Based on such representations and warranties, the City and Developer hereby agree to indemnify and hold the other harmless from and against all claims, damages, expenses, liabilities, liens or judgments (including costs, expenses and attorneys' fees in defending the same) which arise on account of any claim that real estate commissions or finders' fees are payable and have not been discharged in their entirety.

18.2 Quiet Enjoyment. Except during the existence of an Event of Default and subject to the provisions of this Lease and the DDA, the City shall not disturb Developer's quiet possession of the Property for the entire Term. Developer acknowledges that the City's performance of its obligations under Article 8 of the DDA may restrict or temporarily prevent Developer's use of and/or access to the Property or otherwise inconvenience Developer. Developer agrees that no such events shall constitute a constrictive eviction of Developer or give rise to any remedies or right of Developer against the City; provided, however, if the City's performance of its obligations under Article 8 of the DDA substantially deprives Developer of its beneficial use and access to all of the Property for more than 30 consecutive days after written notice from Developer to the City, Rent shall abate commencing at the end of said 30 day period until the cessation of the activity causing the deprivation, unless the City has commenced to cure such cause or remediate such deprivation with reasonable diligence within such 30-day period. Further, the City shall under no circumstances be held responsible for any restriction or disruption of the use of or access to the Property from public streets caused by construction work or other actions taken by Developer or any Developer Parties, any other tenant or any third-party, or their contractors, employees, agents, visitors, or invitees, or any other cause not within the City's control, and any such circumstances shall not constitute a constructive eviction of Developer nor give rise to any remedies or right of Developer against the City.

SFC CLERK RECORDED 02/12/2025

18.3 Compliance with Laws. Through the Lease Term, Developer shall comply, and cause Developer Parties to comply, with all Applicable Rules then in effect, including the Americans With Disabilities Act of 1990 (42 U.S.C. Section 12101, et seq., as amended, the "**ADA**"). Developer agrees to be responsible for knowing all applicable requirements of the ADA and to defend, indemnify and hold harmless the City, its officials, agents and employees from and against any and all claims, actions, suits or proceedings of any kind brought against said parties as a result of any acts or omissions of Developer or Developer Parties in violation of the ADA.

18.4 Discrimination Prohibited. Developer shall comply, and cause the Developer Parties to comply, with Applicable Rules relating to discrimination against or segregation of any Person or group of Person, and will not on the grounds of ethnicity, race, age, religion, creed, color, national origin, ancestry, sex, gender, sexual orientation, sexual preference, marital status, source of income, physical or mental disability, medical condition, or citizenship status, discriminate or permit discrimination against any Person or group of Persons in any manner prohibited by Title 49 CFR Parts 21 and 23, the Civil Rights Act of 1964, as amended, the Equal Pay Act of 1963, the Rehabilitation Act of 1973, the New Mexico Human Rights Act, and SFCC 1987 Section 2.02. Without limiting the generality of the foregoing, Developer will not discriminate against any employee or applicant for employment or tenancy because of ethnicity, race, age, religion, creed, color, national origin, ancestry, sex, gender, sexual orientation, sexual preference, physical or mental disability, medical condition, or citizenship status. Such covered actions include, without limitation: employment, promotion, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; selection for training; and disciplinary actions and grievances. Developer agrees to post in conspicuous places available to employees, and applicants for employment, notice to be provided setting forth the provisions of this non-discrimination clause.

18.5 Recordation. Promptly after the later of the Lease Commencement Date and the recordation of the Plat, the City shall record an executed original of this Lease in the real property records of the Clerk's Office of Santa Fe County, New Mexico (the "**Official Records**"). All amendments, transfers, and assignments hereto must be in writing signed by the appropriate officers of the City and Developer in a form suitable for recordation in the Official Records.

18.6 Run with the Land. This Lease, including all covenants, agreements, rights, restrictions and obligations contained herein, shall run with the Property until expiration of the Lease. Except as provided herein, all covenants, agreements, rights, restrictions and obligations contained herein shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and permitted assigns, and all persons claiming under them. In the event this Lease is terminated by the City with respect to all or any portion of the Property, this Lease may be released of record, in whole or in part, upon execution and recording by the City of a notice of termination or other instrument evidencing such termination.

18.7 Notices. Any notice, request, demand, instruction or other document to be given or served hereunder or under any document or instrument executed pursuant hereto shall be in writing and shall be delivered either personally with a receipt requested therefor, or by overnight courier, or by certified mail, return receipt requested, postage prepaid, in any case addressed to the Parties at their respective addresses set forth below, and the same shall be effective (a) upon receipt or refusal if delivered personally, (b) one Business Day after depositing with such an overnight courier service, (c) three Business Days after deposit in the mail if mailed, or (d) upon successful electronic mail transmission evidenced by an electronic "read receipt" and provided that such

SFC CLERK RECORDED 02/12/2025

notice is also delivered by the means described in clauses (a) or (b) within two Business Days after such electronic mail notice. A Party may change its address for receipt of notices by service of a notice of such change in accordance herewith. "**Business Day**" means Monday through Friday and specifically excludes any federal, state, and City holidays and any additional days on which City offices are closed (other than essential services). All notices to the City or Developer shall be sent to the persons and addresses set forth below. A Party may change its address for receipt of notices by service of a notice of such change in accordance herewith.

If to the City:	City of Santa Fe Attn: City Manager P.O. Box 909 Santa Fe, NM 87504
with a copy to:	Midtown Redevelopment Agency Attention: MRA Director 200 Lincoln Avenue Santa Fe, NM 87505
If to Developer:	Aspect QOZB, LLC Attention: Phillip Gesue 1954 Siringo Road Santa Fe, NM 87501
with a copy to:	Long, Komer & Associates, P.A. Attention: Nancy R. Long P.O. Box 5098 1800 Old Pecos Trail, Suite A Santa Fe, NM 87505

18.8 Relationship Between Parties. Notwithstanding any language in this Lease or any representation or warranty to the contrary, the relationship between the City and Developer shall be as landlord and tenant, respectively, and neither the City nor Developer shall be deemed or constitute an employee, servant, agent, partner or joint venturer of the other.

18.9 No Third-Party Rights. This Lease is for the sole and exclusive benefit of the Parties and their respective successors and permitted assigns, and no third party other than a permitted assignee of the City or Developer is contemplated to or shall have any rights hereunder.

18.10 Counterparts. This Lease may be signed in multiple counterparts or with detachable signature pages, but either or both circumstances shall constitute one instrument, binding upon all Parties thereto as if all Parties signed the same document. If so executed, each such counterpart of this Lease is to be deemed an original for all purposes and all such counterparts will collectively constitute one Lease, but in making proof of this Lease, it will not be necessary to produce or account for more than one such counterpart.

18.11 Time of Essence. Time is expressly made of the essence with respect to the performance by Developer of every obligation and condition of this Lease.

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18.12 Computation of Time. All references herein to "days" mean calendar days. All references herein to "months" mean the period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that, solely with respect to the last month of any period (a) if the numerically corresponding day is not a Business Day, that period will be deemed to end on the next Business Day, (b) if there is no numerically corresponding day in the next calendar month, then that period shall end on the first Business Day after the last day of that month. In computing any period of time under this Lease in which days define the period, (i) the date of the act or event from which the designated period of time begins to run shall not be included, and (ii) the last day of the period so computed shall be included unless it is a day other than a Business Day, in which event the day for performance thereof shall be extended to the next Business Day. If any act is to be done by or within a period of time, the last day of said period of time shall be deemed to end at 5:00 p.m. MT.

18.13 Force Majeure. Neither the City nor Developer shall be deemed to be in default hereunder if either Party is prevented from performing any of the obligations, other than monetary obligations hereunder, by reason of a Force Majeure Event, as such term is defined in the DDA. An extension of time for any Force Majeure Event shall commence to run from the time of the commencement of the Force Majeure Event if notice by the Party claiming such extension is sent to the other Party within 30 days of the commencement of the cause. If such notice is delivered after such 30-day period, the extension period shall commence to run from the date of such notice. After the termination of any such Force Majeure Event, the obligation to perform shall recommence with a day-for-day delay extension to any deadlines.

18.14 Severability. In the event any covenant, condition or provision herein is held to be invalid, illegal, or unenforceable by any court of competent jurisdiction, such covenant, condition or provision shall be deemed amended to conform to Applicable Rules so as to be valid or enforceable or, if it cannot be so amended without materially altering the intention of the parties, it shall be stricken. If stricken, all other covenants, conditions and provisions of this Lease shall remain in full force and effect provided that the striking of such covenants, conditions or provisions does not materially prejudice either the City or Developer in its respective rights and obligations contained in the valid covenants, conditions or provisions of this Lease.

18.15 Interpretation. Whenever the words "include," "includes" or "including" are used in this Lease they shall be deemed to be followed by the words "without limitation." The words "hereof", "herein" and "hereunder" and words of similar import when used in this Lease shall refer to this Lease as a whole and not to any particular provision of this Lease. Unless otherwise expressly provided herein, any agreement, instrument or statute defined or referred to herein or in any agreement or instrument defined or referred to herein means such agreement, instrument or statute as from time to time amended, modified or supplemented, including (in the case of agreements or instruments) by waiver or consent and (in the case of statutes) by succession of comparable successor statutes, and references to all attachments thereto and instruments incorporated therein.

18.16 Sections. References to section numbers are to sections in this Lease, unless otherwise expressly stated.Gender, Singular/Plural. Words of any gender used in this Lease shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.Headings and Captions. Headings and

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captions of sections and paragraphs are for convenience, not limitation, and are not to be construed as modifying text.

18.19 Further Assurances. Developer and the City covenant that they shall do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered such instrument, supplemental hereto and further acts, instruments and transfers as may be required hereunder. All such ancillary agreements shall be in accordance with and not contradictory to the terms and conditions set forth in this Lease.

18.20 Waiver. No provisions of this Agreement shall be deemed to have been waived by either Party unless such waiver is in writing, signed by the Party making the waiver and addressed to the other Party, nor shall any custom or practice which may evolve between the Parties in the administration of the terms of this Agreement be construed to waiver or lessen the right of either Party to insist upon the performance of the other Party in strict accordance with the terms of this Agreement. Further, the waiver by any Party of a breach by the other Party or any term, covenant, or condition hereof shall not operate as a waiver of any subsequent breach of the same or any other term, covenant, or condition thereof. No acceptance by the City of any partial payment shall constitute an accord or satisfaction but shall only be deemed a partial payment.

18.21 Modifications; City Approval. Any amendment, alteration, change or modification of or to this Lease, in order to become effective, shall be made in writing and in each instance signed on behalf of each Party and, if applicable, approved by the Governing Body and in accordance with any applicable City signature policy. The MRA Director shall record amendments, alterations, changes, and modifications to this Lease in the Official Records, though a failure to so record shall not impair the effectiveness of such as between the Parties. The MRA Director may extend the time for the performance of any term or satisfaction of any condition hereunder for up to 180 days by the execution of a letter countersigned by Developer.

18.22 Legal Advice. Each Party represents to the other that it has carefully read this Lease; and in signing this Lease, it does so with full knowledge of any right which it may have; it has received independent legal advice from its legal counsel as to the matter set forth in this Lease; and it has freely signed this Lease without any reliance upon any agreement, promise, statement or representation by or on behalf of the other Party, or its agents, employees, or attorneys, except as specifically set forth in this Lease, and without duress or coercion, whether economic or otherwise. This Lease shall not be construed more strictly against one Party than against the other merely by virtue of the fact that it may have been prepared primarily by counsel for one of the Parties, it being recognized that both the City and Developer have contributed substantially and materially to the preparation of this Lease.

18.23 Non-Liability of Officials and Employees of the City. No member, official or employee of the City shall be personally liable to Developer, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to Developer or its successors, or on any obligations under the terms of this Lease.

18.24 New Mexico Tort Claims Act. The City's liability in connection with the Lease is limited by the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et seq. NMSA 1978, as amended. The City and its "public employees", as defined in the New Mexico

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Tort Claims Act, do not waive sovereign immunity, do not waive any defense, and do not waive any limitation of liability pursuant to law. No provision of this Lease modifies or waives any provision of the New Mexico Tort Claims Act.

18.25 Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State of New Mexico.

18.26 Legal Proceedings; Attorneys' Fees and Costs. The Parties agree that the exclusive venue for any claims, disputes, disagreements, controversies, lawsuits, or causes of action by or between Developer and the City arising out of or relating to this Lease, the Project, the Property, or the construction activities permitted under the DDA (collectively, "**Disputes**"), shall be the First Judicial District Court located in Santa Fe, New Mexico. Any and all Disputes shall be tried as a bench trial and not as a jury trial. In the event it becomes necessary for the City to enforce any of the terms and provisions of this Lease, whether or not suit be instituted, Developer shall pay all costs and expenses incurred by the City in connection with the City's enforcement of this Lease, including, but not limited to, reasonable attorneys' fees, unless as a part of such action a court determines that the claims made by City in such action were frivolous and not made in good faith.Waiver of Jury Trial. TO THE EXTENT PERMITTED BY LAW, THE PARTIES HEREBY KNOWINGLY, INTENTIONALLY AND VOLUNTARILY, WITH AND UPON THE ADVICE OF COMPETENT COUNSEL, WAIVE, RELINQUISH AND FOREVER FORGO THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED UPON, ARISING OUT OF, OR IN ANY WAY RELATING TO A DISPUTE.EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY DISPUTE WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE IT HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO ANY DISPUTE. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE SUCH WAIVERS; (B) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF SUCH WAIVERS; (C) IT MAKES SUCH WAIVERS VOLUNTARILY; AND (D) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 18.27.

18.28 Approval Required. This Lease shall not become effective or binding until approved by the highest approval authority required by the City under this Lease. No Pecuniary Liability of City. No provision of this Lease shall constitute an indebtedness of the City within the meaning of any constitutional provision or statutory limitations of the State of New Mexico, nor constitute or give rise to a pecuniary liability of the City or a charge against its general credit or taxing powers.Officials, Agents and Employees Not Personally Liable. No official, agent, or employee of the City nor member of the Governing Body shall be personally liable to any person by virtue of any provision of this Lease.No Collusion. Developer represents that this Lease is entered into by Developer without collusion on the part of the Developer with any person or firm, without fraud and in good faith. The Developer also represents that no gratuities, in the form of entertainment, gifts or otherwise, were, or during the term of this Lease, will be offered or given

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by Developer or any agent or representative of Developer to any officer or employee of the City with a view towards securing this Lease or for securing more favorable treatment with respect to making any determinations with respect to performing this Lease.Public Records. The Parties acknowledge that the City is a government entity and subject to the IPRA. Notwithstanding anything contained herein to the contrary, the City shall not be responsible to Developer or any third-party contractor for any disclosure of confidential information pursuant to the IPRA or pursuant to the City's public records act laws, rules, regulations, instructions or other legal requirement.

18.33 Governmental Right and Powers. Nothing in this Lease will be construed or interpreted as limiting, relinquishing, or waiving any rights of ownership enjoyed by the City in the Property or waiving or limiting the City's control over the management, operations or maintenance of the Property, except as specifically provided in this Lease, or impairing exercising or defining governmental rights and the police powers of the City.

18.34 Survival. All obligations, covenants and agreements contained herein which are intended to be performed in whole or in part after the completion of construction of the Project or termination of this Lease shall survive the completion of construction of the Project or termination of this Lease and shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

[Remainder of this page intentionally left blank]
[Signatures and acknowledgements appear on the following pages]

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IN WITNESS WHEREOF, this Lease has been executed and delivered by the City and Developer as of the date shown below.

Date of City of Santa Fe Governing Body
Approval: 12/12, 2024

CITY:

CITY OF SANTA FE,
a municipal corporation and political subdivision of the State of New Mexico

By: _____

Mayor

APPROVED AS TO FORM:

By: _____
Assistant City Attorney

ATTEST:

By: _____
City Clerk

SEAL
CITY OF SANTA FE
ORGANIZED
JULY 13 AD 1891
NEW MEXICO

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STATE OF NEW MEXICO }
} ss.
COUNTY OF SANTA FE }

This instrument was acknowledged before me on February 5, 2025 by Alan Webber, as Mayor of City of Santa Fe, a municipal corporation and political subdivision of the State of New Mexico.

(Seal, if any)

_____
(Signature of Notarial Officer)

[*Signatures and acknowledgements continue on the following page*]

XAVIER I. VIGIL
Notary Public - State of New Mexico
Commission # 1132968
My Comm. Expires Mar 25, 2025

DEVELOPER:
ASPECT QOZB, LLC,
a Delaware limited liability company

By: _____
Name: Phillip Gesue
Title: Managing Member

STATE OF NEW MEXICO }
} ss.
COUNTY OF SANTA FE }

This instrument was acknowledged before me on 10/24/, 2024 by Phillip Gesue as Managing Member of Aspect QOZB, LLC, a Delaware limited liability company.

(Seal, if any)

_____
(Signature of Notarial Officer)

STATE OF NEW MEXICO
NOTARY PUBLIC
KANDRA LYNN PAYNE
COMMISSION # 1139277
COMMISSION EXPIRES 12/02/2026

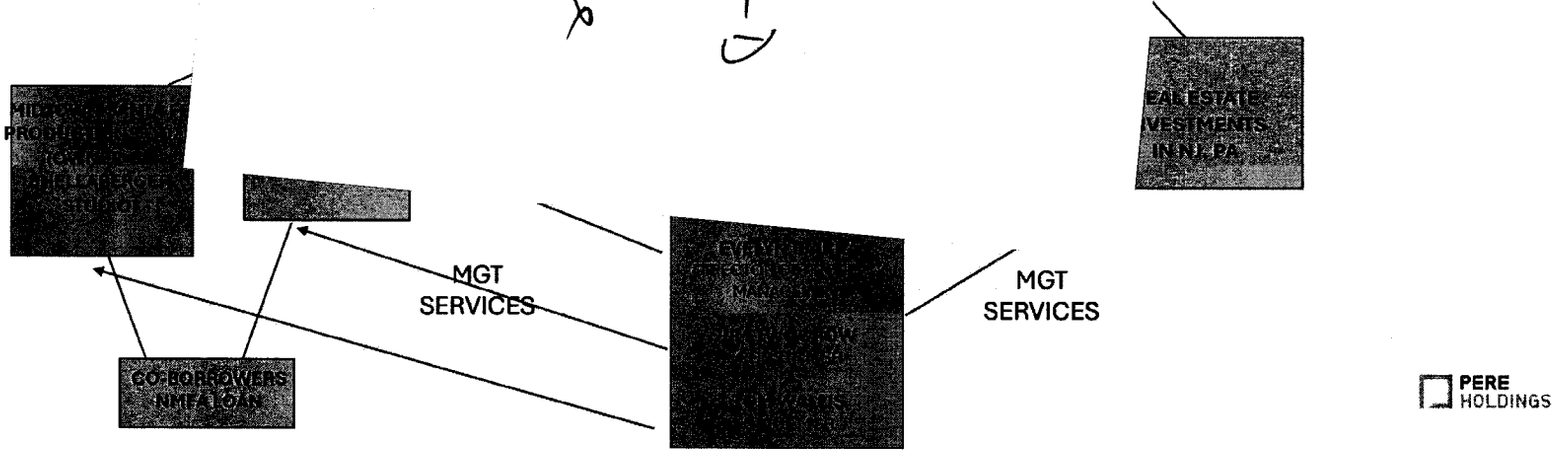
SFC CLERK RECORDED 02/12/2025

EXHIBIT D

DEVELOPER OWNER AND CONTROL PARTIES

PROPOS ANIZATIONAL CHART

Exhibit D
Page 1



[EXHIBIT D]

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EXHIBIT E

PHASE 1 CONCEPTUAL PLANS

[attached]

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Exhibit E

17 pages

ASPECT STUDIOS

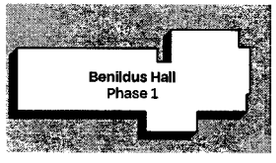


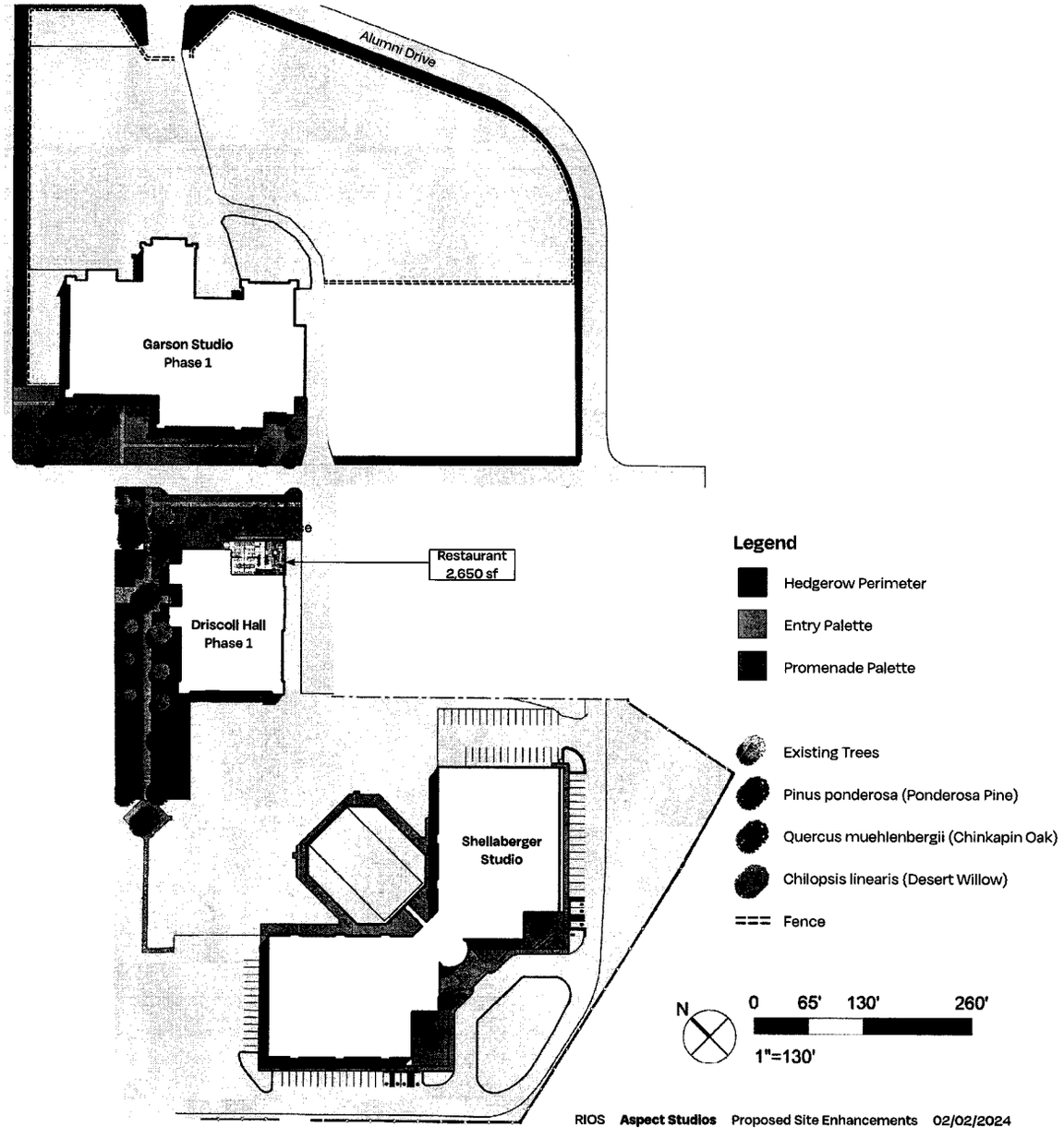
Proposed
Site Enhancements
05.10.2024

RIOS

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Landscape Approach:
To utilize native Northern New Mexico trees and plants that survive on little to no supplemental irrigation. The plantings provide ecological benefits like food and shelter to native wildlife. The landscape will require little maintenance while adding natural aesthetic to the studio campus.

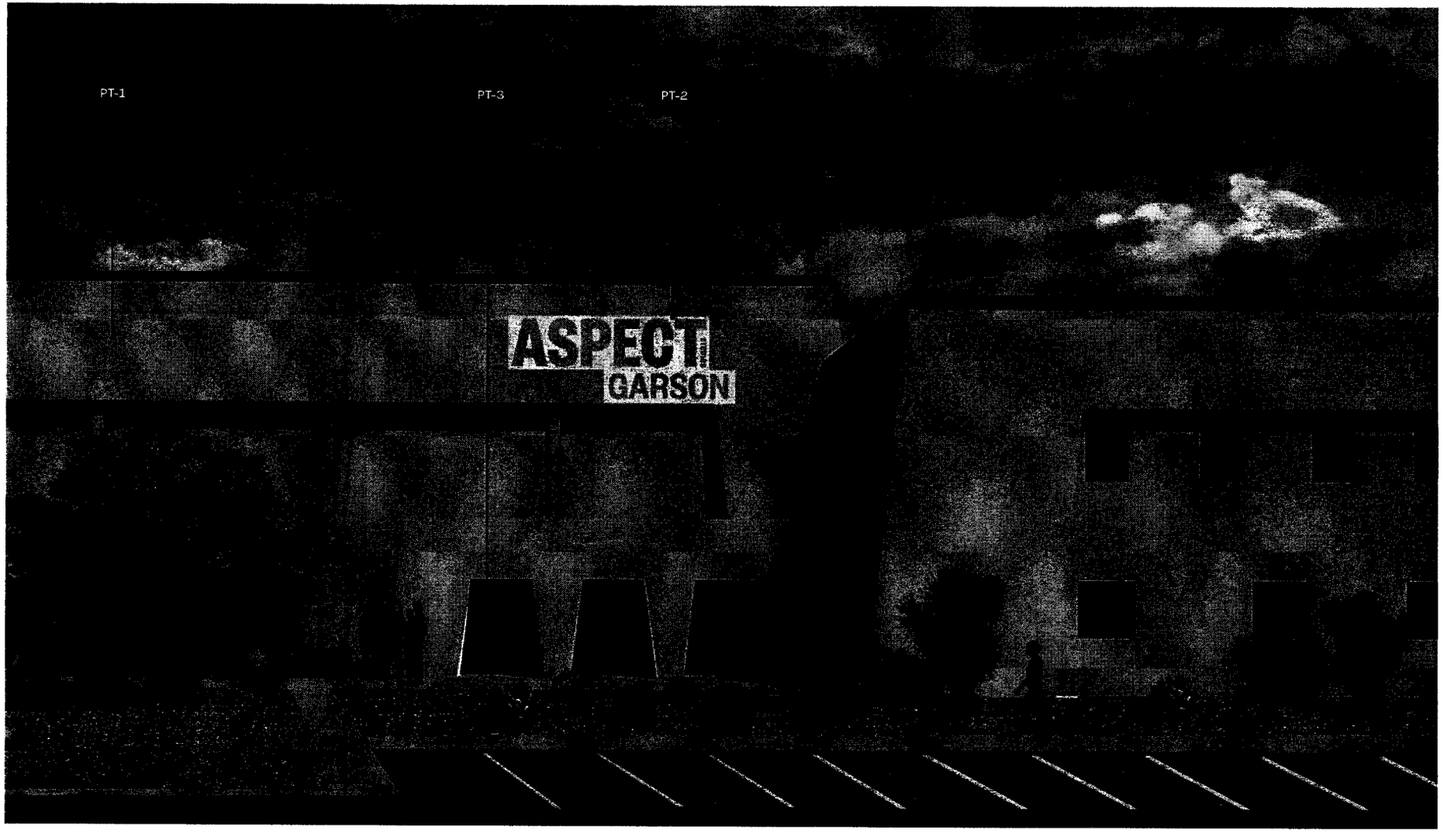




RIOS **Aspect Studios** Proposed Site Enhancements 02/02/2024

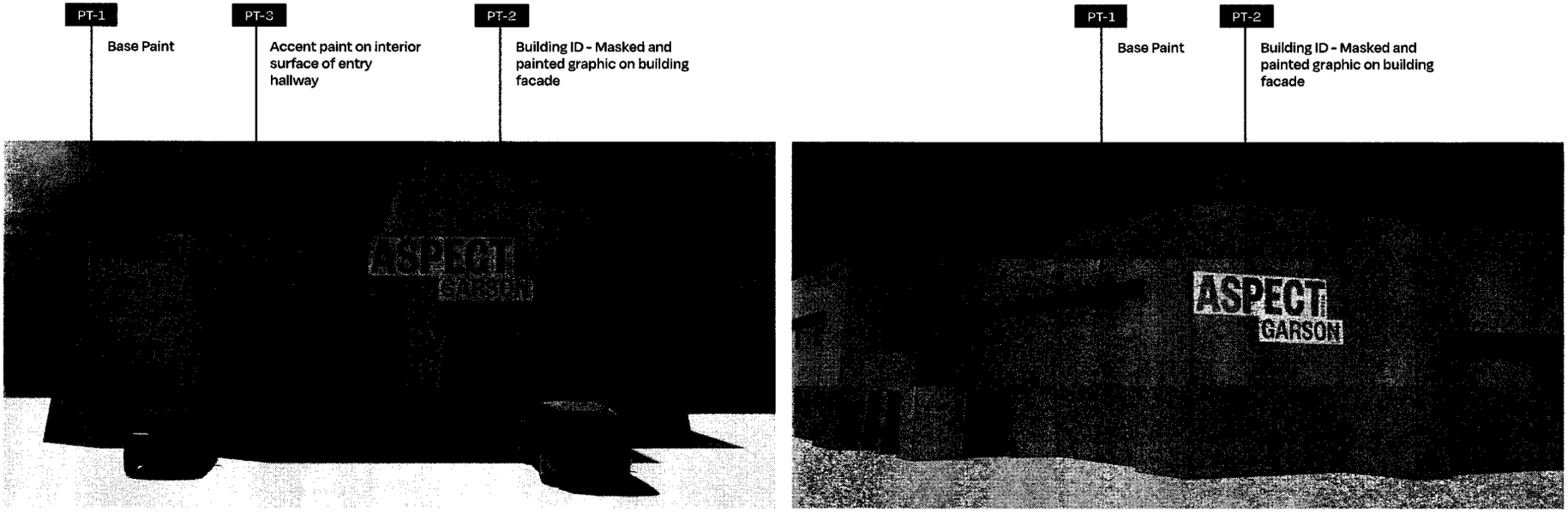
Illustrated Landscape Plan

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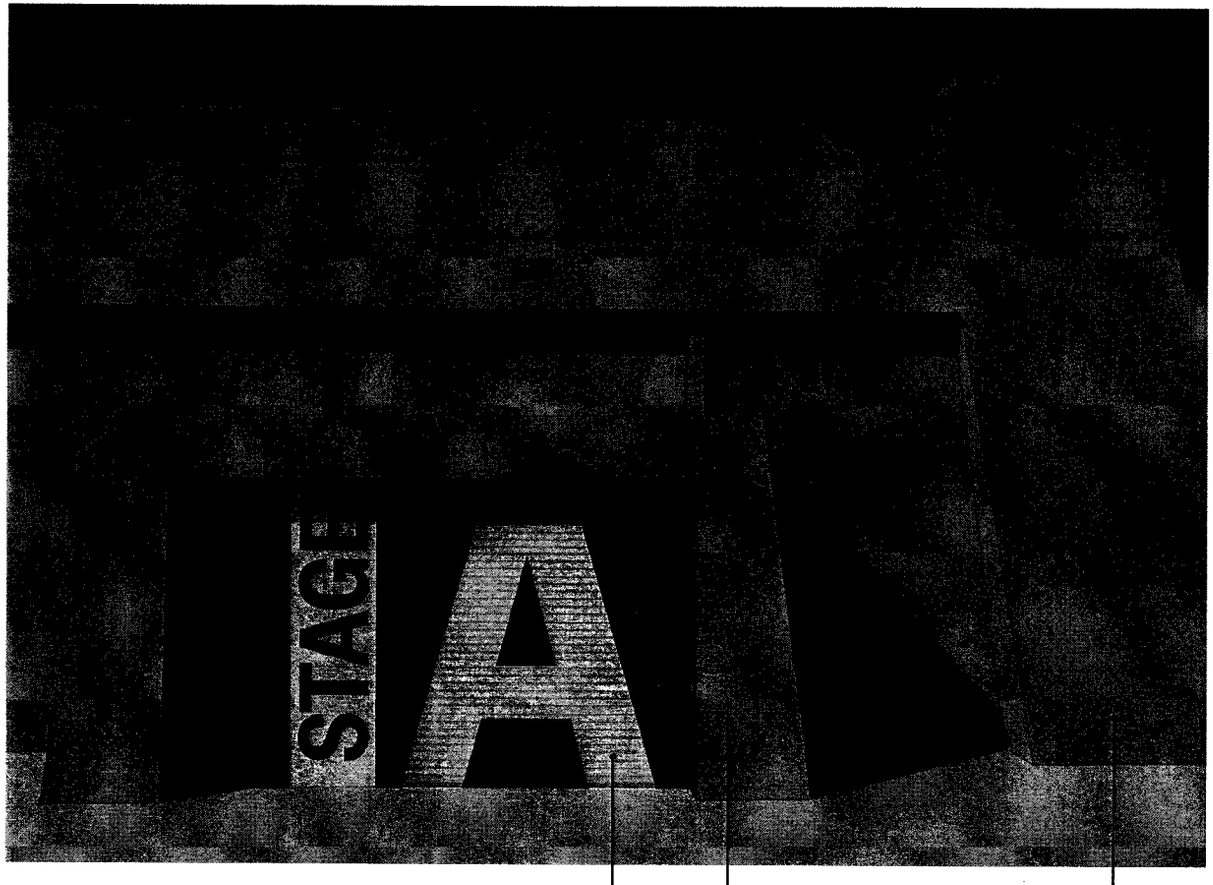
Proposed Exterior Facade Renovation Garson Studio / Phase 1

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Proposed Exterior Facade Renovation Garson Studio / Phase 1

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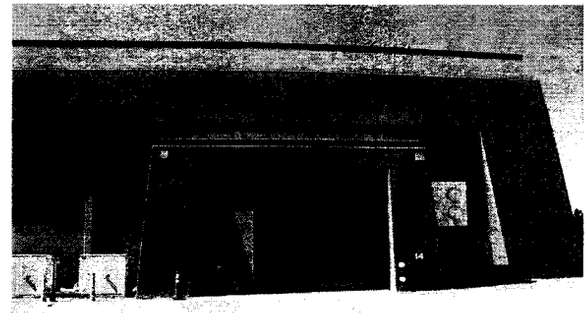
Masked and painted graphic on niche wall, roll-up door and single swing door.

Approx. 400 SF

QTY: 3

*Messaging vary by location

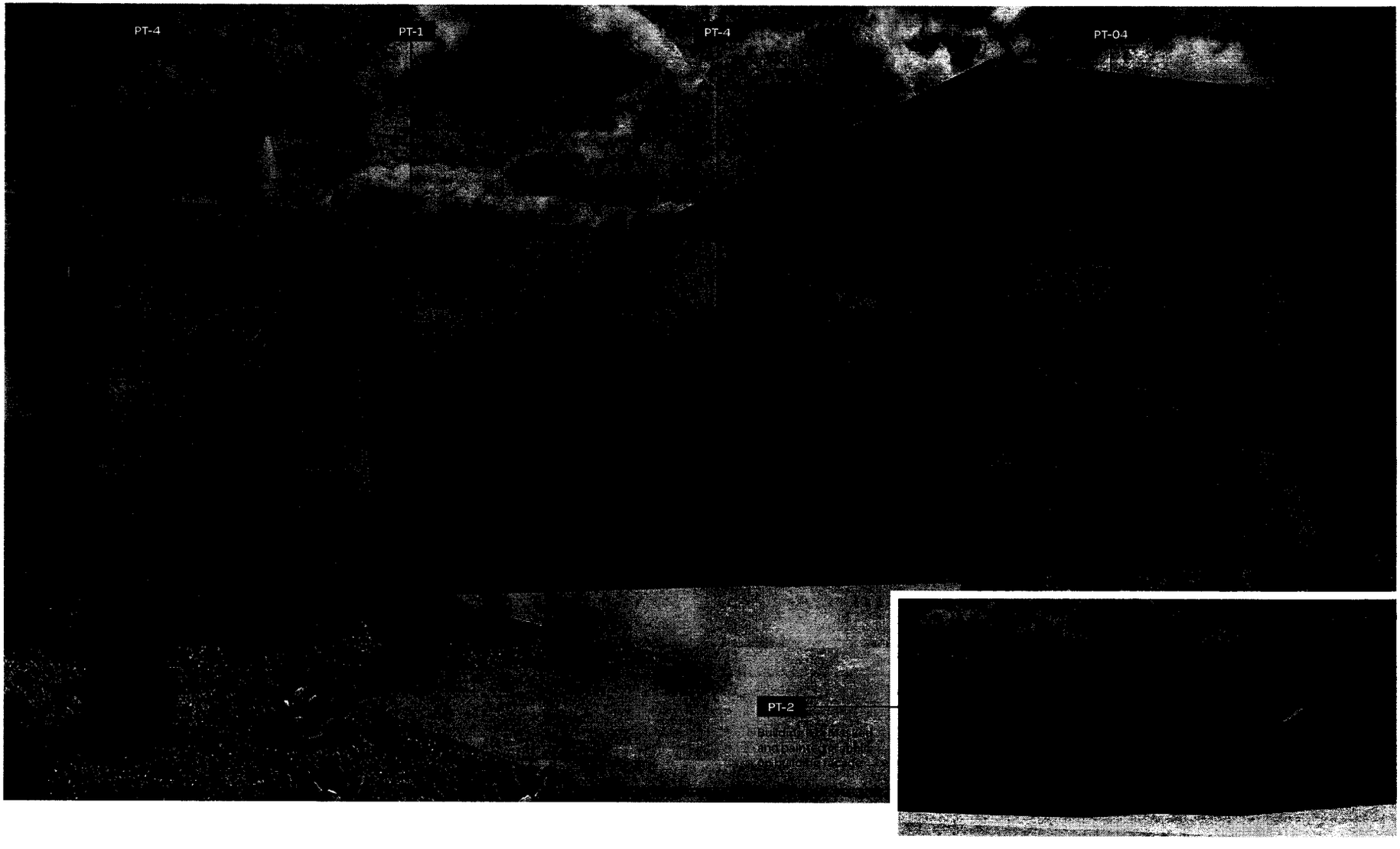
Base Paint



Existing (TYP. condition)

Proposed Exterior Facade Renovation Garson Studio / Phase 1

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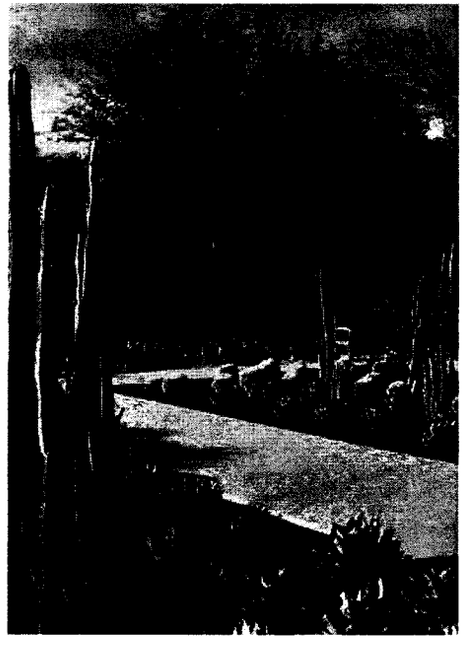


Proposed Exterior Facade Renovation Driscoll Hall / Phase 1

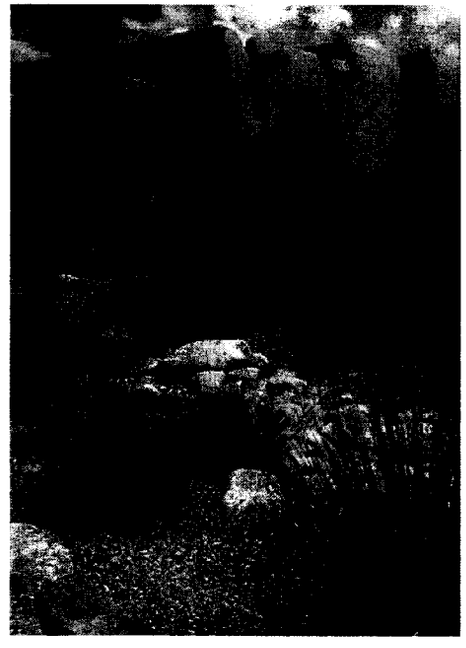
SFC CLERK RECORDED 02/12/2025



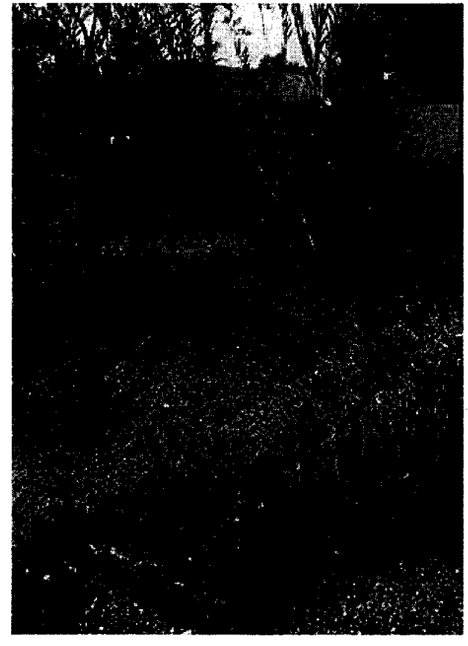
Perimeter planting inspiration



Entry planting inspiration - option A



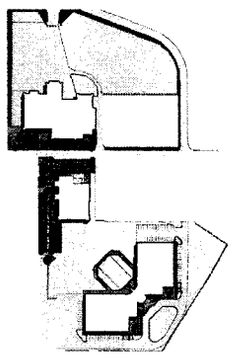
Entry planting inspiration - option B



Promenade planting inspiration

Plant Palette Inspiration

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Key Map

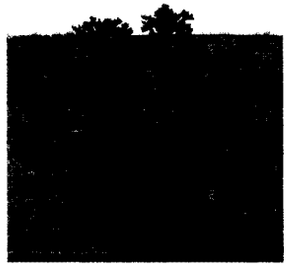


Perimeter planting inspiration

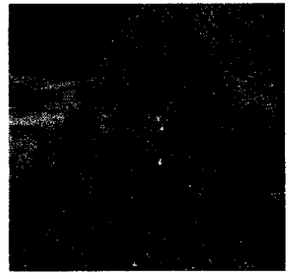
Accent



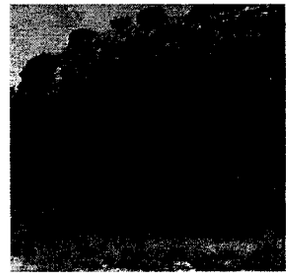
Yucca elata (Soaptree Yucca)



Cylindropuntia imbricata
(Tree Cane Cholla)

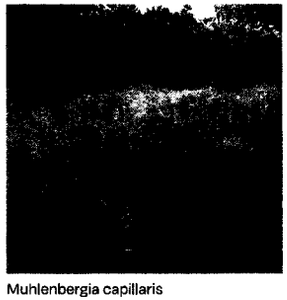


Pinus edulis
(Pinyon Pine)



Juniperus monosperma
(Juniper)

Structural



Muhlenbergia capillaris
(Pink Muhly Grass)



Muhlenbergia rigens (Deer Grass)



Opuntia macrorhiza
(Twistpine Pricklypear)



Ericameria nauseosa (Chamisa)

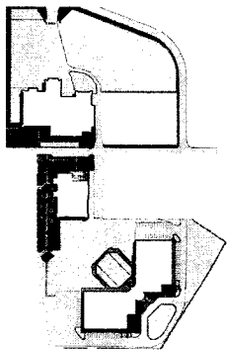
Groundcover



Cylindropuntia x viridiflora
(Santa Fe Cholla)

Plant Palette - Perimeter

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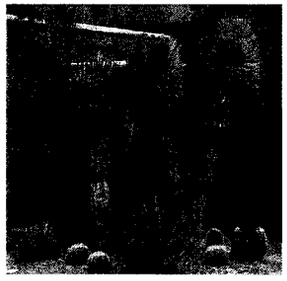


Key Map



Entry planting inspiration

Trees



Yucca elata (Soaptree Yucca)



Chilopsis linearis (Desert Willow)



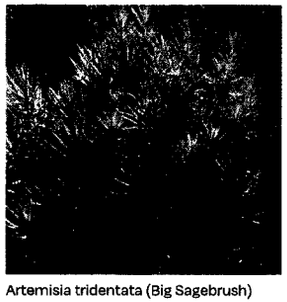
Pinus ponderosa
(Ponderosa Pine), 2-3" cal.

Accent

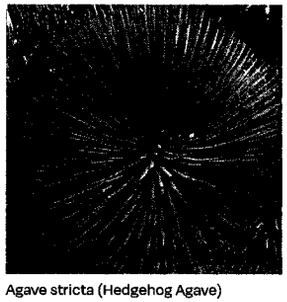


Agave perryi (Parry's Agave)

Structural



Artemisia tridentata (Big Sagebrush)



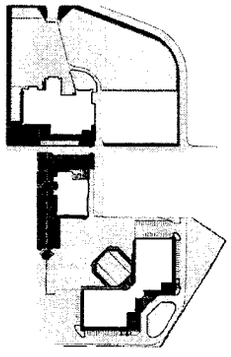
Agave stricta (Hedgehog Agave)



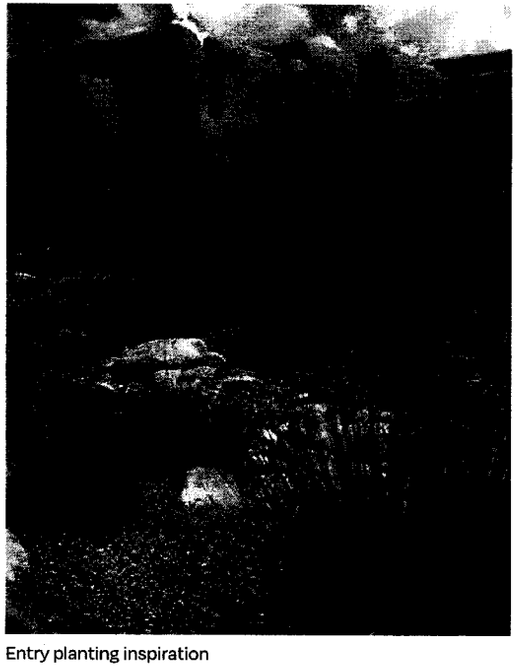
Muhlenbergia rigens (Deer Grass)

Plant Palette - Entry Option A

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Key Map



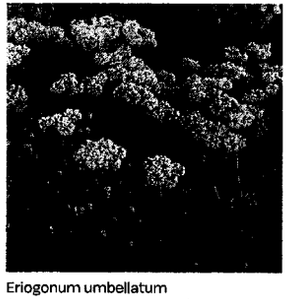
Entry planting inspiration

Trees



Chilopsis linearis (Desert Willow)

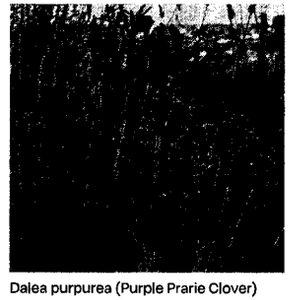
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Eriogonum umbellatum
(Sulphurflower Buckwheat)

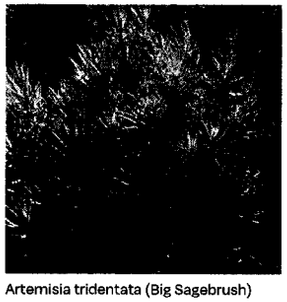


Muhlenbergia capillaris
(Pink Muhly Grass)



Dalea purpurea (Purple Prarie Clover)

Structural



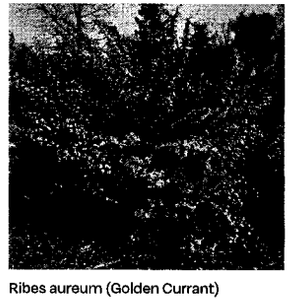
Artemisia tridentata (Big Sagebrush)



Salvia yangii (Russian Sage)



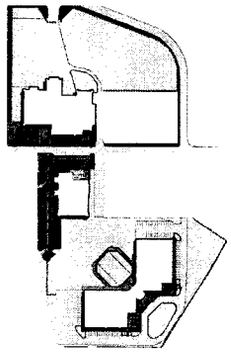
Fendlera rupicola
(Cliff Fendlerbush)



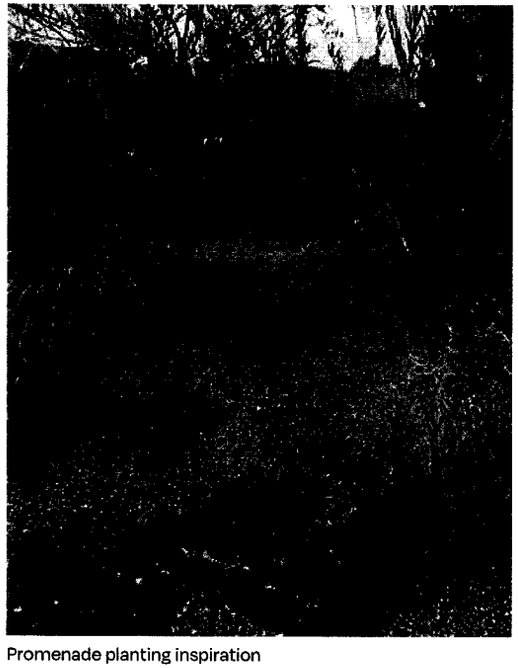
Ribes aureum (Golden Currant)

Plant Palette - Entry Option B

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Key Map



Promenade planting inspiration

Trees



Pinus ponderosa
(Ponderosa Pine), 2-3" cal.

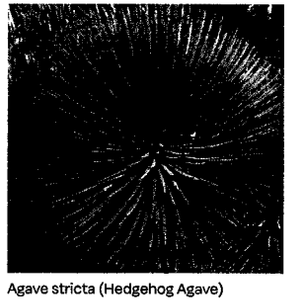


Quercus muehlenbergii
(Chinkapin Oak), 2-3" cal.



Pinus edulis (Pinyon Pine)

Accent

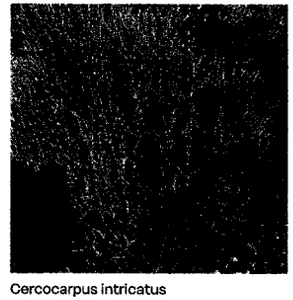


Agave stricta (Hedgehog Agave)

Structural



Artemisia tridentata (Big Sagebrush)



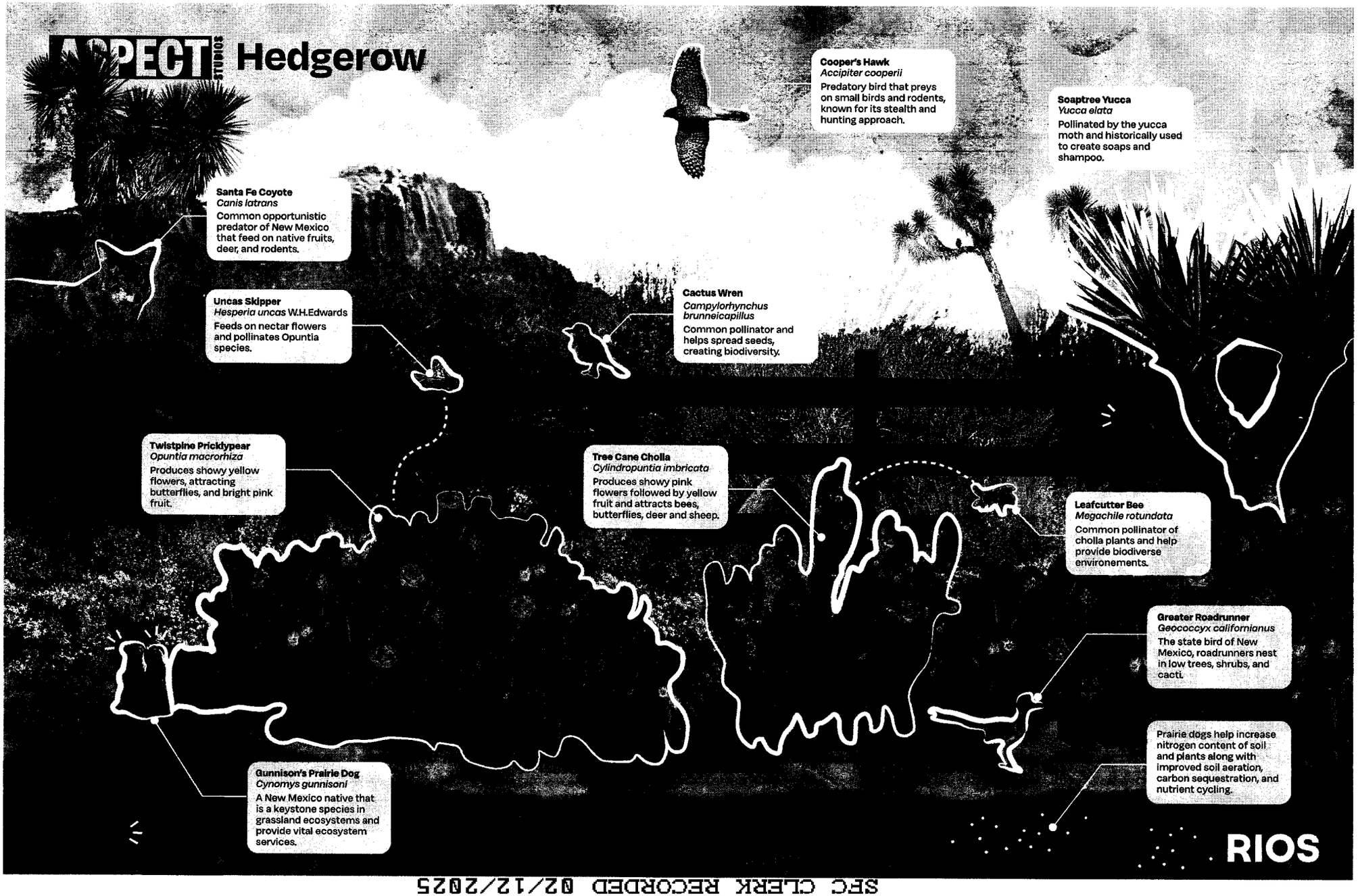
Cercocarpus intricatus
(Littlelead Mountain Mahogany)



Muhlenbergia rigens (Deer Grass)

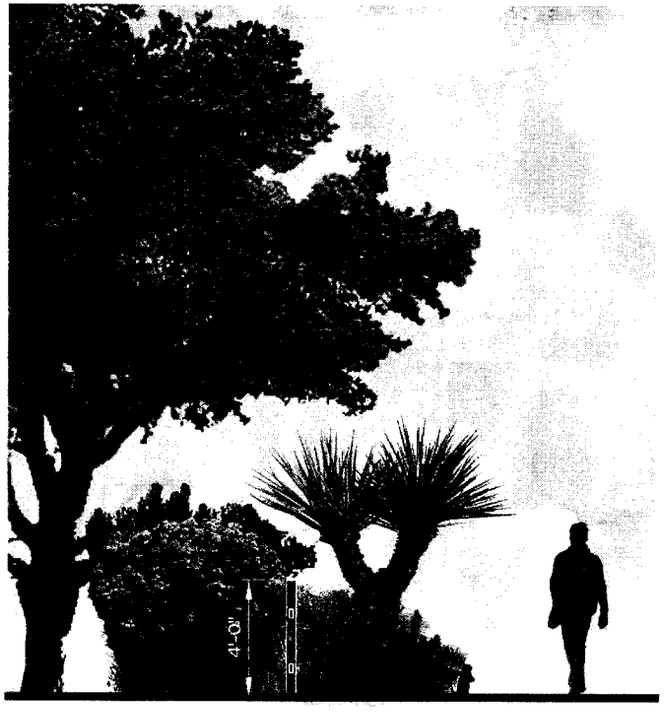
Plant Palette Inspiration - Promenade

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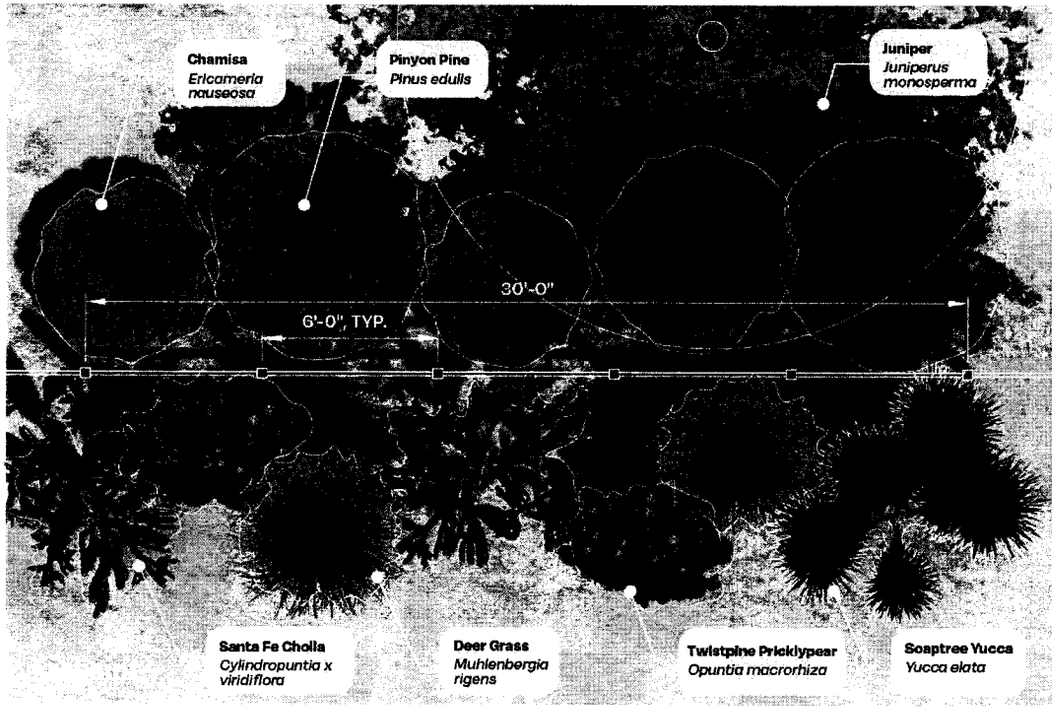


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ASPECT STUDIOS Hedgerow



SECTION



PLAN

Proposed Perimeter Planting

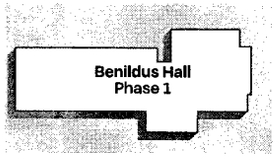
SFC CLERK RECORDED 02/12/2025

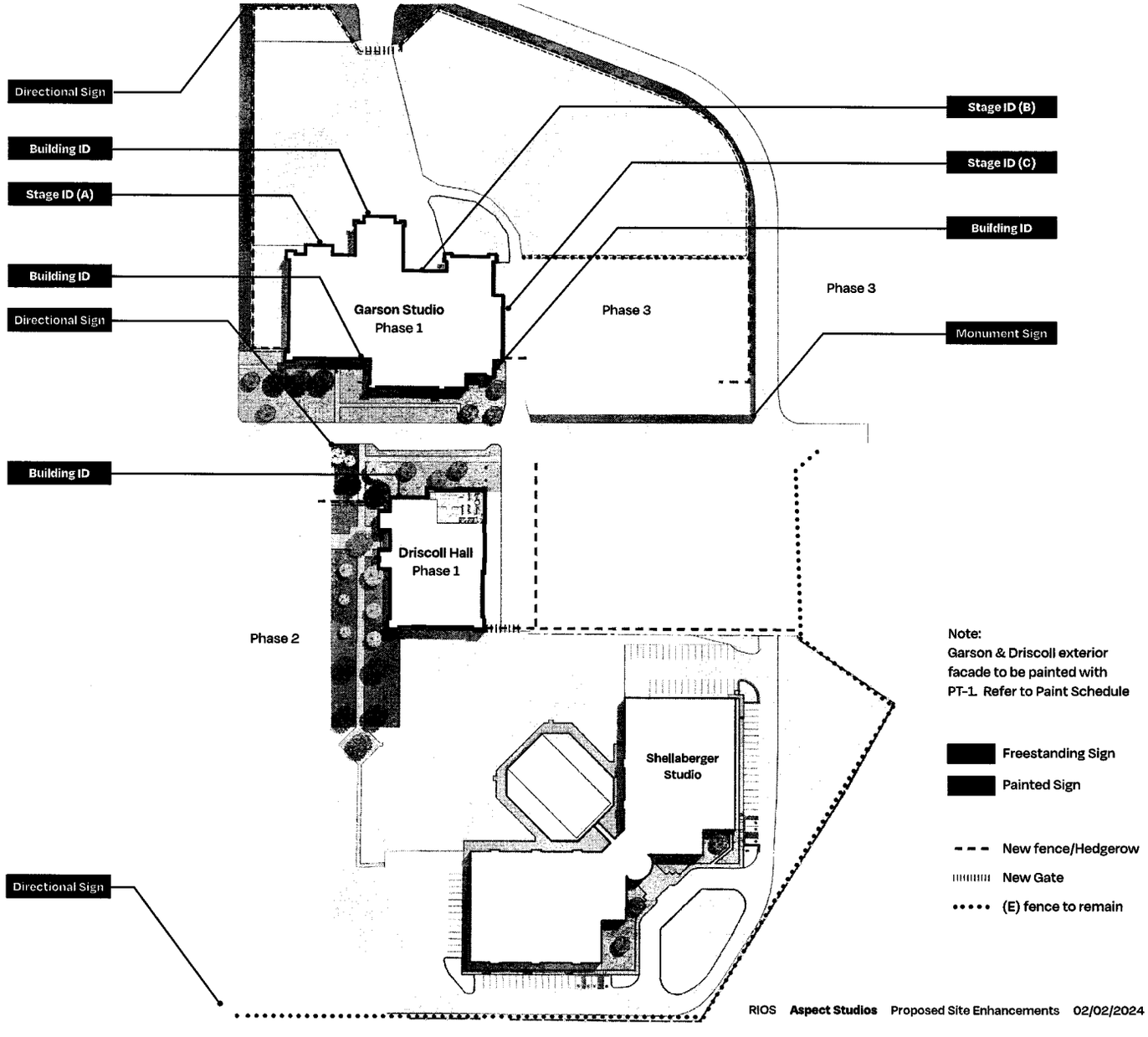


Hedgerows along proposed split rail fence

Proposed Perimeter Fencing

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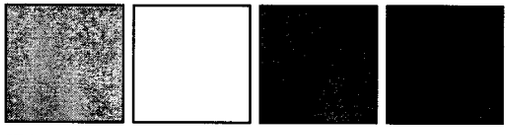
Sign Location Plan

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MATERIAL + FINISH SCHEDULE			
MARK	**DESCRIPTION**	**MANUFACTURER**	**FINISH/SHEEN**
M1	1/16" TH. ALUMINUM		
M2	1/8" TH. ALUMINUM		
C1	MP32071 WHITE WONDER	MATTHEWS PAINT	SATIN
C2	MP31846 ONYX	MATTHEWS PAINT	SATIN
C3	MP08091 YELLOW BLAST	MATTHEWS PAINT	SATIN

PAINT SCHEDULE				
MARK	**DESCRIPTION**	**MANUFACTURER**	**COLOR**	**FINISH/SHEEN**
PT-1	BUILDING BASE PAINT, PEWTER	BEN MOORE	FINAL COLOR TBD PER IN-FIELD SWATCH REVIEW	SATIN
PT-2	BUILDING ID PAINT, WHITE	BEN MOORE	FINAL COLOR TBD PER IN-FIELD SWATCH REVIEW	SATIN
PT-3	ACCENT PAINT 1 - AQUA/TEAL	BEN MOORE	FINAL COLOR TBD PER IN-FIELD SWATCH REVIEW	SATIN
PT-4	ACCENT PAINT - PINK/FUCHSIA	BEN MOORE	FINAL COLOR TBD PER IN-FIELD SWATCH REVIEW	SATIN

PAINT SWATCHES



PT-1 PT-2 PT-3 PT-4

Material + Finish Schedule

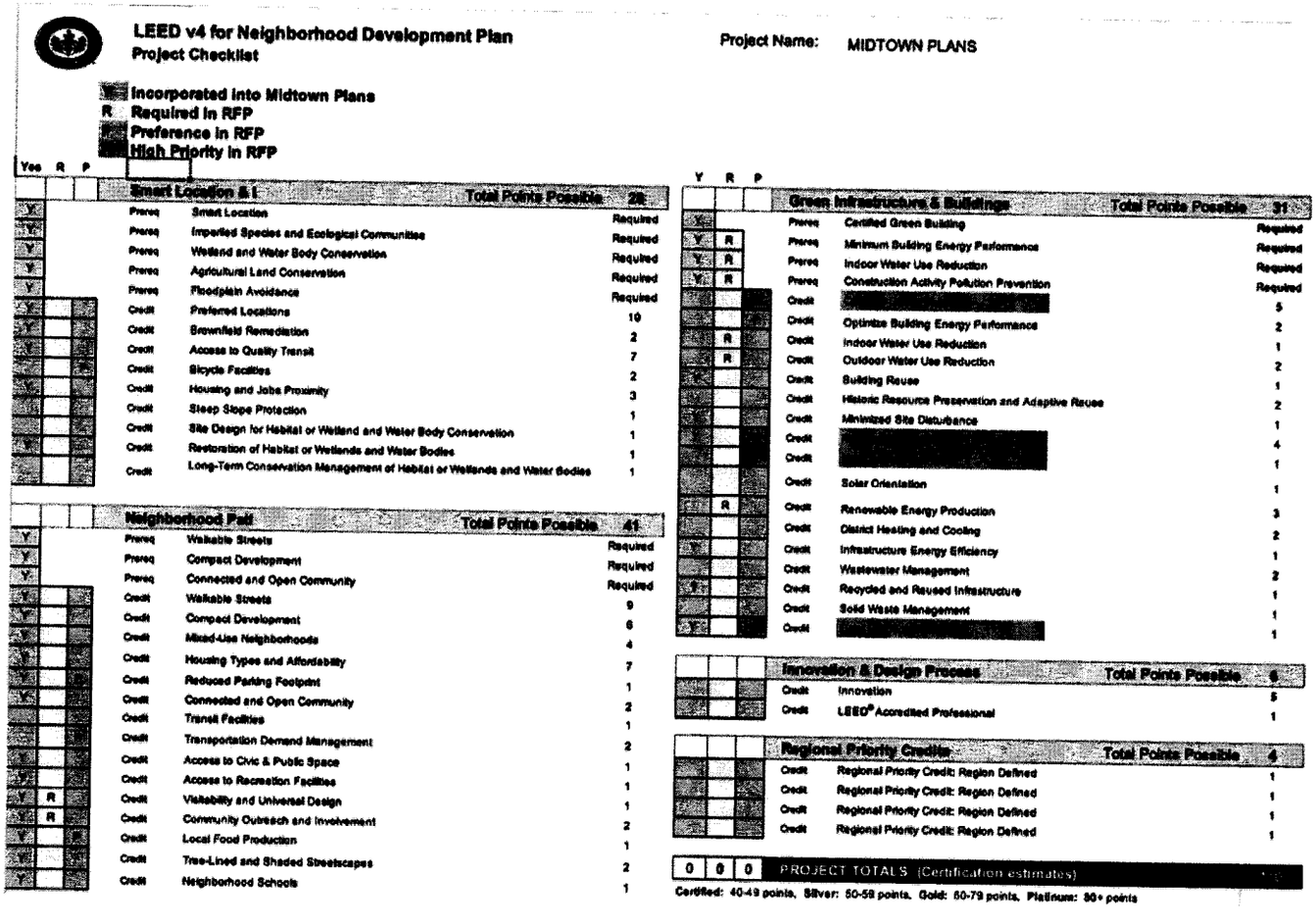
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EXHIBIT F

LEED REQUIREMENTS

[attached]

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LEED v4 for Neighborhood Development Plan
Project Checklist

Project Name: MIDTOWN PLANS

Incorporated into Midtown Plans
R Required in RFP
Preference in RFP
High Priority in RFP

Yes	R	P	Smart Location & L	Total Points Possible: 28	
Y			Prereq	Smart Location	Required
Y			Prereq	Imperiled Species and Ecological Communities	Required
Y			Prereq	Wetland and Water Body Conservation	Required
Y			Prereq	Agricultural Land Conservation	Required
Y			Prereq	Floodplain Avoidance	Required
			Credit	Preferred Locations	10
			Credit	Brownfield Remediation	2
			Credit	Access to Quality Transit	7
			Credit	Bicycle Facilities	2
			Credit	Housing and Jobs Proximity	3
			Credit	Steep Slope Protection	1
			Credit	Site Design for Habitat or Wetland and Water Body Conservation	1
			Credit	Restoration of Habitat or Wetlands and Water Bodies	1
			Credit	Long-Term Conservation Management of Habitat or Wetlands and Water Bodies	1

			Neighborhood Pat	Total Points Possible: 41	
Y			Prereq	Walkable Streets	Required
Y			Prereq	Compact Development	Required
Y			Prereq	Connected and Open Community	Required
			Credit	Walkable Streets	9
			Credit	Compact Development	6
			Credit	Mixed-Use Neighborhoods	4
			Credit	Housing Types and Affordability	7
			Credit	Reduced Parking Footprint	1
			Credit	Connected and Open Community	2
			Credit	Transit Facilities	1
			Credit	Transportation Demand Management	2
			Credit	Access to Civic & Public Space	1
			Credit	Access to Recreation Facilities	1
	R		Credit	Visitability and Universal Design	1
	R		Credit	Community Outreach and Involvement	2
			Credit	Local Food Production	1
			Credit	Tree-Lined and Shaded Streetscapes	2
			Credit	Neighborhood Schools	1

Y	R	P	Green Infrastructure & Buildings	Total Points Possible: 31	
Y			Prereq	Certified Green Building	Required
Y	R		Prereq	Minimum Building Energy Performance	Required
Y	R		Prereq	Indoor Water Use Reduction	Required
Y	R		Prereq	Construction Activity Pollution Prevention	Required
			Credit		5
			Credit	Optimize Building Energy Performance	2
	R		Credit	Indoor Water Use Reduction	1
	R		Credit	Outdoor Water Use Reduction	2
			Credit	Building Reuse	1
			Credit	Historic Resource Preservation and Adaptive Reuse	2
			Credit	Minimized Site Disturbance	1
			Credit		4
			Credit		1
			Credit	Solar Orientation	1
	R		Credit	Renewable Energy Production	3
			Credit	District Heating and Cooling	2
			Credit	Infrastructure Energy Efficiency	1
			Credit	Wastewater Management	2
			Credit	Recycled and Reused Infrastructure	1
			Credit	Solid Waste Management	1
			Credit		1

			Innovation & Design Process	Total Points Possible: 6	
			Credit	Innovation	5
			Credit	LEED® Accredited Professional	1

			Regional Priority Credits	Total Points Possible: 4	
			Credit	Regional Priority Credit: Region Defined	1
			Credit	Regional Priority Credit: Region Defined	1
			Credit	Regional Priority Credit: Region Defined	1
			Credit	Regional Priority Credit: Region Defined	1

0	0	0	PROJECT TOTALS (Certification estimates)

Certified: 40-49 points, Silver: 50-59 points, Gold: 60-79 points, Platinum: 80+ points

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LEED v4 for
NEIGHBORHOOD DEVELOPMENT

Updated July 2, 2018

Includes:
LEED ND: Plan
LEED ND: Built Project

SFC CLERK RECORDED 02/12/2025

SMART LOCATION AND LINKAGE (SLL) 6

SLL Prerequisite: Smart Location **6**
ND Plan, ND 6

SLL Prerequisite: Imperiled Species and Ecological Communities Conservation **8**
ND Plan, ND 8

SLL Prerequisite: Wetland and Water Body Conservation **10**
ND Plan, ND 10

SLL Prerequisite: Agricultural Land Conservation **12**
ND Plan, ND 12

SLL Prerequisite: Floodplain Avoidance **14**
ND Plan, ND 14

SLL Credit: Preferred Locations **16**
ND Plan, ND 16

SLL Credit: Brownfield Remediation **18**
ND Plan, ND (SLL) 18

LT Credit: Access to Quality Transit **19**
ND Plan, ND 19

LT Credit: Bicycle Facilities **21**
ND Plan, ND 21

SLL Credit: Housing and Jobs Proximity **23**
ND Plan, ND 23

SLL Credit: Steep Slope Protection **24**
ND Plan, ND 24

SLL Credit: Site Design for Habitat or Wetland and Water Body Conservation **25**
ND Plan, ND (SLL) 25

SLL Credit: Restoration of Habitat or Wetlands and Water Bodies **27**
ND Plan, ND (SLL) 27

SLL Credit: Long-Term Conservation Management of Habitat or Wetlands and Water Bodies **28**
ND Plan, ND (SLL) 28

NEIGHBORHOOD PATTERN AND DESIGN (NPD) 29

NPD Prerequisite: Walkable Streets **29**
ND Plan, ND 29

NPD Prerequisite: Compact Development **31**
ND Plan, ND 31

NPD Prerequisite: Connected and Open Community **32**
ND Plan, ND 32

NPD Credit: Walkable Streets **33**

SFC CLERK RECORDED 02/12/2025

ND Plan, ND 33

NPD Credit: Compact Development 36
ND Plan, ND 36

NPD Credit: Mixed-Use Neighborhoods 37
ND Plan, ND 37

NPD Credit: Housing Types and Affordability 39
ND Plan, ND 39

LT Credit: Reduced Parking Footprint 41
ND Plan, ND 41

NPD Credit: Connected and Open Community 42
ND Plan, ND 42

NPD Credit: Transit Facilities 43
ND Plan, ND 43

NPD Credit: Transportation Demand Management 44
ND Plan, ND 44

NPD Credit: Access to Civic and Public Space 46
ND Plan, ND 46

NPD Credit: Access to Recreation Facilities 47
ND Plan, ND 47

NPD Credit: Visitability and Universal Design 48
ND Plan, ND 48

NPD Credit: Community Outreach and Involvement 50
ND Plan, ND 50

NPD Credit: Local Food Production 51
ND Plan, ND 51

NPD Credit: Tree-Lined and Shaded Streetscapes 53
ND Plan, ND 53

NPD Credit: Neighborhood Schools 54
ND Plan, ND 54

GREEN INFRASTRUCTURE AND BUILDINGS (GIB) 55

GIB Prerequisite: Certified Green Building 55
ND Plan, ND (GIB) 55

GIB Prerequisite: Minimum Building Energy Performance 56
ND Plan, ND 56

WE Prerequisite: Indoor Water Use Reduction 58
ND Plan, ND 58

SS Prerequisite: Construction Activity Pollution Prevention 60
ND Plan, ND (GIB) 60

SFC CLERK RECORDED 02/12/2025

GIB Credit: Certified Green Buildings **61**
ND Plan, ND 61

GIB Credit: Optimize Building Energy Performance **62**
ND Plan, ND 62

WE Credit: Indoor Water Use Reduction **64**
ND Plan, ND (GIB) 64

WE Credit: Outdoor Water Use Reduction **66**
ND Plan, ND (GIB) 66

GIB Credit: Building Reuse **67**
ND Plan, ND (GIB) 67

GIB Credit: Historic Resource Preservation and Adaptive Reuse **68**
ND Plan, ND (GIB) 68

GIB Credit: Minimized Site Disturbance **69**
ND Plan, ND (GIB) 69

SS Credit: Rainwater Management **71**
ND Plan, ND (GIB) 71

SS Credit: Heat Island Reduction **72**
ND Plan, ND (GIB) 72

GIB Credit: Solar Orientation **74**
ND Plan, ND 74

EA Credit: Renewable Energy Production **75**
ND Plan, ND 75

GIB Credit: District Heating and Cooling **76**
ND Plan, ND 76

GIB Credit: Infrastructure Energy Efficiency **77**
ND Plan, ND 77

GIB Credit: Wastewater Management **78**
ND Plan, ND (GIB) 78

GIB Credit: Recycled and Reused Infrastructure **79**
ND Plan, ND (GIB) 79

GIB Credit: Solid Waste Management **80**
ND Plan, ND (GIB) 80

SS Credit: Light Pollution Reduction **81**
ND Plan, ND (GIB) 81

INNOVATION (IN) **85**

IN Credit: Innovation **85**
ND Plan, ND 85

IN Credit: LEED Accredited Professional **86**

SFC CLERK RECORDED 02/12/2025

ND Plan, ND 86

REGIONAL PRIORITY (RP) 87

ND Plan, ND 87

APPENDICES 88

Appendix 1. Use Types and Categories 88

Appendix 2. Default Occupancy Counts 89

Appendix 3. Retail Process Load Baselines 90

SFC CLERK RECORDED 02/12/2025

SMART LOCATION AND LINKAGE (SLL)

SLL PREREQUISITE: SMART LOCATION
Required

ND
This prerequisite applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To encourage development within and near *existing* communities and public transit infrastructure. To encourage improvement and redevelopment of existing cities, suburbs, and towns while limiting the expansion of the *development footprint* in the region. To reduce vehicle trips and vehicle distance traveled. To reduce the incidence of obesity, heart disease, and hypertension by encouraging daily physical activity associated with walking and bicycling.

Requirements

ND PLAN, ND

For All Projects
Either (1) locate the *project* on a site served by existing *water and wastewater infrastructure* or (2) locate the project within a legally adopted, publicly owned, planned water and wastewater service area, and provide new water and wastewater infrastructure for the project.

The site should also meet the requirements of one of the following four options.

Option 1. Infill Sites

Locate the project on an *infill site.*

OR

Option 2. Adjacent Sites with Connectivity

Locate the project on an *adjacent site* (i.e., a site that is adjacent to *previously developed* land) where the *connectivity* of the adjacent land is at least 90 intersections per square mile (35 intersections per square kilometer) as measured within a ½-mile (800-meter) distance of a continuous segment of the *project boundary* that constitutes at least 25% of the total project boundary and is adjacent to previous development.

Existing intersections may be counted if they were not constructed or funded by the project *developer* within the past 10 years.

Locate and/or design the project such that a through-connection (of the circulation network) intersects the adjacent portion of the project boundary at least every 600 feet (180 meters) on average and at least every 800 feet (245 meters), connecting it with an existing circulation network outside the project; nonmotorized through-connections of the circulation network may count for no more than 20% of the total. The exemptions listed in NPD Prerequisite Connected and Open Community do not apply to this option.

OR

Option 3. Transit Corridor

Locate the project on a site with existing or planned transit service such that at least 50% of *dwelling units* and nonresidential use entrances (inclusive of existing buildings) are within a ¼-mile (400-meter) *walking distance* of at least one bus, *streetcar,* or *rideshare* stop, or within a ½-mile (800-meter) walking distance of at least one *bus*

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rapid transit stop, light or heavy rail station, or commuter ferry terminal. The transit service at the stop(s) in aggregate must meet the minimums listed in Table 1.

Projects must meet the requirements for both weekday and weekend trips and provide service every day.

Table 1. Minimum daily transit service

	Weekday trips	Weekend trips
Projects with multiple transit types (bus, streetcar, rail, or ferry)	60	40
Projects with commuter rail or ferry service only	24	6

If transit service is planned but not yet operational, the project must demonstrate one of the following:

1. The relevant transit agency has a signed full-funding grant agreement with the Federal Transit Administration (or equivalent national agency for project outside the U.S.) that includes a revenue operations date for the start of transit service. The revenue operations date must be no later than the date by which 50% of the project's total building gross floor area will be occupied.
2. For bus, streetcar, bus rapid transit, or ferry service, the transit agency must certify that it has an approved budget that includes specifically allocated funds sufficient to provide the planned service at the levels listed above and that service at these levels will begin no later than the date by which 50% of the project's total building gross floor area will be occupied.
3. For rail service other than streetcars, the transit agency must certify that preliminary engineering for a rail line has begun. In addition, the service must meet either of these two requirements:
   - A state legislature or local subdivision of the state (or a local government for projects outside the U.S.) has authorized the transit agency to expend funds to establish rail transit service that will begin no later than the date by which 50% of the project's total building gross floor area will be occupied.

     Or

   - A local government has dedicated funding or reimbursement commitments from future tax revenue for the development of stations, platforms, or other rail transit infrastructure that will serve the project no later than the date by which 50% of the project's total building gross floor area will be occupied.

OR

Option 4. Sites with Nearby Neighborhood Assets

Include a residential component equaling at least 30% of the project's total building gross floor area (exclusive of portions of parking structures devoted exclusively to parking) and locate the project near existing *uses* (see Appendix 1) such that the project boundary is within a ¼-mile (400-meter) walking distance of at least five uses, or such that the project's geographic center is within a ½-mile (800-meter) walking distance of at least seven uses.
The following restrictions apply.

- A use counts as only one type (e.g., a retail store may be counted only once even if it sells products in several categories).
- No more than two uses in each use type may be counted (e.g., if five restaurants are within the required distance, only two may be counted).
- The uses accessible to the project must represent at least two categories.

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SLL PREREQUISITE: IMPERILED SPECIES AND ECOLOGICAL COMMUNITIES CONSERVATION
Required

ND
This prerequisite applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To conserve imperiled species and ecological communities.

Requirements

ND PLAN, ND

Consult with the state Natural Heritage Program and state fish and wildlife agencies (or local equivalent for projects outside the U.S.) to determine if any of the following have been or are likely to be found on the project site because of the presence of suitable habitat and nearby occurrences:

- species listed as threatened or endangered under the U.S. Endangered Species Act or the state's endangered species act, or
- species or ecological communities classified by NatureServe as GH (possibly extinct), G1 (critically imperiled), or G2 (imperiled), or
- species listed as threatened or endangered specified under local equivalent standards (in areas outside the U.S.) that are not covered by NatureServe data.

If the consultations are inconclusive and site conditions indicate that imperiled species or ecological communities could be present, perform biological surveys using accepted methodologies during appropriate seasons to determine whether such species or communities occur or are likely to occur on the site. Comply with the appropriate case or option below.

Case 1. Sites without Affected Species or Ecological Community

The prerequisite is satisfied if the consultation and any necessary biological surveys determine that no such imperiled species or ecological communities have been found or have a high likelihood of occurring.

OR

Case 2. Sites with Affected Species or Ecological Community

If the site has any affected species or ecological communities, meet either of the following two options.

Option 1. Habitat Conservation Plan
Comply with an approved habitat conservation plan under the U.S. Endangered Species Act (or local equivalent for projects outside the U.S.) for each identified species or ecological community.

OR

Option 2. Habitat Conservation Plan Equivalent
Work with a qualified biologist or ecologist, a conservation organization, or the appropriate national, state or local agency to create and implement a conservation plan that includes the following actions:

- Identify and map the extent of the habitat and the appropriate buffer, not less than 100 feet (30 meters), according to best available scientific information.
- If on-site protection can be accomplished, analyze threats from development and develop a monitoring and management plan that eliminates or significantly reduces the threats.

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- Protect the identified habitat and buffer in perpetuity by donating or selling the land or a conservation easement on the land to an accredited land trust, conservation organization, or relevant government agency.
- If any portion of the identified habitat and buffer cannot be protected in perpetuity, quantify the effects by acres (hectares) or number of plants and/or animals affected, and protect from development in perpetuity habitat of similar or better quality, on-site or off-site, by donating or selling a conservation easement on it to an accredited land trust, conservation organization, or relevant government agency. The donation or easement must cover an amount of land equal to or larger than the area that cannot be protected.

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SLL PREREQUISITE: WETLAND AND WATER BODY CONSERVATION
Required

ND
This prerequisite applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To preserve water quality, natural hydrology, habitat, and biodiversity through conservation of *wetlands* and *water bodies.*

Requirements

ND PLAN, ND

Limit development effects on wetlands, water bodies, and surrounding buffer land according to the requirements below.

Case 1. Sites without Sensitive Areas

Locate the *project* on a site that includes no *preproject* wetlands, water bodies, land within 50 feet (15 meters) of wetlands, and land within 100 feet (30 meters) of water bodies.

Case 2. Sites with Sensitive Areas

If the site has preproject wetlands, water bodies, land within 50 feet (15 meters) of wetlands, or land within 100 feet (30 meters) of water bodies, select one of the following two options:

Option 1. No Development on Wetlands and Water Bodies
Locate the project such that *preproject* wetlands, water bodies, land within 50 feet (15 meters) of wetlands, and land within 100 feet (30 meters) of water bodies are not affected by new development, unless the development is minor improvements or is on *previously developed* land.

OR

Option 2. Rainwater Management and Protected Buffers
Earn at least 1 point under GIB Credit Rainwater Management, and limit any development beyond minor improvements to less than the percentage of buffer land listed in Table 1.

Table 1. Maximum allowable area of development within buffer zone, by project density

> 25	> 62	> 1.75	≤ 20%
> 18 and ≤ 25	> 45 and ≤ 62	> 1.25 to ≤ 1.75	≤ 15%
> 10 and ≤ 18	> 25 and ≤ 45	> .75 to ≤ 1.25	≤ 10%
≤ 10	≤ 25	≤ .75	≤ 5%

DU = dwelling unit; FAR = floor-area ratio.

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* For this option, a mixed-use project may use either its residential or its nonresidential *density* to determine the percentage of allowable development, regardless of which is higher.
** Buffer width may vary as long as the total buffer area is equal to the area within 50 feet (15 meters) of wetlands and/or within 100 feet (30 meters) of water bodies, minus excluded features (see list of minor improvements, below). In no case may the buffer width be less than 25 feet (7.5 meters) for wetlands and 50 feet (15 meters) for water bodies, measured from the edge. Inside this minimum buffer, only minor improvements and/or improvements that result in no ecological impairment of the wetland or water body, as determined by a qualified biologist, are allowed.

For All Projects
Comply with all local, state, and national regulations pertaining to wetland and water body conservation.
The following features are not considered wetlands, water bodies, or buffer land that must be protected for the purposes of this prerequisite:

- previously developed land;
- man-made water bodies (such as industrial mining pits, concrete-lined canals, or stormwater retention ponds) that lack natural edges and floors or native ecological communities in the water and along the edge;
- man-made linear wetlands that result from the interruption of natural drainages by *existing* rights-of-way; and
- wetlands that were man-made incidentally and have been rated "poor" for all measured wetland functions, as assessed by a qualified biologist using a method that is accepted by state or regional permitting agencies (or a local equivalent for projects outside the U.S.).

Minor improvements within the buffer may be undertaken to enhance appreciation for the wetland or water body, provided such facilities are open to public access. Only the following improvements are permitted:

- bicycle and pedestrian pathways no more than 12 feet wide (3.5 meters), of which no more than 8 total feet (2.5 meters) may be impervious;
- activities to maintain or restore native natural communities and/or natural hydrology;
- one single-story structure not exceeding 500 square feet (45 square meters) per 300 linear feet (90 linear meters) of buffer, on average;
- grade changes necessary to ensure public access;
- clearings, limited to one per 300 linear feet (90 linear meters) of buffer, on average, not exceeding 500 square feet (45 square meters) each, for tables, benches, and access for nonmotorized recreational watercraft;
- removal of hazardous trees (up to 75% of dead trees), trees smaller than 6 inches (150 millimeters) in diameter at breast height, trees with a condition rating of less than 40%, and up to 20% of trees larger than 6 inches (150 millimeters) in diameter at breast height with a condition rating of 40% or higher, as based on an assessment by an arborist certified by the International Society of Arboriculture (ISA) using ISA standard measures or for projects outside the U.S.an equivalent certified professional utilizing equivalent methodology; and
- *brownfield* remediation activities.

Off-street parking is not considered a minor improvement.

Direct development of wetlands and water bodies is prohibited, except for minimal-impact structures, such as an elevated boardwalk, that allow access to the water for educational and recreational purposes. Structures that protrude into wetlands or water bodies may be replaced, provided the replacement structure has the same or smaller footprint and a similar height.

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SLL PREREQUISITE: AGRICULTURAL LAND CONSERVATION
Required

ND
This prerequisite applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To preserve irreplaceable agricultural resources by protecting *prime* and *unique farmland* from development.

Requirements

ND PLAN, ND

Locate the *project* on a site that is not within a state or locally designated agricultural preservation district (or local equivalent for projects outside the U.S.), unless any changes made to the site conform to the requirements for development within the district (as used in this requirement, "district" does not equate to land-use zoning).

Meet the requirements of one of the following five options.

Option 1. Infill Sites
Locate the project on an *infill site.*

OR

Option 2. Sites Served by Transit
Comply with SLL Prerequisite Smart Location, Option 3, Transit Corridor.

OR

Option 3. Development Rights Receiving Area
Locate the project within a designated receiving area for development rights under a publicly administered farmland protection program that provides for the transfer of development rights from lands designated for conservation to lands designated for development.

OR

Option 4. Sites without Affected Soils
Locate the project's *development footprint* such that it does not disturb prime farmland, unique farmland, or farmland of statewide or local importance as defined by the U.S. Code of Federal Regulations, Title 7, Volume 6, Parts 400 to 699, Section 657.5 and identified in a state Natural Resources Conservation Service soil survey (or local equivalent for projects outside the U.S.).

OR

Option 5. Sites with Affected Soils
If development footprint affects land with prime farmland, unique farmland, or farmland of statewide or local importance as defined by the U.S. Code of Federal Regulations, Title 7, Volume 6, Parts 400 to 699, Section 657.5 and identified in a state Natural Resources Conservation Service soil survey (or local equivalent for projects outside the U.S.), mitigate the loss through the purchase or donation of easements providing permanent protection from development on land with comparable soils in accordance with the ratios based on densities per acre (per hectare) of *buildable land* listed in Tables 1 and 2.

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Table 1. Mitigation ratios for projects in large metropolitan or micropolitan statistical areas (pop. 250,000 or more)

> 7 and ≤ 8.5	> 17.5 and ≤ 21	> 0.50 and ≤ 0.67	2 to 1
> 8.5 and ≤ 10	> 21 and ≤ 25	> 0.67 and ≤ 0.75	1.5 to 1
> 10 and ≤ 11.5	> 25 and ≤ 28.5	> 0.75 and ≤ 0.87	1 to 1
> 11.5 and ≤ 13	> 28.5 and ≤ 32	> 0.87 and ≤ 1.0	.5 to 1
> 13	> 32	> 1.0	No mitigation

Table 2. Mitigation ratios for projects in small metropolitan or micropolitan statistical areas (pop. less than 250,000)

> 7 and ≤ 8	> 17.5 and ≤ 20	> 0.50 and ≤ 0.58	2 to 1
> 8 and ≤ 9	> 20 and ≤ 22	> 0.58 and ≤ 0.67	1 to 1
> 9 and ≤ 10	> 22 and ≤ 25	> 0.67 and ≤ 0.75	0.5 to 1
> 10	> 25	> 0.75	No mitigation

DU = dwelling unit; FAR = floor-area ratio.

All off-site mitigation must be located within 100 miles (160 kilometers) of the project.
Up to 15% of the affected farmland area may be subtracted from the mitigation area required of the project in Tables 1 and 2 if it is permanently dedicated for community gardens. Portions of parking structures devoted exclusively to parking must be excluded from the numerator when calculating the *floor-area ratio* (FAR).

The mitigation ratio for a mixed-use project is calculated as follows:
1. Determine the total floor area of all residential and nonresidential uses.
2. Calculate the percentage residential and percentage nonresidential of the total floor area.
3. Determine the density of the residential and nonresidential components as measured in *dwelling units* per acre and FAR, respectively.
4. Referring to Tables 1 and 2, find the appropriate mitigation ratios for the residential and nonresidential components.
5. If the mitigation ratios are different, multiply the mitigation ratio of the residential component by its percentage of the total floor area, and multiply the mitigation ratio of the nonresidential component by its percentage.
6. Add the two numbers produced by step 5. The result is the mitigation ratio.

SFC CLERK RECORDED 02/12/2025

SLL PREREQUISITE: FLOODPLAIN AVOIDANCE
Required

ND
This prerequisite applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To protect life and property, promote open space and habitat conservation, and enhance water quality and natural hydrologic systems.

Requirement

ND PLAN, ND

Case 1. Sites without Flood Hazard Areas

Locate on a site that is entirely outside any flood hazard area shown on a legally adopted flood hazard map or otherwise legally designated by the local jurisdiction or the state. For projects in places without legally adopted flood hazard maps or legal designations, locate on a site that is entirely outside any floodplain subject to a 1% or greater chance of flooding in any given year.

Case 2. Infill or Previously Developed Sites with Flood Hazard Areas

Locate the *project* on an *infill site* or a *previously developed site* and select one of the following two options.

Option 1. American Society of Civil Engineers Standard

For any portion of the site within the flood hazard area, design buildings in accordance with American Society of Civil Engineers Standard 24-05 (ASCE 24).

If the project includes construction of a critical facility that is intended to remain operational in the event of a flood, or whose function is critical for postflood recovery, design the facility to be protected and operable at the floodwater levels specified in ASCE 24, or at the water levels represented by a 0.2% annual chance (500-year) flood, whichever is higher. For the purpose of this requirement, critical facilities include, but are not limited to, hospitals, emergency operations centers, building or portions of buildings designated as emergency shelters, water and sewage treatment facilities, and fire and police stations.

OR

Option 2. National Flood Insurance Program

For any portion of the site within the flood hazard area, design buildings in accordance with National Flood Insurance Program (NFIP) requirements. Project outside the U.S. may use a local equivalent to NFIP if the program is equal to or more stringent than NFIP and is administered at the national level.

> If the project involves a critical facility that is intended to remain operational in the event of a flood, or whose function is critical for postflood recovery, design the facility to be protected and operable at the water levels represented by a 0.2% annual chance (500-year) flood. For the purpose of this requirement, critical facilities include, but are not limited to, hospitals, emergency operations centers, building or portions of buildings designated as emergency shelters, water and sewage treatment facilities, and fire and police stations.

Case 3. All Other Sites with Flood Hazard Areas

Meet the requirements of one of the following two options.

SFC CLERK RECORDED 02/12/2025

Option 1. American Society of Civil Engineers Standard

Previously developed portions of the site
On portions of the site that are previously developed and in the flood hazard area, design buildings in accordance with American Society of Civil Engineers Standard 24-05 (ASCE 24).

Nonpreviously developed portions of the site
On portions of the site that are not previously developed and in the flood hazard area, do not develop on land that is within either a regulatory floodway or a coastal high hazard area (Zone V), as shown on the flood hazard map.

On all other portions of the site that are not previously developed and in the flood hazard area, design buildings in accordance with ASCE 24.

Critical facilities in the flood hazard area
If the project involves a critical facility that is intended to remain operational in the event of a flood, or whose function is critical for postflood recovery, design the facility to be protected and operable at the floodwater levels specified in ASCE 24 or at the water levels represented by a 0.2% annual chance (500-year) flood, whichever is higher. For the purpose of this requirement, critical facilities include, but are not limited to, hospitals, emergency operations centers, building or portions of buildings designated as emergency shelters, water and sewage treatment facilities, and fire and police stations.

OR

Option 2. National Flood Insurance Program

Previously developed portions of the site
On portions of the site that are previously developed and in the flood hazard area, design buildings in accordance with National Flood Insurance Program (NFIP) requirements. Project outside of the U.S. may use a local equivalent to NFIP if the program is equal to or more stringent than NFIP and is administered at the national level.

Nonpreviously developed portions of the site
On portions of the site that are not previously developed and in the flood hazard area, do not develop on land that is within either a regulatory floodway or a coastal high hazard area (Zone V), as shown on the flood hazard map.

On all other portions of the site that are not previously developed and in the flood hazard area, design buildings in accordance with NFIP.

Critical facilities in the flood hazard area
If the project involves a critical facility that is intended to remain operational in the event of a flood, or whose function is critical for postflood recovery, design the facility to be protected and operable at the water levels represented by a 0.2% annual chance (500-year) flood. For the purpose of this requirement, critical facilities include, but are not limited to, hospitals, emergency operations centers, building or portions of buildings designated as emergency shelters, water and sewage treatment facilities, and fire and police stations.

SFC CLERK RECORDED 02/12/2025

SLL CREDIT: PREFERRED LOCATIONS

ND
1–10 points
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To encourage development within *existing* cities, suburbs, and towns to reduce the environmental and public health consequences of sprawl. To reduce development pressure beyond the limits of existing development. To conserve the natural and financial resources required for infrastructure.

Requirements

ND PLAN, ND

Achieve any combination of requirements in the following three options, for a total of up to 10 points.

Option 1. Location Type (1–5 points)

Locate the *project* in one of the following locations:

- a *previously developed site* that is not an *adjacent site* or *infill site* (1 point);
- an *adjacent site* that is also a previously developed site (2 points);
- an infill site that is not a previously developed site (3 points); or
- an infill site that is also a previously developed site (5 points).

AND/OR

Option 2. Connectivity (1-5 points)

Locate the project in an area that has existing *connectivity,* as listed in Table 1. Measure connectivity one of two ways:

- within 1/2 mile (800 meters) of the project boundary; or
- within the project and within ½ mile (800 meters) of the project boundary.

Intersections within the site cannot be counted if they were constructed or funded by the *developer* within the past 10 years.

Table 1. Points for connectivity

Intersections per square mile	Intersections per square kilometer	Points
200–249	320–399	1
250–299	400–479	2
300–349	480–559	3
350–399	560–639	4
> 400	> 640	5

AND/OR

Option 3. Designated High-Priority Locations (3 points)

Earn at least 2 points under NPD Credit Housing Types and Affordability, Option 2, Affordable Housing.

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AND

Locate the project in one of the following high-priority redevelopment areas:

- a site listed by the EPA National Priorities List;
- a Federal Empowerment Zone site;
- a Federal Enterprise Community site;
- a Federal Renewal Community site;
- a Department of the Treasury Community Development Financial Institutions Fund Qualified Low-Income Community (a subset of the New Markets Tax Credit Program);
- a site in a U.S. Department of Housing and Urban Development's Qualified Census Tract (QCT) or Difficult Development Area (DDA); or
- a local equivalent program administered at a national level for projects outside the U.S.

SFC CLERK RECORDED 02/12/2025

SLL CREDIT: BROWNFIELD REMEDIATION

ND
1–2 points
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent
To encourage the cleanup of contaminated lands and developing sites that have been identified as contaminated.

Requirements

ND PLAN, ND (SLL)

Option 1. Brownfield Site (1 point)

At a project site identified as a brownfield or where soil or groundwater contamination has been identified, and the local, state, or national authority (whichever has jurisdiction) requires its remediation, perform remediation to the satisfaction of that authority.

OR

Option 2. High-Priority Redevelopment Area (2 points)
Achieve the requirements in Option 1.

AND

Locate the project in one of the following high-priority redevelopment areas:

- EPA National Priorities List
- Federal Empowerment Zone
- Federal Enterprise Community
- Federal Renewal Community
- Department of the Treasury Community Development Financial Institutions Fund Qualified Low-Income Community (a subset of the New Markets Tax Credit Program)
- U.S. Department of Housing and Urban Development's Qualified Census Tract (QCT) or Difficult Development Area (DDA)
- Or a local equivalent program administered at the national level for projects outside the U.S.

SFC CLERK RECORDED 02/12/2025

LT CREDIT: ACCESS TO QUALITY TRANSIT

ND
1–7 points
This credit applies to

- Neighborhood Development Plan (1–7 points)
- Neighborhood Development (1–7 points)

Intent

To encourage development in locations shown to have multimodal transportation choices or otherwise reduced motor vehicle use, thereby reducing greenhouse gas emissions, air pollution, and other environmental and public health harms associated with motor vehicle use.

Requirements

ND PLAN, ND

Locate the project on a site with existing or planned transit (i.e., service with the funding commitments as specified in SLL Prerequisite Smart Location) service such that at least 50% of *dwelling units* and nonresidential use entrances (inclusive of existing buildings) are within a ¼-mile (400-meter) *walking distance* of at least one bus or *streetcar* stop, or within a ½-mile (800-meter) walking distance of at least one *bus, streetcar, or rideshare stops or within a ½-mile (800-meter) walking distance of bus rapid transit* stop, light or heavy rail station, commuter rail station, or commuter ferry terminal and the transit service at the stop(s) in aggregate meets the minimums listed in Tables 1 and 2.

Projects must meet the requirements for both weekday and weekend trips and provide service every day.

Table 1. Minimum daily transit service for projects with multiple transit types (bus, *streetcar*, rail, or ferry).

Weekday trips	Weekend trips	Points
60	40	1
76	50	2
100	65	3
132	85	4
180	130	5
246	150	6
320	200	7

Table 2. Minimum daily transit service for projects with commuter rail or ferry service only

Weekday trips	Weekend trips	Points
24	6	1
40	8	2
60	12	3

Projects served by two or more transit routes such that no one route provides more than 60% of the prescribed levels may earn an additional point, up to the maximum number of points.

SFC CLERK RECORDED 02/12/2025

If existing transit service is temporarily rerouted outside the required distances for less than two years, the project may meet the requirements, provided the local transit agency has committed to restoring the routes with service at or above the prior level.

SFC CLERK RECORDED 02/12/2025

LT CREDIT: BICYCLE FACILITIES

ND
1–2 points
This credit applies to

- Neighborhood Development Plan (1-2 points)
- Neighborhood Development (1-2 points)

Intent

To promote bicycling and transportation efficiency and reduce vehicle distance traveled. To improve public health by encouraging utilitarian and recreational physical activity.

Requirements

ND PLAN, ND
Meet the following requirements in 90% of all new buildings. The buildings that do not have bicycle storage may not exceed 10% of the total project building floor area.

Non-Residential (excluding Retail) Buildings
Provide short-term bicycle storage for at least 2.5% of peak visitors, but no fewer than four storage spaces per building.

Provide long-term bicycle storage for at least 5% of all regular building occupants, but no fewer than four storage spaces per building in addition to the short-term bicycle storage spaces. Provide at least one on-site shower with changing facility for the first 100 regular building occupants and one additional shower for every 150 regular building occupants thereafter.

Multi-unit Residential Buildings
Provide short-term bicycle storage for at least 2.5% of all peak visitors, but no fewer than four storage spaces per building.

Provide long-term bicycle storage for at least 30% of all regular building occupants, but no less than one storage space per residential unit.

Retail Buildings
Provide at least two short-term bicycle storage spaces for every 5,000 square feet (465 square meters), but no fewer than two storage spaces per building.

Provide long-term bicycle storage for at least 5% of regular building occupants, but no fewer than two storage spaces per building in addition to the short-term bicycle storage.

Provide at least one on-site shower with changing facility for the first 100 regular building occupants and one additional shower for every 150 regular building occupants thereafter.

Mixed-Use Buildings
Meet the above requirements for the project's non-residential, multi-unit residential, and retail spaces.

For all projects:

Short-term bicycle storage must be within 100 feet (30 meters) walking distance of any main entrance. *Long-term bicycle storage* must be within 100 feet (30 meters) walking distance of any *functional entry*. It must be easily accessible to all building users.

Shower and changing facility requirements may be met by providing the equivalent of free access to on-site health club shower facilities, if the health club can be accessed without going outside.

SFC CLERK RECORDED 02/12/2025

Additionally, meet the requirements of at least one of the following two options.

Option 1. Bikable Location (1 point)

Locate the *project* such that the project boundary is within ¼ mile (400 meters) bicycling distance of an existing bicycle network that connects to at least one of the following.

- at least 10 diverse uses (see Appendix 1);
- a school or *employment center,* if the project total floor area is 50% or more residential; or
- *a bus rapid transit* stop, light or heavy rail station, commuter rail station, or ferry terminal.

All destinations must be within a 3-mile (4800-meter) bicycling distance of the project boundary.

AND/OR

Option 2. Bicycle Network (1 point)

Design the *project* such that at least 50% of *dwelling units* and nonresidential use entrances are located on an existing or planned *bicycle network* extending at least 3 continuous miles (4.8 contiguous kilometers). Within those 3 miles (4.8 kilometers), the network must connect to one of the following:

- a school;
- an employment center; or
- at least 10 diverse uses (see Appendix 1).

SFC CLERK RECORDED 02/12/2025

SLL CREDIT: HOUSING AND JOBS PROXIMITY

ND
3 points
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To encourage balanced communities with a proximate housing and employment opportunities.

Requirements

ND PLAN, ND

Option 1. Project with Affordable Residential Component (3 points)

Include a residential component equaling at least 30% of the *project*'s total building floor area (exclusive of parking structures), and locate or design the project such that its geographic center (or boundary if the project exceeds 500 acres [200 hectares]) is within a ½-mile (800-meter) *walking distance* of *existing* full-time equivalent jobs whose number equals or exceeds the number of *dwelling units* in the project. Satisfy the requirements necessary to earn at least 1 point under NPD Credit Housing Types and Affordability, Option 2, Affordable Housing.

Option 2. Project with Residential Component (2 points)

Include a residential component equaling at least 30% of the project's total building floor area (exclusive of parking structures) and locate or design the project such that its geographic center (or boundary if the project exceeds 500 acres [200 hectares]) is within a ½-mile (800-meter) walking distance of existing full-time equivalent jobs whose number equals or exceeds the number of dwelling units in the project.

Option 3. Infill Project with Nonresidential Component (1 point)

Include a nonresidential component equaling at least 30% of the project's total building floor area (exclusive of parking structures) and locate on an *infill site* whose geographic center (or boundary if the project exceeds 500 acres [200 hectares]) is within a ½-mile (800-meter) walking distance of an existing rail transit, ferry, or tram stop and within a ½-mile (800-meter) walking distance of existing dwelling units whose number equals or exceeds 50% of the number of new full-time equivalent jobs located in the project.

SFC CLERK RECORDED 02/12/2025

SLL CREDIT: STEEP SLOPE PROTECTION

ND
1 point
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To minimize erosion, protect habitat, and reduce stress on natural water systems by preserving steep slopes in a natural, vegetated state.

Requirements

ND PLAN, ND

The following requirements apply to projects sites that have slopes greater than 15%.

Ensure that the share of the development footprint on existing slopes less than 15% is greater than the share of the project site with existing slopes greater than 15%.

On any existing, previously developed slopes steeper than 15%, restore the slope area with *native plants* or noninvasive *adapted plants,* according to Table 1. In addition, on any existing, undeveloped slopes steeper than 15%, limit the development area according to Table 1.

Table 1. Required restoration and protection areas of slope

Slope	Previously developed slopes: % of area to be restored	Undeveloped slopes: % of area permitted for development
> 40%	100%	No development permitted
26% to 40%	60%	40%
>15% to 25%	40%	60%

For undeveloped slopes steeper than 40%, do not disturb portions of the project site within 50 feet (15 meters) horizontally of the top of the slope and 75 feet (23 meters) horizontally from the toe of the slope.

Develop *covenants, conditions, and restrictions* (CC&Rs), development agreements, or other binding documents that will protect all steep slopes in perpetuity.

SFC CLERK RECORDED 02/12/2025

SLL CREDIT: SITE DESIGN FOR HABITAT OR WETLAND AND WATER BODY CONSERVATION

ND
1 point
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent
To conserve native plants, wildlife habitat, wetlands, and water bodies.

Requirements

ND PLAN, ND (SLL)

Case 1. Sites without Significant Habitat or Wetlands and Water Bodies (1 point)
Locate the project on a site that does not have significant habitat, as defined in Case 2 of this credit, and is not within 100 feet (30 meters) of such habitat. Fulfill the requirements of Case 1 or Case 2, Option 1 (with no minor improvements within buffer areas) under SLL Prerequisite Wetland and Water Body Conservation.

Case 2. Sites with Habitat or Wetlands or Water Bodies (1 point)

Meet the requirements of Option 1 or Option 2.

Option 1. Sites with Significant Habitat
Work with both the state's Natural Heritage Program and the state fish and wildlife agency (or local equivalent agency for projects outside the U.S.) to delineate identified significant habitat on the site. Do not disturb significant habitat or portions of the site within an appropriate buffer around the habitat. The geographic extent of the habitat and buffer must be identified by a qualified biologist, a nongovernmental conservation organization, or the appropriate state, regional, or local agency. Protect significant habitat and its identified buffers from development by donating or selling the land, or a conservation easement on the land, to an accredited land trust, conservation organization, or relevant government agency (a deed covenant is not sufficient to meet this requirement) for the purpose of long-term conservation.

Identify and commit to ongoing management activities, along with parties responsible for management and funding available, such that habitat is maintained in preproject condition or better for a minimum of three years after the project is built out. The requirement for identifying ongoing management activities may also be met by earning SLL Credit Long-Term Conservation Management of Habitat or Wetlands and Water Bodies.

Significant habitat for this credit is as follows:

- *Endangered species acts.* Habitat for species that are listed or are candidates for listing under state or national endangered species acts, habitat for species of special concern in the state, and habitat for species or ecological communities classified as GH, G1, G2, G3, S1, or S2 by NatureServe (local equivalent standards for threatened and endangered species may be used in countries outside the U.S. that do not have access to NatureServe data);
- *Locally or regionally significant habitat.* Locally or regionally significant habitat of any size, or patches of predominantly native vegetation at least 150 acres (60 hectares) (even if part of the area lies outside the project boundary); and
- *Habitat flagged for conservation.* Habitat flagged for conservation under a regional or state conservation or green infrastructure plan.

OR

SFC CLERK RECORDED 02/12/2025

Option 2. Sites with Wetlands and Water Bodies (1 point)
Design the project to conserve 100% of all water bodies, wetlands, land within 100 feet (30 meters) of water bodies, and land within 50 feet (15 meters) of wetlands on the site. Using a qualified biologist, conduct an assessment, or compile existing assessments, showing the extent to which those water bodies or wetlands provide (1) water quality maintenance; (2) wildlife habitat; and (3) hydrologic function maintenance, including flood protection. Assign appropriate buffers, measuring not less than 100 feet (30 meters) for water bodies and 50 feet (15 meters) for wetlands, based on the functions provided, contiguous soils and slopes, and contiguous land uses. Do not disturb wetlands, water bodies, or their buffers, and protect them from development by donating or selling the land, or a conservation easement on the land, to an accredited land trust, conservation organization, or relevant government agency (a deed covenant is not sufficient to meet this requirement) for the purpose of long-term conservation.

Identify and commit to ongoing management activities, along with parties responsible for management and funding available, such that habitat is maintained in preproject condition or better for a minimum of three years after the project is built out. The requirement for identifying ongoing management activities may also be met by earning SLL Credit Long-Term Conservation Management of Habitat or Wetlands and Water Bodies. The project does not meet the requirements if it degrades habitat for species identified in endangered species acts or habitat flagged for conservation in Option 1.

For All Projects
The following features are not considered wetlands, water bodies, or buffer land that must be protected:

a. previously developed land;
b. man-made water bodies (such as industrial mining pits, concrete-lined canals, or rainwater retention ponds) that lack natural edges and floors or native ecological communities in the water and along the edge;
c. man-made linear wetlands that result from the interruption of natural drainages by existing rights-of-way; and
d. wetlands that were created incidentally by human activity and have been rated "poor" for all measured wetland functions, as assessed by a qualified biologist using a method that is accepted by state or regional permitting agencies (or a local equivalent method for projects outside the U.S.).

SFC CLERK RECORDED 02/12/2025

SLL Credit: Restoration of Habitat or Wetlands and Water Bodies

ND
1 point
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent
To restore native plants, wildlife habitat, wetlands, and water bodies harmed by previous human activities.

Requirements

ND Plan, ND (SLL)

Using only native plants, restore *predevelopment* native ecological communities, *water bodies*, or *wetlands* on the *project* site in an area equal to or greater than 10% of the *development footprint*.

Work with a qualified biologist to ensure that restored areas will have the native species assemblages, hydrology, and other habitat characteristics that likely occurred in predevelopment conditions. Protect such areas from development by donating or selling the land, or a conservation easement on the land, to an accredited land trust, conservation organization or relevant government agency (a deed covenant is not sufficient to meet this requirement) for the purpose of long-term conservation.

Identify and commit to ongoing management activities, along with parties responsible for management and funding available, so that restored areas are maintained for a minimum of three years after the project is built out or the restoration is completed, whichever is later. The requirement for identifying ongoing management activities may also be met by earning SLL Credit Long-Term Conservation Management of Habitat or Wetlands and Water Bodies.

The project does not meet the requirements if it has negative effects on habitat for species identified in endangered species acts or habitat flagged for conservation in Option 1 of SLL Credit Site Design for Habitat or Wetland and Water Body Conservation.

SFC CLERK RECORDED 02/12/2025

SLL CREDIT: LONG-TERM CONSERVATION MANAGEMENT OF HABITAT OR WETLANDS AND WATER BODIES

ND
1 point
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent
To conserve native plants, wildlife habitat, wetlands, and water bodies.

Requirements

ND PLAN, ND (SLL)

Create and commit to implementing
restored on-site native habitats, wa
source for management.

Involve a qualified biologist or a pro
firm in writing the management plar

151 - 200

The plan must include biological ob
identify the following:

- procedures and personnel f
- estimated implementation c
- any threats that the project
  introduction of exotic specie
  reduce those threats.

The project does not meet the requi
endangered species acts or habitat
Wetland and Water Body Conservation.

or existing or recently
a guaranteed funding

al resources consulting
ment.

onservation, and it must

ation areas (e.g.,
ures to substantially

cies identified in
Site Design for Habitat or

SFC CLERK RECORDED 02/12/2025

NEIGHBORHOOD PATTERN AND DESIGN (NPD)

NPD PREREQUISITE: WALKABLE STREETS
Required

ND
This prerequisite applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To promote transportation efficiency and reduce vehicle distance traveled. To improve public health by providing safe, appealing, and comfortable street environments that encourage daily physical activity and avoid pedestrian injuries.

Requirements

ND PLAN, ND

Design and build the *project* to achieve all of the following:

a. 90% of new buildings have a *functional entry* onto the circulation network or other public space, such as a *park* or *plaza,* but not a parking lot. Whether opening to the circulation network or other public space, the functional entry must be connected to a sidewalk or equivalent provision for walking. If the public space is a square, park, or plaza, it must be at least 50 feet (15 meters) deep, measured at a point perpendicular to each entry.

b. At least 15% of the *block length* of the *existing* and new circulation networks within and bordering the project has a minimum building-height-to-street-centerline ratio of 1:1.5 (i.e., a minimum of 1 foot [300 millimeters] of building height for every 1.5 feet [450 millimeters] of width from street centerline to building façade). Alleys may be omitted from the calculations.

   - Projects that border a part of the circulation network must meet only their proportional share of the height-to-width ratio (i.e., only on the project side of the circulation network).

   - Building height is measured to eaves or, for a flat-roof structure, to the rooftop. For buildings with multiple heights or widths, use average heights or widths weighted by each portion's share of the total height or width.

c. Continuous sidewalks or equivalent *all-weather routes* for walking are provided along both sides of 90% of the circulation network block length within the project, including the project side of circulation network bordering the project. Bicycle- and pedestrian-only paths meet this requirement. New sidewalks must be at least 8 feet (2.5 meters) wide on retail or mixed-use blocks and at least 4 feet (1.2 meters) wide on all other blocks.

d. No more than 20% of the block length of the circulation network within the project is faced directly by garage and service bay openings. Alleys may be omitted from the calculations.

Portions of projects containing *historic buildings* or contributing buildings in a designated *historic district* subject to review by a local historic preservation entity are exempt from (b), (c), and (d) if approval for compliance is not granted.

SFC CLERK RECORDED 02/12/2025

Portions of projects containing historic buildings or contributing buildings in historic districts listed in or eligible for listing in a state provincial, or regional register, or the National Register of Historic Places that are subject to review by a state historic preservation office or the National Park Service (or local equivalent for projects outside the U.S.) are exempt from (b), (c), and (d) if approval for compliance is not granted.

SFC CLERK RECORDED 02/12/2025

NPD PREREQUISITE: COMPACT DEVELOPMENT
Required

ND
This prerequisite applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To conserve land. To promote livability, walkability, and transportation efficiency and reduce vehicle distance traveled. To leverage and support transit investments. To improve public health by encouraging daily physical activity.

Requirements

ND PLAN, ND

Design and build the project to meet the densities specified below. Minimum densities must be met for both (1) the entire project at full build-out and (2) the portion of the project that will be built within five years of the date that the first new building of any type is occupied.

Case 1. Projects with Access to Quality Transit
For *projects* with *existing* or planned transit service (i.e., service with the funding commitments as specified in SLL Prerequisite Smart Location) that meets or exceeds the 2-point threshold in SLL Credit Access to Quality Transit, build at the following densities, based on the *walking distances* to the transit service specified in that SLL credit:

- for residential components located within the walking distances: 12 or more *dwelling units* per acre (30 DU per hectare) of buildable land available for residential uses;
- for residential components falling outside the walking distances: 7 or more dwelling units per acre (17.5 DU per hectare) of buildable land available for residential uses;
- for nonresidential components located within the walking distances: 0.80 or higher *floor-area ratio* (FAR) for the buildable land available for nonresidential uses; and
- for nonresidential components falling outside the walking distances: 0.50 or higher FAR for the buildable land available for nonresidential uses.

If the project location is served by a transit agency whose guidelines for minimum service densities are greater than the densities required by this prerequisite, the project must achieve those service densities instead.

Case 2. All Other Projects
Build any residential components of the project at a *density* of 7 or more dwelling units per acre (17.5 DU per hectare) of *buildable land* available for residential uses.

Build any nonresidential components of the project at a density of 0.50 or higher FAR for the buildable land available for nonresidential uses.

For All Projects Density calculations include all planned and existing buildings within the *project boundary,* excluding those portions of parking structures devoted exclusively to parking.

If the residential component of the project meets the minimum density requirement but the nonresidential component does not, or vice versa, include only the qualifying density. Use that component's dwelling units or nonresidential floor area in the numerator and the total buildable land area in the denominator. If the resulting density meets the minimum requirement, the prerequisite is achieved.

SFC CLERK RECORDED 02/12/2025

NPD PREREQUISITE: CONNECTED AND OPEN COMMUNITY
Required

ND
This prerequisite applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To promote *projects* that have high levels of internal connectivity and are well connected to the community. To encourage development within *existing* communities that promote transportation efficiency through multimodal transportation. To improve public health by encouraging daily physical activity.

Requirements

ND PLAN, ND

Meet the requirements of Case 1 if the project has no circulation network intersections within the project boundary and is five acres or less in size. All other projects must meet Case 2.

Case 1. Surrounding Connectivity
Locate the project such that the connectivity within ¼ mile (400 meters) of the project boundary is at least 90 intersections per square mile (35 intersections per square kilometer). Any part of the circulation network that is counted toward the connectivity requirement must be available for general public use and not gated. Gated areas are not considered available for public use, with the exception of education and health care campuses and military bases where gates are used for security purposes.

Additionally, any circulation network within the project must be available for general public use and not gated.

Case 2. Internal Connectivity
Design and build the project such that its internal *connectivity* is at least 140 intersections per square mile (54 intersections per square kilometer).

Any part of the circulation network counted toward the connectivity requirement must be available for general public use at all times and not gated. Additionally, no more than 10% of the project area may be accessed via circulation network that is gated. Education campuses, health care campuses, and military bases where gates are used for security purposes are exempt from the 10% limit, and intersections within those projects may be counted toward the connectivity requirement.

Design and build the project with at least one through-connection (of the circulation network) intersecting or terminating at the *project boundary* at least every 800 feet (245 meters), or at existing abutting intervals and intersections of the circulation network, whichever is the shorter distance. These requirements do not apply to portions of the boundary where connections cannot be made because of physical obstacles, such as prior platting of property, construction of existing buildings or other barriers, slopes steeper than 15%, *wetlands* and *water bodies,* railroad and utility rights-of-way, existing limited-access motor vehicle rights-of-way, and parks and dedicated open space.

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NPD CREDIT: WALKABLE STREETS

ND
1–9 points
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To promote transportation efficiency and reduce *vehicle distance traveled.* To improve public health by providing safe, appealing, and comfortable *street* environments that encourage daily physical activity and avoid pedestrian injuries.

Requirements

ND PLAN, ND

A *project* may earn a maximum of 9 points, awarded according to Table 1.

Table 1. Points for walkable street features

Items achieved	*Points*
2–3	1
4–5	2
6–7	3
8–9	4
10–11	5
12	6
13	7
14	8
15–16	9

Façades and Entries

a. At least 80% of the total linear distance of building façades facing the circulation network in the project is no more than 25 feet (7.5 meters) from the property line.

b. At least 50% of the total linear distance of building façades facing the circulation network in the project is no more than 18 feet (5.5 meters) from the property line.

c. At least 50% of the total linear distance of mixed-use and nonresidential building façades facing the circulation network in the project is within 1 foot (300 millimeters) of a sidewalk or equivalent walking route.

d. *Functional entries* to the building occur at an average of 75 feet (23 meters) or less along nonresidential or mixed-use buildings or *blocks.*

e. Functional entries to the building occur at an average of 30 feet (9 meters) or less along nonresidential or mixed-use buildings or blocks

Items (d) and (e) are cumulative.

Ground-Level Use and Parking

SFC CLERK RECORDED 02/12/2025

f. All ground-level retail, service, and trade uses that face a public space have clear glass on at least 60% of their façades between 3 and 8 feet (900 and 2500 millimeters) above grade.

g. If a façade extends along a sidewalk, no more than 40% of its length or 50 feet (15 meters), whichever is less, is blank (without doors or windows).

h. Any ground-level retail, service, or trade windows facing the circulation network must be kept visible (unshuttered) at night; this must be stipulated in *covenants, conditions, and restrictions* (CC&Rs) or other binding documents.

i. On-street parking is provided on at least 70% of both sides of the block length of all new and *existing* motorized portions of the circulation network, including the project side of bordering circulation network. The percentage of on-street parking is calculated by dividing the length of street designated for parking by the total length of the curb along each street, including curb cuts, driveways, and intersection radii. Space within the parking lane that is occupied by corner bulb-outs (within 24 feet [7 meters] of an intersection), transit stops, and motorcycle or bicycle parking may be counted as designated for parking in this calculation. Alleys may be exempted.

j. Continuous sidewalks or equivalent provisions for walking are available along both sides of the entire circulation network within the project, including the project side of the circulation network bordering the project. Bicycle- and pedestrian-only paths meet this requirement. New sidewalks must be at least 10 feet (3 meters) wide on retail or mixed-use blocks and at least 5 feet (1.5 meters) wide on all other blocks. Note that these requirements specify wider sidewalks than required by NPD Prerequisite Walkable Streets. Alleys may be exempted.

k. If the project has ground-floor *dwelling units,* the principal level of at least 50% of those units has an elevated finished floor at least 24 inches (60 centimeters) above the sidewalk grade. Below-grade basement spaces and/or *accessory dwelling units* are exempt from this requirement.

l. In nonresidential or mixed-use projects, 50% or more of the total number of office buildings includes ground-floor retail along 60% of the length of the street-level façade; 100% of mixed-use buildings include ground-floor retail, live-work spaces, or ground-floor dwelling units along at least 60% of the street-level façade; and all businesses or community services on the ground floor are accessible directly from sidewalks along the circulation network or other public space, such as a square, park, or plaza, but not a parking lot.

m. At least 40% of the block length of the circulation network within the project has a minimum building-height-to-street-centerline ratio of 1:1.5 (i.e., at least 1 foot (30 centimeters) of building height for every 1.5 feet (45 centimeters) of width from *circulation network* centerline to building façade). Alleys may be exempted.

Projects that border a part of the circulation network must meet only their proportional share of the height-to-centerline ratio (i.e., only on the project side of the circulation network).

Building height is measured to eaves or, for a flat-roof structure, to the rooftop, and width is measured façade to centerline. For buildings with multiple heights or widths, use average heights or widths weighted by each portion's share of the total height or width.

Design Speeds for Safe Pedestrian and Bicycle Travel

n. 75% of the length of new residential-only motorized parts of the circulation network within the project is designed for a target speed of no more than 20 mph (30 km/h).

o. 70% of the length of new nonresidential or mixed-use motorized parts of the circulation network within the project is designed for a target speed of no more than 25 mph (40km/h). A multiway boulevard, with travel lanes separated from access lanes by medians, may apply this requirement to its outer access lanes only (through-lanes are exempt), provided pedestrian crosswalks are installed across the boulevard at intervals no greater than 800 feet (245 meters).

SFC CLERK RECORDED 02/12/2025

Sidewalk Intrusions

p. At-grade crossings with driveways account for no more than 10% of the length of sidewalks within the project.

SFC CLERK RECORDED 02/12/2025

NPD CREDIT: COMPACT DEVELOPMENT

ND
1–6 points
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To conserve land and protect farmland and wildlife habitat by encouraging development in areas with existing infrastructure. To promote livability, walkability, and transportation efficiency, and reduce vehicle distance traveled. To improve public health by encouraging daily physical activity.

Requirements

ND PLAN, ND

Design and build the *project* such that residential and nonresidential components achieve the *densities* per acre (per hectare) of *buildable land* listed in Table 1 at build-out or within five years of the date that the first new building of any type is occupied (excluding those portions of parking structures devoted to parking), whichever is lower.

Table 1. Points for density per acre (hectare) of buildable land

[illegible]	[illegible]	[illegible]	Points
> 10 and ≤ 13	> 25 and ≤ 32	> 0.75 and ≤ 1.0	1
> 13 and ≤ 18	> 32 and ≤ 45	> 1.0 and ≤ 1.25	2
> 18 and ≤ 25	> 45 and ≤ 62	> 1.25 and ≤ 1.75	3
> 25 and ≤ 38	> 62 and ≤ 94	> 1.75 and ≤ 2.25	4
> 38 and ≤ 63	> 94 and ≤ 156	> 2.25 and ≤ 3.0	5
> 63	> 156	> 3.0	6

DU = dwelling unit; FAR = floor-area ratio.

The scoring of a mixed-use project is calculated with a weighted average, according to the following steps.

1. Determine the total floor area of all residential and nonresidential uses.
2. Calculate the percentage residential and percentage nonresidential of the total floor area.
3. Determine the density of each component as measured in *dwelling units* per acre or hectare and *floor-area ratio,* respectively.
4. Referring to Table 1, find the appropriate points for the densities of the residential and nonresidential components.
5. If the points are different, multiply the point value of the residential component by its percentage of the total floor area and multiply the point value of the nonresidential component by its percentage.
6. Add the two scores.

SFC CLERK RECORDED 02/12/2025

NPD CREDIT: MIXED-USE NEIGHBORHOODS

ND
1–4 points
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To reduce vehicle distance traveled and automobile dependence, encourage daily walking, biking, and transit use, and support car-free living by providing access to diverse land uses.

Requirements

ND PLAN, ND

Locate or design the *project* such that 50% of its *dwelling units* are within a 1/4-mile (400-meter) *walking distance* of the number of uses (see Appendix 1) listed in Table 1. For projects with no dwelling units, 50% of dwelling units within a 1/4-mile (400-meter) walking distance of the *project boundary* must be within a 1/4-mile (400-meter) walking distance of the number of uses within the project specified in Table 1.

The specified number of uses must be in place by the time of 50% occupancy of total building floor area (exclusive of portions of parking structures devoted to parking).

Table 1. Points for uses within 1/4-mile (400-meter) walking distance, by percentage of occupancy

[redacted]		[redacted]
4–7		1
8–11		2
12–19		3
≥ 20		4

The following restrictions apply.

- A use may be counted as only one use type (e.g., a retail store may be counted only once even if it sells products in several categories).
- No more than two uses in each use type may be counted (e.g., if five restaurants are within the required distance, only two may be counted).
- The uses accessible to each counted dwelling unit must represent at least two categories.

For projects with regional-serving retail of 150,000 or more square feet (13 935 square meters) only

Additionally, a project that has at least one large retail *use (*defined as a use totaling 75,000 or more square feet [7 000 or more square meters]), must also meet at least the 2-point threshold for transit service under SLL Credit Access to Quality Transit. In this case, planned transit service can be counted. Each large retail use must be served by at least one transit stop providing trips that qualify under that SLL Credit.

If transit service is planned but not yet operational, the project must demonstrate one of the following:

1. The relevant transit agency has a signed full-funding grant agreement with the Federal Transit Administration (or equivalent national agency for projects outside the U.S.) that includes a revenue operations date for the start of transit service. The revenue operations date must be no later than the day by which 50% of the project's total building floor area will be occupied.
2. For bus, *streetcar, bus rapid transit,* or ferry service, the transit agency must certify that it has an approved budget that includes specifically allocated funds sufficient to provide the planned service at

SFC CLERK RECORDED 02/12/2025

the levels listed above and that service at these levels will begin no later than the day by which 50% of the project's total building floor area will be occupied.

3. For rail service other than *streetcars*, the transit agency must certify that preliminary engineering for a rail line has begun. In addition, the service must meet either of these two requirements:

- A state legislature or local subdivision of the state (or local government for projects outside the U.S.) has authorized the transit agency to expend funds to establish rail transit service that will begin no later than the date by which 50% of the project's total building floor area will be occupied.

  OR

- A local government has dedicated funding or reimbursement commitments from future tax revenue for the development of stations, platforms, or other rail transit infrastructure that will serve the project no later than the date by which 50% of the project's total building floor area will be occupied.

SFC CLERK RECORDED 02/12/2025

NPD CREDIT: HOUSING TYPES AND AFFORDABILITY

ND
1–7 points
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To promote socially equitable and engaging neighborhoods by enabling residents from a wide range of economic levels, household sizes, and age groups to live in a community.

Requirements

ND PLAN, ND

Meet the requirements of one or more of the following options.

Option 1. Diversity of Housing Types (1–3 points)

Include a sufficient variety of housing sizes and types in the *project* such that the total variety of planned and *existing* housing within the project achieves a Simpson Diversity Index score greater than 0.5, using the housing categories below. Projects of less than 125 acres (50.5 hectares) may calculate the Simpson Diversity Index for the area within ¼ mile (400 meters) of the project's geographic center. The Simpson Diversity Index calculates the probability that any two randomly selected *dwelling units* in a project will be of a different type.

Score = $1 - \sum (n/N)^2$

Where
n = the total number of dwelling units in a single category, and
N = the total number of dwelling units in all categories.

Table 1. Points for housing diversity

Simpson Diversity Index	Points
> 0.5 to < 0.6	1
≥ 0.6 to < 0.7	2
≥ 0.7	3

Housing categories are defined by the dwelling unit's net floor area, exclusive of any garage, as listed in Table 2.

Table 2. Housing categories

	Square feet	Square meters
Detached residential, large	> 1,250	> 116
Detached residential, small	≤ 1,250	≤ 116
Duplex or townhouse, large	> 1,250	> 116
Duplex or townhouse, small	≤ 1,250	≤ 116
Dwelling unit in multiunit building with no elevator, large	> 1,250	> 116
Dwelling unit in multiunit building with no elevator, medium	> 750 to ≤ 1,250	> 70 to ≤ 116
Dwelling unit in multiunit building with no elevator, small	≤ 750	≤ 70
Dwelling unit in multiunit building with elevator, 4 stories or fewer, large	> 1,250	> 116
Dwelling unit in multiunit building with elevator, 4 stories or fewer, medium	> 750 to ≤ 1,250	> 70 to ≤ 116

SFC CLERK RECORDED 02/12/2025

Dwelling unit in multiunit building with elevator, 4 stories or fewer, small	≤ 750	≤ 70
Dwelling unit in multiunit building with elevator, 5 to 8 stories, large	> 1,250	> 116
Dwelling unit in multiunit building with elevator, 5 to 8 stories, medium	> 750 to ≤ 1,250	> 70 to ≤ 116
Dwelling unit in multiunit building with elevator, 5 to 8 stories, small	≤ 750	≤ 70
Dwelling unit in multiunit building with elevator, 9 stories or more, large	> 1,250	> 116
Dwelling unit in multiunit building with elevator, 9 stories or more, medium	> 750 to ≤ 1,250	> 70 to ≤ 116
Dwelling unit in multiunit building with elevator, 9 stories or more, small	≤ 750	≤ 70
Live-work space, large	> 1,250	> 116
Live-work space, small	≤ 1,250	≤ 116
Accessory dwelling unit, large	> 1,250	> 116
Accessory dwelling unit, small	≤ 1,250	≤ 116

For the purposes of this credit, townhouse and live-work units may have individual ground-level entrances or be within a multiunit or mixed-use building. Double counting is prohibited; each dwelling may be classified in only one category. The number of stories in a building is inclusive of the ground floor regardless of its use.

AND/OR

Option 2. Affordable Housing (1–3 points)

Include a proportion of new rental and/or for-sale dwelling units priced for households earning less than the *area median income* (AMI). Rental units must be maintained at affordable levels for a minimum of 15 years. Existing dwelling units are exempt from requirement calculations. Meet any combination of thresholds in Table 3, up to a maximum of 3 points.

Table 3. Points for affordable housing

Rental dwelling units				*For-sale dwelling units*			
Priced up to 60% AMI		*Priced up to 80% AMI*		*Priced up to 100% AMI*		*Priced up to 120% AMI*	
Percentage of total rental units	*Points*	*Percentage of total rental units*	*Points*	*Percentage of total for-sale units*	*Points*	*Percentage of total for-sale units*	*Points*
5	1	10	1	5	1	8	1
10	2	15	2	10	2	12	2
15	3	25	3	15	3	—	—

AMI = area median income.

AND/OR

Option 3. Housing Types and Affordable Housing (1 point)

A project may earn an additional point by earning at least 2 points in Option 1 and at least 2 points in Option 2 (at least one of which must be for providing housing at or below 100% AMI).

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LT CREDIT: REDUCED PARKING FOOTPRINT

ND
1 point
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To minimize the environmental harms associated with parking facilities, including automobile dependence, land consumption, and rainwater runoff.

Requirements

ND PLAN, ND

For new nonresidential buildings and *multiunit residential* buildings, either do not build new off-street parking lots, or locate all new off-street surface parking lots at the side or rear, leaving building frontages facing the circulation network free of surface parking lots (alleys may be exempted).

Use no more than 20% of the total *development footprint* area for all new off-street surface parking facilities, with no individual surface parking lot larger than 2 acres (0.8 hectare). For the purposes of this credit, surface parking facilities include ground-level garages unless they are under *habitable building* space. Underground or multistory parking facilities can be used to provide additional spaces. On-street parking spaces are exempt from this limitation.

Provide preferred parking for carpool or shared-use vehicle parking spaces equivalent to at least 10% of the total off-street parking spaces for each nonresidential and mixed-use building on the site. Such parking spaces must be marked and within 200 feet (60 meters) walking distance of entrances to the building served.

SFC CLERK RECORDED 02/12/2025

NPD CREDIT: CONNECTED AND OPEN COMMUNITY

ND
1–2 points
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To conserve land and promote multimodal transportation by encouraging development within existing communities that have high levels of internal connectivity and are well connected to the larger community. To improve public health by encouraging daily physical activity and reducing motor vehicle emissions.

Requirements

ND PLAN, ND

Locate or design the project such that its internal *connectivity* falls within one of the ranges listed in Table 1. If the project has no internal circulation network, the connectivity within a ¼-mile (400-meter) distance of the project boundary must be used.

Table 1. Points for connectivity

Intersections per square mile	Intersections per square kilometer	Points
300–400	116–154	1
> 400	> 154	2

All parts of the circulation network that are counted toward the connectivity requirement must be available for general public use at all times and not gated. No more than 10% of the project area may be accessed via circulation network that is gated. Education campuses, health care campuses, and military bases where gates are used for security purposes are exempt from the 10% limit, and intersections within those projects may be counted toward the connectivity requirement.

AND

Design or locate the project such that a through-connection (of the circulation network) intersects or terminates at the *project boundary* at least every 400 feet (122 meters) or at existing abutting intervals and intersections of the circulation network, whichever is the shorter distance. Include a pedestrian or bicycle through-connection in at least 90% of any new *culs-de-sac.* These requirements do not apply to portions of the boundary where connections cannot be made because of physical obstacles, such as prior platting of property, construction of existing buildings or other barriers, slopes steeper than 15%, *wetlands* and *water bodies,* railroad and utility rights-of-way, existing limited-access motor vehicle rights-of-way, and parks and dedicated open space.

SFC CLERK RECORDED 02/12/2025

NPD CREDIT: TRANSIT FACILITIES

ND
1 point
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To encourage transit use and reduce vehicle distance traveled by providing safe, convenient, and comfortable transit waiting areas.

Requirements

ND PLAN, ND

Work with the transit agency or agencies serving the *project* to inventory existing transit stops and new transit stops within the project boundary that will be warranted within two years of project completion (because of either increased ridership on existing service or planned transit).

At those locations,

1. Confirm that transit facilities will be funded by either the transit agency or the project developer.

2. Install transit agency-approved shelters and any other required improvements at existing stops. Reserve space for transit facilities or install transit facilities at new stops.

Shelters must be covered, be at least partially enclosed to buffer wind and rain, have seating and illumination, and have signage that display transit schedules and route information.

SFC CLERK RECORDED 02/12/2025

NPD CREDIT: TRANSPORTATION DEMAND MANAGEMENT

ND
2 points
This credit applies to

- Neighborhood Development Plan (1-2 points)
- Neighborhood Development (1-2 points)

Intent

To reduce energy consumption, pollution, and harm to human health from motor vehicles by encouraging multimodal travel.

Requirements

ND PLAN, ND

Achieve at least two of the following options.

Earn 1 point for every two options, for a maximum of 2 points. For the purposes of this credit, *existing* buildings and their occupants are exempt from the requirements.

Option 1. Transit Passes

Provide transit passes valid for at least one year, subsidized to 100% of regular price, to each resident and employee locating within the project during the first three years of project occupancy (or longer). Publicize the availability of subsidized transit passes to project occupants.

AND/OR

Option 2. Developer-Sponsored Transit

Provide year-round, *developer*-sponsored transit service (vans, shuttles, buses) from at least one central point in the project to other major transit facilities or to other destinations, such as a retail or *employment center,* with service no less frequent than 45 daily weekday trips and 30 daily weekend trips. The service must begin by the time the project's total floor area is 20% occupied and must be guaranteed for at least three years beyond project build-out. The occupancy requirement is met when residents are living in 20% of the *dwelling units* and/or employees are working in 20% of the total nonresidential floor area.

Provide transit stop shelters and bicycle racks adequate to meet projected demand but no less than one shelter and one bicycle rack at each transit stop. Shelters must be covered, be at least partially enclosed to buffer wind and rain, and have seating and illumination. Bicycle racks must have a two-point support system for locking the frame and wheels and must be securely affixed to the ground or a building.

AND/OR

Option 3. Vehicle Sharing

Locate the project such that 50% of the dwelling units and nonresidential use entrances are within a ¼-mile (400-meter) *walking distance* of at least one vehicle in a vehicle-sharing program, as specified below, depending on project size.

- If the project has fewer than 100 dwelling units and/or employees, provide one vehicle.
- If the project has more than 100 dwelling units and/or employees and has a minimum transit service of 60 daily weekday trips and 40 daily weekend trips, provide at least one additional vehicle and parking space for every 100 dwelling units and/or employees.

SFC CLERK RECORDED 02/12/2025

- If the project has more than 100 dwelling units and/or employees but does not have transit service at the frequencies specified above, provide at least one additional vehicle and parking space for every 200 dwelling units and/or employees.

For each vehicle, dedicate one parking space accessible to vehicle-sharing members. Publicize to project occupants the availability and benefits of the vehicle-sharing program. Commit to providing vehicles to the locations for at least two years. If a new vehicle-sharing location is planned, the vehicle-sharing program must begin by the time the project's total floor area is 20% occupied. The occupancy requirement is met when residents are living in 20% of the dwelling units and/or employees are working in 20% of the total nonresidential floor area.

AND/OR

Option 4. Unbundling of Parking and Parking Fees

For 90% of multiunit residential units and/or nonresidential floor area, the associated parking spaces must be sold or rented separately from the dwelling units or nonresidential floor area.

Set parking fees within the project boundary for all off-street parking equal to or greater than the cost of monthly usage for public transit. Off-street parking in this instance does not include parking devoted to individual, detached residential units.

AND/OR

Option 5. Guaranteed Ride Home Program

Major employers within the project must commit to providing a guaranteed ride home program for employees. A major employer accounts for more than 25% of the workers on the project site. The program must provide free rides to employees who have carpooled, taken transit, walked, or cycled to work but must leave because of an unexpected personal emergency. Rides may be on taxis, company cars, or rental cars.

AND/OR

Option 6. Flexible Work Arrangements

Major employers within the project must commit to promoting and supporting flexible work arrangements with the goal of reducing vehicle trips during peak commuting hours. A major employer accounts for more than 25% of the workers on the project site. The employer must develop internal policies that outline the terms under which employees can engage in telework, flextime, compressed work weeks, staggered shifts, or other arrangements. These policies must also describe how the program will be promoted to employees.

SFC CLERK RECORDED 02/12/2025

NPD CREDIT: ACCESS TO CIVIC AND PUBLIC SPACE

ND
1 point
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To provide open space close to work and home that enhances community participation and improves public health.

Requirements

ND PLAN, ND

Locate 90% of planned and *existing dwelling units* and nonresidential use entrances within a ¼ mile (400 meters) walk of at least one civic and passive use space. The spaces must be at least 1/6 acre (0.067 hectare) in area. Spaces less than 1 acre (0.4 hectare) must have a proportion no narrower than 1 unit of width to 4 units of length.

Projects larger than 10 acres (4 hectares) must have a median space size of at least 1 acre (0.4 hectare). Spaces over ½ acre (0.2 hectare) that are used to meet the 90% threshold are included in the median calculation.

SFC CLERK RECORDED 02/12/2025

NPD CREDIT: ACCESS TO RECREATION FACILITIES

ND
1 point
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To enhance community participation and improve public health by providing recreational facilities close to work and home that facilitate physical activity and social networking.

Requirements

ND PLAN, ND

Locate or design the *project* so that a publicly accessible outdoor recreation facility at least 1 acre (0.4 hectares) in area, or a publicly accessible indoor recreational facility of at least 25,000 square feet (2325 square meters), lies within a ½-mile (800-meter) *walking distance* of 90% of new and *existing dwelling units* and nonresidential use entrances. Outdoor recreation facilities must consist of physical improvements and may include "tot lots," swimming pools, and sports fields, such as baseball diamonds.

SFC CLERK RECORDED 02/12/2025

NPD CREDIT: VISITABILITY AND UNIVERSAL DESIGN

ND
1 point
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent
To increase the proportion of areas usable by a wide spectrum of people, regardless of age or ability.

Requirements

ND PLAN, ND

Case 1. Projects with New Dwelling Units (1 point)

Design a minimum of 20% of the new dwelling units (but not less than one dwelling unit per type) in accordance with ICC A117.1, Type C, Visitable Unit, for each of the following residential building types:

- detached single-dwelling-unit buildings;
- attached single-dwelling-unit buildings; and
- buildings with two or three dwelling units.

Each unit must also have a kitchen, living area, bedroom, and full bath on an accessible level.

For multiunit buildings with four or more dwelling units, design a minimum of 20% of the units (but not less than one) to meet the requirements of one of the following options. This category includes mixed-use buildings with dwelling units.

Option 1. Universal Design Features Throughout the Home (1 point)
Throughout the home, include at least five of the following universal design features:

- easy-to-grip lever door handles;
- easy-to-grip cabinet and drawer loop handles;
- easy-to-grip locking mechanisms on doors and windows;
- easy-to-grip single-lever faucet handles;
- easy-touch rocker or hands-free switches;
- motion-detector lighting at entrance, in hallways and stairwells, and in closets, and motion-detector light switches in garages, utility spaces, and basements;
- large, high-contrast print for controls, signals, and the house or unit numbers;
- a built-in shelf, bench, or table with knee space below, located outside the entry door with weather protection overhead, such as porch or stoop with roof, awning, or other overhead covering;
- a minimum 32-inch (80-centimeter) clear door opening width for all doorways;
- tread at the entrance, on stairs, and other areas where slipping is common, with color contrast difference between stair treads and risers; and
- interior floor surfaces (e.g., low-pile carpets, hard-surface flooring) that provide easy passage for a wheelchair or walker, with color contrast between floor surfaces and trim; no carpet is permitted in a kitchen, bathroom, or other wet areas of the dwelling unit.

OR

Option 2. Kitchen Features (1 point)
On the main floor of the home (or on another floor, if an elevator or stair lift is provided), provide a kitchen with hard-surface flooring, plumbing with single-lever controls, a 5-foot (1.5-meter) turning radius, and at least four of the following universal design features:

SFC CLERK RECORDED 02/12/2025

- variable-height (28- to 42-inch [70- to 110-centimeter]) or adjustable work surfaces, such as countertops, sinks, and cooktops;
- clear knee space under sink and cooktops (this requirement can be met by installing removable base cabinets or fold-back or self-storing doors), cooktops and ranges with front or side-mounted controls, and wall-mounted ovens at a height to accommodate a seated adult;
- a toe kick area at the base of lower cabinets with a minimum height of 9 inches (23 centimeters), and full-extension drawers and shelves in at least half (by volume) of the cabinets;
- contrasting color treatment between countertops, front edges, and floor;
- adjustable-height shelves in wall cabinets; and
- glare-free task lighting.

OR

Option 3. Bedroom and Bathroom Features (1 point)
On the main floor of the building (or on another floor, if an elevator or stair lift is provided), include all of the following:

In at least one accessible bedroom,

- Size the room to accommodate a twin bed with a 5-foot (1.5-meter) turning radius around the bed.
- Install a clothes closet with a 32-inch (80-centimeter) clear opening with adjustable-height closet rods and shelves.

In at least one full bathroom on the same floor as the bedroom,

- Provide adequate maneuvering space with a 30-by-48-inch (75-by-120 centimeter) clear floor space at each fixture.
- Center the toilet 18 inches (45 centimeters) from any side wall, cabinet, or tub, and allow a 3-foot (90-centimeter) clear space in front.
- Install broad blocking in walls around toilet, tub, and/or shower for future placement and relocation of grab bars.
- Provide knee space under the lavatory (this requirement may be met by installing removable base cabinets or fold-back or self-storing doors).
- Install a long mirror whose bottom is no more than 36 inches (90 centimeters) above the finished floor and whose top is at least 72 inches (180 centimeters) high.

In addition, all bathrooms must have hard-surface flooring, all plumbing fixtures must have single-lever controls, and tubs or showers must have hand-held showerheads.

Case 2. Projects With Noncompliant Routes and No New Dwelling Units (1 point)
This case applies to projects that have no new residential units and are either (1) retrofitting existing public rights-of-way or publicly accessible travel routes that are not in compliance with the Americans with Disabilities Act (ADA, for private sector and local and state government facilities) or the Architectural Barriers Act (ABA, for federally funded facilities), or (2) building new publicly accessible travel routes that are not legally required to meet ADA-ABA accessibility guidelines.

Design, construct, or retrofit 90% of the rights-of-way and travel routes in accordance with the ADA-ABA accessibility guidelines, as applicable, or local equivalent for projects outside the U.S., whichever is more stringent.

SFC CLERK RECORDED 02/12/2025

NPD CREDIT: COMMUNITY OUTREACH AND INVOLVEMENT

ND
1–2 points
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To encourage responsiveness to community needs by involving the people who live or work in the community in *project* design and planning and in decisions about how the project should be improved or changed over time.

Requirements

ND PLAN, ND

Option 1. Community Outreach (1 point)

Engage the community in the following ways. Each activity must be led by the development team and be directly related to the LEED ND project.

Predesign
Meet with adjacent property owners, residents, business owners, and workers; local planning and community development officials; and any current residents or workers at the project site to solicit and document their input on the proposed project before beginning design.

Preliminary design
Advertise and host at least one open community meeting other than an official public hearing or recurring citizen advisory meeting, to generate comments on the preliminary project design concept. Work directly with community associations and/or the local government to advertise the meeting(s). Collect and summarize comments generated at the meeting(s).

Modify the project's preliminary design as a direct result of community input, or if modifications are not made, explain why community input did not generate design modifications.

Ongoing communication
Establish ongoing means for communication between the *developer* and the community throughout the design and construction phases and, in cases where the developer maintains any control, after construction.

OR

Option 2. Charrette (2 points)

Comply with Option 1 and conduct a design charrette or interactive workshop of at least two days that is open to the public and includes, at a minimum, participation by a representative group of nearby property owners, residents, business owners, and workers in the preparation of conceptual project plans and drawings.

OR

Option 3. Endorsement Program (2 points)

Comply with Option 1 and obtain an endorsement from an ongoing local or regional nongovernmental program that systematically reviews and endorses smart growth development projects under a rating or jury system.

SFC CLERK RECORDED 02/12/2025

NPD CREDIT: LOCAL FOOD PRODUCTION

ND
1 point
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To promote the environmental and economic benefits of community-based food production and improve nutrition through better access to fresh produce.

Requirements

ND PLAN, ND

Establish *covenants, conditions, and restrictions* (CC&R) or other forms of deed restrictions stating that the growing of produce is not prohibited in *project* areas, including greenhouses, any portion of residential front, rear, or side yards; or balconies, patios, or rooftops. Greenhouses but not gardens may be prohibited in front yards that face the *circulation network.*

Meet the requirements of one of the following three options.

Option 1. Neighborhood Gardens (1 point)

Dedicate permanent and viable growing space or related facilities (such as greenhouses) within the project as specified in Table 1 (exclusive of *existing* dwellings). Ensure solar access and provide fencing, watering systems, garden bed enhancements (such as raised beds), secure storage space for tools, and pedestrian access for these spaces. Ensure that the spaces are owned and managed by an entity that includes occupants of the project in its decision making, such as a community group, homeowners association, or public body.

Table 1. Minimum garden space, by project density

Imperial units		*Metric units*	
Project density (DU/acre)	*Growing space (sf/DU)*	*Project density (DU/hectare)*	*Growing space (sq. meters/DU)*
> 7 and ≤14	200	> 17.5 and ≤ 35	18.5
> 14 and ≤ 22	100	> 35 and ≤ 55	9
> 22 and ≤ 28	80	> 55 and ≤ 69	7.5
> 28 and ≤ 35	70	> 69 and ≤ 87	6.5
> 35	60	> 87	5.5

DU = dwelling unit; sf = square feet; sq. meters = square meters.

An established community garden outside the *project boundary* but within a ½-mile (800-meter) *walking distance* of the project's geographic center can satisfy this option if the garden otherwise meets all the requirements.

OR

Option 2. Community-Supported Agriculture (1 point)

SFC CLERK RECORDED 02/12/2025

Purchase shares in a *community-supported agriculture* program located within 150 miles (240 kilometers) of the project site for at least 80% of *dwelling units* within the project (exclusive of existing dwelling units). Each counted dwelling unit must receive CSA service for at least two years, beginning when it is occupied. Shares must be delivered to a point within 1/2 mile (800 meters) of the project's geographic center on a regular schedule not less than twice per month at least four months of the year.

OR

Option 3. Proximity to Farmers Market (1 point)

Locate the project's geographic center within a 1/2-mile (800-meter) walking distance of an existing or planned farmers market that is open or will operate at least once weekly for at least five months annually. Farmers market vendors may sell only items grown within 150 miles (240 kilometers) of the project site. A planned farmers market must have firm commitments from farmers and vendors that the market will meet all the above requirements and be in full operation by the time 50% of the project's total floor area is occupied.

SFC CLERK RECORDED 02/12/2025

NPD CREDIT: TREE-LINED AND SHADED STREETSCAPES

ND
1–2 points
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To encourage walking and bicycling and discourage speeding. To reduce urban heat island effects, improve air quality, increase evapotranspiration, and reduce cooling loads in buildings.

Requirements

ND PLAN, ND

Option 1. Tree-Lined Blocks (1 point)

Provide trees at intervals of no more than 50 feet (12 meters) (exempting driveways) along at least 60% of the total existing and planned block length within the project, and on the project side of blocks bordering the project, between the vehicle travel way (if there is one) and walkway. Alleys may be exempted from the block length calculations.

AND/OR

Option 2. Shaded Sidewalks (1 point)

Provide shade from trees or permanent structures over at least 40% of the total length of existing and planned sidewalks within or bordering the project (alleys may be exempted). Trees must provide shade within 10 years of landscape installation. Use the estimated crown diameter to calculate the length of sidewalk shaded.

AND

For All Projects with Street Tree Plantings

From a registered landscape architect (or local equivalent for projects outside the U.S.), obtain a determination that planting details are appropriate to growing healthy trees, taking into account tree species, root medium, and width and soil volume of planter strips or wells, and that the selected tree species are not considered *invasive* in the project context according to USDA or the state agricultural extension service (or local equivalent for projects outside the U.S.).

SFC CLERK RECORDED 02/12/2025

NPD CREDIT: NEIGHBORHOOD SCHOOLS

ND
1 point
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To promote community interaction and engagement by integrating *schools* into the neighborhood. To improve students' health by encouraging walking and bicycling to school.

Requirements

ND PLAN, ND

Include in the *project* a residential component that constitutes at least 30% of the project's total building floor area, and locate or design the project such that at least 50% of the *dwelling units* are within a ½-mile (800-meter) *walking distance* of the functional building entry of an *existing* or new elementary or middle school or within a 1-mile (1600-meter) walking distance of the functional building entry of an existing or new high school. If the school combines an elementary or middle school with a high school, 50% of the dwelling units must be a ½ mile (800 meter) walking distance of the functional building entry.

For any new school, the school authority must commit that the school will be open by the time 50% of the project dwelling units are occupied. A legally binding warrant committing to open the school by this time must be provided at the time of first building occupancy.

Portions of the circulation network within or bordering the *project boundary* that lead from dwelling units to the school site must have (1) a complete network of sidewalks on both sides and (2) either continuous bicycle lanes or a combination of traffic control and calming measures (alleys may be exempted). If the school is planned as part of the project, it must be designed such that pedestrians and cyclists can easily reach building entrances without crossing bus zones, parking entrances, and student drop-off areas.

New school campuses within the project boundary must not exceed the following limits:

- high school (students 15-18 years old), 15 acres (6 hectares);
- middle school (students 11-14 years old), 10 acres (4 hectares); and
- elementary school (students 6-10 years old), 5 acres (2 hectares).

Schools combining grade levels from more than one category may use the grade level with the higher allowable limits.

Facilities on the school site (e.g., athletic fields, playgrounds, multipurpose interior spaces) for which there is a formal joint-use agreement with another entity may be deducted from the total site area of the school.

SFC CLERK RECORDED 02/12/2025

GREEN INFRASTRUCTURE AND BUILDINGS (GIB)

GIB PREREQUISITE: CERTIFIED GREEN BUILDING
Required

ND
This prerequisite applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent
To encourage the design, construction, and retrofit of buildings using green building practices.

Requirements

ND PLAN, ND (GIB)

Design, construct, or retrofit one whole building within the project to be certified through a LEED rating system (if LEED for Commercial Interiors, 75% of the total building floor area must be certified), or through a green building rating system requiring review by independent, impartial, third-party certifying bodies that have been accredited by an IAF-accredited body to ISO/IEC Guide 65 or, when available, ISO/IEC 17065.

SFC CLERK RECORDED 02/12/2025

GIB PREREQUISITE: MINIMUM BUILDING ENERGY PERFORMANCE Required

ND
This prerequisite applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To encourage the design and construction of energy-efficient buildings that reduce air, water, and land pollution and environmental damage from energy production and consumption.

Requirements

ND PLAN, ND

The requirements apply to 90% of the total building floor area (rounded up to the next whole building) of all nonresidential buildings, mixed-use buildings, and multiunit residential buildings four stories or more constructed as part of the project or undergoing major renovations as part of the project. Each counted building must comply with one of the following options.

Option 1. Whole-Building Energy Simulation

Demonstrate an average improvement of 5% for new buildings, 3% for major building renovations, or 2% for core and shell buildings over ANSI/ASHRAE/IESNA Standard 90.1–2010, with errata (or a USGBC-approved equivalent standard for projects outside the U.S.) across all buildings pursuing Option 1. Multiple buildings may be grouped into a single energy model, provided (1) the building type (new construction, major renovation, or core and shell) is consistent for all buildings included in the energy model, or (2) an average 5% improvement is demonstrated for the entire energy model. Calculate the baseline building performance according to ANSI/ASHRAE/IESNA Standard 90.1–2010, Appendix G, with errata, using a simulation model.

Buildings must meet the minimum percentage savings before taking credit for renewable energy systems.

Each building's proposed design must meet the following criteria:

- compliance with the mandatory provisions of ANSI/ASHRAE/IESNA Standard 90.1–2010, with errata (or a USGBC-approved equivalent standard for projects outside the U.S.);
- inclusion of all energy consumption and costs within and associated with the building project; and
- comparison against a baseline building that complies with Standard 90.1–2010, Appendix G, with errata (or a USGBC-approved equivalent standard for projects outside the U.S.).

Document the energy modeling input assumptions for unregulated loads. Unregulated loads should be modeled accurately to reflect the actual expected energy consumption of the building.

If unregulated loads are not identical for both the baseline and the proposed building performance rating, and the simulation program cannot accurately model the savings, follow the exceptional calculation method (ANSI/ASHRAE/IESNA Standard 90.1–2010, G2.5). Alternatively, use the COMNET modeling guidelines and procedures to document measures that reduce unregulated loads.

OR

Option 2. Prescriptive Compliance: ASHRAE 50% Advanced Energy Design Guide

Comply with the mandatory and prescriptive provisions of ANSI/ASHRAE/IESNA Standard 90.1–2010, with errata (or a USGBC-approved equivalent standard for projects outside the U.S.).

SFC CLERK RECORDED 02/12/2025

Comply with HVAC and service water heating requirements applicable to the each building, including equipment efficiency, economizers, ventilation, and ducts and dampers, for the appropriate ASHRAE 50% Advanced Energy Design Guide and climate zone:

- ASHRAE 50% Advanced Energy Design Guide for Small to Medium Office Buildings, for office buildings smaller than 100,000 square feet (9 290 square meters);
- ASHRAE 50% Advanced Energy Design Guide for Medium to Large Box Retail Buildings, for retail buildings with 20,000 to 100,000 square feet (1 860 to 9 290 square meters);
- ASHRAE 50% Advanced Energy Design Guide for K–12 School Buildings; or
- ASHRAE 50% Advanced Energy Design Guide for Large Hospitals.
    - Over 100,000 square feet (9 290 square meters)

For projects outside the U.S., consult ASHRAE/ASHRAE/IESNA Standard 90.1–2010, Appendixes B and D, to determine the appropriate climate zone.

Option 3. Prescriptive Compliance: Advanced Buildings Core Performance Guide
Comply with the mandatory and prescriptive provisions of ANSI/ASHRAE/IESNA Standard 90.1–2010, with errata (or USGBC approved equivalent standard for projects outside the U.S.).

Comply with Section 1: Design Process Strategies, Section 2: Core Performance Requirements, and the following three strategies from Section 3: Enhanced Performance Strategies, as applicable. Where standards conflict, follow the more stringent of the two. For projects outside the U.S., consult ASHRAE/ASHRAE/IESNA Standard 90.1-2010, Appendixes B and D, to determine the appropriate climate zone.

3.5 Supply Air Temperature Reset (VAV)
3.9 Premium Economizer Performance
3.10 Variable Speed Control

To be eligible for Option 3, the project must be less than 100,000 square feet (9 290 square meters).

Note: Healthcare, Warehouse or Laboratory projects are ineligible for Option 3.

AND

For new *single-family residential* buildings and new lowrise multifamily buildings, 90% of the buildings must meet the requirements of LEED for Homes v4 EA Prerequisite: Minimum Energy Performance.

SFC CLERK RECORDED 02/12/2025

GIB PREREQUISITE: INDOOR WATER USE REDUCTION
Required

ND
This prerequisite applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To reduce indoor water consumption.

Requirements

ND PLAN, ND

Nonresidential Buildings, Mixed-Use Buildings, and Multifamily Residential Buildings Four Stories or More

For new buildings and buildings undergoing major renovations as part of the *project*, reduce indoor water usage by an average of 20% from a baseline. All newly installed toilets, urinals, private lavatory faucets, and showerheads that are eligible for labeling must be WaterSense labeled (or a local equivalent for projects outside the U.S.).

For the fixtures and fittings listed in Table 1, as applicable to the project scope, reduce water consumption by 20% from the baseline. Base calculations on the volumes and flow rates shown in Table 1.

The design case is calculated as a weighted average of water usage for the buildings constructed as part of the project based on their floor area.

Table 1. Baseline water consumption of fixtures and fittings

Fixture or fitting	*Baseline (IP units)*	*Baseline (SI units)*
Toilet (water closet)*	1.6 gpf	6 lpf
Urinal*	1.0 gpf	3.8 lpf
Public lavatory (restroom) faucet	0.5 gpm at 60 psi** all others except private applications	1.9 lpm at 415 kPa, all others except private applications
Private lavatory faucet*	2.2 gpm at 60 psi	8.3 lpm at 415 kPa
Kitchen faucet (excluding faucets used exclusively for filling operations)	2.2 gpm at 60 psi	8.3 lpm at 415 kPa
Showerhead*	2.5 gpm at 80 psi per shower stall	9.5 lpm at 550 kPa per shower stall

* WaterSense label available for this product type
gpf = gallons per flush
gpm = gallons per minute
psi = pounds per square inch
lpf = liters per flush
lpm = liters per minute
kPa = kilopascals

SFC CLERK RECORDED 02/12/2025

New Single-Family Residential Buildings and New Multiunit Residential Buildings Three Stories or Fewer

90% of residential buildings must use a combination of fixtures and fittings that would earn 2 points under LEED for Homes v4 WE Credit Indoor Water Use.

SEC CLERK RECORDED 02/12/2025

GIB PREREQUISITE: CONSTRUCTION ACTIVITY POLLUTION PREVENTION Required

ND
This prerequisite applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent
To reduce pollution from construction activities by controlling soil erosion, waterway sedimentation, and airborne dust.

Requirements

ND PLAN, ND

Create and implement an erosion and sedimentation control plan for all new construction activities associated with the project. The plan must incorporate best management practices (BMPs) to control erosion and sedimentation in runoff from the entire project site during construction. The BMPs must be selected from EPA's BMPs for construction and post-construction site runoff control.

The erosion and sedimentation control plan must list the BMPs employed and describe how the project team will do the following:

- preserve vegetation and mark clearing limits;
- establish and delineate construction access;
- control flow rates;
- install sediment controls;
- stabilize soils;
- prevent soil loss during construction;
- stockpile topsoil for reuse;
- protect slopes;
- protect drain inlets, all rainwater conveyance systems, and receiving water bodies;
- stabilize channels and outlets;
- control pollutants including dust and particulate matter;
- control dewatering;
- maintain the BMPs; and
- manage the erosion and sedimentation control plan.

SFC CLERK RECORDED 02/12/2025

GIB CREDIT: CERTIFIED GREEN BUILDINGS

ND
1–5 points
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent
To encourage the design, construction, and retrofit of buildings using green building practices.

Requirements

ND PLAN, ND

Option 1. Projects with 10 or Fewer Habitable Buildings (1–5 points)
Design, construct, or retrofit one building as part of the project, beyond the prerequisite requirement, to be certified under a LEED green building rating systems (for LEED for Commercial Interiors, 75% of the total building floor area must be certified), or through a green building rating system requiring review by independent, impartial, third-party certifying bodies that have been accredited by an IAF-accredited body to ISO/IEC Guide 65 or, when available, ISO/IEC 17065. Up to five points may be earned for each additional certified building that is part of the project.

OR

Option 2. Projects of All Sizes (1–5 points)
Design, construct, or retrofit a percentage of the total project building floor area, beyond the prerequisite requirement, to be certified under a LEED green building rating systems or through a green building rating system requiring review by independent, impartial, third-party certifying bodies that have been accredited by an IAF-accredited body to ISO/IEC Guide 65 or, when available, ISO/IEC 17065.

Table 1. Points for green building certification

Percentage of total floor area certified	Points
≥ 10% and < 20%	1
≥ 20% and < 30%	2
≥ 30% and < 40%	3
≥ 40% and < 50%	4
≥ 50%	5

For All Projects Detached accessory dwelling units must be counted as separate buildings. Accessory dwellings attached to a main building are not counted separately.

SFC CLERK RECORDED 02/12/2025

GIB CREDIT: OPTIMIZE BUILDING ENERGY PERFORMANCE

ND
1–2 points
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To encourage the design and construction of energy-efficient buildings that reduce air, water, and land pollution and adverse environmental effects from energy production and consumption.

Requirements

ND PLAN, ND

The requirements apply to 90% of the total building floor area (rounded up to the next whole building) of all nonresidential buildings, mixed-use buildings, and *multiunit residential* buildings four stories or more constructed as part of the *project* or undergoing major renovations as part of the project.
Each counted building must comply with one of the following efficiency options.

Option 1. Whole-Building Energy Simulation (1–2 points)

New buildings must demonstrate an average percentage improvement of 12% (1 point) or 20% (2 points) over ANSI/ASHRAE/IESNA Standard 90.1–2010, with errata. Buildings undergoing major renovations as part of the project must demonstrate an average percentage improvement of 10% (1 point) or 18% (2 points). Core and shell buildings must demonstrate an average percentage improvement of 11% (1 point) or 15% (2 points). To determine percentage improvement, follow the method outlined in GIB Prerequisite Minimum Building Energy Performance.

OR

Option 2. Prescriptive Compliance: ASHRAE 50% Advanced Energy Design Guide (2 points)

To be eligible for Option 2, project must comply with all of requirements of Option 2 in GIB Prerequisite Minimum Building Energy Performance.

AND

Comply with the applicable recommendations and standards in Chapter 4, Design Strategies and Recommendations by Climate Zone, for the appropriate ASHRAE 50% Advanced Energy Design Guide and climate zone. For projects outside the U.S., consult ASHRAE/ASHRAE/IESNA Standard 90.1–2010, Appendixes B and D, to determine the appropriate climate zone.

ASHRAE 50% Advanced Energy Design Guide for Small to Medium Office Buildings

- *Building envelope, opaque:* roofs, walls, floors, slabs, doors, and continuous air barriers
- *Building envelope, glazing:* vertical fenestration
- *Interior lighting,* including daylighting and interior finishes
- *Exterior lighting*
- *Plug loads,* including equipment and controls

ASHRAE 50% Advanced Energy Design Guide for Medium to Large Box Retail Buildings

- *Building envelope, opaque:* roofs, walls, floors, slabs, doors, and vestibules
- *Building envelope, glazing:* fenestration - all orientations
- *Interior lighting,* excluding lighting power density for sales floor

SFC CLERK RECORDED 02/12/2025

- *Additional interior lighting* for sales floor
- *Exterior lighting*
- *Plug loads,* including equipment choices and controls

ASHRAE 50% Advanced Energy Design Guide for K–12 School Buildings

- *Building envelope, opaque:* roofs, walls, floors, slabs, and doors
- *Building envelope, glazing:* vertical fenestration
- *Interior lighting,* including daylighting and interior finishes
- *Exterior lighting*
- *Plug loads,* including equipment choices, controls, and kitchen equipment

ASHRAE 50% Advanced Design Guide for Large Hospitals

- *Building envelope, opaque:* roofs, walls, floors, slabs, doors, vestibules, and continuous air barriers
- *Building envelope, glazing:* vertical fenestration
- *Interior lighting,* including daylighting (form or nonform driven) and interior finishes
- *Exterior lighting*
- *Plug loads,* including equipment choices, controls, and kitchen equipment

For new *single-family residential* buildings and new multiunit residential buildings three stories or fewer, 90% of the buildings must reduce absolute estimated annual energy usage by 20% compared with the LEED Energy Budget for each building. Follow the method outlined in LEED v4 for Homes, EA Credit Annual Energy Use.

SFC CLERK RECORDED 02/12/2025

GIB CREDIT: INDOOR WATER USE REDUCTION

ND
1 point
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To reduce indoor water consumption.

Requirements

ND PLAN, ND

Nonresidential Buildings, Mixed-Use Buildings, and Multifamily Residential Buildings Four Stories or More

For new buildings and buildings undergoing major renovations as part of the *project*, reduce indoor water usage by an average of 40% from a baseline.

All newly installed toilets, urinals, private lavatory faucets, and showerheads that are eligible for labeling must be WaterSense labeled (or local equivalent for projects outside the U.S.).

For fixtures and fittings listed in Table 1, as applicable to the project scope, calculate the baseline water consumption using estimated occupant usage.

The design case is calculated as a weighted average of water usage for the buildings constructed as part of the project, based on their floor area.

Table 1. Baseline water consumption of fixtures and fittings

Fixture or fitting	*Baseline (IP units)*	*Baseline (SI units)*
Toilet (water closet)*	1.6 gpf	6 lpf
Urinal*	1.0 gpf	3.8 lpf
Public lavatory (restroom) faucet	0.5 gpm at 60 psi** all others except private applications	1.9 lpm at 415 kPa, all others except private applications
Private lavatory faucet*	2.2 gpm at 60 psi	8.3 lpm at 415 kPa
Kitchen faucet (excluding faucets used exclusively for filling operations)	2.2 gpm at 60 psi	8.3 lpm at 415 kPa
Showerhead*	2.5 gpm at 80 psi per shower stall	9.5 lpm at 550 kPa per shower stall

* WaterSense label available for this product type
gpf = gallons per flush
gpm = gallons per minute
psi = pounds per square inch
lpf = liters per flush
lpm = liters per minute
kPa = kilopascals

SFC CLERK RECORDED 02/12/2025

New Single-Family Residential Buildings and New Multiunit Residential Buildings Three Stories or Fewer

90% of buildings must use a combination of fixtures and fittings that would earn 4 points under LEED v4 for Building Design and Construction: Homes and Multifamily Lowrise v4 WE Credit Indoor Water Use.

SFC CLERK RECORDED 02/12/2025

GIB CREDIT: OUTDOOR WATER USE REDUCTION

ND
1–2 points
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To reduce outdoor water consumption.

Requirements

ND PLAN, ND

Reduce outdoor water use through one of the following options. Nonvegetated surfaces, such as permeable or impermeable pavement, should be excluded from landscape area calculations. Athletic fields and playgrounds (if vegetated) and food gardens may be included or excluded at the project team's discretion.

Option 1. No Irrigation Required (2 points)

Show that the landscape does not require a permanent irrigation system beyond a maximum two-year establishment period.

OR

Option 2. Reduced Irrigation (1–2 points)

Reduce the project's landscape water requirement (LWR) by at least 30% from the calculated baseline for the site's peak watering month. Reductions must first be achieved through plant species selection and irrigation system efficiency as calculated in the Environmental Protection Agency (EPA) WaterSense Water Budget Tool.

Additional reductions beyond 30% may be achieved using any combination of efficiency, alternative water sources, and smart scheduling technologies.

Table 1. Points for reducing irrigation water

Percentage reduction from baseline	*Points*
30%	1
50%	2

SFC CLERK RECORDED 02/12/2025

GIB CREDIT: BUILDING REUSE

ND
1 point
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To extend the life cycle of buildings and conserve resources, reduce waste, and reduce environmental harm from materials manufacturing and transport for new buildings.

Requirements

ND PLAN, ND (GIB)

Case 1. Five Buildings or Fewer

For projects with five or fewer buildings undergoing major renovations, reuse 50% of one such building, based on surface area. Calculations must include structural elements (e.g., floors, roof decking) and enclosure materials (e.g., skin, framing). Exclude from the calculations window assemblies, nonstructural roofing material, and any hazardous materials that are remediated as part of the project.

Case 2. More Than Five Buildings

For projects with more than five buildings undergoing major renovations, reuse 20% of the total surface area of such buildings (including structure and enclosure materials, as defined in Case 1).

For All Projects Do not demolish any *historic buildings* or contributing buildings in a *historic district*, or portions thereof, or alter any *cultural landscapes* as part of the project.

An exception is granted only with approval from an appropriate review body. For buildings or landscapes listed locally, approval must be granted by the local historic preservation review board, or equivalent. For buildings or landscapes listed in a state register or in the National Register of Historic Places (or equivalent for projects outside the U.S.), approval must appear in a programmatic agreement with the state historic preservation office or National Park Service (or local equivalent for projects outside the U.S.).

SFC CLERK RECORDED 02/12/2025

GIB CREDIT: HISTORIC RESOURCE PRESERVATION AND ADAPTIVE REUSE

ND
2 points
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To respect local and national landmarks and conserve material and cultural resources by encouraging the preservation and adaptive reuse of historic buildings and cultural landscapes.

Requirements

ND PLAN, ND (GIB)

This credit is available to projects with at least one historic building, contributing building in a historic district, or cultural landscape on the *project* site.

Do not demolish any historic buildings or contributing buildings in a historic district, or portions thereof, or alter any cultural landscapes as part of the project.

An exception is granted only with approval from an appropriate review body. For buildings or landscapes listed locally, approval must be granted by the local historic preservation review board, or equivalent. For buildings or landscapes listed in a state register or in the National Register of Historic Places (or equivalent for projects outside the U.S.), approval must appear in a programmatic agreement with the state historic preservation office or National Park Service (or local equivalent for projects outside the U.S.).

If any historic building or a contributing building in a historic district in the project site is to be altered (rehabilitated, preserved, or restored), use one of the following approaches for each building, as applicable.

- *Building subject to local review.* Obtain approval, in the form of a certificate of appropriateness, from a local historic preservation commission or architectural review board for any exterior alterations or additions.

- *Building subject to state or federal review.* If the building is subject to review by a state historic preservation office or the National Park Service (or equivalent body for projects outside the U.S.), the alteration must meet the Secretary of the Interior's Standards for the Treatment of Historic Properties (or equivalent for projects outside the U.S.).

- *Listed or eligible building not subject to review.* If a building is listed or determined eligible but alteration is not subject to local, state, or federal review, include on the project team a preservation professional who meets the U.S. federal qualifications for historic architects or architectural historians (or a local equivalent for projects outside the U.S.). The preservation professional must confirm adherence to the Secretary of the Interior's Standards for the Treatment of Historic Properties, or a local equivalent for projects outside the U.S.

If a cultural landscape is to be rehabilitated, restored, or preserved, do so in accordance with the Guidelines for the Treatment of Cultural Landscapes or local equivalent for projects outside the U.S. whichever is more stringent.

SFC CLERK RECORDED 02/12/2025

GIB CREDIT: MINIMIZED SITE DISTURBANCE

ND
1 point
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent
To preserve existing noninvasive trees, native plants, and pervious surfaces.

Requirements

ND PLAN, ND (GIB)

Option 1. Development Footprint on Previously Developed Land (1 point)
Locate 100% of the development footprint and the construction impact zone on previously developed land.

OR

Option 2. Undeveloped Portion of Project Left Undisturbed (1 point)
Depending on the density of the project, do not develop or disturb a portion of the site that has not been previously developed, exclusive of (1) any land preserved by codified law, (2) a prerequisite of LEED for Neighborhood Development or (3) exempt areas designated as nonbuildable in comprehensive land-use plans. Stipulate in covenants, conditions, and restrictions (CC&R) or other binding documents that the undisturbed area will be protected from development by a private or governmental agency for the purpose of long-term conservation. When determining the minimum area to be left undeveloped, mixed-use projects must use the lowest applicable density from Table 1 or use the weighted average methodology in NPD Credit Compact Development. Densities and minimum percentages are as follows:

Table 1. Minimum undeveloped area, by project density

Residential density (DU/acre)	Residential density (DU/hectare)	Nonresidential density (FAR)	Minimum area left undisturbed
< 13	<32	< 0.5	20%
> 13 and ≤ 18	> 32 and ≤ 45	≥ 0.5 and ≤1	15%
> 18	> 45	> 1	10%

DU = dwelling unit; FAR = floor-area ratio.

For portions of the site that are not previously developed, identify construction impact zones that limit disturbance to the following:

- 40 feet (12 meters) beyond the building perimeter;
- 10 feet (3 meters) beyond surface walkways, patios, surface parking, and utilities less than 12 inches (30 centimeters) in diameter;
- 15 feet (4.5 meters) beyond street curbs and main utility branch trenches; and
- 25 feet (7.5 meters) beyond constructed areas with permeable surfaces (such as pervious paving areas, stormwater retention facilities, and playing fields) that require additional staging areas to limit compaction in the constructed zone.

For All Projects

Survey the site to identify the following:

- trees in good or excellent condition, as determined by an arborist certified by the International Society of Arboriculture (ISA) or local equivalent professional for projects outside the U.S.;
- any heritage or champion trees of special importance to the community because of their age, size, type, historical association, or horticultural value, as defined by a government forester;

SFC CLERK RECORDED 02/12/2025

- all trees larger than 6 inches (15 centimeters) in diameter at breast height (dbh, 4 feet 6 inches [1.4 meters] above ground); and
- any invasive plant species that affect trees present on the site, and whether those plants threaten the health of other trees to be preserved on the site, as determined by an ISA-certified arborist or local equivalent professional.

Preserve the following trees that are also identified as in good or excellent condition:

- all heritage or champion trees and trees whose dbh exceeds 50% of the state champion dbh for the species;
- a minimum of 75% of all noninvasive trees (including the above) larger than 18 inches (45 centimeters) dbh; and
- a minimum of 25% of all noninvasive trees (including the above) larger than 12 inches (30 centimeters) dbh if deciduous and 6 inches (15 centimeters) dbh if coniferous.

Tree condition ratings must be determined by an ISA-certified arborist using ISA-approved assessment measures or by a local equivalent professional utilizing an equivalent methodology.

Develop a plan, in consultation with and approved by an ISA-certified arborist or equivalent, for the health of the trees, including fertilization and pruning, and for their protection during construction.

If an ISA-certified arborist or local equivalent professional has determined that any trees to be preserved are threatened by invasive vegetation, develop a plan to reduce the invasive vegetation. Stipulate in codes, covenants, and restrictions or other binding documents that the undisturbed area of the preserved trees will be protected from development by a private or governmental agency for the purpose of long-term conservation.

SFC CLERK RECORDED 02/12/2025

GIB CREDIT: RAINWATER MANAGEMENT

ND
1–4 points
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent
To reduce runoff volume and improve water quality by replicating the natural hydrology and water balance of the site, based on historical conditions and undeveloped ecosystems in the region.

Requirements

ND PLAN, ND

In a manner best replicating *natural site hydrology* processes, *manage on site* the runoff from the developed site for the percentile of regional or local rainfall events listed in Table 1, using *low-impact development (LID)* and *green infrastructure*.

Use daily rainfall data and the methodology in the U.S. Environmental Protection Agency (EPA) Technical Guidance on Implementing the Stormwater Runoff Requirements for Federal Projects under Section 438 of the Energy Independence and Security Act to determine the percentile amounts listed in Table 1. The percentile rainfall event indicates the total volume to be retained on site.

Table 1. Points for retaining rainwater on site

Percentile rainfall event	Points
80th	1
85th	2
90th	3
95th	4

Projects that earn at least 2 points under this credit may earn an additional point if the site meets one of the following criteria.

- The project is located on a previously developed site.
- The project achieves 1 point in SLL Credit Brownfield Remediation.
- The project is designed to be transit ready by achieving at least 2 points each under NPD Credit Walkable Streets, NPD Credit Compact Development, and NPD Credit Mixed-Use Neighborhoods.

SFC CLERK RECORDED 02/12/2025

GIB CREDIT: HEAT ISLAND REDUCTION

ND
1 point
This credit applies to

- Neighborhood Development Plan (1 point)
- Neighborhood Development (1 point)

Intent
To minimize effects on microclimates and human and wildlife habitats by reducing heat islands.

Requirements

ND PLAN, ND

Option 1. Nonroof (1 point)
Use any combination of the following strategies for 50% of the nonroof site paving (including roads, sidewalks, courtyards, parking lots, parking structures, and driveways).

- Use the existing plant material or install plants that provide shade over the paving areas on the site within 10 years of plant material installation.
- Install and plant planters, either at grade or raised. Plant material cannot include artificial turf.
- Provide shade with structures covered by energy generation systems, such as solar thermal collectors, photovoltaics, and wind turbines, that produce energy used to offset some nonrenewable resource use.
- Provide shade with architectural devices or structures that have a three-year aged *solar reflectance (SR)* value of at least 0.28. If three-year aged value information is not available, use materials with an initial SR of at least 0.33 at installation,
- Provide shade with vegetated structures.
- Use paving materials with a three-year aged *solar reflectance (SR)* value of at least 0.28. If three-year aged value information is not available, use materials with an initial SR of at least 0.33 at installation.
- Use an *open-grid pavement system* (at least 50% unbound).

OR

Option 2. High-Reflectance and Vegetated Roofs (1 point)
Use roofing materials that have an SRI equal to or greater than the values in Table 1. Meet the three-year aged SRI value (if three-year aged value information is not available, use materials that meet the initial SRI value) for a minimum of 75% of the roof area of all new buildings within the project, or install a vegetated ("green") roof for at least 75% of the roof area of all new buildings within the project. Combinations of SRI-compliant and vegetated roofs can be used, provided they satisfy the equation in Option 3.

Table 1. Minimum solar reflectance index value, by roof slope

	Initial SRI	3-year aged SRI
Low (≤ 2:12)	82	64
Steep (> 2:12)	39	32

OR

Option 3. Mixed Nonroof and Roof Measures (1 point)
Use any of the strategies listed under Options 1 and 2 that in combination meet the following criterion:

Area of	Area of High-	Area of	Total Site	Total Roof Area

SFC CLERK RECORDED 02/12/2025

$$\frac{\text{Nonroof Measures}}{0.5} + \frac{\text{Reflectance Roof}}{0.75} + \frac{\text{Vegetated Roof}}{0.75} \geq \text{Paving Area} +$$

Alternatively, an SRI and SR weighted average approach may be used to calculate compliance:

SFC CLERK RECORDED 02/12/2025

GIB CREDIT: SOLAR ORIENTATION

ND
1 point
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To encourage energy efficiency by creating optimum conditions for the use of passive and active solar strategies.

Requirements

ND PLAN, ND

Option 1. Block Orientation (1 point)

This option is for projects that earn at least 2 points under NPD Credit Compact Development.

Design and orient the project or locate the project on existing blocks such that one axis of 75% or more of the blocks is within ±15 degrees of geographical east-west, and the east-west lengths of those blocks are at least as long as the north-south lengths.

OR

Option 2. Building Orientation (1 point)

Design and orient 75% or more of the project's total building floor area (excluding existing buildings) such that one axis of each qualifying building is at least 1.5 times longer than the other, and the longer axis is within 15 degrees of geographical east-west. The length-to-width ratio applies only to walls enclosing conditioned spaces; walls enclosing unconditioned spaces, such as garages, arcades, or porches, cannot contribute to credit achievement. The surface area of equator-facing vertical surfaces and slopes of roofs of buildings counting toward credit achievement must not be more than 25% shaded at the time of initial occupancy, measured at noon on the winter solstice.

SFC CLERK RECORDED 02/12/2025

GIB CREDIT: RENEWABLE ENERGY PRODUCTION

ND
1–3 points
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To reduce the environmental and economic harms associated with fossil fuel energy by increasing self-supply of renewable energy.

Requirements

ND PLAN, ND

Incorporate on-site nonpolluting renewable energy generation, such as solar, wind, geothermal, small-scale or micro-hydroelectric, or biomass, with production capacity of at least 5% of the project's annual electrical and thermal energy cost (exclusive of *existing* buildings).

Points are awarded according to Table 1.

Table 1. Points for renewable energy production

Percentage of annual electrical and thermal energy cost	*Points*
5%	1
12.5%	2
20%	3

SFC CLERK RECORDED 02/12/2025

GIB CREDIT: DISTRICT HEATING AND COOLING

ND
2 points
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To encourage the development of energy-efficient neighborhoods by employing district heating and cooling strategies that reduce energy use and energy-related environmental harms.

Requirements

ND PLAN, ND

Incorporate a district heating and/or cooling system for space conditioning and/or water heating of new buildings (at least two buildings total) such that at least 80% of the *project's* annual heating and/or cooling consumption is provided by the district plant. *Single-family residential* buildings and *existing* buildings of any type may be excluded from the calculation.

Each system component that is addressed by ANSI/ASHRAE/IESNA Standard 90.1–2010 must have an overall efficiency performance at least 10% better than that specified by the standard's prescriptive requirements. Additionally, annual district pumping energy consumption that exceeds 2.5% of the annual thermal energy output of the heating and cooling plant must be offset by increases in the component's efficiency beyond the 10% improvement. If a combined heat and power (CHP) system is used to comply with the credit requirements, show equivalence by demonstrating that energy consumption savings from the CHP plant at least equal the energy savings that would result from using a conventional district energy system with components that are 10% better than ANSI/ASHRAE/IESNA Standard 90.1–2010. When determining equivalency, take into account the pumping energy as described above.

SFC CLERK RECORDED 02/12/2025

GIB CREDIT: INFRASTRUCTURE ENERGY EFFICIENCY

ND
1 point
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To reduce the environmental harms from energy used for operating public infrastructure.

Requirements

ND PLAN, ND

Design, purchase, or work with the municipality to install all new infrastructure (e.g., traffic lights, *street* lights, water and wastewater pumps) to achieve a 15% annual energy reduction below an estimated baseline energy use for this infrastructure. When determining the baseline, assume the use of lowest first-cost infrastructure items.

SFC CLERK RECORDED 02/12/2025

GIB CREDIT: WASTEWATER MANAGEMENT

ND
1–2 points
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To reduce pollution from wastewater and encourage water reuse. .

Requirements

ND PLAN, ND (GIB)

Design and construct the project to retain on-site at least 25% of the average annual wastewater generated by the project (excluding any existing buildings), and reuse that wastewater to replace potable water. Provide on-site treatment to a quality required by state and local regulations for the proposed reuse, whichever is more stringent. Calculate the percentage of wastewater diverted and reused by determining the total wastewater flow, using the design case from GIB Prerequisite Indoor Water Use Reduction and adding wastewater flow from residential buildings, then determining how much of that volume is reused on site.

Table 1. Points for reusing wastewater

Percentage of wastewater reused	*Points*
25%	1
50%	2

SFC CLERK RECORDED 02/12/2025

GIB CREDIT: RECYCLED AND REUSED INFRASTRUCTURE

ND
1 point
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To avoid the environmental consequences of extracting and processing virgin materials by using recycled and reclaimed materials.

Requirements

ND PLAN, ND (GIB)

Use materials for new infrastructure such that the sum of the *postconsumer* recycled content, on-site reused materials, and one-half of the *preconsumer* recycled content constitutes at least 50% of the total mass of infrastructure materials.

Count materials in all of the following infrastructure items, as applicable:

- roadways, parking lots, sidewalks, unit paving, and curbs;
- water retention tanks and vaults;
- base and sub-base materials for the above; and
- rainwater, sanitary sewer, steam energy distribution, and water piping.

Recycled content is defined in accordance with ISO/IEC 14021, Environmental Labels and Declaration, Self-Declared Environmental Claims (Type II environmental labeling).

SFC CLERK RECORDED 02/12/2025

GIB CREDIT: SOLID WASTE MANAGEMENT

ND
1 point
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To reduce the volume of waste deposited in landfills and promote the proper disposal of hazardous waste.

Requirements

ND PLAN, ND (GIB)

Meet at least four of the following five requirements and publicize their availability and benefits.

a. Include as part of the *project* at least one recycling or reuse station, available to all project occupants, dedicated to the separation, collection, and storage of materials for recycling; or locate the project in a local government jurisdiction that provides recycling services. The recycling must cover at least paper, corrugated cardboard, glass, plastics, and metals.

b. Include as part of the project at least one drop-off point, available to all project occupants, for potentially hazardous office or household wastes and establish a plan for postcollection disposal or use; or locate the project in a local government jurisdiction that provides collection services. Examples of potentially hazardous wastes include paints, solvents, oil, mercury-containing lamps, electronic waste, and batteries.

c. Include as part of the project at least one compost station or location, available to all project occupants, dedicated to the collection and composting of food and yard wastes, and establish a plan for postcollection use; or locate the project in a local government jurisdiction that provides composting services. .

d. On every mixed-use or nonresidential *block* or at least every 800 feet (245 meters), whichever is shorter, include recycling containers either adjacent to or integrated into the design of other receptacles.

e. Recycle, reuse, or salvage at least 50% of nonhazardous construction, demolition, and renovation debris. Calculations can be done by weight or volume but must be consistent throughout. Develop and implement a construction waste management plan that identifies the materials to be diverted from disposal and specifies whether the materials will be stored on site or commingled. Reused or recycled asphalt, brick, and concrete (ABC) can account for no more than 75% of the diverted waste total. Exclude excavated soil, land-clearing debris, and materials contributing toward GIB Credit Building Reuse from calculations. Include materials destined for alternative daily cover (ADC) in the calculations as waste (not diversion).

SFC CLERK RECORDED 02/12/2025

GIB CREDIT: LIGHT POLLUTION REDUCTION

ND
1 point
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent
To increase night sky access, improve nighttime visibility, and reduce the consequences of development for wildlife and people.

Requirements

ND PLAN, ND

Meet the Light Pollution Reduction requirements for the following:
1. One option in Exterior Lighting for Residential Areas
2. Exterior Lighting for Circulation Network
3. Uplight and light trespass requirements in Exterior Lighting for All Other Areas
4. Covenants, Conditions, and Restrictions.

Divide the project into model lighting ordinance (MLO) lighting zones LZ0 to LZ4 based on site-specific characteristics using the definitions of lighting zones provided in the Illuminating Engineering Society and International Dark Sky Association (IES/IDA) MLO User Guide.

Meet the requirements below for each lighting zone within the project.

Exterior Lighting for Residential Areas
Meet either Option 1 or Option 2 for all exterior lighting in new residential construction and residential buildings undergoing major renovations. Existing residential construction is exempt. Projects may use different options for uplight and light trespass.

Option 1. BUG Rating Method
Each fixture must have a backlight-uplight-glare (BUG) rating (as defined in IES TM-15-11, Addendum A) of no more than B2-U2-G2.

OR

Option 2. Calculation Method
Meet the requirements of Option 2 in Exterior Lighting for All Other Areas, below.

Exterior Lighting for Circulation Network
For any portions of the circulation network not governed by national, state, or other superseding regulations, do not install street lighting unless conditions warrant the need for street lighting.

New and existing street lighting luminaires must not emit any light above 90 degrees (horizontal), based on the photometric characteristics of each luminaire when mounted in the same orientation and tilt as specified in the project design or as currently installed.

Exception for ornamental luminaires: Using the lowest MLO lighting zone for immediately adjacent properties, meet the requirements of the IES/IDA MLO, Table H.

AND

Exterior Lighting for All Other Areas

Use either the BUG method (Option 1) or the calculation method (Option 2) to meet uplight and light trespass

SFC CLERK RECORDED 02/12/2025

requirements. Projects may use different options for uplight and light trespass.

Uplight

Option 1. BUG Rating Method
Do not exceed the following luminaire uplight ratings, based on the specific light source installed in the luminaire as defined in IES TM-15-11, Addendum A.

Table 1. Maximum uplight ratings for luminaires, by lighting zone

MLO lighting zone	Luminaire uplight rating
LZ0	U0
LZ1	U1
LZ2	U2
LZ3	U3
LZ4	U4

Option 2. Calculation Method
Do not exceed the following maximum percentages of total lumens emitted above horizontal.

Table 2. Maximum percentage of lumens above horizontal

MLO lighting zone	Maximum allowed percentage of total luminaire lumens emitted above horizontal
LZ0	0%
LZ1	0%
LZ2	1.5%
LZ3	3%
LZ4	6%

Light Trespass

Option 1. BUG Rating Method
Do not exceed the following luminaire backlight and glare ratings (based on the specific light source installed in the luminaire) as defined in IES TM-15-11, Addendum A, based on the mounting location and distance from the *lighting boundary*.

Table 3. Maximum backlight and glare ratings, by lighting zone

	MLO lighting zone				
Luminaire mounting	LZ0	LZ1	LZ2	LZ3	LZ4
	Allowed backlight ratings				
> 2 mounting heights from lighting boundary	B1	B3	B4	B5	B5
1 to 2 mounting heights from lighting boundary and properly oriented	B1	B2	B3	B4	B4
0.5 to 1 mounting height to lighting boundary and properly oriented	B0	B1	B2	B3	B3

SFC CLERK RECORDED 02/12/2025

< 0.5 mounting height to lighting boundary and properly oriented	B0	B0	B0	B1	B2
	Allowed glare ratings				
Building-mounted > 2 mounting heights from any lighting boundary	G0	G1	G2	G3	G4
Building-mounted 1–2 mounting heights from any lighting boundary	G0	G0	G1	G1	G2
Building-mounted 0.5 to 1 mounting heights from any lighting boundary	G0	G0	G0	G1	G1
Building-mounted < 0.5 mounting heights from any lighting boundary	G0	G0	G0	G0	G1
All other luminaires	G0	G1	G2	G3	G4

A lighting boundary (or boundaries) is defined as the perimeter of each lighting zone within the project boundary. A lighting boundary can be modified under the following conditions:

- When the property line is adjacent to a public area that is a walkway, bikeway, plaza, or parking lot, the lighting boundary may be moved to 5 feet (1.5 meters) beyond the property line;
- When the property line is adjacent to a public street, alley, or transit corridor, the lighting boundary may be moved to the center line of that street, alley, or corridor;
- When there are additional properties owned by the same entity that are contiguous to the property, or properties, that the LEED project is within and have the same or higher MLO lighting zone designation as the LEED project, the lighting boundary may be expanded to include those properties.

Orient all luminaires less than two mounting heights from the lighting boundary such that the backlight points toward the nearest lighting boundary line. Building-mounted luminaires with the backlight oriented toward the building are exempt from the backlight rating requirement.

Option 2. Calculation Method

Do not exceed the following vertical illuminances at the lighting boundary of each lighting zone in the project (use the definition of lighting boundary in Option 1). Calculation points may be no more than 5 feet (1.5 meters) apart. Vertical illuminances must be calculated on vertical planes running parallel to the lighting boundary, with the normal to each plane oriented toward the property and perpendicular to the lighting boundary, extending from grade level to 33 feet (10 meters) above the height of the highest luminaire.

Table 4. Maximum vertical illuminance at lighting boundary, by lighting zone

MLO lighting zone	Vertical illuminance
LZ0	0.05 fc (0.5 lux)
LZ1	0.05 fc (0.5 lux)
LZ2	0.10 fc (1 lux)
LZ3	0.20 fc (2 lux)
LZ4	0.60 fc (6 lux)

FC = footcandle

Exemptions from Uplight and Light Trespass Requirements

SFC CLERK RECORDED 02/12/2025

The following exterior lighting is exempt from the requirements, provided it is controlled separately from the nonexempt lighting:

- specialized signal, directional, and marker lighting for transportation;
- internally illuminated signage;
- lighting that is used solely for façade and landscape lighting in MLO lighting zones 3 and 4 and is automatically turned off from midnight until 6 a.m.;
- lighting that is integral to other equipment or instrumentation that has been installed by the equipment or instrumentation manufacturer;
- lighting for theatrical purposes for stage, film, and video performances;
- street lighting;
- hospital emergency departments, including associated helipads; and
- lighting for the national flag in MLO lighting zones 2, 3, or 4.

Covenants, Conditions, and Restrictions
Establish *covenants, conditions, and restrictions* (CC&R) or other binding documents that require continued adherence to the above requirements.

SFC CLERK RECORDED 02/12/2025

INNOVATION (IN)

IN CREDIT: INNOVATION

ND
1–5 points
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To encourage projects to achieve exceptional or innovative performance.

Requirements

ND PLAN, ND

To achieve all five innovation points, a project team must achieve at least one pilot credit, at least one innovation credit and no more than two exemplary performance credits.
Option 1. Innovation (1 point)
Achieve significant, measurable environmental performance using a strategy not addressed in the LEED green building rating system.

Identify the following:

- the intent of the proposed innovation credit;
- proposed requirements for compliance;
- proposed submittals to demonstrate compliance; and
- the design approach or strategies used to meet the requirements.

AND/OR

Option 2. Pilot (1 point)
Achieve one pilot credit from USGBC's LEED Pilot Credit Library.

AND/OR

Option 3. Additional Strategies

- **Innovation (1-3 points)**
  Defined in Option 1 above.
- **Pilot (1-3 points)**
  Meet the requirements of Option 2.
- **Exemplary Performance (1–2 points)**
  Achieve exemplary performance in an existing LEED v4 prerequisite or credit that allows exemplary performance, as specified in the LEED Reference Guide, v4 edition. An exemplary performance point is typically earned for achieving double the credit requirements or the next incremental percentage threshold.

SFC CLERK RECORDED 02/12/2025

IN CREDIT: LEED ACCREDITED PROFESSIONAL

ND
1 point
This credit applies to

- Neighborhood Development Plan
- Neighborhood Development

Intent

To encourage the team integration required by a LEED project and to streamline the application and certification process.

Requirements

ND PLAN, ND

At least one principal participant of the project team must be a LEED Accredited Professional (AP) with a specialty appropriate for the project.

SFC CLERK RECORDED 02/12/2025

REGIONAL PRIORITY (RP)

RP CREDIT: REGIONAL PRIORITY

ND
4 points
This credit applies to

- Neighborhood Development Plan (1-4 points)
- Neighborhood Development (1-4 points)

Intent

To provide an incentive for the achievement of credits that address geographically specific environmental, social equity, and public health priorities.

Requirements

ND PLAN, ND

Earn up to four of the six Regional Priority credits. These credits have been identified by the USGBC regional councils and chapters as having additional regional importance for the project's region. A database of Regional Priority credits and their geographic applicability is available on the USGBC website, http://www.usgbc.org.

One point is awarded for each Regional Priority credit achieved, up to a maximum of four.

SFC CLERK RECORDED 02/12/2025

APPENDICES

APPENDIX 1. USE TYPES AND CATEGORIES

Table 1. Use Types and Categories

Category	Use type
Food retail	Supermarket
	Grocery with produce section
Community-serving retail	Convenience store
	Farmers market
	Hardware store
	Pharmacy
	Other retail
Services	Bank
	Family entertainment venue (e.g., theater, sports)
	Gym, health club, exercise studio
	Hair care
	Laundry, dry cleaner
	Restaurant, café, diner (excluding those with only drive-thru service)
Civic and community facilities	Adult or senior care (licensed)
	Child care (licensed)
	Community or recreation center
	Cultural arts facility (museum, performing arts)
	Education facility (e.g., K—12 school, university, adult education center, vocational school, community college)
	Government office that serves public on-site
	Medical clinic or office that treats patients
	Place of worship
	Police or fire station
	Post office
	Public library
	Public park
	Social services center
Community anchor uses (BD&C and ID&C only)	Commercial office (100 or more full-time equivalent jobs)
	Housing (100 or more dwelling units)

Adapted from Criterion Planners, INDEX neighborhood completeness indicator, 2005.

SFC CLERK RECORDED 02/12/2025

APPENDIX 2. DEFAULT OCCUPANCY COUNTS

Use Table 1 to calculate default occupancy counts. Only use the occupancy estimates if occupancy is unknown.

For the calculation, use gross floor area, not net or leasable floor area. Gross floor area is defined as the sum of all areas on all floors of a building included within the outside faces of the exterior wall, including common areas, mechanical spaces, circulation areas, and all floor penetrations that connect one floor to another. To determine gross floor area, multiply the building footprint (in square feet or square meters) by the number of floors in the building. Exclude underground or structured parking from the calculation.

Table 1. Default Occupancy Numbers

	Gross square feet per occupant		Gross square meters per occupant	
	Employees	Transients	Employees	Transients
General office	250	0	23	0
Retail, general	550	130	51	12
Retail or service (e.g., financial, auto)	600	130	56	12
Restaurant	435	95	40	9
Grocery store	550	115	51	11
Medical office	225	330	21	31
R&D or laboratory	400	0	37	0
Warehouse, distribution	2,500	0	232	0
Warehouse, storage	20,000	0	1860	0
Hotel	1,500	700	139	65
Educational, daycare	630	105	59	10
Educational, K–12	1,300	140	121	13
Educational, postsecondary	2,100	150	195	14

Sources:
ANSI/ASHRAE/IESNA Standard 90.1–2004 (Atlanta, GA, 2004).
2001 Uniform Plumbing Code (Los Angeles, CA)
California Public Utilities Commission, 2004–2005 Database for Energy Efficiency Resources (DEER) Update Study (2008).
California State University, Capital Planning, Design and Construction Section VI, Standards for Campus Development Programs (Long Beach, CA, 2002).
City of Boulder Planning Department, Projecting Future Employment—How Much Space per Person (Boulder, 2002).
Metro, 1999 Employment Density Study (Portland, OR 1999).
American Hotel and Lodging Association, Lodging Industry Profile Washington, DC, 2008.
LEED for Core & Shell Core Committee, personal communication (2003 - 2006).
LEED for Retail Core Committee, personal communication (2007)
OWP/P, Medical Office Building Project Averages (Chicago, 2008).
OWP/P, University Master Plan Projects (Chicago, 2008).
U.S. General Services Administration, Childcare Center Design Guide (Washington, DC, 2003).

SFC CLERK RECORDED 02/12/2025

APPENDIX 3. RETAIL PROCESS LOAD BASELINES

Table 1a. Commercial kitchen appliance prescriptive measures and baseline for energy cost budget (IP units)

Gas	Cooking	30%	16,000 Btu/h/ft² peak input	35%	12,000 Btu/h/ft² peak input
Elec	Cooking	40% steam mode	0.37P+4.5 kW	50% steam mode	0.133P+0.6400 kW
Gas	Cooking	20% steam mode	1,210P+35,810 Btu/h	38% steam mode	200P+6,511 Btu/h
Elec	Cooking	65% convection mode	0.1P+1.5 kW	70% convection mode	0.080P+0.4989 kW
Gas	Cooking	35% convection mode	322P+13,563 Btu/h	44% convection mode	150P+5,425 Btu/h
Elec	Cooking	65%	2.0 kW	71%	1.6 kW
Gas	Cooking	30%	18,000 Btu/h	46%	12,000 Btu/h
Elec	Cooking	65%	1.5 kW	71%	1.0 kW
Gas	Cooking	20%	70,000 Btu/h	42%	57,000 Btu/h
Gas	Cooking	20%	45,000 Btu/h	42%	29,000 Btu/h
Elec	Cooking	75%	1.05 kW	80%	1.0 kW
Gas	Cooking	35%	14,000 Btu/h	50%	9,000 Btu/h
Elec	Cooking	60%	400 W/ft²	70%	320 W/ft²
Gas	Cooking	30%	3,500 Btu/h/ft²	38%	2,650 Btu/h/ft²
Elec	Cooking	na	40 W/ft³	na	21.5V Watts

SFC CLERK RECORDED 02/12/2025

	Elec	Cooking	na	40 W/ft^3	na	2.0V + 254 Watts
	Elec	Cooking	na	40 W/ft^3	na	3.8V + 203.5 Watts
	Elec	Cooking	75%	1.35 kW	80%	1.1 kW
	Gas	Cooking	35%	20,000 Btu/h	50%	12,000 Btu/h
	Gas	Cooking	30%	65,000 Btu/h	50%	35,000 Btu/h
	Gas	Cooking	30%	43,000 Btu/h	50%	29,000 Btu/h
	Elec	Cooking	70%		80%	
	Gas	Cooking	35%	na	40% and no standing pilots	na
	Elec	Cooking	26%	200 W/pan	50%	135 W/pan
	Gas	Cooking	15%	2,500 Btu/h/pan	38%	2,100 Btu/h/pan
	Elec	Cooking	26%	330 W/pan	50%	275 W/pan
	Gas	Cooking	15%	5,000 Btu/h/pan	38%	4,300 Btu/h/pan
	Elec	Cooking	—	1.8 kW average operating	na	1.2 kW average operating energy

SFC CLERK RECORDED 02/12/2025

				energy rate		rate
	Elec	Ice	6.89 - 0.0011H kWh/100 lb ice	na	$37.72*H^{-0.298}$ kWh/100 lb ice	na
	Elec	Ice	10.26 – 0.0086H kWh/100 lb ice	na	$37.72*H^{-0.298}$ kWh/100 lb ice	na
	Elec	Ice	8.85 - 0.0038H kWh/100lb ice	na	$22.95*H^{-0.258}$ + 1.00 kWh/100 lb ice	na
	Elec	ice	5.10 kWh/100 lb ice	na	$22.95*H^{-0.258}$ + 1.00 kWh/100 lb ice	na
	Elec	Ice	5.10 kWh/100lb ice	na	-0.00011*H + 4.60 kWh/100 lb ice	na
	Elec	Ice	18.0 - 0.0469H kWh/100lb ice	na	$48.66*H^{-0.326}$ + 0.08 kWh/100 lb ice	na
	Elec	Ice	9.80 kWh/100 lb ice	na	$48.66*H^{-0.326}$ + 0.08 kWh/100 lb ice	na
	Elec	Ice	4.0 kWh/100 lb ice	na	3.68 kWh/100 lb ice	na

SFC CLERK RECORDED 02/12/2025

	Elec	Ice	5.58 – 0.0011H kWh/100 lb ice	na	5.13 - 0.001H kWh/100 lb ice	na
	Elec	Ice	7.80 – 0.0055H kWh/100 lb ice	na	7.02 - 0.0049H kWh/100 lb ice	na
	Elec	Ice	Banned	Banned	Banned	Banned
	Elec	Ice	11.4 – 0.0190H kWh/100 lb ice	na	10.6 - 0.177H kWh/100 lb ice	na
	Elec	Ice	7.6 kWh/100 lb ice	na	7.07 kWh/100 lb ice	na
	Elec	Refrig	0.45V + 0.943 kWh/day	na	≤ 0.270V + 0.130 kWh/day	na
	Elec	Refrig	0.1V + 2.04 kWh/day	na	≤ 0.125V + 0.475 kWh/day	na
	Elec	Refrig	0.75V +	na	≤ 0.607V +	na

SFC CLERK RECORDED 02/12/2025

			4.10 kWh/day		0.893 kWh/day	
	Elec	Refrig	.75V + 4.10 kWh/day	na	≤ 0.733V – 1.00 kWh/day	na
	Elec	Refrig	.75V + 4.10 kWh/day	na	≤ 0.250V + 13.50 kWh/day	na
	Elec	Refrig	0.75V + 4.10 kWh/day	na	≤ 0.450V + 3.50 kWh/day	na
	Elec	Refrig	0.12V + 3.34 kWh/day	na	≤ 0.118V + 1.382 kWh/day	na
	Elec	Refrig	0.12V + 3.34 kWh/day	na	≤ 0.140V + 1.050 kWh/day	na
	Elec	Refrig	0.12V + 3.34 kWh/day	na	≤ 0.088V + 2.625 kWh/day	na
	Elec	Refrig	0.12V + 3.34 kWh/day	na	≤ 0.110V + 1.500 kWh/day	na
	Elec	Refrig	0.4V + 1.38 kWh/day	na	≤ 0.250V + 1.25 kWh/day	na
	Elec	Refrig	0.4V + 1.38 kWh/day	na	≤ 0.400V – 1.000 kWh/day	na
	Elec	Refrig	0.4V + 1.38 kWh/day	na	≤ 0.163V + 6.125 kWh/day	na
	Elec	Refrig	0.4V + 1.38 kWh/day	na	≤ 0.158V + 6.333 kWh/day	na
	Elec	Refrig	0.1V + 2.04 kWh/day	na	≤ 0.089V + 1.411 kWh/day	na

SFC CLERK RECORDED 02/12/2025

	Elec	Refrig	0.1V + 2.04 kWh/day	na	≤ 0.037V + 2.200 kWh/day	na
	Elec	Refrig	0.1V + 2.04 kWh/day	na	≤ 0.056V + 1.635 kWh/day	na
	Elec	Refrig	0.1V + 2.04 kWh/day	na	≤ 0.060V + 1.416 kWh/day	na
	Gas	Sanitation	1.72 MEF	na	2.00 MEF	na
	Elec	Sanitation	na	1.0 kW	na	0.70 kW
	Elec	Sanitation	na	0.6 kW	na	0.6 kW
	Elec	Sanitation	na	2.6 kW	na	2.25 kW
	Elec	Sanitation	na	2.0 kW	na	2.0 kW
	Elec	Sanitation	na	2.0 kW	na	1.5 kW
	Elec	Sanitation	na	1.6 kW	na	1.5 kW
	Elec	Sanitation	na	0.9 kW	na	0.5 kW
	Elec	Sanitation	na	0.5 kW	na	0.5 kW
The energy efficiency, idle energy rates, and water use requirements, where applicable, are based on the following test methods:						

SFC CLERK RECORDED 02/12/2025

ASTM F1275 Standard Test Method for Performance of Griddles
ASTM F1361 Standard Test Method for Performance of Open Deep Fat Fryers
ASTM F1484 Standard Test Methods for Performance of Steam Cookers
ASTM F1496 Standard Test Method for Performance of Convection Ovens
ASTM F1521 Standard Test Methods for Performance of Range Tops
ASTM F1605 Standard Test Method for Performance of Double-Sided Griddles
ASTM F1639 Standard Test Method for Performance of Combination Ovens
ASTM F1695 Standard Test Method for Performance of Underfired Broilers
ASTM F1696 Standard Test Method for Energy Performance of Single-Rack Hot Water Sanitizing, ASTM Door-Type Commercial Dishwashing Machines
ASTM F1704 Standard Test Method for Capture and Containment Performance of Commercial Kitchen Exhaust Ventilation Systems
ASTM F1817 Standard Test Method for Performance of Conveyor Ovens
ASTM F1920 Standard Test Method for Energy Performance of Rack Conveyor, Hot Water Sanitizing, Commercial Dishwashing Machines
ASTM F2093 Standard Test Method for Performance of Rack Ovens
ASTM F2140 Standard Test Method for Performance of Hot Food Holding Cabinets
ASTM F2144 Standard Test Method for Performance of Large Open Vat Fryers
ASTM F2324 Standard Test Method for Prerinse Spray Valves
ASTM F2380 Standard Test Method for Performance of Conveyor Toasters
ARI 810-2007: Performance Rating of Automatic Commercial Ice Makers
ANSI/ASHRAE Standard 72–2005: Method of Testing Commercial Refrigerators and Freezers with temperature setpoints at 38°F for medium-temp refrigerators, 0°F for low-temp freezers, and -15°F for ice cream freezers

Table 1b. Commercial Kitchen Appliance Prescriptive Measures and Baseline for Energy Cost Budget (SI units)

Gas	Cooking	30%	50.5 kW/m²	35%	37.9 kW/m²
Elec	Cooking	40% steam mode	0.37P+4.5 kW	50% steam mode	0.133P+0.6400 kW
Gas	Cooking	20% steam mode	(1 210P+ 35 810)/3 412 kW	38% steam mode	(200P+6 511)/ 3 412 kW
Elec	Cooking	65% convection mode	0.1P+1.5 kW	70% convection mode	0.080P+0.4989 kW
Gas	Cooking	35% convection mode	(322P+ 13 563)/ 3412 kW	44% convection mode	(150P+5 425)/ 3412 kW
Elec	Cooking	65%	2.0 kW	71%	1.6 kW
Gas	Cooking	30%	5.3 kW	46%	3.5 kW

SFC CLERK RECORDED 02/12/2025

	Elec	Cooking	65%	1.5 kW	71%	1.0 kW
	Gas	Cooking	20%	20.5 kW	42%	16.7 kW
	Gas	Cooking	20%	13.2 kW	42%	8.5 kW
	Elec	Cooking	75%	1,05 kW	80%	1.0 kW
	Gas	Cooking	35%	4.1 kW	50%	2.64 kW
	Elec	Cooking	60%	4.3 kW/m^2	70%	3 .45 kW/m^2
	Gas	Cooking	30%	11 kW/m^2	33%	8.35 kW/m^2
	Elec	Cooking	na	1.4 kW/m^3	na	(21.5*V)/0.0283 kW/m^3
	Elec	Cooking	na	1.4 kW/m^3	na	(2.0*V + 254)/0.0283 kW/m^3
	Elec	Cooking	na	1.4 kW/m^3	na	(3.8*V + 203.5)/0.0283 kW/m^3
	Elec	Cooking	75%	1.35 kW	80%	1.1 kW
	Gas	Cooking	35%	5.86 kW	50%	3.5 kW
	Gas	Cooking	30%	19 kW	50%	10.25 kW
	Gas	Cooking	30%	12.6 kW	50%	8.5 kW
	Elec	Cooking	70%	na	80%	na

SFC CLERK RECORDED 02/12/2025

	Gas	Cooking	35%	na	40% and no standing pilots	**na**
	Elec	Cooking	26%	200 W/pan	50%	135 W/pan
	Gas	Cooking	15%	733 W/pan	38%	615 W/pan
	Elec	Cooking	26%	330 W/pan	50%	275 W/pan
	Gas	Cooking	15%	1.47 kW/pan	38%	1.26 kW/pan
	Elec	Cooking	**na**	1.8 kW average operating energy rate	**na**	1.2 kW average operating energy rate
	Elec	Ice	0.0015 - 5.3464E^{-07} kWh/kg ice	na	≤ 13.52*H$^{-0.298}$ kWh/100 kg ice	na
	Elec	Ice	0.2262 - 4.18E^{-04} kWh/kg ice	na	≤ 13.52*H$^{-0.298}$ kWh/100 kg ice	na
	Elec	Ice	0.1951 - 1.85E^{-04} kWh/kg ice	na	≤ 111.5835H$^{-0.258}$) + 2.205 kWh/100 kg ice	na
	Elec	Ice	0.1124 kWh/kg ice	na	≤ 111.5835H$^{-0.258}$) + 2.205 kWh/100 kg ice	na
	Elec	Ice	0.1124 kWh/kg ice	na	≤ -0.00024H + 4.60 kWh/100 kg ice	na
	Elec	Ice	0.3968 - 2.28E^{-03} kWh/kg ice	na	236.59H$^{-0.326}$ +0.176 kWh/100 kg ice	na
	Elec	Ice	0.2161 kWh/kg ice	na	236.59H$^{-0.326}$ +0.176 kWh/100 kg	na

SFC CLERK RECORDED 02/12/2025

					ice	
	Elec	Ice	0.0882 kWh/kg ice	na	≤ 8.11 kWh/100 kg ice	na
	Elec	Ice	0.1230 - 5.35E^{-05} kWh/kg ice	na	≤ 11.31 - 0.065H kWh/100 kg ice	na
	Elec	Ice	0.1720 - 2.67E^{-04} kWh/kg ice	na	≤ 15.48 - 0.0238H kWh/100 kg ice	na
	Elec	Ice	Banned	Banned	Banned	Banned
	Elec	Ice	0.2513 - 9.23E^{-04} kWh/kg ice	na	≤ 23.37- 0.086H kWh/100 kg ice	na
	Elec	Ice	0.1676 kWh/kg ice	na	15.57 kWh/100 kg ice	na
	Elec	Refrig	15.90V + 0.943 kWh/day	na	9.541V + 0.130 kWh/day	na
	Elec	Refrig	3.53V + 2.04 kWh/day	na	≤ 4.417 V + 0.475 kWh/day	na
	Elec	Refrig	26.50V + 4.1 kWh/day	na	≤ 21.449V + 0.893 kWh/day	na
	Elec	Refrig	26.50V + 4.1	na	≤ 25.901V – 1.00	na

SFC CLERK RECORDED 02/12/2025

			kWh/day		kWh/day	
	Elec	Refrig	26.50V + 4.1 kWh/day	na	≤ 8.834V + 13.50 kWh/day	na
	Elec	Refrig	26.50V + 4.1 kWh/day	na	≤ 15.90V + 3.50 kWh/day	na
	Elec	Refrig	4.24V + 3.34 kWh/day	na	≤ 4.169V + 1.382 kWh/day	na
	Elec	Refrig	4.24V + 3.34 kWh/day	na	≤ 4.947V + 1.050 kWh/day	na
	Elec	Refrig	4.24V + 3.34 kWh/day	na	≤ 3.109V + 2.625 kWh/day	na
	Elec	Refrig	4.24V + 3.34 kWh/day	na	≤ 3.887V + 1.500 kWh/day	na
	Elec	Refrig	14.13V + 1.38 kWh/day	na	≤ 8.834V + 1.25 kWh/day	na
	Elec	Refrig	14.13V + 1.38 kWh/day	na	≤ 4.819V – 1.000 kWh/day	na
	Elec	Refrig	14.13V + 1.38 kWh/day	na	≤ 5.760V + 6.125 kWh/day	na
	Elec	Refrig	14.13V + 1.38 kWh/day	na	≤ 5.583V + 6.333 kWh/day	na
	Elec	Refrig	3.53V + 2.04 kWh/day	na	≤ 3.145V + 1.411 kWh/day	na
	Elec	Refrig	3.53V + 2.04 kWh/day	na	≤ 1.307V + 2.200 kWh/day	na
	Elec	Refrig	3.53V + 2.04 kWh/day	na	≤ 1.979V + 1.635 kWh/day	na

SFC CLERK RECORDED 02/12/2025

	Elec	Refrig	3.53V + 2.04 kWh/day	na	≤ 2.120V + 1.416 kWh/day	na
	Gas	Sanitation	1.72 MEF		2.00 MEF	
	Elec	Sanitation	na	1.0 kW	na	0.70 kW
	Elec	Sanitation	na	0.6 kW	na	0.6 kW
	Elec	Sanitation	na	2.6 kW	na	2.25 kW
	Elec	Sanitation	na	2.0 kW	na	2.0 kW
	Elec	Sanitation	na	2.0 kW	na	1.5 kW
	Elec	Sanitation	na	1.6 kW	na	1.5 kW
	Elec	Sanitation	na	0.9 kW	na	0.5 kW
	Elec	Sanitation	na	0.5 kW	na	0.5 kW

The energy efficiency, idle energy rates, and water use requirements, where applicable, are based on the following test methods:
ASTM F1275 Standard Test Method for Performance of Griddles
ASTM F1361 Standard Test Method for Performance of Open Deep Fat Fryers
ASTM F1484 Standard Test Methods for Performance of Steam Cookers
ASTM F1496 Standard Test Method for Performance of Convection Ovens
ASTM F1521 Standard Test Methods for Performance of Range Tops
ASTM F1605 Standard Test Method for Performance of Double-Sided Griddles
ASTM F1639 Standard Test Method for Performance of Combination Ovens
ASTM F1695 Standard Test Method for Performance of Underfired Broilers
ASTM F1696 Standard Test Method for Energy Performance of Single-Rack Hot Water Sanitizing, ASTM Door-Type Commercial Dishwashing Machines

SFC CLERK RECORDED 02/12/2025

ASTM F1704 Standard Test Method for Capture and Containment Performance of Commercial Kitchen Exhaust Ventilation Systems
ASTM F1817 Standard Test Method for Performance of Conveyor Ovens
ASTM F1920 Standard Test Method for Energy Performance of Rack Conveyor, Hot Water Sanitizing, Commercial Dishwashing Machines
ASTM F2093 Standard Test Method for Performance of Rack Ovens
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ASTM F2144 Standard Test Method for Performance of Large Open Vat Fryers
ASTM F2324 Standard Test Method for Prerinse Spray Valves
ASTM F2380 Standard Test Method for Performance of Conveyor Toasters
ARI 810-2007: Performance Rating of Automatic Commercial Ice Makers
ANSI/ASHRAE Standard 72–2005: Method of Testing Commercial Refrigerators and Freezers with temperature setpoints at 38°F (3°C) for mediumtemp refrigerators, -18°C for low-temp freezers, and -26°C for ice cream freezers.

Table 2. Supermarket refrigeration prescriptive measures and baseline for energy cost budget

	Energy Use Limits	ASHRAE 90.1-2010 Addendum g. Table 6.8.1L	ASHRAE 90.1-2010 Addendum g. Table 6.8.1L
	Energy Use Limits	ASHRAE 90.1-2010 Addendum g. Table 6.8.1M	ASHRAE 90.1-2010 Addendum g. Table 6.8.1M

Table 3. Walk-in coolers and freezers prescriptive measures and baseline for energy cost budget

	Freezer insulation	R-46	R-36
	Cooler insulation	R-36	R-20
	Automatic closer doors	Yes	No
	High-efficiency low- or no-heat reach-in doors	40W/ft (130W/m) of door frame (low temperature), 17W/ft (55W/m) of door frame (medium temperature)	40W/ft (130W/m) of door frame (low temperature), 17W/ft (55W/m) of door frame (medium temperature)
	Evaporator fan motor and control	Shaded pole and split phase motors prohibited; use PSC or EMC motors	Constant-speed fan
	Hot gas defrost	No electric defrosting.	Electric defrosting
	Air-cooled condenser fan motor and control	Shaded pole and split phase motors prohibited; use PSC or EMC motors; add condenser fan controllers	Cycling one-speed fan
	Air Cooled condenser design approach	Floating head pressure controls or ambient subcooling	10°F (-12°C) to 15°F (-9°C) dependent on suction temperature
	Lighting power density (W/sq.ft.)	0.6 W/sq.ft. (6.5 W/sq. meter)	0.6 W/sq.ft. (6.5 W/sq. meter)

SFC CLERK RECORDED 02/12/2025

	Energy Use Limits	N/A	Use an Exceptional Calculation Method if attempting to take savings
	Energy Use Limits	N/A	Use an Exceptional Calculation Method if attempting to take savings

Table 4. Commercial kitchen ventilation prescriptive measures and baseline for energy cost budget

Kitchen hood control	ASHRAE 90.1-2010 Section 6.5.7.1, except that Section 6.5.7.1.3 and Section 6.5.7.1.4 shall apply if the total kitchen exhaust airflow rate exceeds 2,000 cfm (960 L/s) (as opposed to 5,000 cfm (2,400 L/s) noted in the ASHRAE 90.1-2010 requirements)	ASHRAE 90.1-2010 Section 6.5.7.1 and Section G3.1.1 Exception (d) where applicable

SFC CLERK RECORDED 02/12/2025

EXHIBIT G-1

FORM OF GUARANTY

PAYMENT AND PERFORMANCE GUARANTY

This Payment and Performance Guaranty (this "**Guaranty**") is given this ___ day of ____, 202__, by Phillip Geuse, [a married/an unmarried] individual ("**Guarantor**"), for the benefit of the City of Santa Fe, a municipal corporation and political subdivision of the State of New Mexico (the "**City**").

RECITALS

A. The City owns the real property and improvements consisting of approximately 60 acres generally located within the block defined by Cerrillos Road, St. Michaels Drive, Llano Street, Siringo Road, and Camino Carlos Rey in the City of Santa Fe, County of Santa Fe, State of New Mexico, as generally depicted on Exhibit A attached hereto (the "**Midtown Site**").

B. ASPECT QOZB, LLC, a Delaware limited liability company ("**Developer**"), and the City entered into the Development and Disposition Agreement, dated of even date herewith (the "**DDA**"), pursuant to which Developer has agreed to, among other things, at Developer's sole cost and expense, to (i) redevelop the Property and (ii) pay the City the Purchase Price. Capitalized terms used but not defined herein shall have the meanings given to such terms in the DDA.

C. The City will lease the Property to Developer pursuant to the terms and conditions of the Lease to be entered into by Developer and the City as set forth in the DDA, for Developer to perform its obligations set forth in the DDA.

D. As a material inducement for the City to enter into the DDA and the Lease with Developer, Guarantor has agreed to guaranty to the City the prompt payment and performance of all the obligations of Developer under the DDA and the Lease.

E. Guarantor is [the sole member of] Developer, and as such, will receive direct, material and tangible benefits from Developer's development and lease of the Property and from the City entering into the DDA and Lease with Developer.

AGREEMENT

NOW, THEREFORE, intending to be legally bound, Guarantor, in consideration of the matters described in the foregoing Recitals and for other good and valuable consideration the receipt and sufficiency of which are acknowledged, hereby covenant and agree for the benefit of the City and its successors and assigns as follows:

1. Recitals. The recitals set forth above are incorporated herein by reference as if fully set forth in the body of this Guaranty.

2. Guaranteed Obligations. Guarantor hereby unconditionally and irrevocably guarantees to the City the full and complete performance of Developer's payment and performance obligations

SFC CLERK RECORDED 02/12/2025

under the DDA and the Lease in connection with Phase 1 and Developer's indemnification obligations pursuant to Section 14.3 with respect to all Phases, and agrees to indemnify and hold the City harmless from and against any and all costs or expenses, including litigation costs and reasonable attorneys' fees, arising from the City's enforcement of this Guaranty, whether incurred before or after judgment (collectively, the "**Guaranteed Obligations**").

3. Financial Covenants. Guarantor shall maintain (a) a minimum Net Worth of $5,000,000, as determined by the City based upon Guarantor's financial statements, and (b) minimum liquidity, in the form of unencumbered cash, cash-equivalents, and marketable securities of at least of $5,000,000 (each a "**Financial Requirement**"). "**Net Worth**" shall mean, as of a given date, (x) the total assets of Guarantor (excluding intangibles, such as goodwill) as of such date less (y) such Guarantor's total liabilities as of such date, determined in accordance with generally accepted accounting principles, consistently applied. Guarantor's failure to comply with any Financial Requirement for more than 30 consecutive days shall constitute a default hereunder (the "**Financial Default**"). Within 15 business days following a Financial Default, Guarantor shall provide a substitute guarantor acceptable to the City in its sole discretion. If Guarantor provides a substitute guarantor, the substitute guarantor shall meet each Financial Requirement, and if approved by the City, shall execute a performance and completion guaranty in the same form as this Guaranty. No later than 30 days after the end of each calendar quarter, Guarantor shall furnish to the MRA Director annual financial statements of Guarantor, which shall include a balance sheet, a statement of income, and contingent obligations of Guarantor, and shall be prepared in accordance with generally accepted accounting principles, consistently applied, and shall be certified as true and correct by Guarantor and reviewed by a certified public accountant who is not an employee or principal of Developer or its Affiliates. No later than sixty 30 days after filing, Guarantor shall furnish to the MRA Director signed copies of Guarantor's federal tax returns and including all extensions and all supporting schedules.

4. Guarantor Representations and Warranties. Guarantor represents to the City and acknowledges that Guarantor is an [married/unmarried] individual. Guarantor represents and warrants that Guarantor is fully informed of the terms of the DDA and the Lease and the remedies the City may pursue thereunder in the event the Guaranteed Obligations arise. Guarantor further represents and warrants to the City that the execution, delivery, and performance of this Guaranty by Guarantor does not violate the provisions of any applicable law or any agreement binding upon Guarantor, and that this Guaranty has been duly executed and delivered by Guarantor and constitutes a legally enforceable document.

5. Extent of Obligations; Waivers.

(a) In the event Developer fails to perform any of its obligations under the DDA or the Lease, the City may commence suit against Guarantor to enforce the provisions of this Guaranty, without first commencing any suit or otherwise proceeding against Developer or exhausting its remedies against Developer. Guarantor's liability under this Guaranty is primary. The City's rights shall not be exhausted by its exercise of any rights or remedies available to it at law and/or in equity or by any number of successive suits until and unless all obligations hereby guaranteed have been fully paid and performed. No circumstance that operates to discharge or to bar, suspend, or delay the City's right to enforce against Developer any obligation of Developer to the City (including but not limited to the effect of the pendency or conclusion of any proceeding under the federal Bankruptcy Code or any similar present or future federal or state law) shall have any effect upon the enforceability of Guarantor's obligations to the City hereunder. This Guaranty shall continue to be effective or be

SFC CLERK RECORDED 02/12/2025

reinstated (as the case may be) if at any time payment of all or any part of any sum is required to be returned by the City upon the insolvency, bankruptcy, dissolution, liquidation, or reorganization of Developer or Guarantor.

(b) The obligations of Guarantor hereunder shall remain in full force and effect without regard to, and shall not be affected or impaired by, (i) any modification or amendment to the DDA or Lease, whether or not Guarantor shall have received any notice of or consented to any such modification or amendment, (ii) the acceptance of partial payment of any Guaranteed Obligations (except to the extent that Guarantor's obligation hereunder shall be reduced accordingly); (iii) the granting of forbearances, compromises or adjustments with respect to any covenant or agreement under the DDA or Lease or claims thereunder; (iv) the dissolution or liquidation of the Developer; (v) an assignment of Developers rights and obligations (in whole or in part) to a third party; and (vi) any and all suretyship defenses or any circumstances which constitute a legal or equitable discharge of a guarantor or surety.

(c) Guarantor expressly waives all rights that Guarantor may have, if any, to require that any action be brought against Developer or any other person or entity in connection with the Guaranteed Obligations prior to demanding payment hereunder. Guarantor agrees that nothing contained herein shall prevent the City from exercising any rights available to the City under the DDA and the Lease and that the exercise of any of the aforesaid rights shall not constitute a legal or equitable discharge of any Guarantor until such time as the Guaranteed Obligations are paid in full. Guarantor agrees that Guarantor's liability as guarantor shall not be impaired or affected by the City's failure or election not to pursue any other remedies it may have against Guarantor, it being the intent hereof that Guarantor shall remain liable for the performance of the Obligations, notwithstanding any act or thing which might otherwise operate as a legal or equitable discharge of a surety.

6. Modification of Guaranty. This Guaranty constitutes the full and complete agreement between the parties hereto, and it is understood and agreed that the provisions hereof may only be modified by a writing executed by both parties hereto.

7. Gender, Singular/Plural. Words of any gender used in this Guaranty shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

8. Sections. References to section numbers are to sections in this Agreement, unless otherwise expressly stated.

9. Captions/Headings. Any captions or headings used in this Guaranty are for reference purposes only and are in no way to be construed as part of this Guaranty.

10. Invalidity. If any term, provision, covenant or condition of this Guaranty is held to be void, invalid, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

11. Jurisdiction. Guarantor consents and submits to the jurisdiction of the federal and state courts located in the City and County of Santa Fe, New Mexico, and any suit shall be brought in a federal or state court located in the City and County of Santa Fe, New Mexico with appropriate

SFC CLERK RECORDED 02/12/2025

jurisdiction over the subject matter. Guarantor waives any defenses based on the venue, inconvenience of the forum, lack of personal jurisdiction or the like in any such suit.

12. Governing Law. This Guaranty shall be governed by and construed in accordance with the laws of the State of New Mexico.

13. Attorney's Fees. In the event it becomes necessary for the City to enforce any of the terms and provisions of this Guaranty, whether or not suit be instituted, Guarantor shall pay all of the City's costs and expenses incurred by the City in connection with the City's enforcement of this Guaranty, including, but not limited to, reasonable attorneys' fees.

14. Waiver of Jury Trial. TO THE EXTENT PERMITTED BY LAW, GUARANTOR HEREBY KNOWINGLY, INTENTIONALLY AND VOLUNTARILY, WITH AND UPON THE ADVICE OF COMPETENT COUNSEL, WAIVES, RELINQUISHES AND FOREVER FORGOES THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED UPON, ARISING OUT OF, OR IN ANY WAY RELATING TO THIS GUARANTY.

GUARANTOR ACKNOWLEDGES AND AGREES THAT ANY DISPUTE WHICH MAY ARISE UNDER THIS GUARANTY IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE IT HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS GUARANTY. GUARANTOR CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE SUCH WAIVERS; (B) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF SUCH WAIVERS; (C) IT MAKES SUCH WAIVERS VOLUNTARILY.

15. Assignability. The City may assign this Guaranty in whole or in part at any time to any successor to the City's interest in the Guaranty. Guarantor shall not assign this Guaranty, in whole or in part, without the prior written consent of the City, in its sole discretion.

16. Successors and Assigns. This Guaranty shall be binding upon Guarantor and upon its heirs, successors and assigns.

17. New Mexico Tort Claims Act. The City's liability in connection with the Guaranty is limited by the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et seq. NMSA 1978, as amended. The City and its "public employees", as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense, and do not waive any limitation of liability pursuant to law. No provision of this Guaranty modifies or waives any provision of the New Mexico Tort Claims Act.

18. Public Records. Guarantor acknowledges that the City is a government entity and subject to the New Mexico Inspection of Public Records Act (Sections 14-2-1 et seq., NMSA 1978 ("**IPRA**"). Notwithstanding anything contained herein to the contrary, the City shall not be responsible to Guarantor or any third-party contractor for any disclosure of confidential information pursuant to

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the IPRA or pursuant to the City's public records act laws, rules, regulations, instructions or other legal requirement.

19. Notices. Any notice, request, demand, instruction or other document to be given or served hereunder or under any document or instrument executed pursuant hereto shall be in writing and shall be delivered either personally with a receipt requested therefor, or by overnight courier, or by certified mail, return receipt requested, postage prepaid, in any case addressed to the parties at their respective addresses set forth below, and the same shall be effective (a) upon receipt or refusal if delivered personally, (b) one Business Day after depositing with such an overnight courier service, (c) three Business Days after deposit in the mail if mailed, or (d) upon successful electronic mail transmission evidenced by an electronic "read receipt" and provided that such notice is also delivered by the means described in clauses (a) or (b) within two Business Days after such electronic mail notice. All notices to the City or Guarantor shall be sent to the persons and addresses set forth below. Guarantor or the City may change its address for receipt of notices by service of a notice of such change in accordance herewith.

If to the City:	City of Santa Fe Attention: City Attorney's Office 200 Lincoln Avenue Santa Fe, NM 87501
with a copy to:	Midtown Redevelopment Agency Attention: MRA Director 200 Lincoln Avenue Santa Fe, NM 87501
If to Guarantor:	Phillip Gesue 1954 Siringo Road Santa Fe, NM 87505
with a copy to:	Long, Komer & Associates, P.A. Attention: Nancy R. Long P.O. Box 5098 1800 Old Pecos Trail, Suite A Santa Fe, NM 87505

[remainder of page intentionally left blank; signature page follows]

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IN WITNESS WHEREOF, the undersigned has executed this Guaranty as of the date of first set forth above.

_____

Phillip Geuse, [a married/an unmarried] individual

[CONFIRM NOTARY BLOCK FOR STATE OF EXECUTION]

STATE OF _____)

) *ss.*

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____ as the _____ of _____.

My commission expires:_____

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JOINDER BY SPOUSE

[IF MARRIED]

The undersigned spouse of the above-named Guarantor consents that the Guaranty, (a) evidences such spouse's knowledge of the existence of this Guaranty and understanding of its contents, and (b) provides that this Guaranty binds all property jointly owned by Guarantor and such spouse (and the heirs, beneficiaries, administrators, executors, legal representatives and assigns of such spouse), and any such jointly owned property transferred to such spouse individually in respect of any liability under, and to the covenants, agreements, terms and conditions in, this Guaranty; provided, in no event shall such spouse's separate property (except for jointly owned property transferred to such spouse individually) be subject to liability under, or to the covenants, agreements, terms and conditions in, this Guaranty, or shall such spouse by this joinder assume any other individual liability of the Guarantor under this Guaranty.

Spouse: _____

[CONFIRM NOTARY BLOCK FOR STATE OF EXECUTION]

STATE OF _____)

) *ss.*

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____ as the _____ of _____.

My commission expires:_____

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EXHIBIT G-2

FORM OF BOND

_____ INSURANCE COMPANY
QUASI-PUBLIC IMPROVEMENTS PERFORMANCE BOND

Bond No. _____
Initial Premium $ _____
Subject to Renewal

KNOW ALL MEN BY THESE PRESENTS: That _____, a _____ ("Principal") and _____, a corporation duly authorized under the laws of the State of New Mexico to become surety on bonds and undertakings ("Surety"), are held and firmly bound unto the City of Santa Fe, New Mexico ("Obligee"), in the full and just sum _____ Dollars and _____ Cents ($_____) lawful money of the United States of America, to be paid to Obligee, its successors or assigns; for which payment, well and truly to be made, Principal and Surety bind themselves, their heirs, executors, successors, administrators and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE OBLIGATION IS SUCH THAT:

Whereas, Principal and Obligee have entered into that certain Development and Disposition Agreement, effective _____ ___, 20__ (the "DDA") whereby Principal agrees to install and complete certain designated quasi-public improvements according to the DDA. is hereby referred to and made a part hereof; and

Whereas, said Principal is required under the terms of the DDA to furnish a bond for the faithful performance of the terms of the DDA.

Now, if Principal, its successors or assigns, shall perform the covenants, conditions and provisions in the DDA and any alteration thereof made as therein provided, on its or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the Obligee, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

Principal is responsible for all taxes and other costs incurred in fulfilling the requirements of the DDA. As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by Obligee in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the DDA or to the work to be performed thereunder or the specifications accompanying the same shall in anywise affect its obligations on this bond, and it does hereby

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waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

This bond is enforceable without the need to have recourse to any judicial or arbitral proceeding.

Surety is authorized with the New Mexico Secretary of State to do business in the State of New Mexico, and its registered agent in the State of New Mexico is _____. The appointment of said agent shall remain in place for the entire duration of this bond.

Notice required by or provided pursuant to this bond shall be given in writing to the representatives identified herein. Notice shall be effective upon personal delivery to any such representative or seven (7) business days after deposit, postage prepaid and registered or certified, in an official receptacle of the U.S. Postal Service. Notice to the City of Santa Fe shall be made to the Planning and Land Use Director at 200 Lincoln Avenue, Santa Fe, New Mexico 87504.

The laws of the State of New Mexico shall govern the interpretation, validity, performance and enforcement of this this bond. In the case of any controversy or dispute in the interpretation, validity, performance or enforcement of this bond, the exclusive venue shall be the New Mexico First Judicial District Court, Santa Fe County, New Mexico. Surety and Principal consent to the venue and the jurisdiction of such court.

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IN WITNESS WHEREOF, the seal and signature of said Principal is hereto affixed and the corporate seal and the name of the Surety is hereto affixed and attested by its duly authorized [Attorney-in-Fact] at_, this _____day of_____.

PRINCIPAL:

_____, a
_____

By: _____
_____

SURETY:

_____, a
_____

By: _____
_____

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IN WITNESS WHEREOF, the City of Santa Fe has agreed to this PERFORMANCE BOND as of the date of the signature by the required approval authorities below.

Acknowledged and Accepted for Compliance with LUD Case No.: 2022-5393, as per Planning Commission decision dated _____ ___, 20__:

City of Santa Fe

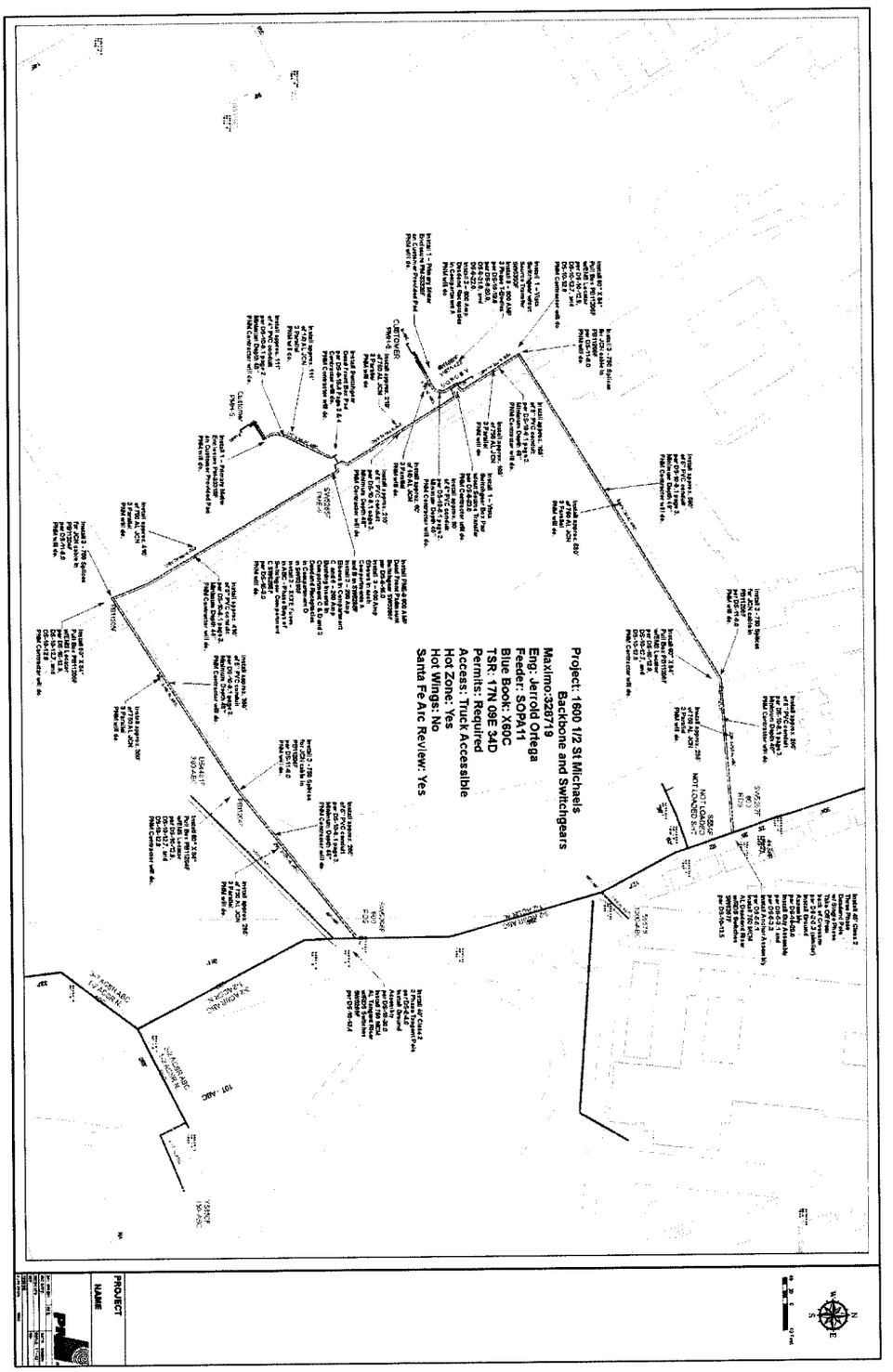
By: _____
City Engineer
City of Santa Fe Land Use Department

_____
Date

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EXHIBIT H

ASPECT ELECTRICAL LOOP PLANS



[EXHIBIT H]

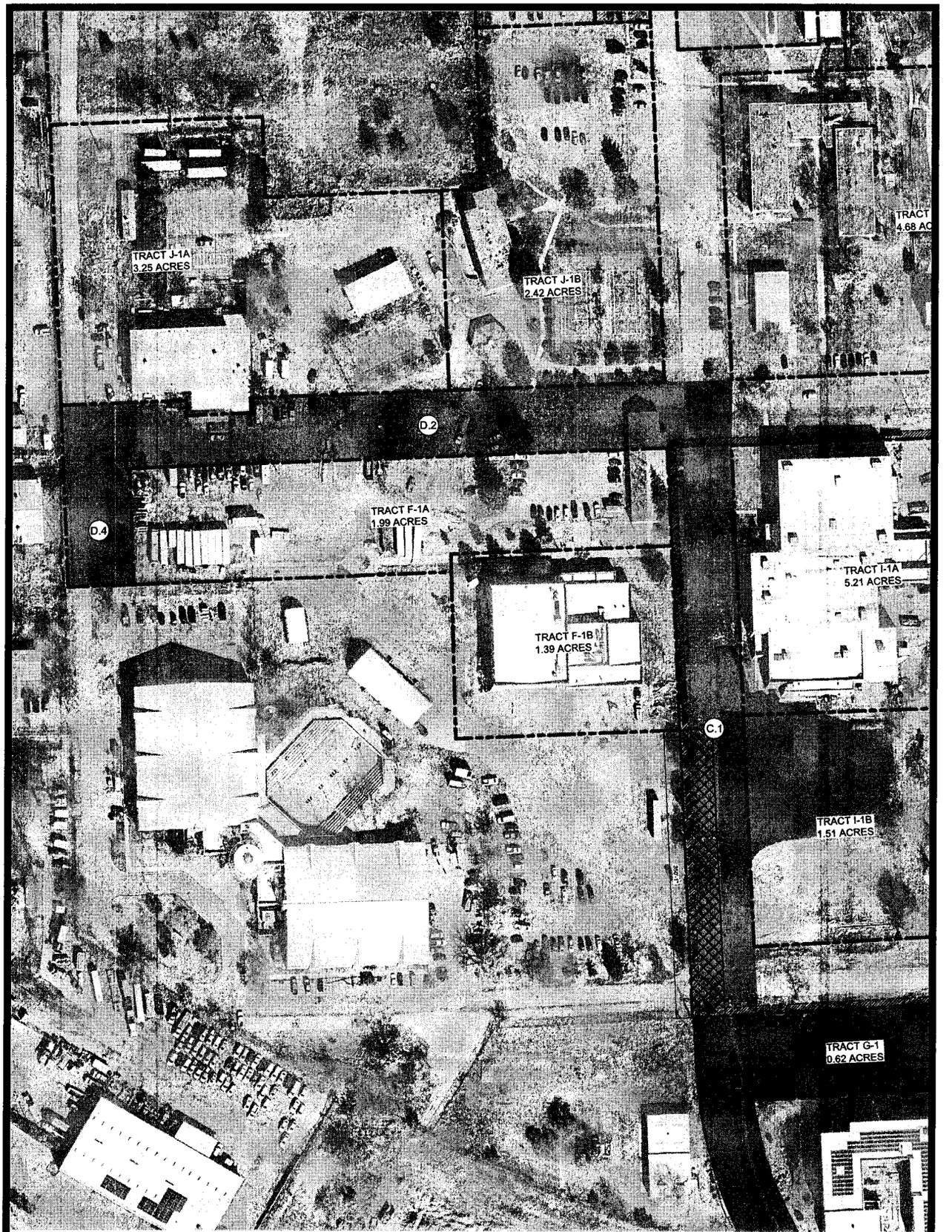
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EXHIBIT I

LOCATION OF PROJECT RIGHT OF WAY IMPROVEMENTS

[attached]

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ROW IMPROVEMENTS PHASE 1

ROW IMPROVEMENTS PHASE 2

SIRINGO ENTRANCE (to SIRINGO INTERSECTION)

ARTHOUSE IMPROVEMENTS

C.# 78' ROW

D.# 80' ROW

MIDTOWN SITE LAYOUT
RIGHT-OF-WAY (ROW) IMPROVEMENTS

WILSON &COMPANY

M:\365\03-500-027402\2_DISCIPLINES_EXHIBITS\SITE LAYOUT ROW IMPROVEMENTS.DWG 9/4/2024 2:45 PM

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EXHIBIT J

UTILITIES AGREEMENT

[attached]

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UTILITIES AGREEMENT

THIS UTILITIES AGREEMENT (this "**Agreement**") is entered into effective as of the "Effective Date" under the DDA (as defined below) (the "**Effective Date**"), by and between **ASPECT QOZB, LLC**, a Delaware limited liability company ("**Developer**"), and the **CITY OF SANTA FE**, a municipal corporation and political subdivision of the State of New Mexico (the "**City**").

RECITALS:

A. The City owns the real property and improvements consisting of approximately 68.8 acres generally located within the block defined by Cerrillos Road, St. Michaels Drive, Llano Street, Siringo Road, and Camino Carlos Rey in the City of Santa Fe, County of Santa Fe, State of New Mexico, as generally depicted on Exhibit A attached hereto (the "**Midtown Site**").

B. The City and Developer are executing a Development and Disposition Agreement, dated as of the date hereof (the "**DDA**"), whereby Developer will re-develop and acquire approximately 11 acres of land comprising a portion of the Midtown Site, together with the buildings known as Benildus Hall, Onate Hall, Driscoll Fitness Center and Garson Studios (collectively, the "**Buildings**"), and all other existing accessory structures and improvements located thereon (collectively, the "**Property**").

C. The City and Developer intend to enter into a Lease Agreement (the "**Lease**"), for the purpose of leasing the Property to Developer to enable Developer to perform its obligations under the DDA, until such time as the City conveys the Property (or a portion thereof) to Developer pursuant to the terms thereof;

D. In connection with the Developer's development and operation of the Property, the City and Developer desire to enter into this Agreement in order to (i) enable to Developer to utilize certain utilities available at the Property, (ii) establish Developer's rights and obligations relating to the use of said utilities, and (iii) establish Developer's obligations relating to the modification or replacement of utilities at the Property, in each case subject to the terms and conditions set forth below.

AGREEMENT:

Developer and the City hereby agree as follows:

1. NATURAL GAS.

1.1 **Use; Submetering.** Subject to the terms and conditions of this Agreement, Developer shall have the right, during the Gas Utilization Period (as defined below), to utilize the natural gas service available at the Property by connecting to the existing natural gas lines thereon. Notwithstanding the foregoing, within 60 days after the Effective Date, as a condition to Developer's continued use of natural gas at the Property, Developer shall install, or cause to be installed, a natural gas submeter on the natural gas line providing gas to (a) the parcel on which Driscoll Studios is located and (b) the parcel on which Benildus Hall is located. Prior to construction or installation of any metering equipment or other utility facilities at the Property, Developer shall submit to the City a written request to proceed, which request shall set forth, for the City's approval, not to be unreasonably withheld, the name of Developer's contractor and the scope of work being performed.

1.2 **Pricing; Payment**.

(a) The price for the natural gas delivered to the Property shall initially be fixed at $12.78/MMBtu (the "**Gas Unit Price**"). On or before January 31st of each calendar year following the Effective Date, the City shall deliver to Developer written notice of its determination of the estimated

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average Gas Unit Price for the current calendar year, which Gas Unit Price will be not less than 100% of the Gas Unit Price for the prior calendar year.

(b) Developer acknowledges that gas submeters have been installed on the natural gas lines serving the parcels commonly known as Shellaberger and Garson Studios. Within 3 business days after the Effective Date, Developer will email to the City a time-stamped photograph clearly depicting the current submeter reading for each of the submeters at Shellaberger and Garson Studios. Thereafter, within 15 days following the end of each calendar quarter during the Gas Utilization Period, Developer shall submit to the City (i) time-stamped photographs taken not more than 15 days prior to the date of Developer's submission that clearly depict the submeter reading for each of the submeters at Schellaberger, Garson Studios, Driscoll Studios and Benildus Hall, and (ii) payment, by check or other good funds made to the order of the City, in the amount of the Gas Unit Price multiplied by the total MMBtu used at the Property over the prior period (i.e., the difference between the current meter value set forth on the photographs provided therewith over the meter value shown on the photographs submitted with the immediately preceding payment (or the initial meter value, as applicable)). Any amounts not paid when due will accrue interest at rate of 1.5% per month.

1.3 **Gas Utilization Period; Disconnection.** Provided the Lease remains in effect and Developer is not in default thereunder, or, if the Lease is not in effect, that Developer is the fee owner of the Property, Developer shall have the right to use natural gas at the Property until the earlier of the seventh anniversary of the Effective Date or the date upon which the City ceases to use gas service at the property. (the "**Gas Utilization Period**"). Prior to the expiration of the Gas Utilization Period, Developer shall cause all natural gas use at the Property to be terminated and each of the natural gas lines at the Property to be disconnected from the City's connecting distribution lines.

2. ELECTRICAL SUPPLY.

2.1 **Use; Submetering.** Subject to the terms and conditions of this Agreement, Developer shall have the right, during the Electrical Use Period (as defined below), to use the electricity service available at the Property by connecting to the existing electrical utility lines thereon. Notwithstanding the foregoing, within 60 days after the Effective Date, as a condition to Developer's continued use of City-provided electricity at the Property, Developer shall install, or cause to be installed, an electrical submeter on the utility line providing electricity to (a) the parcel on which Driscoll Studios is located and (b) the parcel on which Benildus Hall is located. Prior to construction or installation of any metering equipment or other utility facilities at the Property, Developer shall submit to the City a written request to proceed, which request shall set forth, for the City's approval, not to be unreasonably withheld, the name of Developer's contractor and the scope of work being performed.

2.2 **Pricing; Payment.**

(a) The price for the electricity delivered to the Property shall initially be fixed at $0.11/kWh (the "**kWh Price**"). On or before January 31st of each calendar year following the Effective Date, the City shall deliver to Developer written notice of its determination of the estimated average kWh Price for the current calendar year, which kWh Price will be not less than 100% of the kWh Price for the prior calendar year.

(b) Developer acknowledges that electrical submeters have been installed on the transmission lines serving the parcels commonly known as Shellaberger and Garson Studios. Within 3 business days after the Effective Date, Developer will email to the City a time-stamped photograph clearly depicting the current submeter reading for each of the electrical submeters at Shellaberger and Garson Studios. Thereafter, within 15 days following the end of each calendar quarter during the Electricity Utilization Period, Developer shall submit to the City (i) time-stamped photographs taken not

SFC CLERK RECORDED 02/12/2025

more than 15 days prior to the date of Developer's submission that clearly depict the submeter reading for each of the submeters at Shellaberger, Garson Studios, Driscoll Studios, and Benildus Hall, and (ii) payment, by check or other good funds made to the order of the City, in the amount of the kWh Price multiplied by the total kWh of electricity used at the Property over the prior period (i.e., the difference between the current meter value set forth on the photographs provided therewith over the meter value shown on the photographs submitted with the immediately preceding payment (or the initial meter value, as applicable)). Any amounts not paid when due will accrue interest at rate of 1.5% per month.

2.3 **Electricity Utilization Period; Disconnection.** Provided the Lease remains in effect and Developer is not in default thereunder, or, if the Lease is not in effect, that Developer is the fee owner of the Property, Developer shall have the right to use the City-provided electricity serving the Property during the period beginning on the Effective Date and ending on the date 60 days after Developer's completion of the electrical transmission loop further described in the DDA (the "**Electricity Utilization Period**"). Prior to the expiration of the Electricity Utilization Period, Developer shall disconnect the Property's electrical distribution network from the City's transmission lines, and all existing buildings, new buildings, and structures constructed at the Property shall receive electrical service via the electrical transmission loop described in the DDA, excluding Benildus Hall which may remain on the City's transmission lines.

3. **WATER SERVICE; METERING.** Within 60 days after the Effective Date, (a) the City will cause the Water Division to terminate the City's account(s) at the Property, (b) Developer shall install a separate water meter on the water lines serving each of (i) the parcel on which Driscoll Studios is located and (ii) the parcel on which Benildus Hall is located. Following the City's termination of its water account at the Property, Developer shall establish a new billing account with the City's Water Division in Developer's name and shall thereafter be responsible for all costs and expenses relating to the water service at the Property. Prior to construction or installation of any metering equipment or other utility facilities at the Property, Developer shall submit to the City a written request to proceed, which request shall set forth, for the City's approval, not to be unreasonably withheld, the name of Developer's contractor and the scope of work being performed. Developer shall obtain water rights through the water rights transfer program or the water conservation credit program or through a combination of both.

4. **TELECOMMUNICATIONS AND INTERNET.** Developer is responsible for the installation of all required telecommunications and internet lines.

5. **MAINTENANCE.** Except with respect to any damage caused by the City, Developer shall be responsible for all maintenance, repair and replacement of the meters, submeters and utility lines or facilities located at the Property, up to and including the interconnections of the meters, submeters and utility lines or facilities at any points along the adjacent Property lines. Except with respect to any damage caused by Developer or its licensees or invitees, the City is responsible for all of the City's transmission facilities and equipment on the other side of the interconnection, provided that the City shall not be responsible for any of the foregoing to the extent the same are owned or operated by a third-party utility provider.

6. **INDEMNITY.** Developer shall indemnify, hold harmless and, if requested by the City (in the City's sole discretion), defend the City and its partners, employees, agents and representatives and each of their successors and assigns (together with the City, collectively, the "**City Indemnified Parties**"), from and against any and all damages, mechanics' liens, liabilities, losses, demands, actions, causes of action, claims, costs and expenses (including reasonable attorneys' fees) (collectively, "**Losses**") arising from Developer's or Developer's Representatives' construction, installation or use of the natural gas, electricity, water or other utilities on or with respect to the Property during the term of this Agreement; provided, that Developer shall not be required to indemnify the City for (i) any Losses arising out of the gross negligence or willful misconduct of any of the City's Indemnified Parties.

SFC CLERK RECORDED 02/12/2025

7. **INSURANCE.** Developer shall maintain, or cause to be maintained, at all times during the construction or installation of utility facilities or equipment at the Property, the insurance coverage required pursuant to the DDA and/or the Lease. Developer shall deliver proof of the insurance coverage required pursuant to this Agreement to the City (in the form of a certificate of insurance) prior to Developer (or any contractor) commencing work at the Property.

8. **TERMINATION.** This Agreement shall terminate upon the expiration or earlier termination of the Lease, unless as a result of Developer acquiring fee title to the Property. If not sooner terminated, this Agreement shall expire on the later of the expiration of the Gas Utilization Period and the Electricity Utilization Period, except that Sections 1.2, 2.2, 5, and 6 of this Agreement shall survive the termination hereof for a period of one year.

9. **NON-ASSIGNABILITY.** This Agreement may not be assigned without first obtaining the prior written approval of the non-assigning party.

10. **GOVERNING LAW.** This Agreement shall be governed by the laws of the State of New Mexico.

11. **NOTICES.** Any notices required by any provision of this Agreement shall be made in writing and delivered in the manner set forth in the DDA.

12. **COUNTERPARTS; ELECTRONIC/.PDF SIGNATURES.** This Agreement may be executed in any number of identical counterparts. This Agreement may be executed by electronic and/or .pdf signatures which shall be binding on the parties hereto, with original signatures to be delivered as soon as reasonably practical thereafter.

[signature page follows]

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IN WITNESS WHEREOF, Developer and the City have caused this Agreement to be executed as of the Effective Date.

DEVELOPER:
ASPECT QOZB, LLC,
a Delaware limited liability company

By: _____
Name: Phillip Greve
Title: Managing Member
Date: 10-24-2024

[City's signature page follows]

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CITY:

CITY OF SANTA FE,
a municipal corporation and political subdivision of the State of New Mexico

MAYOR

DATE: 2/5/2025

ATTEST:

CITY CLERK

CITY ATTORNEY'S OFFICE:

ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

FINANCE DIRECTOR

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EXHIBIT K

FORM OF EDUCATIONAL USE COVENANTS

[attached]

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Recording Requested By,
And When Recorded Return To:

CITY OF SANTA FE
200 LINCOLN AVENUE
SANTA FE, NM 87501
ATTN: ERIN MCSHERRY, CITY ATTORNEY

EDUCATIONAL USE COVENANT

THIS **EDUCATIONAL SPACE COVENANT** (this "**Covenant**") is declared as of _____, 202__ (the "**Effective Date**"), by the CITY OF SANTA FE, a municipal corporation and political subdivision of the State of New Mexico (the "**City**").

SFC CLERK RECORDED 02/12/2025

RECITALS

A. The City owns the real property and improvements consisting of approximately 64 acres generally located within the block defined by Cerrillos Road, St. Michaels Drive, Llano Street, Siringo Road, and Camino Carlos Rey in the City of Santa Fe, County of Santa Fe, State of New Mexico (the "**Midtown Site**").

B. The City desires to create certain obligations and duties and to impose certain restrictions and covenants upon the portion of the Midtown Site legally described on Exhibit A (the "**Property**").

AGREEMENT

NOW, THEREFORE, the City hereby declares that the Property shall be held, conveyed, encumbered, leased, used, developed, occupied, altered, improved, and transferred subject to the terms and provisions set forth in this Covenant, and further declares as follows:

1. Defined Terms.

(a) "**Educator**" means any organization or establishment dedicated to providing formal instruction and learning experiences to individuals, through a college, university, academy, vocational, technical, business, professional school or other center of learning.

1. "**FP Educator**" means an Educator having its principal operation in New Mexico that exclusively offers an FP Program in such Educator's then current curriculum, such as, but not limited to, organizations such as Stagecoach Foundation or Santa Fe Community College.

(b) "**FP Program**" means a filmmaking, film production and or television provision training program, which includes classroom training and access to additional multimedia and filmmaking and film production space for practical training opportunities, with a curriculum based on best industry practices and then current technology.

(c) "**General Educator**" means an Educator that offers a General Program in such Educator's then current curriculum.

(d) "**General Program**" means a general training and educational program, which may include classroom and practical training, for the advancement of skills in a variety of industries.

2. Educational Use Covenants.

(a) During the period commencing on the Effective Date and continuing in perpetuity thereafter (the "**Term**"), any owner of fee title interest in the Property (each, an "**Owner**") shall, or shall cause any tenant or other occupant of the Property, to make available at least 2,000 square feet of office, classroom, studio and/or workspace (the "**Education Space**"), at no charge, to one or more FP Educators for an FP Program each academic year; provided, however, if no FP Educator exists in New Mexico that is willing to provide an FP Program in the Education Space, Owner shall, or shall cause any tenant or other occupant of the Property, to make the Education Space available to a General Educator.

(b) Owner shall, or shall cause any tenant or other occupant of the Property to use its best efforts to ensure that each FP Educator (or General Educator, if applicable) utilizing the Education Space:

(i) makes such FP Program (or General Program, if applicable) available to the residents of Santa Fe, New Mexico;

(ii) conducts commercially reasonable outreach and recruitment efforts to the surrounding communities, community organizations, including to residents of Santa Fe, and outreach to community-based partners selected by the City to provide outreach to the community, or other stakeholders as identified by the City;

(iii) efficiently utilizes the Education Space to accommodate the maximum number of students for the applicable FP Program or General Program, subject to Applicable Rules; and

(iv) operates an FP Program (or General Program, if applicable) in the Education Space for at least 50 credit hours in each academic year.

(c) To the extent the Property is owned or occupied by multiple Owners, the obligations of this Section 2 shall be deemed satisfied for the entire Property so long as one Owner is in compliance with this Covenant.

3. Fee in Lieu. Notwithstanding the foregoing, any Owner may satisfy this Covenant by remitting to the City a fee ("**Fee in Lieu**") in the amount of $1,500,000, increased as of the payment date of such Fee in Lieu by the percentage increase in the Consumer Price Index from the Effective Date to the date such payment. "**Consumer Price Index**" means the Consumer Price Index for All Urban Consumers for the West Region for all Items (1982-1984= 100) as published by the United States Department of Labor, Bureau of Labor Statistics. If the manner in which the Consumer Price Index is determined by the Bureau of Labor Statistics shall be substantially revised (including a change in the base index year), an adjustment shall be made by the City Manager in

SFC CLERK RECORDED 02/12/2025

such revised index that produces results equivalent, as nearly as possible, to those which would have been obtained if the Consumer Price Index had not been so revised. If the Consumer Price Index is discontinued, then "Consumer Price Index" shall mean an index chosen by City Manager which is, in City Manager's reasonable judgment, comparable to the index specified above. Upon payment in full of the Fee in Lieu to the City, this Covenant shall terminate and be of no further force or effect.

4. Compliance with Laws. Any Owner, tenant or other occupant of the Property shall carry out the operation of the Property in conformity with the then-current versions of the following: (a) the Santa Fe City Code of 1987, as amended from time-to-time, (b) the Midtown Master Plan, as adopted on November 30, 2022 pursuant to Resolution No. 2022-68, (c) the Midtown Community Development Plan, as adopted on January 25, 2023 pursuant to Resolution No. 2023-5, (d) the Midtown Local Innovation Corridor District, as adopted on October 26, 2016 pursuant to Ordinance No. 2016-39, (e) any other City-approved development plans and entitlements for the Property, and (f) any and all applicable local, state and federal laws, rules and regulations affecting the Property or otherwise applicable to the parties (collectively, with the provisions of this Covenant, the "**Applicable Rules**").

5. Indemnity. Any Owner shall indemnify, defend and hold harmless the City (including the governing body of the City), the metropolitan redevelopment agency for the Midtown Site, and each of their respective officials, officers, employees, agents, representatives and volunteers (collectively, including the City, the "**City Parties**"), from and against any and all liabilities, claims, demands, damages, expenses, fees (including attorneys' fees), fines, penalties, suits, proceedings, actions and causes of action of any and every kind or nature arising from the acts or omission of or the breach of this Covenant, including any violation of Applicable Rules, by any Owner, any of such Owner's officers, employees, agents, representatives, contractors, or any FP Educator.

6. Remedies. The City shall have all remedies available at law or equity to enforce this Covenant against an Owner that is violating such Covenant, provided that the City agrees not to exercise such remedies so long as such Owner commences and diligently proceeds to cure such violation within 30 days following written notice of violation from the City to such Owner, and cures such violation within 90 days thereafter. In the event it becomes necessary for the City to enforce any of the terms and provisions of this Covenant, whether or not suit be instituted, Owner shall pay all of the City's costs and expenses incurred by the City in connection with the City's enforcement of this Covenant, including, but not limited to, reasonable attorneys' fees.

7. Miscellaneous.

(a) Entire Agreement. This Covenant contains the entire declaration of Declarant with respect to the subject matter hereof, and may not be amended or modified except by an instrument executed in writing and signed by the Declarant hereto.

(b) Counterparts. This Covenant may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

SFC CLERK RECORDED 02/12/2025

(c) Governing Law. This Covenant shall be governed by and construed in accordance with the laws of the State of New Mexico without regard to the conflicts of laws principles thereof.

(d) Successors and Assigns. This Covenant shall be binding upon and inure to the benefit of the City, and all rights and responsibilities set forth in this Covenant shall be appurtenant to the Property. Any party acquiring title or an interest in the Property shall acquire and hold the title to the Property subject to the conditions and restrictions declared in this Covenant and all amendments thereto. Nothing in this Covenant shall be construed as preventing any Owner from dedicating additional space to a FP Educator or imposing additional restrictions on the Property; provided, however, that such additional restrictions may not interfere with the rights of the City hereunder.

(e) Severability. If any provision of this Covenant as applied to a particular circumstance shall be adjudicated as or otherwise become invalid or unenforceable, the remainder of this Covenant shall not be affected thereby, and each provision of this Covenant, unless specifically conditioned upon such invalid or unenforceable provision, shall be valid and enforceable to the fullest extent permitted by law.

(f) New Mexico Tort Claims Act. The City's liability in connection with the Covenant is limited by the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et seq. NMSA 1978, as amended. The City and its "public employees", as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense, and do not waive any limitation of liability pursuant to law. No provision of this Covenant modifies or waives any provision of the New Mexico Tort Claims Act.

(g) Notice. All notices or other communications required or permitted to be sent to Declarant hereunder shall be in writing, and shall be delivered to the address below by (i) personal delivery (including by means of professional messenger service); (ii) nationally recognized overnight courier; (iii) registered or certified mail, postage prepaid, return receipt requested; (iv) electronic mail, or electronic transmission of a pdf document followed by delivery of a hard copy through on of the methods described in (i) through (iii) above, and shall be deemed received upon the date of receipt thereof.

SFC CLERK RECORDED 02/12/2025

APPROVED AS TO FORM:

By: _____
Assistant City Attorney

(ADDITIONAL SIGNATURES OR SIGNATURE PAGES MAY BE REQUIRED WHEN EXECUTED)

EXHIBIT L

FORM OF ASSIGNMENT OF PLAN

ASSIGNMENT OF PLANS, SPECIFICATIONS AND CONTRACTS

(MIDTOWN – CITY OF SANTA FE)

THIS ASSIGNMENT OF PLANS, SPECIFICATIONS AND CONTRACTS (this "**Assignment**") is made as of __(DATE)_____, ___ 20__, by and between by and between [___(IDENTITY)_____], a [_(STRUCTURE)_] ("**Assignor**"), and the CITY OF SANTA FE, a municipal corporation and political subdivision of the State of New Mexico ("**Assignee**").

RECITALS

A. Assignor and Assignee entered into that certain Development and Disposition Agreement dated [__(DATE)_____] (as amended, the "**Development Agreement**"), whereby Assignee agreed to sell and Assignor agreed to purchase all of the Assignor's right, title and interest in and to certain real property located in the City of Santa Fe, New Mexico, as more particularly described on Exhibit A attached hereto (the "**Property**"). Capitalized terms used but not defined herein shall have the meaning given to such terms in the Development Agreement.

B. In connection with the foregoing transaction, Assignor agreed to pursue the completion of certain improvement plans, site plans, specifications, architectural drawings, renderings, plans, plats, agreements, contracts, permits, certificates, entitlements and approvals, reports, assessments, studies, and surveys relating to Assignor's development and construction at the Property (except to the extent excluded pursuant to Section 3 below, the "**Plans and Specifications**").

C. In connection with the completion of the Plans and Specifications, Assignor has engaged or intends to enter into one or more agreements (the "**Plan Consultant Contracts**" and, collectively with the Plans and Specifications, the "**Plan Documents**") with various consultants that will perform services or provide documents, materials or other information related to the Plans and Specifications.

D. In order to secure Assignor's obligations under the Development Agreement, Assignor now desires to enter into this Assignment to assign and convey to Assignee its right, title and interest in and to the Plans and Specifications on the Assignment Date and certain Plan Consultant Contracts concurrently therewith or thereafter, and Assignee desires to accept this Assignment on the terms and conditions set forth herein.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt whereof is hereby acknowledged, the parties agree as follows:

1. Incorporation of Recitals. The Recitals set forth above are hereby incorporated into this Assignment as if fully set forth herein.

SFC CLERK RECORDED 02/12/2025

2. **Assignment Date**. This Assignment shall become immediately effective upon the termination of the Development Agreement for any reason other than in connection with Assignor's acquisition of the Property (the "**Assignment Date**").

3. **Assignment of Plans and Specifications**. As of the Assignment Date, without further action by either party hereto, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor hereby transfers and assigns to Assignee all of Assignor's right, title, and interest in and to the Plans and Specifications, and Assignee hereby assumes all of Assignor's right, title and interest in and to the Plans and Specifications, except that Assignor shall remain liable for all claims, expenses, costs, obligations or other liabilities with respect to the Plans and Specifications arising out of or with respect to events occurring prior to the Assignment Date. On or before the Assignment Date, Assignor shall amend Schedule 1 attached hereto in order to include all professional services and Plan Consultant Contracts entered into on or prior to such date. The Plans and Specifications assigned hereunder shall exclude (a) any attorney-client work product or similar proprietary information of Assignor, (b) any specifications, architectural drawings, renderings, plans, plats, agreements, contracts, or portions thereof, for the design or construction of improvements not located on the Property (i.e., the Shellaberger Tennis Complex), and (c) any environmental studies, analysis or reports.

4. **Assignment of Plan Consultant Contracts**. Assignor shall, upon written notice from Assignee on or within 10 days following the Assignment Date, assign and transfer to Assignee, all of Assignor's right, title, and interest in and to such Plan Consultant Contracts specified by Assignee in its written notice, and Assignee shall assume all of Assignor's rights and obligations under such Plan Consultant Contracts, except for those claims, expenses, costs, obligations or other liabilities arising out of or with respect to events occurring prior to the Assignment Date.

5. **Representations, Warranties and Covenants**. Assignor represents and warrants to Assignee that Assignor has the right to assign to Assignee each of the Plan Documents, and that Assignor has obtained or will obtain all necessary consents or other documentation required, if any, for the assignment of the Plan Documents. Assignor agrees that Assignor will pay in full all costs and fees accrued in connection with the Plan Documents as of the Assignment Date. Assignor shall not be responsible for the costs associated with the Plan Documents for work performed following the Assignment Date. Except as set forth in this Agreement, Assignor makes no representation or warranty with respect to the Plan Documents of any nature whatsoever.

6. **Consent of Counterparties**. Upon Assignee's request, Assignor shall use commercially reasonable efforts to obtain the consent of the counterparty to each of the Plan Documents to the extent consent is required in order for Assignee to exercise its rights hereunder.

7. **Further Assurances**. At any time and from time to time, upon the written request of Assignee, at Assignee's sole expense, Assignor will promptly and duly execute and deliver any and all such further instruments and documents and take such further action as Assignee may reasonably deem necessary in obtaining the full benefits of this Agreement and of the rights and powers herein granted.

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8. **General Provisions**.

8.1. Successors and Assigns. The Assignment shall be binding on and inure to the benefit of the parties hereto and to their respective heirs, executors, administrators, successors-in-interest and assigns.

8.2. Severability. If any one or more of the provisions contained in this Assignment shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Assignment, but this Assignment shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

8.3. Recitals and Schedules Incorporated. The recitals set forth above and the schedule attached hereto are hereby incorporated into this Assignment as if set forth herein.

8.4. Counterparts. This Assignment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument, and either of the parties hereto may execute this Assignment by signing any such counterpart. This Assignment may be executed and delivered by facsimile or by electronic mail in portable document format (.pdf) or similar means and delivery of the signature page by such method will be deemed to have the same effect as if the original signature had been delivered to the other party.

8.5. Governing Law. This Assignment and any claims related to or arising out of this Assignment shall be governed by and construed in accordance with the laws of the State of New Mexico.

APPROVED AS TO FORM:

By: _____
Assistant City Attorney

(ADDITIONAL SIGNATURES OR SIGNATURE PAGES AND SCHEDULE OF PLANS ASSIGNED MAY BE REQUIRED WHEN EXECUTED)

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Exhibit A

to

Assignment of Plans, Specifications and Contracts

LEGAL DESCRIPTION

[to be inserted]

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Schedule 1

to

Assignment of Plans, Specifications and Contracts

LIST OF ASSIGNOR'S PLANS

1. [to be provided]

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EXHIBIT M

FORM OF REPORT

[attached]

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Phase 1 Quarterly Construction Report

Effective Date of DDA

Date of Report

Time Period Covered

		Date Complete or Anticipated	Summary of Progress & Obstacles Encountered	List of Supporting Documents
Phase 1- Component 1				
Name of Component				
Submit Concept Plans	**NA**			
Submit Design Plans	**All components submitted 120 days after Lease Commencement Date. (5.2.2)**			
Date of MRA-Approved Component Design Plans				
Submit Building Permit	**30 days from Phase 1 MRA-Approved Component Design Plans (5.2.7)**			
Obtain Development Approvals				
Building Permit				
Development Plan/Zoning Review				
Other (please name)				
Other (please name)				
Commence Construction	**45 days after Developer receives its building permit and zoning approval for component (5.2.8)**			
Complete Construction	**12 months after Phase 1 Commencement Date. (5.2.9)**			

Exhibit M: Report Template
(may be amended by City)

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Phase 1 Quarterly Construction Report

Effective Date of DDA

Date of Report

Time Period Covered

		Date Complete or Anticipated	Summary of Progress & Obstacles Encountered	List of Supporting Documents
Phase 1- Component 2				
Name of Component				
Submit Concept Plans	**NA**			
Submit Design Plans	**All components submitted 120 days after Lease Commencement Date. (5.2.2)**			
Date of MRA-Approved Component Design Plans				
Submit Building Permit	**30 days from Phase 1 MRA-Approved Component Design Plans (5.2.7)**			
Obtain Development Approvals				
Building Permit				
Development Plan/Zoning Review				
Other (please name)				
Other (please name)				
Commence Construction	**45 days after Developer receives its building permit and zoning approval for said component (5.2.8)**			
Complete Construction	**12 months after Phase 1 Commencement Date. (5.2.9)**			

SFC CLERK RECORDED 02/12/2025

Phase 1 Quarterly Construction Report

Effective Date of DDA

Date of Report

Time Period Covered

		Date Complete or Anticipated	Summary of Progress & Obstacles Encountered	List of Supporting Documents
Phase 1- Component 3				
Name of Component				
Submit Concept Plans	**NA**			
Submit Design Plans	**All components submitted 120 days after Lease Commencement Date. (5.2.2)**			
Date of MRA-Approved Component Design Plans				
Submit Building Permit	**30 days from Phase 1 MRA-Approved Component Design Plans (5.2.7)**			
Obtain Development Approvals				
Building Permit				
Development Plan/Zoning Review				
Other (please name)				
Other (please name)				
Commence Construction	**45 days after Developer receives its building permit and zoning approval for said component (5.2.8)**			
Complete Construction	**12 months after Phase 1 Commencement Date. (5.2.9)**			

SFC CLERK RECORDED 02/12/2025

Phase 1 Quarterly Construction Report				
Effective Date of DDA			Date of Report Time Period Covered	
		Date Complete or Anticipated	Summary of Progress & Obstacles Encountered	List of Supporting Documents
Phase 1- Component 4				
Name of Component				
Submit Concept Plans	NA			
Submit Design Plans	All components submitted 120 days after Lease Commencement Date. (5.2.2)			
Date of MRA-Approved Component Design Plans				
Submit Building Permit	30 days from Phase 1 MRA-Approved Component Design Plans (5.2.7)			
Obtain Development Approvals				
Building Permit				
Development Plan/Zoning Review				
Other (please name)				
Other (please name)				
Commence Construction	45 days after Developer receives its building permit and zoning approval for			
Construction Completion	12 months after Phase 1 Commencement Date. (5.2.9)			
Closing				
Delivery of Closing Conditions	90 days from Construction Completion (10.2)			

SFC CLERK RECORDED 02/12/2025

Phase 2 Quarterly Construction Report

Effective Date of DDA **Date of Report**

Time Period Covered

		Date Complete or Anticipated	Summary of Progress & Obstacles Encountered	List of Supporting Documents
Phase 2				
Name of Component				
Submit Concept Plans	**9 months after the Lease Commencement Date (5.3.1)**			
Submit Design Plans	**12 months from Lease Commencement Date (5.4.2)**			
Date of MRA-Approved Design Plans				
Submit Building Permit	**4 months after receipt of the Phase 2 MRA-Approved Design Plans (5.3.7)**			
Obtain Development Approvals				
Building Permit				
Development Plan/Zoning Review				
Other (please name)				
Other (please name)				
Commence Construction	**45 days after Developer receives its building permit and zoning approval (5.3.8)**			
Construction Completion	**18 months after Phase 2 Commencement Date (5.3.9)**			
Delivery of Closing Conditions	**90 days from Construction Completion (10.3)**			

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Phase 3 Quarterly Construction Report

Effective Date of DDA

Date of Report

Time Period Covered

		Date Complete or Anticipated	Summary of Progress & Obstacles Encountered	List of Supporting Documents
Phase 3				
Name of Component				
Submit Concept Plans	**27 months after the Lease Commencement Date (5.4.1)**			
Submit Design Plans	**33 months of the Lease Commencement Date (5.4.2)**			
Date of MRA-Approved Design Plans				
Submit Building Permit	**4 months after receipt of the Phase 3 MRA-Approved Design Plans (5.4.7)**			
Obtain Development Approvals				
Building Permit				
Development Plan/Zoning Review				
Other (please name)				
Other (please name)				
Commence Construction	**45 days after Developer receives its building permit and zoning approval (5.4.8)**			
Construction Completion	**18 months after the Phase 3 Commencement Date (5.4.9)**			
Delivery of Closing Conditions	**90 days from Construction Completion (10.4)**			

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Annual Program Report			
Effective Date of DDA		**Date of Report**	
		Time Period Covered	
11.2 Economic Impact		**Explain any variance from DDA Requirements**	**Supporting Documentation**
	State the Annual Production Spend for Previous Year		
11.3 Job Postings		**Explain any variance from DDA Requirements**	**Supporting Documentation**
	List of job postings circulated during the prior year per the DDA		
11.4 Commercial Use Requirement		**Explain any variance from DDA Requirements**	**Supporting Documentation**
	Screen Tenant:		
	Months in Public Operation:		
	Notes:		
	Driscoll Restaurant Tenant:		
	Months in Public Operation:		
	Notes:		

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11.5 Film Internship Requirements.	Explain any variance from DDA Requirements	Supporting Documentation
List the Internships provided, (first initial/last name, length of time, total number of hours)		

11.6 Cultural Elements	Explain any variance from DDA Requirements	Supporting Documentation
List the events and activities held that meet the Cultural Element Requirement		

11.7 Dedication of Educational Space	Explain any variance from DDA Requirements	Supporting Documentation
List the educational programs, users, and number of attendees that utilized the educational space		

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EXHIBIT N

REQUIRED USES

Tract F-1b, G-1, I-1a, I-1b and L-1a:

Table 5.5.A Allowed Uses	MU-F
Industrial	
Light assembly and manufacturing	P

Tract F-1b:

Table 5.5.A Allowed Uses	MU-F
Food and Beverage Sales	
Restaurant – full service, with or without incidental alcohol service [1]	P

Tract F-1a:

Table 5.5.A Allowed Uses	
Household Living	
Dwelling, multiple-family	P

[1] Not to exceed 5,000 square feet of gross floor area

SFC CLERK RECORDED 02/12/2025

EXHIBIT O

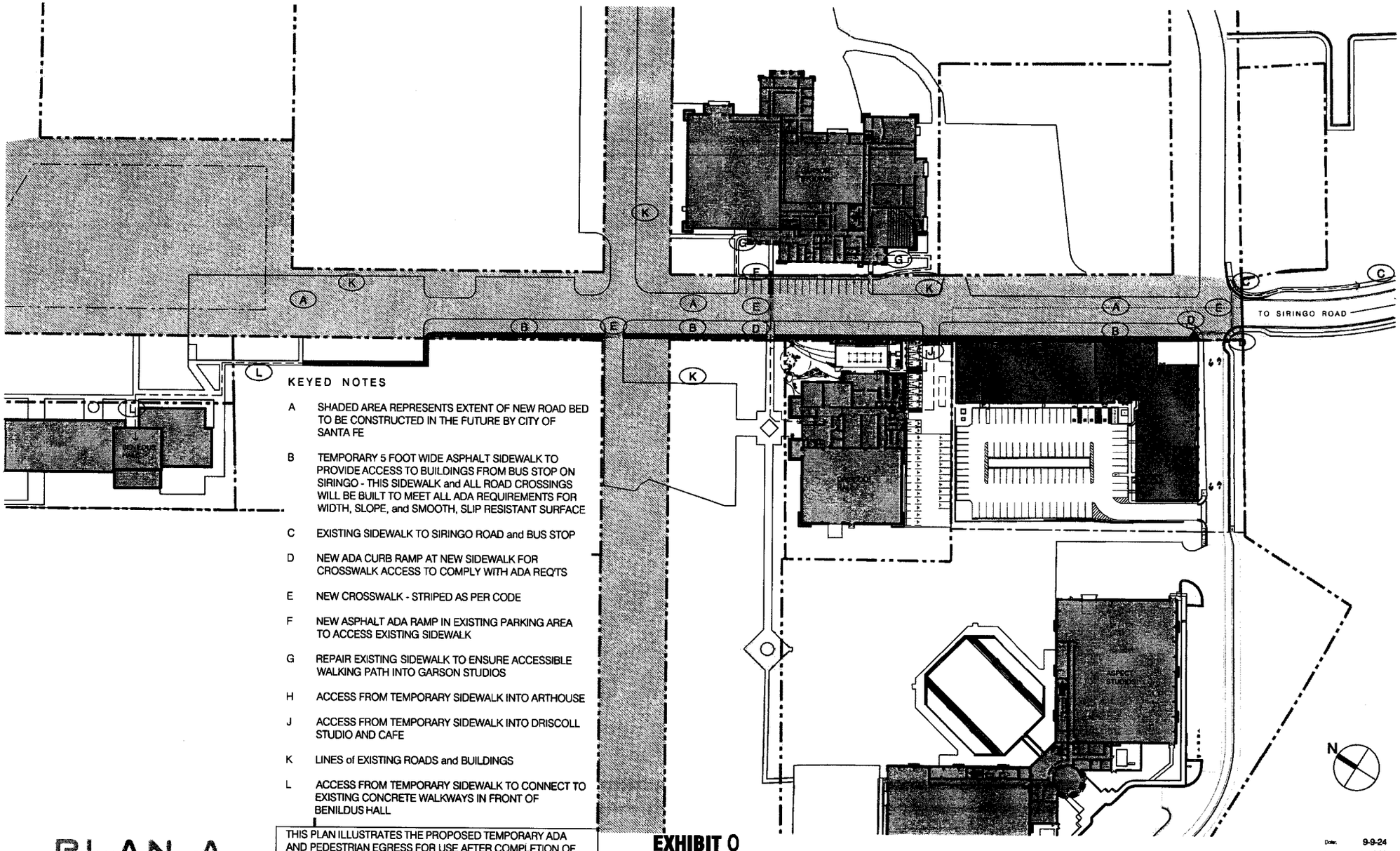
PHASING DEPICTION

[to be attached]

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O

2 pages



KEYED NOTES

A SHADED AREA REPRESENTS EXTENT OF NEW ROAD BED TO BE CONSTRUCTED IN THE FUTURE BY CITY OF SANTA FE

B TEMPORARY 5 FOOT WIDE ASPHALT SIDEWALK TO PROVIDE ACCESS TO BUILDINGS FROM BUS STOP ON SIRINGO - THIS SIDEWALK and ALL ROAD CROSSINGS WILL BE BUILT TO MEET ALL ADA REQUIREMENTS FOR WIDTH, SLOPE, and SMOOTH, SLIP RESISTANT SURFACE

C EXISTING SIDEWALK TO SIRINGO ROAD and BUS STOP

D NEW ADA CURB RAMP AT NEW SIDEWALK FOR CROSSWALK ACCESS TO COMPLY WITH ADA REQ'TS

E NEW CROSSWALK - STRIPED AS PER CODE

F NEW ASPHALT ADA RAMP IN EXISTING PARKING AREA TO ACCESS EXISTING SIDEWALK

G REPAIR EXISTING SIDEWALK TO ENSURE ACCESSIBLE WALKING PATH INTO GARSON STUDIOS

H ACCESS FROM TEMPORARY SIDEWALK INTO ARTHOUSE

J ACCESS FROM TEMPORARY SIDEWALK INTO DRISCOLL STUDIO AND CAFE

K LINES of EXISTING ROADS and BUILDINGS

L ACCESS FROM TEMPORARY SIDEWALK TO CONNECT TO EXISTING CONCRETE WALKWAYS IN FRONT OF BENILDUS HALL

THIS PLAN ILLUSTRATES THE PROPOSED TEMPORARY ADA AND PEDESTRIAN EGRESS FOR USE AFTER COMPLETION OF THE ARTHOUSE, DRISCOLL HALL, GARSON STUDIOS, and BENILDUS HALL, AND BEFORE THE COMPLETION OF SHADED ROADWAY BY THE CITY OF SANTA FE.

PLAN A ARCHITECTURE
505-820-1460

EXHIBIT 0

MIDTOWN DISTRICT
Santa Fe, New Mexico

Date: 9-9-24
Scale: 1 : 200

TEMPORARY ADA and PEDESTRIAN EGRESS PLAN

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