ATTACHMENT 2

REDLINED DEVELOPMENT AGREEMENT

RECORDING REQUESTED BY:
CITY OF BEVERLY 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 BEVERLY HILLS, a California municipal corporation (the "City"), and WANDA BEVERLY HILLS PROPERTIES, 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 April 9, 2008, the City and Project Lotus, LLC, entered into a 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.

B. Developer subsequently acquired the Property and is the current fee owner thereof.

C. Developer desires to make modifications to the 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).

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

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 and permits required for the development and construction of the Project, including, without limitation: (1) a Specific Plan amendment, (2) a revised vesting tentative tract map, (3) architectural review, and (4) amendments to the Development Agreement under the Development Agreement Act.

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.

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).

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. Neither Developer nor City would enter this Agreement, or agree to provide the public benefits and improvements described herein, without the 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.

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, including but not limited to (i) the Developer making a Public Benefit Contribution (as hereafter defined) and paying a School Benefit Fee (as hereafter defined) with respect to Project's condominium component to offset the fiscal, environmental, and other impacts of development of such condominium component on land formerly zoned for and developed with commercial uses, and (ii) increased City revenues from the payment of substantial transient occupancy taxes, the Municipal Surcharge (as hereafter defined), and other economic benefits from the Project's hotel component.

J. On August 23, September 19, September 26, October 10, October 13, and October 26, 2016 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.

K. On November 7, 8, 9 and 21, 2016, 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.

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.

M. On_____, 2016, the City Council adopted Ordinance No._____approving this Agreement, and such ordinance became effective on_____, 2016.

N. By Resolution No. _____ adopted by the City Council on _____2016, 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) "Affiliate" means an entity that owns Developer, is owned by Developer, or is under common control with Developer.

(b) "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.

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

(d) "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.

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

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

(g) "Certificate of Occupancy" means any of the following with respect to any portion of the Project other than the Parking Garage: (i) a permanent Certificate of Occupancy, (ii) a temporary Certificate of Occupancy or (iii) a Certificate of Completion, if requested by the Developer and issued by the City, as to an improvement in which the base, core and shell have

been completed, but the improvement is not ready for occupancy due to the Developer's electing to defer the completion of tenant improvements, or the interior portions of individual condominium units (e.g. kitchens, baths or finishes which are intended to be customized at a later date).

(h) "Change of Control" shall refer to a transaction whereby a transferee acquires a beneficial ownership interest in Developer (or in an existing owner of a beneficial ownership interest in Developer) 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.

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

(j) "Developer Fees" shall mean those fees established, adopted, or imposed by the City pursuant to Section 66000- 66008, 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. Such fees may include impact fees, linkage fees, exactions, assessments, fair share charges, or other similar impact fees imposed by the City on or in connection with new development. Developer Fees do not mean or include Processing Fees.

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

(l) "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).

(m) "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).

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

(o) "EMS Fee" means the fee paid pursuant to the provisions of Section 10(e) of this Agreement, which payments may be used by the City for various public projects and programs.

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

(q) "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.

(r) "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.

(s) "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.

(t) "Mortgagee" means the holder of the beneficial interest under any Mortgage.

(u) "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. Processing Fees shall not mean or include Developer Fees. In addition, any and all fees payable under the current Applicable Rules shall be deemed to be included within the term "Processing Fees" and not to be included within the term "Developer Fees," whether the same are payable upon issuance of a Building Permit, upon connection of a utility or upon issuance of a Certificate of Occupancy.

(v) "Project" means the development project as described in the final SEIR (as hereinafter defined), as modified by the Project Approvals.

(w) "Project Approvals" shall include, collectively, the Specific Plan, as approved on November __, 2016 and the revised vesting tentative tract map approved by the City with respect to the Project and shall include any Subsequent Project Approvals (as hereafter defined).

(x) "Property" means the real property described in Exhibit "A" attached hereto.

(y) "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.

(z) "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.

(aa) "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 or (ii) any Change of Control. Notwithstanding the foregoing, (for the purposes of triggering the EMS Fee only) a Sales Transaction shall not include any sale, assignment, or transfer of all or a portion of the Property (other than ~~individual~~ condominium units) or any interest in Developer to an Affiliate of Dalian Wanda Group Co Ltd if (1) such transaction occurs no later than twelve (12) months after the issuance of the first Certificate of Occupancy for the Project or (2) if following such transaction or series of transactions not less than fifty-one percent (51%) of the beneficial ownership interests in Developer, or in any successor owner, are held by Dalian Wanda Group Co Ltd.

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

(cc) "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.

(dd) "Subsequent Project Approvals" shall mean further Discretionary Actions or Discretionary Approvals, Ministerial Permits and Ministerial Approvals required to carry out the Project as approved on November 21~~_____~~, 2016, 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.

(ee) "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.

(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:

"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.

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

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 as the same may lawfully be amended from time to time other than by initiative and this Agreement.

5. Term of Agreement. The initial term of this Agreement shall commence on the Agreement Effective Date, and shall continue for two (2) 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 the approval and recordation of a final subdivision map for the Project, if earlier (provided, however, that the Term shall be no less than two (2) years from the Effective Date). 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 SEIR (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 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 other than by initiative. 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 other than by initiative. 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.

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 other than by initiative, all of which are hereby incorporated in this Agreement by reference.

9. Changes in Applicable Rules.

(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 and taxes), 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), and any changes in Developer Fees (which expression "changes in Developer Fees" includes under this Agreement new or additional Development Fees), 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 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. Notwithstanding the foregoing, if the Developer has not obtained its first Building Permit and commenced construction of the Project within five (5) years of the Effective Date, the Project shall be subject to all changes in Developer Fees adopted by the City between the Effective Date and the commencement of the construction of the Project. Said five (5) year period for the commencement of construction shall be extended during the period of any "Permitted Delay" under Section 31 below which occurs after the issuance of the first Building Permit.

(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, electrical regulations and similar 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.

(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 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 and Taxes Under Applicable Rules. The Project shall be subject to any increase in taxes and 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, provided, however, that the City's actual and reasonable costs for the City's outside negotiator, Greenburg Glusker, shall not exceed one-hundred fifty thousand dollars ($150,000). At least fifteen (15) business days prior to the Effective Date, the City shall provide Developer with copies of all of Greenberg Glusker's detailed bills (from which any information subject to the attorney-client privilege may be redacted).

(c) Processing Fees, Taxes and Development Fees. Developer agrees to pay all taxes and 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. Developer will be exempt from any changes to Development Fees; provided, however, that if the Developer has not obtained its first Building Permit and commenced construction of the Project within five (5) years of the Effective Date, the Project shall be subject to all changes in Developer Fees adopted by the City without regard to such exemption. Said five (5) year period for the commencement of construction shall be extended during the period of any "Permitted Delay" under Section 31 below which occurs after the issuance of the first Building Permit

(d) Public Benefit Contribution. Developer shall pay to the City a Public Benefit Contribution of sixty million dollars ($60,000,000), all of which shall be attributable to the Project's condominium component.

(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 ten million five hundred thousand dollars ($10,500,000) of the Public Benefit Contribution on or before the issuance of the first Certificate of Occupancy for any portion of the Project. Developer shall pay to the City the remaining thirty million dollars ($30,000,000) of the Public Benefit Contribution on the earlier of (1) issuance of the first Certificate of Occupancy for any portion of the Project, or (2) the date that is forty (40) months after issuance of the first Building Permit for the Project, as such date may be extended pursuant to Section 31 below.

(ii) *Security for Payment.* Developer shall secure the payment of the Public Benefit Contribution by arranging for an irrevocable standby letter of credit (the "Payment Security") to be issued to the City, as beneficiary, for sixty million dollars ($60,000,000) guaranteeing payment of the Public Benefit Contribution in form and content reasonably satisfactory to the city attorney. The Payment Security shall be issued to the City before the City issues a Building Permit for the Project. The Payment Security shall be issued by a Qualified Issuing Bank reasonably acceptable to the City. "Qualified Issuing Bank" shall mean a banking institution having offices in the State of California and/or the City of New York and having total assets of at least Three Hundred Billion Dollars ($300,000,000,000) and an investment grade credit rating from one or more of Moody's, Standard & Poor's or Fitch. The City acknowledges that the following prospective issuers are acceptable to the City so long as the same continue to be Qualified Issuing Banks: Bank of America, Wells Fargo Bank, Citibank, City National Bank, J.P. Morgan Chase Bank, HSBC, Bank of China, Industrial and Commercial Bank of China, Bank of Communications, China Merchants Bank and China CITIC Bank. If the banking institution holding the Payment Security fails to maintain its status as a Qualified Issuing Bank, then Developer shall immediately notify the City and shall remove the Payment Security from that banking institution and place the Payment Security in a Qualified Issuing Bank within three (3) business days. The Payment Security shall provide that the City may fully draw upon such Payment Security in the event that: (x) the 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 Payment Security 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. Developer shall reimburse City's actual and reasonable out-of-pocket costs associated with drawing upon the Payment Security. The City shall permit adjustment of the amount of the Payment Security upon receipt of payments under subsection (i). The adjustment shall reduce the amount secured by the Payment Security to reflect the payments paid to the City and those payments still owed to the City.

(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).

(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 for the first Sales Transaction following the Effective Date involving the sale of the entire Property, or the hotel, or any other portion thereof (including individual condominium units in the Project) shall be equal to $12.50 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 amount of the EMS Fee for each subsequent Sales Transaction involving the sale of the entire Property, or the hotel, or any other portion thereof (including individual condominium units in the Project) after the initial Sales Transaction shall be equal to $20.00 for each $1,000 of the consideration or value of the interest or property conveyed (~~exclusive~~ without regard to ~~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.

(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 $1,000 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 $1,000. For example, if the City adopts a real estate transfer tax of $2.20 per $1,000, 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 $17.80 per $1,000 of sales price ($20.00-$2.20 = $17.80). If the City increases the documentary transfer tax or adopts a real estate transfer tax so that the combined taxes exceed $21.10 per $1,000 of sales price, then no further EMS Fee shall be due or payable.

(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 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. The City shall be entitled to collect its actual and reasonable out-of-pocket costs associated with any effort to enforce any such lien. 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 Sales Transaction 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.

(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").

(i) *Timing of Payment.* The Municipal Surcharge shall be~~y~~ 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.

(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 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.

The City shall be entitled to collect its actual and reasonable out-of-pocket costs associated with any effort to enforce any such lien.

(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.

(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.

(i) Gateways. Prior to issuance of a Certificate of Occupancy for any portion of the Project, 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 for any portion

of the Project, the proposed gateway statements shall be reviewed and approved by the City's Architectural Commission. The aggregate cost of constructing, or purchasing and installing, the gateway statements shall not be required to exceed two hundred and fifty thousand dollars ($250,000). 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, if 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.

(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 3-1-803 shall fully satisfy Developer's obligations under the Applicable Rules, including but not limited to the Beverly Hills Public Art Ordinance, and Developer shall not be obligated to make any additional monetary contribution (including but not limited to payment of an in-lieu fee) or provide any additional on- or off-site art. Additionally, the City shall place $250,000 from its Public Benefit Contribution into the fund established pursuant to Beverly Hills Municipal Code Section 3-1-803 for the purpose of funding City owned fine art.

(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 may 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 reasonably 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.

(j) Bus Turnouts. Prior to issuance of a Building Permit, Developer shall dedicate to the City of Beverly Hills a right of way easement along the Project's Wilshire 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) 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 on the Project site (to the extent the Project includes valet parking, or otherwise at the hotel parking entrance area). The easement shall be in form and substance satisfactory to the City Attorney and substantially in the form set forth in Exhibit E.

(l) 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), which shall be attributable solely to the Project's condominium component due to its greater impact on the City's schools than the hotel component.

(m) 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 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 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 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.

11. Issuance of Building Permit; Expedited Permit Processing.

(a) Building Permit Issuance. 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.

(b) Expedited Processing. The City shall accept the Project's building permit applications for expedited processing, including but not limited to expedited plan check review, provided that Developer pays the applicable Processing Fee and the actual costs to the City plus fifteen percent (15%) of the cost of any internal or external expediter directly employed or engaged by the City.

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 Payment Security provided pursuant to Section 10 and been paid the amount of the applicable portion of the Public Benefit Contribution by the issuer of the Payment Security.

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.

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.

15. Mortgagee Protection.

(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 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.

(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.

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.

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 17(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.

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

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.

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.

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.

(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.

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.

(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 any judgment on this Agreement.

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:

(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.

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 SEIR.

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
Attn: Mr. David Shu
439 North Canon Drive
Suite 207
Beverly Hills, CA 90210

With Copy to:

Reed Smith LLP
Attn: Charles Seaman, Esq.
101 Second Street
Suite 1800
San Francisco, CA 94105-3659

To City:

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

With Copy to:

City Attorney
City of Beverly Hills
455 North Rexford Drive
Room 230
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.

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.

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.

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.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the

_____ Day of _____, 2016

CITY OF BEVERLY HILLS,
a municipal corporation

_____

JOHN MIRISCH
Mayor of the City of
Beverly Hills, California

ATTEST:

_____(SEAL)
BYRON POPE
City Clerk

WANDA BEVERLY HILLS PROPERTIES, LLC, a Delaware limited liability company

By: _____

Name: _____

Its: _____

APPROVED AS TO FORM:

_____

LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

_____

MAHDI ALUZRI
City Manager

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

Map Exhibit of Public Open Space Area

[To be added]

EXHIBIT C

Form of Open Space Easement

RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO: City Clerk City of Beverly Hills 455 N. Rexford Drive Beverly Hills, California 90210	
	THE AREA ABOVE IS RESERVED FOR

A.P.N.:_____

Exempt from recording fees pursuant to Government Code § 27383.

Exempt from documentary transfer taxes pursuant to Revenue Taxation Code § 11922.

OPEN SPACE EASEMENT AGREEMENT

This OPEN SPACE EASEMENT AGREEMENT (the "Agreement") is entered into as of _____, 2016 (the "Effective Date"), by and between WANDA BEVERLY HILLS PROPERTIES, LLC, a Delaware limited liability company ("Grantor") and THE CITY OF BEVERLY HILLS, a municipal corporation ("Grantee").

RECITALS

A. Grantor is the owner of the land described on Exhibit "A" and the improvements thereon (collectively "Grantor Parcel").

B. Grantor and Grantee have entered into an Amended and Restated Development Agreement dated ___, 2016 (the "Development Agreement") in connection with a proposed development ("Development") on the Grantor Parcel.

C. The Development Agreement requires that Grantor enter into this Agreement with Grantee prior to the issuance of any building permit for the proposed development.

NOW, THEREFORE, in consideration of the mutual promises contained herein and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Grant of Easement. Grantor hereby grants to Grantee, a perpetual easement (the "Easement") in and over the portion of the Grantor Parcel described on Exhibit "B" (the "Easement Area").

2. Purpose of Easement. The purpose of the easement shall be for access to and use by the public of the Public Gardens identified on Exhibit "B." The Pubic Gardens shall be open

to the public pursuant to the easement from 8:00 am to dusk (or as otherwise established by the property owner and reasonably approved by the City's Director of Community Development),

provided that the Public Gardens may be closed to the public from time to time for maintenance and repairs, improvement work, and emergencies, as reasonably required.

3. Maintenance. Grantor shall be and remain responsible for the maintenance of the Easement Areas as public open space. Once the Development's property owner's association (the "Association") becomes operational, Grantor may transfer and assign the maintenance obligations to the Association, provided title to the Easement Area is also conveyed the Association. The maintenance obligations may not be otherwise transferred or assigned to any other third-party without the prior written approval and consent of the City Manager, in the exercise of the City's sole, absolute and unfettered discretion.

4. Property Taxes; Liens. Grantor shall pay, prior to delinquency, all property taxes, special taxes and assessments assessed against the Easement Area, and shall keep the Easement Area free of all liens except for liens securing financing for the Development, which must be subordinate or subordinated to this Agreement and the Easement.

5. Grantee's Remedies. If Grantee determines that Grantor is in violation of the terms of this Agreement or the Easement, Grantee shall give written notice to Grantor of such violation. If Grantor fails to cure the violation within fifteen (15) days after said written notice is given, or said cure reasonably requires more than fifteen (15) days to complete and Grantor fails to begin to cure within the fifteen (15) day period or fails to continue diligently to complete the cure, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce compliance by Grantor with the terms of this Agreement or the Easement, to recover any damages to which Grantee may be entitled for violation by Grantee of the terms of this Agreement or the Easement, or may cure the violation in which event Grantor shall reimburse Grantee for the costs incurred by Grantee in connection with violation within ten (10) days after written demand with evidence of such costs. Additionally, without notice or the expiration of any cure period, Grantee may enjoin the violation, ex parte, by temporary or permanent injunction without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies, or for other equitable relief.

6. Miscellaneous.

(a) Notices. Any notice to be given under or in connection with this Agreement shall be in writing and shall be deemed to have been given upon: (i) personal delivery, (ii) one (1) business day after being deposited with Federal Express or another reliable overnight courier service for next day delivery, or (iii) two (2) business days after being deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, and addressed as follows:

If to Grantor: Wanda Beverly Hills Properties, LLC
Attn: Mr. David Shu
439 North Canon Drive
Suite 207
Beverly Hills, CA 90210

With a copy to:	Reed Smith LLP Attn: Charles Seaman, Esq. 101 Second Street Suite 1800 San Francisco, CA 94105-3659
If to Grantee:	City of Beverly Hills Beverly Hills City Hall 455 North Rexford Drive, Fourth Floor Beverly Hills, California 90210 Attn: City Manager
With a copy to:	City of Beverly Hills 455 North Rexford Drive, Suite 230 Beverly Hills, California 90210 Attn: City Attorney

(b) Assignment; Successors and Assigns. Upon prior written notice to Grantee, the Grantor may assign its obligations hereunder to the property owners' association for the Development provided title to the Easement Area is also conveyed to such association, but this Agreement may not be assigned to any other person or entity (except as collateral to a lender providing financing for the development) without the prior written consent of the City Manager.

(c) Runs With Land. The covenants and agreements contained herein and the rights, privileges and easements herein granted shall run with, burden and shall be appurtenant to the properties described herein.

(d) Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California.

(e) Severability. If any provision of this Agreement shall for any reason be held to be invalid, illegal or unenforceable by any court of competent jurisdiction, the validity of the other provisions of this Agreement shall in no way be affected thereby.

(f) Counterparts. This Agreement may be executed in any number of identical counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

(g) Further Acts. Each of the parties shall execute such other and further documents and do such further acts as may be reasonably required to effectuate the intent of the parties and carry out the terms of this Agreement (including, without limitation, obtaining and delivering to Grantee prior to the recordation of this Agreement reasonable subordination agreements from the holders of any liens encumbering the Easement Area that are or might be senior to this Agreement or the Easement as of the date of the recordation of this Agreement).

(h) Attorneys' Fees. If any action shall be commenced to enforce the terms of this Agreement or to declare the rights of the parties hereunder, the prevailing party shall be entitled to recover all of its costs and expenses (including, but not limited to, its actual attorneys' fees) from the nonprevailing party. In addition to the foregoing award of attorneys' fees and other litigation costs to the prevailing party, the prevailing party in any lawsuit on this Agreement shall be entitled to its attorneys' fees and other litigation costs 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 any judgment on this Agreement. This provision shall survive the termination of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

GRANTOR:

WANDA BEVERLY HILLS PROPERTIES, LLC, a Delaware limited liability company

By: _____

Print Name: _____

Title: _____

GRANTEE:

THE CITY OF BEVERLY HILLS, a municipal corporation

By: _____

Print Name: _____

Title: _____

ATTEST:

_____(SEAL)
BYRON POPE
City Clerk

Approved as to form:

_____
LAURENCE WIENER
City Attorney

Approved as to content:

_____
MAHDI ALUZRI
City Manager

ACKNOWLEDGMENT

State of California)
)
County of_____)

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

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

WITNESS my hand and official seal.

Signature_____ (Seal)
Signature of Notary Public

ACKNOWLEDGMENT

State of California)
)
County of_____)

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

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

WITNESS my hand and official seal.

Signature_____ (Seal)
Signature of Notary Public

EXHIBIT "A"

LEGAL DESCRIPTION OF THE GRANTOR PARCEL

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"

DESCRIPTION OF EASEMENT AREA

[To be added]

CERTIFICATE OF ACCEPTANCE
(California Government Code Section 27281)

This is to certify that the interest in real property conveyed by that certain Open Space Easement Agreement dated _____, 2016, from WANDA BEVERLY HILLS PROPERTIES, LLC to the CITY OF BEVERLY HILLS, a municipal corporation (the "City"), which is a governmental agency, is hereby accepted by the undersigned officer on behalf of the City pursuant to the authority conferred by resolution of the City, Resolution Number _____, adopted on _____, and that the City consents to recordation thereof by its duly authorized officer.

Dated: _____, 2016

CITY OF BEVERLY HILLS

_____
Mahdi Aluzri, City Manager

ACKNOWLEDGMENT

State of California)
)
County of_____)

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

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

WITNESS my hand and official seal.

Signature._____ (Seal)
Signature of Notary Public

EXHIBIT D

Bus Turnout Location Exhibit

[To be added]

RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO: City Clerk City of Beverly Hills 455 N. Rexford Drive Beverly Hills, California 90210	
	THE AREA ABOVE IS RESERVED FOR

A.P.N.:_____

Exempt from recording fees pursuant to Government Code § 27383.

Exempt from documentary transfer taxes pursuant to Revenue Taxation Code § 11922.

BUS TURNOUT EASEMENT AGREEMENT

This BUS TURNOUT EASEMENT AGREEMENT (the "Agreement") is entered into as of _____, 2016 (the "Effective Date"), by and between WANDA BEVERLY HILLS PROPERTIES, LLC, a Delaware limited liability company ("Grantor") and THE CITY OF BEVERLY HILLS, a municipal corporation ("Grantee").

RECITALS

A. Grantor is the owner of the land described on Exhibit "A" and the improvements thereon ("Grantor Parcel").

B. Grantor and Grantee have entered into an Amended and Restated Development Agreement dated ____, 2016 (the "Development Agreement") in connection with a proposed development ("Development") on the Grantor Parcel.

C. The Development Agreement requires that Grantor enter into this Agreement prior to the issuance of a building permit with Grantee to provide a right of way easement for bus turnouts along the Development's Wilshire Boulevard frontage that is assignable to the Metropolitan Transportation Authority (the "MTA") or any other governmental entity responsible for operating public bus service along those roadways.

NOW, THEREFORE, in consideration of the mutual promises contained herein and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Grant of Easement. Grantor hereby grants to Grantee a perpetual easement in and over the Grantor Parcel described on Exhibit B (the "Easement") sufficient to provide a sidewalk area behind a bus turnout along the Development's Wilshire Boulevard frontage.

2. Purpose of Easement. The purpose of the Easements shall be for the construction, installation, operation, access to (including access by the public), maintenance, improvement and repair/replacement (as necessary) of sidewalk area, behind bus turnouts.

3. Property Taxes; Liens. Grantor shall pay, prior to delinquency, all property taxes, special taxes and assessments assessed against the easement areas, and shall keep the easement areas free of all liens except for liens securing financing for the Development, which must be subordinate or subordinated to this Agreement and the Easement.

4. Grantee's Remedies. If Grantee determines that Grantor is in violation of the terms of this Agreement or the Easement, Grantee shall give written notice to Grantor of such violation. If Grantor fails to cure the violation within fifteen (15) days after said written notice is given, or said cure reasonably requires more than fifteen (15) days to complete and Grantor fails to begin to cure within the fifteen (15) day period or fails to continue diligently to complete the cure, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce compliance by Grantor with the terms of this Agreement or the Easement, to recover any damages to which Grantee may be entitled for violation by Grantee of the terms of this Agreement or the Easement, or may cure the violation in which event Grantor shall reimburse Grantee for the costs incurred by Grantee in connection with violation within ten (10) days after written demand with evidence of such costs. Additionally, without notice or the expiration of any cure period, Grantee may enjoin the violation, ex parte, by temporary or permanent injunction without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies, or for other equitable relief.

5. Miscellaneous.

(a) Notices. Any notice to be given under or in connection with this Agreement shall be in wr1tmg and shall be deemed to have been given upon: (i) personal delivery, (ii) one (1) business day after being deposited with Federal Express or another reliable overnight courier service for next day delivery, or (iii) two (2) business days after being deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, and addressed as follows:

If to Grantor:	Wanda Beverly Hills Properties, LLC Attn: Mr. David Shu 439 North Canon Drive Suite 207 Beverly Hills, CA
With a copy to:	Reed Smith LLP Attn: Charles Seaman, Esq. 101 Second Street Suite 1800 San Francisco, CA 94105-3659

If to Grantee:	City of Beverly Hills Beverly Hills City Hall 455 North Rexford Drive Beverly Hills, California 90210 Attn: City Manager
With a copy to:	City of Beverly Hills 455 North Rexford Drive, Suite 230 Beverly Hills, California 90210 Attn: City Attorney

(b) Assignment; Successors and Assigns. The Grantee may assign its rights and obligations hereunder to the MTA or to or any other governmental entity responsible for operating public bus service along Wilshire Boulevard and, upon a written assumption by such assignee of the obligations hereunder, Grantee shall be released from all obligations and liabilities arising after the date of the assumption. Subject to the foregoing, this Agreement shall be binding upon, and shall inure to the benefit of, each party, its successors, assigns and successors-in-interest.

(c) Running With Land. The covenants and agreements contained herein and the rights, privileges and easements herein granted shall run with, burden and shall be appurtenant to the properties described herein.

(d) Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California.

(e) Severability. If any provision of this Agreement shall for any reason be held to be invalid, illegal or unenforceable by any court of competent jurisdiction, the validity of the other provisions of this Agreement shall in no way be affected thereby.

(f) Counterparts. This Agreement may be executed in any number of identical counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

(g) Further Acts. Each of the parties shall execute such other and further documents and do such further acts as may be reasonably required to effectuate the intent of the parties and carry out the terms of this Agreement (including, without limitation, obtaining and delivering to Grantee prior to the recordation of this Agreement reasonable subordination agreements from the holders of any liens encumbering the easement areas that are or might be senior to this Agreement as of the date of the recordation of this Agreement).

(h) Attorneys' Fees. If any action shall be commenced to enforce the terms of this Agreement or to declare the rights of the parties hereunder, the prevailing party shall be entitled to recover all of its costs and expenses (including, but not limited to, its actual attorneys' fees) from the nonprevailing party. In addition to the foregoing award of attorneys' fees and other litigation costs to the prevailing party, the prevailing party in any lawsuit on this Agreement shall be entitled to its attorneys' fees and other litigation costs 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 any judgment on this Agreement. This provision shall survive the termination of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

GRANTOR:

WANDA BEVERLY HILLS PROPERTIES, LLC, a Delaware limited liability company

By:_____
Print Name:_____
Title:_____

GRANTEE:

THE CITY OF BEVERLY HILLS,
a municipal corporation

By:_____
Print Name:_____
Title:_____

ATTEST:

_____(SEAL)
BYRON POPE
City Clerk

Approved as to form:

_____
LAURENCE WIENER
City Attorney

Approved as to content:

_____
MAHDI ALUZRI
City Manager

ACKNOWLEDGMENT

State of California)
)
County of_____)

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

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

WITNESS my hand and official seal.

Signature. _____ (Seal)
Signature of Notary Public

ACKNOWLEDGMENT

State of California)
County of_____)

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

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

WITNESS my hand and official seal.

Signature-_____ (Seal)
Signature of Notary Public

ACKNOWLEDGMENT

State of California)
County of_____)

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

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

WITNESS my hand and official seal.

Signature_____ (Seal)
Signature of Notary Public

EXHIBIT "A"

LEGAL DESCRIPTION OF THE GRANTOR PARCEL

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"

DESCRIPTION OF EASEMENT

[To be added]

CERTIFICATE OF ACCEPTANCE
(California Government Code Section 27281)

This is to certify that the interest in real property conveyed by that certain Bus Turnout Easement Agreement dated _____, 2016, from WANDA BEVERLY HILLS PROPERTIES, LLC to the CITY OF BEVERLY HILLS, a municipal corporation (the "City"), which is a governmental agency, is hereby accepted by the undersigned officer on behalf of the City pursuant to the authority conferred by resolution of the City, Resolution Number _____, adopted on _____, and that the City consents to recordation thereof by its duly authorized officer.

Dated: _____, 2016

CITY OF BEVERLY HILLS

_____

_____
City Manager

ACKNOWLEDGMENT

State of California)
)
County of_____)

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

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

WITNESS my hand and official seal.

Signature_____ (Seal)
Signature of Notary Public

EXHIBIT E

Form of Non-exclusive Easement to Allow Shuttle Service Vehicle Access to Project

~~[To be added]~~

RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO: City Clerk City of Beverly Hills 455 N. Rexford Drive Beverly Hills, California 90210	
	THE AREA ABOVE IS RESERVED FOR RECORDER'S USE

A.P.N.:_____

Exempt from recording fees pursuant to Government Code § 27383.

Exempt from documentary transfer taxes pursuant to Revenue Taxation Code § 11922.

SHUTTLE ACCESS EASEMENT AGREEMENT

This SHUTTLE ACCESS EASEMENT AGREEMENT (the "Agreement") is entered as of _____, 2016 (the "Effective Date"), by and between WANDA BEVERLY HILLS PROPERTIES, LLC, a Delaware limited liability company ("Grantor") and THE CITY OF BEVERLY HILLS, a municipal corporation ("Grantee").

RECITALS

A. Grantor is the owner of the land described on Exhibit "A" and the improvements thereon (collectively "Grantor Parcel").

B. Grantor and Grantee have entered into an Amended and Restated Development Agreement dated_____, 2016 (the "Development Agreement") about a proposed development ("Development") on the Grantor Parcel.

C. The Development Agreement requires that Grantor enter this Agreement with Grantee prior to the issuance of any building permit for the proposed development.

NOW, THEREFORE, in consideration of the mutual promises contained herein and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Grant of Easement. Grantor hereby grants to Grantee, a non-exclusive perpetual easement ("Easement") in and over the portion of the Grantor Parcel described on Exhibit "B" (the "Easement Area").

2. Purpose of Easement. The purpose of the easement shall be for the ingress, egress and the loading and unloading of members of the public by any shuttle vehicle operated by a shuttle vehicle service designated in writing to Grantor from time to time by the City Manager.

3. Property Taxes; Liens. Grantor shall pay, prior to delinquency, all property taxes, special taxes and assessments assessed against the Easement Area, and shall keep the Easement

Area free of all liens except for liens securing financing for the Development, which must be subordinate or subordinated to this Agreement and the Easement.

4. Grantee's Remedies. If Grantee determines that Grantor is in violation of the terms of this Agreement or the Easement, Grantee shall give written notice to Grantor of such violation. If Grantor fails to cure the violation within fifteen (15) days after said written notice is given, or said cure reasonably requires more than fifteen (15) days to complete and Grantor fails to begin to cure within the fifteen (15) day period or fails to continue diligently to complete the cure, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce compliance by Grantor with the terms of this Agreement or the Easement, to recover any damages to which Grantee may be entitled for violation by Grantee of the terms of this Agreement or the Easement, or may cure the violation in which event Grantor shall reimburse Grantee for the costs incurred by Grantee in connection with violation within ten (10) days after written demand with evidence of such costs. Additionally, without notice or the expiration of any cure period, Grantee may enjoin the violation, ex parte, by temporary or permanent injunction without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies, or for other equitable relief.

5. Miscellaneous.

(a) Notices. Any notice to be given under or in connection with this Agreement shall be in writing and shall be deemed to have been given upon: (i) personal delivery, (ii) one (1) business day after being deposited with Federal Express or another reliable overnight courier service for next day delivery, or (iii) two (2) business days after being deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, and addressed as follows:

If to Grantor:	Wanda Beverly Hills Properties, LLC Attn: Mr. David Shu 439 North Canon Drive Suite 207 Beverly Hills, CA
With a copy to:	Reed Smith LLP Attn: Charles Seaman, Esq. 101 Second Street Suite 1800 San Francisco, CA 94105-3659
If to Grantee:	City of Beverly Hills Beverly Hills City Hall 455 North Rexford Drive, Fourth Floor Beverly Hills, California 90210 Attn: City Manager

With a copy to: City of Beverly Hills
455 North Rexford Drive, Suite 230
Beverly Hills, California 90210
Attn: City Attorney

(b) Assignment; Successors and Assigns. Upon prior written notice to Grantee, the Grantor may assign its obligations hereunder to the property owners' association for the Development provided title to the Easement Area is also conveyed to such association, but this Agreement may not be assigned to any other person or entity (except as collateral to a lender providing financing for the development) without the prior written consent of the City Manager.

(c) Runs With Land. The covenants and agreements contained herein and the rights, privileges and easements herein granted shall run with, burden and shall be appurtenant to the properties described herein.

(d) Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California.

(e) Severability. If any provision of this Agreement shall for any reason be held to be invalid, illegal or unenforceable by any court of competent jurisdiction, the validity of the other provisions of this Agreement shall in no way be affected thereby.

(f) Counterparts. This Agreement may be executed in any number of identical counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

(g) Further Acts. Each of the parties shall execute such other and further documents and do such further acts as may be reasonably required to effectuate the intent of the parties and carry out the terms of this Agreement (including, without limitation, obtaining and delivering to Grantee prior to the recordation of this Agreement reasonable subordination agreements from the holders of any liens encumbering the Easement Area that are or might be senior to this Agreement or the Easement as of the date of the recordation of this Agreement).

(h) Attorneys' Fees. If any action shall be commenced to enforce the terms of this Agreement or to declare the rights of the parties hereunder, the prevailing party shall be entitled to recover all of its costs and expenses (including, but not limited to, its actual attorneys' fees) from the nonprevailing party. In addition to the foregoing award of attorneys' fees and other litigation costs to the prevailing party, the prevailing party in any lawsuit on this Agreement shall be entitled to its attorneys' fees and other litigation costs 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 any judgment on this Agreement. This provision shall survive the termination of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

GRANTOR:

WANDA BEVERLY HILLS PROPERTIES, LLC, a Delaware limited liability company

By:_____
Print Name:_____
Title:_____

GRANTEE:

THE CITY OF BEVERLY HILLS, a municipal corporation

By:_____
Print Name:_____
Title:_____

ATTEST:

_____(SEAL)
BYRON POPE
City Clerk

Approved as to form:

_____
LAURENCE WIENER
City Attorney

Approved as to content:

_____
MAHDI ALUZRI
City Manager

ACKNOWLEDGMENT

State of California)
)
County of_____)

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

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

WITNESS my hand and official seal.

Signature_____ (Seal)
Signature of Notary Public

ACKNOWLEDGMENT

State of California)
)
County of_____)

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

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

WITNESS my hand and official seal.

Signature of Notary Public

Signature_____

(Seal)

EXHIBIT "A"

LEGAL DESCRIPTION OF THE GRANTOR PARCEL

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"

DESCRIPTION OF EASEMENT AREA

[To be added]

CERTIFICATE OF ACCEPTANCE
(California Government Code Section 27281)

This is to certify that the interest in real property conveyed by that certain Shuttle Access Easement Agreement dated _____, 2016, from WANDA BEVERLY HILLS PROPERTIES, LLC to the CITY OF BEVERLY HILLS, a municipal corporation (the "City"), which is a governmental agency, is hereby accepted by the undersigned officer on behalf of the City pursuant to the authority conferred by resolution of the City, Resolution Number _____, adopted on _____, and that the City consents to recordation thereof by its duly authorized officer.

Dated:_____, 2016

CITY OF BEVERLY HILLS

_____
Mahdi Aluzri, City Manager

ACKNOWLEDGMENT

State of California)
)
County of_____)

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

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

WITNESS my hand and official seal.

Signature_____
Signature of Notary Public

(Seal)

EXHIBIT F

Form of Subway Portal Easement

RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO: City Clerk City of Beverly Hills 455 N. Rexford Drive	
	THE AREA ABOVE IS RESERVED FOR

A.P.N.:_____

Exempt from recording fees pursuant to Government Code § 27383.

Exempt from documentary transfer taxes pursuant to Revenue Taxation Code § 11922.

SUBWAY PORTAL EASEMENT AGREEMENT

This SUBWAY PORTAL EASEMENT AGREEMENT (the "Agreement") is entered as of _____, 2016 (the "Effective Date"), by and between WANDA BEVERLY HILLS PROPERTIES, LLC, a Delaware limited liability company ("Grantor") and THE CITY OF BEVERLY HILLS, a municipal corporation ("Grantee").

RECITALS

A. Grantor is the owner of the land described on Exhibit "A" and the improvements thereon ("Grantor Parcel").

B. Grantor and Grantee have entered into an Amended and Restated Development Agreement dated ____, 2016 ("Development Agreement") in connection with a proposed development ("Development") on the Grantor Parcel.

C. The Development Agreement requires that Grantor enter into this Agreement prior to issuance of a building permit with Grantee to provide an entranceway or "portal" for a subway station under Santa Monica Boulevard that is assignable to the Metropolitan Transportation Authority (the "MTA") (or any other governmental entity responsible for constructing or maintaining a subway station) for the benefit of a future subway line.

NOW, THEREFORE, in consideration of the mutual promises contained herein and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Grant of Easement. Grantor hereby grants to Grantee, a perpetual subway portal easement ("Easement") in, over and under the Grantor Parcel provided, however, that the surface area at ground level of such portal shall not exceed three hundred (300) square feet.

2. Purpose of Easement. The purpose of the Easement shall be for the construction, installation, operation, access to (including access by the public), maintenance, improvement and repair/replacement (as necessary) of an entrance or "portal" (and related improvements) to a subway station to be constructed under Wilshire Boulevard or Santa Monica Boulevard in the City of Beverly Hills, California.

3. Special Restrictions on Use of Easement. The Easement may not be used in a manner that materially interferes with or limits access to the Development, materially interferes with the structural integrity of the Grantor Parcel or buildings or structures on the Grantor Parcel, or materially interfere with the operations of the Grantor Parcel or the businesses located on the Grantor Parcel.

4. Expiration. The Easement will expire in the event that: (i) the Grantee does not accept the Easement in writing on or before the twelfth (12th) anniversary of the date of this Easement; or (ii) neither the MTA nor any other appropriate governmental entity involved with the subway has secured financing for the construction of the subway station on or before the twelfth (12th) anniversary of the date of this Easement.

5. Property Taxes; Liens. Grantor shall pay, prior to delinquency, all property taxes, special taxes and assessments assessed against the easement area, and shall keep the Easement area free of all liens except for liens securing financing for the Development, which must be subordinate or subordinated to this Agreement and the Easement.

6. Grantee's Remedies. If Grantee determines that Grantor is in violation of the terms of this Agreement or the Easement, Grantee shall give written notice to Grantor of such violation. If Grantor fails to cure the violation within fifteen (15) days after said written notice is given, or said cure reasonably requires more than fifteen (15) days to complete and Grantor fails to begin to cure within the fifteen (15) day period or fails to continue diligently to complete the cure, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce compliance by Grantor with the terms of this Agreement or the Easement, to recover any damages to which Grantee may be entitled for violation by Grantee of the terms of this Agreement or the Easement, or may cure the violation in which event Grantor shall reimburse Grantee for the costs incurred by Grantee in connection with violation within ten (10) days after written demand with evidence of such costs. Additionally, without notice or the expiration of any cure period, Grantee may enjoin the violation, ex parte, by temporary or permanent injunction without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies, or for other equitable relief.

7. Miscellaneous.

(a) Notices. Any notice to be given under or about this Agreement shall be in writing and shall be deemed to have been given upon: (i) personal delivery, (ii) one (1) business day after being deposited with Federal Express or another reliable overnight courier service for next day delivery, or (iii) two (2) business days after being deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, and addressed as follows:

If to Grantor:	Wanda Beverly Hills Properties, LLC Attn: Mr. David Shu 439 North Canon Drive Suite 207 Beverly Hills, CA
With a copy to:	Reed Smith LLP Attn: Charles Seaman, Esq. 101 Second Street Suite 1800 San Francisco, CA 94105-3659
If to Grantee:	City of Beverly Hills Beverly Hills City Hall 455 North Rexford Drive Beverly Hills, California 90210 Attn: City Manager
With a copy to:	City of Beverly Hills 455 North Rexford Drive, Suite 230 Beverly Hills, California 90210 Attn: City Attorney

(b) Assignment; Successors and Assigns. The Grantee may assign its rights and obligations hereunder to the MTA or to any other governmental entity responsible for constructing or maintaining the subway station and, upon a written assumption by such assignee of the obligations hereunder, Grantee shall be released from all obligations and liabilities arising after the date of the assumption. Subject to the foregoing, this Agreement shall be binding upon, and shall inure to the benefit of, each party, its successors, assigns and successors-in-interest.

(c) Running With Land. The covenants and agreements contained herein and the rights, privileges and easements herein granted shall run with, burden and shall be appurtenant to the properties described herein.

(d) Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California.

(e) Severability. If any provision of this Agreement shall for any reason be held to be invalid, illegal or unenforceable by any court of competent jurisdiction, the validity of the other provisions of this Agreement shall in no way be affected thereby.

(f) Counterparts. This Agreement may be executed in any number of identical counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

(g) Further Acts. Each of the parties shall execute such other and further documents and do such further acts as may be reasonably required to effectuate the intent of the parties and carry out the terms of this Agreement (including, without limitation, obtaining and delivering to Grantee prior to the recordation of this Agreement reasonable subordination agreements from the holders of any liens encumbering the Easement area that are or might be senior to this Agreement as of the date of the recordation of this Agreement).

(h) Attorneys' Fees. If any action shall be commenced to enforce the terms of this Agreement or to declare the rights of the parties hereunder, the prevailing party shall be entitled to recover all of its costs and expenses (including, but not limited to, its actual attorneys' fees) from the nonprevailing party. In addition to the foregoing award of attorneys' fees and other litigation costs to the prevailing party, the prevailing party in any lawsuit on this Agreement shall be entitled to its attorneys' fees and other litigation costs 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 any judgment on this Agreement. This provision shall survive the termination of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

GRANTOR:

WANDA BEVERLY HILLS PROPERTIES, LLC, a Delaware limited liability company

By: _____
Print Name: _____
Title: _____

GRANTEE:

THE CITY OF BEVERLY HILLS, a municipal corporation

By: _____
Print Name: _____
Title: _____

ATTEST:

_____(SEAL)
BYRON POPE
City Clerk

Approved as to form:

_____
LAURENCE WIENER
City Attorney

Approved as to content:

_____
MAHDI ALUZRI
City Manager

ACKNOWLEDGMENT

State of California)
)
County of_____)

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

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

WITNESS my hand and official seal.

Signature_____ (Seal)
Signature of Notary Public

ACKNOWLEDGMENT

State of California)
)
County of_____)

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

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

WITNESS my hand and official seal.

Signature_____ (Seal)
Signature of Notary Public

ACKNOWLEDGMENT

State of California)
)
County of_____)

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

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

WITNESS my hand and official seal.

Signature_____ (Seal)
Signature of Notary Public

EXHIBIT "A"

LEGAL DESCRIPTION OF THE GRANTOR PARCEL

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.

CERTIFICATE OF ACCEPTANCE

(California Government Code Section 27281)

This is to certify that the interest in real property conveyed by that certain Subway Portal Easement Agreement dated _____, 2016, from _____, to the CITY OF BEVERLY HILLS, a municipal corporation (the "City"), which is a governmental agency, is hereby accepted by the undersigned officer on behalf of the City pursuant to the authority conferred by resolution of the City, Resolution Number _____, adopted on _____, and that the City consents to recordation thereof by its duly authorized officer.

Dated:_____, 2016

CITY OF BEVERLY HILLS,
a municipal corporation

_____

_____
City Manager

ACKNOWLEDGMENT

State of California)
County of_____)

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

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

WITNESS my hand and official seal.

Signature_____ (Seal)
Signature of Notary Public