Attachment 2

Planning Commission

Resolution No. 1793

RESOLUTION NO. 1793

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS RECOMMENDING THAT THE CITY COUNCIL ADOPT AMENDMENTS TO THE 9900 WILSHIRE SPECIFIC PLAN (ALSO KNOWN AS THE ONE BEVERLY HILLS PROJECT) AND A DEVELOPMENT AGREEMENT BETWEEN THE CITY AND WANDA BEVERLY HILLS PROPERTIES, LLC TO ALLOW LUXURY RESIDENTIAL CONDOMINIUMS, A LUXURY BOUTIQUE HOTEL, PUBLIC GARDENS, AND ANCILLARY COMMERCIAL USES, AT 9900 WILSHIRE BOULEVARD, AND MAKING A RECOMMENDATION UNDER CEQA

The Planning Commission of the City of Beverly Hills hereby resolves as follows:

Section 1. The City of Beverly Hills has adopted a General Plan for the City, and is considering amendments to the previously adopted 9900 Wilshire Specific Plan for the systematic implementation of the General Plan for the property located at 9900 Wilshire Boulevard (as described in the legal description attached hereto as Exhibit A and incorporated herein by reference). The Specific Plan amendments would reduce the number of luxury condominiums from 235 to 193 and incorporate a luxury boutique hotel with up to 134 rooms into the same general building envelope, along with other modifications more fully described in the Amended Specific Plan attached as Exhibit B and incorporated herein by reference.

Section 2. Wanda Beverly Hills Properties, LLC ("Developer"), the property owner, proposes to amend and restate a prior development agreement for the 9900 Wilshire Boulevard site for construction pursuant to the 9900 Wilshire Specific Plan in light of the proposed Specific Plan Amendments, including the incorporation of the luxury boutique hotel component. A draft version of the amended and restated development agreement is attached as Exhibit D (the "Development Agreement").

Section 3. On August 23, September 19, September 26, and October 10 2016, the Planning Commission conducted public hearings to consider amendments to the 9900 Wilshire Specific Plan and associated Development Agreement, and the Supplemental Environmental Impact Report prepared for the project.

Section 4. The Planning Commission finds, and recommends that the City Council find, that the 9900 Wilshire Specific Plan with the proposed amendments (hereafter, the "Amended Specific Plan") and associated Development Agreement are consistent with the Beverly Hills General Plan for the reasons set forth in Section 5.2 of the Amended Specific Plan and Section 4.3 of the Supplemental Environmental Impact Report and the following:

4.1 The Amended Specific Plan is consistent with General Plan Land Use Element Policies LU 2.7 (City Gateways), 2.10 (Development Transitions and Compatibility), and 9.3 (Anchor Locations) in that the development contemplated by the Amended Specific Plan is appropriate for the anchor location at the western gateway to the City along both Wilshire Boulevard and Santa Monica Boulevard. The Amended Specific Plan also contains a variety of land uses, including residential, hotel, restaurant and other commercial uses, and public and private open space. The mix of proposed uses and the project design provides an adequate transition from the single family residential neighborhood to the north. The design of the buildings and open spaces in the Amended Specific Plan incorporate generous setbacks from Wilshire Boulevard, and the building heights step up from north to south. Further, the area is readily accessible from the City's major shopping area and is bounded by Wilshire and Santa Monica Boulevards. It creates an architectural landmark with a visual presence at the dual gateway to the City of Beverly Hills at Wilshire and Santa Monica Boulevards.

4.2 The Amended Specific Plan is consistent with Policies LU 2.1 (City Places: Neighborhoods, Districts, and Corridors), 2.2 (Public Streetscapes and Landscape), and 11.2 (Site Planning and Architectural Design) in that its features exhibit a high level of site and architectural design quality and excellence. It provides for landscaping and open space using a gray water system for landscape watering.

4.3 The Amended Specific Plan is consistent with Policies LU 1 (Long-Term Stability) and LU 9.5 (Commercial/Residential Mixed Uses) in that it would enable development of residences of exceptional quality, in a mixed commercial/residential development, and with hotel amenities. This mix of uses contributes to the variety of housing and neighborhoods and introduces condominiums of a type that is desirable in the community.

4.4 The Amended Specific Plan is consistent with Policy 12.1 (Functional and Operational Compatibility) in that the plan as conditioned regulates hours of operation, truck deliveries, trash storage and pickup, interior noise, and employee parking to assure that project operations do not create an unreasonable and detrimental impact on the surrounding neighborhood. Truck deliveries are limited to specific hours and to non-articulated trucks, and the project design allows truck back-up movements to occur underground, each of which assures that truck deliveries will not create an unreasonable or detrimental impact on the surrounding neighborhood. In addition, no amplified music is permitted outdoors and interior noise cannot be audible from the exterior.

4.5 The Amended Specific Plan helps implement Policies LU 15.2 (Priority Businesses), ES 1.4 (Retain Existing Industries), and ES 1.5 (Attract New Businesses and

Industries) in that is approves key business sector uses, including a luxury boutique hotel, restaurant, and supporting uses. It increases the supply of luxury hotel rooms to meet the increasing demand for luxury hotels in the City, which further benefits other local priority businesses and industries.

4.6 The Amended Specific Plan helps implement Policies CIR 1.1 (Roadway Improvements) and CIR 1.2 (Intersection Improvements) because it provides for facility improvements, including new street markings and new dedicated left turn arrows, along Santa Monica Boulevard and Merv Griffin Way.

4.7 The Amended Specific Plan and associated Development Agreement help to implement Housing Element Objective 2.2, Program 2.6 in that a significant amount of funding will be contributed to the affordable housing fund, which is used to expand supply of affordable housing.

4.8 The Amended Specific Plan is consistent with Open Space Element Policy OS 6.3 in that it provides landscaped areas and public open space that complements the urban setting.

4.9 The Amended Specific Plan is consistent with the General Plan Land Use Map designation of the site as 9900 Wilshire Specific Plan in that the revisions to incorporate a boutique luxury hotel are consistent with the policies noted above and no further amendment to the map is necessary.

4.10 The Development Agreement is consistent with the General Plan for the reasons set forth above. The Development Agreement is also consistent with the Amended

Specific Plan in that it furthers implementation of and development in accordance with the Amended Specific Plan.

Section 5. The proposed project is a modification of the previously approved 9900 Wilshire Specific Plan to reduce the number of condominium units and add new hotel rooms, among other related changes ("Project"). In accordance with the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines, and the City's Local CEQA Guidelines, a Supplemental Environmental Impact Report ("SEIR") was prepared to analyze the potential environmental impacts of the proposed Project's modifications. The Planning Commission has reviewed the Final SEIR, including the various comments on the Draft SEIR circulated for public review and responses to comments, and finds in the Planning Commission's independent judgment and analysis that the SEIR was completed in compliance with CEQA and the CEQA Guidelines based on all the evidence in the record. Accordingly, the Planning Commission recommends that the City Council certify the Final SEIR with the necessary environmental findings, adopt a Mitigation Monitoring Program and make all mitigation measures conditions of Project approval, and adopt a Statement of Overriding Considerations finding that the benefits of the Project outweigh the unavoidable significant adverse environmental impacts that would result from the Project.

Section 6. The Planning Commission hereby recommends that the City Council adopt the amended 9900 Wilshire Specific Plan (for development of the project now known as One Beverly Hills), subject to the conditions set forth in Exhibit C.

Section 7. The Planning Commission hereby recommends that the City Council adopt an ordinance approving a Development Agreement substantially similar to the Development Agreement attached hereto as Exhibit D.

Section 8. The Secretary shall certify to the adoption of this resolution and shall cause this resolution and his certification to be entered in the Book of Resolutions of the Planning Commission.

Adopted: October 19, 2016

_____
Farshid Joe Shooshani
Chair of the Planning Commission of
the City of Beverly Hills, California

Attest:

_____
Ryan Gohlich, AICP
Secretary of the Planning Commission

Approved As To Form:

_____
David M. Snow
Assistant City Attorney

Approved As To Content:

_____
Ryan Gohlich, AICP
Assistant Director / City Planner
Community Development Department

EXHIBIT A

LEGAL DESCRIPTION

9900 WILSHIRE LEGAL DESCRIPTION

That certain real property located in the State of California, County of Los Angeles described as follows:

PARCEL 1:

THAT PORTION OF BLOCK 33 OF BEVERLY, SHEET 2, IN THE CITY OF BEVERLY HILLS, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 13, PAGES 62 AND 63 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY CORNER OF LOT 4 OF SAID BLOCK 33; THENCE ALONG THE NORTHERLY LINE OF LOT 4 AND A PORTION OF LOT 3 OF SAID BLOCK 33, NORTH 89° 55' 00" EAST 300.00 FEET TO A POINT ON THE NORTHERLY LINE OF LOT 3 OF SAID BLOCK 33; THENCE SOUTH 0° 05' 00" EAST 177.00 FEET; THENCE SOUTHEASTERLY SOUTH 38° 46' 45" EAST 583.79 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF LOT 7 OF SAID BLOCK 33, DISTANT 431.22 FEET FROM THE MOST SOUTHERLY CORNER OF LOT 6 OF SAID BLOCK 33; THENCE SOUTH 50° 19' 15" WEST 431.22 FEET TO THE MOST SOUTHERLY CORNER OF LOT 6 OF SAID BLOCK 33; THENCE ALONG THE SOUTHWESTERLY LINE OF LOTS 6 AND 4 OF SAID BLOCK 33, NORTH 30° 58' 05" WEST 798.43 FEET TO THE MOST SOUTHERLY CORNER OF LOT 5 OF SAID BLOCK 33; THENCE ALONG THE SOUTHEASTERLY LINE OF LOT 5 NORTH 19° 03' 30" EAST 235.27 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

AN EASEMENT FOR PRIVATE ROAD PURPOSES OVER THE EASTERLY 20 FEET OF THOSE PORTIONS OF LOTS 3 AND 7 IN BLOCK 33 OF BEVERLY, IN THE CITY OF BEVERLY HILLS, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 13 PAGES 62 AND 63 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, INCLUDED WITHIN A STRIP OF LAND, 40 FEET WIDE, THE CENTER LINE OF WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTHERLY LINE OF SAID LOT 3, DISTANT NORTH 89° 55' 00" EAST 300 FEET MEASURED ALONG THE NORTHERLY LINE OF SAID BLOCK 33 FROM THE NORTHWEST CORNER OF LOT 4 OF SAID BLOCK 33; THENCE SOUTH 0° 05' 00" EAST 177.00 FEET; THENCE SOUTHEASTERLY SOUTH 38° 46' 45" EAST 583.79 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF LOT 7 OF SAID BLOCK 33, DISTANT 431.22 FEET FROM THE MOST SOUTHERLY CORNER OF LOT 6 OF SAID BLOCK 33, AS GRANTED BY DEED AND AGREEMENT DATED DECEMBER 20, 1950, AND RECORDED DECEMBER 22, 1950, IN BOOK 35141, PAGE 331, OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXHIBIT B

SPECIFIC PLAN

DRAFT

9900 Wilshire Specific Plan

_____, 2016

(Amended and Restated)

DRAFT

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CHAPTER 1.0 - INTRODUCTION

1.1 PURPOSE AND INTENT

The 9900 Wilshire Specific Plan was initiated to provide a framework for the redevelopment of a 7.95-acre site at the western gateway to the City of Beverly Hills (the "City") between Wilshire and Santa Monica Boulevards (the "Specific Plan Area" or "Site") and was adopted on April 9, 2008. On December 11, 2012, an Administrative Modification was approved ("2012 Administrative Modification"). This One Beverly Hills Specific Plan (the "Specific Plan") is an amendment and restatement of the previously approved 9900 Wilshire Specific Plan. The previous improvements on the Site included the Robinsons-May department store building (the "RM Building") and a related above-ground parking structure. The development of the One Beverly Hills project (the "Project") in the Specific Plan Area includes the following, as compared to the previously approved 9900 Wilshire Project (as amended by the 2012 Administrative Modification):

Table I – Development Program*

	Previously Approved Project	One Beverly Hills Project
Total Floor Area	901,514 sf	901,514 sf
Residential Floor Area	813,856 sf	665,438 sf
Residences	235	193
Residential Other Spaces	71,802 sf	31,785 sf
Hotel Floor Area, including:	0 sf	204,291 sf
Lobby Lounge	0 sf	1,907 sf
Health Club/Fitness/Spa	0 sf	14,435 sf
Hotel Rooms	0	134
Ballroom/Meeting Rooms	0 sf	7,942 sf
Retail/Restaurant**	15,856 sf	16,057 sf
Parking Required	876	1,140

* Note: All floor areas are approximate. Minor shifts in floor area may occur; however, the maximum floor area of the Project shall not exceed 901,514 sf.

** The Project will provide 1,600 sf of outdoor dining, while the previously approved project provided 600 sf of outdoor dining. Outdoor dining areas are not included in floor area calculations.

In conjunction with the rooftop restaurant and bar, the Project may include one or more multi-function rooms for private meals, small gatherings, or karaoke. The Project also includes underground parking, private landscaped gardens, and publicly accessible landscaped perimeter gardens (the "Public Gardens") located along the Wilshire frontage across from the El Rodeo School and Beverly Gardens Park, the western side of Merv Griffin Way, and at the intersection of Santa Monica Boulevard and Merv Griffin Way. Additional landscaping is also provided throughout the Site, including along Santa Monica Boulevard and the western property line of the Site.

The purpose of the Specific Plan is to facilitate the orderly and efficient development of the Specific Plan Area by, among other things, establishing appropriate size, height and density limits. The intent of the Specific Plan is to provide a concise development plan for the Specific Plan Area and to optimize the use of the Specific Plan Area in a manner that capitalizes on the Site's gateway location at the westerly entrance to the City. This would include incorporating garden-quality features that will

complement the adjacent Beverly Gardens Park while allowing higher scale residential development along with a boutique luxury hotel. Allowing appropriately-scaled height allows a significant portion of the Site to be devoted to open space and landscaped gardens.

The Specific Plan contains policies, standards and guidelines, and conditions of approval designed to ensure that the Specific Plan Area is improved in a manner that recognizes the Site as a critical gateway into the City by incorporating open space and landscaping, thereby contributing to the garden quality of the City by; effectively utilizing architectural elements, thereby providing a world class architectural landmark; and by encouraging pedestrian circulation between the Specific Plan Area, nearby neighborhoods, and the City's business triangle.

1.2 SPECIFIC PLAN AREA

A. Project Location

The Specific Plan Area is comprised of a single legal parcel generally bounded by Wilshire Boulevard to the north, Santa Monica Boulevard to the south, the centerline of Merv Griffin Way to the east, and the Los Angeles Country Club and the Union 76 gas station to the west. The Site contains a slope differential of approximately 20 feet with the northwest corner of the Site along Wilshire Boulevard representing the highest elevation and the southeastern portion of the Site, at the intersection of Merv Griffin Way and Santa Monica Boulevard, the lowest elevation. The net area of the Specific Plan Area is approximately 7.95 acres. Figure 1 illustrates the location of the Site and Figure 2 illustrates the Specific Plan Area.

B. Existing Setting

1. Specific Plan Area

The improvements in the Specific Plan Area that existed when the 9900 Wilshire Specific Plan was adopted included the 228,000-square foot RM Building, a two-level above-ground parking structure, and other street and roadway improvements. The RM Building and parking structure have been demolished and cleared from the Site. There are now no structures on the Site. Figure 3 illustrates the existing condition of the Site.

2. Surrounding Land Uses

The Site is surrounded by a mix of land uses:

North: Wilshire Boulevard. El Rodeo Elementary School, single family one-story and two-story homes, and Beverly Gardens Park are located across the street on the north side of Wilshire Boulevard.

South: Santa Monica Boulevard. The former railroad right-of-way is across the street on the south side of Santa Monica Boulevard. The property immediately south of the former railroad right-of way includes privately operated surface parking, an automotive repair facility, retail (small shops) and office building uses.

East: The eastern half of Merv Griffin Way, the eight-story Beverly Hilton Hotel and related structures, the partially constructed Waldorf-Astoria hotel, and the above-ground parking structure fronting on Santa Monica Boulevard.

West: Los Angeles Country Club and the Union 76 gas station. The westerly boundary of the Site abuts a portion of one of the Los Angeles Country Club golf courses.

Figure 4 illustrates the surrounding land uses.

1.3 GOALS AND OBJECTIVES

Implementation of the Specific Plan will help to achieve the following goals and objectives:

a) To create a world class architectural landmark with a visual presence at the dual gateway to the City at Wilshire Boulevard and Santa Monica Boulevard, and which will enhance the beauty and image of the City of Beverly Hills.

b) To develop an environmentally sensitive and sustainable project for which the applicant intends to seek Leadership in Energy and Environmental Design (LEED) certification from the U.S. Green Building Council and establish a benchmark for environmentally responsible design in the City of Beverly Hills. To preserve approximately two thirds of the Project site as landscaped gardens and other open space to enhance the visual character of the Project.

c) To provide a 0.42-acre entry garden along Wilshire Boulevard for the use and enjoyment of the public that complements and extends the existing Beverly Gardens Park on the north side of Wilshire Boulevard, enhances the garden qualities of the City, and replaces a high density commercial use across the street from an existing school and residential neighborhood.

d) To redevelop the Project site in a manner that does not substantially increase the traffic levels and related operational air quality and noise impacts associated with the prior Robinsons May department store use on the site prior to closure.

e) To improve the utilization and visual appearance of the Project site by eliminating the existing above ground parking structure and constructing subterranean parking for the Project that will be spread across the entire Project site to provide convenient parking for Project residents, guests and retail patrons.

f) To provide a substantial amount of housing for local and area residents to help meet market demand and alleviate the substantial housing shortage in the City of Beverly Hills and the Westside of Los Angeles.

g) To provide new housing within the City without having to tear down existing rental units or otherwise displace existing housing.

h) To provide full service residential condominiums that are competitive with existing and proposed condominium projects in the Wilshire Corridor and Century City and have comparable views, so that residents who desire to "downsize" from their existing homes will not have to move out of Beverly Hills to find suitable housing.

i) To provide restaurant and retail spaces along Santa Monica Boulevard to (a) serve project residents and others and (b) enhance pedestrian activity and street life by providing a connection between the current retail uses in Century City and Beverly Hills.

j) To improve traffic circulation in and around the Project site by providing additional vehicular access points on Wilshire Boulevard and Santa Monica Boulevard for Project residents in order to reduce traffic on Merv Griffin Way.

k) To reduce the intensity of uses currently permitted thereon by replacing the existing C 3 commercial zoning designation with a specific plan zoning designation that limits development to approximately two thirds of the number of residential units that would be

permitted under the R4 residential zoning designation, along with a small amount of retail space.

l) To provide an appropriate transition from the larger office and residential buildings in Century City and the Wilshire Corridor.

m) To provide housing in close proximity to the office and retail uses in Century City and Beverly Hills.

n) To provide annual net revenue to the City that substantially exceeds the revenue the City would receive from commercial operations on the Project site.

The Amendment to the Specific Plan will help to achieve the following goals and objectives:

1. Promote fiscal benefits to, and economic development and job creation in, the City of Beverly Hills.

    a) Develop a luxury hotel with appropriate high-end amenities (i.e., meeting rooms, spa, and restaurants) that attract tourists, business travelers, and members of the Beverly Hills community alike.

    b) Ensure that the hotel is of a quality, size, design, and use that attracts visitors from around the world along with members of the Beverly Hills community so that it is established as a world class hotel and furthers Beverly Hills' reputation as a premier hospitality location.

    c) Provide restaurants at the western gateway to Beverly Hills to serve the Project's residents, hotel guests and the Beverly Hills community and to enhance pedestrian activity.

    d) Provide a complementary mix of land uses, including a hotel use that maximizes transient occupancy tax and other tax revenues to the City in order for the City to continue to provide and finance critical City services including its police department, fire department and schools.

    e) Provide increased annual net revenue to the City that substantially exceeds the revenue the City would receive from the approved residential project or other commercial uses on the Project Site.

    f) Increase the supply of luxury hotel rooms in the City to meet the City's ever increasing demand for luxury hotel rooms and (1) to prevent further leakage into competing luxury hotels outside of the City including luxury hotels in West Hollywood, Century City and Santa Monica and (2) to ensure that these guests and visitors continue to shop, stay and dine in Beverly Hills to support local businesses and to increase the revenues to the City.

2. Provide a set of mixed-uses that takes maximum advantage of the physical, social and economic potential of the Project Site.

    a) Increase the Beverly Hills community's use and enjoyment of the site by adding commercial uses that include hotel rooms, dining options and luxury hotel amenities (including a spa and meeting facilities).

    b) Arrange residential and onsite hotel facilities and other uses in a way that is logical and promotes efficient operations.

c) Provide the range of uses within the hotel to ensure that it is economically viable as a luxury hotel.

d) Co-locate residential and hotel units to permit shared use of site amenities.

e) Provide needed housing for local and area residents to help meet the market demand and alleviate the housing shortage in the City of Beverly Hills and the Westside of Los Angeles.

f) Expand the variety of high-quality housing options to the City's residents by providing much sought after hotel-amenitized condominiums that are competitive with existing housing.

g) Provide full service, hotel-amenitized condominiums that are competitive with existing and proposed condominium projects in the Wilshire Corridor and Century City and have comparable views, so that the residents who desire to downsize from their existing homes will not have to move out of Beverly Hills to find suitable full service housing.

3. Create a unified, environmentally sensitive hotel and residential development.

a) Enhance the City's western gateway and the pedestrian and vehicular views from Wilshire Boulevard and Santa Monica Boulevard.

b) Create a world-class architectural landmark with a visual presence at the dual gateway to the City of Beverly Hills at Wilshire Boulevard and Santa Monica Boulevard and which will enhance the beauty and image of the City of Beverly Hills.

c) Redevelop the Project Site in a manner that does not substantially increase the traffic levels and related operational air quality and noise impacts associated with the prior Robinsons-May department store.

d) Incorporate environmentally sensitive, sustainable, responsible design, including Leadership in Energy and Environmental Design (LEED) standards.

e) Preserve approximately forty percent of the Project Site as landscaped gardens and other green space to enhance the visual character of the Project and to maximize the community's use and enjoyment of the Site.

f) Provide an entry garden along Wilshire Boulevard for the use and enjoyment of the Beverly Hills Community that complements and extends the existing Beverly Gardens Park on the north side of Wilshire Boulevard, and enhance the garden qualities of the City across the street.

g) Provide subterranean parking and loading dock facilities to provide convenient parking for the Project's guests and residents and to enable the creation of the Project's substantial open space and green space for the use and enjoyment of the Beverly Hills community and the Project's residents and guests.

h) Improve traffic circulation in and around the Project Site by providing additional vehicular access points on Wilshire Boulevard and Santa Monica Boulevard, and reduce traffic on Merv Griffin Way.

i) Develop the Project Site in order to maximize the strength of its physical, social and economic potential without negatively impacting its neighboring residential and school uses.

1.4 CONTENTS.

The Specific Plan consists of the following components:

Chapter 1.0 (Introduction): Chapter 1.0 provides a broad overview of the Specific Plan and its goals.

Chapter 2.0 (Planning Context): Chapter 2.0 describes the planning issues and process for the Specific Plan Area.

Chapter 3.0 (Plan Components): Chapter 3.0 sets forth the general land use concepts for the Specific Plan Area and describes land uses, building placement, traffic circulation, and utilities.

Chapter 4.0 (Development Standards and Guidelines): Chapter 4.0 sets forth development standards and guidelines for the Specific Plan Area, including permitted uses, parking, building height, residential outdoor living space, sign standards, and architecture and design.

Chapter 5.0 (Implementation and Administration): Chapter 5.0 provides a review of the Specific Plan's relationship to the General Plan and sets forth the implementation and amendment process.

Chapter 6.0 (Operational Standards): Chapter 6.0 sets forth the provisions governing the long-term operation of uses within the Specific Plan Area.

Chapter 7.0 (Mitigation Measures): Chapter 7.0 sets forth the mitigation measures and conditions of approval that have been adopted by the City Council and incorporates those mitigation measures and conditions into the Specific Plan.

Chapter 8.0 (Figures): Chapter 8.0 contains the Figures referenced throughout the remainder of the Specific Plan.

Exhibit 1: Conditions of Approval imposed on the Specific Plan.

CHAPTER 2.0 - PLANNING CONTEXT

2.1 INTRODUCTION

This chapter provides an overview of the Specific Plan process and the public participation in developing the Specific Plan.

2.2 AUTHORITY

The California Government Code (Title 7, Division 1, Chapter 3, Article B, §§ 65450-65457) authorizes cities to adopt specific plans for the systematic implementation of the general plan for all or part of the area covered by the general plan. Any specific plan adopted pursuant to this authority shall be consistent with the adopted general plan. Once a specific plan is adopted, all zoning, subdivision, public works projects, and development agreements shall then be consistent with the specific plan.

2.3 GENERAL PLAN AND ZONING DESIGNATIONS

The Specific Plan Area was designated as Low Density General Commercial on the General Plan land use map and had a zoning designation of C-3 prior to the adoption of the 9900 Wilshire Specific Plan.

In connection with the adoption of the 9900 Wilshire Specific Plan, the Land Use Plan Map in the Land Use Element of the General Plan was amended to designate the Specific Plan Area as "SP-9900 Wilshire Specific Plan." The zoning designation for the Specific Plan Area was also amended to change the designation for the Specific Plan Area to the "9900 Wilshire Specific Plan" zone. Section 5.2 of the Specific Plan provides an analysis of the Specific Plan's consistency with the City's General Plan.

2.4 RELATIONSHIP TO THE ZONING ORDINANCE

As set forth in Title 10, Chapter 3, Article 15.7 of the Beverly Hills Municipal Code (the "Municipal Code"), the Specific Plan supersedes other development regulations and standards set forth in the Beverly Hills Planning and Zoning Ordinances (Chapters 3 and 4 of Title 10 of the Municipal Code) for the Specific Plan Area. The provisions of this Specific Plan are applied in lieu of the provisions in the Planning and Zoning Ordinances. For development standards not established as part of the Specific Plan, the standards in the Planning and Zoning Ordinances shall apply. In addition, any terms used in this Specific Plan that are not defined or described herein shall have the meanings, if any, set forth for them in the Planning and Zoning Ordinances.

2.5 PUBLIC PARTICIPATION

The proposed development of the Specific Plan was first presented to a joint meeting of the City Council and Planning Commission on December 6, 2005; City staff conducted a public scoping meeting on August 3, 2006, for the purposes of obtaining public input regarding the potential environmental impacts associated with the Specific Plan, which were analyzed as part of the environmental review of the Specific Plan mandated by the California Environmental Quality Act (CEQA). A Draft Environmental Impact Report was circulated for public review from August 7, 2007, to September 28, 2007. Certain sections of the Draft Environmental Impact Report (traffic, noise and air quality) were recirculated for public review from October 15, 2007, to November 15, 2007. The Planning Commission conducted public hearings on August 20th, September 5th, September 24th, October 29th, November 8th, November 28th, 2007, and January 10th, January 24th, and February 7, 2008. The City Council conducted public hearings on March 11th, March 20th, and March 27th, 2008, and discussed and approved the project on April 3rd and April 9th, 2008. The public was afforded the opportunity at each of the hearings to provide input into the development of the Specific Plan and other entitlements for the proposed project. The Specific Plan reflects changes recommended by the Planning Commission and

City Council to the originally proposed Specific Plan, and the Specific Plan underwent important changes as a result of the public participation process.

The amendment of the 9900 Wilshire Specific Plan was first presented to the City on June 26, 2015; City staff conducted a public scoping meeting on December 7, 2015, for the purposes of obtaining public input regarding the potential environmental impacts associated with the amended and restated Specific Plan, which were analyzed as part of the environmental review of the Specific Plan mandated by the California Environmental Quality Act (CEQA). A Supplemental Draft Environmental Impact Report (SDEIR) was circulated for public review from April 15, 2016 to May 31, 2016. The Planning Commission conducted public hearings on May 12, August 23, September 19, September 26, and October 10, 2016. The City Council conducted public hearings on [DATES], and discussed and approved the Specific Plan on [DATE]. The public was afforded the opportunity at each of the hearings to provide input into the development of the Specific Plan Area, and the Specific Plan underwent important changes as a result of the public participation process. Accordingly, the adopted Specific Plan reflects changes to the originally proposed Specific Plan that were recommended by the public, the Planning Commission, and City Council.

2.6 CEQA COMPLIANCE

A Final Environmental Impact Report (the "Final EIR") was prepared for the 9900 Wilshire Specific Plan pursuant to the provisions of CEQA (Public Resources Code Section 21000 et seq., the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 et seq.), and the City's Local Environmental Guidelines. The Final EIR addressed the potential environmental impacts resulting from the implementation of the proposed 9900 Wilshire Specific Plan and set forth mitigation measures to lessen those environmental Impacts. These mitigation measures were incorporated into the 9900 Wilshire Specific Plan. As part of the 2012 Administrative Modification, an Addendum to the Final EIR was also adopted.

A Final Supplemental Environmental Impact Report (the "Final SEIR") was prepared for the Specific Plan pursuant to CEQA, the State CEQA Guidelines, and the City's Local Environmental Guidelines. The Final SEIR addressed the potential environmental impacts resulting from the implementation of the proposed amendments to the Specific Plan and set forth mitigation measures to lessen those environmental Impacts. These mitigation measures have been incorporated into the Specific Plan (see Chapter 7.0).

CHAPTER 3.0 – PLAN COMPONENTS

3.1 INTRODUCTION

The Specific Plan is a comprehensive policy and regulatory document that will be used to guide development of the Site. This chapter addresses (a) the location, distribution and extent of land uses within the Specific Plan Area, and (b) the location, distribution and extent of essential facilities serving the Specific Plan Area.

3.2 LAND USES

The land use concept for the Specific Plan Area encourages a development consisting of luxury residential condominiums, a boutique luxury hotel, retail and restaurant uses, a central subterranean parking structure and landscaped gardens, including the Public Gardens, and other open space, all on 7.95 net acres of land. Figure 5 illustrates the basic land use concept for the Specific Plan Area.

The uses in the Specific Plan Area shall be limited to those uses shown on Figure 5 or otherwise described in Section 4.2 of Chapter 4.0 of this Specific Plan. Ancillary uses for the hotel and residential condominiums may include, but are not limited to, accessory retail, lobby lounge, restaurants and bar, spa and fitness center, beauty salon, pools, screening rooms, meeting rooms and ballroom, game rooms, common areas, outdoor living areas, parking, storage including wine storage, security offices, back-of-house ("BOH") kitchen, BOH laundry, BOH service facilities for the exclusive use of the residential condominium residents and guests, and other ancillary amenities associated with luxury residential condominiums and luxury hotels approved by the Director of Community Development (the "Director").

A maximum of 1,600 square feet of open air dining within the Specific Plan Area, in substantially the locations shown on Figure 37, shall be permitted in conjunction with the restaurant and the lobby lounge shall not require separate authorization or approval of an Open Air Dining Permit, provided that such open air dining complies with the operational standards set forth in Section 6.4 of Chapter 6.0 of this Specific Plan. Any open air dining proposed in a public right-of-way shall require the issuance of an Open Air Dining Permit in accordance with the procedures set forth in Article 35 of Chapter 3 of Title 10 of the Municipal Code or its successor.

3.3 SITE PLANNING

A. Building Placement

The location and distribution of buildings and open space, including building levels located below grade, shall be substantially as shown on Figure 6 of the Specific Plan. Within the open space and public right-of-ways, the location, distribution and type of pedestrian amenities and landscaping shall be substantially as shown on Figure 38 of the Specific Plan. Within the Public Gardens, the location and distribution of pedestrian amenities and the location, distribution and type of landscaping shall be generally as shown on Figure 39 of the Specific Plan. The Specific Plan's development program is summarized in Table I, Section 1.1 in Chapter 1.0.

B. Circulation

1. Local Circulation

The Specific Plan Area is located within the area bounded by Wilshire Boulevard to the north, Santa Monica Boulevard to the south, Merv Griffin Way to the east, and the Los Angeles Country Club to the west. Other key streets in the vicinity include Whittier Drive and Elevado Avenue. The locations of these streets are shown on Figure 9.

Wilshire Boulevard is an east-west arterial roadway that runs between Ocean Avenue in Santa Monica to the west and Grand Avenue in downtown Los Angeles to the east. In the vicinity of the Specific Plan Area, Wilshire Boulevard provides six lanes of travel, which are divided by painted medians and two-way left tum lanes. On-street parking is not permitted before 7:00 p.m. on Wilshire Boulevard within the immediate vicinity of the Specific Plan Area. Wilshire Boulevard is on the Congestion Management Plan ("CMP") road system as a part of the CMP roadway network.

Santa Monica Boulevard has been designated by the City as a Major Class 1 Highway. It is an east-west arterial roadway that runs between the City of Santa Monica to the west and Sunset Boulevard in Silver Lake to the east. The Santa Monica Boulevard Transit Parkway Project which was completed in 2007 consisted of the reconstruction and reconfiguration of 2.5 miles of Santa Monica Boulevard between the I-405 to the west and the Beverly Hills city limit to the east (Moreno Drive). This segment of the boulevard has three westbound and three eastbound travel lanes. The project includes a new street lighting and traffic signal system, a landscaped median, bicycle lanes and bus priority features. Santa Monica Boulevard is on the CMP road system as part of the CMP roadway network.

Whittier Drive is a local residential street. It is a north-south roadway, the southern terminus of which is directly across the street from the northern terminus of Merv Griffin Way. Elevado Avenue is a residential street. It is a north-south to east-west roadway, the southwestern terminus of which is at Whittier Drive.

Transportation improvements and facilities, including, but not limited to, alleys, driveways and parking facilities, shall be constructed within the Specific Plan Area to minimize the parking and circulation impacts on surrounding streets including impacts to public transportation. The alleys, driveways and parking facilities to be constructed within the Specific Plan Area shall be substantially as shown on Figures 10 through 12.

Vehicle access to the Site shall be designed to separate residential traffic from hotel traffic and through traffic on Merv Griffin Way. In order to provide "front door" access to the hotel, a large motor court shall be added at a location adjacent to the South Building directly off of Santa Monica Boulevard. The motor court shall accommodate hotel pick-up and drop-off, stacking, parking, and valet service. All hotel guests, including visitors who are not pedestrians utilizing the restaurants or the meeting space shall be required to valet park their cars unless they are being dropped off by shuttle, taxi, or other alternative transportation services in the motor court or unless self-parking is otherwise approved by the Director of Community Development pursuant to a parking management plan. The motor court shall also provide an additional two-way access driveway directly from Merv Griffin Way. The Project's hotel loading areas and self-parked employee parking shall be located below-grade and accessed from a driveway located on Merv Griffin Way.

Residents shall have the option to self-park or valet park their cars. A new residential access road shall be constructed along the western edge of the Specific Plan Area.

A new traffic signal at Merv Griffin Way and Santa Monica Boulevard shall be constructed and the intersection of Merv Griffin Way and Wilshire Boulevard shall be modified to provide one left-turn lane, one through lane, and one right-turn lane on the portion of Merv Griffin Way within and adjacent to the Specific Plan Area.

The residential access point on Wilshire Boulevard shall be limited to right turns in and right turns out only. The residential access point on Santa Monica Boulevard will provide for right turns in and out, and for left turns in. The access points, driveways and roadway improvements shall be substantially as shown on Figure 10.

Merv Griffin Way is a private street owned in part by the owner of the Specific Plan Area, and in part by the adjacent landowner to the east. Any proposal to realign, close or substantially change Merv Griffin Way shall require the approval of the Planning Commission, which decision may be appealed to the City Council pursuant to the provisions of Chapter 4 of Title 1 of the City's Municipal Code provided, however, that Merv Griffin Way may be closed to the public from time to time for maintenance and repairs and improvement work if approved by the Director of Public Works and Transportation, and for emergencies.

2. Traffic Impacts

A traffic impact study was prepared in connection with consideration of the Specific Plan. That study analyzed the impact of the Specific Plan and concluded that the implementation of the Specific Plan will have no significant adverse traffic impacts.

3. Pedestrian Circulation

The hotel motor court area along Santa Monica Boulevard is intended to enhance the pedestrian character of this portion of Santa Monica Boulevard through architectural improvements and landscaping. In addition, the Public Gardens will create an inviting pedestrian opportunity along Wilshire Boulevard, Merv Griffin Way and at the corner of Merv Griffin Way and Santa Monica Boulevard that does not exist today. The provision of this inviting pedestrian opportunity is designed to encourage pedestrians from neighboring areas to walk to the commercial uses at the Project Site, such as the restaurants, and to provide an attractive pedestrian link between the Business Triangle and the Project.

4. Parking and Loading Facilities

The subterranean parking structure shall provide approximately 1,140 parking spaces in compliance with Section 4.3 of this Specific Plan and substantially as shown on Figures 11 and 12. All parking (other than motor court parking) shall be below-grade where hotel parking shall be separate from residential parking; these spaces will provide parking for all land uses within the Specific Plan Area. Motor court parking shall be in addition to the approximately 1,140 parking spaces that are required, and shall not be counted toward the required parking for the Specific Plan Area.

The Project's loading areas and self-parked employee parking shall be located below-grade and accessed from Merv Griffin Way through the garage.

3.4 UTILITIES

Due to the long-time operation of commercial uses in the Specific Plan Area and the urbanized nature of the surrounding area, the Specific Plan Area is currently provided with adequate facilities for sewage, water, drainage, solid waste disposal, and energy. As limited in size and intensity of use by the Specific Plan, the Specific Plan Area will not require the development of additional sewage, water, solid waste disposal, energy, or other essential facilities. However, the Project will be required to pay its fair share to mitigate any cumulative impacts on City facilities. In addition, all utility construction, connections and maintenance shall conform to the provisions of the Beverly Hills Municipal Code. Implementation of the Specific Plan will require relocation of certain utilities substantially as shown on Figures 31 through 36. The telephone facilities plan shall be substantially as shown on Figure 35.

A. Water

The City provides water to the Specific Plan Area. Figure 31 shows the location and size of the water distribution system that serves the Specific Plan Area. The existing supply and distribution of water can accommodate the level of water demand from the hotel and residential uses proposed in the Specific Plan Area.

B. Sewer

Figure 32 shows the present size and location of the sewer facilities servicing the Specific Plan Area. Wastewater generated from the Specific Plan Area would be conveyed through these lines and treated at the Hyperion Water Treatment Plant in El Segundo. The calculations prepared by the City in connection with its review of the Specific Plan indicate that the existing sewer lines are adequate to accommodate the level of wastewater generated by the Specific Plan.

C. Solid Waste Disposal

Solid waste disposal for the Specific Plan Area is provided through a franchise with the City. All solid waste generated by the Specific Plan Area will be disposed of at landfills in Los Angeles or Riverside Counties. The City's solid waste is currently disposed of at the following landfills: Chiquita Canyon Landfill, Sunshine Canyon Landfill, and/or Calabasas Sanitary Landfill. Based on the projected solid waste generation, the Specific Plan Area will not have significant solid waste disposal impacts and existing solid waste disposal facilities and landfill capacities are sufficient to accommodate the Specific Plan's projected solid waste.

D. Stormdrain

The Specific Plan Area was previously developed with commercial buildings and parking structures. Implementation of the Specific Plan will not increase the amount of impermeable land or result in changes in absorption rates that would increase the amount of stormwater runoff from the Specific Plan Area. In addition, development within the Specific Plan Area will be required to comply with all requirements of the City's National Pollution Discharge Elimination System (NPDES) Permit and the City's stormwater and urban runoff management ordinance (Article 5, Chapter 4, Title 9 of the Beverly Hills Municipal Code). The storm drain plan for the Specific Plan Area is shown on Figure 33 of the Specific Plan.

E. Energy

The Southern California Edison Company provides electricity to the Specific Plan Area. The Southern California Gas Company provides natural gas to the Specific Plan Area. According to the studies prepared for the Specific Plan, the existing supply and distribution of electricity and natural gas can accommodate the level of demand from the uses proposed in the Specific Plan. Figures 34 and 36 illustrate electrical and gas facilities, respectively.

F. Greywater System

The Project shall include a greywater system to reduce overall water demands, and specifically, limit the demand for irrigation water. The greywater system may include: (1) dual piping to maintain greywater separate from potable water; (2) tanks to hold the greywater before and after treatment; (3) greywater treatment system including filtering and disinfecting systems; (4) booster pumps to ensure water is delivered at pressures adequate for its intended uses, (5) greywater usage in HVAC cooling tower and central plant systems in the Project's residential and hotel components, and (6) greywater usage in toilets in the hotel. The greywater system shall collect drainage discharge from sinks, service sinks, bathtubs, showers and clothes washers. This "grey" wastewater shall then be filtered and treated until it reaches a level of quality consistent with its intended re-use. For example, greywater shall be used for irrigation and other non-potable water using systems, thus reducing the Project's overall water demands and, in particular, demand for water which would otherwise be used for irrigation.

CHAPTER 4.0- DEVELOPMENT STANDARDS AND GUIDELINES

4.1 GENERAL PROVISIONS

The Specific Plan is a policy and regulatory document, and all development within the Specific Plan Area shall be governed by the Specific Plan in accordance with the development standards and guidelines contained herein.

4.2 PERMITTED USES

The uses set forth below are permitted uses within the Specific Plan Area. If a use is not listed below or is not a similar use that the Director of Community Development determines is consistent with the goals and objectives of the Specific Plan, then such use is presumed to be prohibited unless a Conditional Use Permit is approved by the Planning Commission pursuant to the procedures set forth in Title 10, Chapter 3, Article 38 of the Municipal Code; or any successor provision. The Planning Commission may approve such otherwise prohibited uses if the Commission determines that such uses do not materially alter the distribution, location and extent of the uses of land as set forth in the Specific Plan and the uses fulfill the intent of the Specific Plan as described in Section 1.3 (Goals and Objectives) of the Specific Plan. The foregoing notwithstanding, uses that must be permitted pursuant to State or Federal law shall be deemed permitted uses, and shall comply with any and all provisions of the Municipal Code regarding such uses.

A. COMMERCIAL AREA

The following uses are permitted within the portion of the Specific Plan Area designated for commercial use, as shown on Figures 2 and 37:

- Airline ticket office.
- Alcohol sales (on-site and off-site) and consumption in conjunction with the uses listed under food and beverage-establishments, including open air dining within the Specific Plan Area, or in conjunction with open-air dining in the public right-of-way pursuant to Section 10-03-3505 of the Municipal Code, subject only to issuance of a Department of Alcoholic Beverage Control license.
- Art shop or gallery.
- Bank.
- Barber shop, only as an ancillary use in conjunction with a hotel.
- Beauty salon, only as an ancillary use in conjunction with a hotel.
- Business/conference center.
- Car rental office, only as an ancillary use in conjunction with a hotel.
- Clothes dry cleaning (excluding plant).
- Day spa and/or medi-spa.
- Decorating or interior design shop or store.
- Florist.
- Fitness center.
- Food and beverage establishments, including bakeries, cafes, delicatessen gourmet beer and wine shops, ice cream parlors, restaurants (full service), bars (in conjunction with restaurants and hotel lobby lounge) and specialty food, but excluding drive-up, drive-in and drive-through.
- Gift/novelties/sundry shop, only as an ancillary use in conjunction with a hotel.
- Hotel and related ancillary facilities, including food and beverage establishments, meeting rooms, ballrooms, fitness center, screening rooms, game rooms, storage including wine storage, laundry and other commercial uses listed in this Section 4.2.
- Jewelry store, only as an ancillary use in conjunction with a hotel.

- Live entertainment, conducted indoors, as an ancillary use in conjunction with the hotel or a food and beverage establishment, including, but not limited to, live music performances and karaoke.
- Newsstand.
- Outdoor live entertainment as an ancillary use in conjunction with a hotel, subject to the City's Noise Ordinance, and only in those areas identified on Figures 44 and 45.
- Retail stores and shops.
- Offices, only on floors other than the ground floor and excluding real estate offices, medical offices, and physical therapy offices except that an office associated with real estate sales of the on-site residential condominiums may be permitted anywhere on-site.
- Office supply, stationery and gift stores.
- A maximum of 1,600 square feet of open-air dining as shown in Figure 37 of this Specific Plan.
- Optical/eyewear including optometry/opticians.
- Parks, gardens and open space.
- Photography shop or gallery.
- Shoe repair shop.
- Tailor.
- Travel agency.
- Other similar uses determined by the Director to be consistent with the goals and objectives of the Specific Plan.

B. RESIDENTIAL AREA

The following uses are permitted in the portion of the Specific Plan Area designated for residential use, as shown on Figure 2:

- Residential dwellings, including condominiums, townhomes, and lofts, and the usual and customary accessory and appurtenant uses thereto, including, without limitation, the ancillary uses described in Section 3.2 of Chapter 3.0, provided that such uses are limited to use by residents and guests of the Specific Plan Area.
- Fitness center.
- Game rooms, such as bowling, golf simulators, etc.
- Office associated with real estate sales of the on-site residential condominiums may be permitted anywhere on-site.
- Parks, gardens and open space.
- Screening rooms.
- Storage areas, including wine storage.
- Other similar uses determined by the Director to be consistent with the goals and objectives of the Specific Plan.

C. PUBLIC GARDENS

The following uses are permitted within the portion of the Specific Plan Area designated for the Public Gardens, as shown on Figure 2:

- Parks, gardens and open space.
- Other similar uses determined by the Director to be consistent with the goals and objectives of the Specific Plan.

The following uses, conduct and activities shall be prohibited in the Public Gardens:

- Making or kindling any fire.

- Consumption of any alcoholic beverages (except in conjunction with a permitted assembly or special event).
- Riding any bicycle, skateboard, roller-skates or similar type of device except where such activity is authorized by the property owner.
- Selling, offering for sale, renting or offering for rent goods, wares, merchandise, foodstuffs, refreshments or other kinds of property or services (except when expressly allowed in conjunction with a permitted assembly or special event).

4.3 PARKING

A. Parking Requirements

Type of Use	Parking Spaces
Eating and bar facilities	1 space per 45 square feet of dining and bar floor area for the first 9,000 square feet of such area, and 1 space per 65 square feet of dining and bar floor area in excess of 9,000 square feet.
Hotel[1, 2, 3, 4] Rooms Meeting Areas[5]	1 space per hotel room 1 space per 28 square feet of meeting area
Commercial uses permitted under the Specific Plan and not otherwise specified in this Section 4.3[7]	1 space per 350 square feet of floor area
Multi-family dwelling units	2 spaces for each one-bedroom unit 2-1/2 spaces for each two-bedroom unit 3 spaces for each three or four-bedroom unit 4 spaces for each five-bedroom or more unit 1 permanent guest parking space for every four dwelling units

1. Free on-site parking shall be provided at all times for those hotel employees who primarily drive to the project site to work.
2. This parking requirement can be satisfied by providing tandem, compact, or in-aisle parking spaces. Compact parking may not exceed 25% of the required parking spaces.
3. Fitness center is a private ancillary use for the guests and residents of the Specific Plan Area.
4. Due to the location of the hotel, availability of public transportation, and proximity and concentration of shopping to the Project, the hotel use will not generate a need for the number of parking spaces otherwise required by the Beverly Hills Municipal Code, and therefore is subject to a 15 percent reduction in its parking requirement.
5. Includes ballroom and all meeting rooms. Excludes pre-function room, screening room, and bridal room.

B. General Parking Provisions

All hotel parking shall be separated from the parking for the residents and their guests. Valet parking shall be available for residents and their guests, and shall also be provided to the hotel and restaurant patrons, unless otherwise approved by the Director of Community Development pursuant to a parking

management plan. If the number of residential condominiums is reduced, the number of bedrooms is modified, or the number of hotel rooms is modified, then the parking requirement shall be adjusted consistent with the requirements as outlined herein.

1. Parking Space Dimensions and Aisle Width

   a. Standard Space: 9 feet by 19 feet (minimum).

   b. Compact Space: 7 feet 6 inches by 17 feet.

   c. Minimum Aisle Width: 24'0". The Director of Transportation and Engineering shall determine the appropriate aisle width where parking spaces are provided at less than a 90° angle to a drive aisle.

2. Tandem Spaces

   Each required parking space within a parking area or garage shall be individually and easily accessible, except that automobiles may be parked in tandem in the following instances:

   a. In the hotel parking area providing attendants to park vehicles at all times when said garage or parking area is open for use.

   b. In a parking area serving the residential condominiums where the tandem parking is not more than two cars in depth, and provided that at least one parking space per dwelling unit is individually and easily accessible. Residentially-assigned tandem spaces shall be assigned to the same residential condominium.

3. Limitations

   a. Residential non-guest tandem parking spaces shall not exceed 20% of the total required residential non-guest parking.

   b. No more than 25% of the hotel parking spaces shall be compact parking spaces.

   c. No more than 25% of the parking for the non-guest residential condominiums shall be compact parking spaces. Additionally, no more than 50% of the parking for the non-guest residential condominiums shall be tandem parking spaces.

   d. The limitations of this Section 4.3.B.3 shall not apply to parking spaces provided in excess of the number of required spaces.

C. Loading Docks

Two (2) loading docks shall be provided for the Specific Plan Area substantially in the location and dimensions shown on Figure 13. In addition, two (2) trash loading docks may also be provided for the Specific Plan Area.

4.4 BUILDING HEIGHT

Figure 7 illustrates the heights of buildings within the Specific Plan Area. The building heights shall be substantially consistent with the heights shown on Figure 7. Due to the natural slope of the Specific Plan Area, there is an approximately 20-foot decrease in elevation from the northwest corner of the Specific Plan Area along Wilshire Boulevard to Santa Monica Boulevard which results in a range of building heights across the Site. In addition, the buildings are designed with various building heights to

add architectural interest. The building heights identified below are the highest portion of various sections of the building and should not be construed as the permitted height for the entire building. As shown on Figure 7, (a) the height of the south building near the western boundary of the Specific Plan Area shall not exceed 205 feet from adjacent grade at its highest point, (b) the height of the north building near the western boundary of the Specific Plan Area shall not exceed (i) 108 feet from adjacent grade for the first 90 feet from the northerly end of such north building, and (ii) 161 feet from adjacent grade after the first 150 feet from the northerly end of such building, with steps in height to 137 feet and 149 feet at different locations as shown on Figure 7, and (c) the height of the hotel-related buildings adjacent to the South Building area setback from the southern boundary of the Specific Plan Area (fronting Santa Monica Boulevard) shall not exceed 48 feet from adjacent grade.

The calculation of the height of any building or structure shall be measured from the adjacent grade as shown on Figure 7. The buildings vary in height. In determining the height of a building or structure, none of the structures, improvements, features and other elements now or hereafter excluded from the calculation of height in the definition of "Height of Building" in Section 10-3-100 of the Municipal Code (or any successor provision) shall be considered when determining the height of a building or structure pursuant to this Section 4.4; provided, however, that for the purposes of Section 10-3-100 of the Municipal Code (or any successor provision) trellises shall be considered "unoccupied architectural features."

The natural slope of the Specific Plan Area results in an approximately 20-foot decrease in elevation from the northwest corner of the Specific Plan Area along Wilshire Boulevard to Santa Monica Boulevard, allowing a portion of the contemplated hotel-related space adjacent to the South Building to be tucked underneath a landscaped platform. The hotel entry will be setback approximately 100 feet from the Santa Monica Boulevard property line with landscaping provided in front of the hotel meeting rooms at the corner of Santa Monica Boulevard and Merv Griffin Way. Figure 8 illustrates the slope of the Specific Plan Area between Wilshire and Santa Monica Boulevards.

4.5 RESIDENTIAL OUTDOOR LIVING SPACE

The residential condominiums in the Specific Plan Area shall include a minimum of two hundred (200) square feet of usable outdoor living space per unit. The usable outdoor living space shall be provided through a combination of private balconies in the individual units and common access to the residential landscaped gardens and pool area shown on Figure 38.

4.6 SIGN STANDARDS

A unified sign plan, satisfactory to the Director of Community Development (the "Unified Sign Plan"), shall be prepared for the Specific Plan Area. The Unified Sign Plan shall encompass all exterior signage, including both permanent and temporary signs. The Director of Community Development shall have the authority to approve or conditionally approve the Unified Sign Plan, and that decision shall be appealable to the Planning Commission. After approval of the Unified Sign Plan, all signs that, in the determination of the Director, are consistent with the approved Unified Sign Plan shall be issued a building permit without further discretionary review. The provisions of Title 10, Chapter 4 of the Municipal Code are not applicable to the Unified Sign Program.

All other signs shall be subject to architectural review pursuant to the procedures set forth in Chapter 4 of Title 10 of the Municipal Code. The Unified Sign Plan shall be consistent with the provisions in the Municipal Code in terms of permitted size but the Director shall have the authority to approve alternative locations of the signage to meet the objectives of the Specific Plan and provide direction to uses on the Site.

4.7 ARCHITECTURE. AND DESIGN

A. Hotel and Residential Buildings

The hotel and residential buildings shall be constructed substantially as shown on Figures 14 through 30 of the Specific Plan.

The hotel and residential buildings positioned at the west property line are raised above the ground to allow light and views of the golf course landscape to the west to pass below the architecture, and are curvilinear and horizontal to reflect the natural forms and geometry of the open space to the west, and the classic horizontal massing of the Beverly Hilton Hotel.

Adjacent to the hotel's lobby to the east of the South Building lie the Project's meeting room facilities, which consist of four meeting rooms (a main meeting room and three smaller meeting rooms) and pre-function space and related back of house facilities. These improvements shall be constructed substantially as shown on Figure 46 of the Specific Plan.

B. Open Space/Landscaping

The landscaping shall be developed substantially as shown on Figures 38 and 39 of the Specific Plan. The location and type of all plant materials shall respond to and complement the architectural design of the buildings in the Specific Plan Area and shall be integrated with the buildings as an additional architectural element. Landscaping shall be used to highlight entries, contrast with or reinforce building lines and volumes, and soften hard structural lines and building mass.

Landscaping shall be used to define pedestrian activity areas such as the hotel space and landscaped gardens. The landscaping shall be designed to enhance the garden quality of the City and-shall incorporate mature plant material.

C. Public Gardens

The Public Gardens are on a 0.81 acre (35,468 square feet) area located at the corner of Wilshire Boulevard and Merv Griffin Way, and include a garden pathway along Merv Griffin Way from Wilshire Boulevard to the corner of Merv Griffin Way and Santa Monica Boulevard as generally shown in Figures 2 and 39 of the Specific Plan. The gardens are provided for the use and enjoyment of Beverly Hills residents and visitors, including Specific Plan Area residents and visitors. They are designed to enhance the garden qualities of the City. The Public Gardens shall be open to the public during certain hours, and shall complement and extend the existing Beverly Gardens Park on the north side of Wilshire Boulevard. The Public Gardens shall be developed substantially as shown on Figure 39 of the Specific Plan. The Public Gardens shall include both functional and aesthetic elements such as water features, paths and benches.

D. Architectural Review

Prior to the issuance of building permits, the design, materials and finishes of the buildings, and proposed landscaping shall be subject to the review and approval of the Architectural Commission and shall be generally consistent with the building elevations presented to the City Council; as shown in Figures 40 through 43. The Architectural Commission shall ensure that the building architecture substantially complies with the building elevations of the Project as presented to the City Council during its consideration of the Specific Plan. After Architectural Commission approval, all development that, in the determination of the Director, is in substantial conformance with the Specific Plan shall be issued a building permit without further discretionary or architectural review. Any future construction and modification to the exterior of the structures within the Specific Plan Area that is not in substantial conformance with the Specific Plan shall be subject to architectural review pursuant to the procedures set forth in Article 30 of Chapter 3 of Title 10 of the Municipal Code.

4.8 GREEN BUILDING STANDARDS

Development in the Specific Plan area shall incorporate green construction standards and seek certification under the Leadership in Energy and Environmental Design (LEED) Green Building Rating System with a minimum rating of 'Silver'. The intent of LEED is to provide a national definition and standard of what constitutes green building and then to provide third-party certification to assure correct implementation of the standard. LEED is based on a point system which determines one of four levels of certification a given building or project can achieve. The LEED categories include Sustainable Sites, Water Efficiency, Energy & Atmosphere, Materials & Resources, Indoor Environmental Quality, and Innovation and Design Process.

The following LEED features shall be incorporated into the project:

- Balconies and overhangs to shade window glazing, while allowing reflected and diffuse daylight into residential condominiums to enhance the use of natural light and reduce the need for artificial light sources;
- The selection of a developed urban site and the conversion of a substantial portion of the site to green space;
- Close proximity to public transportation;
- Landscaping and exterior design utilizing subterranean parking and landscaped and shaded non-roof surfaces arid light-colored, low-albedo roof surfaces to reduce local heat island effects;
- The reduction of chlorofluorocarbons (CFCs) from the building systems;
- The selection of materials, such as adhesives, sealants, paints, and carpeting, that reduce off-gassing to improve internal air quality;
- The involvement during design and construction of a LEED Accredited Professional; and
- A greywater system as set forth in Section 3.4 F of this Specific Plan.

CHAPTER 5.0 IMPLEMENTATION AND ADMINISTRATION

5.1 PURPOSE

This chapter sets forth criteria for determining consistency with the Beverly Hills General Plan (the "General Plan"), the relationship between the Specific Plan and the General Plan, administration of the Specific Plan, and provisions for amendments to the Specific-Plan; and financing.

5.2 RELATIONSHIP TO THE GENERAL PLAN

The General Plan serves as the long-term planning guide for future development throughout the City. The General Plan operates as a guide to the type of community desired for the future and provides the means to accomplish that goal. California law requires a specific plan to be consistent with the adopted general plan. The Specific Plan has been adopted in conjunction with general plan amendments to: (a) add text in the Land Use Element identifying this Site as an anchor location which permits higher intensity development; (b) amend the Land Use Element to change the land use designation for the Specific Plan Area from "Low Density General Commercial" to "SP – One Beverly Hills Specific Plan" in order to permit a mix of residential condominiums and hotel uses in the Specific Plan Area in a manner consistent with the General Plan; and (c) amend Housing Element Program 4.3 of Objective 4.3 to add the One Beverly Hills Site to the list of areas zoned commercial for which mixed-use could be appropriate (collectively, the "General Plan Amendments").

The Specific Plan is consistent with the General Plan, as amended, and advances the policies, objectives, goals, recommendations and characteristics identified below:

A. Land Use Element

The Land Use Element of the General Plan contains the following policies recommendations and characteristics that are important to the Specific Plan:

Section LU1: "Beverly Hills is fortunate in that it is able to serve a variety of residential and commercial demands in a manner and combination which is difficult to duplicate elsewhere in the Los Angeles area. . . . The characteristics which contribute to the special opportunities available in Beverly Hills include:

- The quality of the physical environment, such as its extensive network of trees and landscaping.
- The scale of the community, which fosters a sense of place and identity rather than a sense of anonymity.
- The pride of its residents and businesses, as reflected in many ways, such as the architecture, landscaping and overall concern for the welfare of the community.
- The exceptional quality of its housing stock which offers a variety of housing and neighborhoods rarely found elsewhere.
- The character of its business community, as reflected in the quality and diversity of its stores, hotels, restaurants and offices."

LU 9.3 Commercial Areas. This subsection of the General Plan Land Use Element, as amended, provides:

"It is also recommended that certain anchor locations be set aside to permit development of a higher intensity type of development that is not otherwise provided in the community. These areas should be located so as to be accessible from the City's major shopping areas and close to the City's major streets. These anchor locations should include large parcels that are located at the gateways to the City, such as the site at 9900 Wilshire Boulevard where additional building height is appropriate. A variety of land uses such as commercial, residential, and mixed use should be considered for the gateway locations. A change of use from commercial to residential or mixed use should be allowed only if such change provides an adequate transition to adjacent single family neighborhoods."

Section LU 15.2 Priority Businesses. This subsection of the General Plan Land Use Element as amended, provides: "The character of its business community, as reflected in the quality and diversity of its stores, hotels, restaurants and offices."

The Specific Plan is consistent with each of these policies, recommendations and characteristics. The implementation of the Specific Plan will enhance the quality of the physical environment and foster a strong sense of place with the development of an architectural landmark at this important gateway to Beverly Hills, which features extensive landscaping over approximately 3.07 acres of the Specific Plan Area, including the Public Gardens that complement the Beverly Gardens Park on the north side of Wilshire Boulevard. The scale of the development provides an effective and appropriate transition between the much taller existing and proposed commercial and residential buildings in Century City and the lower-scale development east of the Specific Plan Area and the Beverly Hilton Hotel. The luxury residential condominiums that will be developed in the Specific Plan Area will be of exceptional quality and will offer a variety of housing in the City.

In addition, the Site is located at a gateway location at the western entry into the City along Santa Monica and Wilshire Boulevards. The General Plan Amendments include amendments to the Land Use Element that include this gateway site as one of the anchor locations for which the General Plan would allow higher Intensity type of development, and specifically additional height for the Site. These anchor locations could include commercial, residential, or mixed uses. The General Plan Amendment incorporates language that would require any development proposed on an anchor location to effectively mitigate the transition to single family residences. The General Plan Amendments result in the consistency of the Specific Plan with the Land Use Element.

B. Open Space Element

The Open Space Element of the General Plan contains the following statements that are important to the Specific Plan:

From the Overview: "Beverly Hills offers a variety of natural and man-made aesthetic resources that define its unique character. The City's built environment reflects its rich architectural heritage. However, the City's greatest aesthetic resource is its elaborate network of landscaping and scenic vistas which fosters a sense of spaciousness within an urban setting, differentiating this community from others."

OS 8.5 Urban Parks. "Encourage and allow opportunities for new development to provide small plazas, pocket parks, civic spaces, and other gathering places that are available to the public to help meet recreational demands."

While not an express policy, the Specific Plan contributes to this valuable resource by maximizing open space opportunities and landscaping in the Specific Plan Area. The Public Gardens along Wilshire Boulevard, Merv Griffin Way and at the corner of Merv Griffin Way and Santa Monica Boulevard will enhance the garden quality of the City and add to the existing elaborate network of landscaping and

vistas throughout the City. In addition, the Public Gardens have been located to complement the existing Beverly Gardens Park on the north side of Wilshire Boulevard.

C. Circulation Element

The Circulation Element of the Beverly Hills General Plan contains the following policies that are important to the Specific Plan:

> CIR 1.2. "Intersection Improvements. Study and implement opportunities for capacity improvements at City intersections, such as the intersection of Wilshire Boulevard and North Santa Monica Boulevard, to improve traffic flows along major roadways. Work collaboratively with regional agencies and adjacent jurisdictions to help improve the capacity at these intersections. (Imp. 3.7)"
>
> CIR 4.1. "Parking Provisions. Ensure that adequate parking is provided for existing and future uses while considering shared parking opportunities, Travel Demand Management (TDM) plans, and availability of alternate modes of travel, based on the site's proximity to transit. (Imp. 3.7)"

The Specific Plan is consistent with these provisions of the Circulation Element of the Beverly Hills General Plan. The parking for the Site provides adequate centrally located, uniformly operated parking facilities that will provide parking for hotel and residential uses as well as employees, guests, and visitors to the Specific Plan Area, ensuring that residents, employees and visitors alike have adequate access to parking, eliminating the need for parking on residential streets or other unrelated locations. It also includes new access points that will diminish the traffic load on Merv Griffin Way compared to the historical use of the Specific Plan Area and limit cut-through traffic on residential streets by improving both on-site circulation and access to Santa Monica Boulevard and Wilshire Boulevard, the two commercial corridors adjacent to the Specific Plan Area. Additionally, improvements to Wilshire and Santa Monica Boulevards shall enhance the traffic flow in the surrounding area for both through traffic and access traffic.

D. Housing Element

The Housing Element of the General Plan contains the following objective that is important to the Specific Plan:

> Objective 4.3: Develop standards for mixed commercial and residential uses.
>
> "Program 4.3 Develop standards for mixed residential/commercial structures, with and without low-income housing components, including additional height, in areas currently zoned for commercial use and consider appropriateness of various areas, such as:
>
> - 9900 Wilshire (Rob-May Department Store) – 235 condominium units over retail/commercial, (with significant contribution to housing trust fund)."[1]

The Specific Plan is consistent with Program 4.3 of the Housing Element as amended by the related General Plan Amendment to list the Site as appropriate for mixed use development. The permitted residential density in the Housing Element for the Project Site is 31 units per acre, which is well within the desired range of 25.6 to 48.4 units per acre. As part of the Project approvals, the Project will contribute funds that will be set aside for affordable housing.

---

[1] Note that under this Specific Plan, the number of residential condominiums has been reduced to 193 residential condominiums; however the contribution to the affordable housing trust fund remains unchanged.

5.3 ADMINISTRATION

Although every effort has been made to include provisions in the Specific Plan that are clear, the necessity of interpreting such provisions in light of specific and unusual cases may occur from time to time. When such interpretations are necessary, the Director of Community Development shall be responsible for the interpretation of the provisions of the Specific Plan. The Director shall be the City administrator responsible for enforcing the regulations, site development standards and procedures set forth in the Specific Plan. The Director shall have the administrative authority for interpretation related to the enforcement of the Specific Plan.

5.4 AMENDMENTS AND MODIFICATIONS TO THE SPECIFIC PLAN

Formal amendment ("Amendment") to the Specific Plan will require the review and approval of both the Planning Commission and the City Council. Amendments are governed by the provisions of Section 65450 et seq. of the California Government Code and require compliance with specific notice and public hearing requirements. An Amendment to the Specific Plan shall be required for (a) any proposed modifications that would substantially alter the distribution, location, extent or density of the uses and buildings permitted in the Specific Plan, including (i) any increase in the total number of residential condominiums or the floor area of the residential or commercial uses, or (ii) a reduction in the size or change in the location of the Public Gardens, and (b) an increase in the maximum height of the buildings.

Notwithstanding the foregoing, the Director of Community Development may, without the review and approval of the Planning Commission or the City Council, approve Administrative Modifications to the Specific Plan that do not substantially alter the distribution, location, extent or density of the uses and buildings permitted in the Specific Plan. An Administrative Modification shall be required with respect to changes to the site plan and building elevations that would materially alter the approved architectural style or modulation of the buildings. An Administrative Modification shall be processed pursuant to the procedures set forth in Article 36 of Chapter 3 of Title 10 of the Municipal Code for "Minor Accommodations to Certain Development Standards," except that the limitations on the type of accommodations set forth in Section 10-3-3600 shall not apply. The applicant or any person aggrieved by any decision regarding an Administrative Modification may appeal to the City Council as provided in Section 10-3-3604 of the Municipal Code (or any successor provision).

Notwithstanding anything to the contrary in this Section, the following modifications to the Specific Plan shall not require an Amendment to the Specific Plan or an Administrative Modification: (a) the relocation or alteration of residential and hotel ancillary uses provided the Director determines that the relocation or alteration does not increase parking demand; (b) variations between the conceptual plans set forth in Chapter 8.0 and the final construction documents for the Specific Plan Area development, provided the final construction documents substantially conform to the conceptual plans set forth in Chapter 8.0; (c) changes to the number and location of the residential condominium and hotel parking spaces in the subterranean parking structure, provided that the subterranean parking structure includes a sufficient number of parking spaces to satisfy the parking requirements in Section 4.3 of Chapter 4.0 of this Specific Plan; (d) changes to the configuration of the subterranean parking structure, provided that the Director determines the access points to the subterranean parking structure do not materially change and do not present any safety issues; (e) changes to the locations of the permitted hotel, restaurant, bar, retail, spa, fitness and meeting room uses provided that the total floor area of the hotel uses does not exceed 204,291 square feet; the total square footage of the restaurant and bar uses (inclusive of lobby lounge and open air dining) does not exceed 19,564 square feet and the Director determines that the changes do not increase parking demand unless there is sufficient parking to accommodate such demand; (f) changes to the location of the open air dining area provided that the total square footage of the open air dining area does not exceed 1,600 square feet, there is no material change to the location of the open air dining, and provided that the Director determines that the changes do not increase

parking demand unless there is sufficient parking to accommodate such demand; (g) an increase in the square footage of the non-restaurant permitted use(s) in the hotel building, provided that the total floor area for hotel uses does not exceed 204,291 square feet; (h) the substitution of similar types of plant species in the landscaping plan; or (i) minor changes to the site plan, building elevations and Public Gardens, provided such changes do not materially alter the approved architectural style, modulation or height of the buildings or the size or location of the Public Gardens.

5.5 FINANCING

The developer shall be responsible for all on-site improvements and shall pay its fair share allocation of any off-site improvements as required to mitigate significant environmental impacts associated with implementation of the Specific Plan, as identified in the Final EIR and as modified by the Supplemental EIR. No public funds are necessary to implement the Specific Plan.

CHAPTER 6.0 - STANDARDS

HOTELS

The hotel shall be operated in compliance with the following operational standards:

A. Recreational Facilities. Except as provided in Subsection 6.1 B below for the Fitness Center and Subsection 6.1C for the Spa, all indoor and outdoor recreational facilities shall be limited to quests who are renting a hotel guest room in the Specific Plan Area and their guests, and residents of the Specific Plan Area and their guests.

B. Fitness Center. The Fitness Center shall primarily serve guests who are renting a hotel guest room in the Specific Plan Area and their guests, and residents of the Specific Plan Area and their guests.

C. Spa. The Spa and any treatment rooms shall primarily serve guests who are renting a hotel guest room in the Specific Plan Area and their guests, and residents of the Specific Plan Area and their guests. The Spa may include outdoor areas. The Spa may be open to the public.

D. Restaurants/Bars. The operating hours of the hotel restaurants and bars shall be permitted from 6 a.m. to 2 a.m. Food service to the hotel rooms and the residential condominiums may be provided 24 hours a day, seven days a week.

6.2 RESIDENTIAL CONDOMINIUMS

The residential condominiums shall be operated in compliance with the following operational standards:

Outdoor living areas such as balconies shall not be used to store personal property in a manner that is visible from the public or private right-of-way or the Public Gardens, nor shall such outdoor areas be used to hang laundry. All outdoor living areas shall be maintained in a safe, clean, and orderly condition. The covenants, conditions and restrictions to be recorded with respect to the Specific Plan Area shall include the foregoing standards.

6.3 PUBLIC GARDENS

The Public Gardens shall be accessible to the public from 8:00 am to dusk (or as otherwise established by the property association or other entity in charge of the management and maintenance of the Public Gardens that is open to property owners for membership and approved by the Director), provided that the Public Gardens may be closed to the public from time to time for maintenance and repairs, improvement work, and emergencies, as each is determined by the Director to be reasonably required.

6.4 OPEN AIR DINING

All open air dining areas located within the Specific Plan Area shall comply with the following standards:

A. The design and colors used for chairs, tables, lighting and other fixtures shall generally be consistent with the architectural style and colors used on the related building façade and with the furnishings used in the restaurant interior.

B. Lights may only illuminate the open air dining area; they cannot emit spillover light on the adjacent sidewalk.

C. No alcoholic beverages shall be served or consumed in the open air dining area without the required license and approval from the State Department of Alcoholic Beverages Control.

D. No umbrellas or other overhead furniture or fixtures shall have a clearance of less than seven feet and no such articles shall extend beyond the seating area.

E. Portable heaters shall be located a minimum of three feet from any combustible material and shall be located entirety within the seating area.

F. The seating area and any adjacent pedestrian travel aisle shall be maintained in a clean and orderly state at all times.

G. The open air dining area shall comply with all applicable provisions of the Beverly Hills Building Code, including, but not limited to, maintaining proper building ingress and egress at all times, observing maximum seating capacities, providing proper circulation and providing appropriate handicapped access.

CHAPTER 7.0 - CONDITIONS OF APPROVAL AND MITIGATION MEASURES

The conditions of approval attached hereto as Exhibit 1 and the Mitigation Monitoring and Reporting Program adopted for the Specific Plan which is included as part of Exhibit 1, are hereby incorporated by reference, and shall be part of the Specific Plan as if set forth in full in this Chapter 7.

CHAPTER 8.0 – FIGURES

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2. Specific Plan Area
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10. On-site Circulation: Access, Driveways, Roadway Improvements
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12. Parking Plan – Level P2
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23. Condominium Buildings Plan – Level 9
24. Condominium Buildings Plan – Level 10
25. Condominium Buildings Plan – Level 11
26. Condominium Buildings Plan – Level 12
27. Condominium Buildings Plan – Level 13
28. Condominium Buildings Plan – Level 14
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33. Stormdrain Plan
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36. Natural Gas Plan
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40. East and West Elevations
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42. Merv Griffin Way/Santa Monica Boulevard Rendering
43. Wilshire Boulevard Rendering
44. Ancillary Outdoor Live Entertainment – Ground Level Plan
45. Ancillary Outdoor Live Entertainment – Level 14
46. Meeting Room Facility Plan – Level P1

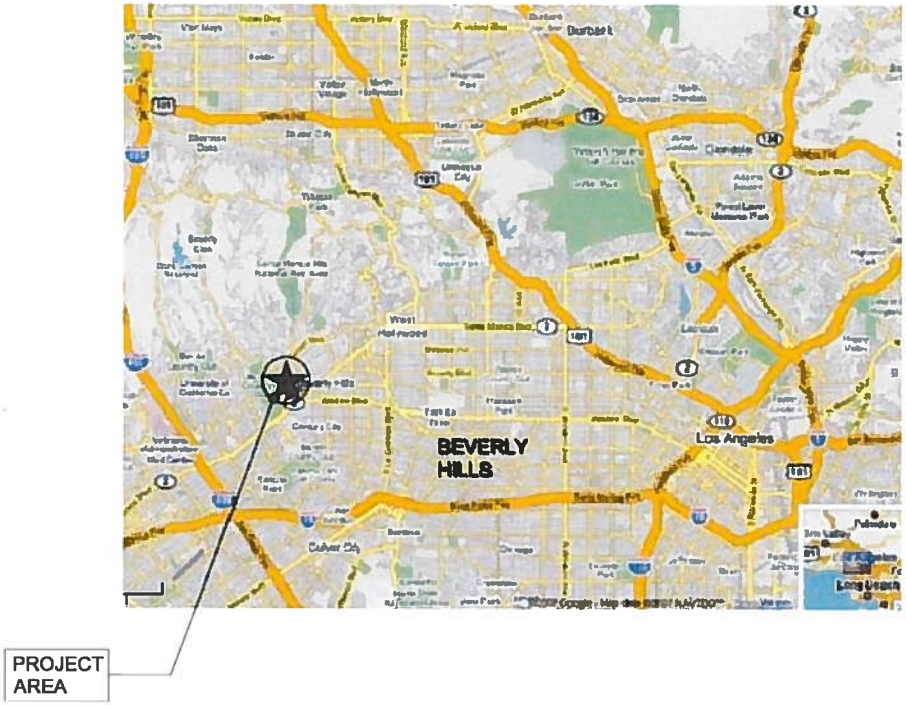


FIGURE 1
SPECIFIC PLAN
AREA LOCATION MAP

ONE BEVERLY HILLS

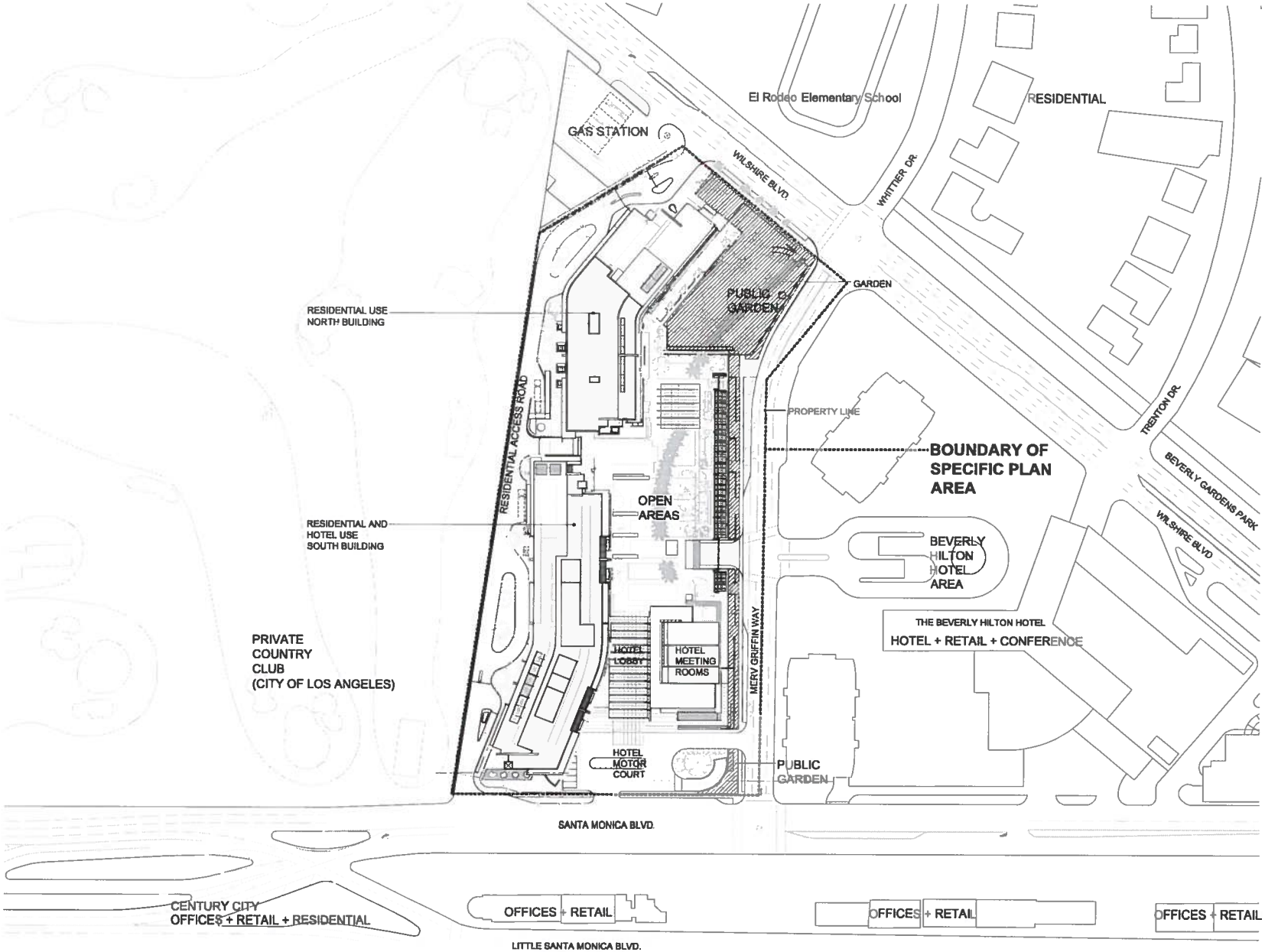


FIGURE 2
SPECIFIC PLAN AREA

ONE BEVERLY HILLS

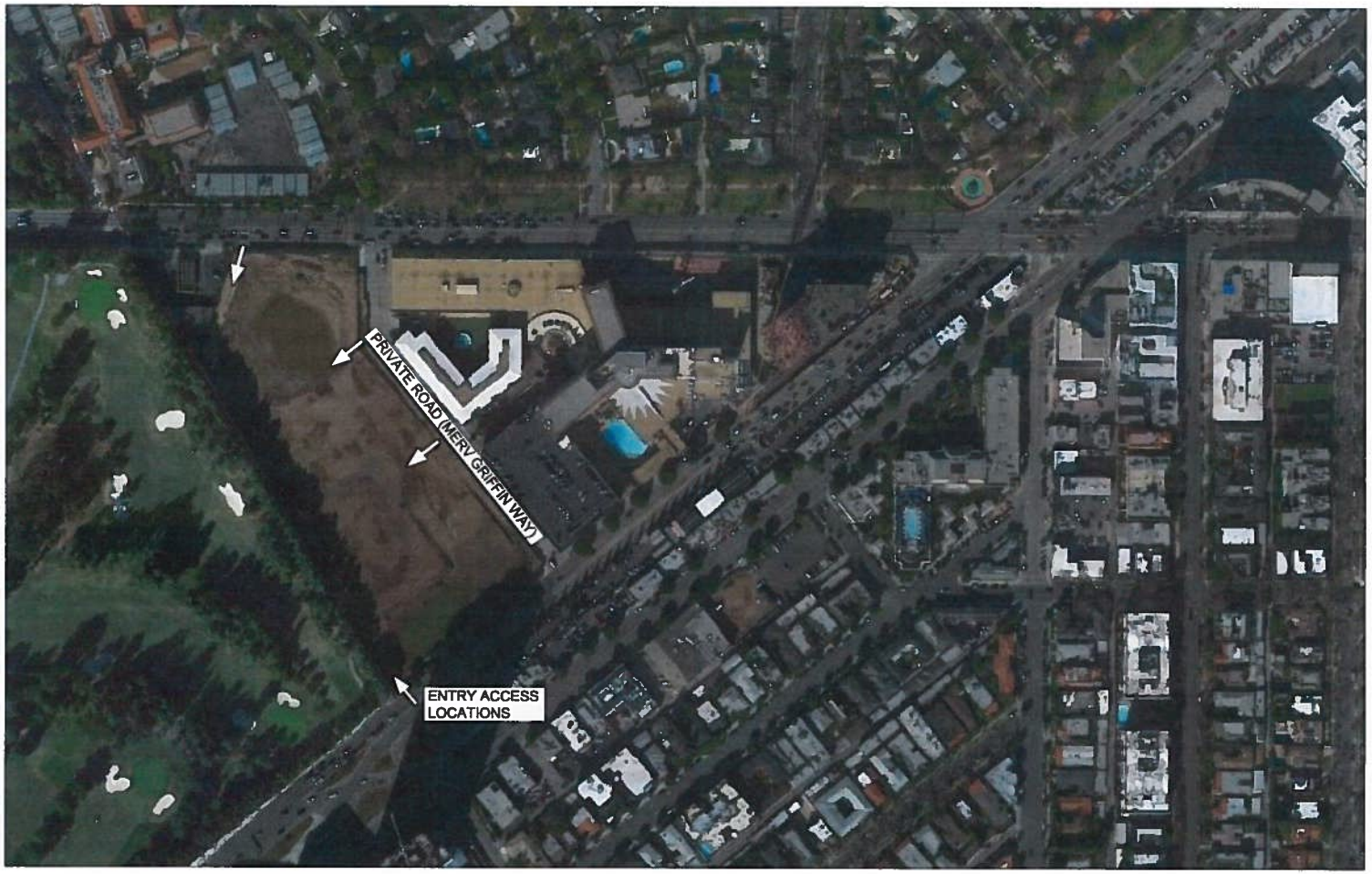


FIGURE 3
EXISTING SITE CONDITIONS

ONE BEVERLY HILLS

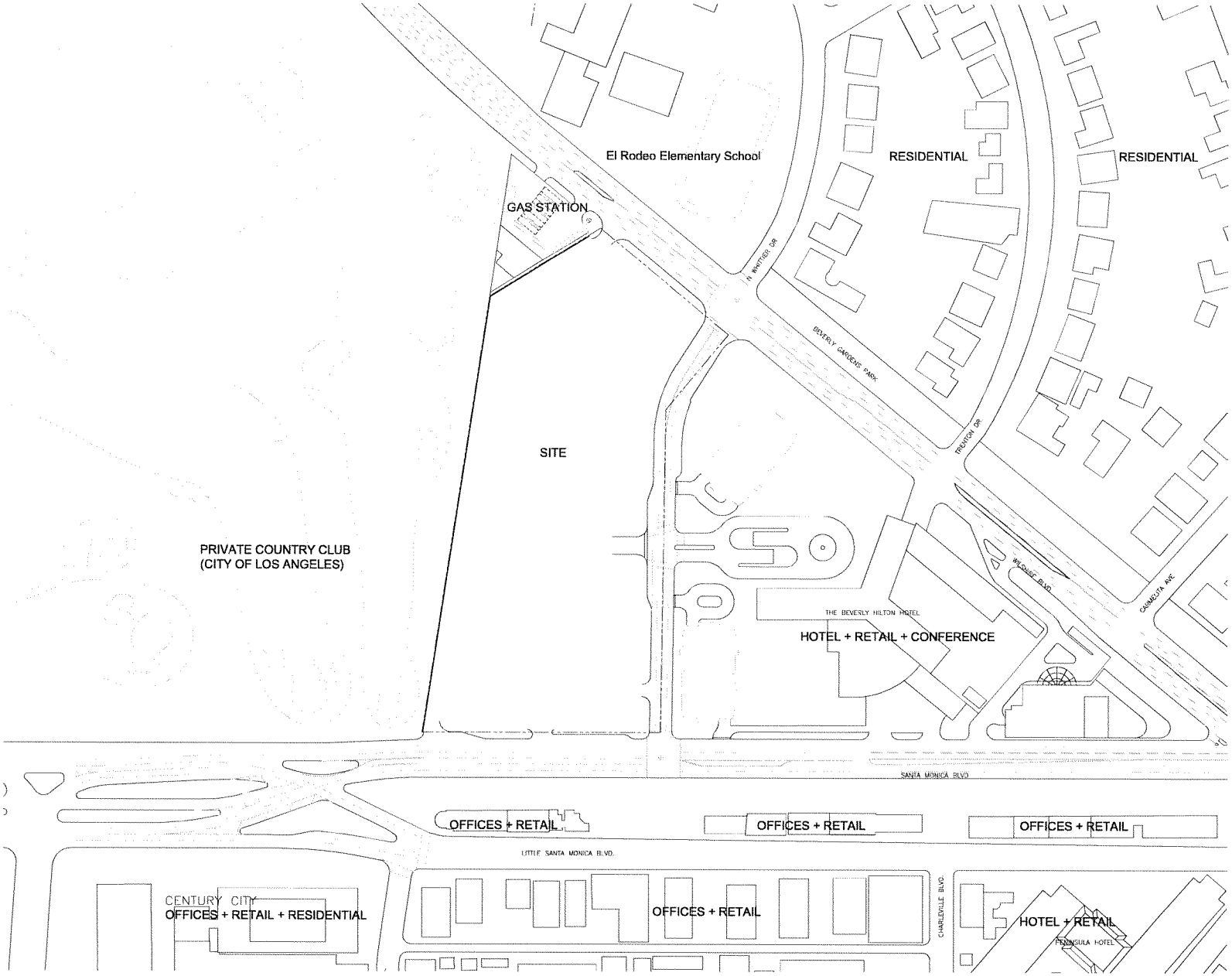


FIGURE 4
SURROUNDING LAND USES

ONE BEVERLY HILLS

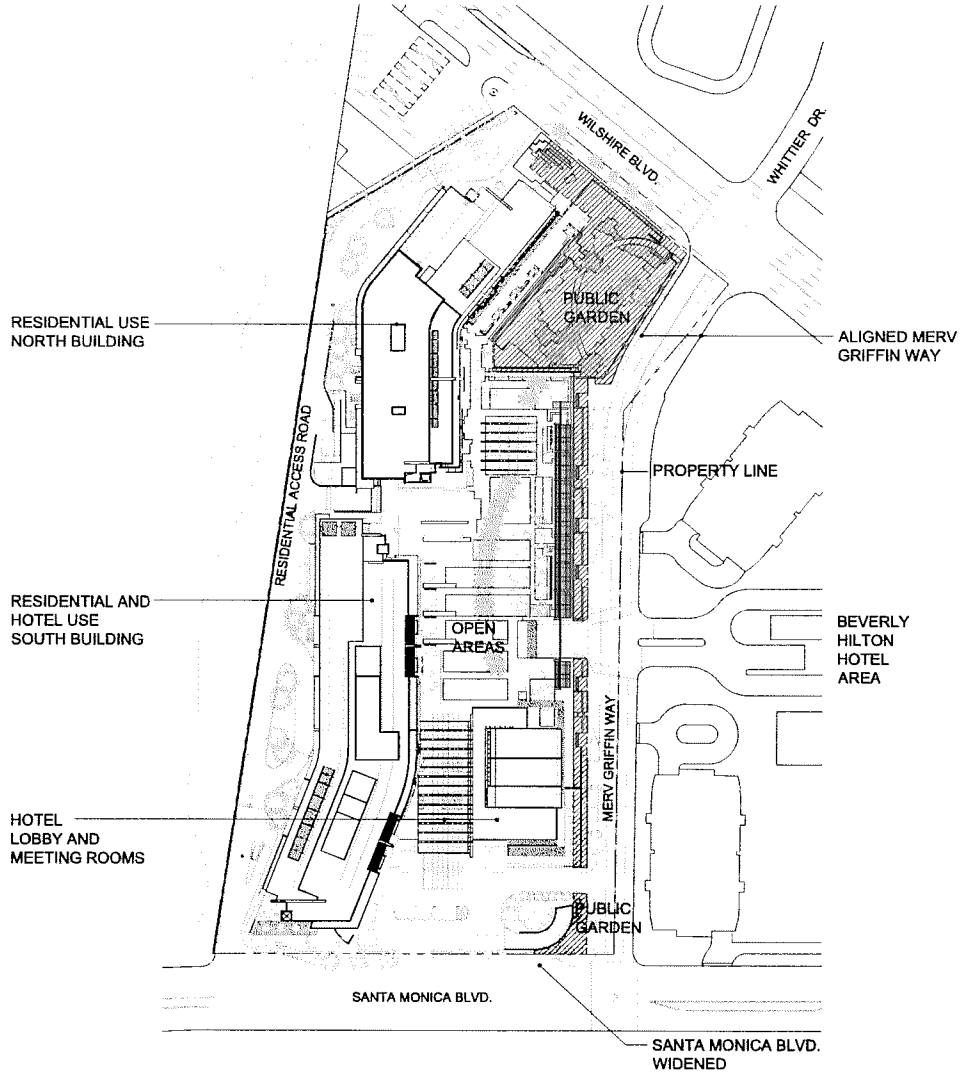


FIGURE 5
SPECIFIC PLAN
LAND USE CONCEPTS

ONE BEVERLY HILLS

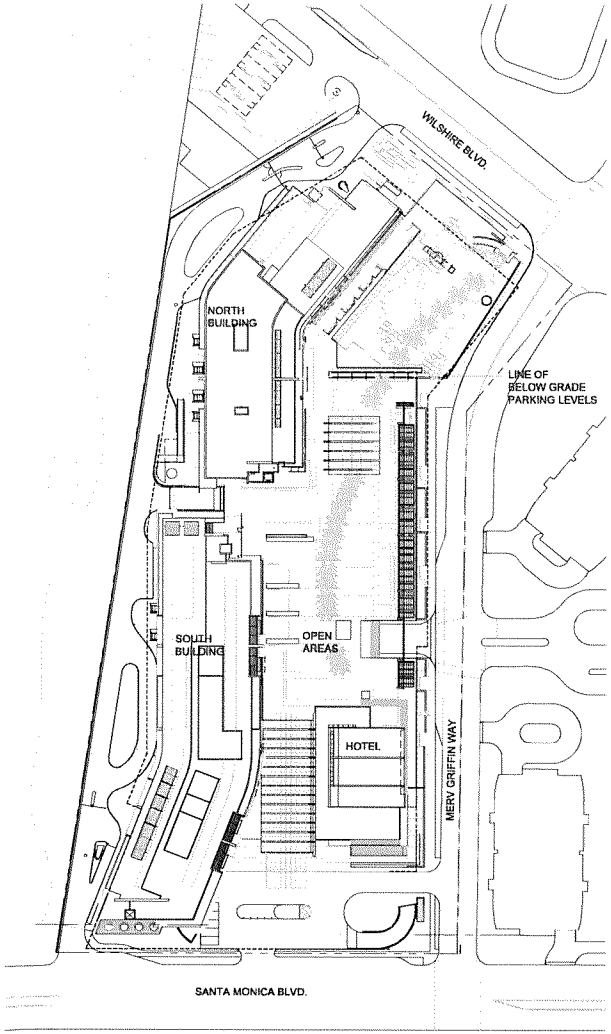


FIGURE 6
SPECIFIC PLAN SITE
/ BUILDING PLACEMENT

ONE BEVERLY HILLS

DATUM POINT:
PROJECT ELEVATION EL. 0'-0"
EQUALS TO MSL EL. 290'-0"

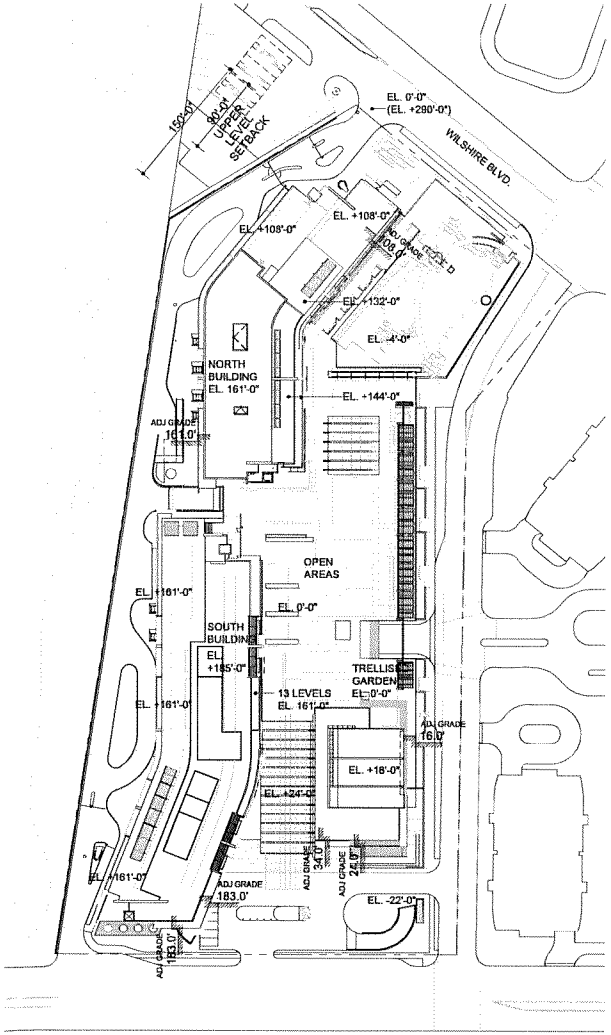


FIGURE 7
BUILDING HEIGHT

ONE BEVERLY HILLS

DATUM POINT:
PROJECT ELEVATION EL. 0'-0"
EQUALS TO MSL EL. 290'-0"

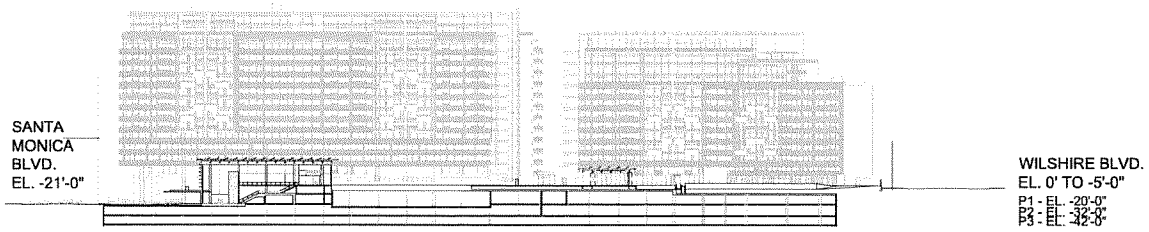


FIGURE 8
SITE SECTION
-WILSHIRE TO
SANTA MONICA
BOULEVARDS

ONE BEVERLY HILLS

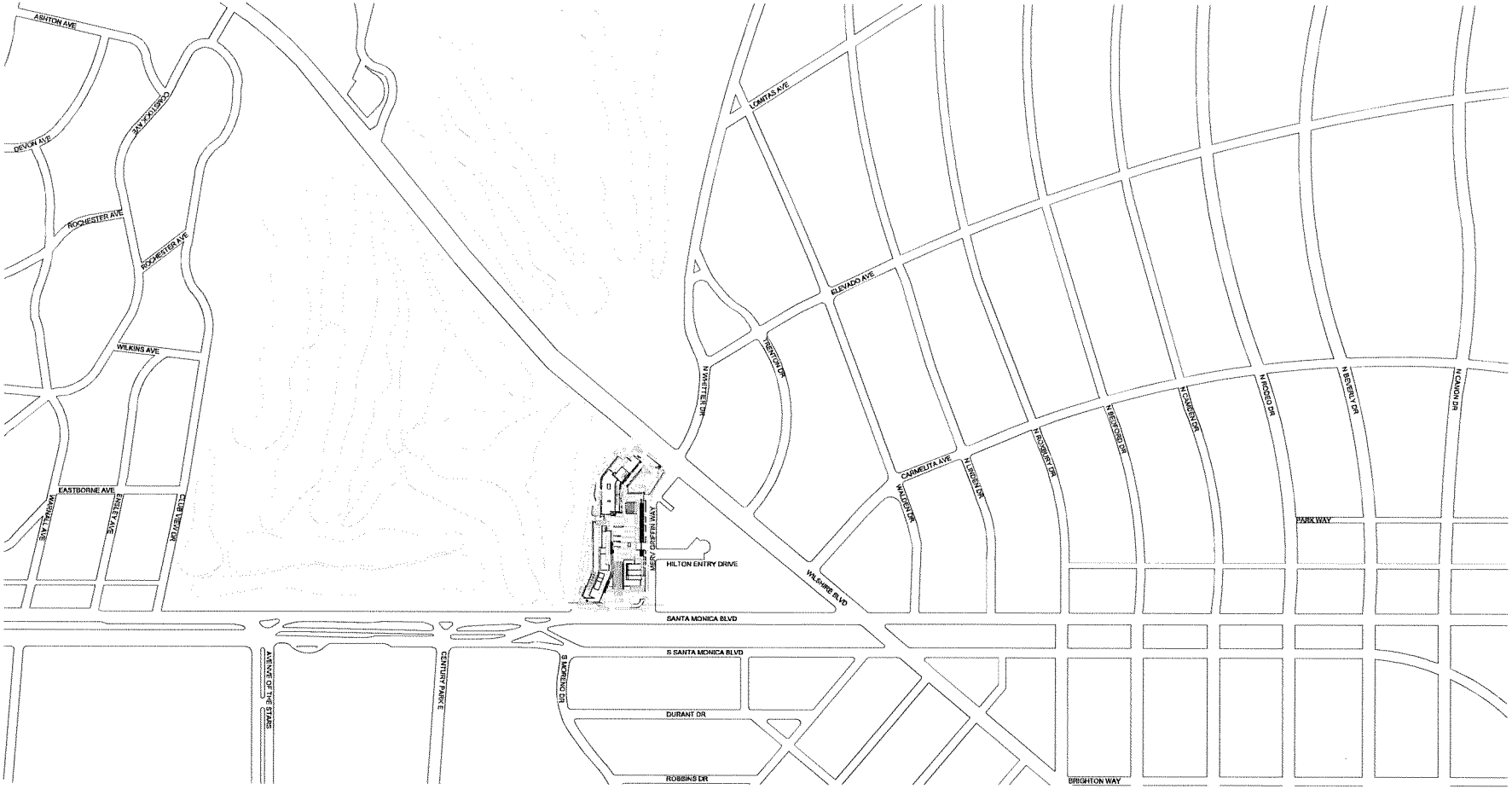


FIGURE 9
SURROUNDING CIRCULATION

ONE BEVERLY HILLS

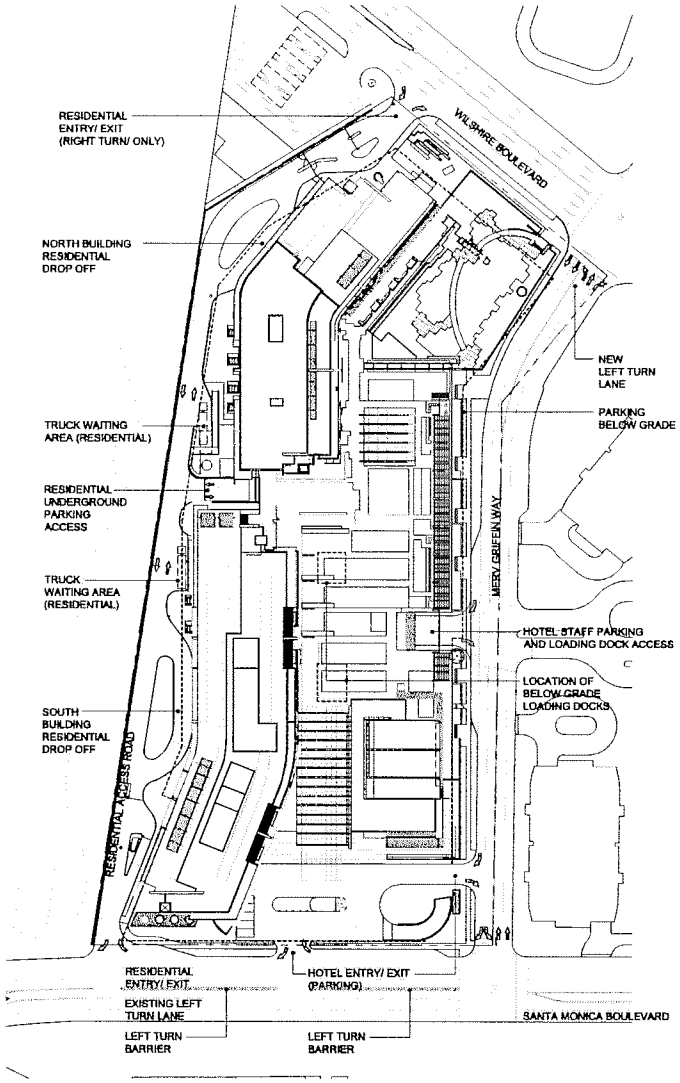


FIGURE 10
ON-SITE CIRCULATION: ACCESS, DRIVEWAYS, ROADWAY IMPROVEMENTS

ONE BEVERLY HILLS

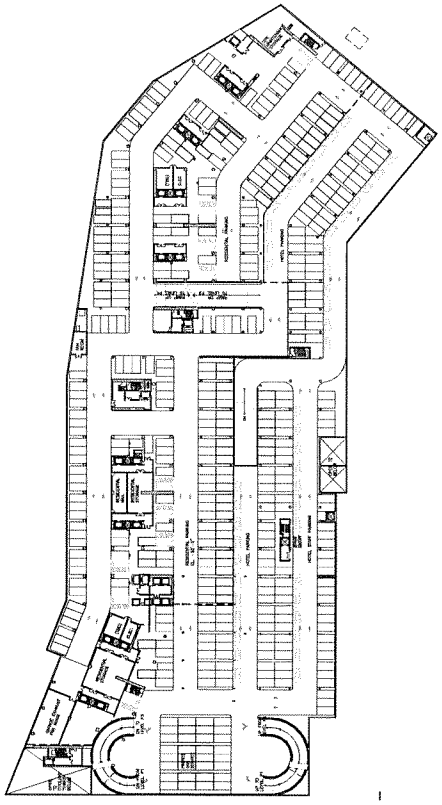


FIGURE 12
PARKING PLAN - LEVEL P2
ONE BEVERLY HILLS

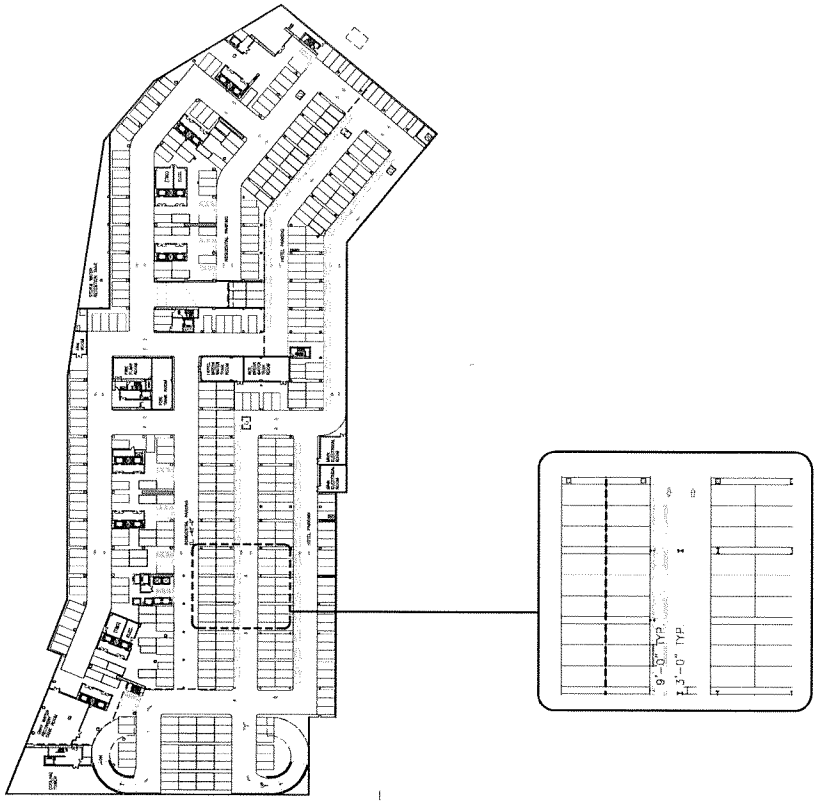


FIGURE 11
PARKING PLAN - LEVEL P3
ONE BEVERLY HILLS

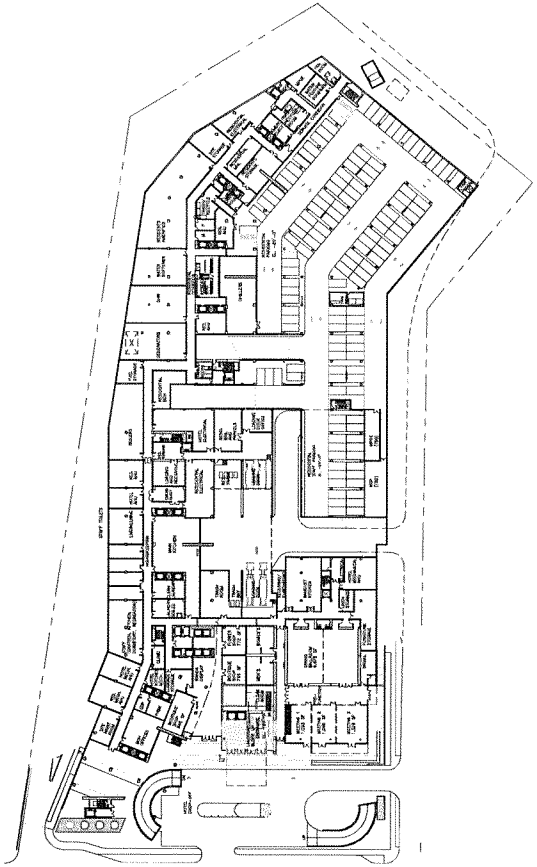
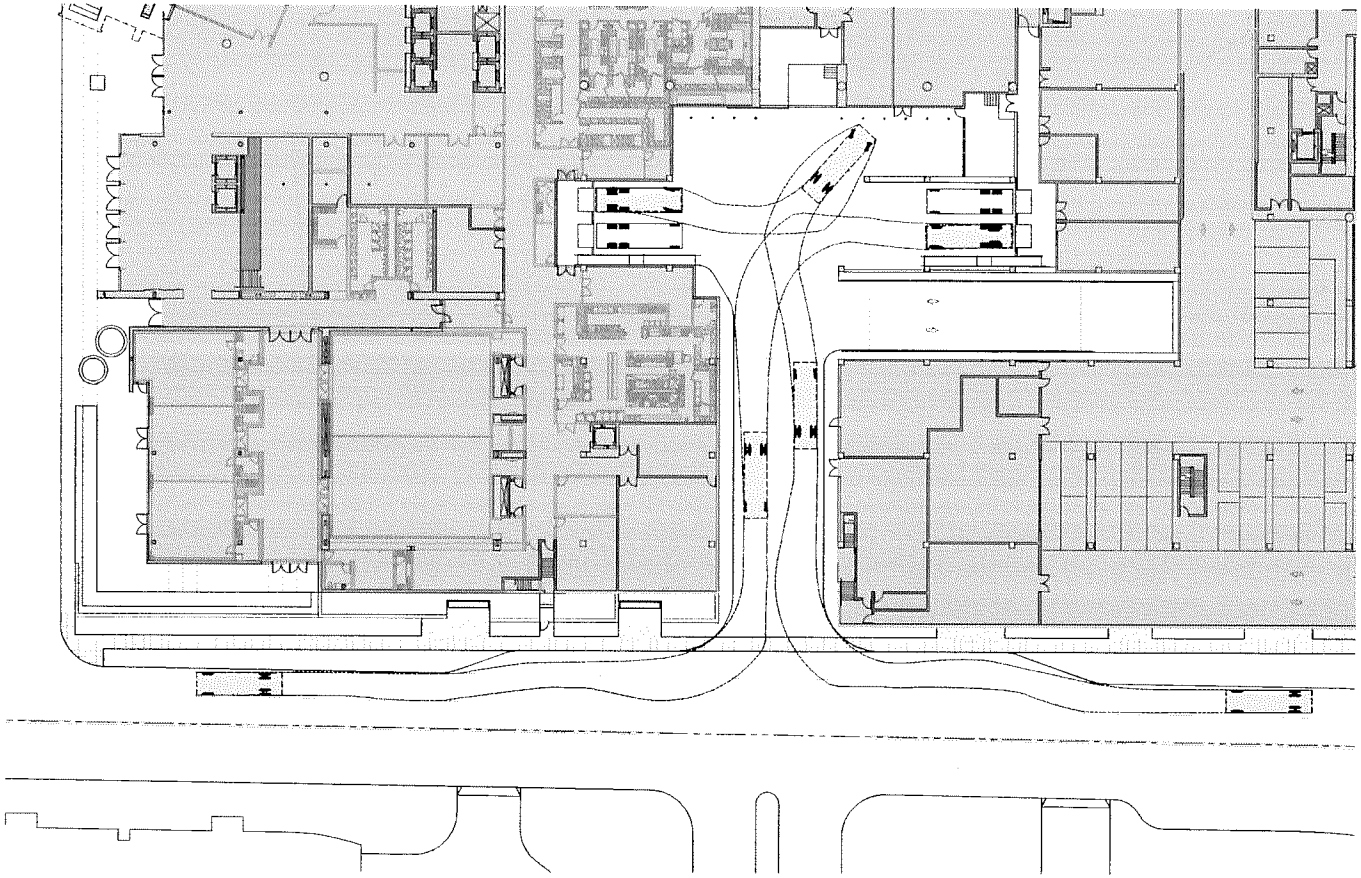
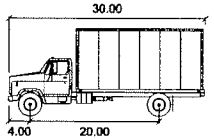


FIGURE 12a
PARKING PLAN - LEVEL P1
ONE BEVERLY HILLS





SU-30	feet
Width	: 8.00
Track	: 8.00
Lock to Lock Time	: 6.0
Steering Angle	: 31.8

FIGURE 13
LOADING DOCKS
ONE BEVERLY HILLS

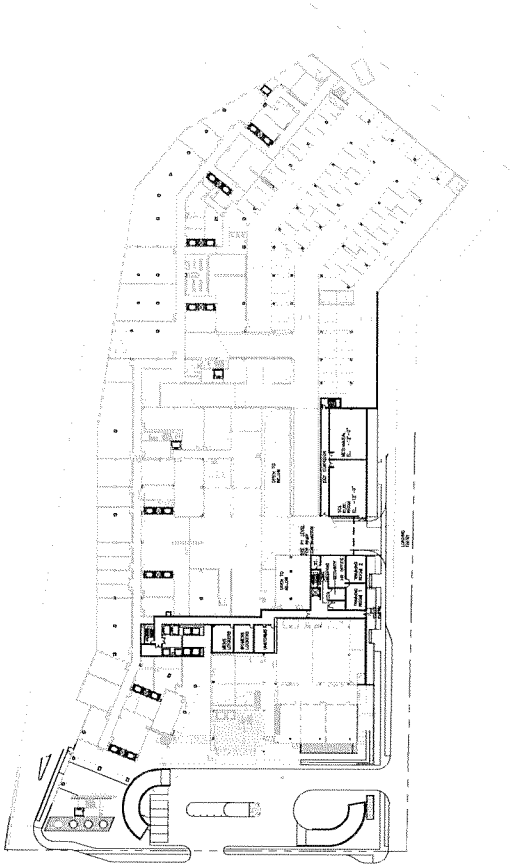


FIGURE 14
BUILDING PLAN - MEZZANINE LEVEL
ONE BEVERLY HILLS

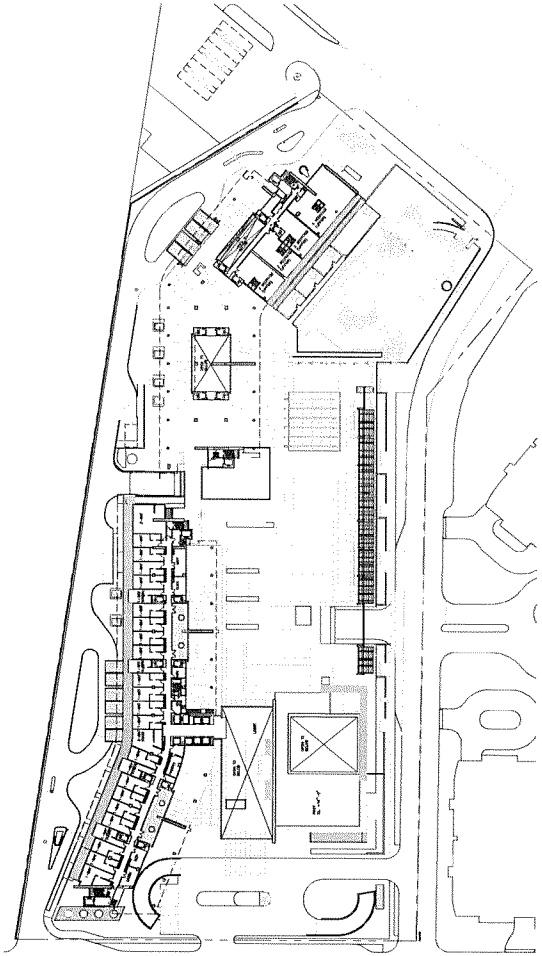


FIGURE 16
BUILDING PLAN - LEVEL 2
ONE BEVERLY HILLS

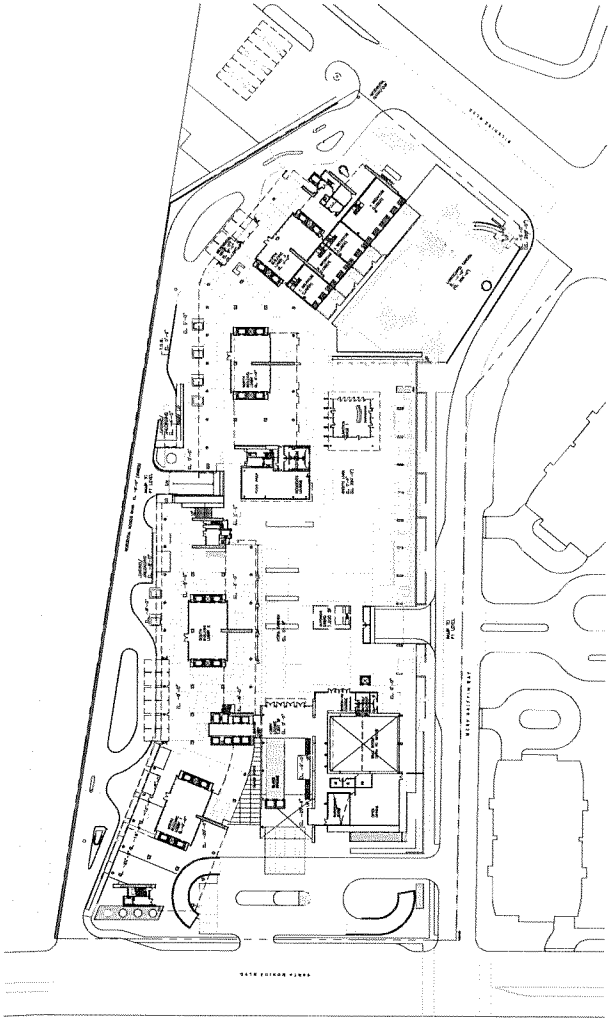


FIGURE 15
BUILDING - LEVEL 1
ONE BEVERLY HILLS

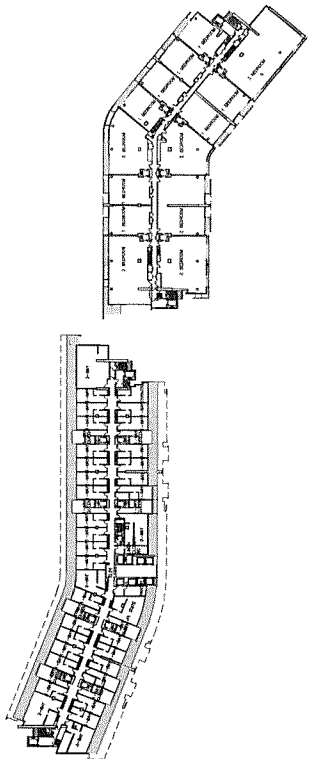


FIGURE 18
BUILDING PLAN - LEVEL 4
ONE BEVERLY HILLS

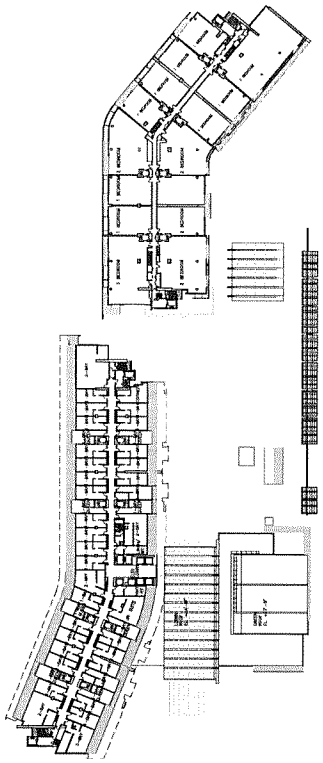


FIGURE 17
BUILDING PLAN - LEVEL 3
ONE BEVERLY HILLS

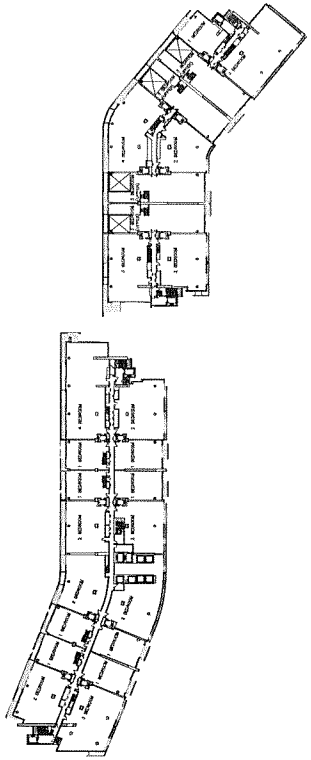


FIGURE 20
BUILDING PLAN - LEVEL 6
ONE BEVERLY HILLS

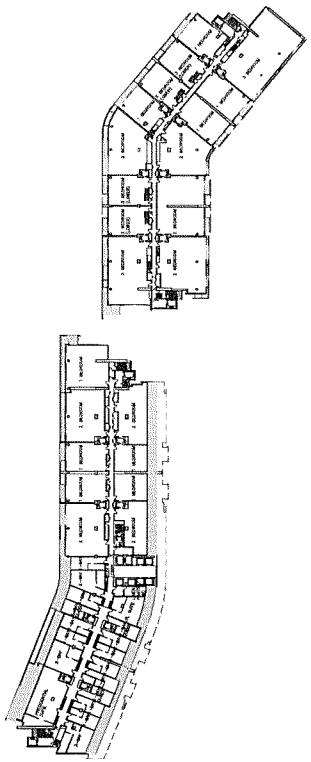


FIGURE 19
BUILDING PLAN - LEVEL 5
ONE BEVERLY HILLS

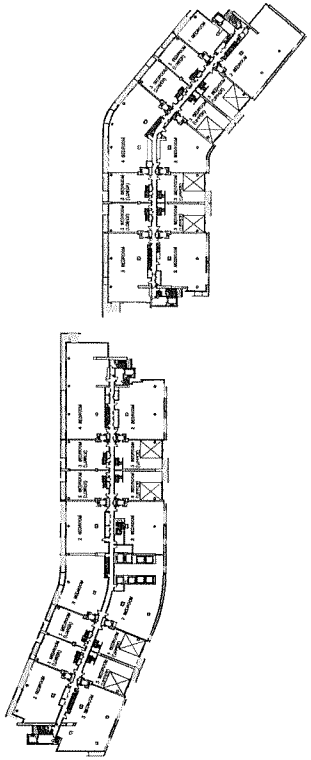


FIGURE 22
BUILDING PLAN - LEVEL 8
ONE BEVERLY HILLS

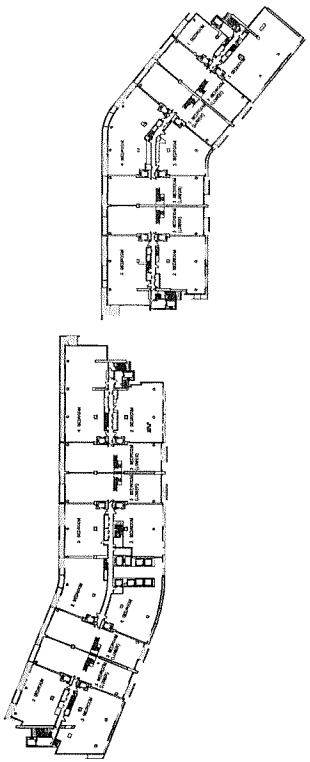


FIGURE 21
BUILDING PLAN - LEVEL 7
ONE BEVERLY HILLS

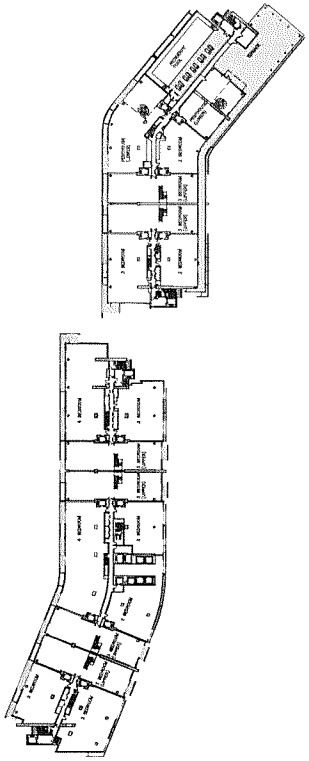


FIGURE 24
BUILDING PLAN - LEVEL 10
ONE BEVERLY HILLS

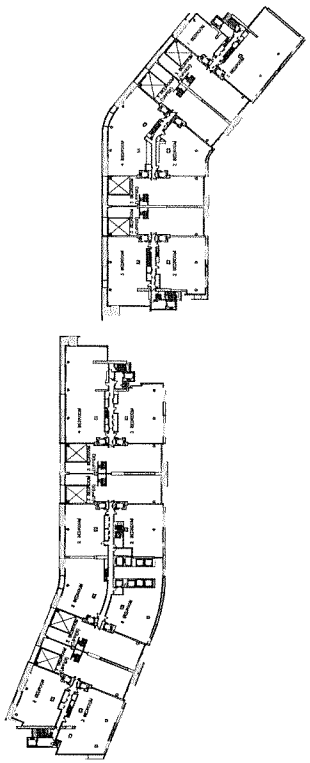


FIGURE 23
BUILDING PLAN - LEVEL 9
ONE BEVERLY HILLS

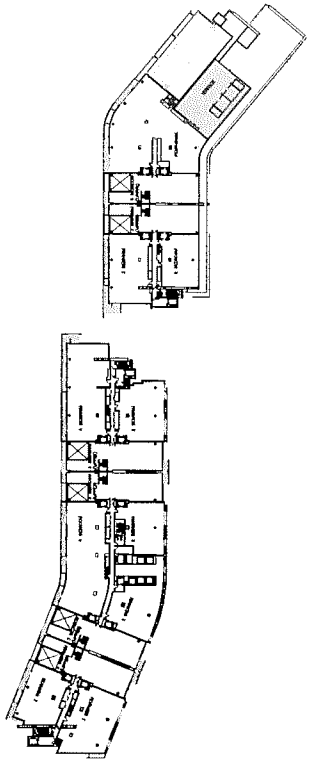


FIGURE 26
BUILDING PLAN - LEVEL 12
ONE BEVERLY HILLS

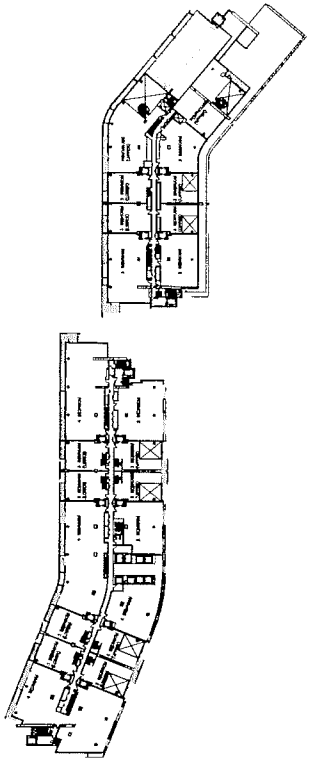


FIGURE 25
BUILDING PLAN - LEVEL 11
ONE BEVERLY HILLS

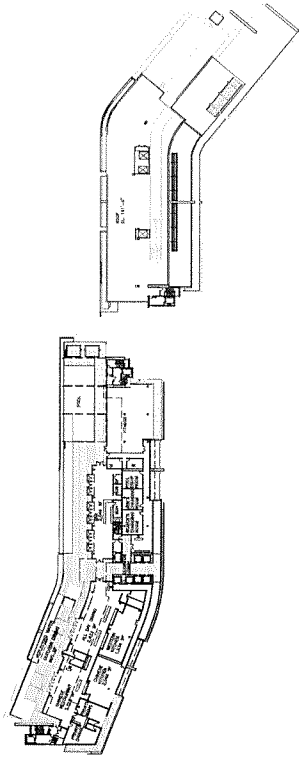


FIGURE 28
BUILDING PLAN - LEVEL 14
ONE BEVERLY HILLS

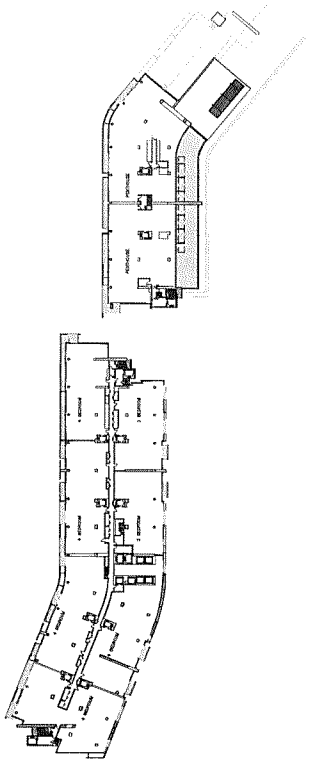


FIGURE 27
BUILDING PLAN - LEVEL 13
ONE BEVERLY HILLS

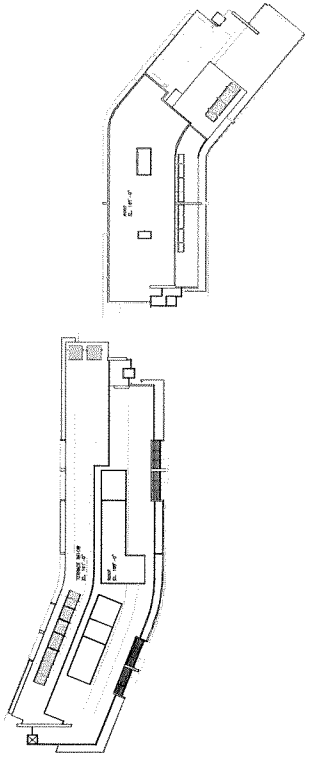


FIGURE 30
BUILDING PLAN - ROOF LEVEL
ONE BEVERLY HILLS

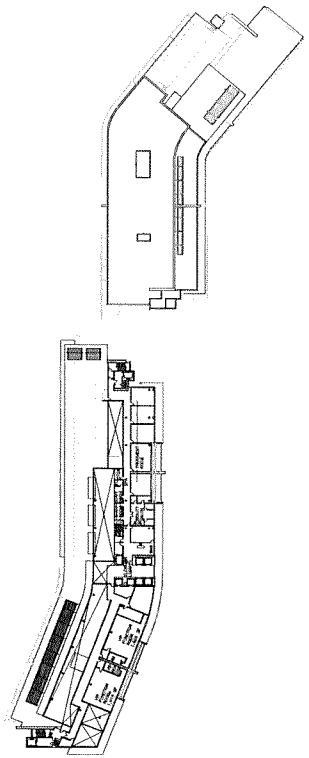


FIGURE 29
BUILDING PLAN - LEVEL 15
ONE BEVERLY HILLS

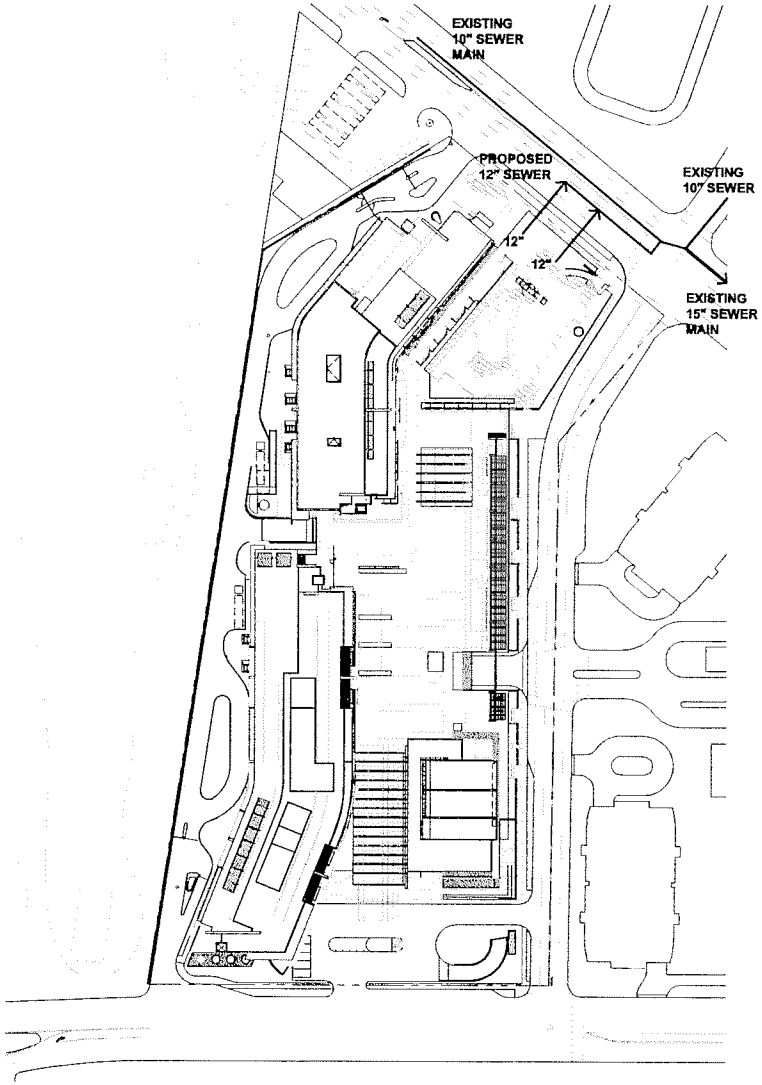


FIGURE 32
SEWER SYSTEM PLAN
ONE BEVERLY HILLS

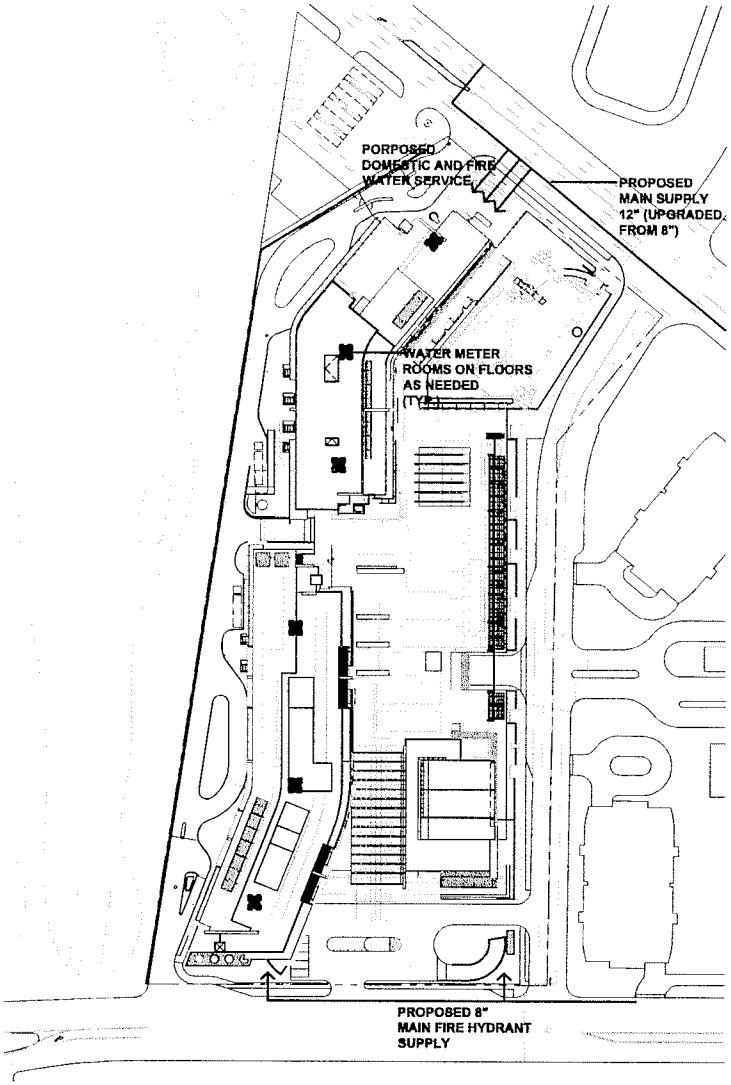


FIGURE 31
WATER SYSTEM PLAN
ONE BEVERLY HILLS

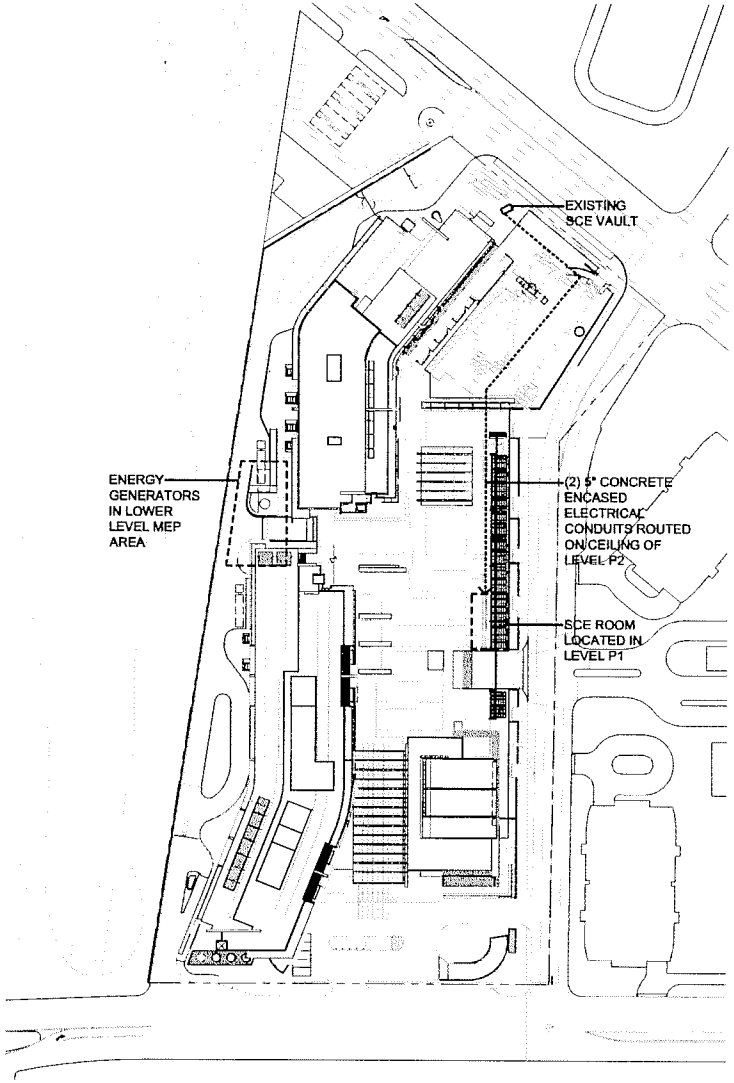


FIGURE 34
ELECTRIC FACILITIES PLAN
ONE BEVERLY HILLS

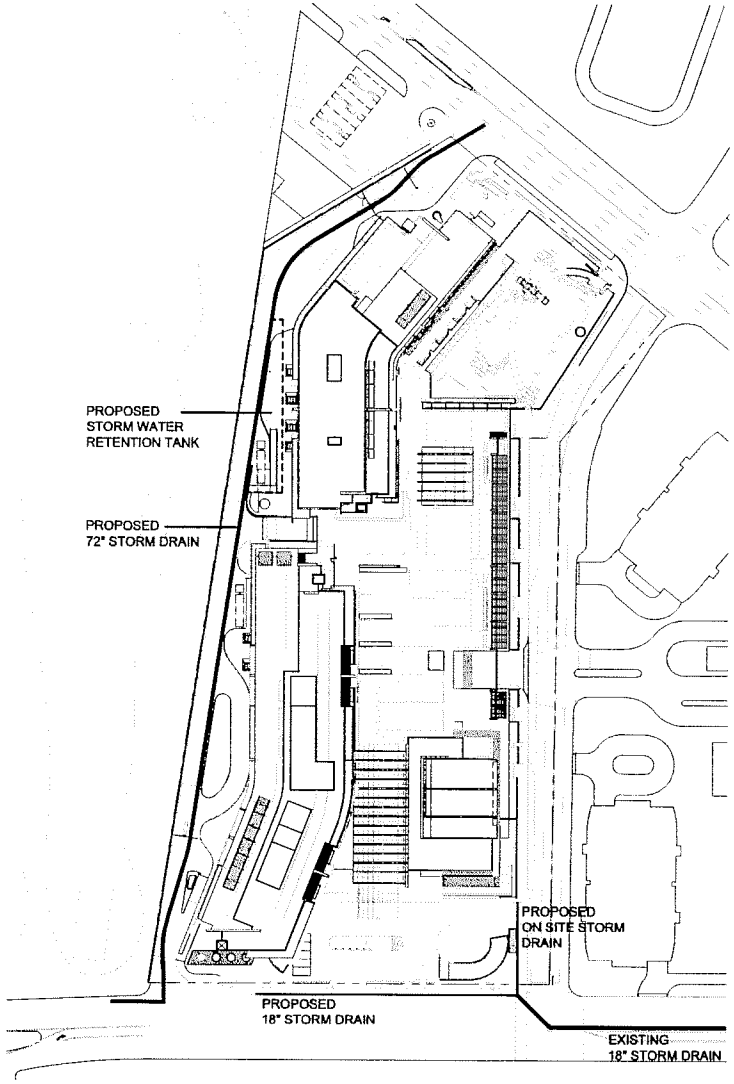


FIGURE 33
STORMDRAIN PLAN
ONE BEVERLY HILLS

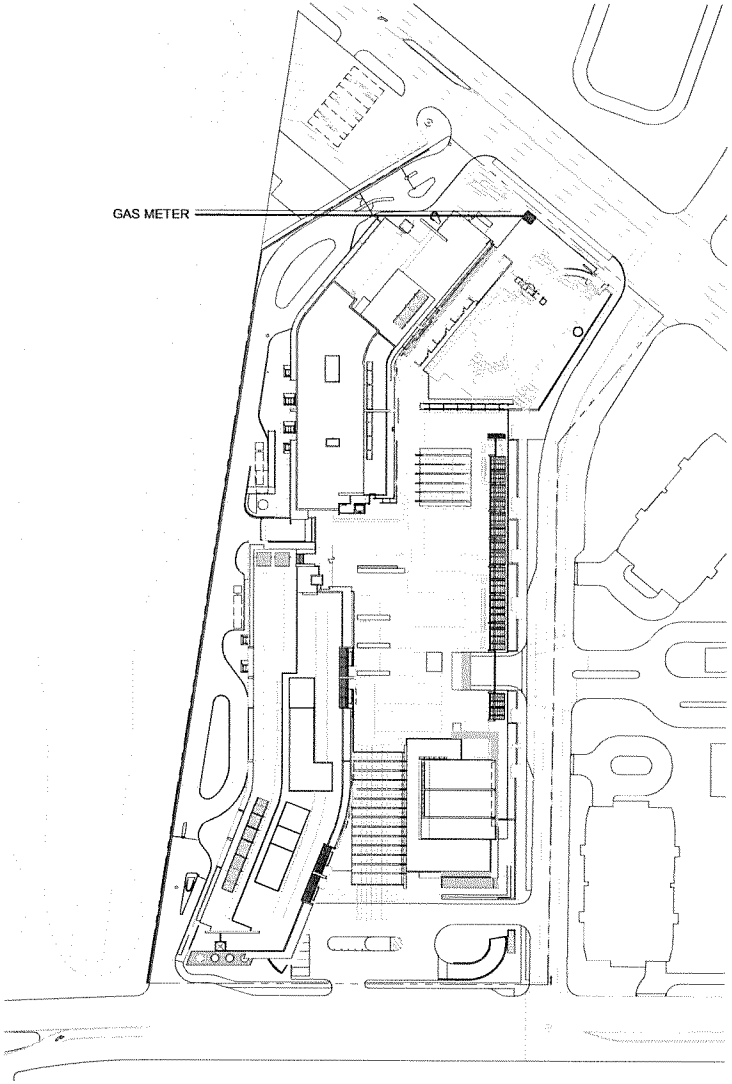


FIGURE 36
NATURAL GAS PLAN
ONE BEVERLY HILLS

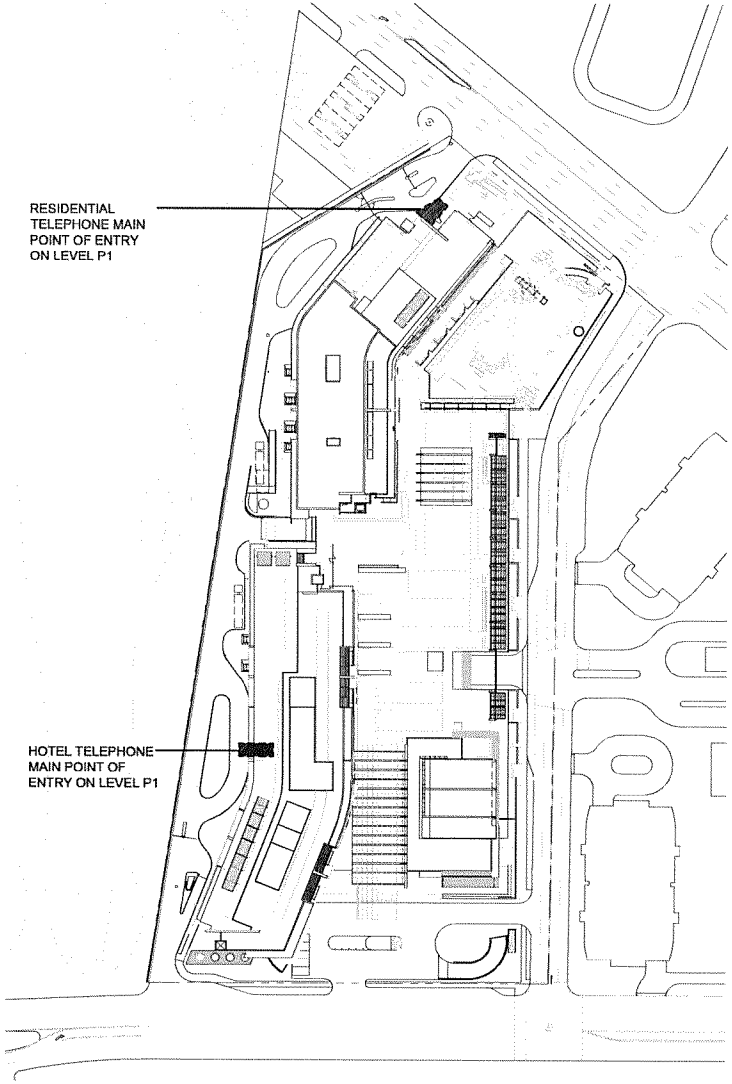


FIGURE 35
TELEPHONE PLAN
ONE BEVERLY HILLS

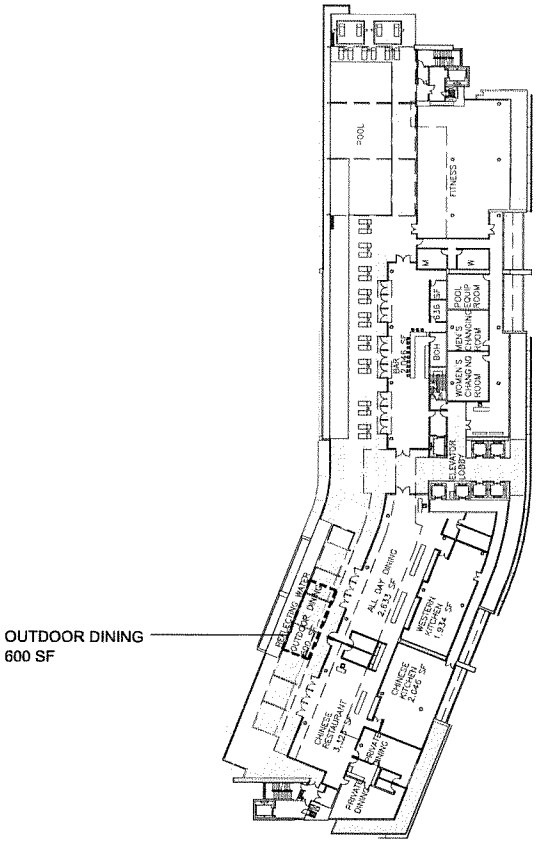


FIGURE 37b
LEVEL 14 PLAN

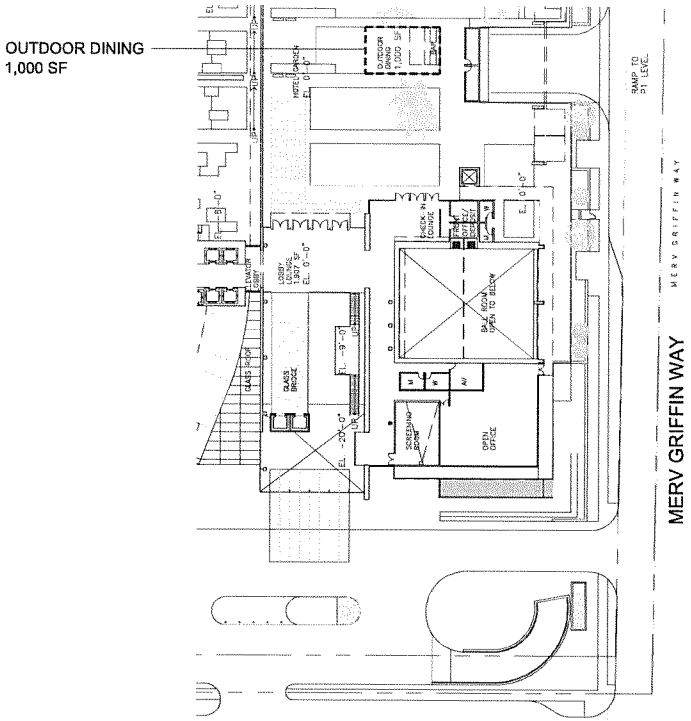


FIGURE 37a
GROUND LEVEL PLAN

FIGURE 37
OPEN AIR DINING

ONE BEVERLY HILLS

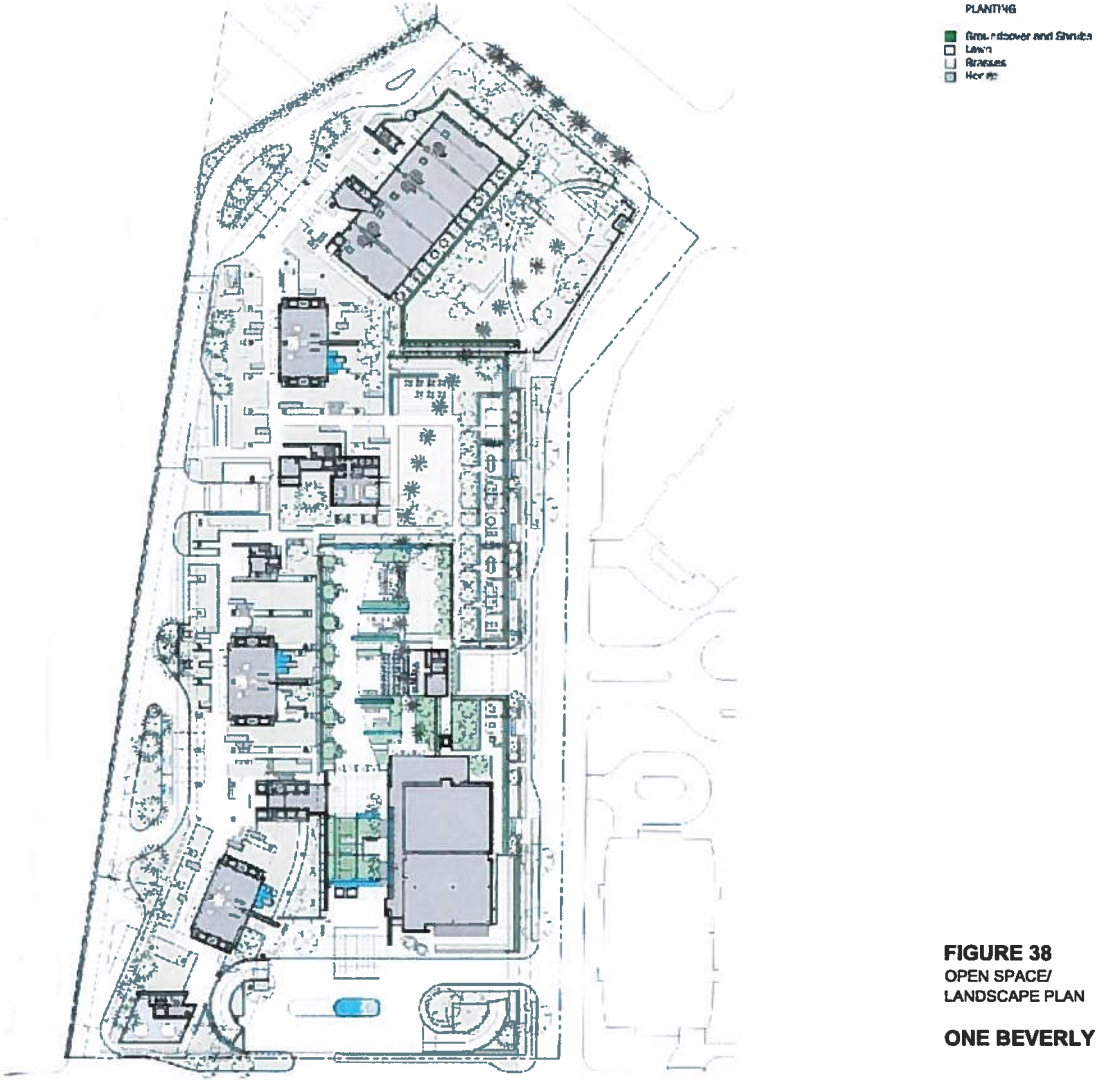
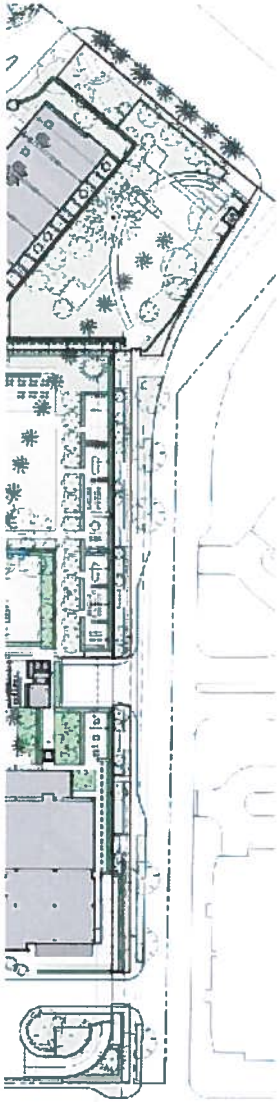


FIGURE 38
OPEN SPACE/
LANDSCAPE PLAN

ONE BEVERLY HILLS



PLANTING

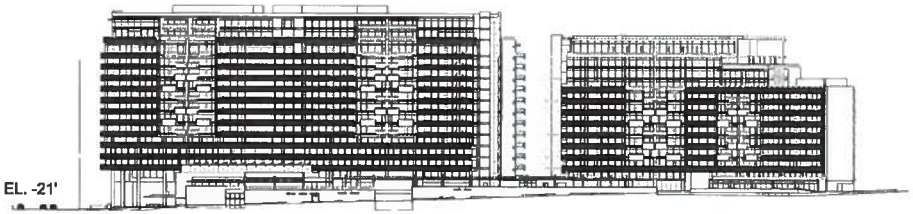
- Groundcover and Shrubs
- Lawn
- Grasses
- Hedge

FIGURE 39
PUBLIC GARDEN PLAN

ONE BEVERLY HILLS

DATUM POINT:
PROJECT ELEVATION EL. 0'-0"
EQUALS TO MSL EL. 290'-0"

WEST ELEVATION



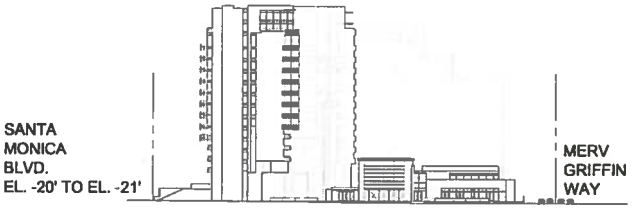
EAST ELEVATION

FIGURE 40
EAST AND WEST ELEVATIONS

ONE BEVERLY HILLS

DATUM POINT:
PROJECT ELEVATION EL. 0'-0"
EQUALS TO MSL EL. 290'-0"

NORTH ELEVATION



SOUTH ELEVATION

FIGURE 41
NORTH AND SOUTH
ELEVATIONS

ONE BEVERLY HILLS

FIGURE 42
MERV GRIFFIN WAY/
SANTA MONICA BOULEVARD
RENDERING

ONE BEVERLY HILLS

FIGURE 43
WILSHIRE BOULEVARD
RENDERING

ONE BEVERLY HILLS

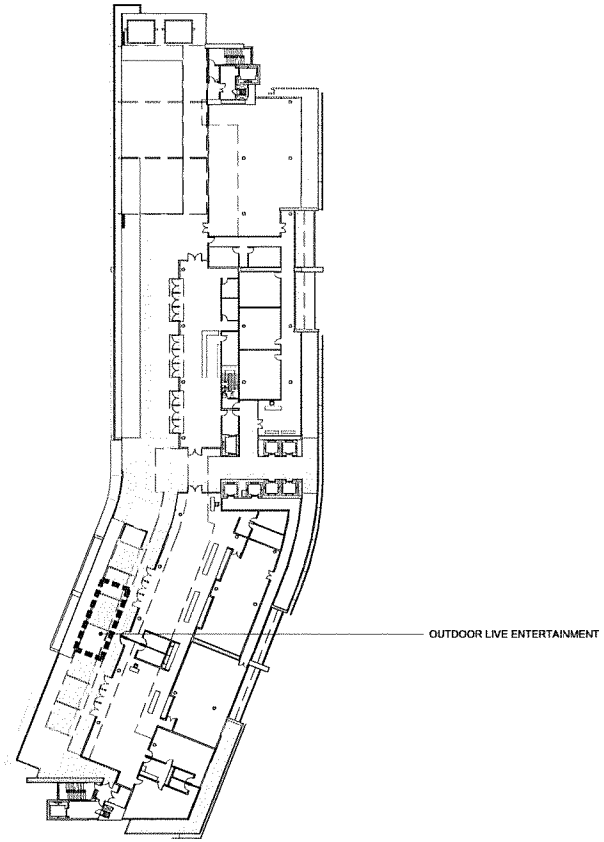


FIGURE 45
BUILDING PLAN - LEVEL 14
ANCILLARY OUTDOOR LIVE ENTERTAINMENT
ONE BEVERLY HILLS

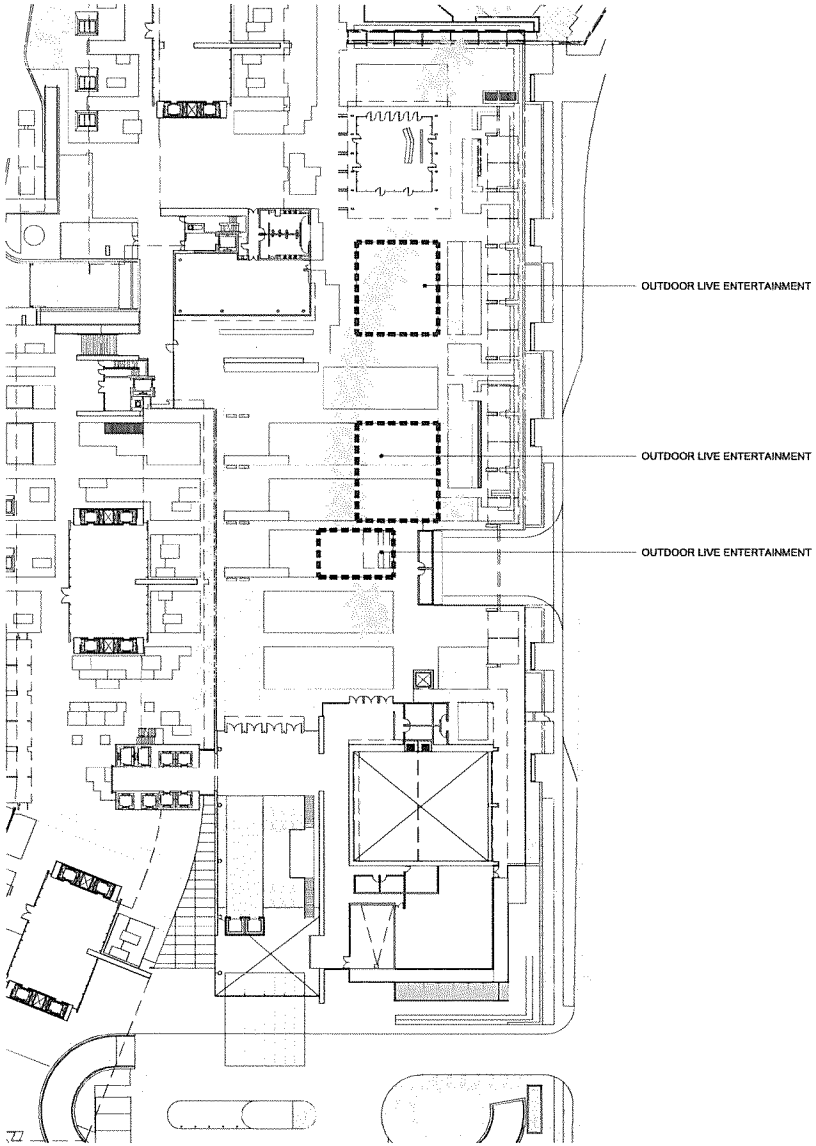


FIGURE 44
GROUND LEVEL PLAN
ANCILLARY OUTDOOR LIVE ENTERTAINMENT
ONE BEVERLY HILLS

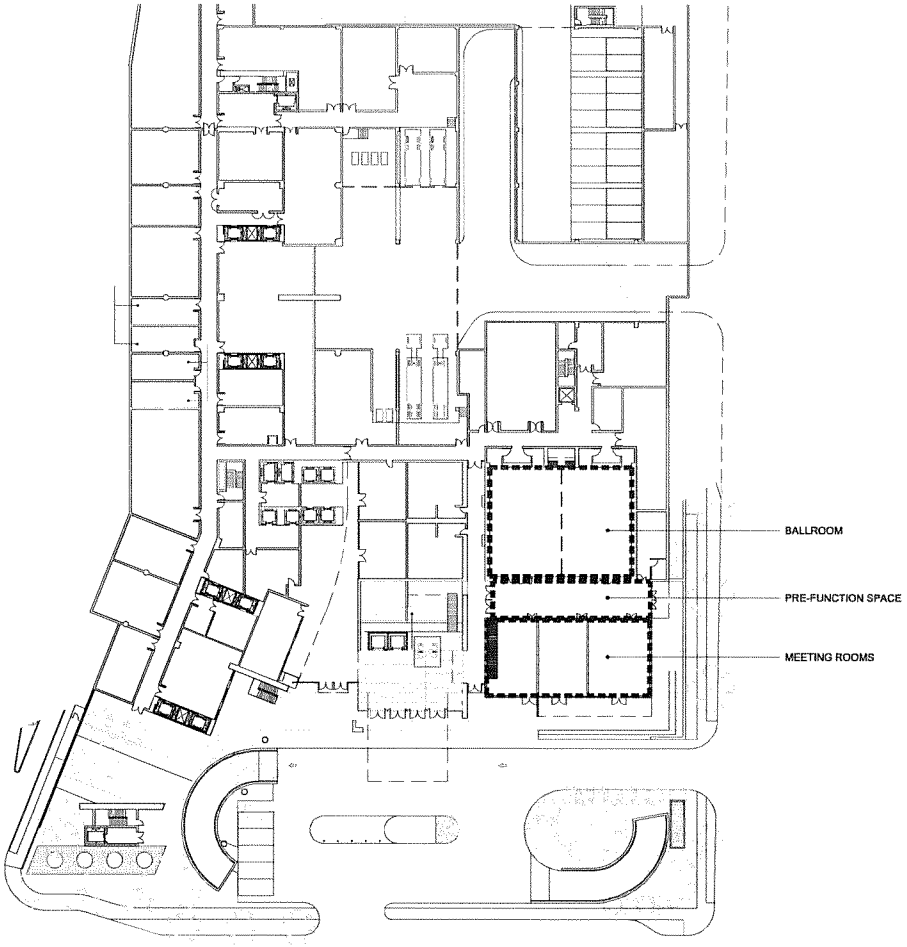


FIGURE 46
LEVEL P1
MEETING ROOM FACILITY PLAN
ONE BEVERLY HILLS

EXHIBIT C

CONDITIONS OF APPROVAL

Community Development/Planning Project Conditions

1. Compliance with Plans. The Project shall be built in substantial compliance with the approved plans dated _____ ("Approved Plans"). These plans shall be kept on file with the City Clerk's Office and the Department of Community Development/ Planning, and subject to additional conditions as may be imposed by the Architectural Commission.

2. Minor Amendments. Minor Amendments to the Conditions of Approval may be approved by the Director of Community Development and shall not require an amendment to the 9900 Wilshire Specific Plan.

3. Number of Residential Units. In no case shall the Project include more than 193 residential units in accordance with the Approved Plans and details contained in the approved 9900 Wilshire Specific Plan, as amended. The total floor area of the residential uses shall not exceed 697,223 square feet, inclusive of all common areas.

4. Hotel Rooms. In no case shall the Project include more than 134 hotel rooms in accordance with the Approved Plans and details contained in the approved 9900 Wilshire Specific Plan, as amended. The total floor area of the hotel rooms (exclusive of any hotel dining, bar, meeting room ancillary amenities, and back of house) shall not exceed 95,921 square feet.

5. Hotel Dining, Bar, Meeting Rooms, and Ancillary Amenities. The project shall include a maximum floor area of 14,435 square feet of hotel spa and fitness amenities; 7,942 square feet of ballroom and meeting room facilities; 1,907 square feet of hotel lobby lounge area; 2,484 square feet of hotel shops; 16,057 square feet of restaurants and bar facilities (including restaurant and bar back of house facilities).The project shall also include a maximum floor area of 45,674 square feet of hotel back of house and storage facilities, and 19,871 square feet of hotel amenity front of house facilities. The hotel amenity front of house

facilities shall include hotel entrance, pre-function space, bridal room, display areas, check-in lounge, screening room, elevator lobbies, public restrooms, and public circulation areas. In addition, the project's total open air dining areas shall not exceed a total of 1,600 square feet.

6. Ancillary Hotel Garden Areas. Use of ancillary hotel garden areas, including the ancillary outdoor live entertainment areas identified in Figures 44 and 45 of the Specific Plan in conjunction with indoor meeting and ballroom facilities shall not exceed the capacity of the indoor meeting and ballroom facility that is being utilized for the event. Under no circumstances shall the residential outdoor live entertainment area shown in Figure 44 of the Specific Plan be utilized in conjunction with any events at the hotel, except by residents of the condominiums.

7. Restaurant and Outdoor Event Space Noise. No amplified music is permitted in the outdoor dining areas. No amplified music inside the restaurants, bars, or lounges shall be audible from the exterior of the restaurants, bars, or lounges. No amplified music shall be permitted in the hotel garden areas and residential garden areas, including the outdoor live entertainment areas identified in Figures 44 and 45 of the Specific Plan.

8. General Parking Requirements. The project shall have not less than 1,140 parking spaces for residents, residents' guests, hotel guests and visitors, employees, and visitors of the public garden areas as shown in the Approved Plans. This number may be modified by the Director of Community Development by up to 5 spaces to accommodate the final design of the parking layout, and shall be allocated consistent with the following additional conditions of approval.

9. Residential Parking. A total of not less than 558 residential parking spaces shall be provided for the condominium component of the project. Of these, not more than 103 spaces

may be tandem spaces. Tandem spaces shall not be used for guest parking. Parking spaces for residential units are required to comply with the City's Municipal Code standards and shall be used solely for the parking of the personal vehicles of residents, their guests, and employees associated with the condominium units. Parking spaces for residential units may not be leased, subleased, sold, transferred, or otherwise separated from the unit for which the parking spaces are required and shall not be dedicated to or used to provide parking for any off-site use. The parking spaces for each residential unit shall be permanently assigned to the unit and shall be labeled as such.

10. Hotel Parking. A total of not less than 582 parking spaces (including not more than 59 tandem spaces and not more than 102 in-aisle spaces) shall be provided for the hotel, dining/bar, hotel ancillary, and meeting room/ballroom uses. In addition, the hotel motor court shall be designed to accommodate at least 22 additional standard parking spaces; 19 large sedan (towncar) spaces; or 14 stretch limousine spaces, while maintaining adequate circulation space at all times. On-site valet parking services shall be provided at all times and shall operate pursuant to an approved Parking Valet/Operations Plan as required by Condition 17 below for the tandem and in-aisle spaces.

11. Public Garden Parking. As part of the required number of hotel parking spaces, a minimum of 30 spaces shall remain available at all times for visitors of the public gardens located at the southwest corner of Wilshire Boulevard and Merv Griffin Way. Visitors of the public gardens shall receive 3 hours of free parking, after which market rates for parking may be imposed. All leases or sales agreements for hotel or commercial space within the Project shall contain provisions to implement this requirement.

12. Limousine, Ride Share, Taxi, and Car Service Staging: Additional staging and queuing areas for limousines, ride share vehicles, taxis, and car service vehicles shall be provided in the first level of subterranean parking in the area located below the hotel motor court and accessed by the hotel motor court ramps. This staging area shall be designed to accommodate up to 22 stretch limousines (24.5' in length) or 38 large sedans (18' in length). In the event that additional staging capacity is required, limousines, ride share vehicles, taxis, and car service vehicles shall be staged in the hotel loading dock area. No limousine, ride share, taxi, or car service vehicles shall be staged or queue along adjacent streets or residential areas, including but not limited to Santa Monica Boulevard, Merv Griffin Way, Wilshire Boulevard, or Whittier Drive.

13. Parking Accessibility. Each parking stall designated to meet the numeric requirements of the Americans with Disabilities Act ("ADA") shall meet all ADA requirements for an accessible parking space.

14. Employee Parking. The Project shall provide free on-site parking at all times for those hotel employees who drive to the Project site to work. All leases or sales agreements for hotel or commercial space within the Project shall contain provisions to implement this requirement. An employee shall be defined as a person in the service of another under any contract of hire, express or implied, oral or written, where the employer has the power or right to control and direct the employee in the material details of how the work is to be performed. This condition shall also apply to any employees of contractors retained for services on the property.

15. Pedestrian Signage. Prior to the issuance of occupancy permits for the Project, the Applicant shall install sufficient signage, as determined by the City Traffic engineer, on both

the interior and exterior of the parking garage to protect pedestrians from drivers entering/exiting all access points of the residential and hotel garages and the hotel motor court.

16. Signage. Prior to the issuance of a building permit, the Applicant shall submit a unified sign plan required by Section 4.6 of the Specific Plan for review and approval. Said unified sign plan shall include, but not be limited to, provision of appropriate signage and precautionary devices inside the parking garage. After approval of the Unified Sign Plan, all project signage shall conform to the approved Unified Sign Plan.

17. Parking Signage. Prior to the issuance of a building permit, the Applicant shall submit a signage plan for review and approval by the Department of Community Development/Planning, which plan shall include, but not be limited to, provision of appropriate signage and precautionary devices inside the parking garage. All signage shall conform to the signage plan.

18. Parking Valet/Operations Plan. Prior to the issuance of any occupancy permit, the applicant shall prepare and shall have received approval from the Director of Community Development and Director of Public Works of a Parking Valet/Operations Plan for both hotel and residential parking operations. The residential parking operations plan shall include plans to meet the parking needs generated by large on-site events and parties (i.e. to include the aggregate number of people generated for multiple, simultaneous small events occurring on-site). Thereafter, the applicant and subsequent homeowners' association shall implement said plan for any large on-site events and parties. The requirement for this residential operations plan shall be incorporated into the Covenants, Conditions and Restrictions for the condominiums. The hotel parking operations plan shall consider and coordinate with simultaneous events occurring within the condominiums as well as at the Beverly Hilton and

the Waldorf Astoria, and shall include information on the number of valet attendants that will be on duty at any given time, the standard operating procedures for staging of limousines, ride share vehicles, car service vehicles, and taxis, and any other information deemed necessary by the Community Development Department.

19. Hotel Motor Court Circulation Traffic Control Measures. Prior to the issuance of any occupancy permit, the applicant shall implement the following traffic control measures. Final design and implementation of all traffic control measures shall be subject to the review and approval of the City's Traffic Engineer and the Director of Community Development:

a. The Applicant shall install a physical barrier at the centerline of Santa Monica Boulevard in the area near the Hotel Motor Court driveway to prohibit vehicles from turning left out of the Hotel Motor Court onto Santa Monica Boulevard to travel eastbound. Such barrier shall be designed to allow left turns into the Hotel Motor Court for vehicles traveling eastbound on Santa Monica Boulevard. The Applicant shall also install signage at the Hotel Motor Court driveway at Santa Monica Boulevard indicating that left turns from the Hotel Motor Court onto eastbound Santa Monica Boulevard are prohibited.

b. Access to the Hotel Motor Court from the driveway at Merv Griffin Way shall be right-in/right-out only. The Applicant shall install signage at the Hotel Motor Court driveway at Merv Griffin Way indicating that left turns from the Hotel Motor Court onto northbound Merv Griffin Way are prohibited. The applicant shall also install signage at the Hotel Motor Court driveway at Merv Griffin way indicating that left turns from northbound Merv Griffin Way into the Hotel Motor Court are prohibited.

c. The Applicant shall paint "Keep Clear" road markings on the southbound lanes of Merv Griffin Way adjacent to the east driveway of the Hotel Motor Court.

d. The Applicant shall paint "Keep Clear" road markings in the westbound lanes of Santa Monica Boulevard adjacent to the south driveway of the Hotel Motor Court.

20. Residential Driveway Entrances. Prior to the issuance of occupancy permits and subject to the review and approval of the City Traffic Engineer and Directors of Community Development and Public Works, the Applicant shall install signage at both of the Project's residential driveways along the western project site boundary indicating that left turns onto eastbound Santa Monica Boulevard and left turns onto westbound Wilshire Boulevard are prohibited.

21. Merv Griffin Way Loading Area Entrance. Prior to issuance of occupancy permits and subject to the review and approval of the City Traffic Engineer and the Directors of Community Development and Public Works, the Applicant shall widen the west side of Merv Griffin Way adjacent to the loading area entrance in order to accommodate right-turn ingress and right-turn egress of a 30-foot long delivery truck such that a delivery truck could sufficiently maneuver without encroaching into adjacent lanes.

22. Loading Operations. Prior to issuance of occupancy permits and subject to the review and approval of the City Traffic Engineer and the Directors of Community Development and Public Works, the Applicant shall provide a Loading Management Plan to minimize loading-related impacts from the Project on adjacent land uses. The Loading Management Plan shall include, at a minimum, the following measures:

a. Limit the permissible hours for loading to 6:00 a.m. to 2:30 p.m. Monday through Saturday and 9:00 a.m. to 2:30 p.m. on Sundays.

b. A delivery monitor shall be designated to monitor the loading area and deliveries in order to control the circulation activities and to prevent overcrowding in the loading area.

c. Loading vehicles shall be prohibited from making left turns into the loading area from Merv Griffin Way or out of the loading area onto Merv Griffin Way. The Applicant shall inform all vendors or delivery companies that do business with the owner/operator of the Project of the loading area access restrictions to ensure that drivers are aware of the restrictions prior to making any deliveries.

d. Visible signage at the exterior of the loading area entrance on Merv Griffin Way identifying that it is a loading area shall be minimal and subject to the review and approval of the Architectural Commission.

e. Tractor trailers (trucks with articulated trailers that pivot separate from the cab of the truck) shall be prohibited from accessing the loading area along Merv Griffin Way. Under special circumstances, and with prior approval from the Director of Community Development, tractor trailer deliveries may be allowed on a limited basis, subject to any conditions imposed by the Director of Community Development.

The City hereby retains the authority to impose additional conditions on the Project to address loading, delivery and parking issues. The Applicant shall comply with the approved Loading Management Plan and any additional conditions imposed after adoption of this Resolution and after adoption of the Loading Management Plan, in order to address parking, loading and delivery issues. No loading shall occur on Wilshire Boulevard or Santa Monica Boulevard.

23. <u>One Year Review</u>. One year after the issuance of a Certificate of Occupancy, or as soon thereafter as the matter may be scheduled, the Director of Community Development shall

schedule a hearing before the Planning Commission to review the Project's on-site and off-site traffic and circulation characteristics, parking utilization rates, and the operation of the loading area. At least ten days prior to such hearing, notice shall be posted on the site; mailed to all property owners and residential occupants within 500' of the project site, plus blockface, including all property owners and residential occupants along Whittier Drive, Trenton Drive, and Walden Drive between Wilshire Boulevard and Sunset Boulevard, and Carmelita Avenue between Wilshire Boulevard and Walden Drive, as well as the President of the Beverly Hills North Homeowners' Association or successor organization; and shall be published in two newspapers of local circulation. The full cost of said hearing, including but not limited to technical studies and public notice, shall be borne by the Project Applicant. Upon conclusion of the hearing, the Planning Commission may impose additional conditions upon the Project, including changes to the design of the Project and/or adjacent roadways as necessary to mitigate any unanticipated traffic, circulation, loading, or parking impacts caused by the Project, and the owner, hotel, or Homeowners Association and operator shall forthwith comply with any such additional conditions at their sole expense. However, the owner, hotel, or Homeowners Association may appeal the decision of the Planning Commission to the City Council pursuant to the provisions of the Beverly Hills Municipal Code and any decision of the Planning Commission shall be stayed pending a decision by the City Council on appeal.

24. Safety/Technology. The applicant shall install state-of-the-art devices or equipment as approved by the City's Police and Fire Departments to ensure that wireless telecommunication reception in the parking garage and in the project is adequate for police, fire and other emergency responders and the health and safety of residents and visitors. The system shall include an In-Building Bi-Directional Amplification System that will (a) provide

City Emergency services personnel the ability to communicate reliably and efficiently by supported City radio systems, within any occupiable spaces inside the respective buildings; and (b) contain back-up / emergency power to ensure on-going, uninterrupted functionality in the event of any power failures or interruptions. Further, the System shall be tested on a regular basis to ensure reliable performance at all times, and the building owner or future homeowners association shall work cooperatively with the City to design, build, maintain, and update the system as conditions require.

25. Public and Common Areas. All public and common areas and facilities shall be clearly depicted, described, or both in the final plans reviewed by the Department of Community Development/Planning prior to issuance of a building permit.

26. Rooftop Uses. Only those rooftop uses that are designated in the Approved Plans are permitted as part of this approval. These include the residents' pool and terrace on the rooftop of the North Building, and the hotel pool, dining, bar, function room, back of house, fitness center, and spa uses on the rooftop of the South Building.

27. Green Building Design. The Project shall be constructed to meet LEED® Silver certification. A green building plan shall be submitted as part of the application for a building permit. The green building plan shall indicate which LEED® checklist items that the project will utilize, and indicate where compliance with each selected point is shown on the plans. The applicant shall be required to implement all points shown in the final green building plan. The Building Official or his designee shall verify compliance with each selected point prior to issuance of a final certificate of occupancy. The Building Official may conduct other inspections as needed to ensure compliance with this condition. The Applicant may request amendment of the green building plan and such amendment may be approved by the Building

Official. If the City Council adopts a green building ordinance prior to the submittal of an application for a building permit, the applicant shall comply with said Ordinance.

28. Gray Water Usage Requirement. The applicant shall install a gray water system as required by Section 3.4 F of the Specific Plan, including sufficient plumbing features to allow gray water to be used for landscaped areas on the property. All plumbing requirements shall be subject to review and approval by the City's Building and Safety Division.

29. Architectural Commission Review. Prior to the issuance of building permits, the design, materials and finishes of the building, and proposed landscaping shall be subject to the review and approval of the Architectural Commission. The Applicant shall submit final landscape, lighting and irrigation plans that include mature-sized plantings along the property to provide an appropriate visual and aesthetically pleasing transition between the property and the neighboring property on the east side of Merv Griffin Way. Particular attention shall be paid to the entry garden areas at the north and south corners of the property that intersect with Merv Griffin Way (including the motor court); to the public garden areas spanning the length of the property; to meandering pathways proposed to span the entirety of the north/south perimeter adjacent to Merv Griffin Way; and to the landscaped areas directly abutting the Merv Griffin Way roadway. Landscape plans shall be prepared by a licensed landscape architect.

30. Final Building Plans. Final building plans shall be consistent with the preliminary plans approved by this Resolution and shall be prepared by a licensed professional.

31. Traffic/Crossing Guard. In addition to the existing City crossing guards in the vicinity of the Project site, during Project construction, the City shall hire and the applicant shall pay for, one or more additional crossing guards to assist children in crossing Wilshire Boulevard, Santa Monica Boulevard and Little Santa Monica at the beginning and end of each

school day, as deemed appropriate by the Director of Community Development. In addition, if deemed necessary by the Environmental Compliance Monitor, an additional guard shall be hired during construction on an as-needed basis to ensure the safety of children walking the length of Merv Griffin Way before and after school. The cost of any such additional crossing guards may be shared by the applicant and the applicant for the Beverly Hilton Revitalization Project if such cost sharing is directed by the Director of Community Development.

32. Hiring Practices. The applicant shall require the Construction Manager/Supervisor to verify that no construction workers have prior felony records prior to hiring of any such workers, and shall not hire any such workers with such prior felony record to work on this Project. The on-site Construction Manager/Supervisor shall assure that no employees, subcontractors of any tier, material suppliers or consultants have direct contact with students from the Beverly Hills Unified School District during the performance of their duties, unless required within the scope of their duties and with the knowledge or approval of the Construction Manager/Supervisor and prior approval from the School District. The applicant shall be responsible for verifying that any security personnel and/or crossing guards have no prior felony record prior to hiring of any such workers, and shall not hire any such workers with such prior felony record to work on this Project. Compliance with this provision shall be verified by the Environmental Compliance Monitor. Further, each contractor on the site shall provide the Environmental Compliance Monitor and the Beverly Hills Unified School District Superintendent a certification form certifying that there are no known felons working on the site.

33. Traffic Signal at Merv Griffin Way/Santa Monica Boulevard. The applicant shall install a traffic light at the Merv Griffin Way/Santa Monica Boulevard intersection.

Installation and plans for the traffic light are subject to review and approval by the City's Traffic Engineer and Building Official. The applicant may be entitled to a fair share reimbursement from other projects that impact this intersection and necessitate the traffic light. The traffic light either shall be installed and operational prior to construction, or the applicant shall provide adequate security for installation prior to the approval of any final subdivision map.

34. Santa Monica Boulevard Roadway Improvements. Prior to the issuance of a certificate of occupancy, the applicant shall provide the right-of-way dedications to the City as shown on the approved plans and subject to review and approval by the City's Public Works Director. As approved by the Public Works Director, the applicant shall install and pay for improvements to the Santa Monica Boulevard right-of-way adjacent to the Project as shown on the approved plans, including but not limited to landscaping and street improvements.

35. Merv Griffin and Wilshire Boulevard Intersection Improvements. The north bound configuration of Merv Griffin Way portion of the southern leg of the intersection of Merv Griffin Way and Wilshire Boulevard shall be modified to provide one left-turn lane, one through lane, and one right-turn lane on the portion of Merv Griffin Way within the Specific Plan Area. The improvements shall be completed prior to the recordation of any final subdivision map.

36. The Applicant shall make good faith efforts to obtain any necessary approvals from relevant agencies and/or property owners to re-construct the portions of street, curb, and sidewalk, or drainage or other roadside facility preventing a uniform street width, located in the City of Los Angeles and along the north side of Santa Monica Boulevard adjacent to the western project site boundary near the Los Angeles Country Club. If all necessary approvals are granted, the Applicant shall re-construct the street, curb, and sidewalk or other facility such that the street,

curb, and sidewalk are brought into alignment with the street, curb, and sidewalk along the north side of Santa Monica Boulevard located in the City of Beverly Hills, resulting in uniform street width in both Los Angeles and Beverly Hills. If all necessary approvals cannot be obtained, compliance with this condition shall be demonstrated by furnishing correspondence with the relevant agencies and/or property owners confirming that the Applicant made good faith efforts and correspondence from the relevant agencies and/or property owner confirming denial of the request.

Landscaping and Irrigation

37. Prior to final building inspection, the Applicant shall install all proposed irrigation and landscaping, including irrigation controllers, staking, and mulching, in accordance with the Architectural Commission's approval of the final project design.

38. Prior to occupancy, the Applicant shall submit a letter from the Project landscape architect certifying that all landscape material and irrigation has been installed and is functioning according to the approved landscape plans.

39. The property owners and successors in interest, including but not limited to any homeowners association, shall be responsible for the maintenance of the site drainage system, sidewalks, parkways, street trees and other landscaping, including irrigation, within and along the adjacent public right-of-way and all public and private open areas on the site including the western half of Merv Griffin Way. The Covenants, Conditions and Restrictions for this project shall specifically reflect this obligation.

Other City Departments' Requirements

40. The Applicant shall comply with all applicable conditions and permits required from the Public Works and Transportation Department and Community Services-Recreation and Parks Department attached as Exhibit A. The Applicant shall secure all necessary permits

from the Engineering Division of Public Works prior to commencement of any demolition or Project related work.

41. An offsite improvement plan prepared by a registered civil engineer must be submitted to the Civil Engineering Division. This plan must show any existing street furniture within the public right-of-way (ROW) fronting the proposed improvement site. All new construction and relocation of any existing street furniture must be clearly shown.

42. The Project shall comply with all applicable conditions from the Fire Department as may be identified through the plan check process.

Construction Management

43. The Applicant shall comply with a Construction Management Plan that has been approved by the Director of Community Development prior to issuance of a building permit. The Applicant shall comply with the approved Construction Management Plan. The Construction Management Plan shall incorporate the Construction Traffic Management Plan and the Construction Workers Parking Plan as described in the attached Mitigation Measures for the project. The Construction Management Plan shall also include, at a minimum, the following requirements:

a. Parking and transportation to and from the construction parking area for construction workers, which shall be paid for by the Project applicant.

b. A map identifying routes and parking lots to be utilized and shall be provided to the City and include written certification from the owner(s) of the parking lots proposed to be used that such parking will be available to the Applicant throughout the construction period.

c. A plan for the proposed construction staging for the Project to determine the amount, appropriate routes and time of day of heavy hauling truck traffic necessary for hauling, material deliveries etc., to the subject site shall be included in the Construction Management Plan. The times of day of heavy hauling truck traffic shall be scheduled to reflect the City's direction to shift as much of the heavy hauling truck traffic as possible to night-time hours outside of peak traffic periods. The construction haul route shall incorporate ingress from Wilshire Boulevard and egress from Santa Monica Boulevard, and shall be reviewed and approved by the City Traffic Engineer and the Director of Community Development. The approved haul route is subject to change if the haul route creates unanticipated traffic congestion or noise impacts.

d. All final construction mitigation measures from the Final Environmental Impact Report and Final Supplemental Environmental Impact Report.

e. A construction phasing and timing plan for the Project, and implementation plan for each phase of construction (demolition, excavation, concrete, superstructure, etc).

f. Specification that construction hauling shall be restricted to Santa Monica and Wilshire Boulevards to/from Interstate 405; any deviations from this requirement first shall be reviewed by the School District and approved by the Director of Community Development.

g. Specification that hauling of debris and/or soil from the site shall be allowed to take place at night and/or weekends as approved by the Director of Community Development in accordance with an after-hours work permit (BHMC Section 5-1206).

h. Measures to protect the artificial turf field and associated drainage system on El Rodeo School's campus from construction dirt and debris.

i. Requirements for measures such as a sign-in/sign-out requirement for all persons accessing and leaving the site, defined separations between public and construction areas, fencing and/or landscape barriers, active surveillance, privacy screening, and other similar measures to prevent unauthorized access between such areas.

44. A third-party Construction Management Plan Coordinator shall be retained to develop and maintain the Construction Management Plan. The developer shall deposit funds sufficient to pay for the Construction Management Plan Coordinator who shall be hired by and work for the City. Said Construction Management Plan Coordinator shall, to the extent practicable, be the same firm or individual(s) retained for monitoring activities associated with development of the Beverly Hilton Specific Plan.

a. The Construction Management Plan Coordinator hired to provide these services shall be selected from a list of individuals or firms deemed qualified by the Director of Community Development, and shall be mutually agreed upon by the City of Beverly Hills and the Beverly Hills Unified School District. If the District does not agree with the City on a Coordinator within a 14 calendar day period after being presented with the list of qualified coordinators, the Director of Community Development shall have the authority to select the Coordinator.

b. The Construction Management Plan Coordinator should have experience in large private and public development including experience with school or hospital construction. The Coordinator must have a broad range of experience in construction management, estimating, scheduling and large commercial construction practices and

techniques. Past experience with development projects in the City of Beverly Hills will be a consideration in the selection process.

45. An updated copy of the Construction Management Plan shall be provided to the designated Beverly Hills Unified School District representative, and shall be available at El Rodeo School at all times. Further, an up-to-date copy of the Construction Management Plan shall be made available to the general public on the project's publicly accessible web page.

46. The Beverly Hills Unified School District shall be given a 14 calendar day period in which to review and comment on the Construction Management Plan before the City approves it.

47. The Construction Management Plan shall be updated, as deemed necessary by the Coordinator, throughout all phases of the construction process. This Plan shall be amended and updated to coordinate all construction activity at the site area should the adjacent Beverly Hilton Revitalization Project move forward concurrently.

48. The Construction Management Plan Coordinator shall participate in meetings throughout the construction process and shall provide necessary and prudent advice and resources to the City to properly develop, implement and modify the mitigation plan. Further, the applicant shall invite School District representatives and the City's representatives including but not limited to the Construction Management Plan Coordinator and Environmental Compliance Monitor to attend and participate in regular construction progress meetings.

49. Requests for after-hours construction permits shall be reviewed by the City's Building Official in accordance with BHMC Section 5-1-206. The Building Official shall confer with the Environmental Compliance Monitor and revise any afterhours permits as necessary to mitigate noise to residential neighbors of the project.

50. The applicant shall maintain a current construction schedule on a publicly accessible project web page and shall provide the web page address on construction signage placed on the boundary of the property or in a location visible to the public as determined by the Environmental Compliance Monitor.

51. A cash deposit of $25,000 shall be deposited with the City to ensure compliance with the conditions of this Resolution regarding construction activities. The $25,000 deposit shall be replenished as deemed necessary by the City's Building Official. Such deposit shall be returned to Applicant upon completion of all construction activities and in the event that no more than two violations of such conditions or the Beverly Hills Municipal Code occur. In the event that three or more such violations occur, the City may: (a) retain the deposit to cover costs of enforcement; (b) notify the Applicant that the Applicant may request a hearing before the City within ten days of the notice; and (c) issue a stop work notice until such time that an additional deposit of $25,000 is deposited with the City to cover the costs associated with subsequent violations. Work shall not resume for a minimum of two days after the day that the additional deposit is received by the City. If the Applicant timely requests a hearing, said deposit will not be forfeited until after such time that the Applicant has been provided an opportunity to appear and offer evidence to the City, and the City determines that substantial evidence supports forfeiture. Any subsequent violation will trigger forfeiture of the additional deposit, the issuance of a stop work notice and the deposit of an additional $25,000, pursuant to the procedure set forth herein above. All amounts deposited with the City shall be deposited in an interest bearing account. The Applicant shall be reimbursed all interest accruing on monies deposited. The requirements of this condition are in addition to any other remedy that

the City may have in law or equity and shall not be the sole remedy of the City in the event of a violation of the conditions of this Resolution or the Beverly Hills Municipal Code.

52. During construction, the Applicant shall install a minimum twelve-foot (12') construction fence to reduce noise and dust impacts on neighboring properties. The final height of the fence shall be approved by the Director of Community Development in consultation with design professionals knowledgeable in the fields of noise and dust mitigation. The design of the construction fence shall be subject to Architectural Commission review and approval. The Applicant shall provide temporary aesthetic improvements, which may include landscaping, to improve the appearance of the site around the fence during the construction period.

53. The design of the construction barrier/fence required in Mitigation Measure Noise-1 shall be subject to architectural review. The applicant shall provide temporary aesthetic improvements, which may include landscaping, to improve the appearance of the site around the construction barrier/fence during the construction period.

54. The Applicant shall maintain the site in an orderly condition prior to commencement of and during construction, including but not limited to, maintenance of the orderly appearance of existing structures and landscaping on the site, dust suppression for areas cleared by demolition, maintenance of safety barriers and adjacent public sidewalks.

55. The applicant shall designate a Community Liaison Officer as outlined in the attached Mitigation Measures, directly accessible to the public by telephone in the event that the public has any concerns regarding the maintenance of the site. The name and telephone number of the Community Liaison Officer shall be transmitted to the Director of Community Development, the City's Building Official, and the Beverly Hills Unified School District

Superintendent and Principal at El Rodeo School. In addition, the Applicant shall post the name and telephone number of the Community Liaison Officer on the site in a location readily visible to the general public as approved by the Director of Community Development. Said signs shall also include the name and number of a City contact from the Community Development Department. The Applicant representative's telephone number provided shall be manned during construction hours.

56. Within three working days after approval of this Resolution, the Applicant shall remit to the City a cashier's check, payable to the County Clerk, in the amount of $75.00 for a documentary handling fee in connection with Fish and Game Code requirements in addition to the Department of Fish and Game filing fee imposed pursuant to Fish and Game Code Section 711.4.

57. Property Maintenance. The property owners and successors in interest, including but not limited to any homeowners' association shall be responsible for the operation and maintenance of the private sewer connection to the public sewer in the public right-of-way, the site drainage system, the maintenance of the common areas and facilities, the exterior of the building, and any costs or corrections due to building or property maintenance code enforcement actions. The Covenants, Conditions and Restrictions for this project shall specifically reflect this obligation.

Environmental Compliance Monitor

58. The Construction Management Plan Coordinator shall provide assistance in the selection of a full-time Environmental Compliance Monitor. The developer shall deposit funds sufficient to pay for the Environmental Compliance Monitor who shall be hired by and work for the City. The Environmental Compliance Monitor shall be selected from a list of individuals

deemed qualified by the Director of Community Development and shall be mutually agreed upon by the City of Beverly Hills and the Beverly Hills Unified School District. If the District does not agree with the City on a Monitor within a 14 calendar day period after being presented with the list of qualified monitors, the Director of Community Development shall have the authority to select the Monitor. Said Environmental Compliance Monitor shall, to the extent practicable, be the same firm or individual(s) retained for monitoring activities associated with development of the Beverly Hilton Specific Plan.

59. The field office of the Environmental Compliance Monitor shall be located in a office trailer provided by the developer on or adjacent to the El Rodeo School campus for easy access to District staff, parents, and local residents. The location of the field office shall be approved by the Community Development Director. All utility and maintenance costs associated with the installation and maintenance of this trailer shall be paid for by the developer.

60. The Environmental Compliance Monitor shall maintain a daily log and provide monthly reports to the City and School District.

61. The Environmental Compliance Monitor shall immediately report any violations of the construction mitigation measures to the City.

62. City staff shall have the authority to immediately stop construction upon verification of any violation of the Construction Management Plan. Work shall not be allowed to restart until the problem is abated and/or corrective actions are taken to mitigate the violation.

63. The Environmental Compliance Monitor shall conduct a weekly meeting with the project construction manager(s) and shall invite City and School District representatives to attend such meetings.

Specialty Testing

64. Specialty consultants (noise and air quality) shall be hired to provide testing and monitoring and provide recommendations as described in the 2008 Final EIR and subsequent Final Supplemental EIR, and imposed by these conditions of approval. The developer shall deposit funds sufficient to pay for the specialty consultants who shall be hired by and work for the City.

65. The Construction Management Plan Coordinator shall provide assistance in the selection of these specialists.

66. Consultants hired to provide specialty testing services shall be selected from a list of individuals or firms deemed qualified by the Director of Community Development, and shall be mutually agreed upon by the City of Beverly Hills and the Beverly Hills Unified School District. If the District does not agree with the City on specialty testing consultants within a 14 calendar day period after being presented with the list of qualified specialty testing consultants, the Director of Community Development shall have the authority to select the specialty testing consultants.

67. All test results shall be maintained on file with the Environmental Compliance Monitor and included in monthly reports submitted to the City and School District.

68. Construction noise and vibration shall be monitored at El Rodeo School as part of the Construction Management Plan. Construction activities and/or measures may be modified to correct any excesses in the event acceptable thresholds are exceeded.

69. The Environmental Monitor shall initiate, and the Developer shall pay for a traffic study to be undertaken within 45 days after the beginning of each school year during construction of the Project to measure the then existing conditions and to determine whether unanticipated impacts resulting from the Project construction are occurring. Additional measures as may be

identified by any such study that address impacts from the Project shall be implemented by the developer.

70. Construction traffic shall be monitored at the site so that the frequency of construction to/from the project site during periods when most schoolchildren are arriving/departing to/from schools will be reduced in the event that construction traffic exceeds thresholds that shall be identified in the Construction Management Plan.

General Conditions

71. All electrical transformers and other such mechanical equipment shall be clearly depicted, described, or both, in the final plans reviewed by the Department of Community Development/Planning, prior to issuance of a building permit. Screening and/or relocation may be required if the proposed locations have the potential to adversely affect the appearance of the building from the public right-of-way.

72. The Covenants, Conditions and Restrictions (CC&R's) for this project shall reflect the fact that, as this Project is located on Wilshire Boulevard, the maintenance of public improvements (street payment, sidewalk, curb, gutter, water and sewer lines) is usually performed at night.

73. In accordance with the requirements set forth in City Council Resolution 71-R-4269, the applicant shall file a formal written request with the Civil Engineering Department for approval of any type of temporary construction encroachment (steel tieback rods, etc.) within the public right-of-way. Shoring plans and elevations prepared by a registered civil engineer must be submitted for review by the Civil Engineering Department. An indemnity bond must be submitted and approved by the City Attorney prior to excavation.

74. The Project shall comply with the applicable standard conditions and shall obtain all necessary permits from the Public Works/Engineering Department. The Standard Conditions List is attached hereto as Exhibit A and incorporated herein by this reference.

75. The Applicant shall comply with the requirements of the Street Tree Mitigation Plan of the Recreation and Parks Department, attached hereto as Exhibit C and incorporated herein by this reference.

76. These conditions shall run with the land and shall remain in full force for the duration of the life of the Project.

77. The City reserves the right to make modifications and/or impose additional conditions which may become necessary to enable implementation of the specific conditions set forth in this Resolution, and the Applicant shall comply with all such modified or additional conditions.

78. Prior to the earlier of either the issuance of any occupancy permit or the sale or lease of any residential unit in the project, a subdivision map shall be approved by the City and the final map for such subdivision shall have been recorded with the County of Los Angeles Recorder and the condominium plan filed with the Department of Real Estate.

79. Prior to the approval of any final map, the applicant shall prepare and submit CC&R's for review and approval by the Director of Community Development and the City Attorney. The CC&R's shall include the provisions in these conditions of approval relating to the Parking Valet/Operations Plan, Property Maintenance, and reflecting that the performance of public improvement along Wilshire Boulevard is usually performed at night. The CC&R's shall be recorded prior to the approval of any final map. The CC&Rs shall include a requirement that the rental of condominiums shall be for a minimum duration of 90 days.

80. Prior to any amendments to the CC&R provisions required by these conditions of approval, the amendments shall first be subject to approval by the Director of Community Development.

81. Prior to the recordation of any final subdivision map, the applicant shall record a reciprocal parking and access agreement for the site in form and content satisfactory to the Community Development Director and the City Attorney.

82. The applicant shall install insulated laminated clear safety glass on the exterior of all the condominium units facing the Los Angeles County Club.

83. Unanticipated Traffic, Loading, or Parking Impacts. In the event that the Director of Community Development determines that operation of the project is having unanticipated traffic, loading, or parking impacts, the Director shall require the owner, hotel, or Homeowners Association to provide an analysis of the traffic, loading, or parking impacts and recommend and implement mitigation for the impacts. If, in the opinion of the Director, the owner, hotel, or Homeowners Association fails to implement sufficient mitigation to mitigate the unanticipated traffic, loading, or parking impacts, then the Director shall schedule a hearing before the Planning Commission concerning the impacts being created by the Project. The owner, hotel, or Homeowners Association shall receive at least ten days' notice of such hearing. Upon conclusion of the hearing, the Planning Commission may impose additional conditions upon the project as necessary to mitigate any unanticipated traffic, loading, or parking impacts caused by the Project, and the owner, hotel, or Homeowners Association and operator shall forthwith comply with any such additional conditions at their sole expense. However, the owner, hotel, or Homeowners Association may appeal the decision of the Planning Commission to the City

Council pursuant to the provisions of the Beverly Hills Municipal Code and any decision of the Planning Commission shall be stayed pending a decision by the City Council on appeal.

84. The Construction Management Plan shall contain a provision prohibiting construction trucks from queuing on Santa Monica Boulevard or Wilshire Boulevard during all aspects of construction.

85. An air cleaning/filtering system shall be installed in the condominium buildings subject to the review and approval of the Building Official to assist in the removal of pollutants emanating from the adjacent streets.

86. The provisions of the Amended Specific Plan shall not become effective, and no development or implementation of the Amended Specific Plan shall be permitted until a) the ordinance approving the amended development agreement has become effective and b) the amended Development Agreement is executed and recorded.

87. Uses ancillary to the residential uses in the Specific Plan, including but not limited to the spa, screening rooms, and common event spaces, shall be for the exclusive use of residents within the Specific Plan. Guests of residents may use such facilities except that there shall be no charge to or for non-resident guests and in no event shall memberships be given or sold to any person or entity that is not a resident within the Specific Plan. Nothing in this condition shall prohibit use of the hotel spa and other ancillary amenities by the general public, except for the fitness facilities, which shall only be accessible to hotel guests and their guests, and residents of the condominiums and their guests.

88. The applicant shall execute and record against the 9900 Wilshire property, a covenant and agreement to facilitate the continuation of the Golden Globe Awards, or successor event, at The Beverly Hilton Property. The CC&Rs shall be in a form satisfactory to the City

Manager and the City Attorney, after consultation with the Beverly Hills Fire and Police Departments. The covenant and agreement shall include provisions providing for (a) the closure of Merv Griffin Way the day prior to and the day of the Golden Globe Awards event, (b) prohibitions on the use of vehicles on or access of persons to Merv Griffin Way the day prior to, the day or and the day after the Golden Globe Awards event, (c) grant of a license to use Merv Griffin Way for camera equipment, satellite truck use, celebrity arrivals, or any similar event-related use on the day prior to and the day of the Golden Globes Awards event, (d) closure of any pedestrian and vehicular access points (other than emergency access as may be required by the Beverly Hills Fire or Police Departments) from the 9900 Wilshire property to Merv Griffin Way and to prohibit persons or vehicles from entering Merv Griffin Way from such access points on the day prior to and the day of the Golden Globe Awards event. These provisions also shall apply to the day after the Golden Globe Awards event to the extent reasonably necessary to remove equipment utilized in the Golden Globe Awards event. In addition, the covenant and agreement shall provide for a grant of access to the 9900 Wilshire Property and its buildings at any time as requested by the Beverly Hills Police Department, United States Secret Service, Federal Bureau of Investigation, or other governmental security agency and/or their successors, as needed, to provide security for the Golden Globe Awards event, and (e) cooperation with requests by the Beverly Hills Police Department, United States Secret Services, Federal Bureau of Investigation, or other governmental security agency and/or their successors for a security perimeter on the 9900 Wilshire Property for the Golden Globe Awards event. The covenant and agreement shall provide for notice to all owners of the 9900 Wilshire Boulevard Property, including without limitation successors and assigns, owners of condominium interests, and tenants, of the existence of the covenant and agreement, which covenant and agreement shall be

recorded prior to final map approval, but not prior to the issuance of a Building Permit, as that term is defined in the development agreement approved as part of this project.

89. Work at the site shall be accelerated during the summer months and while school is not in session to the fullest extent that is approved by the City.

90. The applicant shall provide the Beverly Hills Unified School District with a full set of construction plans and specifications before the start of construction. The applicant shall also provide the Beverly Hills Unified School District with a copy of the detailed construction schedule prior to commencement of construction.

Other Measures

91. During construction, the developer shall install and maintain at least two (2) remotely controlled cameras made accessible via the internet to City staff, the Construction Management Coordinator, and the Environmental Compliance Monitor for mitigation monitoring purposes. The cameras are to be placed at a height and location so that 100% of the project site is visible at all times. Cameras shall be maintained regularly and accessible at all times and shall be equipped with microphones.

92. During construction, the Construction Management Coordinator, Environmental Compliance Monitor or the specialty testing consultants shall have the authority to require additional measures deemed necessary to address unanticipated issues that may arise due to construction of the Project. The developer shall fund any and all such recommended measures regardless of the cost.

93. Any lighting associated with permitted night-time construction shall be shielded, directed downward, and directed to face west or south, as approved by the Environmental Compliance Monitor.

CITY OF BEVERLY HILLS
STANDARD CONDITIONS LIST
FOR THE PLANNING COMMISSION

ENGINEERING, UTILITIES AND RECREATION & PARKS:

1. The applicant shall remove and replace all defective sidewalk surrounding the existing and proposed buildings.

2. The applicant shall remove and replace all defective curb and gutter surrounding the existing and proposed buildings.

3. The applicant shall comply with all applicable statutes, ordinances and regulations concerning the conversion of residential rental units into condominiums, including, but not limited to, the requirement that the applicant pay the City of Beverly Hills the condominium conversion tax of $5,638.80*, if a certificate of occupancy is issued prior to approval of the final subdivision map by the City Council. (*The tax figure is adjusted annually.)

4. The applicant shall remove all unused landings and driveway approaches. These parkway areas, if any, shall be landscaped and maintained by the adjacent property owner. This landscape material cannot exceed six to eight inches in height and cannot be planted against the street trees. Care shall be taken to not damage or remove the tree existing tree roots within the parkway area. Remove and replace all defective alley and driveway approaches surrounding the existing and proposed buildings.

5. The applicant shall protect all existing street trees adjacent to the subject site during construction of the proposed project. Every effort shall be made to retain mature street trees. No street trees, including those street trees designated on the preliminary plans, shall be removed and/or relocated unless written approval from the Recreation and Parks Department and the City Engineer is obtained. (See attached Trees and Construction document.) Removal

and/or replacement of any street trees shall not commence until the applicant has provided the City with an improvement security to ensure the establishment of any relocated or replaced street trees. The security amount will be determined by the Director of Recreation and Parks, and shall be in a form approved by the City Engineer and the City Attorney.

6. The applicant shall provide that all roof and/or surface drains discharge to the street. All curb drains installed shall be angled at 45 degrees to the curb face in the direction of the normal street drainage flow. The applicant shall provide that all groundwater discharges to a storm drain. All ground water discharges must have a permit (NPDES) from the Regional Water Quality Control Board. Connection to a storm drain shall be accomplished in the manner approved by the City Engineer and the Los Angeles County Department of Public Works. No concentrated discharges onto the alley surfaces will be permitted.

7. The applicant shall provide for all utility facilities, including electrical transformers required for service to the proposed structure(s), to be installed on the subject site. No such installations will be allowed in any City right-of-way.

8. The applicant shall underground, if necessary, the utilities in adjacent streets and alleys per requirements of the Utility Company and the City.

9. The applicant shall make connection to the City's sanitary sewer system through the existing connections available to the subject site unless otherwise approved by the City Engineer and shall pay the applicable sewer connection fee.

10. The applicant shall make connection to the City's water system through the existing water service connection unless otherwise approved by the City Engineer. The size, type and location of the water service meter installation will also require approval from the City Engineer.

11. The applicant shall provide to the Engineering Office the proposed demolition/construction staging for this project to determine the amount, appropriate routes and time of day of heavy hauling truck traffic necessary for demolition, deliveries, etc., to the subject site.

12. The applicant shall obtain the appropriate permits from the Civil Engineering Department for the placement of construction canopies, fences, etc., and construction of any improvements in the public right-or-way, and for use of the public right-or-way for staging and/or hauling certain equipment and materials related to the project.

13. The applicant shall remove and reconstruct any existing improvements in the public right-of-way damaged during construction operations performed under any permits issued by the City.

14. During construction all items in the Erosion, Sediment, Chemical and Waste Control section of the general construction notes shall be followed.

15. Condensate from HVAC and refrigeration equipment shall drain to the sanitary sewer, not curb drains.

16. Water discharged from a loading dock area must go through an interceptor/clarifier prior to discharging to the storm drain system. A loading dock is not to be confused with a loading zone or designated parking space for loading and unloading.

17. Organic residuals from daily operations and water used to wash trash rooms cannot be discharged to the alley. Examples are grocery stores, mini markets and food services.

18. All ground water discharges must have a permit (NPDES) from the Regional Water Quality Control Board. Examples of ground water discharges are; rising ground water and garage sumps.

19. Storm water runoff from automobiles going into a parking garage shall be discharged through a clarifier before discharging into the storm drain system. In-lieu of discharging runoff through a clarifier, parking lots can be cleaned every two weeks with emphasis on removing grease and oil residuals which drip from vehicles. Maintain records of cleaning activities for verification by a City inspector.

20. After completion of architectural review of a new or modified commercial structure, and prior to issuance of the certificate of occupancy, the applicant is required to comply with the Public Art Ordinance. An application is required to be submitted to the Fine Art Commission for review and approval of any proposed art piece or, as an alternative, the applicant may choose to pay an in-lieu art fee.

EXHIBIT D

DRAFT DEVELOPMENT AGREEMENT

RECORDING REQUESTED BY:
CITY OF BEYERLY HILLS

WHEN RECORDED MAIL TO:

City of Beverly Hills
Attention: City Attorney's Office
455 North Rexford Drive
Room 220
Beverly Hills, CA 90210

AMENDED AND RESTATED
DEVELOPMENT AGREEMENT

THIS AMENDED AND RESTATED DEVELOPMENT AGREEMENT (this "Agreement") is made by and between THE CITY OF BEYERLY HILLS, a California municipal corporation (the "City"), and WANDA BEVERLY HILLS PROPERTIES, LLC ~~PROJECT LOTUS, LLC~~, a Delaware Limited Liability Company (the "Developer"). The City and Developer are individually referred to herein as a "Party" and collectively referred to as the "**Parties.**"

RECITALS

This Agreement is made and entered into with regard to the following facts, each of which is acknowledged as true and correct by the Parties to this Agreement.

A. On or about _____, 2008, the City and Project Lotus, LLC, entered into a Development Agreement (the "Development Agreement") for the development of that certain real property located in the City of Beverly Hills, California and described in Exhibit A attached hereto and incorporated herein by reference (the "Property') with a mixed use project consisting of 235 residential condominium units, 16,456 square feet of commercial uses, and related improvements (the "Original Development"). The City also adopted the 9900 Wilshire Specific Plan ("Specific Plan") and related entitlements for the Original Development.

~~A.~~B. Developer subsequently acquired the Property and is the current fee owner thereof~~of that certain real property located in the City of Beverly Hills, California and described in Exhibit A attached hereto and incorporated herein by reference,~~.

~~B.~~C. Developer desires to make minor modifications to the ~~develop the Project~~ Original Development that would reduce the number of condominium units and add a boutique hotel (the "Hotel"). As revised, the Original Development is referred to as the "Project" (as hereafter defined).

~~C.~~D. Developer has applied to the City for approval of amendments to the Development ~~of this mutually binding~~ Agreement, pursuant to the provisions of the Development Agreement Act (as hereafter defined) and other applicable laws.

~~D.~~E. In anticipation of the development of the Project, Developer has made or will make application to the City (in its governmental capacity) for certain approvals, entitlements, findings

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and permits required for the development and construction of the Project, including, without limitation: (1) a ~~general plan~~Specific Plan amendment, ~~(2) a specific plan, (3) a zone change; (4) a zoning code amendment,~~ (2~~5~~) a revised vesting tentative tract map, (3) architectural review, and (~~4~~6) amendments to the ~~a d~~Development Aagreement ~~for .the Project~~ under the Development Agreement Act.

~~E.~~F. The City Council has specifically considered the advantages and impacts of this Project upon the welfare of the City and believes that the Project will benefit the City.

~~F.~~G. This Agreement eliminates uncertainty in planning and provides for the orderly development of the Project in a manner consistent with the City's Zoning Regulations (as

hereafter defined), the Applicable Rules (as hereafter defined) and the General Plan (as hereafter defined).

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~~G.~~H. To provide such certainty, the City desires, by this Agreement, to provide Developer with assurance that Developer can proceed with development of the Project with the uses, density and other land use characteristics specified in the Project Approvals. Developer would not enter into this Agreement, or agree to provide the public benefits and improvements described herein, without the City's agreement that the Project can be developed, during the term of this Agreement, with the uses, density and other land use characteristics specified in the Project Approvals.

~~H.~~I. The City has determined that, as a result of the development of the Project in accordance with the Project Approvals and this Agreement, substantial benefits will accrue to the public.

~~I.~~J. On _____, 2016~~May 12, 2016, January 24, 2008 and February 7, 2008~~, pursuant to the requirements of the Development Agreement Act, the Planning Commission of the City of Beverly Hills conducted a hearing on Developer's application for this Agreement.

~~J.~~K. On _____, 2016 and _____, 2016 ~~March 11, 2008, March 20 2008 and March 27, 2008~~, pursuant to the requirements of the Development Agreement Act, the City Council of the City of Beverly Hills (the "City Council") conducted a hearing on Developer's application for this Agreement.

~~K.~~L. The City Council has found and determined that this Agreement is consistent with the City's General Plan and all other plans, policies, rules and regulations applicable to the Project.

~~L.~~M. _____On _____,2016~~,April ,2008,~~ the City Council adopted Ordinance No._____approving this Agreement, and such ordinance became effective on _____, 2016~~08~~.

~~M.~~N. _____By Resolution No._____ adopted by the City Council on ~~September 13, 2016April 3, 2008~~, the City Council reviewed and certified, after making appropriate findings, the SEIR (as hereafter defined) that contemplates this Agreement.

AGREEMENT

NOW THEREFORE, pursuant to the authority contained in the Development Agreement Act, as it applies to the City, and in consideration of the mutual promises and covenants herein contained and other valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

1. Definitions. For all purposes of this Agreement, except as otherwise expressly provided herein, or unless the context of this Agreement otherwise requires, the following words and phrases shall be defined as is set forth below:

(a) "Applicable Rules" means the rules, regulations, ordinances, resolutions,

codes, guidelines, and officially adopted procedures and official policies of the City governing the use and development of real property, including, but not limited to, the City's Zoning

Regulations and building regulations, adopted as of the Effective Date. Among other matters, the Applicable Rules set forth and govern the permitted uses of land, the density or intensity of use, subdivision requirements, the maximum height and size of proposed buildings, parking requirements, setbacks, and development standards, the provisions for reservation or dedication of land for public purposes, and the design, improvement and construction guidelines, standards and specifications applicable to the development of the Property.

(b) "Beverly Hills Public Art Ordinance" means the requirements set forth in Title 3, Chapter 1, Article 8 of the Beverly Hills Municipal Code.

(c) "Building Permit" means a permit issued by the City pursuant to Title 9 of the Beverly Hills Municipal Code to authorize construction of a building or other structure. "Building Permit" shall not include a demolition permit or excavation and shoring permit, but shall include a foundation permit.

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(d) "Business Day" means any day other than a Saturday, Sunday or California or Federal holiday on which banks in the City are customarily closed.

(e) "CEQA" means the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.), as it now exists or may hereafter be amended.

(f) "Change of Control" shall refer to a transaction whereby a transferee acquires a beneficial ownership interest in Developer (or in an Existing Owner) such that after such transaction there is a change of identity of the person or entity that has the power to direct or cause the direction of the management and policies of Developer, whether through the ownership of voting securities, by contract or otherwise.

(g) "Conditions of Approval" shall mean those conditions of approval imposed by the City upon the Project Approvals.

(h) "Developer Fees" shall mean those fees established, adopted, or imposed by the City pursuant to Section 66000 et seq., of the Government Code of the State of California or the California Subdivision Map Act to offset the impact of development on the City's capital facilities, including impact fees, linkage fees, exactions, assessments or fair share charges, or other similar impact fees imposed by the City on or in connection with new development. Notwithstanding the foregoing, Developer shall not be obligated to pay any Developer Fees in connection with the Project, as all Developer Fees are included within the "Public Benefit Contribution" (as defined below). Developer Fees do not mean or include Processing Fees.

(i) "Development Agreement" or "Agreement" means this Agreement.

(j) "Development Agreement Act" means Article 2.5 of Chapter 4 of Division I of Title 7 (Sections 65864 through 65869.5) of the California Government Code (as the same may be amended and/or re-codified from time to time).

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(k) "Discretionary Action(s)" or "Discretionary Approval(s)" means an action which requires the exercise of judgment, deliberation or discretion on the part of the City, including any board, agency, commission or department and any officer or employee thereof, in

the process of approving or disapproving a particular activity, as distinguished from a Ministerial Permit or Ministerial Approval (as hereafter defined).

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(l) "Effective Date" shall mean the date this Agreement, fully executed, and is recorded in the official records of the Los Angeles County Recorder.

~~(m) "EIR" shall mean the final Environmental Impact Report (SCH No. 2006071107) which addresses the Project and was prepared, circulated and certified in accordance with applicable law, including, without limitation, CEQA.~~

~~(n)~~(m) "EMS Fee" means the fee paid pursuant to the provisions of Section 1-~~0O~~ (e) of this Agreement, which payments may be used by the City for various public projects and programs.

(o) "General Plan" means the General Plan of the City, as it exists as of the Effective Date.

(p) "Gross Room Revenue" means revenue that is or would be subject to the transient occupancy tax imposed by the City pursuant to Title 3, Chapter 1, Article 3 or the Beverly Hills Municipal Code as that Article exists on the Effective Date.

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~~(p)~~(q) "Ministerial Permit(s)," or "Ministerial Approval(s)" means a permit or approval, including, but not limited to, building permits, grading permits, zone clearances, and certificates of occupancy, which requires the City, including any board, agency, commission or department or any officer or employee thereof, to determine whether there has been compliance with applicable rules, statutes, ordinances, conditions of approval, and/or regulations, as distinguished from an activity which is included in the definition of Discretionary Action or Discretionary Approval.

~~(q)~~(r) "Mortgage" means any mortgage, deed of trust, encumbrance, sale leaseback or other security interest encumbering all or any portion of the Property, given by Developer for the purpose of securing funds to be used for financing the acquisition of the Property or any portion thereof, the construction of improvements thereon and/or any other expenditures reasonably necessary and appropriate to develop the Project.

~~(r)~~(s) "Mortgagee" means the holder of the beneficial interest under any Mortgage.

~~(s)~~(t) "Processing Fees" means all processing fees and charges required by the City that are applied uniformly to all construction or development related activity including, but not limited to, fees for land use applications, Building Permit applications, Building Permits, grading permits, hauling permits, encroachment permits, demolition permits, subdivision or parcel maps, lot line adjustments, street vacations, inspections, certificates of occupancy and plan check as set forth on Exhibit A-1 attached hereto and incorporated herein by reference. Processing Fees shall not mean or include Developer Fees.

~~(t)~~(u) "Project" means the development project as described in the final SEIR, as modified by the Project Approvals.

~~(u)~~(v) "Project Approvals" shall include, collectively, a Specific Plan ~~General Plan A~~amendment and ~~, specific plan, zone change, zoning code amendment, and~~revised vesting tentative tract map approved by the City with respect to the Project and shall include any Subsequent Project Approvals (as hereafter defined).

~~(v)~~(w) "Property" means the real property described m Exhibit "A" attached hereto.

~~(w)~~(x) "Public Benefit Contribution" means the payment from the Developer to the City pursuant to Section 10(d) of this Agreement, which payment may be used by the City for various public projects and programs, and which payment includes any and all Developer Fees (as defined above).

~~(x)~~(y) "Reserved Powers" means the power and authority of the City to enact regulations and/or take Discretionary Action if the same is expressly found by the City to be necessary to protect residents of the City, those employed in the City, or visitors to the City, from a condition that is dangerous to public health or safety or if the same is required to comply with California or federal laws (whether enacted previous or subsequent to the Effective Date of this Agreement). Reserved Powers also include the power and authority of the City to enact regulations that apply generally to hotels and condominiums within the City, including without limitation, regulations of hotel operations and regulations concerning condominiums that receive services from hotels, provided that such regulations do not impact the permitted density, height, or square footage of the Project permitted by the Specific Plan.

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~~(y)~~(z) "Sales Transaction" means any transaction evidenced by the recording of a conveyance document that conveys the Property, or any subdivided portion of the Property, and which conveyance would be subject to, and not exempt from, the Los Angeles County Documentary Transfer Tax (Los Angeles County Code, Chapter 4.60) or the City of Los Angeles Real Estate Transfer Tax (Los Angeles City Municipal Code, Chapter 2, Article 1.9) as those taxes existed on the Effective Date of this Agreement. A transaction whereby the possession of all or a portion of the Property is transferred but the seller retains the title as security for the payment of the price shall be deemed a Sales Transaction. Notwithstanding the foregoing, a transfer of all or a portion of the Property as a result of a judicial or non-judicial foreclosure, or by deed in lieu of foreclosure, initiated by a Mortgagee, shall not be deemed a Sales Transaction. For the purposes of triggering the EMS Fee only, a Sales Transaction shall include (i) any sale, assignment, or transfer of fifty percent (50%) or more of the beneficial ownership interest in Developer, whether in one transaction or a series of transactions, provided however, that any transfers of ownership interests among the owners (or the beneficial owners of such owners) of any successor Developer hereunder (each an "Existing Owner"), shall not be deemed a Sales Transaction so long as the EMS Fee shall have been paid in connection with the acquisition of the Property by such successor Developer and the transferee was an Existing Owner at the time of such acquisition, or (ii) any Change of Control.

~~(z)~~(aa) "Subsequent Land Use Regulations" means any change in or addition to the Applicable Rules adopted after the Effective Date of this Agreement, including, without limitation, any change in any applicable general or specific plan, zoning, subdivision, or building regulation, including, without limitation, any such change by means of an ordinance, initiative, resolution, policy, order or moratorium, initiated or instituted for any reason whatsoever by the Mayor, City Council, Planning Commission or any other board, agency, commission or department of City, or any officer or employee thereof, or by the electorate, as the case may be. which would, absent this Agreement, otherwise be applicable to the Project.

(aa) "Subsequent Project Approvals" shall mean all further Discretionary Actions or Discretionary Approvals, Ministerial Permits and Ministerial Approvals required or

requested with respect to the Project, including, without limitation, any tentative subdivision

map, whether vesting or non-vesting. Following adoption or approval, a Subsequent Project Approval shall become a Project Approval.

(bb) "SEIR" shall mean the final Supplemental Environmental Impact Report (SCH No. 2006071107) which addresses the Project and was prepared, circulated and certified in accordance with applicable law, including, without limitation, CEQA.

(cc) "Zoning Regulations" shall mean the official zoning regulations of the City adopted as of the Effective Date of this Agreement.

2. Recitals of Premises, Purpose and Intent.

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(a) State Enabling Statute. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted the Development Agreement Act which authorizes any city to enter into binding development agreements establishing certain development rights in real property with persons having legal or equitable interests in such property. Section 65864 of the Development Agreement Act expressly provides as follows:

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"The Legislature finds and declares that:

"(a) The lack of certainty in the approval of development projects can result in a waste of resources, escalate the cost of housing and other development to the consumer, and discourage investment in and a commitment to comprehensive planning which would make maximum efficient utilization of resources at the least economic cost to the public.

"(b) Assurance to the applicant for a development project that upon approval of the project, the applicant may proceed with the project in accordance with existing policies, rules and regulations, and subject to conditions of approval will strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic cost of development."

Notwithstanding the foregoing, to ensure that the City remains responsive and accountable to its residents while pursuing the benefits of development agreements contemplated by the Legislature, the City accepts restraints on its police powers contained in development agreements only to the extent and for the duration required to achieve the mutual objectives of the Parties.

(b) The Project. The Developer intends to develop the Property as described in the Project Approvals and the final plans submitted to the City, subject to the Applicable Rules, the Project Approvals, and the Conditions of Approval. The Parties hereby agree that, for the term of this Agreement, the permitted uses, the density and intensity of use, the maximum height and size of proposed buildings, parking requirements, setbacks, and development standards, provisions for reservation or dedication of land for public purposes and location of public improvements, and the design, improvement, construction and other guidelines, standards and specifications applicable to the development of the Property shall be those set forth in the Project Approvals, the Applicable Rules and this Agreement, including the Conditions of Approval. Subject to the exercise of the City's Reserved Powers, any Subsequent Project Approvals shall, at the election of Developer, be subject to the Applicable Rules or the rules,

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regulations, ordinances, resolutions, codes, guidelines, and officially adopted procedures and official policies of the City at the time of such Subsequent Project Approval.

3. Property Subject to Agreement. This Agreement shall apply to all of the Property.

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4. Application of Agreement. This Agreement shall apply to the development and use of the Property. Such development shall be in accordance with the Project Approvals and this Agreement.

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5. Term of Agreement. The initial term of this Agreement shall commence on the Agreement Effective Date, and shall continue for five ~~two (52~~) years. If a vesting tentative subdivision map for the Project is approved by the City, then the term of this Agreement shall be extended until expiration of that vesting tentative map or approval and recordation of a final subdivision map for the Project, whichever is earlier. Additionally, if a final subdivision map for the Project is approved by the City, then the term of this Agreement shall be extended until the expiration of the vested rights that accompany the vesting tentative tract map for the Project. In addition to the above, at any time, the term may be extended by Developer for one year or more provided that the total extension period does not exceed three years. An extension by Developer pursuant to the prior sentence shall be effective upon written request of Developer provided to the City at least ten (10) days before the expiration of the term (including any previous extension) and a concurrent payment to the City of the following amounts: for the first year of extension, Developer shall pay five hundred thousand dollars ($500,000), for the second year of extension, Developer shall pay seven hundred fifty thousand dollars ($750,000) and for the third year of extension, Developer shall pay one million dollars ($1,000,000). Notwithstanding the term set forth above, the obligation to pay the Environmental Mitigation and Sustainability Fee pursuant to Section 10 shall continue indefinitely as provided in Sections 10 and 13.

Additionally, in the event of any litigation or referendum initiated by third parties to attack, set aside, modify, void or annul this Agreement, any of the Project Approvals, or the EIR (a "Challenge"), the term of this Agreement shall be tolled for the period during which such Challenge is proceeding until fully and finally resolved.

6. Timing of Development. The Parties acknowledge that Developer cannot at this time predict when or if the Property will be developed. Such decisions depend upon numerous factors that are not within the control of Developer. Because the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo* (1984) 37 Cal. 3d 465, (the Pardee Case) that the failure of the parties therein to provide for the timing of development resulted in a later adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the Parties' intent to cure that deficiency by acknowledging and providing that Developer shall have the right to develop the Property consistent with the Project Approvals and the Conditions of Approval in such order and at such rate and at such times as Developer deems appropriate within the exercise of its sole and subjective business judgment during the term of this Agreement. This provision shall be broadly construed to provide Developer the greatest amount of time and flexibility (in light of the Pardee Case and/or any other similar or distinguishing cases) as necessary or appropriate to permit Developer to complete the development of the project irrespective of later adopted rules, regulations or initiatives which would otherwise restrict the Developer's time to complete the Project.

7. Permitted Uses; Density; Building Heights and Sizes; Required Dedications. The City and Developer hereby agree that the permitted uses of the Property, the density and intensity of such uses, the maximum heights and sizes of the buildings and improvements to be constructed on the Property, and the reservation and dedication of land for public purposes, if

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any, required in connection with the development of the Property shall be as set forth in and consistent with the Project Approvals, as they may be lawfully amended from time to time. Developer shall not cause or permit any use of the Property that is not permitted by the Project Approvals, and shall not cause or permit the construction of any building or improvement that exceeds the maximum density, building heights and/or building sizes set forth in or otherwise required by the Project Approvals, as they may be lawfully amended from time to time. In addition, Developer shall not permit the use of the Property for an Adult Entertainment Business or Sexual Encounter Center as defined in the zoning regulations of the City of Beverly Hills.

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8. Developer's Rights. Developer shall have and is hereby vested with the rights, during the term of this Agreement, to develop the Project as set forth in the Project Approvals, as they may be lawfully amended from time to time, all of which are hereby incorporated in this Agreement by reference.

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9. Changes in Applicable Rules.

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(a) Non-Application of Changes in Applicable Rules. The adoption of any Subsequent Land Use Regulations after the Effective Date of this Agreement, or any change in, or addition to, the Applicable Rules (other than changes in Processing Fees as provided in this Agreement), including, without limitation, any changes in the General Plan or the Zoning Regulations (including any regulation relating to the timing, sequencing, or phasing of the Project or construction of all or any part of the Project), adopted after the Effective Date of this Agreement, including, without limitation, any such change by means of ordinance, initiative, resolution, motion, policy, order or moratorium, initiated or instituted for any reason whatsoever and adopted by any board, agency, commission or department of the City, or by the electorate, as the case may be, which would, absent this Agreement, otherwise be applicable to the Project and which would conflict in any way with or be more restrictive than the Applicable Rules or Developer's entitlements under the Project Approvals, shall not be applied to the Project during the term of this Agreement unless such changes represent an exercise of the City's Reserved Powers.

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(b) Changes in Uniform Codes. Notwithstanding any provision of this Agreement to the contrary, development of the Project shall be subject to changes occurring from time to time in the provisions of the City's building, mechanical, plumbing and electrical regulations which are based on the recommendations of a multi-state professional organization and become applicable throughout the City, including, but not limited to, the California Building Code, and other similar or related uniform codes.

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(c) Changes Mandated by Federal or California Laws or Regulations. Changes in, or additions to, the Applicable Rules adopted or made operative on or after the Effective Date shall apply to the Project, if such changes or additions are specifically mandated to be applied to developments such as the Project, irrespective of vested rights, by applicable California or federal laws or regulations. Where the City or Developer believes that such a change or addition exists that Party shall provide the other Party hereto with a copy of such California or federal law or regulation and a statement of the nature of its conflict with the provisions of the Applicable Rules and/or of this Agreement. The City's determination as to the applicability of the change or addition to California or federal laws to the Project shall be —final

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and conclusive. However, nothing in this Agreement shall deprive Developer of the rights possessed by any other property owner, absent vested rights, to challenge the appropriateness of the application to the Project of the change or addition.

(d) Changes in Processing Fees Under Applicable Rules. The Project shall be subject to any increase in Processing Fees imposed by the City, provided that such a change is applied on a Citywide basis.

10. Developer's Obligations.

(a) Conditions of Approval. Developer shall comply with the Conditions of Approval.

(b) Reimbursement of Project Approval Costs. No later than the Effective Date, Developer shall reimburse the City for all of its costs to process the Project Approvals, including legal and environmental processing costs related to the Project Approvals and preparation of this Agreement, if any.

(c) Processing Fees. Developer agrees to pay all Processing Fees, including City plan check fees, building inspection fees, and permit fees, at the rate and amount in effect at the time the fee is required to be paid.

(d) Public Benefit Contribution. Developer shall pay to the City a Public Benefit Contribution of thirty million dollars ($30,000,000).

(i) *Timing of Payment.* Developer shall pay to the City thirteen million dollars ($13,000,000) of the Public Benefit Contribution no later than ninety (90) days after issuance of the first Building Permit for the Project. Developer shall pay to the City an additional six million five hundred thousand dollars ($6,500,000) of the Public Benefit Contribution no later than four hundred fifty five (455) days after issuance of the first Building Permit for the Project. Developer shall pay to the City the remaining ten million five hundred thousand dollars ($10,500,000) of the Public Benefit Contribution prior to issuance of the first certificate of occupancy (or temporary certificate of occupancy) for any portion of the Project.

(ii) *Security for Payment.* Developer shall secure the payment of the Public Benefit Contribution by arranging for an irrevocable standby letter of credit to be issued to the City, as beneficiary, for thirty million dollars ($30,000,000) guaranteeing payment of the Public Benefit Contribution in form and content satisfactory to the city attorney. The standby letter of credit shall be issued to the City before the City issues a Building Permit for the Project. The letter of credit shall be issued by a financial institution acceptable to the City with a presence in California at which the letter of credit may be presented for payment. The City acknowledges that the following prospective issuers are acceptable to the City: Bank of America, Wells Fargo Bank, Citibank, City National Bank, and J.P. Morgan Chase Bank. The letter of credit shall provide that the City may fully draw upon such letter of credit in the event that: (x) the

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City issues a written statement that, after all applicable notice and cure periods have expired, Developer has failed to make any payment on or before the deadlines set forth in subsection (i) above or (y) the letter of credit has not been renewed or replaced at least thirty (30) days prior to its expiry date and all payments have not been made pursuant to subsection (i) above. The City shall permit adjustment of the amount of the letter of credit upon receipt of payments under subsection (i). The adjustment shall reduce the amount secured by the letter of credit to reflect the payments paid to the City and those payments still owed to the City.

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(iii) *Affordable Housing Contribution.* The City Council shall place a portion of the Public Benefit Contribution into an affordable housing fund that shall be used by the City for the purpose of promoting the provision of affordable housing in the City of Beverly Hills, or as otherwise may be permitted by State law. The amount to be placed in the affordable housing fund shall be three million dollars ($3,000,000).

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(e) Environmental Mitigation and Sustainability Fee

(i) *Amount of Fee.* Concurrent with the close of each Sales Transaction, the seller shall pay or cause to be paid to City an Environmental Mitigation and Sustainability Fee ("EMS Fee"). The amount of the EMS Fee shall be equal to $4.50 for each $1,000 of the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrance remaining thereon at the time of sale). The EMS Fee shall be paid from the escrow account set up for the Sales Transaction. The fee shall be paid upon each Sales Transaction by the then current owner.

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(ii) *Adjustment of EMS Fee.* If, after the Effective Date of this Agreement, the City adopts or increases a real estate transfer tax or documentary transfer tax for Beverly Hills, so that the combined total of the City's taxes and the County of Los Angeles Documentary Transfer Tax exceeds the current $1.10 per $1000 of City and County documentary transfer taxes, then the EMS Fee imposed upon all subsequent Sales Transactions shall be reduced by the amount of the combined taxes that exceeds $1.10 per $1000. For example, if City adopts a real estate transfer tax of $2.20 per $1000, thus increasing the combined City and County real estate transfer taxes and documentary transfer taxes to $3.30 per $1,000 of sales price, then the EMS Fee on all subsequent Sales Transactions would be $2.30 per $1000 of sales price ($4.50-$2.20 = $2.30). If the City increases the documentary transfer tax or adopts a real estate transfer tax so that the combined taxes exceed $5.60 per $1000 of sales price, then no further EMS Fee shall be due or payable.

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(f) Liens for EMS Fee Payable Upon Sale. Developer hereby grants to the City, with power of sale, a lien on the Property, each lot or parcel created by the tentative tract map for the Project, including without limitation, following the creation thereof, each condominium unit in the Project, to secure the payment of the EMS Fee payable upon each Sales

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Transaction. In the event that the EMS Fee secured by such lien is not paid concurrently with and as a condition to the closing of a Sales Transaction, then the City may enforce such lien by sale by the City, its attorney or any other person or entity authorized by the City Manager to conduct the sale. Any such sale shall be conducted in accordance with California Civil Code Sections 2924, 2924b, 2924c, 2924f, 2924g, and 2924h, or in any other manner permitted or provided by law. The City, through its agent authorized by the City Manager, shall have the power to bid on the encumbered property at the sale, using as a credit bid the amounts secured by such lien, its own funds, or funds borrowed for such purpose, and to acquire the lot or parcel. The City is hereby granted, in trust, the applicable lot or parcel and is appointed as trustee for purposes of noticing and effecting any sale pursuant to the provisions of this Section and is hereby expressly granted a "power of sale" in connection therewith. Developer, or any subsequent owner of the Property or any portion thereof, shall provide notice to City, in a form satisfactory to City, upon any opening of escrow that will result in a Sales Transaction or any other conveyance of the Property or portion thereof. The notice shall include a declaration stating the amount of the EMS Fee due upon closing of any Sales Transaction, or in the case of a conveyance that is not a Sales Transaction, the reason that such conveyance is not a Sales Transaction and therefore not subject to the EMS Fee. Upon receipt of the full amount of the EMS Fee payable with respect to a sale, the City shall execute and deliver such documentation, in recordable form, as Developer, the buyer or the title company may reasonably request to evidence the payment of the EMS Fee and extinguishment of the City's lien rights with respect to such sale (a "Lien Release"). Such Lien Release shall also indicate that payment of the EMS Fee shall not extinguish the City's lien rights with respect to subsequent Sales Transactions. In the event that the City determines that a conveyance is not a Sales Transaction, the City shall execute and deliver to the seller, buyer or title company documentation that the City has determined that the conveyance is not a Sales Transaction and not subject to the EMS Fee.

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(g) Municipal Surcharge. The owner of the Hotel shall pay the City, in perpetuity, five percent (5.0%) of the Gross Room Revenue generated by the Hotel (the "Municipal Surcharge").

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(i) *Timing of Payment.* The Municipal Surcharge shall by payable monthly, based on the actual Gross Room Revenue received during the month for which payment is to be made, at the same time and in the same manner as is required for payment of the City's transient occupancy tax imposed pursuant to Title 3, Chapter 1, Article 3 of the Beverly Hills Municipal Code, or its successor.

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(ii) *Lien to Secure Municipal Surcharge.* Developer hereby grants to the City, with power of sale, a lien on the Property, or if the Property is subdivided, a lien solely on the lot or parcel that includes the Hotel, to secure the payment of the Municipal Surcharge and any other sums payable under clause (g)(iv) below. In the event that the Municipal Surcharge or any other sums payable under clause (g)(iv) below are not timely paid, then the City may enforce such lien by sale of the property subject to the Municipal Surcharge by the City, its attorney or any other person or entity authorized by the City Manager to conduct the sale. Any such sale shall be conducted in accordance with California Civil Code Sections 2924, 2924b, 2924c, 2924f, 2924g, and 2924h, or in any other manner permitted or provided by law. The City, through its agent authorized by the City Manager, shall have the power to bid on the encumbered property at the sale, using as a credit bid the amounts secured by such lien, its own funds, or funds borrowed for such purpose. The City is hereby granted in trust, the Property, or if the Property is subdivided

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the lot or parcel that includes the Hotel, and is appointed as trustee for purposes of noticing and effecting any sale pursuant to the provisions of this Section and is hereby expressly granted a "power of sale" in connection therewith.

(iii) *Acknowledgement.* The Parties acknowledge and agree that the Municipal Surcharge is not a tax or a levy by City.

(iv) *Late Charges, Interest.* If Developer fails to pay the Municipal Surcharge within ten (10) days after its due date, Developer shall pay a late charge in the amount equal to the lesser of (i) $2,000, increased on the first day of each calendar year by the increase, if any, during the immediately preceding calendar year in the Consumer Price Index – All Urban Consumers for Los Angeles-Riverside-Orange County California as published by the U.S. Department of Labor, Bureau of Labor Statistics (or any successor thereto); or (b) four percent (4%) of the Municipal Surcharge payment due but not paid. The Parties acknowledge and agree that the amount of the costs and expenses that City will incur in the event the Municipal Surcharge is not paid when due is extremely difficult to calculate, and that the late charge set forth in the immediately preceding sentence is a reasonable, good faith estimate of such costs and expenses, but payment of such late charge shall not limit the City's remedies following any default by Developer under this Agreement. If any Municipal Surcharge, including any late charge, is not paid within ten (10) days after the date on which the Surcharge is due, then such Municipal Surcharge (including any late charge) shall bear interest, from the due date until paid, at the rate that is the lesser of (i) eighteen and one-half percent (18.5%), or (ii) the highest rate permitted by applicable law.

~~(g)~~(h) Public Open Space Easement. Prior to issuance of a Building Permit for the Project, Developer shall execute an open space easement in favor of the City for the public gardens as shown in the Specific Plan, and as shown in Exhibit B attached hereto and incorporated herein by reference. The open space easement shall ensure that the public gardens are maintained as public open space for the life of the Project (which maintenance, once the Project's property owners association (the "Association") becomes operational, shall be the responsibility of the Association). The open space easement shall be in form and substance satisfactory to the City Attorney and substantially in the form set forth in Exhibit C.

~~(h)~~(i) Gateways. Prior to issuance of a certificate of occupancy (or temporary certificate of occupancy) for the first of the Project's condominium units, Developer shall construct or install two significant "gateway statements" to enhance the significance of the entry to Beverly Hills. One gateway statement shall be located along Wilshire Boulevard and the other gateway statement shall be located along Santa Monica Boulevard. Both gateway statements shall be provided on the Project site in an area that is clearly visible to the general public entering Beverly Hills. The gateway statements may take the form of public art, landscaping, architectural features such as fountains, or other features satisfactory to the City of Beverly Hills.

(i) *Design.* Prior to issuance of a Building Permit for the Project, Developer shall provide conceptual drawings depicting the gateway statements and their location. Prior to issuance of a certificate of occupancy (or temporary certificate of occupancy)

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~~For~~for the first of the Project's condominium units, the proposed gateway statements shall be reviewed and approved by the City's Architectural Commission. If the gateway statements include public art, the City's Fine Arts Commission shall review and approve the public art prior to its installation. Decisions of the Architectural Commission and Fine Arts Commission shall be appealable to the Planning Commission, and decisions of the Planning Commission shall be appealable to the City Council, provided that all applicable appeal fees shall be paid. Any appeals shall be filed within ten (10) days of the final decision that is the subject of the appeal. The gateway statements shall be constructed or installed in substantial compliance with the approved drawings.

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(ii) *Public Art Requirement.* The gateway statements, combined with a payment of two hundred fifty thousand dollars ($250,000) into the fund established pursuant to Beverly Hills Municipal Code Section 3-1-808 shall satisfy Developer's obligations under the Beverly Hills Public Art Ordinance.

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(iii) *Maintenance.* Until the Association becomes operational, Developer shall own the gateway statements and maintain the gateway statements in good condition and repair. Once the Association becomes operational the gateway statements shall be deemed part of the Project's common area and shall be maintained by the Association. Additionally, the Developer, initially, and thereafter the Association, shall maintain insurance satisfactory to the City's Risk Manager and City Attorney and in an amount equal to the value of the gateway statements, which insures the gateway statements against any loss or damage, including vandalism. Upon damage, the party tasked with maintaining the gateway statements shall timely repair or replace the gateway statements, as appropriate, to the reasonable satisfaction of the City's Director of Community Development. Prior to occupancy of the Project's first condominium unit, Developer shall record a covenant in favor of the City (or as part of the Project's recorded declaration of covenants, conditions and restrictions ("CC&Rs")) evidencing the obligation to maintain the gateway statements in accordance with this Section 10(i). The covenant shall be in form and substance reasonably satisfactory to the City Attorney and shall not be subject to amendment without the City's reasonable consent.

~~(i)~~(j) Bus Turnouts. Prior to issuance of a Building Permit, Developer shall dedicate to the City of Beverly Hills a right of way easement~~s~~ along the Project's Wilshire Boulevard frontage ~~and Santa Monica Boulevard frontage~~ sufficient to provide sidewalk area behind bus turnouts in locations as shown on Exhibit D. The dedication shall be in form and substance satisfactory to the City Attorney and substantially in the form set forth in Exhibit D.

~~(k)~~(G) Access for City Shuttle. Prior to issuance of a Building Permit for the Project, Developer shall dedicate to the City a non-exclusive easement to allow any City sponsored, financed or operated shuttle service vehicle to access the Project site for the purpose of picking up or dropping off residents and visitors to the site at the valet area for the Hotel~~commercial uses~~ on the Project site (to the extent the Project includes valet parking, or otherwise at the Hotel ~~commercial~~ parking entrance area). The easement shall be in form and

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substance satisfactory to the City Attorney and substantially in the form set forth in Exhibit E.

(k) School Benefit Fee. Prior to the issuance of a Building Permit for the Project, Developer shall pay to the Beverly Hills Unified School District a school benefit fee in the amount of one million dollars ($1,000,000).

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(l) Subway Portal. Prior to obtaining a Building Permit for the any part of the Project, Developer shall dedicate an easement to the City substantially in the form set forth in Exhibit F. The easement shall be for the purpose of providing a portal for a subway station under Wilshire Boulevard or Santa Monica Boulevard and shall be assignable to the Metropolitan Transportation Authority or any other governmental entity responsible for constructing or maintaining a subway line. The easement shall provide that the surface area of the portion of the portal on the Property at ground level shall be no more than 300 square feet. The easement shall automatically terminate unless each of the following conditions are met: (i) the City must accept the easement within ~~twenty (20)~~twelve (12) years from the Effective Date of this Agreement; and (ii) the Metropolitan Transportation Authority, or other appropriate governmental entity, must have secured funding for construction of the station within twelve~~twenty~~ years from the Effective Date of this Agreement. The easement shall limit the portal so that it does not materially interfere with or limit access to the Project, materially interfere with the structural integrity of the Property or buildings or structures on the Property, or materially interfere with the operations of the Property or the businesses located on the Property.

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11. Issuance of Building Permit. The City shall be under no obligation to issue a Building Permit for the Project until: (i) all the fees and other obligations set forth in Section 10 and due before issuance of a Building Permit have been fully paid or otherwise fulfilled; and (ii) any lender whose lien is prior and superior to the lien created by this Agreement or any conveyance or covenant required by this Agreement shall have agreed to subordinate its lien to the lien, conveyances and covenants created and required by this Agreement.

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12. Default. Failure by City or Developer to perform any term or provision of this Agreement for a period of thirty (30) days from the receipt of written notice thereof from the other shall constitute a default under this Agreement, subject to extensions of time by mutual consent in writing. Said notice shall specify in detail the nature of the alleged default and the manner in which said default may be satisfactorily cured. If the nature of the alleged default is such that it cannot reasonably be cured within such thirty (30) day period, the commencement of the cure within such time period and the diligent prosecution to completion of the cure shall be deemed a cure within such period. Notwithstanding the above, failure to make a Public Benefit Contribution payment shall not constitute a default by Developer if the City has presented the standby letter of credit provided pursuant to Section 10 and been paid the amount of the applicable portion of the Public Benefit Contribution by the issuer of the letter of credit.

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Subject to the foregoing, after notice and expiration of the thirty (30) day period without cure, the notifying party, at its option, shall have all rights and remedies provided by law and/or may give notice of intent to terminate this Agreement pursuant to Government Code Section 65868. Following such notice of intent to terminate, the matter shall be scheduled for consideration and review by the City Council within thirty (30) calendar days in the manner set forth in Government Code Sections 65867 and 65868. Following consideration of the evidence presented in said review before the City Council and a determination that a default exists, the Party alleging the default by the other Party may give written notice of termination of this

Agreement to the other Party. Upon any such termination, the respective rights, duties and obligations of the Parties hereto shall without further action cease as of the date of such termination (except as to duties and obligations that arose prior to the date of such termination). In no event shall monetary damages be available against the City for any alleged default or breach by the City. In no event shall consequential damages be available against Developer or any seller of any portion of the Property for any alleged default or breach of this Agreement.

13. Termination and Expiration. Upon the expiration of the term or termination of this Agreement, this Agreement shall terminate and be of no further force or effect; provided, however, such termination shall not affect Developer's obligations under Section 10, nor the obligation to pay any claim of any Party hereto arising out of the provisions of this Agreement prior to the effective date of such termination. The obligations under Section 10, and the obligation to pay any claim arising before the effective date of termination shall continue after termination in perpetuity or until completed.

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14. Transfers of Interests in Property or Agreement. In the event of a proposed transfer of interest in the Property or in this Agreement by Developer to a transferee other than a retail purchaser of an individual residential condominium unit, Developer agrees to provide the City at least thirty (30) days written notice of such proposed transfer and shall provide satisfactory evidence that the transferee will assume in writing through an assignment and assumption agreement all remaining obligations of Developer under this Agreement. The assignment and assumption agreement shall be in a form satisfactory to the City Attorney. However, Developer has no obligation to obtain the consent of the City to assign this Agreement to a transferee. Notwithstanding the foregoing: (i) the terms, covenants and conditions of this Agreement shall be binding upon any transferee whether or not such an assignment and assumption agreement is signed by the assignee upon acquiring the Property; and (ii) no such transfer shall relieve Developer (transferor) of any obligations under this Agreement unless: (A) at least thirty (30) days before any transfer, Developer has submitted to City the name of the proposed transferee and financial information regarding the transferee reasonably satisfactory to the City's Chief Financial Officer, and the City determines, prior to transfer, that the proposed transferee is able to satisfactorily fulfill the obligations of this Agreement, and (B) the transferee accepts, in writing, the obligations of Developer under this Agreement. Such writing shall be in form and content reasonably satisfactory to the City Attorney. No owner of a residential condominium interest shall have any development rights under this Agreement by virtue of such ownership interest.

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15. Mortgagee Protection.

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(a) *In General.* The provisions of this Agreement shall not prevent or limit Developer's right to encumber the Property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to such portion. The City acknowledges that Mortgagees may require certain interpretations and modifications of this Agreement and agrees upon request, from time to time, to meet with Developer and representatives of such Mortgagees to negotiate in good faith any such request for interpretation or modification. The City shall not unreasonably withhold its consent to any such requested interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement and does not, in the City's sole determination, diminish the City's benefits from this Agreement. Any Mortgagee shall be entitled to the rights and privileges set forth in this Section.

(b) *Notice of Default to Mortgagee.* If a Mortgagee has submitted a request in writing to City in the manner specified herein for giving notices, the City shall exercise its best efforts to provide to such Mortgagee written notification from the City of any failure or default by Developer in the performance of Developer's obligations under this Agreement, which

notification shall be provided to such Mortgagee at such time as such notification is delivered to Developer.

(c) *Right of Mortgagee to Cure.* Any Mortgagee shall have the right, but not the obligation, to cure any failure or default by Developer during the cure period allowed Developer under this Agreement, plus an additional sixty (60) days if, in order to cure such failure or default, it is necessary for the Mortgagee to obtain possession of the property such as by seeking the appointment of a receiver or other legal process. Any Mortgagee that undertakes to cure or attempt to cure any such failure or default shall provide written notice to the City that it is undertaking efforts of such a nature; provided that no initiation of any such efforts by a Mortgagee shall obligate such Mortgagee to complete or succeed in any such curative efforts.

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(d) *Liability for Past Defaults or Obligations.* Subject to the foregoing, any Mortgagee, including the successful bidder at a foreclosure sale, who comes into possession of the Project or the Property or any part thereof pursuant to foreclosure, eviction or otherwise, shall take such property subject to the terms of this Agreement and in no event shall any such property be released from any obligations associated with its use and development under the provisions of this Agreement. Nothing in this Section shall prevent City from exercising any remedy it may have for a default under this Agreement, provided, however, that in no event shall such Mortgagee personally be liable for any defaults or monetary obligations of Developer arising prior to acquisition of possession of such property by such Mortgagee.

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16. Binding Effect. All of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Agreement shall be binding upon the Parties and their respective heirs, successors (by merger, reorganization, consolidation or otherwise) and assigns, devisees, administrators, representatives, lessees, and all other persons acquiring the Property, or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever, and shall inure to the benefit of the parties and their respective heirs, successors and assigns. All of the provisions of this Agreement shall constitute covenants running with the land.

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17. Indemnification.

(a) Developer agrees to and shall indemnify, hold harmless, and defend, the City and its respective officers, officials, members, agents, employees, and representatives, from liability or claims for death or personal injury and claims for property damage which may arise from the acts, errors, and/or omissions of Developer or its contractors, subcontractors, agents, employees or other persons acting on its behalf in relation to the Project and/or in any manner arising from this Agreement. The foregoing indemnity applies to all deaths, injuries, and damages, and claims therefor, suffered or alleged to have been suffered by reason of the acts, errors, and/or omissions referred to in this Section 17, regardless of whether or not the City prepared, supplied, or approved plans or specifications, or both. In the event of litigation, the City agrees, at no cost to the City, to cooperate with Developer. This indemnification, hold harmless and defense requirement shall survive the termination or expiration of this Agreement. The City reserves the right, in

cases subject to this indemnity, to reasonably approve the attorney selected by Developer to defend Developer and the City in any such action.

(b) In the event of any court action or proceeding challenging the validity of this Agreement, any of the Project Approvals or the SEIR prepared and certified for the Project, Developer shall defend, at its own expense, the action or proceeding. In addition, Developer shall reimburse the City for the City's costs in defending any court action or proceeding challenging the validity of this Agreement, any of the Project Approvals or the SEIR and Developer shall also pay any award of costs, expenses and fees that the court having jurisdiction over such challenge makes in favor of any challenger and against the City. Developer shall cooperate with the City in any such defense as the City may reasonably request and may not resolve such challenge without the agreement of the City. In the event Developer fails or refuses to reimburse the City for its cost to defend any challenge to this Agreement, the Project Approvals or the SEIR, the City shall have the right to terminate this Agreement, subject to the notice and cure requirements of Section 12 above. In all events, the City shall have the right to resolve any challenge in any manner, in its sole discretion, provided, however, Developer's consent shall be required if the resolution of the challenge shall require a payment by Developer or limit Developer's rights under this Agreement.

In order to ensure compliance with this Section 1 7(b), within twenty (20) days after notification by the City of the filing of any claim, action or proceeding to attack, set aside, void or annul this Agreement, any of the Project Approvals or the SEIR prepared and adopted for the Project, Developer shall deposit with the City cash or other security in the amount of one hundred thousand dollars ($100,000), satisfactory in form to the City Attorney, guaranteeing indemnification or reimbursement to the City of all costs related to any action triggering the obligations of this Section. If the City is required to draw on that cash or security to indemnify or reimburse itself for such costs, Developer shall restore the deposit to its original amount within fifteen (15) days after notice from the City. Additionally, if at any time the City Attorney determines that an additional deposit or additional security up to an additional fifty thousand dollars ($50,000.00) is necessary to secure the obligations of this section, Developer shall provide such additional security within fifteen (15) days of notice from the City Attorney. The City shall promptly notify Developer of any claim, action or proceeding within the scope of this Section and the City shall cooperate fully in the defense of any such claim or action, but shall have the right to resolve any challenge, in any manner, in its sole discretion, provided, however, Developer's consent shall be required if the resolution of the challenge shall require a payment by Developer or limit Developer's rights under this Agreement.

18. Relationship of the Parties. The Parties acknowledge and agree that Developer is not acting as an agent, joint venturer or partner of the City, but each is, in fact, an independent contractual party and not in any way under the control or direction of the City except as is expressly provided to the contrary in this Agreement.

19. Recordation. The City Clerk shall record a copy of this Agreement with the Registrar-Recorder of the County of Los Angeles no later than ten (10) days after the effective date of the ordinance approving this Agreement. Developer shall reimburse the City for all costs of such recording, if any.

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20. No Third Party Beneficiaries. The only signatories to this Agreement are the City and Developer. There are no third party beneficiaries and this Agreement is not intended –and

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shall not be construed to benefit or be enforceable by any other person whatsoever other than the successors in interest of the signatories.

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21. Advice; Neutral Interpretation. Each Party has received independent legal advice from its attorneys with respect to the advisability of executing this Agreement and the meaning of the provisions hereof. This Agreement has been drafted through a joint effort of the Parties and their counsel and therefore shall not be construed against either of the Parties in its capacity as draftsperson, but in accordance with its fair meaning.

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22. Certificate of Compliance. At any time during the term of this Agreement, any Mortgagee or other party may request any Party to this Agreement to confirm that (i) this Agreement is unmodified and in full force and effect (or if there have been modifications hereto, that this Agreement is in full force and effect as modified and stating the date and nature of such modifications) and that (ii) to the best of such Party's knowledge, no defaults exist under this Agreement or if defaults do exist, to describe the nature of such defaults and (iii) any other information reasonably requested. Each Party hereby agrees to provide a certificate to such lender or other party within ten (10) Business Days of receipt of the written request therefor.

23. Consideration. The City and Developer acknowledge and agree that there is good, sufficient and valuable consideration flowing to the City and to Developer pursuant to this Agreement as more particularly set forth in the Recitals and Section 2 of this Agreement. The Parties further acknowledge and agree that the exchanged consideration hereunder is fair, just and reasonable.

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24. Periodic Reviews.

(a) Annual Reviews. The City shall conduct annual reviews to determine whether Developer is acting in good faith compliance with the provisions of this Agreement and Government Code Section 65865.1. The reasonable cost of each annual review conducted during the term of this Agreement shall be reimbursed to the City by Developer. Such reimbursement shall include all direct and indirect expenses reasonably incurred in such annual reviews.

(b) Special Reviews. In addition, the City Council of the City may order a special periodic review of Developer's compliance with this Agreement at any time. The cost of such special reviews shall be borne by the City, unless such a special review demonstrates that Developer is not acting in good faith compliance with the provisions of this Agreement. In such cases, Developer shall reimburse the City for all costs, direct and indirect, incurred in conjunction with such a special review.

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(c) Procedure for Review. The City's Director of Community Development (the "Community Development Director") shall conduct the review contemplated by this Section 24 to ascertain whether Developer has complied in good faith with the terms and conditions of this Agreement during the period for which the review is conducted. The Community Development Director shall give Developer written notice that any such review has been commenced, and shall give Developer at least twenty (20) days after Developer's receipt of such notice to provide to the Community Development Director such information –as Developer

deems relevant to such review. In addition, upon the written request of the Community Development Director, Developer shall furnish such documents or other information as requested by the Community Development Director.

(d) Result of Review. If, following such a review, the Community Development Director finds good faith compliance by Developer with the terms and conditions of this Agreement, the Community Development Director shall issue to Developer an executed certificate of compliance, certifying Developer's good faith compliance with the terms and conditions of this Agreement through the period of such review. Such certificate shall be in recordable form, and shall contain such information as may be necessary to impart constructive record notice of the finding of good faith compliance hereunder. Developer shall have the right to record such certificate of compliance in the Official Records of the County of Los Angeles.

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If, following such a review, the Community Development Director finds that Developer has not complied in good faith with the terms and conditions of this Agreement, the Community Development Director shall specify in writing the respects in which Developer has failed to so comply. The Community Development Director shall provide Developer with written notice of such noncompliance as provided in Section 12 and the City may follow the default procedures as set forth in Section 12.

(e) Effect on Default. Nothing in this Section 24 shall be interpreted to prevent the City from providing Developer with a notice of default hereunder at any time, including any time other than during a periodic review under this Section 24, or from terminating this Agreement pursuant to the provisions of Section 12 following any event of default by Developer.

25. Future Litigation Expenses.

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(a) Payment of Prevailing Party. If the City or Developer brings an action or proceeding (including, without limitation, any motion, order to show cause, cross-complaint, counterclaim, third-party claim or arbitration proceeding) by reason of default, breach, tortious act, or act or omission, arising out of this Agreement, the prevailing party in such action or proceeding shall be entitled to its costs and expenses of suit including, but not limited to, reasonable attorneys' fees and expert witness fees.

(b) Scope of Fees. Attorneys' fees under this Section shall include attorneys' fees on any appeal and, in addition, a party entitled to attorneys' fees shall be entitled to all other reasonable costs and expenses incurred in connection with such action. In addition to the foregoing award of attorneys' fees to the prevailing party, the prevailing party in any lawsuit shall be entitled to its attorneys' fees incurred in any post-judgment proceedings to collect or enforce the judgment. This provision is separate and several and shall survive the merger of this Agreement into anyjudgment on this Agreement.

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26. Headings. The section headings used in this Agreement are for convenient reference only and shall not be used in construing this Agreement. The words "include," "including" or other words of like import are intended as words of illustration and not limitation and shall be construed to mean "including, without limitation."

27. Amendment. This Agreement may be amended from time to time, in whole or in part, by mutual written consent of the Parties or their successors in interest, as follows:

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(i) City and Developer, by mutual agreement, may terminate or amend the terms of this Agreement, and the amendment or termination shall be accomplished in the manner provided under California law for the enactment of Development Agreement amendments.

(ii) Except as may be otherwise agreed to by the Parties, no amendment of this Agreement shall be required in connection with the issuance of any Subsequent Project Approval. Any Subsequent Project Approval issued after the Effective Date of this Agreement automatically shall be incorporated into this Agreement and vested hereby.

28. Alterations. No alteration, amendment or modification of this Agreement shall be valid unless evidenced by a written instrument executed by the parties hereto with the same formality as this Agreement, and made in the manner required by the Development Agreement Act.

29. Waiver. The failure of either Party hereto to insist in any one or more instances upon the strict performance of any of the covenants, agreements, terms, provisions or conditions of this Agreement, or to exercise any election or option herein contained, shall not be construed as a waiver or relinquishment for the future of such covenant, agreement, term, provision, condition, election or option, but the same shall continue and remain in full force and effect. No waiver by any Party hereto of any covenant, agreement, term, provision or condition of this Agreement shall be deemed to have been made unless expressed in writing and signed by an appropriate official or officer on behalf of such Party.

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30. Severability. If any article, section, subsection, term or provision of this Agreement, or the application thereof to any party or circumstance, shall, to any extent, be invalid or unenforceable, the remainder of the article, section, subsection, term or provision of this Agreement, or the application of the same to parties or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each remaining article, section, subsection, term or provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law, except that if any provision of Section 10 is held invalid or unenforceable before approval of a tentative subdivision map for the Project, then this entire Agreement shall be void and unenforceable and of no further force and effect.

31. Force Majeure. Performance by any Party of its obligations hereunder (other than for payment of money) shall be excused during any period of "Permitted Delay," which Permitted Delay shall mean and include delay caused by an event beyond the reasonable control of the Party claiming the delay (and despite the good faith efforts of such Party) that prevents the Party from fulfilling the obligations for which it seeks excuse including without limitation all of the following to the extent that they prevent the Party claiming delay from fulfilling the obligation from which it seeks to be excused: acts of God; civil commotion; riots; strikes; picketing or other labor disputes; shortages of materials or supplies; damage to work in progress by reason of fire, floods, earthquake or other casualties; failure, delay or inability of the other Party to act; terrorism, and litigation brought by a third party attacking the validity of this Agreement, the Project Approvals or the EIR.

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32. Notices. All notices, disclosures, demands, acknowledgments, statements, requests, responses and other communications (each, a "Communication") to be given under this Agreement shall be in writing, signed by a signatory hereto (or an officer, agent or attorney of such party) giving such Communication, and shall be deemed effective (i) upon receipt if hand delivered or sent by overnight courier service; or (ii) upon delivery or the date of refusal if sent by the United States mail, postage prepaid, certified mail, return receipt requested, in either case addressed as follows:

To Developer: Wanda Beverly Hills Properties, LLC~~Project Lotus LLC~~
Attn: Mr. David Shu~~Manager Rodeo Collection~~
43~~924~~ North Canon ~~Rodeo~~ Drive
Suite 207~~Third Floor~~
Beverly Hills, CA 90210

With Copy to: Reed Smith LLP
~~Candy & Candy~~
~~100 Brompton Road, Knightsbridge~~
~~LAttn: Charles Seeman, Esq.ondon~~
101 Second Street
Suite 1800~~SW3~~
~~1ER~~
~~United~~
San Francisco, CA 94105-3659
~~Kingdom~~

To City:

City Manager
City of Beverly Hills
455 North Rexford Drive
Third Floor
Beverly Hills, California 90210

With Copy to:

City Attorney
City of Beverly Hills
455 North Rexford Drive
Room 220
Beverly Hills, California 90210

Any signatory hereto may from time to time, by notice given to the other signatories hereto pursuant to the terms of this Section 32 change the address to which communications to such signatory are to be sent or designate one or more additional persons or entities to which communications are to be sent.

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33. Applicable Law. This Agreement shall be governed in all respects by the laws of the State of California.

34. Time is of the Essence. Time is of the essence of this Agreement and every term or performance hereunder.

35. Entire Agreement. This Agreement supersedes any prior understanding or written or oral agreements between the Parties hereto respecting the within subject matter and contains the entire understanding between the Parties with respect thereto.

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36. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

37. Compliance With Law. Notwithstanding any provision of this Agreement, the Parties agree to comply with all federal, state and local laws and to act in good faith and reasonably in carrying out the terms of this Agreement.

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38. Authorization. Each person executing this Agreement represents and warrants that he or she is authorized and has the legal capacity to execute and deliver this Agreement on behalf of the Party for which execution has been made.

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IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as ~~of~~ the ____ Day of , 20~~0~~16

CITY OF BEYERLY HILLS,
A Municipal Corporation

_____
J~~IMMY DELSHAD~~OHN MIRISCH
Mayor of the City of
Beverly Hills, California

ATTEST:

_____(SEAL)
BYRON POPE
City Clerk

WANDA BEVERLY HILLS PROPERTIES, LLC~~PROJECT LOTUS LLC~~, a Delaware limited liability company

By: _____

Name: _____

Its: _____

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APPROVED AS TO FORM:

_____

LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

_____

MAHDI ALUZRI~~RODERICK J. WOOD~~
City Manager

EXHIBIT A

Legal Description

9900 WILSHIRE LEGAL DESCRIPTION.

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That certain real property located in the State of California, County of Los Angeles described as follows:

PARCEL 1:

THAT PORTION OF BLOCK 33 OF BEVERLY, SHEET 2, IN THE CITY OF BEYERLY HILLS, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 13, PAGES 62 AND 63 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY CORNER OF LOT 4 OF SAID BLOCK 33; THENCE ALONG THE NORTHERLY LINE OF LOT 4 AND A PORTION OF LOT 3 OF SAID BLOCK 33. NORTH 89° 55' 00" EAST 300.00 FEET TO A POINT ON THE NORTHERLY LINE OF LOT 3 OF SAID BLOCK 33; THENCE SOUTH 0° 05' 00" EAST 177.00 FEET; THENCE SOUTHEASTERLY SOUTH 38° 46' 45" EAST 583.79 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF LOT 7 OF SAID BLOCK 33, DISTANT 431.22 FEET FROM THE MOST SOUTHERLY CORNER OF LOT 6 OF SAID BLOCK 33; THENCE SOUTH 50° 19' 15" WEST 431.22 FEET TO THE MOST SOUTHERLY CORNER OF LOT 6 OF SAID BLOCK 33; THENCE ALONG THE SOUTHWESTERLY LINE OF LOTS 6 AND 4 OF SAID BLOCK 33, NORTH 30° 58' 05" WEST 798.43 FEET TO THE MOST SOUTHERLY CORNER OF LOT 5 OF SAID BLOCK 33; THENCE ALONG THE SOUTHEASTERLY LINE OF LOT 5 NORTH 19° 03' 30" EAST 235.27 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

AN EASEMENT FOR PRIVATE ROAD PURPOSES OVER THE EASTERLY 20 FEET OF THOSE PORTIONS OF LOTS 3 AND 7 IN BLOCK 33 OF BEYERLY, IN THE CITY OF BEYERLY HILLS, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 13 PAGES 62 AND 63 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, INCLUDED WITHIN A STRIP OF LAND, 40 FEET WIDE, THE CENTER LINE OF WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTHERLY LINE OF SAID LOT 3, DISTANT NORTH 89° 55' 00" EAST 300 FEET MEASURED ALONG THE NORTHERLY LINE OF SAID BLOCK 33 FROM THE NORTHWEST CORNER OF LOT 4 OF SAID BLOCK 33; THENCE SOUTH 0° 05' 00" EAST 177.00 FEET; THENCE SOUTHEASTERLY SOUTH 38° 46' 45" EAST 583.79 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF LOT 7 OF SAID BLOCK 33, DISTANT 431.22 FEET FROM THE MOST SOUTHERLY CORNER OF LOT 6 OF SAID BLOCK 33, AS GRANTED BY DEED AND AGREEMENT DATED DECEMBER 20, 1950, AND RECORDED DECEMBER 22, 1950, IN BOOK 35141, PAGE 331, OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXHIBIT A-1

Processing Fees

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EXHIBIT B

Map Exhibit of Public Open Space Area

[To be added]

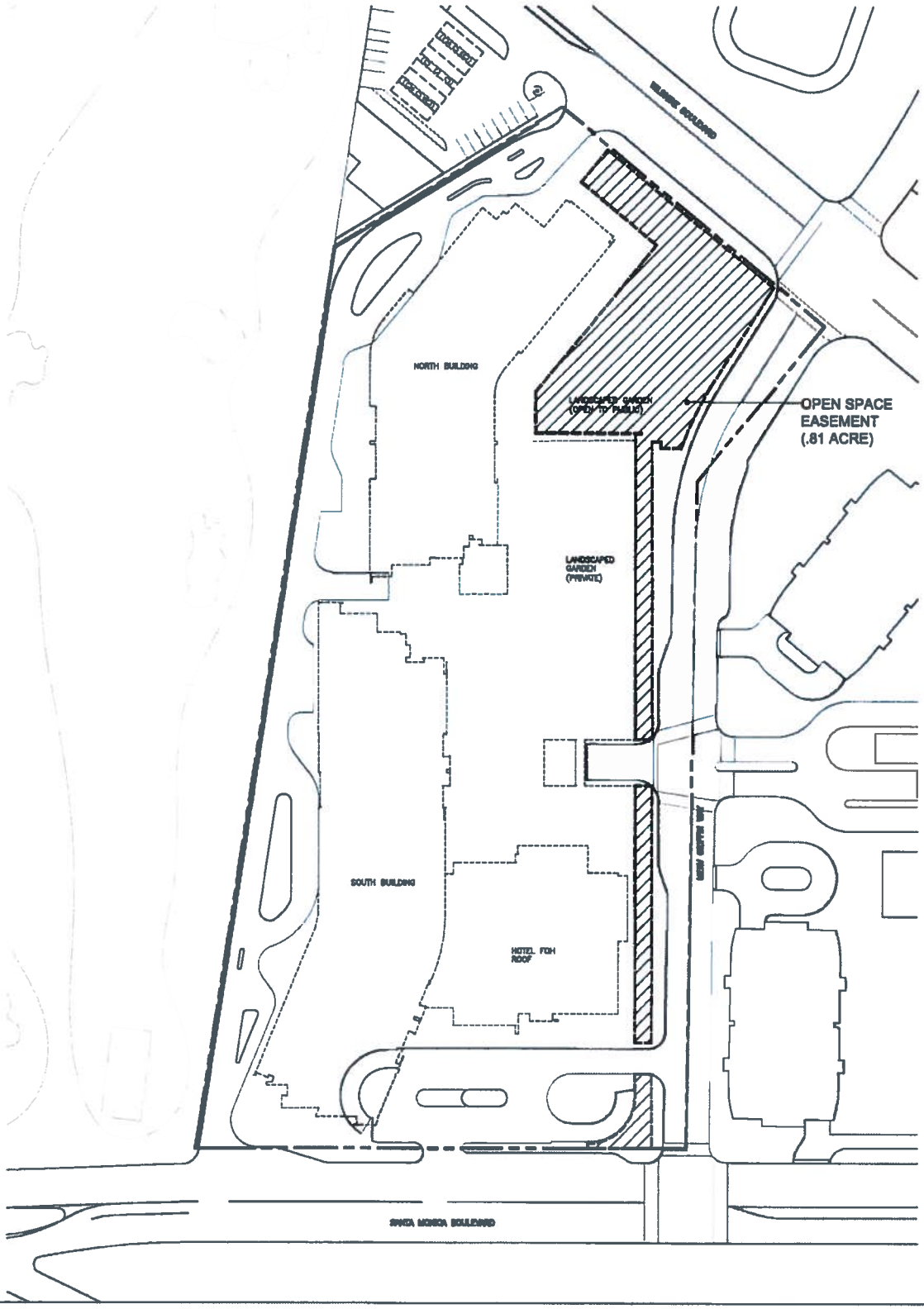

EXHIBIT B

OPEN SPACE: PUBLIC GARDENS

ONE BEVERLY HILLS