

PASEO NUEVO REDEVELOPMENT PROJECT  
DISPOSITION AND DEVELOPMENT AGREEMENT

BY AND BETWEEN  
THE CITY OF  
SANTA BARBARA, CALIFORNIA  
AND  
DSP SANTA BARBARA SUB LLC

817 State Street, Santa Barbara, California 93101

Santa Barbara, California

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## DISPOSITION AND DEVELOPMENT AGREEMENT

This Disposition and Development Agreement (this “Agreement”) is dated as of this \_\_\_ day of \_\_\_\_\_, 2026, for identification purposes and is entered into by and between DSP SANTA BARBARA SUB LLC, a Delaware limited liability company (together with its successors and assigns, “DSP”), and the City of Santa Barbara, California, a municipal corporation (“City”).

### BACKGROUND AND PURPOSE

A. The City is the fee simple owner of multiple parcels of real property associated with the Paseo Nuevo Shopping Center pursuant Grant Deed No. 61-456 recorded February 19, 2017 as Instrument No. 2016-0007814 in the Official Records of the County of Santa Barbara (collectively the “Paseo Nuevo Property”).

B. The Paseo Nuevo Property is encumbered by numerous “Paseo Nuevo Agreements,” as such term is defined in the *Assignment and Assumption of Paseo Nuevo Documents*, recorded in the Official Records of the County of Santa Barbara as Instrument No. 2018-0031878, including the ground leases described in paragraphs C and D and that certain Construction, Operation and Reciprocal Easement Agreement dated as of February 24, 1989 by and between the City (as successor-in-interest to Successor Agency), Paseo Propco LLC, a Delaware limited liability company (“Propco,” as successor-in-interest to Santa Barbara Associates and Carter Hawley Hale Stores, Inc.), and DSP (as successor-in-interest to Nordstrom, Inc.), as the same may be further amended, supplemented, replaced, restated and/or otherwise modified from time to time (the “REA”). As encumbered by the Paseo Nuevo Agreements, the City’s fee interest in the Paseo Nuevo Property has limited monetary value to the City.

C. DSP is the current ground lessee of a portion of the Paseo Nuevo Property pursuant to that certain Lease Agreement (the “Nordstrom Ground Lease”), between the City (as successor-in-interest to Successor Agency), and DSP (as successor-in-interest to Nordstrom, Inc., a Washington corporation), which governs Parcels 1, 7, and 8 according to the map thereof recorded February 24, 1989, filed in Book 42 of Parcel Maps, at pages 86 through 98, inclusive, of the Official Records of the County of Santa Barbara, California (“Parcel Map No. 20,504”), which are referred to in this Agreement as the “Former Nordstrom Parcel.”

D. Propco is the current ground lessee of other portions of the Paseo Nuevo Property as follows: (1) Parcels 2 and 12 of Parcel Map No. 20,504, referred to in this Agreement as the “Inline Retail Parcel”; (2) Parcels 4, 5, 6, 13, and 14 of Parcel Map No. 20,504 referred to in this Agreement as the “Lot 1 Parcel”; and (3) Parcels 3, 9, 10, and 11 of Parcel Map No. 20,504 (referred to in this Agreement as the “Former Macy’s Parcel,” and collectively with the Inline Retail Parcel and the Lot 1 Parcel, the “Paseo Developer Properties”) and the ground leases between the City and Propco are referred to as the “Paseo Developer Ground Leases”).

E. On March 5, 2024, the City Council adopted Resolution No. 24-016, *A Resolution Of The City Council Of The City Of Santa Barbara Declaring Designated Parcels Of City-Owned Property To Be Exempt Surplus Land Pursuant To Subparagraph (J) Of Paragraph (1) Of*

*Subdivision (F) Of California Government Code Section 54221 – Paseo Nuevo*, pertaining to the Paseo Nuevo Property. By letter dated March 18, 2024, the California Department of Housing and Community Development (“HCD”) notified the City that the Paseo Nuevo Property qualifies as “exempt surplus land” under Government Code section 54221, subdivision (f)(1)(j), due to existing constraints under contractual rights.

F. The Paseo Nuevo Property has been developed with an outdoor regional shopping center commonly referred to as the Paseo Nuevo Shopping Center. However, due to changed economic circumstances, including closure of two anchor tenants, the Paseo Nuevo Shopping Center no longer provides the financial or community benefits originally envisioned by the City or the lessees under the Paseo Developer Ground Leases or the Nordstrom Ground Lease. Therefore, the City, Propco, DSP, and Yardi (as defined below) desire to transform the Paseo Nuevo Shopping Center into a mixed-use development that includes a new housing development by DSP on the Former Nordstrom Parcel and reuse of the former Macy’s building as Yardi’s downtown Santa Barbara corporate offices on the Former Macy’s Parcel, along with a continuation of certain retail, parking, and other uses consistent with the City’s general plan and zoning. Accomplishment of this transformation requires that the City’s fee interest in the Former Nordstrom Parcel be transferred in fee as contemplated by this Agreement, and the Paseo Developer Properties be transferred in fee by the City to PNSB Real Estate, LLC (“Yardi”) under a separate, but related, disposition and development agreement between the City and Yardi executed on or about the date hereof (“Yardi DDA”). Further, accomplishment of the transformation requires termination of the Paseo Developer Ground Leases, the Nordstrom Ground Lease, the REA, and certain parking agreements identified in the Parking Agreements Termination (defined below), and execution of a new MUA (defined below), and new parking agreements for that certain real property described as City Lots 2 and 10 (collectively, the “Related Agreements”).

G. In furtherance of transformation of the Paseo Nuevo Property, on October 22, 2025, DSP submitted an application with the City to develop a mixed-use residential housing project having from 80 to 112 residential units (the “Project”) on the Former Nordstrom Parcel using the City’s new Adaptive Reuse Ordinance (the “Ordinance”) which was adopted to implement the City’s Housing Element Program (HE-1). The Ordinance requires compliance with the City’s Inclusionary Housing Ordinance which requires 10 percent of the units to be deed restricted for the benefit of individuals at the moderate-income level of 80—120% of average medium income. This Project is not yet approved and will be reviewed separately through the City’s discretionary entitlement process. The City and DSP acknowledge that during that process, the Project may change. Nonetheless, through this Agreement, DSP agrees that its Project will include a minimum of 80 housing units.

H. To effectuate the desired redevelopment of the Paseo Nuevo Property, the City will transfer fee title to the Former Nordstrom Parcel to DSP without monetary consideration. Additionally, the City has an existing program to allow individuals to rent monthly spaces in Lot 2, which is located across Canyon Perdido from the Former Nordstrom Parcel. As detailed further below, the City agrees as a part of this Agreement to allow DSP to utilize for its Project residents 29 to 80 parking spaces in Lot 2 pursuant to a separate Parking Agreement.

I. This Agreement includes the following exhibits and documents attached to this Agreement or incorporated into this Agreement by reference.

1. Exhibit A – Location Map
2. Exhibit B – Grant Deed
4. Exhibit C – Nordstrom Lease Termination Agreement
5. Exhibit D – REA Termination Agreement
5. Exhibit E – Mutual Use Agreement
6. Exhibit F – Affordability Covenant
7. Exhibit G – Residential Use Covenant
8. Exhibit H – Parking Agreements Termination
9. Exhibit I – Lot 2 Parking Agreement

**ARTICLE 1. SUBJECT OF AGREEMENT.**

1.1. Purpose of Agreement.

1.1.1. The purpose of this Agreement is to effectuate the partial redevelopment of Paseo Nuevo Shopping Center by: (1) execution and recordation of a termination of the Nordstrom Ground Lease; (2) execution and recordation of a termination of the REA and the Parking Agreements Termination; (3) execution and recordation of the Grant Deed; (4) execution and recordation of the Mutual Use Agreement in the form attached hereto as Exhibit E (the “MUA”); (5) execution and recordation of the Residential Use Covenant and the Affordability Covenant; and (6) execution of the Lot 2 Parking Agreement in the form attached hereto as Exhibit I (the “Lot 2 Parking Agreement”) and the Related Agreements all effective concurrently with the Close of Escrow. Together, these actions are referred to as the “DSP Transaction.” The remaining redevelopment will be effectuated by: (1) execution of the Yardi DDA, (2) termination of the Paseo Developer Ground Leases; (3) transfer of fee title to the Yardi Transfer Parcels to Yardi; and (4) execution of, and recordation of certain of, the Related Agreements (the “Yardi Paseo Transaction”). The DSP Transaction and the Yardi Paseo Transaction are intended to close

concurrently and all parties to both transactions have agreed to cooperate in good faith to accomplish the concurrent closing.

1.1.2. Any development on the Former Nordstrom Parcel shall be subject to separate processing by the City, which shall be subject to the same requirements as any similar project not subject to this Agreement; however, given the importance of the revitalization of downtown and the housing crisis, the City agrees that the Project will be included in the Accelerate Program, and as such will receive priority processing and placement on Historic Landmark Commission (“HLC”) agendas, priority processing and placement on agendas for any administrative appeal, and priority for building plan review and issuance of building permits, including processing of building permits at DSP’s risk. All city reviews will be completed in a timely manner and consistent with state law to expedite the processing of the Project. DSP agrees to diligently process the application for the Project referenced in Recital G. City and DSP each commit to reasonably cooperate in good faith to take actions required of each of them to expeditiously process the applications submitted by DSP for consideration by the HLC, any appeals from any action taken by the HLC, and building permits necessary for implementation of the Project.

1.1.3. This Agreement establishes the terms and conditions for the DSP Transaction as more fully described in this Agreement, and subject to certain conditions precedent set forth herein.

1.1.4. This Agreement is entered into for the purpose of partial redevelopment of the Paseo Nuevo Property. The DSP Transaction provided for in this Agreement is in the best interest of the City and the health, safety, and welfare of its residents, and is in accord with the public purposes and provisions of applicable state and local laws. The City wishes to facilitate redevelopment of the Paseo Nuevo Property in accordance with this Agreement to stimulate economic development within the City.

## 1.2. Definitions.

In addition to words and phrases defined by parenthetical clauses within the various sections of this Agreement, the following words and phrases have the definitions set forth in this Section 1.2.

### 1.2.1. City.

“City” means the City of Santa Barbara, California, a municipal corporation and a charter city, operating through its governing body, the City Council, and its various departments.

### 1.2.2. City Administrator.

“City Administrator” means the person holding the position of City Administrator of the City and any City officer or employee exercising authority expressly delegated by the City Administrator to implement provisions of this Agreement.

1.2.3. City Council.

“City Council” means the governing body of the City.

1.2.4. City Delays.

“City Delays” means an (i) unexcused failure by the City to take an action required of it within the time frame specified for that action by this Agreement, or (ii) delay in a performance by DSP caused by any action of the City that precludes performance by DSP. City Delay does not include ordinary delays arising from the processing or review of regulatory permits or approvals.

1.2.5. Close of Escrow.

“Close of Escrow” means the closing of the DSP Transaction as contemplated by this Agreement. The close of escrow for the Yardi Paseo Transaction shall close concurrently with the close of escrow for the DSP Transaction.

1.2.6. Effective Date.

“Effective Date” means the date on which this Agreement, as executed and delivered by DSP, is executed by the City after approval by the City Council. In no instance shall the Effective Date be earlier than the effective date of the ordinance adopted by the City Council approving and authorizing the execution of this Agreement.

1.2.7. Encumbrance.

“Encumbrance” means and include any mortgage, trust deed, encumbrance, lien or other mode of financing real estate, including a sale and lease-back.

1.2.8. Governmental Restrictions.

“Governmental Restrictions” means and includes any and all laws, statutes, ordinances, codes, rules, regulations, writs, injunctions, orders, decrees, rulings, conditions of approval, or authorization, now in force or which may hereafter be in force, of a governmental entity, agency or political subdivision having jurisdiction over the Former Nordstrom Parcel.

1.2.9. Grant Deed.

“Grant Deed” means an instrument substantially in the form attached hereto as Exhibit B.

#### 1.2.10. Hazardous Materials.

“Hazardous Materials” means: (i) any chemical, compound, material, mixture or substance that is now or may later be defined or listed in, or otherwise classified pursuant to, any Hazardous Materials Law as a “hazardous substance”, “hazardous waste”, “extremely hazardous waste”, “acutely hazardous waste”, “radioactive waste”, “infectious waste”, “biohazardous waste”, “toxic substance”, “pollutant”, “toxic pollutant”, “contaminant”, as well as any formulation not mentioned herein intended to define, list or classify substances by reason of deleterious properties such as ignitability, corrosivity, reactivity, carcinogenicity, toxicity, reproductive toxicity, “EP” toxicity, or “TCLP toxicity”; (ii) petroleum, natural gas, natural gas liquids, liquefied natural gas, synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas) and ash produced by a resource recovery facility utilizing a municipal solid waste stream, and drilling fluids, produced waters and other wastes associated with the exploration, development or production of crude oil, natural gas, or geothermal resources; (iii) “hazardous substance” as defined in Section 25281 of the California Health and Safety Code; (iv) “waste” as defined in Section 13050(d) of the California Water Code; (v) asbestos in any form; (vi) urea formaldehyde foam insulation; (vii) transformers or other equipment which contain dielectric fluid containing levels of polychlorinated biphenyls (PCBs) in excess of 50 parts per million; (viii) radon; and (ix) any other chemical, material, or substance that, because of its quantity, concentration, or physical or chemical characteristics, exposure to which is now or hereafter limited or regulated for health and safety reasons by any governmental authority, or which poses or is later determined to pose a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. The term “Hazardous Materials” shall not include: construction materials, gardening materials, household products, office supply products or janitorial supply products customarily used in the construction, maintenance, rehabilitation, or management of residential property, or commonly used or sold by hardware, home improvement stores, or medical clinics and which are used and stored in accordance with all applicable Hazardous Materials Laws.

#### 1.2.11. Hazardous Materials Laws.

“Hazardous Materials Laws” means all present and future federal, state and local laws, ordinances, regulations, permits, guidance documents, policies, decrees, orders and any other requirements, whether statutory, regulatory or contractual, of governmental authorities relating to health, safety, the environment or the use, handling, disposal or transportation of any Hazardous Materials (including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Resource Conservation Recovery Act, the Clean Water Act, the Clean Air Act, and the applicable provisions of the California Health and Safety Code and the California Water Code, as each such statute may from time to time be amended, and the rules, regulations and guidance documents promulgated pursuant to any such statute).

1.2.12. Improvements

“Improvements” means property improvements associated with a mixed-use project on the Former Nordstrom Parcel pursuant to the City’s adaptive reuse ordinance constituting a minimum of 80 residential units.

1.2.13. Party/Parties.

“Parties” means the City and each DSP, collectively, and “Party” means either the City or any DSP.

1.2.14. Person.

“Person” means an individual, corporation, partnership, limited liability company, joint venture, association, firm, joint stock company, trust, unincorporated association, public agency, or other entity.

1.2.15. Term of the Agreement.

“Term of the Agreement” means the period from the Effective Date until the Close of Escrow, unless this Agreement is earlier terminated in accordance with this Agreement, provided however, that the provisions set forth in Section 5.4, will survive any termination or expiration of the Term of the Agreement.

1.2.16. Title Company.

“Title Company” means First American Title Insurance Company

1.2.17. Yardi Transfer Parcels.

“Yardi Transfer Parcels” means Parcels 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, and 14 of Parcel Map No. 20,504 in the City of Santa Barbara, County of Santa Barbara, State of California, as per map recorded in Book 42, Pages 86 through 98, inclusive of Parcel Maps, in the office of the County Recorder of said County, as amended by Certificate of Correction recorded April 2, 1991 as Instrument No. 91-018958 of Official Records, to be transferred to Yardi under the Yardi DDA.

**ARTICLE 2. PARTIES TO THE AGREEMENT.**

2.1. Parties.

As of the Effective Date, the City and DSP are the only Parties to this Agreement, and DSP is the sole developer hereunder.

2.2. No Third-Party Beneficiaries.

There are no third-party beneficiaries to this Agreement whether express or implied.

2.3. No Joint Venture.

The City and DSP are not and shall not be deemed to be partners, co-venturers, joint ventures or in any other way related to one another, nor shall either City or DSP have any fiduciary or agency relationship with the other.

**ARTICLE 3. DSP TRANSACTION.**

3.1. Transaction Documents.

At the Close of Escrow, the Parties shall fully execute and deliver to Escrow Agent (defined below), and have notarized, as applicable, each for recording in the real property records of Santa Barbara County, California (“Official Records”) in the following order: (i) the Nordstrom Ground Lease Termination in the form attached as Exhibit C; (ii) the Termination Agreement Paseo Nuevo Construction, Operation and Reciprocal Easement Agreement in the form attached as Exhibit D (the “REA Termination”); (iii) the Grant Deed in the form attached as Exhibit B; (iv) the Affordability Covenant in the form attached as Exhibit F; (v) the Residential Use Covenant in the form attached as Exhibit G; (vi) the termination of certain parking agreements in the form attached as Exhibit H (the “Parking Agreements Termination”); and (vii) the Lot 2 Parking Agreement in the form attached as Exhibit I.

3.1.1. Affordable Housing. The Parties acknowledge and agree that a material consideration for the City’s execution of the Grant Deed is DSP’s covenant to reserve 10 percent of the units provided by the Project for the benefit of individuals at the moderate-income level of 80—120% of average medium income (the “Affordability Covenant”). Therefore, the Affordability Covenant shall be deposited with Escrow Agent before the Close of Escrow and shall be recorded such that the Affordability Covenant has superior position on title relative to the liens of all lenders who provide financing for the Project.

3.1.2. Residential Use Covenant. At Closing, the Parties shall execute and have acknowledged, and Escrow Agent shall record, a declaration in the form attached hereto as Exhibit G, wherein DSP shall be obligated to cause all of the residential units at the Project to be constructed, operated and maintained by Developer as residential apartments restricted to rent to households that: (a) agree as a term of the rental agreement to occupy the rental unit as their domicile (permanent primary residence); and (b) agree as a term of the rental agreement that the rental unit shall not be sublet for short-term vacation rental (“Residential Use Covenant”). The Residential Use Covenant shall be deposited with Escrow Agent before the Close of Escrow and shall be recorded such that the Residential Use Covenant have superior position on title relative to the liens of all lenders who provide financing for the Project. In addition and subject to compliance

with applicable law, DSP agrees to use commercially reasonable efforts to advertise residential units within the Improvements for rent to local, Santa Barbara residents.

3.2. City Deliveries.

Prior to the Close of Escrow, the City shall deposit to Escrow Agent each of the applicable documents specified in Section 3.1 duly executed and acknowledged and otherwise in recordable form.

3.3. DSP Deliveries.

Prior to the Close of Escrow, DSP shall deposit to Escrow Agent each of the applicable documents specified in Section 3.1 duly executed and acknowledged and otherwise in recordable form.

3.4. Additional Conditions Precedent to Close of Escrow.

The following shall also constitute conditions to the Close of Escrow, of which conditions shall be satisfied by the scheduled Close of Escrow:

(a) DSP, Propco and the City shall have executed and delivered mutually-agreed-upon irrevocable escrow instructions authorizing Escrow Agent to record and/or deliver to the City the closing documents specified Section 3.1;

(b) As of Close of Escrow there are no material defaults (after the giving of notice and a reasonable opportunity to cure) by DSP under this Agreement, unless waived by the City;

(c) As of Close of Escrow, there are no defaults (after the giving of notice and a reasonable opportunity to cure) by the City under this Agreement, unless waived by DSP; and

(d) The Yardi Paseo Transaction shall be in a position to close concurrently with the Close of Escrow.

Provided the conditions precedent set forth in this Article 3 have been satisfied, upon the terms, covenants and conditions set forth in this Agreement, City agrees to convey to DSP, and DSP agrees to accept from City, City's fee interest in the Former Nordstrom Parcel in accordance with this Agreement and the Grant Deed.

3.5. Condition of Former Nordstrom Parcel.

3.5.1. Due Diligence.

DSP acknowledges that it has conducted all studies and investigations of the Former Nordstrom Parcel that it has deemed necessary to assure itself of the physical condition of the Former Nordstrom Parcel and the suitability of the Former Nordstrom Parcel for the uses contemplated by this Agreement.

3.5.2. “As Is” Conveyance.

(a) DSP SPECIFICALLY ACKNOWLEDGES AND AGREES THAT THE CITY IS CONVEYING TO DSP AND DSP IS ACQUIRING FROM THE CITY THE FORMER NORDSTROM PARCEL ON AN “AS IS WITH ALL FAULTS” BASIS AND THAT DSP IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS (EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT) OR IMPLIED, FROM THE CITY AS TO ANY MATTERS CONCERNING THE FORMER NORDSTROM PARCEL, INCLUDING WITHOUT LIMITATION: (A) THE QUALITY, NATURE, ADEQUACY AND PHYSICAL CONDITION OF THE FORMER NORDSTROM PARCEL (INCLUDING, WITHOUT LIMITATION, TOPOGRAPHY, CLIMATE, AIR, WATER RIGHTS, WATER, GAS, ELECTRICITY, UTILITY SERVICES, GRADING, DRAINAGE, SEWERS, ACCESS TO PUBLIC ROADS AND RELATED CONDITIONS); (B) THE QUALITY, NATURE, ADEQUACY, AND PHYSICAL CONDITION OF SOILS, GEOLOGY AND GROUNDWATER, (C) THE EXISTENCE, QUALITY, NATURE, ADEQUACY AND PHYSICAL CONDITION OF UTILITIES SERVING THE FORMER NORDSTROM PARCEL, (D) THE DEVELOPMENT POTENTIAL OF THE FORMER NORDSTROM PARCEL AND DSP’S USE, OR THE HABITABILITY, MERCHANTABILITY, OR FITNESS, SUITABILITY, VALUE OR ADEQUACY OF THE FORMER NORDSTROM PARCEL FOR ANY PARTICULAR PURPOSE, (E) THE ZONING OR OTHER LEGAL STATUS OF THE FORMER NORDSTROM PARCEL OR ANY OTHER PRIVATE OR GOVERNMENTAL RESTRICTIONS ON THE USE OF THE FORMER NORDSTROM PARCEL, (F) THE COMPLIANCE OF THE FORMER NORDSTROM PARCEL OR ITS OPERATION WITH ANY APPLICABLE CODES, LAWS, REGULATIONS, STATUTES, ORDINANCES, COVENANTS, CONDITIONS AND RESTRICTIONS OF ANY GOVERNMENTAL OR QUASI-GOVERNMENTAL ENTITY OR OF ANY OTHER PERSON OR ENTITY, AND (G) THE PRESENCE OR ABSENCE OF HAZARDOUS MATERIALS ON, UNDER OR ABOUT THE FORMER NORDSTROM PARCEL OR EMANATING FROM THE ADJOINING OR NEIGHBORING PROPERTY. DSP AFFIRMS THAT DSP HAS NOT RELIED ON THE SKILL OR JUDGMENT OF THE CITY OR ANY OF ITS RESPECTIVE AGENTS, EMPLOYEES, CONSULTANTS OR CONTRACTORS TO SELECT OR FURNISH THE FORMER NORDSTROM PARCEL FOR ANY PARTICULAR PURPOSE, AND THAT THE CITY MAKES NO WARRANTY THAT THE FORMER NORDSTROM IS FIT FOR ANY PARTICULAR PURPOSE. DSP ACKNOWLEDGES THAT IT SHALL USE ITS INDEPENDENT JUDGMENT AND MAKE ITS OWN DETERMINATION AS TO THE SCOPE AND BREADTH OF ITS DUE DILIGENCE INVESTIGATION WHICH IT SHALL MAKE RELATIVE TO THE FORMER NORDSTROM PARCEL AND SHALL

RELY UPON ITS OWN INVESTIGATION OF THE PHYSICAL, ENVIRONMENTAL, ECONOMIC AND LEGAL CONDITION OF THE FORMER NORDSTROM PARCEL (INCLUDING, WITHOUT LIMITATION, WHETHER THE FORMER NORDSTROM PARCEL IS LOCATED IN ANY AREA WHICH IS DESIGNATED AS A SPECIAL FLOOD HAZARD AREA, DAM FAILURE INUNDATION AREA, EARTHQUAKE FAULT ZONE, SEISMIC HAZARD ZONE, HIGH FIRE SEVERITY AREA OR WILDLAND FIRE AREA, BY ANY FEDERAL, STATE OR LOCAL CITY). DSP UNDERTAKES AND ASSUMES ALL RISKS ASSOCIATED WITH ALL MATTERS PERTAINING TO THE FORMER NORDSTROM PARCEL'S LOCATION IN ANY AREA DESIGNATED AS A SPECIAL FLOOD HAZARD AREA, DAM FAILURE INUNDATION AREA, EARTHQUAKE FAULT ZONE, SEISMIC HAZARD ZONE, HIGH FIRE SEVERITY AREA OR WILDLAND FIRE AREA, BY ANY FEDERAL, STATE OR LOCAL CITY.

(b) DSP's Release of the City.

Except as set forth in the representations and warranties of City in this Agreement, a breach by the City of its obligations under this Agreement or the gross negligence or willful misconduct of the City, DSP, on behalf of itself and anyone claiming by, through or under DSP, hereby waives its right to recover from and fully and irrevocably releases the City and its City Council members, board members, employees, officers, directors, representatives, attorneys and agents (the "Released Parties") from any and all claims, responsibility or liability that DSP may have or hereafter acquire against any of the Released Parties for any claims, fines, penalties, fees, costs, loss, liability, damage, expenses, demand, action or cause of action arising from or related to the condition (including any construction defects, errors, omissions or other conditions, latent or otherwise), valuation, salability or utility of the Nordstrom Parcel as of the Close of Escrow, or its suitability for any purpose whatsoever.

(c) Scope of Release.

Except as set forth in Section 3.5.2(b), the release set forth in Section 3.5.2(b) hereof includes claims (other than claims for the presence of Hazardous Materials on, under or about the Former Nordstrom Parcel prior to the Close of Escrow) of which DSP is presently unaware or which DSP does not presently suspect to exist which, if known by DSP would materially affect DSP's release of the Released Parties. DSP specifically waives the provision of any statute or principle of law that provides otherwise. In this connection and to the extent permitted by law, DSP agrees, represents and warrants that DSP realizes and acknowledges that factual matters now unknown to DSP may have given or may hereafter give rise to causes of action, claims, fines, penalties, fees, demands, debts, controversies, damages, costs, losses and expenses which are presently unknown, unanticipated and unsuspected, and DSP further agrees and represents that the waivers and releases herein have been negotiated and agreed upon in light of that realization and that DSP nevertheless hereby intends to release, discharge and acquit the City from any such unknown causes of action, claims, fines, penalties, fees, demands, debts, controversies, damages, costs, losses and expenses. Accordingly, DSP, on behalf of itself and anyone claiming by, through or under DSP, hereby assumes the above-mentioned risks and hereby

expressly waives any right DSP and anyone claiming by, through or under DSP, may have under Section 1542 of the California Civil Code, which reads as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

DSP’s Initials: \_\_\_\_\_

The provisions of this Section 3.5 shall survive the termination of this Agreement.

3.6. Discovery of Hazardous Materials.

3.6.1. DSP’s Responsibility.

DSP hereby waive their right to recover from and fully and irrevocably releases the City from any and all claims, responsibility and/or liability that DSP may have or hereafter acquire from the discovery of Hazardous Materials on, under or about the Former Nordstrom Parcel following the Close of Escrow, except to the extent that the release of Hazardous Materials on the Former Nordstrom Parcel was caused or suffered by the City (“Released Matters”).

3.6.2. Scope of Release.

To the extent permitted by law, DSP agrees that its release of the Released Parties in Section 3.6.1 is unaffected by factual matters now unknown to DSP. Accordingly, DSP, on behalf of itself and anyone claiming by, through or under DSP, hereby assumes the above-mentioned risks and hereby expressly waives any right DSP and anyone claiming by, through or under DSP, may have to argue that Section 1542 of the California Civil Code limits the release of the Released Matters in Section 3.6.1. Section 1542 of the California Civil Code reads as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

DSP’s Initials: \_\_\_\_\_

The provisions of this Section 3.6 shall survive the termination of the Agreement.

### 3.7. Escrow.

DSP and City shall open escrow with the Title Company as escrow holder (“Escrow Agent”) for the consummation of the DSP Transaction and the Yardi Paseo Transaction. The delivery to the Title Company of a duplicate original of this Agreement shall constitute the “Opening of Escrow.” The Escrow Agent shall accomplish the recordation of each of the Recordable Documents (as defined below). This Agreement constitutes the joint basic escrow instructions of City and DSP with respect to the DSP Transaction. City and DSP shall provide such additional escrow instructions as shall be consistent with this Agreement and necessary for the accomplishment of the DSP Transaction and the Yardi Paseo Transaction . Escrow Agent is hereby empowered to act under this Agreement, and upon indicating within 5 days after the Opening of Escrow its acceptance of the provisions of this Section 3.7 in writing delivered to City and DSP, shall carry out its duties hereunder. In the case of any inconsistency between the additional escrow instructions and this Agreement, the terms of this Agreement shall govern.

#### 3.7.1. Closing Costs.

DSP shall pay to the Title Company the following fees, charges, and costs of the Escrow Agent promptly after the Escrow Agent has notified DSP of the amount of such fees, charges and costs:

- (a) The escrow fee;
- (b) Recording fees, if any, for the Recordable Documents and any other Encumbrance placed on the former Nordstrom Parcel by or for the benefit of DSP during the Term of the Agreement; and
- (c) Any other reasonable costs, expenses or fees of the Escrow not otherwise provided for shall be paid by the Party who customarily pays for such costs in the county in which the Former Nordstrom Parcel is located.

#### 3.7.2. Duty of Escrow Agent.

The Escrow Agent is authorized to:

- (a) Pay and charge DSP for its fees, charges and costs payable under this Section 3.7. Before such payments or charges are made, Escrow Agent shall notify City and DSP of the fees, charges and costs necessary for the Close of Escrow.
- (b) At the Close of Escrow and upon the authorization to close given by each of the Parties or their representatives, record the following documents in the following order (collectively, the “Recordable Documents”): (i) Nordstrom Ground Lease Termination; (ii) REA Termination; (iii) Parking Agreements Termination; (iv) the Grant Deed; (v) the Residential Covenants; (vi) the Affordability Covenant; (vii) the MUA; and (viii) the Lot 2 Parking Agreement and (ix) any other instruments required by the Official Records in conjunction with delivery to

DSP of the DSP Policy (defined below) pursuant to and in conformity with Section 3.8. Escrow Agent shall deliver conformed copies of the foregoing and any other documents, including any applicable covenants, easements, promissory notes and deeds of trusts, to the Parties entitled thereto when the conditions of this escrow have been fulfilled by City and DSP.

(c) Record any additional instruments delivered through this escrow, if necessary or proper, to vest fee title in the Former Nordstrom Parcel in DSP in accordance with the terms and provisions of this Agreement.

If this Escrow is not in condition to close on or before September 30, 2026 (the “Outside Closing Date”), either Party who then shall have fully performed the acts to be performed before the conveyance of title may, in writing, demand from Escrow Agent and the Title Company, if appropriate, the return of its money, papers, or documents deposited with Escrow Agent and the Title Company. No demand for return shall be recognized until 10 days after Escrow Agent shall have mailed copies of such demand to the other Party at the address or addresses of its or their principal place or places of business and such other Party shall have failed to have taken the action required by that Party to effectuate the Close of Escrow with such 10-day period. Objections, if any, shall be raised by written notice to the Escrow Agent and to the other Party within the 10-day period described above, in which event Escrow Agent and the Title Company are authorized to hold all money, papers and documents with respect to the transaction contemplated by this Agreement, until instructed by mutual agreement of the Parties or by a court of competent jurisdiction. If no such demands are made, escrow shall be closed as soon as possible.

Neither the Escrow Agent nor the Title Company shall be obligated to return any such money, papers or documents, except upon the written instructions of City and DSP or until the Party entitled thereto has been determined by a final decision of a court of competent jurisdiction.

Any amendment to these escrow instructions shall be in writing and signed by both City and DSP. At the time of any amendment, Escrow Agent shall agree to carry out its duties as Escrow Agent under such amendment.

All communications from Escrow Agent to City or DSP shall be directed to the addresses and in the manner established in Section 6.3 of this Agreement for notices, demands, and communications among City and DSP.

Subject to any extensions of time mutually agreed upon between City and DSP, the Close of Escrow shall be completed on or before the Outside Closing Date subject to the satisfaction of all conditions set forth in Article 3 (as may be extended by mutual agreement of the Parties). If all conditions set forth in Article 3 are not satisfied or waived by the Outside Closing Date, either Party not then in default of this Agreement may terminate this Agreement, and thereafter, neither Party will have any further rights or obligations under this Agreement.

### 3.8. Close of Escrow.

Subject to any extensions of time mutually agreed upon between City and DSP, the Close of Escrow shall be completed on or before the Outside Closing Date subject to the satisfaction of all conditions set forth in Article 3 (as may be extended by mutual agreement of the Parties). If all conditions set forth in Article 3 are not satisfied or waived by the Outside Closing Date, either Party not then in default of this Agreement may terminate this Agreement, and thereafter, neither Party will have any further rights or obligations under this Agreement.

3.9. Title Insurance.

In conjunction with the Close of Escrow, the Title Company shall issue, at DSP's cost and expense, a California Land Title Association Standard Coverage Policy ("CLTA") of title insurance. If DSP desires an extended coverage American Land Title Association Owner's Policy of title insurance in lieu of the CLTA policy, DSP shall pay the incremental difference in cost ("DSP Policy"). The DSP Policy shall insure that marketable title to the Former Nordstrom Parcel is, pursuant to the Grant Deed, vested in DSP in accordance with this Agreement. The DSP Policy may include such endorsements as may be required and paid for by DSP. Escrow Agent shall provide or cause to be provided a copy of any such policy to City. The City agrees to provide a commercially reasonable owner's affidavit, as required by the Title Company to issue the DSP Policy.

**ARTICLE 4. DSP PUBLIC BENEFIT CONTRIBUTION.**

Public Benefit Contribution. To further the purposes of this Agreement and to help enhance downtown Santa Barbara and the community generally, DSP proposes as a part of this Agreement to make a payment to the City of \$700,000 to the City's affordable housing fund upon issuance of a Certificate of Occupancy for the Improvements plus two additional payments to the City, which agrees to appropriate at its discretion for improvements or services to enhance Santa Barbara's downtown area: a) a payment to the City of \$500,000 thirty days after the Effective Date of this Agreement and b) a payment to the City of another \$500,000 thirty days after issuance of building permits for the Improvements. The payments will be made according to written instructions provided by the City Administrator.

**ARTICLE 5. DEFAULT AND REMEDIES.**

5.1. Application of Remedies.

This Article 5 shall govern the Parties' remedies for breach or failure of condition under this Agreement.

5.2. Fault of City.

5.2.1. Each of the following events, if uncured after expiration of the applicable cure period, shall constitute a “City Event of Default”:

(a) The City fails to convey the Former Nordstrom Parcel within the time and in the manner specified in Article 3, and DSP is otherwise entitled to such conveyance.

(b) The City fails to execute the Nordstrom Ground Lease Termination within the time and in the manner specified in Article 3, and the DSP is otherwise entitled to such termination.

(c) The City fails to provide any required consents or approvals necessary to (i) terminate the REA and execute the MUA, (ii) effectuate the DSP Transaction, and/or (iii) terminate and/or amend any other Paseo Nuevo Agreements as required in order to permit the DSP Transaction.

(d) The City breaches any other material provision of this Agreement.

5.2.2. Upon the occurrence of any of the above-described events, DSP shall first notify the City in writing of its purported breach or failure, giving the City 10 days from receipt of such notice to cure such breach or failure. In the event the City does not then cure the default within such 10-day period (or, if the default is not susceptible of cure within such 10-day period, the City fails to commence the cure within such period and thereafter to prosecute the cure diligently to completion not to exceed 90 days), then DSP shall be entitled to the following remedies: (1) seeking specific performance of this Agreement; or (2) seeking any other remedy available at law or in equity.

### 5.3. Fault of DSP.

5.3.1. Each of the following events, if uncured after written notice to DSP and any holder of a security financing interest, if and where required by this Agreement, and the expiration of the applicable cure period as provided in Section 5.3.2 below, together with any additional time to cure expressly granted to the holder of any security financing interest by the provisions of this Agreement or any separate Agreement between the City and any such holder, shall constitute a “DSP Event of Default”:

(a) DSP wrongfully refuses for any reason (including, but not limited to, lack of funds but excluding any reason to the extent arising from an event of default by the City under this Agreement) to accept disposition from the City of the Former Nordstrom Parcel within the time and in the manner specified in Article 3.

(b) DSP wrongfully refuses for any reason (including, but not limited to, lack of funds but excluding any reason to the extent arising from an event of default by the City under this Agreement) to accept the Nordstrom Ground Lease Termination within the time and in the manner specified in Article 3.

(c) DSP breaches any other material provision of this Agreement.

5.3.2. Upon the occurrence of an event described in Section 5.3.1, the City shall notify DSP in writing of the purported breach or failure (the “Default Notice”). DSP shall have 10 days from receipt of such Default Notice to cure such breach or failure. If DSP does not cure the default within such 10-day period (or if the default is not susceptible of being cured within such 10-day period and if DSP fails to commence the cure within such period and thereafter to prosecute the cure diligently to completion within 90 days), then the City shall be afforded cumulatively all of the following rights and remedies:

(a) Prior to Close of Escrow. With respect to a DSP Event of Default occurring prior to the Close of Escrow, the City shall have as the City’s sole remedy the right to terminate this Agreement.

(b) After Close of Escrow. With respect to a DSP Event of Default occurring after the Close of Escrow, the City shall have as the City’s sole remedy the right to seek specific performance of this Agreement against DSP.

5.4. Survival.

Upon the Close of Escrow or the earlier termination of this Agreement, in addition to the Recordable Documents, the following provisions of this Agreement shall survive: (i) the provisions of Section 1.1.2; (ii) the waivers in Sections 3.4 and 3.5; (iii) the use provisions in Section 3.1; (iv) the community benefits provisions in Article 4; (v) the limitations on remedies in Section 5.5 through 5.7; (vi) the indemnification obligations in Section 6.7; and (vii) the provisions of Sections 6.3 through 6.6, and 6.8 through 6.23. This Section 5.4 does not alter the scope or nature of such surviving provisions.

5.5. Limitation on Remedies - Rights and Remedies Cumulative.

It is acknowledged by the Parties that no Party would have entered into this Agreement if doing so would subject it to the risk of incurring liability in money damages, either for breach of this Agreement, anticipatory breach, repudiation of the Agreement, or for any actions with respect to its implementation or application. The Parties intend by the provisions of this Section 5.5 that neither Party shall have any liability for money damages arising out of a breach or repudiation of this Agreement, or any liability in money damages for any claims arising out of the application process, negotiation, execution and adoption, or the implementation or application of this Agreement. The Parties further acknowledge that money damages and remedies at law or equity are inadequate, and specific performance is the most appropriate remedy for the enforcement of this Agreement for the following reasons:

(a) money damages are expressly excluded as provided above;

(b) due to the size, nature, and scope of the Former Nordstrom Parcel, it will be impractical to restore the property to its original condition once implementation of this Agreement has begun and DSP may be foreclosed from other choices it may have had to utilize such property or portions thereof. Further, after Close of Escrow, the City will have disposed of its interest in the

Former Nordstrom Parcel. The Parties will have invested significant time and resources and performed extensive planning, processing, and implementation of this Agreement, and it is not possible to determine the sum of money which would adequately compensate the non-breaching Party for such efforts.

5.5.1. Except for the provisions of this Agreement relating to the enforcement of indemnity or insurance requirements, or for claims, demands, actions, or suits in which specific performance is the sole remedy sought, DSP, on the one hand, and the City, on the other hand, for themselves, their successors and assignees, hereby release one another's officers, trustees, directors, partners, agents and employees from any and all claims, demands, actions, or suits of any kind or nature arising out of any liability, known or unknown, present or future, including, but not limited to, any claim or liability, based or asserted, pursuant to Article I, Section 19 of the California Constitution, the Fifth and Fourteenth Amendments of the United States Constitution, or any other law or ordinance which seeks to impose any money damages, whatsoever, upon the Parties because the Parties entered into this Agreement, because of the terms of this Agreement, or because of the manner of implementation or performance of this Agreement.

5.5.2. Except as otherwise provided, the rights and remedies of the Parties are cumulative, and the exercise or failure to exercise any right or remedy shall not preclude the exercise, at the same time or different times, of any right or remedy for the same default or any other default. Except as otherwise limited by this Agreement, each of the Parties may pursue any remedy at law or equity available for the breach of any provision of this Agreement, including but not limited to specific performance, temporary or permanent injunctive relief, declaratory relief, or restraining orders, except that neither of the Parties shall have any liability in money damages for any acts or omissions which are alleged to have arisen out of or relate to this Agreement and neither Party may pursue a claim for money damages under this Agreement.

5.6. Inaction Not a Waiver of Default.

Any failures or delays by either Party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies or deprive such Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

5.7. No Attorneys' Fees.

In the event that either Party brings any action or files any proceeding to declare the rights granted herein or to enforce any of the terms of this Agreement or as a consequence of any breach by the other Party of its obligations hereunder, the prevailing Party in such action or proceeding shall not be entitled to have its attorneys' fees and out-of-pocket expenditures paid by the losing Party. Each Party shall bear its own attorney's fees and costs.

**ARTICLE 6. GENERAL PROVISIONS.**

6.1. DSP Representations and Warranties.

DSP represents and warrants to the City, as follows:

(a) Organization. DSP is validly existing and in good standing under the laws of the state in which DSP was organized, with full power and authority to conduct its business as presently conducted and to execute, deliver and perform its obligations under this Agreement. DSP is duly authorized to do business in the State of California.

(b) Authorization. DSP has taken all necessary action to authorize its execution, delivery and, subject to any conditions set forth in this Agreement, performance of the Agreement. Upon the date of this Agreement, this Agreement shall constitute a legal, valid and binding obligation of DSP, enforceable against it in accordance with its terms.

(c) No Conflict. The execution, delivery and performance of this Agreement by DSP does not and will not materially conflict with, or constitute a material violation or material breach of, or constitute a default under (i) the charter or incorporation documents of DSP, (ii) any applicable law, rule or regulation binding upon or applicable to DSP, or (iii) any material agreements to which DSP is a party.

(d) No Litigation. Unless otherwise disclosed in writing to the City prior to the date of this Agreement, DSP has no written notice of any existing nor, to DSP's actual knowledge of pending or threatened litigation, suit, action or proceeding before any court or administrative agency affecting DSP or, to the best knowledge of DSP, that would, if adversely determined, materially and adversely affect DSP, the Former Nordstrom Parcel or DSP's ability to perform its obligations under this Agreement, other than litigation, suit, action or proceeding that are (i) covered by insurance, or (ii) relate to claims arising in the ordinary course of business.

(e) Licenses, Permits, Consents and Approvals. DSP and/or any person or entity owning or operating the Former Nordstrom Parcel or portion thereof has duly obtained and maintained, or will duly obtain and maintain, and will continue to obtain and maintain, all licenses, permits, consents and approvals required by all applicable governmental authorities to own and operate the business on the Former Nordstrom Parcel.

## 6.2. City Representations and Warranties.

The City represents and warrants to DSP, as follows:

(a) Authorization. The City has taken all necessary action to authorize its execution, delivery and, subject to any conditions set forth in this Agreement, performance of the Agreement. Upon the date of this Agreement, this Agreement shall constitute a legal, valid and binding obligation of the City, enforceable against the City in accordance with its terms subject to the laws of the State of California which limit the types of remedies available against a municipality and/or its agencies, and subject to equitable principles limiting the rights of creditors generally.

(b) No Conflict. The execution, delivery and performance of this Agreement by the City does not and will not materially conflict with, or constitute a material violation or material breach of, or constitute a default under (i) the charter or incorporation documents of the City, (ii) any applicable law, rule or regulation binding upon or applicable to the City, or (iii) any material agreements to which the City is a party.

(c) No Litigation. Unless otherwise disclosed in writing to DSP prior to the date of this Agreement, to the actual knowledge of the City Attorney as derived from a writing received by the City Attorney as of the date of execution of this Agreement, there is no existing, pending or threatened litigation, suit, action or proceeding before any court or administrative agency affecting the City or the Former Nordstrom Parcel that would, if adversely determined, materially and adversely affect the City, DSP, the Former Nordstrom Parcel or the City's ability to perform its obligations under this Agreement.

6.3. Notices, Demands and Communications.

Formal notices, demands, and communications between the City and DSP shall be sufficiently given if, and shall not be deemed given unless, delivered personally (deemed effective upon receipt or refusal), or dispatched by certified mail, return receipt requested (deemed delivered three days after confirmed deposit in the U.S. mail), or by electronic mail transmission (deemed delivered upon confirmed transmission) with the original to follow by reputable overnight delivery service with a receipt showing date of delivery, to the principal offices of the City and DSP as follows:

To City:

Mailing Address:  
City of Santa Barbara  
Post Office Box 1990  
Santa Barbara, CA 93102-1990  
Attn: City Administrator

Personal delivery at City Administrator's Office, 735 Anacapa Street, Santa Barbara, CA

With a copy to:  
Mailing Address:  
City Attorney  
Post Office Box 1990  
Santa Barbara, CA 93102-1990

Personal delivery at City Attorney's Office, 740 State Street, Suite 201. Santa Barbara, CA

To DSP:

DSP SANTA BARBARA SUB LLC  
18565 Jamboree Road, Suite 200  
Irvine, CA 92612  
Attn: Stephen Logan

DSP SANTA BARBARA SUB LLC  
640 Fifth Avenue, 17th Floor  
New York, NY 10019

Attn: Ben Morrison

With a copy to:

Brownstein Hyatt Farber Schreck, LLP  
1020 State Street  
Santa Barbara, California 93101  
Attn: Beth Collins

Such written notices, demands and communications may be sent in the same manner to such other addresses as the affected Party may from time to time designate by mail as provided in this Section 6.3.

6.4. No Pre-Approval or Limit on the City's Discretion over the Project

Nothing in this Agreement shall be construed as a commitment by the City to approve, fund, or carry out any specific development project on the Property. The City retains absolute, complete, and unfettered discretion, acting in its governmental capacity, to review, condition, modify, or deny the Project under applicable provisions law.

6.5. Non-Liability of Officials, Employees and Agents.

No member, official, employee or agent of the City shall be personally liable to DSP in the event of any default or breach by the City or for any amount which may become due to DSP or on any obligation of the City under the terms of this Agreement. No member, official, employee or agent of DSP shall be personally liable to the City, or any successor in interest, in the event of any default or breach by any DSP or for any amount which may become due to the City by DSP or on any obligation under the terms of this Agreement.

6.6. Enforced Delay.

In addition to specific provisions of this Agreement, and notwithstanding anything to the contrary herein, shall be extended and performance by DSP shall not be deemed to be in default for City Delays, or matters otherwise beyond the control or without the fault of DSP. An extension of time for any cause will be deemed granted if notice by the Party claiming such extension is sent to the other within 10 days from the commencement of the cause and such

extension of time is not reasonably rejected in writing by the other Party within 30 days of receipt of the notice.

6.7. Indemnification.

Except for the gross negligence, willful misconduct, fraud, or breach of this Agreement by the City and except for any internal matters related to City governance, DSP shall defend, indemnify, and hold harmless the City from and against all suits and causes of action, claims, writs, losses, demands and expenses, including, but not limited to, reasonable attorney's fees and costs of litigation, damage or liability of any nature whatsoever, arising in any manner by reason of or incident to (i) the approval of this Agreement by the City; and/or (ii) the performance of this Agreement on the part of DSP, or any contractor or subcontractor of DSP (collectively, "Claims"). DSP shall pay promptly upon the City's demand any amounts owing under this indemnity unless DSP is challenging the obligation to indemnify. The duty of DSP to indemnify includes the duty to defend the City or, at the City's choosing, to pay the City's costs of its defense in any court action, administrative action, or other proceeding brought by any third party arising from the Claims. The City may make all reasonable decisions with respect to its representation in any legal proceeding, including, but not limited to, the selection of attorney(s).

6.8. No Third-Party Beneficiary.

The provisions of this Agreement are and will be for the benefit of the City and DSP only and are not for the benefit of any third party. Accordingly, no third party shall have the right to enforce the provisions of this Agreement.

6.9. Title of Parts and Sections.

Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of its provision.

6.10. Applicable Law.

This Agreement shall be interpreted under and pursuant to the laws of the State of California.

6.11. Severability.

If any term, provision, covenant or condition of this Agreement is held in a final disposition by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall continue in full force and effect unless the rights and obligations of the Parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

6.12. Binding Upon Successors; Covenants to Run with Land; Term of the Agreement.

This Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest, and assigns of each of the Parties. Any reference in this Agreement to a specifically named Party shall be deemed to apply to any successor, heir, administrator, executor, successor, or assign of such Party who has acquired an interest in compliance with the terms of this Agreement or under law.

6.13. Parties Not Co-Venturers.

Nothing in this Agreement is intended to or does establish the Parties as partners, co-venturers, or principal and agent with one another.

6.14. Entire Understanding of the Parties.

This Agreement constitutes the entire understanding and agreement of the Parties with respect to the DSP Transaction.

6.15. City Approval.

Whenever this Agreement references City approval, consent, or waiver, the written approval, consent, or waiver of the City Administrator shall constitute the approval, consent, or waiver of the City, except where City Council approval is expressly required by this Agreement. The City Council authorizes the City's Administrator to deliver such approvals or consents as are contemplated by this Agreement, or to waive requirements under this Agreement, on behalf of the City. Any material amendment or modification to this Agreement as determined by the City Attorney shall require approval by the City Council.

6.16. Incorporation of Exhibits.

All exhibits referred to in this Agreement are incorporated herein by such reference and made a part hereof.

6.17. Context and Construction.

When the context and construction so require, all words used in the singular herein shall be deemed to have been used in the plural, and the masculine shall include the feminine and neuter and vice versa. The term person as used in this Agreement, includes a natural person, corporation, association, partnership, organization, business, trust, individual, or a governmental authority, agency. "Day" or "days" is used herein, such shall refer to calendar day or days, unless otherwise specifically provided herein. Whenever a reference is made herein to a particular Article of this Agreement, it means and includes all sections, subsections and subparts thereof, and, whenever a reference is made herein to a particular section or subsection, it shall include all subsections and subparts thereof.

6.18. Effectiveness of Agreement.

This Agreement is dated for convenience only and shall only become effective on the Effective Date.

6.19. Counterparts.

This Agreement may be executed in counterparts and multiple originals.

6.20. Amendments.

The Parties can amend this Agreement only by means of a writing signed by both Parties.

6.21. Police Power.

Nothing contained herein shall be deemed to limit, restrict, amend or modify, nor to constitute a waiver or release of, any ordinances, notices, orders, rules, regulations or requirements (now or hereafter enacted or adopted and/or as amended from time to time) of the City, its departments, commissions, agencies and boards and the officers thereof and/or the City, including, without limitation, any general plan or any zoning ordinances, or any of City's duties, obligations, rights or remedies thereunder or pursuant thereto or the general police powers, rights, privileges and discretion of City in the furtherance of the public health, welfare and safety of the inhabitants thereof, including, without limitation, the right under law to make and implement independent judgments, decisions and/or acts with respect to planning, development and/or redevelopment matters (including, without limitation, approval or disapproval of plans and/or issuance or withholding of building permits) whether or not consistent with the provisions of this Agreement, any Exhibits attached hereto or any other documents contemplated hereby (collectively, "City Rules and Powers"). In the event of any conflict, inconsistency or contradiction between any terms, conditions or provisions of this Agreement, exhibits or such other documents, on the one hand, and any such City Rules and Powers, on the other hand, the former shall prevail and govern in each case. This Section 6.21 shall be interpreted for the benefit of City.

6.22. No Obligation to Third Parties.

This Agreement shall not be deemed to confer any rights upon, nor obligate either of the Parties to this Agreement to, any person or entity not a Party to this Agreement.

6.23. Brokers.

Each Party represents that it has not engaged any broker, agent or finder in connection with this transaction. DSP agrees to defend, indemnify and hold City harmless from and against any losses and liabilities with respect to such commissions based upon the alleged acts of DSP. City agrees to defend, indemnify and hold DSP harmless from and against losses and liabilities with respect to such commissions based upon the alleged acts of City.

6.24. Standard of Approval.

Any consents or approvals required or permitted under this Agreement shall not be unreasonably or untimely withheld or made, except where it is specifically provided that a sole discretion standard applies.

*[Signatures appear on the following pages]*

IN WITNESS WHEREOF, the Parties have executed this Disposition and Development Agreement to be effective as of the Effective Date.

CITY OF SANTA BARBARA,

By: \_\_\_\_\_  
Kelly R. McAdoo, City Administrator

APPROVED AS TO FORM:  
John Doimas, CITY ATTORNEY

By; \_\_\_\_\_  
Daniel S. Hentschke Assistant City Attorney

DSP Santa Barbara Sub LLC, a Delaware limited liability company

By: \_\_\_\_\_

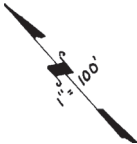
Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT A Location Map**

( Attached)

# The Paseo Nuevo Property



Note: A P N 37-400-01 Consists of P M Bk 42/86 Parcels 1, 7 & 8  
 A P N. 37-400-02 " " " " " Parcels 2, 12  
 A P N. 37-400-03 " " " " " Parcels 3, 9, 10 & 11  
 A P N 37-400-04 " " " " " Parcels 4, 6 & 14

**EXHIBIT B**

Grant Deed

(Attached)

**RECORDING REQUESTED BY  
AND WHEN RECORDED RETURN TO:**

City Administrator  
City of Santa Barbara  
Post Office Box 1990  
Santa Barbara, California 93102-1990

---

APN: 037-400-001

**GRANT DEED**

The undersigned Grantor declares under penalty of perjury that the following is true and correct:

DOCUMENTARY TRANSFER TAX \$ \_\_\_\_\_

- computed on full value of property conveyed, or
- computed on full value less value of liens and encumbrances remaining at time of sale.
- Unincorporated area:  City of Santa Barbara, and
- There is no Documentary Transfer Tax due. (State reason and give Code § or Ordinance number.)

**GRANTOR:** The CITY OF SANTA BARBARA, a municipal corporation

**does hereby remise, release and forever grants to:**

**GRANTEE:** DSP SANTA BARBARA SUB LLC, a Delaware limited liability company

the following described real property in the City of Santa Barbara, County of Santa Barbara, State of California:

Parcels 1, 7, and 8 of Parcel Map No. 20,504 in the City of Santa Barbara, County of Santa Barbara, State of California, as per map recorded in Book 42, Pages 86 through 98, inclusive of Parcel Maps, in the office of the County Recorder of said County, as amended by Certificate of Correction recorded April 2, 1991 as Instrument No. 91-018958 of Official Records. EXCEPTING from a portion of said land all oil, gas, and mineral substances, provided that the surface opening of any well, hole, shaft or other means of exploring for, reaching or extracting such substances shall not be located within the Central City Redevelopment Project and shall not penetrate any part or portion of said project area within 500 feet of the surface thereof, as reserved in various documents of record.

**[SIGNATURE PAGE FOLLOWS]**

**IN WITNESS WHEREOF**, Lessor has executed this Termination as of the date first written above.

GRANTOR,  
CITY OF SANTA BARBARA

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Kelly R. McAdoo  
City Administrator

APPROVED AS TO FORM:  
John S. Doimas, City Attorney

By: \_\_\_\_\_  
Daniel S Hentschke  
Assistant City Attorney

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

State of California }  
County of \_\_\_\_\_ }

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

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

**EXHIBIT C**

Nordstrom Lease Termination Agreement

(Attached)

RECORDING REQUESTED BY  
AND WHEN RECORDED RETURN TO:

City Administrator  
City of Santa Barbara  
Post Office Box 1990  
Santa Barbara, California 93102-1990

APN: 037-400-001

NO FEE PER GOVERNMENT CODE § 6103

### **TERMINATION OF GROUND LEASE**

**THIS TERMINATION OF GROUND LEASE** (“Termination”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 2026, by the City of Santa Barbara, a municipal corporation (“Lessor”) and DSP Santa Barbara Sub LLC, a Delaware limited liability company (“Lessee”).

#### **RECITALS**

A. Lessee (as successor in interest to Nordstrom, Inc., a Washington corporation) and Lessor (as successor agency to the Redevelopment Agency of the City of Santa Barbara) are parties to that certain Lease Agreement, dated as of February 24, 1989, a memorandum of which was recorded February 24, 1989 as Instrument No. 89-012337, in the Official Records of Santa Barbara County, California, (the “Ground Lease”), for the real property more particularly described on Exhibit “A” hereto.

B. Lessor and Lessee hereby desire to terminate the Ground Lease.

**NOW, THEREFORE**, for valuable consideration, the receipt of sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. The Ground Lease is hereby terminated and is of no further force or effect as to any party thereto or their respective successors or assigns.

2. This Termination may be executed in any number of identical counterparts, all or any of which may contain the signatures of fewer than all of the parties, and all of which shall be construed together as a single instrument.

3. The parties hereby agree and consent to the recordation of this Termination in the Official Records of Santa Barbara County, California.

**[SIGNATURE PAGES FOLLOW]**

**IN WITNESS WHEREOF**, Lessor has executed this Termination as of the date first written above.

LESSOR:

By: \_\_\_\_\_  
Kelly R. McAdoo  
City Administrator

APPROVED AS TO FORM:  
John S. Doimas, City Attorney

By: \_\_\_\_\_  
Daniel S Hentschke  
Assistant City Attorney

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

State of California }  
County of \_\_\_\_\_ }

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

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

**IN WITNESS WHEREOF**, Lessee has executed this Termination as of the date first written above.

**LESSEE**

DSP Santa Barbara Sub LLC, a Delaware limited liability company

By: \_\_\_\_\_

Title: \_\_\_\_\_

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

State of California }  
County of \_\_\_\_\_ }

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

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

## LEGAL DESCRIPTION

PARCELS 1, 7 AND 8 OF PARCEL MAP NO. 20,504 IN THE CITY OF SANTA BARBARA, COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 42, PAGES 86 THROUGH 98, INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY AS AMENDED BY CERTIFICATE OF CORRECTION RECORDED APRIL 2, 1991 AS INSTRUMENT NO. 91-018958 OF OFFICIAL RECORDS.

EXCEPTING FROM A PORTION OF SAID LAND ALL OIL, GAS AND MINERAL SUBSTANCES, TOGETHER WITH THE RIGHT TO EXPLORE FOR AND EXTRACT SUCH SUBSTANCES, PROVIDED THAT THE SURFACE OPENING OF ANY WELL, HOLE, SHAFT OR OTHER MEANS OF EXPLORING FOR, REACHING OR EXTRACTING SUCH SUBSTANCES SHALL NOT BE LOCATED WITHIN THE CENTRAL CITY REDEVELOPMENT PROJECT AND SHALL NOT PENETRATE ANY PART OR PORTION OF SAID PROJECT AREA WITHIN 500 FEET OF THE SURFACE THEREOF, AS RESERVED IN VARIOUS DOCUMENTS OF RECORD.

**EXHIBIT D**

REA Termination Agreement

(Attached)

Recording Requested by  
and when Recorded Mail to:

City Administrator  
City of Santa Barbara  
Post Office Box 1990  
Santa Barbara, California 93102-1990

APNs 037-400-001, 037-400-002, 037-400-003,  
037-400-004, 037-400-005, 037-400-006, 037-400-019

NO FEE PER GOV'T CODE 6103

**TERMINATION AGREEMENT  
PASEO NUEVO  
CONSTRUCTION, OPERATION, AND RECIPROCAL EASEMENT AGREEMENT**

For valuable consideration, receipt of which is hereby acknowledged, the City of Santa Barbara, California (“City”), a municipal corporation, Paseo Propco LLC (“Propco”), a Delaware limited liability company, and DSP Santa Barbara Sub, LLC (“DSP”), a Delaware limited liability company, agree as follows:

1. This Termination Agreement affects the Construction, Operation, and Reciprocal Easement Agreement for the Paseo Nuevo Shopping Center in Santa Barbara California by and among the City (as successor-in-interest to the Redevelopment Agency of the City of Santa Barbara), Propco (as successor-in-interest to Santa Barbara Associates and Carter Hawley Hale Stores, Inc.) and DSP (as successor-in-interest to Nordstrom, Inc.), dated as of February 24, 1989 and recorded as Instrument No. 89-012333 in the Official Records of the County of Santa Barbara (“REA”).
2. The undersigned, on behalf of their respective successors and assigns, hereby agree that the REA is terminated and has no further force or effect.
3. The undersigned, on behalf of their respective successors and assigns, hereby agree that the following shall be terminated and of no further force nor effect: (1) any Separate Agreement between the Parties (as such term was defined in the REA) to the extent that any exist; (2) any DDA (as such term was defined in the REA), and Propco specifically waives any right of first negotiation granted therein; and (3) the Conditions of Approval (as such term was defined in the REA).
4. This agreement constitutes the entire agreement among the City, Propco, and DSP with respect to the subject matter hereof and supersedes all prior agreements and negotiations, oral and written.
5. City, Propco, and DSP, respectively for themselves, warrant as follows:
  - A. It is validly existing and in good standing under the laws of the state in which it was organized, with full power and authority to conduct its business as presently conducted and to execute, deliver and perform its obligations under this agreement and is authorized to do business

in the State of California.

B. It has taken all necessary action to authorize its execution and delivery of this agreement and that this agreement constitutes a legal, valid and binding obligation enforceable against it.

C. The person executing this agreement on its behalf has been fully and lawfully authorized to do so.

6. This agreement will be effective as of the date it has been signed by all of the parties and recorded in the Official Records of the County of Santa Barbara.

7. This agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

8. The parties consent to the recordation of this agreement in the Official Records of Santa Barbara County, California.

**[SIGNATURE PAGES FOLLOW]**

IN WITNESS WHEREOF, the City has executed this Termination Agreement as of the date hereof.

CITY

By: \_\_\_\_\_  
Kelly R. McAdoo  
City Administrator

Date: \_\_\_\_\_

APPROVED AS TO FORM:  
John S. Doimas, City Attorney

By: \_\_\_\_\_  
Daniel S. Hentschke  
Assistant City Attorney

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

**ACKNOWLEDGMENT**

STATE OF CALIFORNIA )  
 )  
COUNTY OF \_\_\_\_\_ )

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

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and  
correct.

Witness my hand and official seal.

Signature \_\_\_\_\_

[Seal]

IN WITNESS WHEREOF, Propco has executed this Termination Agreement as of the date hereof.

PROPCO:

Paseo Propco LLC,  
a Delaware limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

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

**ACKNOWLEDGMENT**

STATE OF CALIFORNIA )  
 )  
COUNTY OF \_\_\_\_\_ )

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

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and  
correct.

Witness my hand and official seal.

Signature \_\_\_\_\_

[Seal]

IN WITNESS WHEREOF, DSP has executed this Termination Agreement as of the date hereof.

DSP:

DSP Santa Barbara Sub, LLC,  
a Delaware limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

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

**ACKNOWLEDGMENT**

STATE OF CALIFORNIA )  
 )  
COUNTY OF \_\_\_\_\_ )

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

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and  
correct.

Witness my hand and official seal.

Signature \_\_\_\_\_

[Seal]

**EXHIBIT E**

Mutual Use Agreement

( Attached)

**RECORDING REQUESTED BY AND  
WHEN RECORDED, MAIL TO:**

Fauver Large Archbald & Spray LLP  
Attn: Olivia Marr  
820 State Street, 4<sup>th</sup> Floor  
Santa Barbara, CA 93101

**WITH A COPY TO:**

Brownstein Hyatt Farber Schreck, LLP  
Attn: Beth Collins  
1020 State Street  
Santa Barbara, CA 93101

APNs: 037-400-001; 037-400-002; 037-400-003; 037-400-004; 037-400-005; 037-400-006; and 037-400-0019

Documentary Transfer Tax: \$0.00 — No consideration; conveyance of easement only, not a transfer of fee interest. (R&T Code Section 11911)

MUTUAL USE AGREEMENT

THIS MUTUAL USE AGREEMENT (this “Agreement”) is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2026 (“Effective Date”), by and between PNSB REAL ESTATE, LLC, a California limited liability company (“Yardi”), and DSP SANTA BARBARA SUB LLC, a Delaware limited liability company (“DSP”). Yardi and DSP are sometimes referred to herein individually as a “Party” and collectively as the “Parties.”

RECITALS

1. This Agreement replaces and supersedes that certain Construction, Operation and Reciprocal Easement Agreement, dated February 24, 1989 (the “REA”), and recorded as Instrument No. 89-012333 in the Official Records of Santa Barbara County (“Official Records”), which historically governed the shared use and construction of the Paseo Nuevo Shopping Center in the City of Santa Barbara (the “Center”), and which has been terminated pursuant to that certain Termination Agreement Paseo Nuevo Construction, Operation and Reciprocal Easement Agreement, executed and recorded concurrently herewith.
2. Yardi is the fee owner of the real property located in the Center and legally described on Exhibit “A” attached hereto (the “Yardi Tract”), and DSP is the fee owner of the real property located in the Center and legally described on Exhibit “B” attached hereto (the “DSP Tract”).
3. The Yardi Tract and the DSP Tract, although under separate legal ownership and control, will be dependent upon each other for *inter alia* access, support, parking, use of key easements and rights to protect the structural integrity of the improvements within the Center, as are more fully set forth herein.

NOW, THEREFORE, in consideration of the foregoing, and the covenants and agreements on the part of each Party to the others, as hereinafter set forth, IT IS AGREED, as follows:

ARTICLE 1  
DEFINITIONS

As used in this Agreement, in addition to terms defined throughout this Agreement, the following terms shall have the following respective meanings:

1.1 ACCESS EASEMENT AREA. The term “Access Easement Area” means those portions of the Common Area designated from time to time by Yardi, subject to the terms and conditions set forth herein, for pedestrian access to and from the pedestrian entrances and exits serving the DSP Tract. As of the Effective Date, Yardi designates that portion of the Common Area shown on the site plan attached hereto as Exhibit “C” (the “Site Plan”) as the Access Easement Area.

1.2 COMMON AREA. The term “Common Area” means those portions of the Yardi Tract that Yardi designates from time to time, subject to the terms and conditions set forth herein, as (a) the Access Easement Area, (b) the Driveway Ramp, and (c) the Refuse Access Area. Common Area shall not include parking areas, parking structures, loading areas, service areas, or any portion of the Yardi Tract not expressly designated by Yardi for the foregoing purposes.

1.3 COMMON BUILDING COMPONENT. The Term “Common Building Component” refers to footings, foundations, supports, common walls, or any single improvement or portion thereof, which is (i) located partly on one Tract and partly on another Tract, or (ii) which is located entirely on one Tract or which passes through another Tract, and in each case that provides structural support to Improvements located on another Tract.

1.4 DRIVEWAY RAMP. The term “Driveway Ramp” means that portion of the Yardi Tract that Yardi designates from time to time, subject to the terms and conditions set forth herein, for pedestrian and vehicular access to and from the Basement. As of the Effective Date, Yardi designates that portion of the Common Area shown on the Site Plan as the Driveway Ramp.

1.5 DSP PERMITTEES. The term “DSP Permittees” means DSP and its residents, tenants, occupants, guests, invitees, employees, agents, contractors, service providers, delivery providers, emergency responders and other permitted users.

1.6 IMPROVEMENTS. The term “improvements” refers to the buildings or other structures now or hereafter situated on a Party’s Tract, as the same may exist from time-to-time, including any replacements thereof.

1.7 MORTGAGEE AND MORTGAGE. The term “Mortgagee” means either (i) the mortgagee under a Mortgage, (ii) the trustee and beneficiary under a deed of trust, which for the purposes hereof shall constitute a Mortgage, or (iii) the leasehold owner or lessor following a Sale and Leaseback. The term “Mortgage” means an indenture of mortgage or deed of trust on a Tract or a Sale and Leaseback.

1.8 ONSITE PARKING STRUCTURE. The term “Onsite Parking Structure” shall refer to the automobile parking structure existing on the Onsite Parking Tract.

1.9 ONSITE PARKING TRACT. The term “Onsite Parking Tract” shall refer to the portion of the Center consisting of one or more air rights parcels more particularly described as the “Lot 1 Parcel” in Exhibit “A” attached hereto.

1.10 PERSON. The word “Person” refers to and shall include individuals, partnerships, firms, associations and corporations, or any other form of business or government entity, and the use of the singular shall include the plural, and may include, where the context may appropriately require, any Party.

1.11 REFUSE AREA. The term “Refuse Area” means the portion of the Basement designated from time to time by DSP, subject to the terms and conditions set forth herein, for refuse and recycling facilities serving the DSP Tract (the “Refuse Area”), which area as of the Effective Date is as shown on the Site Plan.

1.12 REFUSE ACCESS AREA. The term “Refuse Access Area” means those portions of the Common Area designated from time to time by Yardi, subject to the terms and conditions set forth herein, for access to the Refuse Area, which area as of the Effective Date is as shown on the Site Plan.

1.13 SALE AND LEASEBACK. A “Sale and Leaseback” means a transaction whereby a Party conveys its leasehold estate in its Tract for financing purposes only and such conveyance is followed immediately by a leaseback or subleaseback of the entirety of the Tract or the improvements thereon to such Party, or to a parent, subsidiary or corporate affiliate of such Party.

1.14 SOUTHERN CALIFORNIA. The term “Southern California” refers only to the following counties in California: Los Angeles, San Diego, Riverside, Santa Barbara, Orange, Ventura and San Bernardino.

1.15 TRACT OR TRACTS. The term “Tract” or “Tracts” means the Yardi Tract or the DSP Tract or both, as the context may require.

1.16 UTILITY FACILITIES. The term “Utility Facilities” means sanitary sewers, storm drains, water and gas mains, sprinkler system lines, electrical power lines, cable television lines, telephone lines, conduits, pipes, wires, meters, vaults, equipment and other utility facilities serving a Tract.

1.17 UTILITY EASEMENT AREA. The term “Utility Easement Area” means those portions of the Yardi Tract or DSP Tract, as applicable, in which Utility Facilities are located as of the Effective Date or are later approved in writing by the owner of the burdened Tract.

1.18 OTHER DEFINITIONS. All other capitalized terms used herein shall be defined where used in this Agreement.

## ARTICLE 2 GENERAL TERMS AND CONDITIONS

2.1 PRIOR REA. The Parties acknowledge that the REA has been terminated pursuant to a separate termination agreement recorded concurrently herewith.

2.2 WAIVER OF RIGHTS. In connection with the termination of the REA, DSP and Yardi each waive any right of first offer, refusal, negotiation, purchase option or similar rights as may have existed under the REA or their lease of any Tract notwithstanding any such right of DSP or Yardi that may have been triggered by the termination of the foregoing.

2.3 FURTHER ASSURANCES. No additional easement, relocation, modification or expansion of rights shall be effective unless set forth in a written instrument executed by the affected Parties and recorded in the Official Records. Each Party shall cooperate in good faith to execute and deliver such amendments, supplements or other instruments as may be reasonably necessary to carry out the purposes of this Agreement or to facilitate the operation, financing, insuring or sale of a Tract or any portion thereof, including the improvements located thereon.

2.4 PROHIBITED USES. No use or operation of the Common Areas, the retail area directly adjacent to and physically integrated with the DSP Tract, or the Basement shall be made, conducted or permitted except for uses that are consistent with the Standard.

ARTICLE 3  
EASEMENTS AND USE RIGHTS

3.1 COMMON AREA

3.1.1 Common Area Easement. Yardi hereby grants to DSP, for the benefit of the DSP Tract, and for use by DSP and the DSP Permittees, a nonexclusive easement over (a) the Access Easement Area, solely for reasonable pedestrian ingress to and egress from the DSP Tract, (b) the Refuse Access Area, solely for reasonable pedestrian and vehicular access to the Refuse Area, and (c) the Driveway Ramp, solely for pedestrian and vehicular access to the Basement. The easements granted pursuant to this Section 3.1.1 are limited solely to ingress and egress, as indicated, and shall not include any right to: (i) park vehicles; (ii) use loading areas, service areas or refuse areas except as expressly provided elsewhere in this Agreement; (iii) conduct business or commercial activities within the Common Area; (iv) install improvements within the Common Area other than Encroachments pursuant to Section 3.2; or (v) interfere with Yardi's commercially reasonable use, operation, maintenance, repair, redevelopment or reconfiguration of the Common Area or the Yardi Tract, subject to the terms and conditions set forth herein.

3.1.2 Yardi Control of Common Area. Subject to the terms and conditions of this Agreement, Yardi shall retain the exclusive right to own, control, manage, maintain, repair, alter, redevelop, reconfigure and operate the Common Area and may from time to time permanently relocate, modify, reroute, or reconfigure portions of the Common Area in connection with Yardi's use, maintenance, repair or redevelopment of the Yardi Tract or Common Area; provided, however, that (a) Yardi coordinates with DSP to prevent unreasonable interference with access to the DSP Tract and operations on the DSP Tract, (b) the relocation of any Common Area shall require thirty (30) days advance written notice to DSP, (c) Yardi shall continue to provide DSP with reasonably comparable access to the pedestrian entrances and exits serving the DSP Tract, vehicular access to the Basement, and pedestrian and vehicular access to the Refuse Area, as applicable, each as it existed as of the date immediately prior to the relocation, and (d) such relocation, modification, rerouting or reconfiguration must comply with any applicable governmental requirements (subsections (c) and (d) together, the "Relocation Standard"). Yardi may adopt reasonable rules and regulations, consistent with the Standard, applicable to the Common Areas or any portion thereof and modify or supplement the same from time to time. Upon receipt of any such rules and regulations, DSP shall comply with (and use commercially reasonable efforts to cause any DSP Permittees to comply with) such rules and regulations.

3.1.3 Temporary Closures. Yardi shall have the right to temporarily relocate, modify, reroute, reconfigure, close or restrict portions of the Common Area for maintenance, repairs, construction, redevelopment, public safety, emergencies, legal compliance, security purposes or prevention of prescriptive rights, provided that (a) Yardi coordinates with DSP to prevent unreasonable interference with access to the DSP Tract and operations on the DSP Tract, (b) Yardi provides DSP with thirty (30) days prior written notice of its intent to do so or such shorter period of notice as may be reasonable under the circumstances in the case of an emergency, (c) Yardi shall continue to provide DSP with reasonably comparable access to the pedestrian entrances and exits serving the DSP Tract, vehicular access to the Basement, and pedestrian and vehicular access to the Refuse Area, as applicable, (d) such relocation, modification, rerouting or reconfiguration must comply with any applicable requirements of the City of Santa Barbara, (e) upon commencement of any work pursuant to this Section 3.1.3, the grantee shall promptly and diligently prosecute such work to completion, and (f) any closure shall be for a period of thirty (30) days or less.

3.1.4 No Dedication. Nothing contained herein shall be deemed to create any public right or dedication in or to the Common Area.

3.2 TEMPORARY CONSTRUCTION EASEMENTS. DSP hereby grants to Yardi, and Yardi hereby grants to DSP, with respect to their individual Tracts, a temporary, nonexclusive easement in, to, over, under and across its Tract (a) for the purpose of the development, construction and reconstruction of the improvements on such other Tracts, and (b) for the construction, erection, reconstruction, maintenance and removal of Common Building Components; provided, however, that prior to exercising any such easement on the grantor's Tract, the grantee shall obtain the prior written consent of the grantor, which consent shall not be unreasonably withheld, conditioned or delayed. Each such easement shall be temporary in nature and shall automatically terminate upon the completion or abandonment of the applicable construction, reconstruction or maintenance work. Upon termination, the grantee shall promptly restore the grantor's Tract to substantially the same condition as existed prior to the commencement of such work. DSP and Yardi severally covenant and agree that (i) upon commencement of any work pursuant to this Section 3.2, the grantee shall promptly and diligently prosecute such work to completion, (ii) its exercise of such easements shall not result in damage or injury to the improvements on any other Tract, and (iii) shall not unreasonably interfere with any business operations of the other Party or unreasonably interfere with the construction, repair, renovation or reconstruction of the improvements on the grantor's Tract.

3.3 ENCROACHMENT EASEMENTS. DSP and Yardi, with respect to its own Tract, hereby grants to the other, a nonexclusive easement over its Tract for (i) the opening and closing of the doors of the other Party onto the Tract of the granting Party, and (ii) for the encroachment of canopies, flagpoles, roof and building overhangs, awnings, alarm bells, signs, lights and lighting devices and other similar appurtenances to such Party's improvements, all as any of the foregoing exist as of the Effective Date, or pursuant to any other written agreement hereafter executed by DSP and Yardi (including the approval of the scope and location thereof by the Party whose Tract is burdened thereby). DSP and Yardi severally covenant and agree that its exercise of such easements shall not result in damage or injury to the improvements of the other Party and shall not interfere with the business operation conducted by the other Party.

### 3.4 UTILITY FACILITIES.

3.4.1 Utility Lines Through Yardi Tract. Yardi hereby grants to DSP a nonexclusive easement in, to, over, through, under and across the Onsite Parking Structure and the Common Area on the Yardi Tract for the installation, operation, flow and passage, use, maintenance, repair, relocation and removal of Utility Facilities serving the DSP Tract. Such utility easement shall be in such areas as exist as of the Effective Date (subject to Section 3.4.4 below) and in such areas as may be approved in writing by Yardi.

3.4.2 Utility Lines Through DSP Tract. DSP hereby grants to Yardi a nonexclusive easement in, to, over, through, under and across the DSP Tract for the installation, operation, flow and passage, use, maintenance, repair, relocation and removal of Utility Facilities serving the Yardi Tract. Such utility easement shall be in such areas as exist as of the Effective Date (subject to Section 3.4.4 below) and in such areas as may be approved in writing by DSP.

3.4.3 Maintenance and Repair. The grantee of any of the utility easements referred to in Section 3.4 shall be responsible as between the grantor and the grantee thereof for the maintenance and repair of all sanitary sewers, storm drains, pipes and conduits, cables, mains and lines and related equipment installed pursuant to such grant and exclusively serving such grantee's Tract. Each grantor of such easements hereby grants a license to each grantee to enter upon the Tract of the grantor, or the portion thereof where such utility lines are located, for maintenance and repair of such utility lines in accordance with the terms and conditions contained in this Section 3.4.3. Any maintenance and repair work on such

lines and equipment shall be performed only after ten (10) days' written notice to the grantor of the grantee's intention to do such work, except in the case of emergency. Any such work shall be done without cost or expense to the grantor and in such manner as to cause as little disturbance in the use of the grantor's Tract as may be practicable under the circumstances. The grantee shall indemnify, defend and hold grantor harmless from any and all mechanic's, materialmen's, contractor's or subcontractor's liens or any other claims or demands of any nature arising from the exercise of grantee's work that may be enforced against grantor's Tract, and from any loss, cost, damage and expense relating to claims for personal injury or property damage arising out of the maintenance or repair work, except to the extent caused by the negligence of the grantor. Upon the completion of the work, the grantee shall restore the portion of the grantor's Tract affected by such work to the same condition as it was before the commencement of the work.

3.4.4 Relocation of Utility Easement. Notwithstanding anything to the contrary herein, at any time during the term hereof, the grantor of a utility easement shall have the right to relocate on its Tract any Utility Facilities relating to any of the utility easements granted pursuant to Section 3.4 then located on its Tract. Any relocation shall be performed only after the grantor has given ninety (90) days' notice of its intention to relocate to the grantee, and such relocation: (i) shall not materially interfere with or diminish the utility services to the grantee; (ii) shall not reduce or unreasonably impair the usefulness or function of such utility; (iii) shall not materially increase the continuing expense of maintaining the utility service; and (iv) shall be performed without cost or expense to the grantee (the "Utility Relocation Standard"). Notwithstanding such relocation, the cost of maintenance of the lines, mains and/or equipment located on the grantor's Tract and exclusively serving the grantee's Tract shall be the obligation of the grantee

3.4.5 Private Sewer System. Notwithstanding the foregoing, in the event DSP proposes to convert all or any portion of the DSP Tract to residential use, and in connection with such development, DSP desires to utilize the existing private sewer system under the Onsite Parking Structure or the Common Area, DSP shall, prior to any such conversion, (a) engage a licensed civil engineer reasonably acceptable to Yardi to prepare a sewer capacity and impact analysis demonstrating that the projected sewer demand attributable to the proposed residential use will not exceed the capacity of the existing private sewer system, and (b) deliver such analysis to Yardi. If such analysis demonstrates that the proposed residential use would result in sewer demand exceeding the then-existing capacity of the private sewer system or would materially diminish the level of sewer service to the Yardi Tract, DSP shall connect the DSP Tract to a public sewer line adjacent to the DSP Tract that does not traverse or burden the Yardi Tract, which connection and all associated improvements shall comply with all applicable laws, permits and governmental requirements.

### 3.5 THE BASEMENT.

3.5.1 Basement Easement. Subject to this Section 3.5.1, DSP shall have an exclusive easement to use and occupy for parking and refuse uses the portion of the Onsite Parking Structure immediately below the footprint of the DSP Tract as shown on the Site Plan, including the structure, foundation and building systems associated therewith (collectively, the "Basement"), which is currently occupied by (a) forty-nine (49) parking spaces (the "Exclusive Spaces") which DSP may elect to secure with a gate at DSP's sole cost and expense, and (b) the Refuse Area. DSP shall pay Yardi (or Yardi's designated parking facility operator) a monthly fee for the use of the Exclusive Spaces, which amount shall be calculated pursuant to a separate written agreement between DSP and Yardi (or Yardi's designated parking facility operator) to be entered into simultaneously with this Agreement (the "Separate Parking Agreement"). Notwithstanding the foregoing, DSP acknowledges and agrees that the Basement easement (other than the Refuse Area, which shall at all times be subject to the exclusive use by DSP) shall be non-exclusive until DSP commences payment of the monthly fee for the use of the Exclusive Spaces under the Separate Parking Agreement. Yardi may adopt reasonable rules and regulations, consistent with the

Standard, applicable to the Onsite Parking Structure or any portion thereof and modify or supplement the same from time to time. Upon receipt of any such rules and regulations, DSP shall comply with (and use commercially reasonable efforts to cause any DSP Permittees who use any of the Exclusive Spaces to comply with) such rules and regulations. Any use of the Exclusive Spaces shall be deemed to be at the risk of the person or entity using the same, and, other than as set forth in Section 3.5.2 below, Yardi shall not be liable or responsible for any damage to property or injury to person or loss of life that may result to any user of the Exclusive Spaces.

3.5.2 Maintenance. Subject to the terms of this Agreement and Section 12.3, DSP shall maintain the Basement and any gate associated therewith at its sole cost and expense and consistent with the Standard. Notwithstanding the foregoing, for the first five (5) years following the Effective Date of this Agreement, Yardi shall maintain the foundation, structure, building systems and Common Building Components within the Basement at its sole cost and expense and consistent with the Standard. Following the expiration of such five (5) year period, DSP shall be fully responsible for the maintenance of the Basement and any gate associated therewith, including the foundation, structure and building systems, at its sole cost and expense and consistent with the Standard.

3.5.3 Duration. The easement right to use the Basement granted pursuant to this Section 3.5 shall remain in effect until the earlier to occur of the date on which the improvements no longer exist on the Tracts or the termination of this Agreement.

3.6 SUPPORT EASEMENTS. Yardi hereby grants to DSP an easement for support for the benefit of the improvements located on the DSP Tract lying over both the Onsite Parking Structure and the remainder of the Yardi Tract and as exists as of the Effective Date. DSP hereby grants to Yardi an easement for support for the benefit of both the portion of the Onsite Parking Structure and remainder of the Yardi Tract lying under the DSP Tract and as exists as of the Effective Date.

3.7 DOMINANT AND SERVIENT ESTATES. Each easement granted pursuant to the provisions of this Agreement is expressly for the benefit of the Tract of the grantee and shall run with the land for the benefit of such Tract, until such easement is terminated in accordance with Section 3.8 hereof. The Tract benefited by an easement granted herein shall be the dominant estate and the Tract upon which such easement is located shall be the servient estate, but where only a portion thereof is bound and burdened, or benefited by a particular easement, only that portion so bound and burdened, or benefited, as the case may be, shall be deemed to be the servient or dominant tenement, as the case may be. Any easement granted pursuant to the provisions of this Article 3 may be abandoned or terminated by the mutual execution of an agreement so abandoning or terminating the same, by the owners of the dominant and servient estates.

3.8 TERMINATION OF EASEMENTS. Except as otherwise expressly provided herein, the easements granted pursuant to this Agreement shall remain in effect until the earlier to occur of the date on which the improvements no longer exist on the Tracts or the mutual termination of this Agreement. For the avoidance of doubt, no Party shall have the unilateral right to terminate this Agreement.

#### ARTICLE 4 CONSTRUCTION

4.1 LIMITED NOTICE AND APPROVAL RIGHTS. Except as expressly provided herein, no Party shall have approval rights over the construction, repair, redevelopment, demolition or other work done on another Party's Tract; provided, however, that (a) each Party shall provide the other with no less than ninety (90) days' prior written notice before commencing any construction, repair, redevelopment, demolition or other work materially affecting the easements granted in Article 3, (b) each Party shall have approval rights with respect to changes in the location of Utility Facilities burdening its Tract, and (c) DSP and Yardi shall each have approval rights with respect to modifications relating to structural and other

portions of the improvements located on the other's Tract that are physically, integrated with or otherwise have a material effect on the their respective improvements or that are physically integrated with or have a material effect on such Party's improvements, including Common Building Components. Any notice of disapproval shall state in writing the reasons for the disapproval and the changes in the plans for the modification required by such Party for its approval. Upon receipt of a written notice of disapproval from any Party within said twenty (20) day period, the Party requesting the proposed modification shall revise the plans therefor so as to satisfy the objections contained in the notice of disapproval. Revised plans for the plan modification shall be resubmitted to each of the Parties who shall have the same period of time as in this Section 4.1 to approve or disapprove the revised plans. The approval required under this Section 4.1 shall not be unreasonably withheld, conditioned or delayed. Prior to commencing any work, each Party shall enter into construction contracts with a contractor licensed in the State of California.

4.2 DELIVERY OF AS-BUILT PLANS. Upon completion of construction involving Utility Facilities, Common Building Components or structural components affecting another Party's Tract (including the Onsite Parking Structure), each Party shall deliver to the other Party reasonably-detailed as-built structural and utility plans relating to the applicable work.

4.3 LIABILITY FOR PLAN APPROVAL. The exercise by a Party of its right to inspect or review the plans, drawings and specifications of any other Party pursuant to the terms of this Agreement shall not constitute a determination by such Party of the engineering or structural design, sufficiency or integrity of the improvements contemplated by such plans, drawings and specifications nor a determination of compliance of such plans, drawings and specifications with any applicable building codes, safety features or standards. Any inspection or approval of plans, specifications and drawings made or granted pursuant to this Agreement shall not constitute an inspection or approval of the quality, adequacy or suitability of such plans, specifications or drawings, nor of the labor, materials, services or equipment to be furnished or supplied in connection therewith. No Party has any right, and hereby expressly disclaims any right, of supervision or control over the architects, designers, engineers or other persons responsible for the drafting or formulation of the plans, drawings and specifications of another Party.

4.4 MANNER OF CONSTRUCTION. All work of construction on a Tract shall be diligently performed at the Tract owner's sole cost and expense, except as expressly provided herein, and in accordance with all applicable law, including any restrictions on the timing for construction or noise associated therewith. Each Party severally agrees to use reasonable efforts to perform its respective work so as not to (i) unreasonably interfere with any construction work being performed on the other Party's Tract, or any part, thereof, or (ii) unreasonably interfere with the use, occupancy or enjoyment of the other Party's Tract. Each Party, as respects the construction it is to perform, shall use all reasonable efforts to cause its architects and contractors to cooperate and coordinate their construction with the architects, contractors and construction work of the other Parties hereto to the extent reasonably practicable, to achieve the objectives set forth in this Section 4.4. DSP and Yardi shall have the right to post notices of non-responsibility on the Tracts of the other prior to the commencement of the construction. Yardi grants DSP a temporary easement for construction staging and access within the Onsite Parking Garage in the location of the Exclusive Spaces, subject to the terms and conditions of this Section 4.4. Yardi shall not perform any construction staging in the Common Areas that would unreasonably impede pedestrian access within the Common Area.

4.5 COMMON FOOTINGS. In each case where a Party's improvements will have footings in common with the improvements of another Party, the common footings shall remain compatible with the structural design of the existing buildings and each Party affected by a change in common footings shall approve any such proposed change. Each Party shall provide the other Party with at least ninety (90) days' prior written notice before performing any maintenance, repair or replacement of the common footings, foundation and structural support components located on the performing Party's Tract ("Foundation

Work”). Foundation Work shall be limited to such work as is reasonably necessary to preserve, maintain and repair the structural integrity of the footings, foundation and structural support components of the improvements located on the non-performing Party’s Tract. Each Party shall be responsible for, and shall promptly reimburse the other Party for, any physical damage to the improvements located on the non-performing Party’s Tract, or any other portion thereof, caused by or arising out of the performance of Foundation Work. Prior to commencing any Foundation Work, each Party shall maintain, and cause its contractors to maintain, commercial general liability insurance and such other insurance as is customary, naming the other Party as an additional insured. The indemnification obligations set forth in Section 4.9 shall apply to all Foundation Work performed pursuant to this Section 4.5.

4.6 CONSTRUCTION BARRICADES. DSP and Yardi shall each erect and construct a solid plywood construction barrier of appropriate height separating any repair, replacement or remodeling construction work from the Common Area, existing improvements, and the adjacent public streets, as applicable and reasonably practicable, and in compliance with all applicable law. Any construction barricades shall be kept in place and in good condition and repair until the improvements being constructed are secure from unauthorized intrusion and do not create hazardous conditions.

4.7 WORKMANSHIP. Each Party agrees that all construction shall be done in a good and workmanlike manner, with first-class materials and in accordance with all applicable laws, rules, ordinances and regulations and applicable law and governmental approvals. Each Party shall pay all costs, expenses, liabilities and liens arising out of or in any way connected with such construction except as otherwise provided herein.

4.8 MECHANIC’S LIENS. Each Party severally covenants not to permit any mechanic’s, materialmen’s, contractor’s or subcontractor’s lien or any other claims or demands of any nature arising from the construction of their respective improvements to be enforced against its respective Tract or any other Tract. DSP and Yardi each severally covenant and agree to indemnify, defend and hold each other free and harmless of any and all mechanic’s, materialmen’s, contractor’s or subcontractor’s liens, claims and demands, together with any cost and expenses incurred by such other Party or levied against such other Party’s Tract in connection with such liens, claims or demands arising out of the construction of the improvements on the indemnifying Party’s Tract.

4.9 CONSTRUCTION INDEMNITY. During any period of construction on its Tract, each Party severally covenants and agrees to indemnify and hold harmless each other Party, and the Tracts of each other Party from and against all liability, loss, damage, cost or expense, including reasonable attorneys’ fees and court costs, arising from or as a result of the death of, or any accident, injury, loss or damage whatsoever caused to any natural person, or to the property of any Person, which shall be directly or indirectly caused by any acts, errors or omissions of such Party or its respective agents, servant, employees or contractors in connection with such Party’s construction activities or improvements, except for claims caused by the gross negligence or willful misconduct of the indemnified Party, or their respective agents, servant or employees. The indemnified Party shall promptly give the indemnifying Party notice of any suit or proceeding entitling the indemnified Party to indemnification pursuant to this Section 4.9.

## ARTICLE 5 MAINTENANCE AND ALTERATIONS

5.1 MAINTENANCE. Yardi and DSP shall at all times during the term of this Agreement keep and maintain, or cause to be kept and maintained, all portions of their respective improvements (other than the Basement, the maintenance of which is governed by Section 3.5.2), including the Common Area by Yardi, in good order, condition and repair in accordance with the standard customary for first-class, high quality, mixed-use project located in Southern California (the “Standard”). Notwithstanding anything herein to the contrary, in no event shall either Party be responsible for any maintenance, damage, cost or

expense resulting solely from the acts, negligence or willful misconduct of the other Party, its agents or employees.

5.2 ALTERATIONS. No Party shall make any material alteration to structural components located on another Party's Tract, including Common Building Components, or materially impair Utility Facilities serving another Party's Tract without the prior written consent of the affected Party, which consent shall not be unreasonably withheld, conditioned or delayed. Except as expressly set forth above, each Party shall have the unrestricted right to repair, alter, redevelop, demolish, reconstruct, convert and improve its own Tract without the consent of the other Party except as otherwise expressly provided herein.

5.3 PERFORMANCE OF MODIFICATIONS OR ALTERATIONS. All work shall be performed in a good and workmanlike manner and shall comply with the requirements of Article 4. All modifications or alterations shall be constructed at the sole cost and expense of the Party making such alterations and modifications.

5.4 INSURANCE.

5.4.1 DSP. DSP shall maintain (a) property insurance at the full insurable value with respect to the Common Building Components; and (b) comprehensive public liability and property damage insurance insuring against any loss, cost, liability, damage and expense (including the expense of legal defense) incurred or arising out of death, personal injury or property damage suffered or alleged to be suffered by any Person or Persons within the Basement. Each such policy shall include contractual liability insurance for the indemnity obligations set forth herein and include the other Party as an additional insured, each at levels consistent the Standard.

5.4.2 Yardi. Yardi shall maintain a policy or policies of (a) property insurance at the full insurable value with respect to the Common Building Components, Common Area and the Basement; (b) property insurance at full insurable value for the Common Areas and Basement, and (b) comprehensive public liability and property damage insurance insuring against any loss, cost, liability, damage and expense (including the expense of legal defense) incurred or arising out of death, personal injury or property damage suffered or alleged to be suffered by any Person or Persons within the Common Area. Each such policy shall include contractual liability insurance for the indemnity obligations set forth herein and include the other Party as an additional insured, each at levels consistent the Standard.

5.4.3 Full Insurable Value. The term "full insurable value" as used in this Agreement shall mean the actual replacement cost (excluding the cost of excavation, foundations and footings below the ground level and without deduction for depreciation) of the Common Area and Basement as adjusted from time to time to reflect changes in the actual replacement costs less such deductibles as are reasonable and customary for insurance maintained at the Standard.

5.4.4 Mutual Release and Waiver of Subrogation. Each Party hereby releases and waives any claims against each other Party from any liability for any death, personal injury or property damage, of such Party or of any occupant claiming its right of occupancy by or through such Party, which loss or damage is covered by the insurance required to be maintained by it, regardless of any negligence on the part of the released persons which may have contributed to or caused such death, personal injury or property damage, and each Party on behalf of its insurance carrier, waives any right of subrogation that may arise therefrom.

ARTICLE 6  
CASUALTY AND CONDEMNATION

6.1 COMMON AREA. In the event of a casualty or condemnation affecting all or any portion of the Common Area, Yardi shall have no obligation to restore or repair the Common Area, provided that, if reasonably possible as determined by Yardi in its commercially reasonable discretion, Yardi complies with the Relocation Standard with respect to the component of Common Area affected by the casualty or condemnation event.

6.2 BASEMENT. In the event of casualty or condemnation of all or any portion of the Basement, Yardi shall have the right to either (i) permanently, in the event of a condemnation; or (ii) temporarily, in the event of a casualty or temporary condemnation, relocate the Exclusive Spaces and the Refuse Area to the Onsite Parking Structure or the Lot 2 Public Parking Structure, subject to the following conditions: (a) Yardi shall provide DSP with reasonable prior written notice of any proposed relocation, which notice shall include a description and depiction of the proposed replacement parking area and refuse area; and (b) DSP shall have the exclusive right to use such spaces and refuse area, which shall be no fewer than forty-nine (49) in number and shall be of substantially similar size as the Exclusive Spaces and Refuse Area. Notwithstanding the foregoing, DSP shall have the right to reject such relocation and temporarily relocate independently to any area other than an area owned or controlled by Yardi, in which case no parking fee shall be due during such temporary relocation under the Separate Parking Agreement. In the event of a casualty other than a total casualty or a casualty caused by DSP or any DSP Permittee, DSP shall either require Yardi to (a) remit the insurance proceeds actually received from the insurer from the insurance required to be maintained hereunder with respect thereto and DSP shall reconstruct or repair the Basement, or (b) promptly, but in no event beyond eighteen (18) months after the commencement of restoration, restore the Basement to substantially the same condition as existed on the date immediately prior to such event.

6.3 COMMON BUILDING COMPONENTS.

6.3.1 Obligations. In the event of a casualty or condemnation affecting any Common Building Component, each Party shall repair and restore, or cause to be repaired and restored, the Common Building Component on its respective Tract to a condition that will permit such Common Building Component to have the capacity to be used in common with the other Party's Tract. Neither Party shall by reason of restoration of the benefited improvement place upon the subject Common Building Component any burden that is in excess of the capacity of the subject Common Building Component, or that will prevent the use of the improvement containing the subject Common Building Component for its intended use. Each Party shall promptly, but in no event beyond eighteen (18) months after the commencement of restoration, restore the Common Building Component to substantially the same condition as existed prior to such casualty event.

6.3.2 Maintenance of Foundations. Each of DSP and Yardi severally agrees that in the event the improvements on its respective Tract, including the Common Area, shall be damaged or destroyed and such Party is not required and does not elect to restore such improvements pursuant to the provisions of this Agreement, it will leave in place any foundations not destroyed, that immediately prior to such damage or destruction were shared jointly between the improvements on its Tract and the improvements on any other Tract, for so long as such other improvements are in existence, including any period of restoration or reconstruction of same. Nothing contained in this Section 6.3.2 is or shall be determined to impose upon any Party any obligation to reconstruct all or any part of any improvements on another Tract beyond such reconstruction provisions as are otherwise contained in this Agreement.

6.4 STANDARDS. All restoration required by either Party pursuant to this Agreement shall be performed by a general contractor licensed by the State of California. If the Parties are restoring their improvements at the same time, the Parties shall meet prior to the commencement of restoration and

cooperate in good faith to devise a construction phasing plan for the restoration of the damaged improvements. The construction phasing plan shall provide for, among other things, any use of a portion of the Common Area, of either Party's Tract, or a portion of the Onsite Parking Structure in connection with the restoration, a schedule for the restoration, designation of construction employee parking areas and truck access routes and schedules. Each restoring Party shall make all reasonable efforts to keep any inconvenience, annoyance, disturbance or loss of business to the minimum reasonably required by the restoration. If any Party uses a portion of the Common Area, either Party's Tract, or the Onsite Parking Structure in connection with the restoration, the restoring Party shall promptly restore the portions of the Common Area, other Party's Tract, or Onsite Parking Structure so used upon cessation of the restoration to substantially the same condition in which the same were prior to the time of commencement of such restoration, including the clearing of such area of all loose dirt, debris, equipment and construction materials. The restoring Party shall also restore, at its sole cost, and expense any portion of the Common Area, of another Party's Tract, or of the Onsite Parking Structure that may have been damaged by such restoration promptly upon the occurrence of such damage. During the prosecution of any restoration, each restoring Party shall barricade the unrestored portion of its improvements with a barricade of appropriate height completely sealed and painted. All restoration shall be performed in a good and workmanlike manner and in compliance with applicable laws and the requirements of insurance underwriters. Each Party shall make all reasonable efforts to keep any inconvenience, annoyance, disturbance or loss of business to the other Party to the minimum reasonably required by the work in question to effectuate the restoration.

6.5 CLEARING OF DAMAGED IMPROVEMENTS. If any Party is not required or elects not to restore its improvements in accordance with this Article 6, such Party shall, at its sole cost and expense, raze the improvements, or the portion thereof that have been damaged or destroyed, and clear the applicable portion of its Tract of all debris. Notwithstanding anything contained in this Article 6, each Party shall, upon the occurrence of any damage or destruction to the improvements on such Party's Tract, immediately, perform and complete, or cause to be performed and completed, such work as may be necessary to place the damaged improvements in a safe condition pending restoration or demolition thereof. All such work shall be performed at the sole cost and expense of the Party owning the damaged improvements, regardless of whether, insurance proceeds are available to pay the cost of such work, but subject to reimbursement from such insurance proceeds when they become available.

6.6 LIABILITY OF MORTGAGEES. If a Mortgagee acquires the Tract of any Party by foreclosure, deed in lieu of foreclosure, or by termination of a leaseback in a Sale and Leaseback transaction, the obligation of such Mortgagee or purchaser at a foreclosure sale to comply with the restoration obligations of this Article 6 following damage or destruction shall be limited in accordance with this Section 6.6; provided, however, the following limitations shall apply for the benefit of such Mortgagee only if such Mortgagee or purchaser permit such insurance proceeds as are available to be used for Restoration in accordance with this Article 6:

6.6.1 Damage Occurring Prior to Acquisition. The Mortgagee or purchaser at a foreclosure sale shall not be required to repair any damage or destruction occurring prior to the date of such foreclosure sale or conveyance, or termination of leaseback, unless the damage and destruction was caused by a peril for which the Party whose interest was acquired was required to maintain insurance hereunder, in which case the Mortgagee or purchaser shall restore the damage or destruction in accordance with this Article 6 to the extent of the insurance proceeds received as a result of such casualty.

6.6.2 Restoration Not Required. If such Mortgagee or purchaser at a foreclosure sale is not required pursuant to this Article 6 to restore any damaged or destroyed improvements, and does not elect to do so, then such Mortgagee or purchaser shall raze the damaged improvements and clear the Tract in accordance with Section 6.5. NOTHING CONTAINED IN THIS SECTION 6.6 SHALL BE

CONSTRUED TO RELIEVE THE PARTY WHOSE INTEREST WAS ACQUIRED BY THE MORTGAGEE OR PURCHASER OF ITS OBLIGATIONS UNDER THIS ARTICLE 6.

ARTICLE 7  
TRANSFERS

7.1 LIMITATIONS ON TRANSFER OR ASSIGNMENT. In no event shall the rights, powers and obligations conferred upon Yardi or DSP pursuant to this Agreement be at any time transferred or assigned by any such Party except through a transfer of all of its interest in its Tract.

7.2 MORTGAGES. None of the rights, powers and obligations of the transferring Party under this Agreement shall be transferred or assigned with the transfer or conveyance of its interest pursuant to the granting of a Mortgage on a Tract or the improvements thereon to secure a loan, and all of the rights, powers and obligations of the transferring Party under this Agreement shall remain in such Party so long as the transferring Party remains the beneficial owner of the interest in its Tract.

7.3 RELEASE; ASSUMPTION. If any Party sells, transfers or assigns all of its interest in its Tract and all of its rights under this Agreement in accordance with this Article 7, the transferring Party shall, except as otherwise provided in this Agreement, be released from future obligations hereunder from and after the effective date of such sale, transfer or assignment. Any transferee of the interest of a Party in its Tract shall take such interest subject to all terms, covenants, obligations, restrictions and conditions set forth in this Agreement.

7.4 EFFECT OF TRANSFER OR ASSIGNMENT ON MORTGAGE. The following releases shall be effective with respect to any subsequent transfer or assignment by the transferee of a Mortgagee or other Person acquiring an interest in a Tract as the result of a foreclosure, or termination of a Sale and Leaseback, or through any transfer in lieu of foreclosure, or through settlement of or arising out of any pending or contemplated foreclosure action: (a) the release from all unaccrued obligations under this Agreement of a leaseback lessee in a Sale and Leaseback upon the termination or expiration of the leaseback; (b) the release of any leaseback lessor under a Sale and Leaseback that shall have acquired possession through termination or expiration of the leaseback, upon the sale, transfer, conveyance or assignment of its title or interest from all obligations under this Agreement which relate to actions or omissions which occurred prior to the time such leaseback lessor acquired possession; or (c) the release of any Mortgagee which shall have acquired title through foreclosure, or through any transfer in lieu of foreclosure, or through settlement of or arising out of any pending or contemplated foreclosure action upon sale, transfer, conveyance or assignment of its title or interest from all obligations under this Agreement that relate to actions or omissions which occurred prior to the time such Mortgagee acquired title. In the event of any termination or expiration of the interest of the leaseback lessee or any surrender thereof to the leaseback lessor or any nominee of the leaseback lessor which shall hold said interest for the benefit of such leaseback lessor, the leaseback lessor and its successors and assigns shall (notwithstanding any language in the leaseback document or any other instrument, or in any instrument of surrender, preventing the merger of title in said leaseback lessor and notwithstanding the fact that such surrender may be made to such nominee of the leaseback lessor) be liable for the performance of the thereafter accruing obligations under and pertaining to the terms of this Agreement, including, with respect to a leaseback lessor of the DSP Tract or Yardi Tract, the obligations under Section 8.9.

ARTICLE 8  
DEFAULT

8.1 DEFAULTS; SELF-HELP.

8.1.1 It shall be an “Event of Default” by a Party hereunder if a Party (the “Defaulting Party”) shall fail or neglect to perform any act or thing herein provided to be performed by it or shall fail to pay any sum of money required to be paid by it hereunder, and such failure shall continue for the grace period specified in Section 8.6 after notice from the non-Defaulting Party specifying the acts or things to be performed.

8.1.2 Upon an Event of Default of either Party’s maintenance obligations with respect to the Common Area, Basement, or Common Building Components, the non-Defaulting Party may (but shall not be required to) cure such default (unless within such thirty (30) day period such Defaulting Party shall commence the necessary action to cure and thereafter continue the same with due diligence), and the Defaulting Party shall reimburse the non-Defaulting Party for the actual, reasonable third-party costs incurred by the non-Defaulting Party within ten (10) days of written demand accompanied by final invoices reflecting such costs, unless the Defaulting Party notifies the non-Defaulting Party within thirty (30) days after receipt of such notice that it contends it is (or was) not obligated to perform the same, in which case the obligation to perform shall be subject to mediation in accordance with Section 10.1. Despite the giving of such notice by the Defaulting Party, the non-Defaulting Party claiming the default nevertheless may perform the act in question but shall not be entitled to reimbursement of its costs until mediation has been concluded in its favor. Notwithstanding the foregoing, if the non-Defaulting Party in good faith shall deem that an emergency is occurring or has occurred so that a default requires immediate curing, then such non-Defaulting Party may without notice act promptly and take such action as is necessary to cure the alleged default. Any Party performing any action pursuant to the preceding sentence shall act with reasonable promptness and shall give notice to the Defaulting Party of the doing of such work and the alleged default. Such notice, notwithstanding any other provision of this Agreement, need not be in writing if the giving of a written notice would not be reasonably possible under the circumstances, so long as such notice is given to an officer or responsible official of the Defaulting Party. Written confirmation of the action shall be given as soon as reasonably possible. The Party so acting shall prosecute any work performed by it under the provisions of this Section 8.1 diligently to completion.

8.2 MANNER OF ACTION. Any action by a Party taken pursuant to Section 8.1.2 shall be taken at such times and in such manner as to cause the least practical interference with the business being conducted within the Tracts. Except for any negligent or willful act or omission, the acting Party shall not be liable or in any way responsible for any loss, inconvenience, annoyance or damage resulting to the Defaulting Party or the Defaulting Party’s occupants for any action taken pursuant to Section 8.1.2.

8.3 RIGHTS AND REMEDIES OF NON-DEFAULTING PARTIES. Upon an Event of Default by either Party, and the other Party does not elect self-help in accordance with Section 8.1.2, subject to Section 3.8, the non-defaulting Party may exercise any or all rights and remedies available to it in law or equity other than termination of this Agreement, including, without limitation, but subject to Article 10, a suit for damages or the institution of proceedings for specific performance or an injunction to compel the Defaulting Party to observe or perform its covenants and obligations hereunder. Notwithstanding the above, if the failure to perform or pay any sum of money is the result of a dispute that is subject to mediation under Section 10.1, the non-defaulting Party shall comply with the provisions of Article 10 prior to commencing any judicial proceeding.

8.4 INJUNCTIVE RELIEF. Notwithstanding anything contained in Section 8.3 or the application of any period for curing a default, in the event of any violation or threatened violation by any

Party of any of the terms, restrictions, covenants and conditions of this Agreement (whether affirmative or negative in nature), any of the Parties shall have the right to enjoin such violation or threatened violation in a court of competent jurisdiction. Prior to the commencement of any such action, at least five (5) days' written notice of such violation shall be given to the Party responsible therefor.

8.5 NO WAIVER. No act or thing done or performed by a Party pursuant to this Article 8 and no omission to act pursuant to this Article 8 shall be construed as a waiver of any default by the Defaulting Party or as a waiver of any covenant, term or condition herein contained or of the performance thereof.

8.6 "GRACE PERIOD". The term "grace period", as used in this Article 8 shall mean a period of thirty (30) days duration, except that if, because of the nature of the act or thing in question, longer than thirty (30) days is required to do or perform the same, the grace period shall be of the duration required to do or perform the same if commenced with reasonable promptness and thereafter prosecuted diligently to completion.

8.7 LICENSE FOR SELF-HELP. Subject to the provisions of this Article 8, each Party hereby grants to the other Parties, for the benefit of the Tract of each such other Party during the term of this Agreement, a nonexclusive license over and under any and all parts of its Tract for all purposes reasonably necessary to enable each other Party (acting directly or through employees, agents, contractors or subcontractors) to exercise its rights under this Article 8.

8.8 RIGHTS OF LEASEHOLD MORTGAGEES. If any Mortgagee of a Party's Tract has delivered a written notice to each of the other Parties in accordance with Section 11.2 hereof, any notice of a default or failure to satisfy a condition hereunder shall not be effective until such Mortgagee has received a copy thereof. Upon receipt of such notice, the Mortgagee shall have the right, but not the obligation, to remedy the default or satisfy the condition specified in such notice on behalf of the Defaulting Party. Such Mortgagee shall have ninety (90) days after the date of the notice of default or of failure to satisfy a condition to remedy or satisfy the same; provided, however, if such default or condition cannot be remedied or satisfied within said ninety (90) day period, the Mortgagee shall have such additional time as may be required to prosecute such remedy or satisfaction to completion, as long as the Mortgagee commences the remedy or satisfaction within said ninety (90) day period and thereafter diligently prosecutes the same to completion; provided, further, that if the Mortgagee cannot reasonably satisfy the condition or remedy the default without acquiring possession of the Defaulting Party's interest in its Tract, the Mortgagee shall have one hundred eighty (180) days after the date of the notice of default to commence any nonjudicial or judicial foreclosure proceeding required to obtain possession of the Defaulting Party's interest in its Tract and a reasonable time period thereafter in which to diligently pursue such proceeding to completion. Except as provided below, a Mortgagee shall have a reasonable period of time after the Mortgagee acquires possession of a Defaulting Party's interest in its Tract to satisfy the condition or remedy the default. Notwithstanding the above, if the condition or default specified in the notice of default or failure to satisfy a condition is a failure by Yardi to operate the Common Area, the Mortgagee shall have a period of one (1) year from the date Mortgagee acquires possession of Yardi's interest in its Tract in which to satisfy the condition or remedy the default by operating or causing to be operated the Common Area. Nothing contained herein shall prevent a Party from exercising its rights to cure the default of the Defaulting Party under Section 8.4 until the Mortgagee has acquired Yardi's interest in the Yardi Tract.

8.9 LIABILITY OF PARTIES UPON TRANSFER OF INTEREST. From and after the date of any sale, conveyance, assignment or other transfer of a Party's entire interest in its Tract, whether such transfer is voluntary or involuntary, such Party shall be relieved of all personal liability under this Agreement, except as otherwise provided herein. The foregoing release shall not apply to any liability of such Party arising prior to the date of such transfer.

ARTICLE 9  
FUTURE FINANCINGS

The Parties anticipate the need for future financing to redevelop the improvements on their respective Tracts, and either Party may seek future financing secured by its interest in its respective Tract. Accordingly, the Parties agree to cooperate in good faith in connection with any such financing, including considering in good faith any lender requests to make commercially reasonable amendments to this Agreement. For purposes of clarification, in no event shall a change to the economics of this Agreement, the rights and responsibilities of each Party set forth herein, the allocation of risk or liability of each Party, or any limitation of liability (collectively, the “Limitations”), be considered a reasonable amendment pursuant to this Article 9, nor shall this Article 9 be deemed or construed to require either Party to enter into any amendment to this Lease.

ARTICLE 10  
DISPUTE RESOLUTION

10.1 MEDIATION. This Article 10 shall survive the expiration or earlier termination of this Agreement. The Parties agree that any and all disputes, claims or controversies arising out of or relating to this Agreement shall first be submitted to JAMS, or its successor, for mediation, and if the matter is not resolved through mediation, then it shall be resolved through litigation as set forth below: (i) either Party may commence mediation by providing JAMS and the other Party a written request for mediation, setting forth the subject of the dispute and the relief requested; (ii) the Parties shall use commercially reasonable efforts to cooperate with JAMS and with one another in selecting a mediator from the JAMS panel of neutrals and in scheduling the mediation proceedings within thirty (30) days of written request for mediation, with the parties agreeing that they will participate in the mediation in good faith, that they will share equally in its costs, and the Parties will use commercially reasonable efforts to complete such mediation within sixty (60) days of commencement; (iii) all offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by any of the Parties, their agents, employees, experts and attorneys, and by the mediator or any JAMS employees, are confidential, privileged and inadmissible for any purpose, including impeachment, in any arbitration or other proceeding involving the Parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation; (iv) if a Party does not participate in the mediation, the requesting Party shall be awarded all of its legal expenses in requesting the mediation, which award shall not be delayed by any subsequent litigation or ultimate determination of the merits and prevailing party as anticipated in Section 14.1, and the non-participating Party shall forfeit any right to recover attorneys’ fees or costs as a prevailing party pursuant to Section 14.1 in any subsequent litigation arising out of or relating to the subject matter of such mediation request; (v) all applicable statutes of limitation and defenses based upon the passage of time shall be tolled until fifteen (15) days after the mediation is deemed closed by JAMS, and the parties will take such action, if any, required to effectuate such tolling; and (vi) if mediation is unsuccessful, the venue of any action hereunder shall be brought solely and exclusively in Santa Barbara County, California in the United States federal district court or the courts of the State of California.

10.2 JURY TRIAL WAIVER. THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT AND ANY DOCUMENT EXECUTED IN CONNECTION HERewith OR RELATED HERETO, OR ANY COURSE OR CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF EITHER PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES TO ENTER INTO THIS TRANSACTION. THIS SECTION 10.2 SHALL SURVIVE THE CLOSING OR TERMINATION OF THIS AGREEMENT.

ARTICLE 11  
NOTICES

11.1 NOTICES TO PARTIES. Any notice, demand, request, consent, approval, designation or other communication which any Party is required or desires to give or make or communicate to any other Party shall be in writing and shall be given or made or communicated by personal delivery, or by United States registered or certified mail, return receipt requested, postage prepaid, or by courier or express service guaranteeing overnight delivery, with a signed receipt in each case addressed, in the case of Yardi to:

PNSB Real Estate, LLC  
430 S Fairview Ave  
Santa Barbara, CA 93117  
Attn: Arnold Brier  
Telephone: (805) 699-2040 x11074  
Email: [arnold.brier@yardi.com](mailto:arnold.brier@yardi.com)

with a copy to:

Fauver, Large, Archbald & Spray LLP  
820 State Street, Fourth Floor  
Santa Barbara, CA 93101  
Attn: Olivia K. Marr  
Telephone: (805) 966-7000  
Email: [OMarr@FLASllp.com](mailto:OMarr@FLASllp.com)

and addressed, in the case of DSP to:

DSP SANTA BARBARA SUB LLC  
18565 Jamboree Road, Suite 200  
Irvine, CA 92612  
Attn: Stephen Logan  
Email: [slogan@shopoff.com](mailto:slogan@shopoff.com)

DSP SANTA BARBARA SUB LLC  
640 Fifth Avenue, 17th Floor  
New York, NY 10019  
Attn: Ben Morrison  
Email: [ben.morrison@drep.com](mailto:ben.morrison@drep.com)

with a copy to:

Brownstein Hyatt Farber Schreck, LLP  
1020 State St, Santa Barbara, CA 93101  
Attn: Beth Collins, Esq.  
Email: [bcollins@bhfs.com](mailto:bcollins@bhfs.com)

subject to the right of any Party to designate a different or additional address by notice similarly given. Any notice, demand, request, consent, approval, designation, including any duplicate original, or other communication so sent shall be deemed to have been given, made or communicated, as the case may be, on the date the same was delivered personally or by the United States mail as registered or certified matter, with postage thereon fully prepaid.

11.2 MORTGAGEE NOTICE. The Mortgagee under any Mortgage affecting any Tract shall be entitled to receive notice of any default by the Party owning such Tract, provided that such Mortgagee shall have delivered a copy of a notice in the form hereinafter contained to each Party hereunder. The Parties acknowledge and agree that as of the Effective Date GF Capital is a Mortgagee of DSP entitled to receive notices at 17731 Mitchell N, Suite 200, Irvine, CA 92614 and it shall not have to provide separate notice. The form of such notice shall be as follows:

The undersigned, whose address is \_\_\_\_\_ does hereby certify that it is the holder of a first leasehold lien upon the leasehold estate described in Exhibit "A" attached hereto which lien encumbers the leasehold estate of (Party). In the event that any notice shall be given of the default of the Party upon whose leasehold estate this lien applies, a copy thereof shall be delivered to the undersigned who shall have, subject to the terms of that certain Mutual Use Agreement, dated \_\_\_\_\_, 2026, encumbering such tract, the right to cure such default. Failure to deliver a copy of such notice to the undersigned shall in no way affect the validity of the notice of default as it respects such Party.

Any such notice to a Mortgagee shall be given in the same manner as provided in Section 11.1. The failure to deliver a copy of a notice of default to any Mortgagee shall in no event create any liability on the part of the Party so declaring a default, but such Party shall not be entitled to exercise the interest of the Mortgagee, except in an emergency, until written notice is given to the Mortgagee in accordance with Section 11.1. If any notice shall be given of the default of a Party, such Mortgagee shall have the right to cure such default in accordance with Section 8.9 hereof

## ARTICLE 12 AMENDMENT

12.1 METHOD OF AMENDMENT. The Parties agree that the provisions of this Agreement may be modified or amended, in whole or in part, only with the consent of all of DSP and Yardi. Any amendment shall be by declaration in writing, executed and acknowledged by DSP and Yardi, and duly recorded in the Official Records.

12.2 NO THIRD-PARTY BENEFICIARY. Except for the provisions hereof that are for the benefit of a Mortgagee, the provisions of this Agreement are for the exclusive benefit of the Parties, their successors and assigns, and not for the benefit of any third Person, including any occupant or permittee of the Center other than the Parties, nor shall this Agreement be deemed to have conferred any rights, express or implied, upon any third person. It is expressly understood and agreed that no modification or amendment, in whole or in part, shall require any consent or approval on the part of any occupant or permittee other than a Party. No such modification or amendment shall be binding upon any Mortgagee that has delivered a notice in the form set forth in Section 11.2 to each Party prior to the effective date of such modification or amendment unless such Mortgagee has consented to or approved such modification or amendment.

12.3 LOT LINE ADJUSTMENT. The Parties agree to jointly pursue a Lot Line Adjustment ("LLA") to transfer Yardi's fee interest in the Basement to DSP (the "Transfer"). Because the Parties agree that transferring the Basement to DSP is commercially preferable for both Parties, and DSP shall bear the full cost and expense associated with the processing and pursuit of the LLA, there shall be no separate monetary consideration required for the Transfer. Each party shall use commercially reasonable efforts to support and expedite the LLA entitlement application with the City of Santa Barbara, and Yardi agrees to reasonably cooperate with applications and requests associated with the LLA, including the execution of applications and other documents required for the LLA. Upon approval of the LLA and the effectuation of the Transfer, (a) the Separate Parking Agreement shall terminate and be of no further force or effect, (b) DSP shall have full responsibility for the operation and maintenance of the Basement, (c) Yardi shall have no further obligation to insure the Basement or to maintain the Basement, other than respect to ongoing

requirements with respect to Common Building Components affecting the Basement that remain on the Yardi Tract, and (d) execute a commercially reasonable amendment to this Agreement to effectuate the Transfer if necessary, subject to the Limitations.

ARTICLE 13  
FORCE MAJEURE

Each Party shall be excused from performing any obligation or undertaking provided in this Agreement, except any obligation to pay any sums of money under the applicable provisions hereof in the event and so long as the performance of any such obligation is prevented or delayed, retarded or hindered by act of God, fire, earthquake, floods, explosion, actions of the elements, war, invasion, insurrection, riot, mob violence, sabotage, inability to procure labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strikes, lockouts, action of labor unions, condemnation, requisition, laws, orders of governmental or civil or military or naval authorities, or any other cause, whether similar or dissimilar to the foregoing, not within the respective control of such Party. If performance of an obligation is prevented or delayed by any of the foregoing causes, the Party claiming the extension shall give prompt notice of such delay to each of the other Parties. An extension of time for any such cause shall only be for the period of the enforced delay, which period shall commence to run from the time of commencement of the cause.

ARTICLE 14  
MISCELLANEOUS

14.1 ATTORNEYS' FEES. If any Party shall institute any mediation or judicial action or proceeding relating to violations, threatened violations or failure of performance of or under this Agreement, or any default hereunder, or to enforce the provisions hereof, then the prevailing Party shall be entitled to recover its reasonable attorneys' fees from the defaulting Party. Reasonable attorneys' fees shall be as fixed by the court. The "prevailing Party" shall be the Party which by law is entitled to recover its cost of suit, whether or not the action proceeds to final judgment. If the Party which instituted a suit shall dismiss it as against another Party or Parties without the concurrence of such other Party or Parties, the other Party or Parties shall be deemed the prevailing Party.

14.2 BREACH SHALL NOT DEFEAT MORTGAGE. A breach of any of the terms, conditions, covenants, or restrictions of this Agreement shall not defeat or render invalid the lien of any Mortgage made in good faith and for value upon a Party's Tract, but such terms, conditions, covenants or restrictions shall be binding upon and effective against any Person who acquires title to said Tract or any portion thereof by foreclosure, trustee's sale or otherwise.

14.3 BREACH SHALL NOT PERMIT TERMINATION. It is expressly agreed that no breach of this Agreement shall entitle any Party to cancel, rescind or otherwise terminate this Agreement, but such limitation shall not affect, in any manner, any other right or remedies which the Parties may have hereunder by reason of any breach of this Agreement.

14.4 CAPTIONS. The captions of the Sections and Articles of this Agreement are for convenience only and shall not be considered nor referred to in resolving questions of interpretation and construction.

14.5 CONSENT. In any instance in which any Party to this Agreement shall be requested to consent to or approve of any matter with respect to which the Party's consent or approval is required by any of the provisions of this Agreement, such consent or approval shall be given in writing, and shall not be unreasonably withheld, unless the provisions of this Agreement with respect to a particular consent or approval shall expressly provide that the same may be given or refused in the sole and absolute judgment of such Party.

14.6 ESTOPPEL CERTIFICATE. Each Party and signatory hereto hereby severally covenants that upon written request of any other Party, it will issue to such other Party, or to any Mortgagee, or any other Person specified by such requesting Party, an estoppel certificate stating to the best of its knowledge (a) whether the Party or signatory to whom the request has been directed knows of any default under this Agreement, and if there are known defaults, specifying the nature thereof; (b) whether this Agreement has been assigned, modified or amended in any way (and if it has, then stating the nature thereof); and (c) that this Agreement as of that date is in full force and effect. Any inaccuracy contained in any such estoppel certificate shall not constitute grounds for establishing liability against the Party executing and delivering such estoppel certificate, but such Party shall be estopped from claiming, as against the Person to whom it delivered the estoppel certificate, a set of facts contrary to those which it stated in the estoppel certificate.

14.7 GOVERNING LAW. This Agreement shall be construed in accordance with the laws of the State of California.

14.8 NO PARTNERSHIP. Neither anything in this Agreement contained nor any acts of the Parties hereto shall be deemed or construed by the Parties, or any of them, or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture, or of any association between any of the Parties.

14.9 NOT A PUBLIC DEDICATION. Nothing herein contained shall be deemed to be a gift or dedication of any portion of Yardi Tract to the general public or for the general public or for any public purpose whatsoever, it being the intention of the Parties hereto that this Agreement shall be strictly limited to and for the purposes herein expressed.

14.10 SEVERABILITY. If any term, provision or condition contained in this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement (or the application of such term, provision or condition to persons or circumstances other than those in respect of which it is invalid or unenforceable), except those terms, provisions or conditions which are made subject to or conditioned upon such invalid or unenforceable terms, provisions or conditions, shall not be affected thereby, and each term, provision and condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

14.11 SUCCESSORS. This Agreement shall, except as otherwise provided herein, run with the land, both as respects the benefits and burdens created herein, and shall be binding upon and inure to the benefit of the successors and assigns of the respective Parties.

14.12 TIME OF ESSENCE. Time is of the essence with respect to the performance of each of the covenants and agreements contained in this Agreement.

14.13 WAIVER OF DEFAULT. No waiver of any default by any Party shall be implied from any omission by any other Party to take any action in respect of such default if such default continues or is repeated. No express waiver of any default shall affect any default or cover any period of time other than the default and period of time specified in such express waiver. One or more waivers of any default in the performance of any term, provision or covenant contained in this Agreement shall not be deemed to be a waiver of any subsequent default in the performance of the same term, provision or covenant or any other term, provision or covenant contained in this Agreement. The consent or approval by any Party to or of any act or request by any other Party requiring consent or approval shall not be deemed to waive or render unnecessary the consent to or approval of any subsequent similar acts or requests. The rights and remedies given to any Party by this Agreement shall be deemed to be cumulative and no one of such rights and remedies shall be exclusive of any of the others, or of any other right or remedy at law or in equity which any such Party might otherwise have by virtue of a default under this Agreement, and the exercise of one

such right or remedy by any such Party shall not impair such Party's standing to exercise any other right or remedy.

14.14 COUNTERPARTS. This Agreement may be signed in several counterparts, each of which shall be deemed an original, and all such counterparts shall constitute one and the same instrument. The signature of a Party to any counterpart may be removed and attached to any other counterpart. Any counterpart to which is attached the signatures of all Parties shall constitute an original of this Agreement.

14.15 EXHIBITS. The Exhibits attached to this Agreement shall be deemed to be incorporated herein by the individual reference to each such Exhibit and all such Exhibits shall be deemed to be a part of this Agreement as though set forth in full in the body hereof. In the event of any conflict between the terms and conditions of this Agreement and any such Exhibit, the terms and conditions of this Agreement shall control.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]





## EXHIBIT A

### **Legal Description of the Yardi Tract**

#### **Lot 1 Parcel**

Parcels 4, 5, 6, 13 and 14 of Parcel Map No. 20,504 in the City of Santa Barbara, County of Santa Barbara, State of California, as per map recorded in Book 42, Pages 86 through 98, inclusive of Parcel Maps, in the office of the County Recorder of said County, as amended by Certificate of Correction recorded April 2, 1991 as Instrument No. 91-018958 of Official Records.

EXCEPTING from a portion of said land all oil, gas and mineral substances, provided that the surface opening of any well, hole, shaft or other means of exploring for, reaching or extracting such substances shall not be located within the Central City Redevelopment Project and shall not penetrate any part or portion of said project area within 500 feet of the surface thereof, as reserved in various documents of record.

#### **Inline Retail Parcel**

Parcels 2 and 12 of Parcel Map No. 20,504 in the City of Santa Barbara, County of Santa Barbara, State of California, as per map recorded in Book 42, Pages 86 through 98, inclusive of Parcel Maps, in the office of the County Recorder of said County, as amended by Certificate of Correction recorded April 2, 1991 as Instrument No. 91-018958 of Official Records.

EXCEPTING from a portion of said land all oil, gas and mineral substances, provided that the surface opening of any well, hole, shaft or other means of exploring for, reaching or extracting such substances shall not be located within the Central City Redevelopment Project and shall not penetrate any part or portion of said project area within 500 feet of the surface thereof, as reserved in various documents of record.

#### **Former Macy's Parcel**

Parcels 3, 9, 10 and 11 of Parcel Map No. 20,504 in the City of Santa Barbara, County of Santa Barbara, State of California, as per map recorded in Book 42, Pages 86 through 98, inclusive of Parcel Maps, in the office of the County Recorder of said County, as amended by Certificate of Correction recorded April 2, 1991 as Instrument No. 91-018958 of Official Records.

EXCEPTING from a portion of said land all oil, gas and mineral substances, provided that the surface opening of any well, hole, shaft or other means of exploring for, reaching or extracting such substances shall not be located within the Central City Redevelopment Project and shall not penetrate any part or portion of said project area within 500 feet of the surface thereof, as reserved in various documents of record.

**EXHIBIT B**

**Legal Description of the DSP Tract**

PARCELS 1, 7 AND 8 OF PARCEL MAP NO. 20,504 IN THE CITY OF SANTA BARBARA, COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 42, PAGES 86 THROUGH 98, INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

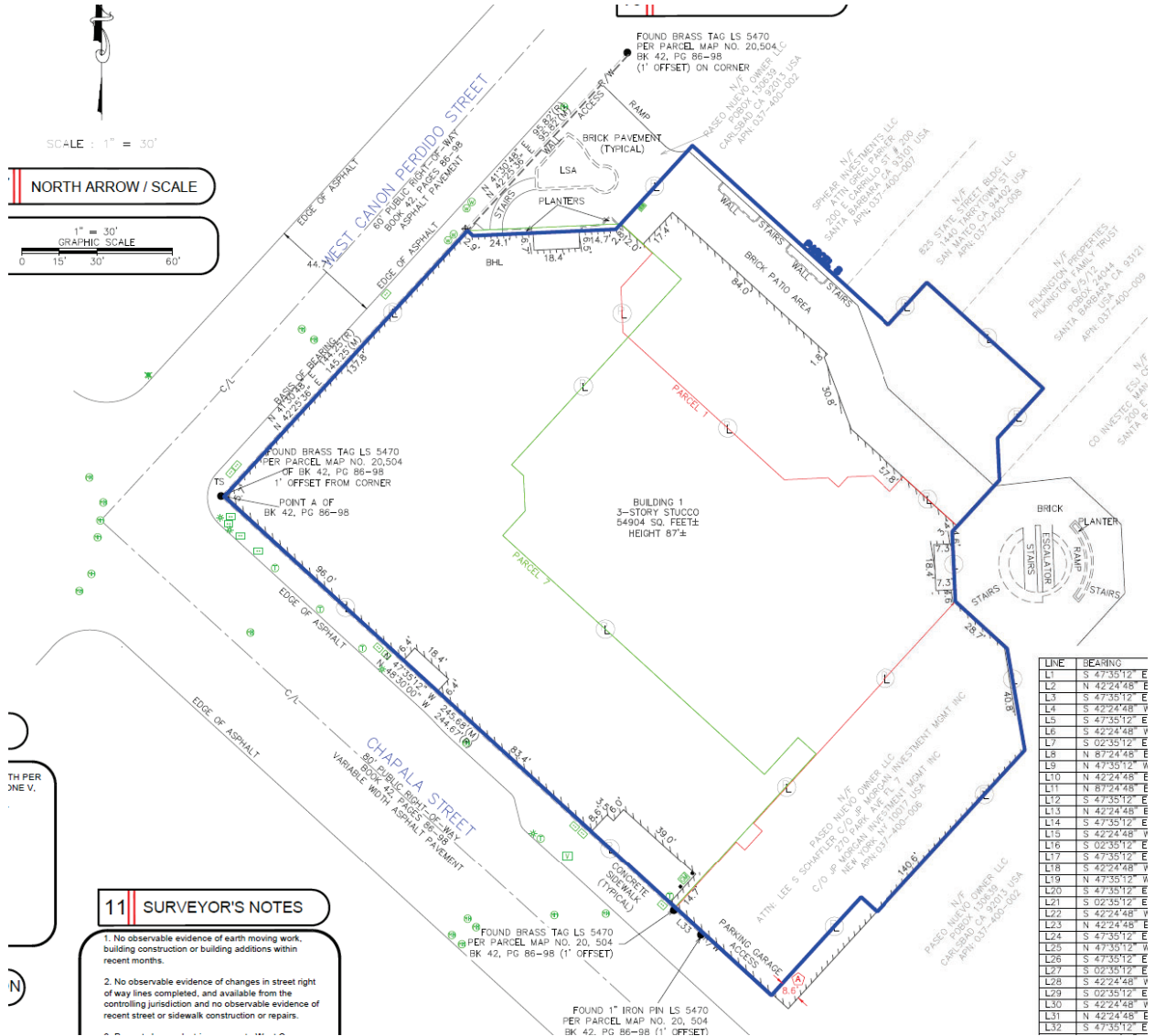
EXCEPTING FROM A PORTION OF SAID LAND ALL OIL, GAS AND MINERAL SUBSTANCES, TOGETHER WITH THE RIGHT TO EXPLORE FOR AND EXTRACT SUCH SUBSTANCES, PROVIDED THAT THE SURFACE OPENING OF ANY WELL, HOLE, SHAFT OR OTHER MEANS OF EXPLORING FOR, REACHING OR EXTRACTING SUCH SUBSTANCES SHALL NOT BE LOCATED WITHIN THE CENTRAL CITY REDEVELOPMENT PROJECT AND SHALL NOT PENETRATE ANY PART OR PORTION OF SAID PROJECT AREA WITHIN 500 FEET OF THE SURFACE THEREOF, AS RESERVED IN VARIOUS DOCUMENTS OF RECORD.

# EXHIBIT "C"<sup>1</sup>

## The Site Plan

The Driveway Ramp is depicted below as “parking garage access” near the southeastern corner of the property.

The Access Easement Area is depicted below as the brick pavement area from West Canon Perdido Street, across the Brick Patio Area, around the brick area adjacent to the escalators into the property entrance across from the escalators (but specifically excluding the escalators).



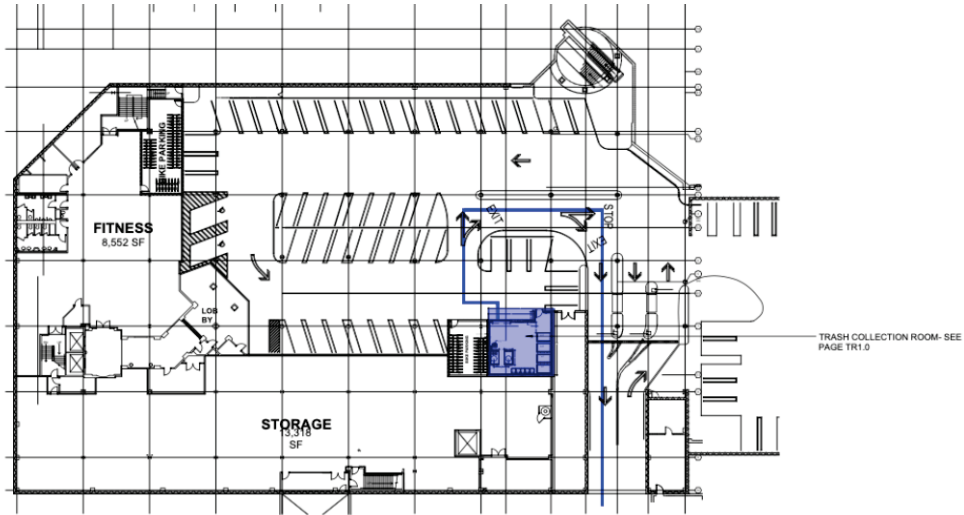
The Refuse Access Area is depicted below as the blue line with arrows, which is a ramp from the street level on Chapala into the Basement, connecting to the Refuse Area.

<sup>1</sup> To be updated prior to recording.

**The Refuse Area is the blue box.**

**The Exclusive Spaces are shown adjacent to the fitness area below.**

**The spaces labeled Fitness and Storage are part of the DSP Tract and not a part of the Basement.**



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**EXHIBIT F**

Affordability Covenant

(Attached)



and operate the Restricted Units once constructed subject to the following covenants, conditions, restrictions and limitations.

A. DEFINITIONS

In addition to the terms defined by parenthetical reference above, the following terms have the meaning stated in this Section A.

1. Affordable Rent: is defined below in Section B.2.
2. Area Median Income (AMI): the annual median income adjusted by household size, of the City of Santa Barbara, or the smallest area including the City for which such figure is available, as determined by the State of California Department of Housing and Community Development (“HCD”) periodic “State Income Limits” publication in accordance with Health and Safety Code section 50093 and section 6932 of title 25 of the California Code of Regulations. These income limits are based on U.S. Department of Housing and Urban Development (“HUD”) data and amended from time to time. If at some time HCD or HUD ceases to publish the Area Median Income figure, or at such time as HUD has not published an updated figure for at least two years, the City may reasonably determine the Area Median Income.
3. City Administrator: the person holding the position of City Administrator of the City and any City officer or employee exercising authority expressly delegated by the City Administrator to implement provisions of this Covenant.
4. Moderate-Income Household: a household in which the total income of the individuals residing in the dwelling unit is between 80 – 120 % of AMI, adjusted by household size. Income will be determined according to the regulations and procedures approved by the City.
5. Target Income Percentage: a number inserted into the calculation for maximum rents, to assure that the rent is affordable to a Moderate-Income Household.
6. Unit Size Adjustment Factor (USAF): a number inserted into the calculation for maximum rents, to adjust for the size of the dwelling unit. The appropriate USAF is 0.70 for a studio unit, 0.80 for a one-bedroom unit, 0.90 for a two-bedroom unit and 1.00 for a three-bedroom unit
8. Effective Date: the date that this Covenant is recorded in the official records of the County of Santa Barbara, California.
9. Duration of Restriction: 90 years from the Effective Date.
10. Utility Allowance: a monthly cost reduction applied to the tenant’s rent calculation to account for out-of-pocket payment of utility expenses (not including telephone, cable television, or internet). The Utility Allowance shall be calculated based on the Utility Allowance Schedule adopted by the City

B. AFFORDABILITY RESTRICTIONS

1. All Restricted Units shall be restricted for rental at Affordable Rent to Moderate-Income Households for the Duration of Restriction.

2. Affordable Rent for units restricted to rental to a “Moderate-Income Household” means a monthly rent, including a Utility Allowance, that does not exceed one-twelfth of 30% of the Area Median Income multiplied by a Target Income Percentage of 100% multiplied by a Unit Size Adjustment Factor. If the tenant in a Restricted Unit pays directly for any such utilities, the maximum rent shall be reduced by the amount of the Utility Allowance. The Affordable Rent for each Restricted Unit will be determined annually by Developer in compliance with this Covenant and approved in writing by the City Administrator.

C. ADDITIONAL RESTRICTIONS

1. The Restricted Units shall be constructed and maintained to substantially the same standards and have access to the same on-site amenities as the unrestricted units in the Project.

2. All loans, deeds of trust, and other security interests entered into by the Developer with respect to the Project shall be subject to and subordinate to this Covenant.

3. This Covenant shall be subordinate only to a similar affordability covenant required by a state or federal agency in connection with provision of state or federal financial assistance, to the extent of any required state or federal preemption under applicable law.

D. DEFAULT UNDER DEED OF TRUST; NOTICE TO CITY

1. In the event of default and foreclosure under any deed of trust, the City shall have the same right as the Developer to cure defaults and redeem the Property prior to foreclosure sale. Nothing herein shall be construed as creating an obligation on the part of the City to cure any such default nor shall this right to cure and redeem operate to extend any time limitations in the default provisions of the underlying deed of trust or mortgage. This paragraph creates an additional remedy for the City and shall not be construed in any way as a limitation on Section C.2. of this Covenant.

2. Developer must notify City of any deed of trust or mortgage recorded against the Property and shall provide the City with the information reasonably needed by the City to record a request for notice of default. The City may record such request for notice of default upon receiving the required information.

E. REPORTING REQUIREMENTS

1. On April 1 of each year or at such other annual date as specified by the City in writing, Developer must submit an annual report that lists for each Restricted Unit the following information:

a. The address, unit number, verification of household members during the previous calendar year; and

b. The household income and rent collected from and owed by the tenants of the Restricted Unit during the previous calendar year; and

c. Either a certification that all provisions of this Covenant have been materially complied with during the previous calendar year, or an explanation of each violation of the terms of this Covenant; and

d. Such other documentation as reasonably requested in writing by the City, necessary or convenient to assure compliance with the requirements of this Covenant.

2. The City agrees not to release personalized tenant information (name, address, rent) to the public, except when required and in accordance with applicable law. The City reserves the right to reasonably request other information related to the Restricted Units at any time.

3. Notwithstanding Section H.7., below, the annual report may be delivered in any manner approved by the City Administrator.

#### F. HOUSING QUALITY STANDARDS AND SITE INSPECTIONS

Developer must maintain the Restricted Units in conformance with State and local housing quality standards and code requirements, as well as the federal Housing Quality Standards specified by HUD in 24 CFR 982.401. Developer agrees to allow the City to inspect the Restricted Units annually for compliance with the provisions for operation and maintenance, upon 10 days written notice from the City. Developer must correct every condition that City determines does not materially comply with the operational and maintenance requirements in this Section (“Deficiency”). City shall provide written notification (“Notice of Deficiency”) to Developer within 10 days of each inspection identifying the Deficiencies and describing the work needed to correct the Deficiency. If Developer fails to correct a Deficiency within 60 days of the date of City’s Notice of Deficiency (or such longer period of time as may be reasonably required so long as Developer commences the cure within such 60-day period and thereafter diligently pursues such cure to completion), the City shall have the right to enter the Project site and correct the Deficiency. Developer must reimburse the City for reasonable, documented expenses incurred in correcting the Deficiency within 30 days of the date that City provides Developer with an invoice for the City costs incurred to correct the Deficiency.

#### G. DEFAULTS AND REMEDIES AND ASSIGNMENT OF RENTS

1. If a default occurs under the terms of this Covenant, City will give written notice of such default under Section H.7. below. If Developer does not correct the default within 30 days after the date Developer receives the notice (or such longer period as set forth below), the City may proceed with any and all remedies available under this Covenant or any other remedies available under rules of law or equity. If the default cannot reasonably be cured within 30 days, Developer will have a reasonable period of time to cure such default, so long as Developer has commenced to cure the default within the original 30 day period and is diligently pursuing such cure to completion.

2. It is understood and agreed between the parties that the obligations of both parties under this Covenant are unique and in furtherance of important public policies encouraging development of housing for Moderate-Income Households, and that in case of a breach or default, it would be extremely difficult or impossible to compensate for the breach or default in money. Consequently, both parties agree that their respective rights and obligations hereunder may be specifically enforced by any court having jurisdiction, in addition to any and all other remedies at law or in equity that may be available to them.

3. Developer acknowledges that occupancy of any Restricted Unit in violation of this Covenant is prohibited. In consideration of the benefits conferred on Developer and the transfer of Property to Developer for development of the Project, Developer hereby assigns to City the right to receive the rents due or collected from any Restricted Unit on the Property occupied in violation of the terms of this Covenant, during the entire period of the violation. The City may enforce this right by any legal means.

4. The remedies stated herein are not exclusive but shall be cumulative to all other remedies and rights the parties may lawfully exercise.

#### H. ADDITIONAL PROVISIONS

1. No Restricted Unit shall be occupied in the absence of a written lease or rental agreement between the Developer and each adult resident of that Restricted Unit.

2. Developer declares that the Property is held and hereafter shall be held, conveyed, hypothecated, encumbered, used, and occupied subject to these covenants, conditions, restrictions and limitations. All of the covenants, conditions, restrictions and limitations of this Covenant are intended to constitute both equitable servitudes and covenants running with the land.

3. Any purchaser of the Property and/or Project, by the acceptance of a deed therefore, whether from Developer or from any subsequent owner of the Property, or by the signing of a contract or agreement to purchase the same, or to make a loan secured by the Property, shall, by the acceptance of such deed or by the signing of such contract or agreement, be deemed to have consented to and accepted the covenants, conditions, restrictions and limitations set forth herein.

4. Developer covenants that it has not and will not execute any other agreement or covenant with provisions contradictory to or in opposition to the provisions hereof.

5. If any one or more of the provisions contained in this Covenant shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Covenant, and this Covenant shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

6. The terms of this Covenant shall be interpreted under the laws of the State of California.

7. All notices required herein shall be sent by certified mail, return receipt requested, or in such other manner as agreed in writing by the City Administrator of the City to the parties at the addresses listed below or such other addresses as the parties hereafter designate in writing:

To Developer: DSP SANTA BARBARA SUB LLC  
18565 Jamboree Road, Suite 200  
Irvine, CA 92612  
Attn: Stephen Logan  
DSP SANTA BARBARA SUB LLC  
640 Fifth Avenue, 17th Floor  
New York, NY 10019

Attn: Ben Morrison

With a copy to: Brownstein Hyatt Farber Schreck, LLP  
1020 State Street  
Santa Barbara, California 93101  
Attn: Beth Collins

To City: The City of Santa Barbara  
Post Office Box 1990  
Santa Barbara, CA 93102  
Attn: City Administrator

With a copy to: City Attorney  
Post Office Box 1990  
Santa Barbara, CA 93102

The City and Developer may each change the identity or address of a person to receive notice by giving notice to the other party in the manner provided by this paragraph.

8. This Covenant will be administered according to the City's Affordable Housing Policies and Procedures. This Covenant constitutes the entire agreement between City and Developer with respect to the restrictions contained herein and supersedes all prior agreements and negotiations, oral and written. This Covenant may not be amended or modified in any respect whatsoever except by an instrument in writing, approved and executed by the City and Developer.

IN WITNESS WHEREOF, the Parties have executed this Covenant as of the date first written above.

[SIGNATURES ON FOLLOWING PAGE]

**CITY OF SANTA BARBARA**

By: \_\_\_\_\_  
Kelly R. McAdoo, City  
Administrator

**APPROVED AS TO FORM**  
John S. Doimas, City Attorney

By: \_\_\_\_\_  
Daniel S. Hentschke  
Assistant City Attorney

**DEVELOPER**

DSP Santa Barbara Sub LLC, a  
Delaware limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

*Note: This Covenant will be recorded; the signatures of the parties (not including approvals as to form and content) must be acknowledged by a notary.*

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

**ACKNOWLEDGMENT**

STATE OF CALIFORNIA )  
 )  
COUNTY OF \_\_\_\_\_ )

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

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and  
correct.

Witness my hand and official seal.

Signature \_\_\_\_\_

[Seal]

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

**ACKNOWLEDGMENT**

STATE OF CALIFORNIA )  
 )  
COUNTY OF \_\_\_\_\_ )

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

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature \_\_\_\_\_

[Seal]

**EXHIBIT "A"**

**Legal Description of Property**

PARCELS 1, 7 AND 8 OF PARCEL MAP NO. 20,504 IN THE CITY OF SANTA BARBARA, COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 42, PAGES 86 THROUGH 98, INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY AS AMENDED BY CERTIFICATE OF CORRECTION RECORDED APRIL 2, 1991, AS INSTRUMENT NO. 91-018958 OF OFFICIAL RECORDS.

EXCEPTING FROM A PORTION OF SAID LAND ALL OIL, GAS AND MINERAL SUBSTANCES, TOGETHER WITH THE RIGHT TO EXPLORE FOR AND EXTRACT SUCH SUBSTANCES, PROVIDED THAT THE SURFACE OPENING OF ANY WELL, HOLE, SHAFT OR OTHER MEANS OF EXPLORING FOR, REACHING OR EXTRACTING SUCH SUBSTANCES SHALL NOT BE LOCATED WITHIN THE CENTRAL CITY REDEVELOPMENT PROJECT AND SHALL NOT PENETRATE ANY PART OR PORTION OF SAID PROJECT AREA WITHIN 500 FEET OF THE SURFACE THEREOF, AS RESERVED IN VARIOUS DOCUMENTS OF RECORD.

**EXHIBIT G**

Residential Use Covenant

(Attached)

**RECORDING REQUESTED BY** )  
**AND WHEN RECORDED, MAIL TO:** )  
)  
)  
City of Santa Barbara )  
City Administrator's Office )  
P.O. Box 1990 )  
Santa Barbara, CA 93102-1990 )  
)

---

Address: 817 State Street No fee per Govt. Code 6103  
Santa Barbara, CA  
APNs: 037-400-001

**RESIDENTIAL USE COVENANT  
IMPOSED ON REAL PROPERTY**

This Residential Use Covenant Imposed on Real Property (the "Covenant") is made for the benefit of the City of Santa Barbara, a municipal corporation (the "City"), by DSP SANTA BARBARA SUB LLC, a Delaware limited liability company ("Developer") this \_\_\_\_\_ day of \_\_\_\_\_, 2026.

This Covenant applies to the interest of Developer and any of Developer's successors in interest to the real property commonly known as 817 State Street, Santa Barbara, California, more fully described in "Exhibit A" attached to this Covenant ("Property").

RECITALS

a. The City and Developer are parties to an agreement dated \_\_\_\_\_ titled Paseo Nuevo Redevelopment Project Disposition and Development Agreement ("DDA"). Pursuant to the DDA, the City has transferred the Property to Developer by Grant Deed recorded concurrently with this Covenant.

b. In consideration for the City's transfer of the Property, Developer has agreed, among other things, to maintain, and operate on the Property a new mixed use commercial and multi-family residential housing development project containing not fewer than 80 residential rental units (the "Project"), and Developer and City desire to restrict use of the multi-family residential housing units for rental to persons that agree to occupy the unit as their domicile as provided herein.

c. Developer's execution and enforcement of this Covenant are material consideration in exchange for the City's transfer of the Property under the DDA. But for Developer's covenants under the DDA, including the execution and enforcement of this Covenant, the City would not have transferred the Property to Developer.

TERMS OF AGREEMENT

In consideration of the transfer of the Property by City, along with other good and valuable consideration, receipt of which is hereby acknowledged, Developer covenants and agrees to maintain and operate the Project subject to the following covenants, conditions, restrictions, and limitations.

A. RESIDENTIAL USE COVENANTS AND RESTRICTIONS

1. Each rental unit in the Project will be rented only to persons who agree as a term of the rental agreement to occupy the rental unit as their domicile (meaning principal or primary place of residence).

2. No rental unit may be occupied in the absence of a written lease or rental agreement with the Developer.

3. Each rental unit in the Project will be rented only to persons who agree as a term of the rental agreement that the rental unit shall not be sublet as a short-term vacation rental, meaning a rental for a period of less than 30 days.

4. Developer is responsible for implementation and enforcement of this Covenant.

5. Developer shall include in each rental agreement a clause implementing this Covenant that has been reasonably approved by the City Administrator and City Attorney. The Developer will use only rental agreements containing the clauses or provisions implementing this Covenant as approved by the City Administrator and City Attorney for the rental of units in the Project.

6. The City may, upon 10 days written notice, request that Developer provide a copy of the current form rental agreement to the City Administrator in order to verify compliance with Covenant. The City Administrator shall at all times maintain the confidentiality of the form rental agreement to the extent authorized by law.

7. All loans, deeds of trust, and other security interests entered into by the Developer with respect to the Project shall be subject to and subordinate to this Covenant.

B. REPORTING REQUIREMENTS

On April 1 of each year or at such other annual date as specified by the City Administrator in writing, Developer must submit a certification that all provisions of this Covenant have been complied with during the previous calendar year.

C. ADDITIONAL PROVISIONS

1. Developer declares that the Property is held and hereafter shall be held, conveyed, hypothecated, encumbered, used, and occupied subject to these covenants, conditions, restrictions and limitations. All of the covenants, conditions, restrictions and limitations of this Covenant are intended to constitute both equitable servitudes and covenants running with the land.

2. Any purchaser of the Property and/or Project, by the acceptance of a deed therefore, whether from Developer or from any subsequent owner of the Property, or by the signing of a contract or agreement to purchase the same, or to make a loan secured by the Property, shall, by the acceptance of such deed or by the signing of such contract or agreement, be deemed to have consented to and accepted the covenants, conditions, restrictions and limitations set forth herein.

3. The Developer covenants that it has not and will not execute any other agreement or covenant with provisions contradictory to or in opposition to the provisions hereof.

4. Developer and City will jointly defend this covenant against any third-party legal challenge. If any one or more of the provisions contained in this Covenant shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions may be modified or amended as necessary to implement the intention of this Covenant to the fullest extent authorized by law. If any term, provision, covenant or condition of this Covenant is held in a final disposition by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall continue in full force and effect unless the rights and obligations of the parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

5. The terms of this Covenant shall be interpreted under the laws of the State of California.

6. All notices required herein shall be sent by certified mail, return receipt requested, or in such other manner as agreed in writing by the City Administrator of the City and Developer to the parties at the addresses listed below or such other addresses as the parties hereafter designate in writing:

To Developer: DSP SANTA BARBARA SUB LLC  
18565 Jamboree Road, Suite 200  
Irvine, CA 92612  
Attn: Stephen Logan

DSP SANTA BARBARA SUB LLC  
640 Fifth Avenue, 17th Floor  
New York, NY 10019  
Attn: Ben Morrison

With a copy to: Brownstein Hyatt Farber Schreck, LLP  
1020 State Street  
Santa Barbara, California 93101  
Attn: Beth Collins

To City: The City of Santa Barbara  
Post Office Box 1990  
Santa Barbara, CA 93102  
Attn: City Administrator

With a copy to: City Attorney  
Post Office Box 1990  
Santa Barbara, CA 93102

The City and Developer may each change the identity or address of a person to receive notice by giving notice to the other party in the manner provided by this paragraph.

7. This Covenant constitutes the entire agreement between City and Developer with respect to the restrictions contained herein and supersedes all prior agreements and negotiations, oral and written. This Covenant may not be amended or modified in any respect whatsoever except by an instrument in writing, approved and executed by the City and Developer or their respective successors and assigns.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have executed this Covenant as of the date first written above.

**CITY OF SANTA BARBARA**

By: \_\_\_\_\_  
Kelly R. McAdoo, City Administrator

**APPROVED AS TO FORM**  
John S. Doimas, City Attorney

By: \_\_\_\_\_  
Daniel S. Hentschke  
Assistant City Attorney

**DEVELOPER**

DSP Santa Barbara Sub LLC, a Delaware limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

*Note: This Covenant will be recorded; the signatures of the parties (not including approvals as to form and content) must be acknowledged by a notary.*

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

**ACKNOWLEDGMENT**

STATE OF CALIFORNIA )  
 )  
COUNTY OF \_\_\_\_\_ )

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

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and  
correct.

Witness my hand and official seal.

Signature \_\_\_\_\_

[Seal]

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

**ACKNOWLEDGMENT**

STATE OF CALIFORNIA )  
 )  
COUNTY OF \_\_\_\_\_ )

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

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature \_\_\_\_\_

[Seal]

**EXHIBIT "A"**

**Exhibit A - Legal Description of Property**

PARCELS 1, 7 AND 8 OF PARCEL MAP NO. 20,504 IN THE CITY OF SANTA BARBARA, COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 42, PAGES 86 THROUGH 98, INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY AS AMENDED BY CERTIFICATE OF CORRECTION RECORDED APRIL 2, 1991, AS INSTRUMENT NO. 91-018958 OF OFFICIAL RECORDS.

EXCEPTING FROM A PORTION OF SAID LAND ALL OIL, GAS AND MINERAL SUBSTANCES, TOGETHER WITH THE RIGHT TO EXPLORE FOR AND EXTRACT SUCH SUBSTANCES, PROVIDED THAT THE SURFACE OPENING OF ANY WELL, HOLE, SHAFT OR OTHER MEANS OF EXPLORING FOR, REACHING OR EXTRACTING SUCH SUBSTANCES SHALL NOT BE LOCATED WITHIN THE CENTRAL CITY REDEVELOPMENT PROJECT AND SHALL NOT PENETRATE ANY PART OR PORTION OF SAID PROJECT AREA WITHIN 500 FEET OF THE SURFACE THEREOF, AS RESERVED IN VARIOUS DOCUMENTS OF RECORD.

**EXHIBIT H**

Parking Agreements Termination

(Attached)

Recording Requested by  
and when Recorded Mail to:

City Administrator  
City of Santa Barbara  
Post Office Box 1990  
Santa Barbara, California 93102-1990

APNs 037-400-01, -02, -03, -04, -05, -06, -019,  
039-321-047, -048, -051, -054, -055, -056, 037-132-036,  
and 037-132-038

NO FEE PER GOV'T CODE 6103

**TERMINATION AGREEMENT  
PASEO NUEVO PARKING COVENANTS, CONDITIONS, AND RESTRICTIONS  
CITY LOTS #1, #2, AND #10**

For valuable consideration, receipt of which is hereby acknowledged, the City of Santa Barbara, California (“City”), a municipal corporation, Paseo Propco LLC (“Propco”), a Delaware limited liability company, and DSP Santa Barbara Sub, LLC (“DSP”), a Delaware limited liability company agree as follows:

1. This Termination Agreement affects the following documents (collectively “Paseo Nuevo Parking Agreements”):

A. The Paseo Nuevo Lot 1 Public Parking Covenants, Conditions and Restrictions Agreement by and among the City (as successor-in-interest to the Redevelopment Agency of the City of Santa Barbara), Propco (as successor-in-interest to Santa Barbara Associates and Carter Hawley Hale Stores, Inc.) and DSP (as successor-in-interest to Nordstrom, Inc.), dated as of February 24, 1989 and recorded as Instrument No. 89-012338 in the Official Records of the County of Santa Barbara.

B. The Paseo Nuevo Lot 2 Public Parking Covenants, Conditions and Restrictions Agreement by and among the City (as successor-in-interest to the Redevelopment Agency of the City of Santa Barbara), Propco (as successor-in-interest to Santa Barbara Associates and Carter Hawley Hale Stores, Inc.) and DSP (as successor-in-interest to Nordstrom, Inc.), dated as of February 24, 1989 and recorded as Instrument No. 89-012339 in the Official Records of the County of Santa Barbara.

C. The Paseo Nuevo Lot 10 Public Parking Covenants, Conditions and Restrictions Agreement by and among the City (as successor-in-interest to the Redevelopment Agency of the City of Santa Barbara), Propco (as successor-in-interest to Santa Barbara Associates and Carter Hawley Hale Stores, Inc.) and DSP (as successor-in-interest to Nordstrom, Inc.), dated as of February 24, 1989 and recorded as Instrument No. 89-012340 in the Official Records of the County of Santa Barbara.

D. The Amendment to Parking Covenants and Parking Agreement by and among the City (as successor-in-interest to the Redevelopment Agency of the City of Santa Barbara),

Propco (as successor-in-interest to Santa Barbara Associates and Carter Hawley Hale Stores, Inc.) and DSP (as successor-in-interest to Nordstrom, Inc. a Washington corporation), dated as of February 24, 1989 and recorded as Instrument No. 89-012341 in the Official Records of the County of Santa Barbara.

E. Paseo Nuevo Parking Agreement, among the City (itself and as successor-in-interest to the Redevelopment Agency of the City of Santa Barbara), Propco (as successor-in-interest to Santa Barbara Associates and Carter Hawley Hale Stores, Inc.), and DSP (as successor-in-interest to Nordstrom, Inc. a Washington corporation), dated November 1, 1987, as amended by Amendment to Parking Covenants and Parking Agreement, dated February 24, 1989.

2. The undersigned, on behalf of their respective successors and assigns, hereby agree that the Paseo Nuevo Parking Agreements are terminated and have no further force or effect.

3. This agreement constitutes the entire agreement among the City, Propco, and DSP with respect to the subject matter hereof and supersedes all prior agreements and negotiations, oral and written.

4. City, Propco, and DSP, respectively for themselves, warrant as follows:

A. It is validly existing and in good standing under the laws of the state in which it was organized, with full power and authority to conduct its business as presently conducted and to execute, deliver and perform its obligations under this agreement and is authorized to do business in the State of California.

B. It has taken all necessary action to authorize its execution and delivery of this agreement and that this agreement constitutes a legal, valid and binding obligation enforceable against it.

C. The person executing this agreement on its behalf has been fully and lawfully authorized to do so.

5. This agreement will be effective as of the date it has been signed by all of the parties and recorded in the Official Records of the County of Santa Barbara.

6. This agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

**[SIGNATURE PAGES FOLLOW]**

IN WITNESS WHEREOF, the City has executed this Termination Agreement as of the date hereof.

CITY:

By: \_\_\_\_\_  
Kelly R. McAdoo  
City Administrator

Date: \_\_\_\_\_

APPROVED AS TO FORM:  
John S. Doimas, City Attorney

By: \_\_\_\_\_  
Daniel S Hentschke  
Assistant City Attorney

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

**ACKNOWLEDGMENT**

STATE OF CALIFORNIA )  
 )  
COUNTY OF \_\_\_\_\_ )

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

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and  
correct.

Witness my hand and official seal.

Signature \_\_\_\_\_

[Seal]

IN WITNESS WHEREOF, PropCo has executed this Termination Agreement as of the date hereof.

PROPCO:

Paseo Propco LLC,  
a Delaware limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

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

**ACKNOWLEDGMENT**

STATE OF CALIFORNIA )  
 )  
COUNTY OF \_\_\_\_\_ )

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

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and  
correct.

Witness my hand and official seal.

Signature \_\_\_\_\_

[Seal]



IN WITNESS WHEREOF, DSP has executed this Termination Agreement as of the date hereof.

DSP:

DSP Santa Barbara Sub, LLC,  
a Delaware limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

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

**ACKNOWLEDGMENT**

STATE OF CALIFORNIA )  
 )  
COUNTY OF \_\_\_\_\_ )

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

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and  
correct.

Witness my hand and official seal.

Signature \_\_\_\_\_

[Seal]

**EXHIBIT I**

Lot 2 Parking Agreement

(Attached)

Recording Requested by  
and when Recorded Mail to:

City Administrator  
City of Santa Barbara  
Post Office Box 1990  
Santa Barbara, California 93102-1990

APNs 039-321-047 and 037-400-001  
City Parking Lot #2

NO FEE PER GOV'T CODE 6103

## LOT 2 PARKING AGREEMENT

This Lot 2 Parking Agreement (“Agreement”) is entered into as of \_\_\_\_\_, 2026, between **the City of Santa Barbara**, a municipal corporation (“City”), and DSP Santa Barbara Sub LLC, a Delaware limited liability company (“DSP”).

1. This Agreement applies to DSP’s use of parking spaces within the municipal parking structure commonly referred to as City Lot # 2, which is described in Exhibit A.
2. The City and DSP are parties to an agreement dated \_\_\_\_\_ titled Paseo Nuevo Redevelopment Project Disposition and Development Agreement (“DDA”). Pursuant to the DDA, the City has transferred real property commonly referred to as the former Nordstrom’s site located at 817 State Street, Santa Barbara, California 93101, which is described in Exhibit B (“Development Property”), to DSP.
3. In consideration for the City’s transfer of the Development Property and the other terms detailed in the DDA, DSP has agreed, among other things, to maintain, and operate on the Development Property a new mixed use commercial and multi-family residential housing development project containing not fewer than 80 residential rental units subject to final development approvals under Title 30 of the Santa Barbara Municipal Code the (“Project”).
4. Pursuant to the DDA, City and DSP have agreed to terminate the Paseo Nuevo Lot 1 Parking Covenants, Conditions, and Restrictions Agreement, the Paseo Nuevo Lot 2 Public Parking Covenants, Conditions, and Restrictions Agreement, and Paseo Nuevo Lot 10 Public Parking Covenants, Conditions, and Restrictions Agreement, recorded respectively as documents 89-012338, 89-012339, and 89-012340 in the official records of the Santa Barbara County Clerk-Recorder. Further, under the DDA, City has agreed to covenant with DSP to provide up to 80 parking permits within City Lot #2 to accommodate overnight parking for use by residents of the Project as provided in this Agreement.
5. The City will make available up to 80 parking permits for persons authorized by DSP. DSP will provide City with the name, address, and vehicle license plate number for each person that DSP has authorized to obtain a parking permit. Permits will be issued according to license plate number. Permit recipients will be required to execute a City standard permit agreement prior to permit issuance. Permits will be valid until cancelled by the permittee or revoked by the City for non-payment of monthly fees or violation of applicable rules and regulations. Permits will also be cancelled upon notification by DSP to the City that the permit holder is no longer authorized by DSP to receive a permit. Cancellation or revocation of a permit will not reduce the

number of permits made available to DSP under this Agreement. Permits may be transferred upon notification to the City and execution by the new permit holder of a City standard permit agreement.

6. Holders of permits issued under this Agreement will be allowed access to Lot #2 twenty-four hours per day, seven days per week according to rules and regulations established by the City for permits issued under the City's 24/7 parking permit program.

7. Users of parking permits must abide by the requirements of Santa Barbara Municipal Code §§ 10.44.152 and 10.44.153, or a successor City law or regulation governing parking within City owned parking structures, so long as the regulations do not conflict with the terms of this Agreement.

8. DSP will pay the City a monthly fee for each active 24/7 parking permit issued under this Agreement according to the City fee schedule for standard commuter parking permits, notwithstanding that permits are for 24/7 parking. The City fee schedule for parking permits is subject to change from time-to-time by City Council resolution.

9. This Agreement will have a perpetual duration subject to termination by the City as follows:

A. If the Development Property ceases to be used for the Project.

B. The City determines, at its discretion, to terminate use of City Lot #2 as a public parking lot. The City agrees it will not terminate the use of City Lot #2 for parking for 10 years from the effective date of this Agreement. City agrees that if the City terminates the use of City Lot #2 for parking, then, at DSP's election, the parties will enter into a new agreement before termination of this Agreement whereby the City shall provide replacement permits in the City Lot that is closest to the Development Property.

10. DSP will immediately defend and indemnify and hold harmless, the City, and its officers, employees, contractors, and agents from and against any and all third-party injuries, losses, liens, claims, judgments, liabilities, costs, expenses or damages (including reasonable attorney's fees and court costs) that arise from (a) DSP's gross negligence or willful misconduct, or (b) breach of this Agreement beyond any applicable cure period.

11. Each individual signing this Agreement on behalf of City and DSP represents and warrants that it is authorized to execute this Agreement and that City and DSP are authorized to perform their respective obligations hereunder.

12. This Agreement is made and entered into for the sole benefit of DSP. There are no intended or unintended third-party beneficiaries to this Agreement, and other person other than DSP shall have any right of action based upon any provision of this Agreement.

13. All notices required herein shall be sent by certified mail, return receipt requested, deemed received three days after deposit in the mail, or in such other manner as agreed in writing by the City Administrator to the parties at the addresses listed below or such other addresses as the parties hereafter designate in writing:

To DSP:

DSP SANTA BARBARA SUB LLC  
18565 Jamboree Road, Suite 200  
Irvine, CA 92612  
Attn: Stephen Logan

DSP SANTA BARBARA SUB LLC  
640 Fifth Avenue, 17th Floor  
New York, NY 10019  
Attn: Ben Morrison

With a copy to: Brownstein Hyatt Farber Schreck, LLP  
1020 State Street  
Santa Barbara, California 93101  
Attn: Beth Collins

To City: The City of Santa Barbara  
Post Office Box 1990  
Santa Barbara, CA 93102  
Attn: City Administrator

With a copy to: City Attorney  
Post Office Box 1990  
Santa Barbara, CA 93102

The City and DSP may each change the identity or address of a person to receive notice by giving notice to the other party in the manner provided by this paragraph.

14. This Agreement shall be interpreted in accordance with and governed by the laws of the State of California. The language in all parts of this Agreement shall be, in all cases, construed according to its fair meaning and not strictly for or against the City or DSP.

15. Nothing in this Agreement shall be construed to convey or create a vested property interest or right.

16. This Agreement constitutes the entire agreement between City and DSP with respect to the subject matter hereof and supersedes all prior agreements and negotiations, oral and written. This Agreement may not be amended or modified in any respect whatsoever except by an instrument in writing approved by the City Council.

17. As used in this Agreement, City Administrator includes any person employed by the City to manage the operation of City parking lots or any City employee designated by the City Administrator to administer this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed in triplicate, the day and year first above written.

CITY

DSP

By: \_\_\_\_\_  
Kelly R. McAdoo  
City Administrator

DSP Santa Barbara Sub LLC, a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

APPROVED AS TO FORM:  
John S. Doimas, City Attorney

By: \_\_\_\_\_  
Daniel S. Hentschke  
Assistant City Attorney

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

**ACKNOWLEDGMENT**

STATE OF CALIFORNIA )  
 )  
COUNTY OF \_\_\_\_\_ )

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

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and  
correct.

Witness my hand and official seal.

Signature \_\_\_\_\_

[Seal]

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

**ACKNOWLEDGMENT**

STATE OF CALIFORNIA )  
 )  
COUNTY OF \_\_\_\_\_ )

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

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and  
correct.

Witness my hand and official seal.

Signature \_\_\_\_\_

[Seal]

EXHIBIT A

Lot #2 Legal Description

(Attached)

## EXHIBIT A

## LEGAL DESCRIPTION

Those portions of City Block 158 in the said City of Santa Barbara, according to the Official Map thereof described as Parking District No. 1, Lot No. 2, Block 158 as per City Engineer's Plan No. C-1-2973 on file in the office of the City Engineer of said City of Santa Barbara and more particularly described as follows:

That portion of Block 158 in the City of Santa Barbara, County of Santa Barbara, State of California, according to the Official Map thereof, described as follows:

## PARCEL ONE:

Beginning at a point on the Northwesterly line of Canon Perdido Street, distant thereon 164 feet Northeast, y from the most Southerly corner of said block; thence Northwesterly at right angles to said street line 154.83 feet; thence North 41°30' East 61 feet; thence North 48°30' West 3 feet; thence North 41°30' East 24.47 feet; thence South 48°30' East 21.83 feet; thence South 37°09'30" West 2.88 feet; thence South 41°30' East 49.08 feet; thence South 41°30' West 16 feet to the Northeasterly wall of a building known as California Theatre; thence South 48°30' East 86.7 feet to the Northwesterly line of Canon Perdido Street; thence along said street line Southwesterly 66.6 feet to the point of beginning.

## PARCEL TWO:

That portion of Block 158 in the City of Santa Barbara, County of Santa Barbara, State of California, according to the Official Map thereof, described as follows:

Beginning at a point in the Northeasterly line of Chapala Street as the same existed 60 feet wide, prior to January 1, 1925, distant thereon Southeasterly 136 feet 3-1/2 inches from the most Westerly corner of said block, said point of beginning being the most Southerly corner of the tract of land described in Deed to Hannah A. Hollister, executrix, dated November 13, 1903 and recorded in Book 93 at Page 213 of Deeds, records of said County, being also the intersection of said Northeasterly line of Chapala Street with the Southeasterly line of a 20 foot private alleyway extending into said Block 158; thence Southeasterly along said Northeasterly line of Chapala Street 73.71 feet; thence at right angles Northeasterly 185 feet; thence Northerly 56.80 feet, more or less, to a point distant 170 feet Southeasterly from the Southeasterly line of Carrillo Street, measured at right angles thereto and distant 225 feet Northeasterly from said Northeasterly line of Carrillo Street, hereinbefore referred to, measured at right angles thereto; thence

Northwesterly, parallel with said line of Chapala Street 33.71 feet to said Southeasterly line of the 20 foot private alleyway hereinbefore referred to; thence at right angles Southwesterly along said last mentioned line 225 feet to the point of beginning.

**PARCEL THREE:**

That portion of Block 158, in the City of Santa Barbara, County of Santa Barbara, State of California, according to the Official Map thereof, described as follows:

Beginning at the intersection of the Northwesterly line of Canon Perdido Street with the Southwesterly line of the alleyway extending into said Block 158 from Canon Perdido Street and described in Deed to Edward A. Johnson, recorded January 27, 1921 in Book 187 at Page 274 of Deeds records of said County, said point of intersection being distant Southwesterly along said Northwesterly line of Canon Perdido Street 133.86 feet from the East corner of said Block 158; thence Northwesterly, at right angles to said line of Canon Perdido Street and along the Southwesterly line of said alleyway and its Northwesterly prolongation, 157.8 feet to intersect the Northwesterly line of the Tract described as Parcel Three in Deed to Bothin Helping Fund, a corporation, recorded June 9, 1920 in Book 186 at Page 15 of Deeds, records of said County; thence Southwesterly along said last mentioned line 65 feet, more or less, to the most Northerly corner of the tract of land described in Deed to Edward A. Johnson, above referred to; thence along the Northeasterly boundary line of said last mentioned tract of land, the following courses and distances: South  $48^{\circ}30'$  East 21.83 feet; South  $37^{\circ}09'30''$  West 2.88 feet; South  $48^{\circ}30'$  East 49.08 feet; South  $41^{\circ}30''$  West 16 feet; and South  $48^{\circ}30'$  East 86.7 feet to the Northwesterly line of Canon Perdido Street; thence Northeasterly along said street line 85.34 feet to the point of beginning.

**PARCEL FOUR:**

That portion of Block 158 in the City of Santa Barbara, County of Santa Barbara, State of California, according to the Official Map thereof, described as follows:

Beginning at the point of intersection of the Northeasterly line of Chapala Street, as the said street now exists, 80 feet wide, with the Northwesterly line of the tract of land described in Deed to G. B. Parma, recorded June 16, 1887 in Book 14 at Page 389 of Deeds, records of said County; thence Northeasterly along said Northwesterly line of said Parma tract of land, 155 feet to the most Northerly corner of said tract and the true point of beginning of the tract of land herein described; thence Northeasterly along the Northeasterly prolongation of the Northwesterly line of said Parma tract of land 60 feet; thence at right

angles Southeasterly 3 feet, more or less, to the Northwesterly line of the tract of land described in Deed to W. H. Aiken, recorded March 31, 1902 in Book 81 at Page 346 of Deeds, records of said County; thence at right angles Southwesterly 60 feet to the Northeasterly line of the tract of land described in Deed to G. B. Parma, above referred to; thence Northwesterly along said last mentioned line to the point of beginning.

EXCEPT that portion lying Northeasterly of "line of fence" along the Southeasterly line of the "land of Stage Company" as recited in Deed from Mortimer Cook to Archibald Rice, et al., recorded February 27, 1873 in Book "K" at Page 189 of Deeds, records of said County.

PARCEL FIVE:

That portion of Block 158 in the City of Santa Barbara, County of Santa Barbara, State of California, according to the Official Map thereof, described as follows:

Beginning at a point on the Northeasterly line of Chapala Street as the same existed, 60 feet wide, prior to January 1, 1925, distant thereon Northwesterly 108.83 feet from the South corner of said Block 158; thence Northwesterly along said Northeasterly line of Chapala Street 50 feet to the Northwesterly line of the tract of land described in Deed to G. B. Parma, recorded June 16, 1887 in Book 14, Page 389 of Deeds, records of said County; thence at right angles Northeasterly along said last mentioned line 165 feet; thence at right angles Southeasterly 50 feet to a point distant Northwesterly 108.83 feet from the Northwesterly line of Canon Perdido Street, measured at right angles thereto; thence Southwesterly 165 feet to the point of beginning.

PARCEL SIX:

That portion of Block 158 in the City of Santa Barbara, County of Santa Barbara, State of California, according to the Official Map thereof, described as follows:

Beginning at a point in the Northeasterly line of Chapala Street, as the same existed 60 feet wide, prior to January 1, 1925, distant thereon 210 feet Southeasterly from the most Westerly corner of said Block 158; thence Southeasterly along said Northeasterly line of Chapala Street 10 feet; thence at right angles Northeasterly into said Block 225 feet; thence at right angles Northwesterly 50 feet to the most Northerly corner of the tract of land described in Deed to The Tucker Shops, Inc., a corporation, recorded in Book 94, Page 263 of Official Records, records of said County; thence Southerly along the Easterly line of the land so described in said last mentioned Deed 56.80 feet to the most Easterly corner of the first parcel of land described in Deed to The

Tucker Shops, Inc., a corporation recorded in Book 95, Page 302 of Official Records, records of said County; thence Southwesterly along the Southeasterly line of said last mentioned tract of land 185 feet to the point of beginning.

Said land is shown together with other lands on a map of survey filed in Book 28, Page 188 of Record of Surveys, in the office of the County Recorder of said County.

**PARCEL SEVEN:**

That portion of Block 158 in the City of Santa Barbara, County of Santa Barbara, State of California, according to the Official Map thereof, described as follows:

Beginning at a point in the Northeasterly line of Chapala Street, as the same now exists, 80 feet wide, distant thereon Northwesterly 196.38 feet from the Northwest line of Canon Perdido Street; thence Northwesterly along said Northeasterly line of Chapala Street 34 feet; thence at right angles Northeasterly 215 feet; thence at right angles Southeasterly 34 feet; thence at right angles Southwesterly 215 feet to the point of beginning.

**PARCEL EIGHT:**

That portion of Block 158 in the City of Santa Barbara, County of Santa Barbara, State of California, according to the Official Map thereof, described as follows:

Beginning at a point on the Northeasterly line of Chapala Street, as the same now exists, 80 feet wide, distant thereon Northwesterly 158.66 feet from the Northwesterly line of Canon Perdido Street, said point of beginning being a point in the Northwesterly line of the tract of land described in Deed to G. B. Parma, recorded June 16, 1887, in Book 14 at Page 389 of Deeds, records of said County; thence Northwesterly along said Northeasterly line of Chapala Street 37.92 feet to the most Westerly corner of the tract of land firstly described in Deed to Martin DePlazzi, recorded April 16, 1936 as Instrument No. 2804 in Book 335 at Page 36 of Official Records, records of said County; thence at right angles Northeasterly 215 feet; thence at right angles Southeasterly 37.92 feet; thence at right angles Southwesterly to and along said Northwesterly line of said Parma tract of land hereinbefore referred to, 215 feet to the point of beginning.

**PARCEL NINE:**

That portion of Block 158 in the City of Santa Barbara, County of Santa Barbara, State of California, described as follows:

Beginning at a point on the Southwesterly line of State Street, distant thereon South 48°30' East, 166.83 feet, from the most Northerly corner of said block; thence, South 41°30' West at right angles to said street line and parallel with Carrillo Street 163.49 feet to the true point of beginning; thence continuing along said last line South 41°30' West 61.51 feet to a point; thence North 48°30' West at right angles to Carrillo Street and parallel with State Street 30.62 feet to a point; thence North 41°30' East, parallel with Carrillo Street 61.52 feet to a point; thence South 48°30' East parallel with State Street 30.62 feet to the point of beginning.

PARCEL TEN:

That portion of Block 158 in the said City of Santa Barbara, County of Santa Barbara, State of California, according to the official map thereof described as follows:

Beginning at a point on the Southwesterly line of State Street, distant thereon South 48°31'06" East, 166.83 feet, from the most Northerly corner of said block; thence South 41°28'14" West 163.49 feet to the true point of beginning; thence South 41°28'14" West, 61.51 feet, thence South 48°31'06" East, 19.38 feet; thence North 41°28'14" East, 61.51 feet, thence North 48°31'06" West, 19.38 feet to the true point of beginning.

PARCEL TEN (A):

An easement for ingress and egress, vehicular and pedestrian traffic over that portion of said land as described in the deed to John Turnbull, individually, and John Phillip Turnbull and Mary Joan Schacht, as Trustees under Will of Gloria A. Turnbull, deceased, recorded April 29, 1965 as Instrument No. 15143 in Book 2102, Page 1488 of Official Records.

PARCEL TEN (B):

A right of way connecting with said premises from Chapala Street in said City over land situated in Block No. 158 aforesaid, as described in a deed to Fanny V. De G. Stevenson recorded February 6, 1911 in Book 131, Page 28 of Deeds, bounded and described as follows:

Beginning on the Northeast line of said Chapala Street at the South corner of a lot conveyed to Hannah A. Garland by E. S. Cordero and Manuela O. Cordero, his wife, by deed dated July 25, 1901, and recorded in the office of the Recorder of the aforesaid County in Book 74, Page 170 of Deeds and running thence first, Northeasterly along the Southeasterly line of said lot so conveyed to Hannah A. Garland, 190 feet; thence second, Northerly 49 feet 6 inches, more or less, to a

point on the Northeasterly side of said lot so conveyed to Hannah A. Garland, distant 35 feet Northwesterly from the East corner of said lot; thence third, along the Northeasterly side of said lot in a Northwesterly direction to the North corner of said lot; thence fourth, Southerly parallel to the second course in the description of this right of way, 56 feet 6 inches; thence fifth, parallel to the first course in the description of this right of way and distant 10 feet Northwesterly therefrom Southwesterly 185 feet to Chapala Street; thence sixth, Southeasterly along Chapala Street 10 feet to the place of beginning.

**PARCEL ELEVEN:**

Beginning at a point on the Southwesterly line of State Street, distant thereon 268.45 feet Southeasterly from the most Northerly corner of said block; said point being also the most Easterly corner of the tract of land now or formerly of A. Garland; thence Southeasterly along said street line 25.03 feet to the most Northerly corner of said block, said point being also the most Easterly corner of the tract of land now or formerly of A. Garland; thence Southeasterly along said street line 25.03 feet to the most Northerly corner of the tract of land described in the deed to Bothin Real Estate Company, dated February 20, 1914 and recorded in Book 142, Page 536 of Deeds, in the office of the County Recorder of said County, thence at right angles Southwesterly, along the Northwesterly line of said Bothin Real Estate Company Tract 159.97 feet to the true point of beginning; thence North  $64^{\circ}02'32''$  West, 17.03 feet, thence South  $41^{\circ}30'03''$  West 1.60 feet, thence North  $48^{\circ}30'00''$  West 8.63 feet to a point in the Southeasterly line of said above mentioned A. Garland Tract, said point being Southwesterly 166.12 feet from the most Easterly corner of said A. Garland Tract; thence Southwesterly along the Southeasterly line of said A. Garland Tract 58.88 feet; thence at right angles Southeasterly 25.03 feet to the Northwesterly line of said Bothin Real Estate Company Tract; thence Northeasterly along said last mentioned line 65.03 to the true point of beginning.

**PARCEL TWELVE:**

That portion of Block 158 in the City of Santa Barbara, County of Santa Barbara, State of California, described as follows:

Beginning at a point on the Southwesterly line of State Street, distant thereon South  $48^{\circ}31'06''$  East, 186.21 feet from the most Northerly corner of said block; thence, South  $41^{\circ}28'14''$  West, 163.49 feet to the true point of beginning, thence, South  $41^{\circ}28'14''$  West 61.51 feet, thence South  $48^{\circ}31'06''$  East, 56.00 feet, thence North  $41^{\circ}28'14''$  East, 61.49 feet, thence North  $48^{\circ}30'00''$  West, 56.00 feet to the point of beginning.

— PARCEL TWELVE (A): - (Construction Easement for One Year)

Exhibit A - Lot

A temporary construction easement for one year commencing with construction on January 15, 1988, whichever is later, to be used for construction purposes in, on and over the following described property:

Beginning at the most Northerly corner of the previously described parcel, said point being distant thereon South 41°28'14" West, 163.49 feet from the Southwesterly boundary of State Street, thence South 48°30'00" East, 56.00 feet, thence North 41°28'14" East, 9.00 feet more or less, to the wall of the existing building, thence North 48°30'00" West, along the face of the building, 20.00 feet to the existing landing, thence South 41°28'14" West 9.00 feet more or less, to the end of the landing, thence Northwesterly, along the face of the landing 36.00 feet more or less, to the Northwesterly boundary of the previously described Parcel Twelve, thence South 41°28'14" West to the point of beginning. Said parcel containing 200 square feet, more or less.

EXCEPTING therefrom all oil, gas and mineral substances, together with the right to explore for and extract such substances, provided that the surface opening of any well, hole, shaft, or other means of exploring for, reaching or extracting such substances shall not be located within the Central City Redevelopment Project Area and shall not penetrate any part or portion of said project area within 500 feet of the surface thereof.

PARCEL THIRTEEN:

That portion of Block 158 in the City of Santa Barbara, County of Santa Barbara, State of California, as shown on the official map thereof, described as follows:

Beginning at a point on the Southwesterly line of State Street, distant thereon South 48°31'06" East, 242.21 feet from the most Northerly corner of said block; thence South 41°28'14" West, 169.52 feet to the true point of beginning; thence South 41°28'14" West, 55.48 feet, thence South 48°31'06" East, 26.24 feet, thence North 41°28'14" East, 55.49 feet, thence North 48°30'00" West, 26.24 feet to the true point of beginning. Said parcel contains an area of 1613.34 square feet.

EXCEPTING therefrom all oil, gas and mineral substances, together with the right to explore for and extract such substances, provided that the surface opening of any well, hole, shaft or other means of exploring for, reaching or extracting such substances shall not be located within the Central City Redevelopment Project Area and shall not penetrate any part or portion of said project area within 500 feet of the surface thereof.

EXHIBIT B

Development Property Legal Description

(Attached)

## Exhibit B – Development Property

Parcels 1, 7, and 8 of Parcel Map No. 20,504 in the City of Santa Barbara, County of Santa Barbara, State of California, as per map recorded in Book 42, Pages 86 through 98, inclusive of Parcel Maps, in the office of the County Recorder of said County, as amended by Certificate of Correction recorded April 2, 1991, as Instrument No. 91-018958 of Official Records.

EXCEPTING from a portion of said land all oil, gas, and mineral substances, provided that the surface opening of any well, hole, shaft or other means of exploring for, reaching or extracting such substances shall not be located within the Central City Redevelopment Project and shall not penetrate any part or portion of said project area within 500 feet of the surface thereof, as reserved in various documents of record.