



Planning Commission Report
9900 Wilshire Boulevard (One Beverly Hills)
August 23, 2016

Attachment J
PKF Consulting Fiscal Impact Analysis
(Submitted by Applicant)

One Beverly Hills

October 20, 2015

Mr. Mahdi Aluzri
City Manager
City of Beverly Hills
455 N Rexford Drive
Beverly Hills, CA 90210

Re: One Beverly Hills
PKF Report

Dear Mr. Aluzri,

I am pleased to enclose the Analysis of the Fiscal Impact of the Proposed One Beverly Hills (Formerly 9900 Wilshire Boulevard) Development to the City of Beverly Hills, dated September 30, 2015, and prepared by PKF Consulting. As you know, PKF Consulting is one of the most well-respected hospitality consulting firms both domestically and internationally.

Based upon their findings, the proposed One Beverly Hills project will be very compelling economically and the projected direct annual economic returns will be more than \$8.7 million per year in today's dollars which represents an increase of approximately \$6.0 million per year from the currently entitled residential project. And, over the first ten years of the project's operation, the projected direct economic benefits will be over \$113 million which is an increase of over \$80 million in today's dollars from the currently entitled residential project.

Most importantly, there will not be any negative impacts to the other luxury hotels in the Beverly Hills market.

If you have any questions or would like to discuss this report and its findings further, please do not hesitate to contact me or Jay Newman.

Sincerely,



David Shu
Wanda Beverly Hills Properties LLC

cc: Susan Healy Keene, Director of Community Development
Ryan Gohlich, Assistant Director of Community Development
Jay Newman

**ANALYSIS OF THE FISCAL IMPACT
OF THE PROPOSED ONE BEVERLY
HILLS (FORMERLY 9900 WILSHIRE
BOULEVARD) DEVELOPMENT
TO THE CITY OF
BEVERLY HILLS**

Prepared for:
Mr. David Shu
General Manager
Wanda Beverly Hills Properties, LLC
2029 Century Park East
Suite 400
Los Angeles, California 90067

Prepared by:
PKF Consulting
Los Angeles, California

September 2015

September 30, 2015



Mr. David Shu
General Manager
Wanda Beverly Hills Properties, LLC
2029 Century Park East
Suite 400
Los Angeles, California 90067

Dear Mr. Shu:

In accordance with your request, we have determined the fiscal impact of the proposed project to the City of Beverly Hills, both as currently entitled and assuming the successful amended entitlement of the site to a higher and better use. In comparing the two scenarios, we have been able to determine the incremental economic benefits of the amended entitlement plan to the City of Beverly Hills. Our previously completed analysis of potential market demand and statement of estimated operating results, communicated to you in a draft report dated March 27, 2015, has been utilized as a significant component of our analysis. As will be shown herein, we are of the opinion that proposed hotel component will not have a negative impact on the performance of existing Beverly Hills luxury hotels. The additional analysis and data collection for this study were undertaken in June and August 2015.

Based on discussions with you and review of the development plans, we have analyzed the potential fiscal impact of the following scenarios as summarized in the table below:

- 1) The subject site is currently entitled for 235 luxury residential units and approximately 16,000 square feet of retail.
- 2) As amended, the subject site entitlements would include a reduction to 193 luxury residential units, the development of a 134-room luxury hotel, and elimination of the third-party retail component in its entirety.

Summary of Scenarios		
	Program As Currently Entitled	Amended Entitlement Program
Hotel Guestrooms:	None	134
Restaurant/Retail Space (SF):	None	20,448
Meeting Space (SF):	None	7,942
Retail Space (SF):	15,856	None
Spa/Fitness (SF):	None	14,435
Residential Units:	235	193
Sellable Residential Area (SF):	713,916	587,817
Total Floor Area (SF):	901,514	901,514
Parking Spaces Required	876	1,105

It is important to note that the Floor to Area Ratio will remain the same in each scenario.

The scope of our work included an analysis of the following:

- Review of the development program as entitled and for the proposed redevelopment plan, assuming an amendment to the existing entitlements.
- Review of comparable residential sales data relative to the plan as entitled and a review of our previously prepared revenue projections for the hotel component, as proposed under the entitlement plan as amended.
- Identification of fiscal impacts of the existing plan as entitled, and proposed development plan assuming an amendment to the existing entitlements, to the City of Beverly Hills.
- An analysis of the potential impact of the opening of the proposed hotel on the Beverly Hills luxury lodging market.

It should be noted that this analysis of the tax revenues was limited to impact to the City of Beverly Hills, as opposed to the larger market of Los Angeles County or the State of California. Furthermore, we have included in our analysis only the direct impact of spending at the redevelopment, and have not incorporated (i) the direct impact of spending at other Beverly Hills businesses, (ii) the indirect impact, or "multiplier effect", or (iii) the impact of the construction of the redevelopment plan.

We thank you for the opportunity to conduct this study and look forward to discussing our findings with you.

Sincerely,

PKF Consulting USA
a Subsidiary of CBRE, Inc.



Bruce Baltin
Managing Director

EXECUTIVE SUMMARY

INTRODUCTION

PKF Consulting USA has been asked by Wanda Beverly Hills Properties, LLC to assist in analyzing the fiscal impact with respect to a proposed amendment of the existing entitlements relative to a site located at 9900 Wilshire Boulevard to the City of Beverly Hills. Based on our knowledge of the local luxury market and understanding of the potential hotel component, we have also considered any impact the hotel would have on Beverly Hills hotels.

Current Program - As Entitled (9900 Wilshire Project)

Located at 9900 Wilshire Boulevard, Beverly Hills, California, 90210, the approximately 7.95-acre site was approved by the City for the redevelopment of the former Robinsons-May property in May 2008. The entitlements as originally approved, allow for the development of 235 luxury residential units, 15,856 square feet of retail space, and an 876 space below ground parking structure.

Scenarios

The subject site is located in the prestigious City of Beverly Hills, California. The area surrounding the site is a highly commercial and residential environment with numerous retail shops, office, restaurants, and luxury residential. Our conclusion is that 9900 Wilshire represents a high-profile condominium development opportunity which benefits from an appealing and internationally-recognized Beverly Hills location. We envision the condominiums ranking among the most prestigious for-sale condominium units in Los Angeles County and achieving sales prices near the top of the local area. However, we are of the opinion that the proposed development as currently entitled does not represent the highest and best use of the subject site. We note that hotels in the vicinity of the subject are considered to be among the highest quality properties in the greater Los Angeles area and many are consistently ranked among the most prestigious in the nation. Further, these luxury hotels generate some of the highest average daily rates in the United States. Therefore, to amend the existing entitlements to allow for the development of a luxury hotel and a reduction in residential units represents the highest and best use to current ownership, and to the City of Beverly Hills as will be shown herein, given the substantial incremental fiscal impact of the amended entitlement plan.

Development Program - Entitlements as Amended (One Beverly Hills Project)

Amending the existing entitlements of the subject site is expected to create one of the premier properties in California, redefining the terms of present day standards of luxury for hotel and residential development. The subject's location is arguably one of the most desired addresses in the Western United States in the prestigious City of Beverly Hills, which should support a proposed redevelopment plan of mixed-use hotel and residential.

As amended, the entitlements pertaining to the subject site would reduce the number of for-sale luxury condominiums by 42 units (from 235 units to 193 units) and eliminate the approximately 16,000 square feet of proposed retail space. Doing so would allow for the development of a new 134-room luxury hotel, all while maintaining the original Floor to Area Ratio (FAR), resulting in a development of 901,514 square feet as dictated by the current entitlement plan. Thus there will be no additional density added to the site assuming the construction of the project per the amended entitlements.

An aerial of the subject site relative to its surrounds is presented below.



SUMMARY OF FINDINGS

The following tables summarize our findings for a representative year and a 10-year period. The representative year assumes a stabilized year of impact in 2015 dollars. Please note, our analysis incorporates only on-site direct fiscal impact and does not factor in any offsite direct impacts or, indirect fiscal impact as a result of the multiplier effect. A multiplier is used to estimate the impact that the visitor dollar makes beyond the initial goods/services purchased. For example, visitor spending collected "directly" within a hotel restaurant also "indirectly" supports food and beverage suppliers and delivery services. Moreover, the direct and indirect spending induces further spending in the community by employees of the benefiting businesses. In our experience, a typical "multiplier" for a project of this nature would be in the range of 1.3 to 1.5 times greater than the "direct impact" determined.

Summary of Fiscal Impacts for a Representative Year 2015\$								
	TOT	City TOT Surcharge	Sales Tax	Business Tax	Residential Room Rental	Real Estate (Hotel)	Real Estate (Residential)	Total
Current Program (As Entitled)	\$0	\$0	\$29,000	\$4,000	\$0	\$0	\$2,697,000	\$2,730,000
Entitlements (As Amended)	\$4,054,000	\$1,448,000	\$186,000	\$59,000	\$347,000	\$401,000	\$2,244,000	\$8,739,000
Incremental	\$4,054,000	\$1,448,000	\$157,000	\$55,000	\$347,000	\$401,000	(\$453,000)	\$6,009,000

Summary of Fiscal Impacts for a Representative Year 2027\$								
	TOT	City TOT Surcharge	Sales Tax	Business Tax	Residential Room Rental	Real Estate (Hotel)	Real Estate (Residential)	Total
Current Program (As Entitled)	\$0	\$0	\$41,000	\$5,000	\$0	\$0	\$3,421,000	\$3,938,000
Entitlements (As Amended)	\$5,779,000	\$2,604,000	\$265,000	\$85,000	\$495,000	\$508,000	\$2,846,000	\$12,402,000
Incremental	\$5,779,000	\$2,604,000	\$224,000	\$80,000	\$495,000	\$508,000	(\$575,000)	\$8,104,000

- In a representative year, the existing residential and retail development, i.e., the development plan as currently entitled, is projected to have a total fiscal impact of \$2,730,000 (rounded).
- Under the amended entitlement scenario, the mixed-use hotel and residential development is projected to have a representative year impact of \$8,739,000 (rounded), an increase of approximately \$6.0 million, or more than 220 percent from the current program as entitled. At stabilization in 2027 dollars the incremental annual fiscal impact is approximately \$8.1 million.

The City of Beverly Hills will also receive documentary transfer taxes and environmental mitigation and sustainability fees in both development scenarios, however it is not possible to establish a representative year given the varied payment schedule over the projection period. They are, however, included in the ten year estimates.

The table on the following page presents the projected stream of incremental fiscal impact of the proposed entitlement plan as amended over the current program as entitled during its first ten years of operation. Note, we have assumed that both scenarios would open in

January 2020. As shown in the following, we project total incremental revenue to the City of Beverly Hills of approximately \$80.1 million over a ten-year period beginning in 2020.

Incremental Fiscal Impact for 10 Year Period Beginning 2020										
	TOT	City TOT Surcharge	Sales Tax	Business Tax	Residential Room Rental	Real Estate (Hotel)	Real Estate (Residential)	Document. Transfer Tax	EMS Fee	Total
2015 Rep	\$4,054,000	\$1,448,000	\$157,000	\$55,000	\$347,000	\$401,000	(\$453,000)	-	-	\$6,009,000
2020	\$4,113,000	\$1,469,000	\$156,000	\$56,000	\$353,000	\$400,000	-	-	-	6,547,000
2021	4,540,000	1,621,000	174,000	63,000	389,000	451,000	-	-	-	7,238,000
2022	4,985,000	1,780,000	194,000	69,000	427,000	460,000	-	-	-	7,915,000
2023	5,133,000	1,833,000	199,000	70,000	440,000	469,000	-	-	-	8,144,000
2024	5,292,000	1,890,000	205,000	73,000	454,000	479,000	-	-	-	8,393,000
2025	5,445,000	1,945,000	211,000	75,000	467,000	488,000	(94,000)	(1,000)	(221,000)	8,315,000
2026	5,610,000	2,003,000	217,000	77,000	481,000	498,000	(430,000)	(6,000)	(908,000)	7,542,000
2027	5,779,000	2,064,000	224,000	80,000	495,000	508,000	(575,000)	(3,000)	(468,000)	8,104,000
2028	5,955,000	2,127,000	231,000	82,000	510,000	518,000	(586,000)	-	-	8,837,000
2029	6,130,000	2,189,000	237,000	85,000	525,000	529,000	(598,000)	-	-	9,097,000
									Total	\$80,132,000

Our analysis of the total tax revenues for the City of Beverly Hills is limited to measurable tax revenues which include direct sales tax, business tax, transient occupancy tax (TOT), surcharge TOT, residential room rental taxes, property tax revenues, documentary transfer tax, and environmental mitigation and sustainability fee at the subject site. Furthermore, we have included in our analysis only the direct impact of on-site spending, and have not incorporated (i) the direct impact of spending at other Beverly Hills businesses, (ii) the indirect impact, or "multiplier effect", or (iii) the impact of the construction of the proposed development plan.

Our analysis excludes the following:

- The potential direct tax impacts of spending at other Beverly Hills businesses;
- The potential indirect tax impacts as a consequence of the economic multiplier effect;
- Developer's estimate of permit fees to the City, likely in excess of \$20 million based on estimated construction costs, as part of the development process;
- One-time public benefit contribution;
- The upside for a potential condominium rental pool program which is not currently in the operating model;
- Any re-sales of the condominiums, which would likely result in additional real estate tax revenue to the City as real estate prices escalate;
- Fiscal impacts during the construction period; and finally,

- The incremental impact from the eventual sale by Wanda Beverly Hills Properties, LLC of the proposed hotel (assuming an amendment to the existing entitlements), which would also likely result in a significantly higher assessed value.

It is our opinion that the proposed development plan, as amended, would bring significant incremental fiscal impact to the City of Beverly Hills.

In addition to providing significant fiscal impact to the City of Beverly Hills, we also made a determination of the impact, if any, on the proposed hotel's opening on the local competitive set of luxury hotels in the City. Based on our knowledge and expertise as hotel consultants, including numerous previous engagements completed, we are of the opinion that the proposed 134-room luxury hotel would not have a negative impact on the future operating performance other competitive luxury hotel properties located in the City, and therefore the incremental fiscal impact calculated herein to the City of Beverly Hills would be additive, rather than cannibalizing future revenue streams to the General Fund.

Our findings regarding the anticipated lack of impact to the local Beverly Hills luxury hotel market assuming the opening of the proposed 134-room Wanda hotel are based on, but not limited to the following factors:

- The regional, national and international appeal of Beverly Hills as one of the most desirable destinations in the United States;
- The subject hotel is well-located in Beverly Hills, with numerous commercial, leisure, and group demand generators located within the immediate area;
- The historical and projected occupancy, average daily rate, and revenue per available room levels of the luxury Beverly Hills competitive hotel set, which are among the highest in the nation;
- The subject is anticipated to be a unique, five-diamond, luxury hotel property;
- The subject is anticipated to offer an array of very high quality facilities, including multiple dining outlets and an above average level of meeting space that is planned to feature a large, iconic ballroom;
- The subject will feature a number of desirable amenities including a highly amenitized luxury spa, swimming pool, fitness center, as well as substantial open spaces offering for a tranquil guest experience; and,
- The subject will be developed in conjunction with an anticipated 193 luxury residences on site as part of the overall larger mixed-use development, which are anticipated to positively benefit the hotel's operations.

METHODOLOGY - AS ENTITLED AND ENTITLEMENTS AS AMENDED

DEVELOPMENT PROGRAM AS ENTITLED

As currently entitled, the 7.95-acre subject site located at 9900 Wilshire Boulevard in Beverly Hills, California can be developed with 235 residential units, 15,856 square feet of retail space, and a 876 space below ground parking structure. Therefore, to determine the fiscal impact to the City of Beverly Hills we have determined the amount of residential and retail sales that will be generated by the project per the existing entitlements. We have first provided an analysis of the 235 for-sale luxury condominiums, followed by an estimate of retail sales generated by the approximately 16,000 square feet of retail space.

Residential Sales Pricing and Absorption

Projected sales prices for the proposed condominiums are presented in the table on the following page and are expected to average about \$6.1 million per unit, in current (2015) dollars. This equates to approximately \$2,000 per square foot in current value dollars, with individual units averaging slightly more than 3,000 square feet per unit. Assuming that the number of income qualified households moving in the primary market area each year is equivalent to the number of home sales in the corresponding price ranges, we have allocated a portion of these sales to condominiums based on historical trends. We varied the turnover rate and subject site capture to produce a conservative, mid-range, and aggressive forecast.

The mid-range forecast, yields an annual demand of approximately 15 to 18 units. The aggressive forecast yields an annual range of approximately 24 to 30 sales annually. Therefore, placing primary reliance on the historical sales model, we have estimated that roughly 24 units could be sold on an annual basis beginning January 2020. We assumed that there would be greater interest in the initial years given the aggressive presales process and national and international publicity associated with the opening of the project. Additionally, we have assumed that a modest approximately 20 percent of the units would be pre-sold beginning in January 2018, and the project would require seven and a half years to sell out. The table on the following page further details the anticipated sales and pricing of the proposed development as currently entitled for 235 luxury residences. It should be noted that the upon completion of construction and opening, the first year (2020) includes the closings of two years of pre-sales.

Program As Currently Entitled				
Proposed Luxury RESIDENCES Beverly Hills				
Year	Units Sold	\$/Unit	Total Sales	Cumulative Sales
2015	N/A	\$6,076,000	N/A	N/A
2016	N/A	6,258,280	N/A	N/A
2017	N/A	6,446,028	N/A	N/A
2018	N/A	6,639,409	N/A	N/A
2019	N/A	6,838,592	N/A	N/A
2020	78	7,043,749	\$533,963,866	\$533,963,866
2021	25	7,255,062	181,376,544	715,340,410
2022	24	7,472,714	179,345,127	894,685,536
2023	24	7,696,895	184,725,480	1,079,411,017
2024	24	7,927,802	190,267,245	1,269,678,262
2025	24	8,165,636	195,975,262	1,465,653,524
2026	24	8,410,605	201,854,520	1,667,508,044
2027	12	8,662,923	103,955,078	1,771,463,121
2028	0	N/A	\$0	1,771,463,121
2029	0	N/A	\$0	1,771,463,121
Total Units Sold	235			

Property Taxes

Based on discussions with City of Beverly Hills officials and those familiar with the local tax structure, the City receives 17.42 percent of the total property tax paid by property owners. Therefore, based on the sales pricing and absorption we have calculated the City of Beverly Hills' portion of property taxes that will be retained over the 10-year projection period as shown in the table below.

Property Taxes As Currently Entitled			
Year	Condominium Valuation	Total Property Tax	Amount to Beverly Hills (rounded)
2015 Rep	\$1,171,145,812	\$15,483,910	\$2,697,000
2020	\$533,963,866	\$5,919,192	\$1,031,000
2021	715,340,410	7,929,820	1,381,000
2022	894,685,536	9,917,929	1,728,000
2023	1,079,411,017	11,965,681	2,084,000
2024	1,269,678,262	14,074,866	2,452,000
2025	1,465,653,524	16,247,326	2,830,000
2026	1,667,508,044	18,484,960	3,220,000
2027	1,771,463,121	19,637,342	3,421,000
2028	1,806,892,384	20,030,089	3,489,000
2029	1,843,030,231	20,430,690	3,559,000

Documentary Transfer Tax

The County of Los Angeles assesses a documentary transfer tax on the consideration or value of the interest or real property conveyed (exclusive of the value of any lien or encumbrance remaining thereon at the time of sale) at the rate of \$1.10 per \$1,000. The City of Beverly Hills receives half of the transfer tax, or \$0.55 per \$1,000. Based on the information presented in the preceding table, the City's share of the documentary transfer tax is shown in the table on the following page. It should be noted that the first year includes the closings of two years of pre-sales.

Documentary Transfer Taxes As Currently Entitled			
Year	Annual Condo Sales	Total Documentary Transfer Tax	Amount to Beverly Hills (rounded)
2015 Rep	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>
2020	\$533,963,866	\$29,368	\$15,000
2021	181,376,544	9,976	5,000
2022	179,345,127	9,864	5,000
2023	184,725,480	10,160	5,000
2024	190,267,245	10,465	5,000
2025	195,975,262	10,779	5,000
2026	201,854,520	11,102	6,000
2027	103,955,078	5,718	3,000
2028	-	-	-
2029	-	-	-

Environmental Mitigation and Sustainability Fee

Assuming similar terms as contained within the development agreement made by and between the City of Beverly Hill and Project Lotus, LLC, residential purchases will be subject to an environmental mitigation and sustainability (EMS) fee. The amount of the EMS fee is equal to \$4.50 for each \$1,000 of the consideration or value of the interest or property conveyed. The table below details the anticipated EMS fees payable to the City of Beverly Hills on an annual basis. Again, 2020 includes the closings of two years of pre-sales as well as one year of actual sales.

Environmental Mitigation and Sustainability Fee As Currently Entitled		
Year	Annual Condo Sales	Amount to Beverly Hills (rounded)
2015 Rep	<i>N/A</i>	<i>N/A</i>
2020	\$533,963,866	\$2,403,000
2021	181,376,544	816,000
2022	179,345,127	807,000
2023	184,725,480	831,000
2024	190,267,245	856,000
2025	195,975,262	882,000
2026	201,854,520	908,000
2027	103,955,078	468,000
2028	-	-
2029	-	-

Retail Sales

The planned development as currently entitled allows for the development of approximately 16,000 square feet of retail space. The City of Beverly Hills is internationally recognized as one of the premier shopping destinations in the United States. Retail rents and sales revenues along prestigious Rodeo Drive are among the highest in the nation and among the top 15 in the world. Given these characteristics we have estimated the annual sales volume that will be generated by the project's approximately 16,000 square feet of retail space. Based on per square foot sales of \$600.00 this yields an approximate revenue of \$2.9 million in current (2015) value dollars, as shown in the table on the following page. We find this reasonable as our estimate is roughly one and a half times that of the national average.

Program As Currently Entitled	
9900 Wilshire Boulevard - Retail Sales	
Retail Space Available (SF)	15,856
Sales/SF	\$600
Total Retail Sales Volume	\$2,879,292
Total Volume (Rounded)	\$2,900,000

Assuming a sales tax of 1.0 percent of retail revenues, the projected sales tax generated to the City of Beverly Hills is as follows over the 10-year projection period.

Sales Taxes As Currently Entitled		
Year	Retail Sales	Sales Tax
2015 Rep	\$2,879,000	\$29,000
2020	\$3,338,000	\$33,000
2021	3,438,000	34,000
2022	3,541,000	35,000
2023	3,647,000	36,000
2024	3,756,000	38,000
2025	3,869,000	39,000
2026	3,985,000	40,000
2027	4,105,000	41,000
2028	4,228,000	42,000
2029	4,355,000	44,000

Business Taxes

The City of Beverly Hills levies a tax on business activity in the City based upon gross receipts or gross revenues. According to Classification B, business taxes are assessed at a rate of \$1.25 per \$1,000 of gross total revenues. As shown in the following table, business taxes are anticipated to contribute only a minimal fiscal benefit to the City.

Business Taxes As Currently Entitled		
Year	Retail Sales	Business Tax
2015 Rep	\$2,879,000	\$4,000
2020	\$3,338,000	\$4,000
2021	3,438,000	4,000
2022	3,541,000	4,000
2023	3,647,000	5,000
2024	3,756,000	5,000
2025	3,869,000	5,000
2026	3,985,000	5,000
2027	4,105,000	5,000
2028	4,228,000	5,000
2029	4,355,000	5,000

Projected Fiscal Benefit to the City of Beverly Hills

Based on the preceding analysis, the fiscal impact of the proposed project as currently entitled to the City of Beverly Hills is approximately \$2.7 million, as stated in current (2015) dollars. Over the 10-year projection period, the projected fiscal impact of the project is approximately \$33.6 million as shown in the table on the following page.

Current Entitlement Program Fiscal Impact to the City of Beverly Hills						
Taxes						
	Sales	Business	Real Estate (Residential)	Document Transfer	Ems Fee	Total
2015 Rep	\$29,000	\$4,000	\$2,697,000	-	-	\$2,730,000
2020	\$33,000	\$4,000	\$1,031,000	\$15,000	\$2,403,000	\$3,486,000
2021	34,000	4,000	1,381,000	5,000	816,000	2,240,000
2022	35,000	4,000	1,728,000	5,000	807,000	2,579,000
2023	36,000	5,000	2,084,000	5,000	831,000	2,961,000
2024	38,000	5,000	2,452,000	5,000	856,000	3,356,000
2025	39,000	5,000	2,830,000	5,000	882,000	3,761,000
2026	40,000	5,000	3,220,000	6,000	908,000	4,179,000
2027	41,000	5,000	3,421,000	3,000	468,000	3,938,000
2028	42,000	5,000	3,489,000	-	-	3,536,000
2029	44,000	5,000	3,559,000	-	-	3,608,000
					Total	\$33,644,000

DEVELOPMENT PROGRAM AS AMENDED

As amended, the entitlements pertaining to the subject site would reduce the number of for-sale luxury condominiums by 42 units (from 235 units to 193 units) and eliminate the approximately 16,000 square feet of proposed third-party retail space. Doing so would allow for the development of a new 134-room luxury hotel, all while maintaining the original Floor to Area Ratio (FAR) resulting in the development of 901,514 square feet as dictated by the current entitlement plan.

NET FISCAL IMPACT ANALYSIS

Fiscal impact is the amount of tax revenue generated directly to the City of Beverly Hills by spending of guests. This includes an estimation of the associated tax revenues generated during a representative year (2015) and a ten-year period for the facilities as currently entitled and the proposed redevelopment plan, which assumes an amendment to the existing entitlements. This net result is the incremental fiscal impact to the City of Beverly Hills.

Taxes and Other City Revenues

Tax collections represent a relatively large source of revenue generated by facilities for the City of Beverly Hills. Potential government revenues drawn from development and tourism-related projects include:

- Sales Tax
- Transient Occupancy Tax (TOT)
- Property Tax
- Documentary Transfer Tax

Our analysis of the total tax revenues is for the City of Beverly Hills as opposed to the larger market of Los Angeles County or the State of California, and is limited to measurable tax revenues which include direct sales tax, business tax, transient occupancy tax (TOT),

residential room rental tax, property tax revenues (hotel and residential), documentary transfer tax, and environmental mitigation and sustainability fee.

Residential Sales Pricing and Absorption

Similar to the preceding analysis of the project as currently entitled, we have first projected the sales pricing and absorption of the for-sale luxury condominium units. Our assumptions have remained consistent with the prior scenario, save for the fact that with 42 less units for sale, the project would achieve a sell-out in 2025, or nearly two years earlier than the 235-unit scenario.

Entitlements As Amended				
Proposed Luxury RESIDENCES Beverly Hills				
Year	Units Sold	\$/Unit	Total Sales	Cumulative Sales
2015	N/A	\$6,076,000	N/A	N/A
2016	N/A	6,258,280	N/A	N/A
2017	N/A	6,446,028	N/A	N/A
N/A	N/A	6,639,409	N/A	N/A
N/A	N/A	6,838,592	N/A	N/A
2020	26	7,043,749	\$183,137,481	\$533,963,866
2021	25	7,255,062	181,376,544	715,340,410
2022	24	7,472,714	179,345,127	894,685,536
2023	24	7,696,895	184,725,480	1,079,411,017
2024	24	7,927,802	190,267,245	1,269,678,262
2025	18	8,165,636	146,981,447	1,416,659,708
2026	0	N/A	\$0	1,416,659,708
2027	0	N/A	\$0	1,416,659,708
2028	0	N/A	\$0	1,416,659,708
2029	0	N/A	\$0	1,416,659,708
Total Units Sold	193			

Property Taxes (Residential)

Based on discussions with City of Beverly Hills officials and those familiar with the local tax structure, the City receives 17.42 percent of the total property tax paid by property owners. Therefore, based on the sales pricing and absorption we have calculated the City of Beverly Hills’ portion of property taxes that will be retained over the 10-year projection period as shown in the following table.

Property Taxes Entitlements As Amended			
Year	Condominium Valuation	Total Property Tax	Amount to Beverly Hills (rounded)
2015 Rep	\$936,578,958	\$12,882,923	\$2,244,000
2020	\$533,963,866	\$5,919,192	\$1,031,000
2021	715,340,410	7,929,820	1,381,000
2022	894,685,536	9,917,929	1,728,000
2023	1,079,411,017	11,965,681	2,084,000
2024	1,269,678,262	14,074,866	2,452,000
2025	1,416,659,708	15,704,211	2,736,000
2026	1,444,992,902	16,018,295	2,790,000
2027	1,473,892,760	16,338,661	2,846,000
2028	1,503,370,616	16,665,435	2,903,000
2029	1,533,438,028	16,998,743	2,961,000

Documentary Transfer Tax

The County of Los Angeles assesses a documentary transfer tax on the consideration or value of the interest or real property conveyed (exclusive of the value of any lien or encumbrance remaining thereon at the time of sale) at the rate of \$1.10 per \$1,000. The City of Beverly Hills receives half of the transfer tax, or \$0.55 per \$1,000. Based on the information presented in the preceding table, the City's share of the documentary transfer tax is shown below. It should be noted that the first year includes the closings of two years of pre-sales.

Documentary Transfer Taxes As Amended			
Year	Annual Condo Sales	Total Documentary Transfer Tax	Amount to Beverly Hills (rounded)
2015 Rep	N/A	N/A	N/A
2020	\$533,963,866	\$29,368	\$15,000
2021	181,376,544	9,976	5,000
2022	179,345,127	9,864	5,000
2023	184,725,480	10,160	5,000
2024	190,267,245	10,465	5,000
2025	146,981,447	8,084	4,000
2026	-	-	-
2027	-	-	-
2028	-	-	-
2029	-	-	-

Environmental Mitigation and Sustainability Fee

Assuming similar terms as contained within the development agreement made by and between the City of Beverly Hill and Project Lotus, LLC, residential purchases will be subject to an environmental mitigation and sustainability (EMS) fee. The amount of the EMS fee is equal to \$4.50 for each \$1,000 of the consideration or value of the interest or property conveyed. The table below details the anticipated EMS fees payable to the City of Beverly Hills on an annual basis. Again, 2020 includes the closings of two years of pre-sales as well as one year of actual sales.

Environmental Mitigation and Sustainability Fee As Amended		
Year	Annual Condo Sales	Amount to Beverly Hills (rounded)
2015 Rep	N/A	N/A
2020	\$533,963,866	\$2,403,000
2021	181,376,544	816,000
2022	179,345,127	807,000
2023	184,725,480	831,000
2024	190,267,245	856,000
2025	146,981,447	661,000
2026	-	-
2027	-	-
2028	-	-
2029	-	-

Proposed Hotel Redevelopment - Impact on the Local Hotel Market

In order to identify the competitive market of the proposed subject, we have analyzed the overall Beverly Hills and West Los Angeles hotel markets and have selected seven properties that we feel will offer competition to the subject hotel. We find that these properties offer competition due to their location, market orientation, amenities offered, and rate structures. The hotels in the competitive market primarily represent small to mid-sized luxury, full-service facilities that cater to the area’s transient and group demand. These seven hotels represent some of the highest-rated urban hotels in Southern California and the United States, and are reflective of the luxury tier within which the subject will compete. The following chart presents the competitive supply for the subject.

Competitive Supply	
Property	Number of Rooms
Proposed Luxury Hotel Beverly Hills	136
Hotel Bel-Air	103
Beverly Hills Hotel	203
L'Ermitage	124
Beverly Wilshire, a Four Seasons Hotel	395
Four Seasons Los Angeles	285
Peninsula Beverly Hills	194
Montage Beverly Hills	201
Competitive Market Total (not including the subject)	1,505

Presented in the table below is a summary of the historical performance of the competitive market from 2010 to 2014.

Historical Market Performance of the Competitive Supply									
Year	Annual Supply	Percent Change	Occupied Rooms	Percent Change	Market Occupancy	Average Daily Rate	Percent Change	REVPAR	Percent Change
2010	511,365	N/A	339,454	N/A	66.4%	\$499.10	N/A	\$331.31	N/A
2011	519,030	1.5%	365,876	7.8%	70.5	537.39	7.7%	378.82	14.3%
2012	548,960	5.8	400,767	9.5	73.0	565.66	5.3	412.96	9.0
2013	549,325	0.1	416,499	3.9	75.8	599.43	6.0	454.49	10.1
2014	549,325	0.0	428,739	2.9	78.0	642.96	7.3	501.82	10.4
CAAG	1.8%		6.0%			6.5%		10.9%	

Source: PKF Consulting USA

As noted in the preceding table, the supply within the competitive fluctuated over the five-year period as the Hotel Bel-Air closed in 2008 and re-opened in 2011. During the five-year period identified above, demand, as measured in occupied room nights, increased at a compound annual growth rate (CAAG) of 6.0 percent. The competitive market ended 2010 with a composite occupancy of 66.4 percent, which was during the market's continued recovery from the economic downturn. The competitive market then experienced four years of growth in occupied rooms even with the re-opening of the Hotel Bel-Air, indicating that there was pent-up demand in the marketplace. The set finished 2014 at a 78.0 percent occupancy, well above the 75.8 percent achieved in the prior year.

Between 2010 and 2014, average daily rates experienced positive above inflationary growth, resulting in an annualized increase of 6.5 percent. As hoteliers attempted to maintain occupancy levels with promotions in 2011, they were also able to capture higher ADR with an increase of 7.7 percent in 2011. As the market continued to accelerate, rates increased by 5.3 percent in 2012. As demand has continued to recover and strengthen, average daily rates increased by a further 6.0 percent in 2013 and by 7.3 percent last year. Revenue per available room (RevPAR), a combination of occupancy and average daily room rate, increased at an average of 10.9 percent annually over the five-year period, with a RevPAR of \$501.82 in 2014.

Based on our analysis, future demand growth is projected to be driven by increases in corporate, leisure, and group room nights. Although both supply and demand are expected to continue to grow, we have capped the market occupancy at 78.0 percent, due to the highly corporate nature of this market and the rate structure within this market. While the market will perform at occupancies above and below this level, the stabilized rate of occupancy is an average based on the historical performance of the competitive market as well as the market orientations of the individual properties. As is shown in the table below, the market has achieved this stabilized rate of occupancy in 2014 and is projected to remain at the stabilized rate of occupancy for the remainder of our projections.

Based on the average rates achieved historically and our interviews with hoteliers involved in the Los Angeles area luxury hotel market, we have estimated future growth in average daily rate. The average daily rate of the competitive market is expected to increase 4.2 percent in 2015, followed by 5.1 percent growth in 2016, 4.0 percent in 2017 and 2018, and attain future increases approximating inflationary levels thereafter. The following table illustrates the projected average daily rate of the competitive market. It should be noted that all figures are rounded to the nearest dollar.

Projected Market Performance of the Competitive Supply									
Year	Annual Supply	Percent Change	Occupied Rooms	Percent Change	Market Occupancy	Average		REVPAR	Percent Change
						Daily Rate	Percent Change		
2015	549,325	0.0%	428,600	0.0%	78%	\$670.00	4.2%	\$522.75	4.2%
2016	549,325	0.0	428,600	0.0	78	704.00	5.1	549.28	5.1
2017	611,375	11.3	476,900	11.3	78	732.00	4.0	570.99	4.0
2018	611,375	0.0	476,900	0.0	78	761.00	4.0	593.61	4.0
2019	611,375	0.0	476,900	0.0	78	784.00	3.0	611.56	3.0
2020	661,015	8.1	515,500	8.1	78	810.00	3.3	631.69	3.3
2021	661,015	0.0	515,500	0.0	78	835.00	3.1	651.18	3.1
2022	661,015	0.0	515,500	0.0	78	860.00	3.0	670.68	3.0
2023	661,015	0.0	515,500	0.0	78	886.00	3.0	690.96	3.0
2024	661,015	0.0	515,500	0.0	78	913.00	3.0	712.01	3.0
CAAG	2.1%		2.1%			3.5%		3.5%	

Source: PKF Consulting USA

As shown in the preceding table, it is our professional opinion that the luxury market will absorb the openings of the Waldorf Astoria and subject hotel without any negative impact to the performance of the existing hotels in the competitive set. The market has been and will continue to operate at a stabilized occupancy of 78 percent. This market is one of the premier hotel submarkets in the country and the demand for luxury hotel rooms in the Beverly Hills area is anticipated to continue to outpace the supply of new hotel rooms based on the amount of unsatisfied and growing levels of demand in the marketplace. Therefore there is no anticipated negative impact to local market attributable to the addition of the subject hotel to the competitive market.

Utilizing the amended entitlement plan as summarized herein, we have reviewed our prior projections for the proposed facilities. The following presents the subject's projected performance following its opening in 2020.

Hotel Projected Performance Entitlement Program As Amended			
Year	Occupancy	ADR	Rooms Revenue
2020	70.0%	\$858.00	\$29,378,000
2021	75.0	884.00	32,425,000
2022	80.0	910.00	35,608,000
2023	80.0	937.00	36,665,000
2024	80.0	966.00	37,800,000
2025	80.0	994.00	38,895,000
2026	80.0	1,024.00	40,069,000
2027	80.0	1,055.00	41,282,000
2028	80.0	1,087.00	42,534,000
2029	80.0	1,119.00	43,786,000
Stabilized (2015\$)	80.0%	\$740.00	\$28,955,000

PKF Consulting USA

ADR (Average Daily Rate) – The subject's stabilized ADR of \$740 in 2015 dollars positions it above the average of the overall Beverly Hills hotel market, but within the range, or below that of luxury Beverly Hill properties such as the Peninsula, Beverly Hills Hotel, and Bel Air Hotel. With a redeveloped program, and supported by the historical

performance of newer luxury hotels such as Peninsula, Montage, and the expanded and renovated Hotel Bel Air, we find this rate positioning reasonable.

Occupancy – The subject’s occupancy at 80 percent stabilized is seen as reasonable given the long term average for the luxury segment in Beverly Hills.

The table on the following page presents the projected revenues for the subject over the ten year operational period beginning January 1, 2020.

Entitlement Program As Amended Fiscal Impact to the City of Beverly Hills			
	Hotel Operations		
	Total Revenue	Rooms Expenditure	Other Expenditures
2015 Rep	\$47,541,000	\$28,955,000	\$18,586,000
2020	\$48,232,000	\$29,378,000	\$18,854,000
2021	53,229,000	32,425,000	20,804,000
2022	58,467,000	35,608,000	22,859,000
2023	60,210,000	36,665,000	23,545,000
2024	62,052,000	37,800,000	24,252,000
2025	63,874,000	38,895,000	24,979,000
2026	65,798,000	40,069,000	25,729,000
2027	67,782,000	41,282,000	26,500,000
2028	69,829,000	42,534,000	27,295,000
2029	71,900,000	43,786,000	28,114,000
PKF Consulting USA			

Transient Occupancy Tax (TOT)

The current TOT rate in the City of Beverly Hills is 14.0 percent. Based on the projected room revenues, as shown in the table at the beginning of the page, we have projected the TOT to the City of Beverly Hills over the 10-year projection period in the following table and representative year of operation.

Entitlement Program As Amended Fiscal Impact to the City of Beverly Hills		
Transient Occupancy Tax (14.0%)		
	Total Rooms Revenue	TOT to the City of Beverly Hills
2015 Rep	\$28,955,000	\$4,054,000
2020	\$29,378,000	\$4,113,000
2021	32,425,000	4,540,000
2022	35,608,000	4,985,000
2023	36,665,000	5,133,000
2024	37,800,000	5,292,000
2025	38,895,000	5,445,000
2026	40,069,000	5,610,000
2027	41,282,000	5,779,000
2028	42,534,000	5,955,000
2029	43,786,000	6,130,000
PKF Consulting USA		

City Hotel Tax Surcharge

In addition to transient occupancy taxes, based on recently constructed hotels in the City of Beverly Hills, we have assumed that the City would assess an additional surcharge of 5.0 percent of rooms revenue, as was with case with the Montage Beverly Hills and has been codified in the development agreement with the owners of the under construction Waldorf Astoria Hotel. The table on the following page presents our estimates of the fiscal impact to the City relative to the hotel surcharge.

Entitlement Program As Amended		
Fiscal Impact to the City of Beverly Hills		
City Hotel Tax Surcharge (5.0%)		
	Total Rooms Revenue	Tax to the City of Beverly Hills
2015 Rep	\$28,955,000	\$1,448,000
2020	\$29,378,000	\$1,469,000
2021	32,425,000	1,621,000
2022	35,608,000	1,780,000
2023	36,665,000	1,833,000
2024	37,800,000	1,890,000
2025	38,895,000	1,945,000
2026	40,069,000	2,003,000
2027	41,282,000	2,064,000
2028	42,534,000	2,127,000
2029	43,786,000	2,189,000
PKF Consulting USA		

Residential Room Rental Tax

The City of Beverly Hills levies a tax on business activity in the City based upon gross receipts. According to Classification E, residential room rental taxes for hotels are assessed at a rate of \$12.00 per \$1,000 of gross room revenues. As shown in the following table, residential room rental taxes are anticipated to contribute a significant fiscal benefit to the City.

Entitlement Program As Amended		
Fiscal Impact to the City of Beverly Hills		
Residential Room Rental (1.2%)		
	Total Rooms Revenue	Tax to the City of Beverly Hills
2015 Rep	\$28,955,000	\$347,000
2020	\$29,378,000	\$353,000
2021	32,425,000	389,000
2022	35,608,000	427,000
2023	36,665,000	440,000
2024	37,800,000	454,000
2025	38,895,000	467,000
2026	40,069,000	481,000
2027	41,282,000	495,000
2028	42,534,000	510,000
2029	43,786,000	525,000
PKF Consulting USA		

Sales Tax

Food and Beverage and other Spend - Based on our understanding of the project and prior market demand study completed earlier this year, hotel operations and other expenditure are projected to be approximately \$18.6 million for a representative year, largely driven by food and beverage spend of nearly \$375 per occupied room and additional revenues captured by the spa, retail, and other facilities at the subject. We find this reasonable as it is in line with the range of luxury Beverly Hills properties. The table on the following page presents a projection of revenues captured directly by the hotel and the anticipated sales tax revenue to the City of Beverly Hills.

Proposed Luxury Hotel Beverly Hills Projected Operating Results Calendar Years											
		2020		2021		2022		2023		2024	
Number of Units:		134		134		134		134		134	
Number of Annual Rooms Available:		48,910		48,910		48,910		48,910		48,910	
Number of Rooms Occupied:		34,240		36,680		39,130		39,130		39,130	
Annual Occupancy:		70.0%		75.0%		80.0%		80.0%		80.0%	
Average Daily Rate:		\$858.00		\$884.00		\$910.00		\$937.00		\$966.00	
Revenue Per Available Room:		\$600.60		\$663.00		\$728.00		\$749.60		\$772.80	
		Amount Ratio		Amount Ratio		Amount Ratio		Amount Ratio		Amount Ratio	
Revenues											
Rooms		\$29,378,000	60.9%	\$32,425,000	60.9%	\$35,608,000	60.9%	\$36,665,000	60.9%	\$37,800,000	60.9%
Food & Beverage		14,885,000	30.9%	16,424,000	30.9%	18,047,000	30.9%	18,588,000	30.9%	19,146,000	30.9%
Other Operated Departments		3,969,000	8.2%	4,380,000	8.2%	4,812,000	8.2%	4,957,000	8.2%	5,106,000	8.2%
Total Revenues		48,232,000	100%	53,229,000	100%	58,467,000	100%	60,210,000	100%	62,052,000	100%
Source: PKF Consulting USA		Full Year of Operation									

Entitlement Program As Amended Fiscal Impact to the City of Beverly Hills		
Sales Tax (1.0%)		
	Other Expenditures	Sales Tax to the City of Beverly Hills
2015 Rep	\$18,586,000	\$186,000
2020	\$18,854,000	\$189,000
2021	20,804,000	208,000
2022	22,859,000	229,000
2023	23,545,000	235,000
2024	24,252,000	243,000
2025	24,979,000	250,000
2026	25,729,000	257,000
2027	26,500,000	265,000
2028	27,295,000	273,000
2029	28,114,000	281,000
PKF Consulting USA		

Property Taxes (Hotel)

Based on discussions with City of Beverly Hills officials and those familiar with the local tax structure, the City receives 17.42 percent of the total property tax paid by hotel ownership. Therefore, based on the anticipated prospective market value of the proposed hotel upon opening, we have calculated the City of Beverly Hills' portion of property taxes

that will be retained over the 10-year projection period as shown in the table on the following page.

Property Taxes - Entitlement Program As Amended		
Year	Hotel Total Property Tax	Amount to Beverly Hills
2020	\$2,300,000	\$400,000
2021	2,590,000	451,000
2022	2,642,000	460,000
2023	2,695,000	469,000
2024	2,749,000	479,000
2025	2,804,000	488,000
2026	2,860,000	498,000
2027	2,917,000	508,000
2028	2,976,000	518,000
2029	3,035,000	529,000

Business Taxes

The City of Beverly Hills levies a tax on business activity in the City based upon gross receipts or gross revenues. According to Classification B, business taxes for hotels are assessed at a rate of \$1.25 per \$1,000 of gross total revenues. As shown in the following table, business taxes are anticipated to contribute a moderate fiscal benefit to the City.

Business Taxes - Entitlement Program As Amended		
Year	Total Hotel Revenues	Business Tax
2015 Rep	\$47,541,000	\$59,000
2020	\$48,232,000	\$60,000
2021	53,229,000	67,000
2022	58,467,000	73,000
2023	60,210,000	75,000
2024	62,052,000	78,000
2025	63,874,000	80,000
2026	65,798,000	82,000
2027	67,782,000	85,000
2028	69,829,000	87,000
2029	71,900,000	90,000

Projected Fiscal Benefit to the City of Beverly Hills

Based on the preceding analysis, the fiscal impact of the proposed project assuming an amendment to the existing entitlements to the City of Beverly Hills is approximately \$8.4 million, as stated in current (2015) dollars. Over the 10-year projection period, the projected fiscal impact of the project is approximately \$113.8 million as shown in the table on the following page.

Entitlement Program As Amended Fiscal Impact to the City of Beverly Hills										
Taxes										
	Sales	Business	TOT	TOT Surcharge	Residential Room Rental	Real Estate (Hotel)	Real Estate (Residential)	Document Transfer	Ems Fee	Total
2015 Rep	\$186,000	\$59,000	\$4,054,000	\$1,448,000	\$347,000	\$401,000	\$2,244,000	-	-	\$8,739,000
2020	\$189,000	\$60,000	\$4,113,000	\$1,469,000	\$353,000	\$400,000	\$1,031,000	\$15,000	\$2,403,000	\$10,033,000
2021	208,000	67,000	4,540,000	1,621,000	389,000	451,000	1,381,000	5,000	816,000	9,478,000
2022	229,000	73,000	4,985,000	1,780,000	427,000	460,000	1,728,000	5,000	807,000	10,494,000
2023	235,000	75,000	5,133,000	1,833,000	440,000	469,000	2,084,000	5,000	831,000	11,105,000
2024	243,000	78,000	5,292,000	1,890,000	454,000	479,000	2,452,000	5,000	856,000	11,749,000
2025	250,000	80,000	5,445,000	1,945,000	467,000	488,000	2,736,000	4,000	661,000	12,076,000
2026	257,000	82,000	5,610,000	2,003,000	481,000	498,000	2,790,000	-	-	11,721,000
2027	265,000	85,000	5,779,000	2,064,000	495,000	508,000	2,846,000	-	-	12,042,000
2028	273,000	87,000	5,955,000	2,127,000	510,000	518,000	2,903,000	-	-	12,373,000
2029	281,000	90,000	6,130,000	2,189,000	525,000	529,000	2,961,000	-	-	12,705,000
Total										\$113,776,000

The table below presents the tax revenues to the City of Beverly Hills for the project under the current entitlement plan and as amended.

Operational Phase Measurable Tax Revenues Current Entitlement Program Versus Amended Entitlement Program - Representative Year in 2015 Dollars			
	Current Program (2015 as stabilized)	Entitlement Plan As Amended (2015 as stabilized)	Incremental
Rooms Revenue	N/A	\$28,955,000	\$28,955,000
TOT Rate	14.0%	14.0%	14.0%
TOT Generated (rounded)	N/A	\$4,054,000	\$4,054,000
Rooms Revenue	N/A	\$28,955,000	\$28,955,000
City TOT Surcharge Rate	5.0%	5.0%	5.0%
TOT Surcharge Generated (rounded)	N/A	\$1,448,000	\$1,448,000
Rooms Revenue	N/A	\$28,955,000	\$28,955,000
Tax Rate	\$12.00/\$1,000	\$12.00/\$1,000	\$12.00/\$1,000
Residential Room Rental Tax	N/A	\$347,000	\$347,000
Sales Revenue (Meals & Beverages, Non-Food Retail, Entertainment, Transportation, Other)	\$2,879,000	\$18,586,000	\$15,707,000
Tax Rate	1.0%	1.0%	1.0%
Sales Tax Generated (rounded)	\$29,000	\$186,000	\$157,000
Total Operating Revenues	\$2,879,000	\$47,541,000	\$44,662,000
Tax Rate	\$1.25/\$1,000	\$1.25/\$1,000	\$1.25/\$1,000
Business Tax Generated (rounded)	\$4,000	\$59,000	\$55,000
Residential Assessed Value 2015 Rep	\$1,171,146,000	\$936,579,000	(\$234,567,000)
Representative Year RE Tax Based on 1.10854% Percent to City of Beverly Hills	\$15,484,000	\$12,883,000	(\$2,601,000)
	17.42%	17.42%	17.42%
Residential Property Taxes Generated to the City (rounded)	\$2,697,000	\$2,244,000	(\$453,000)
Hotel Property Taxes Generated to the City (rounded)	N/A	\$401,000	\$401,000
TOTAL MEASURABLE TAX REVENUES TO THE CITY OF BEVERLY HILLS (ROUNDED)	\$2,730,000	\$8,739,000	\$6,009,000

- Assuming an amendment to the existing entitlements, based on the assumptions of occupancy and average daily rate upon stabilization, we have estimated transient occupancy tax for the proposed hotel of approximately \$4,054,000 in a representative year, all of which is considered to be incremental. Further, assuming a hotel tax surcharge is assessed by the City, an additional

approximately \$1,448,000 would be generated in a representative year. Additionally, incremental residential room rental taxes of approximately \$347,000 will be generated in a representative year.

- In addition to TOT, the City of Beverly Hills is estimated to receive 1.0 percent of the sales tax generated from meals and beverages, transportation, non-food retail, entertainment, personal care, and other expenses. We estimate that approximately \$29,000 in sales tax revenue will be generated by the approximately 16,000 square feet of retail space in a representative year. Under the entitlement plan as amended, we estimate a sales tax generation of approximately \$186,000, or incremental tax revenue of approximately \$157,000.
- The proposed project is also anticipated to generate incremental business taxes to the City of Beverly Hills. Based on our estimates of revenues generated at the project site, an additional approximately \$55,000 in business taxes assuming an amendment to the entitlements.
- We have included in our analysis the property taxes that the City of Beverly Hills will receive. We have estimated property tax revenues on the assumed assessment amount based on the projected value upon completion of the hotel and projected residential sales pricing and absorption. The City of Beverly Hills collects 17.42 percent of the property tax collected. The fiscal impact of property tax revenue to the City of Beverly Hills in a representative year of operation of the 235-unit luxury condominium development is approximately \$2,697,000.

Using similar methodology, we estimate a representative year tax stream to the City of approximately \$2,244,000 for the amended entitlement plan that allows for 193 luxury residential condominiums, or reduction of 42 units. This equates to approximately \$453,000 less in incremental property tax revenue.

- The City of Beverly Hills will also receive property taxes from the hotel component, assuming an amendment to the existing entitlements. Based upon the estimated value of the hotel upon completion and the City's property tax share of 17.42 percent, the incremental hotel tax contribution to the City is approximately \$401,000.
- The total fiscal impact associated with a representative year of the current program as entitled is estimated at approximately \$2,730,000. Assuming an amendment to the existing entitlements, we estimate a total fiscal impact of approximately \$8,739,000 in a representative year, or an incremental fiscal impact of approximately \$6,009,000 assuming an amendment to the existing entitlements.

As noted herein, the City of Beverly Hills will also receive documentary transfer taxes and environmental mitigation and sustainability fees in both development scenarios, however it is not possible to establish a representative year given the varied payment schedule over the projection period. They are, however, included in the ten year estimates.

In addition, we have also calculated the tax revenue to the City of Beverly Hills for a 10-year period beginning in 2020, both for the site as entitled and assuming an amendment to the existing entitlements to determine the incremental fiscal impact of proposed project to the City assuming a successful amendment to the existing entitlements. The tables below and on the following page detail our findings.

Current Entitlement Program Fiscal Impact to the City of Beverly Hills						
Taxes						
	Sales	Business	Real Estate (Residential)	Document Transfer	Ems Fee	Total
2015 Rep	\$29,000	\$4,000	\$2,697,000	-	-	\$2,730,000
2020	\$33,000	\$4,000	\$1,031,000	\$15,000	\$2,403,000	\$3,486,000
2021	34,000	4,000	1,381,000	5,000	816,000	2,240,000
2022	35,000	4,000	1,728,000	5,000	807,000	2,579,000
2023	36,000	5,000	2,084,000	5,000	831,000	2,961,000
2024	38,000	5,000	2,452,000	5,000	856,000	3,356,000
2025	39,000	5,000	2,830,000	5,000	882,000	3,761,000
2026	40,000	5,000	3,220,000	6,000	908,000	4,179,000
2027	41,000	5,000	3,421,000	3,000	468,000	3,938,000
2028	42,000	5,000	3,489,000	-	-	3,536,000
2029	44,000	5,000	3,559,000	-	-	3,608,000
						Total \$33,644,000

Entitlement Program As Amended Fiscal Impact to the City of Beverly Hills										
Taxes										
	Sales	Business	TOT	City TOT Surcharge	Residential Room Rental	Real Estate (Hotel)	Real Estate (Residential)	Document Transfer Tax	Ems Fee	Total
2015 Rep	\$186,000	\$59,000	\$4,054,000	\$1,448,000	\$347,000	\$401,000	\$2,244,000	-	-	\$8,739,000
2020	\$189,000	60,000	\$4,113,000	\$1,469,000	\$353,000	\$400,000	\$1,031,000	\$15,000	\$2,403,000	\$10,033,000
2021	208,000	67,000	4,540,000	1,621,000	389,000	451,000	1,381,000	5,000	816,000	9,478,000
2022	229,000	73,000	4,985,000	1,780,000	427,000	460,000	1,728,000	5,000	807,000	10,494,000
2023	235,000	75,000	5,133,000	1,833,000	440,000	469,000	2,084,000	5,000	831,000	11,105,000
2024	243,000	78,000	5,292,000	1,890,000	454,000	479,000	2,452,000	5,000	856,000	11,749,000
2025	250,000	80,000	5,445,000	1,945,000	467,000	488,000	2,736,000	4,000	661,000	12,076,000
2026	257,000	82,000	5,610,000	2,003,000	481,000	498,000	2,790,000	-	-	11,721,000
2027	265,000	85,000	5,779,000	2,064,000	495,000	508,000	2,846,000	-	-	12,042,000
2028	273,000	87,000	5,955,000	2,127,000	510,000	518,000	2,903,000	-	-	12,373,000
2029	281,000	90,000	6,130,000	2,189,000	525,000	529,000	2,961,000	-	-	12,705,000
										Total \$113,776,000

Incremental Fiscal Impact for 10 Year Period Beginning 2020										
	Sales	Business	TOT	City TOT Surcharge	Residential Room Rental	Real Estate (Hotel)	Real Estate (Residential)	Document Transfer Tax	EMS Fee	Total
2015										
Rep	\$157,000	\$55,000	\$4,054,000	\$1,448,000	\$347,000	\$401,000	(\$453,000)	-	-	\$6,009,000
2020	\$156,000	\$56,000	\$4,113,000	\$1,469,000	\$353,000	\$400,000	-	-	-	\$6,547,000
2021	174,000	63,000	4,540,000	1,621,000	389,000	451,000	-	-	-	7,238,000
2022	194,000	69,000	4,985,000	1,780,000	427,000	460,000	-	-	-	7,915,000
2023	199,000	70,000	5,133,000	1,833,000	440,000	469,000	-	-	-	8,144,000
2024	205,000	73,000	5,292,000	1,890,000	454,000	479,000	-	-	-	8,393,000
2025	211,000	75,000	5,445,000	1,945,000	467,000	488,000	(94,000)	(1,000)	(221,000)	8,315,000
2026	217,000	77,000	5,610,000	2,003,000	481,000	498,000	(430,000)	(6,000)	(908,000)	7,542,000
2027	224,000	80,000	5,779,000	2,064,000	495,000	508,000	(575,000)	(3,000)	(468,000)	8,104,000
2028	231,000	82,000	5,955,000	2,127,000	510,000	518,000	(586,000)	-	-	8,837,000
2029	237,000	85,000	6,130,000	2,189,000	525,000	529,000	(598,000)	-	-	9,097,000
									Total	\$80,132,000

CONCLUSIONS

The estimated fiscal impact of the proposed project as amended to the City of Beverly Hills is expected to be significantly material. We have estimated a total impact of approximately \$8,739,000 in a representative year in 2015 dollars. This equates to an increase of more than 220 percent from the in-place development plan, assuming that the current entitlements are amended. As summarized in the preceding chart, the estimated incremental fiscal impact for the 10-year period from 2020 to 2029 for the amended entitlement plan is approximately \$80,132,000.

Our analysis of the total tax revenues for the City of Beverly Hills is limited to measurable tax revenues which include direct sales tax, business tax, transient occupancy tax (TOT), hotel surcharge tax, residential room rental tax, property tax revenues, documentary transfer tax, and environmental mitigation and sustainability fees, at the 9900 Wilshire Boulevard development site.

Our analysis excludes the following:

- The potential direct tax impacts of spending at other Beverly Hills businesses;
- The potential indirect tax impacts as a consequence of the economic multiplier effect;
- Developer's estimate of permit fees to the City, likely in excess of \$20 million based on estimated construction costs, as part of the development process;
- One-time public benefit contribution;
- The upside for a potential condominium rental pool program which is not currently in the operating model;

- Any re-sales of the condominiums, which would likely result in additional real estate tax revenue to the City as real estate prices escalate;
- Fiscal impacts during the construction period; and finally,
- The incremental impact from the eventual sale by Wanda Beverly Hills Properties, LLC of the proposed hotel (assuming an amendment to the existing entitlements), which would also likely result in a significantly higher assessed value.

It is our opinion that the proposed development plan, assuming an amendment to the existing entitlement plan, would bring significant incremental fiscal impact to the City of Beverly Hills.

Statement of Terms and Conditions

TERMS AND CONDITIONS

1. The Terms and Conditions herein are part of an agreement for consulting services (the "Agreement") between CBRE, Inc. (the "Consultant") and the client signing this Agreement, and for whom the consulting services will be performed (the "Client"), and shall be deemed a part of such Agreement as though set forth in full therein. The Agreement shall be governed by the laws of the state where the Consultant's office is located for the Consultant executing this Agreement.
2. Client shall be responsible for the payment of all fees stipulated in the Agreement. Payment of the engagement fee and preparation of a report (the "Report") are not contingent upon any predetermined value or on an action or event resulting from the analyses, opinions, conclusions, or use of the Consulting Report. Final payment is due as provided in the Proposal Specifications Section of this Agreement. If a draft report is requested, the fee is considered earned upon delivery of the draft report. It is understood that the Client may cancel this assignment in writing at any time prior to delivery of the completed report. In such event, the Client is obligated only for the prorated share of the fee based upon the work completed and expenses incurred (including travel expenses to and from the job site), with a minimum charge of \$500. Additional copies of the Reports are available at a cost of \$250 per original color copy and \$100 per photocopy (black and white), plus shipping fees of \$30 per report.
3. If Consultant is subpoenaed to give testimony or otherwise required or requested by Client or a third party to participate in meetings, phone calls, conferences, litigation or other legal proceedings (including preparation for such proceedings) because of, connected with or in any way pertaining to this engagement, the Report, the Consultant's expertise, or the Property, Client shall pay Consultant's additional costs and expenses based on Consultant's then-prevailing hourly rates and related fees. Such charges include and pertain to time spent in preparing for and providing court room testimony, depositions, travel time, mileage and related travel expenses, waiting time, document review and preparation time (excluding preparation of the Report), meeting participation, and Consultant's other related commitment of time and expertise. Hourly charges and other fees for such participation will be provided upon request. In the event Client requests additional consulting services beyond the scope and purpose stated in the Agreement, Client agrees to pay additional fees for such services and to reimburse related expenses, whether or not the completed report has been delivered to Client at the time of such request.
4. Consultant shall have the right to terminate this Agreement at any time for cause effective immediately upon written notice to Client on the occurrence of fraud or the willful misconduct of Client, its employees or agents.
5. In the event Client fails to make payments when due then, from the date due until paid, the amount due and payable shall bear interest at the maximum rate permitted in the state where the office is located for the Consultant executing the Agreement. In the event either party institutes legal action against the other to enforce its rights under this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees and expenses. Each party waives the right to a trial by jury in any action arising under this Agreement.
6. Consultant assumes there are no major or significant items or issues affecting the Property that would require the expertise of a professional building contractor, engineer, or environmental consultant for Consultant to prepare a valid report. Client acknowledges that such additional expertise is not covered in the engagement fee and agrees that, if such additional expertise is required, it shall be provided by others at the discretion and direction of the Client, and solely at Client's additional cost and expense.
7. In the event of any dispute between Client and Consultant relating to this Agreement, or Consultant's or Client's performance hereunder, Consultant and Client agree that such dispute shall be resolved by means of binding arbitration in accordance with the commercial arbitration rules of the American Arbitration Association, and judgment upon the award rendered by an arbitrator may be entered in any court of competent jurisdiction. Depositions may be taken and other discovery obtained during such arbitration proceedings to the same extent as authorized in civil judicial proceedings in the state where the office of the Consultant executing this Agreement is located. The arbitrator shall be limited to awarding compensatory

damages and shall have no authority to award punitive, exemplary or similar damages. The prevailing party in the arbitration proceeding shall be entitled to recover its expenses from the losing party, including costs of the arbitration proceeding, and reasonable attorney's fees. Client acknowledges that Consultant is being retained hereunder as an independent contractor to perform the services described herein and nothing in this Agreement shall be deemed to create any other relationship between Client and Consultant. This engagement shall be deemed concluded and the services hereunder completed upon delivery to Client of the Report discussed herein.

8. All statements of fact in the report which are used as the basis of the Consultant's analyses, opinions, and conclusions will be true and correct to the best of the Consultant's knowledge and belief. Consultant does not make any representation or warranty, express or implied, as to the accuracy or completeness of the information or the condition of the Property furnished to Consultant by Client or others.
9. Consultant shall have no responsibility for legal matters, including zoning, or questions of survey or title, soil or subsoil conditions, engineering, or other similar technical matters. The report will not constitute a survey of the Property analyzed.
10. Client shall provide Consultant with such materials with respect to the assignment as are requested by Consultant and in the possession or under the control of Client. Client shall provide Consultant with sufficient access to the Property to be analyzed, and hereby grants permission for entry unless discussed in advance to the contrary.
11. The data gathered in the course of the assignment (except data furnished by Client) and the report prepared pursuant to the Agreement are, and will remain, the property of Consultant. With respect to data provided by Client, Consultant shall not violate the confidential nature of the Consultant-Client relationship by improperly disclosing any proprietary information furnished to Consultant. Notwithstanding the foregoing, Consultant is authorized by Client to disclose all or any portion of the report and related data as may be required by statute, government regulation, legal process, or judicial decree, including to appropriate representatives of the Appraisal Institute if such disclosure is required to enable Consultant to comply with the Bylaws and Regulations of such Institute as now or hereafter in effect.
12. Unless specifically noted, in preparing the Report the Consultant will not be considering the possible existence of asbestos, PCB transformers, or other toxic, hazardous, or contaminated substances and/or underground storage tanks (collectively, "Hazardous Material") on or affecting the Property, or the cost of encapsulation or removal thereof. Further, Client represents that there is no major or significant deferred maintenance of the Property that would require the expertise of a professional cost estimator or contractor. If such repairs are needed, the estimates are to be prepared by others, at Client's discretion and direction, and are not covered as part of the engagement fee.
13. In the event Client intends to use the Report in connection with a tax matter, Client acknowledges that Consultant provides no warranty, representation or prediction as to the outcome of such tax matter. Client understands and acknowledges that any relevant taxing authority (whether the Internal Revenue Service or any other federal, state or local taxing authority) may disagree with or reject the Report or otherwise disagree with Client's tax position, and further understands and acknowledges that the taxing authority may seek to collect additional taxes, interest, penalties or fees from Client beyond what may be suggested by the Report. Client agrees that Consultant shall have no responsibility or liability to Client or any other party for any such taxes, interest, penalties or fees and that Client will not seek damages or other compensation from Consultant relating to any such taxes, interest, penalties or fees imposed on Client, or for any attorneys' fees, costs or other expenses relating to Client's tax matters.
14. Consultant shall have no liability with respect to any loss, damage, claim or expense incurred by or asserted against Client arising out of, based upon or resulting from Client's failure to provide accurate or complete information or documentation pertaining to an assignment ordered under or in connection with this Agreement, including Client's failure, or the failure of any of Client's agents, to provide a complete copy of the Report to any third party.

15. LIMITATION OF LIABILITY. EXCEPT TO THE EXTENT ARISING FROM SECTION 16 BELOW, OR SECTION 17 IF APPLICABLE, IN NO EVENT SHALL EITHER PARTY OR ANY OF THEIR OFFICERS, DIRECTORS, EMPLOYEES OR CONTRACTORS BE LIABLE TO THE OTHER, WHETHER BASED IN CONTRACT, WARRANTY, INDEMNITY, NEGLIGENCE, STRICT LIABILITY OR OTHER TORT OR OTHERWISE, FOR (I) ANY SPECIAL, CONSEQUENTIAL, PUNITIVE, INCIDENTAL OR INDIRECT DAMAGES AND (II) AGGREGATE DAMAGES IN CONNECTION WITH THIS AGREEMENT (EXCLUDING THE OBLIGATION TO PAY THE FEES REQUIRED HEREUNDER) IN EXCESS OF THE GREATER OF THE AMOUNT OF THE TOTAL FEES PAID TO CONSULTANT UNDER THIS AGREEMENT OR TEN THOUSAND DOLLARS (\$10,000). THIS LIABILITY LIMITATION SHALL NOT APPLY IN THE EVENT OF A FINAL FINDING BY AN ARBITRATOR OR A COURT OF COMPETENT JURISDICTION THAT SUCH LIABILITY IS THE RESULT OF A PARTY'S GROSS NEGLIGENCE, FRAUD OR WILLFUL MISCONDUCT.
16. Client shall not disseminate, distribute, make available or otherwise provide any Report prepared hereunder to any third party (including without limitation, incorporating or referencing the Report, in whole or in part, in any offering or other material intended for review by other parties) except to (i) any third party approved in writing by Consultant and identified herein as an "Intended User" of the Report, (ii) any third party service provider (including rating agencies and Client's auditors) using the Report in the course of providing services for the sole benefit of Client, or (iii) as required by statute, government regulation, legal process, or judicial decree. In the event Consultant consents, in writing, to Client incorporating or referencing the Report in any offering or other materials intended for review by other parties, Client shall not distribute, file, or otherwise make such materials available to any such parties unless and until Client has provided Consultant with complete copies of such materials and Consultant has approved all such materials in writing. Client shall not modify any such materials once approved by Consultant. In the absence of satisfying the conditions of this paragraph with respect to a party who is not designated as an Intended User, in no event shall the receipt of a Report by such party extend any right to the party to use and rely on such report, and Consultant shall have no liability for such unauthorized use and reliance on any Report. In the event Client breaches the provisions of this paragraph, Client shall indemnify, defend and hold Consultant, and its affiliates and their officers, directors, employees, contractors, agents and other representatives (Consultant and each of the foregoing an "Indemnified Party" and collectively the "Indemnified Parties"), fully harmless from and against all losses, liabilities, damages and expenses (collectively, "Damages") claimed, sustained or incurred by any party arising out of or in connection with such breach, regardless of any negligence on the part of any Indemnified Party in preparing the Report.
17. In the event Client incorporates or references the Report, in whole or in part, in any offering or other material intended for review by other parties, Client shall indemnify, defend and hold each of the Indemnified Parties harmless from and against any Damages in connection with (i) any transaction contemplated by this Agreement or in connection with the engagement of or performance of services by any Indemnified Party hereunder, (ii) any actual or alleged untrue statement of a material fact, or the actual or alleged failure to state a material fact necessary to make a statement not misleading in light of the circumstances under which it was made with respect to all information furnished to any Indemnified Party or made available to a prospective party to a transaction, or (iii) an actual or alleged violation of applicable law by Client (including, without limitation, securities laws) or the negligent or intentional acts or omissions of Client (including the failure to perform any duty imposed by law); and will reimburse each Indemnified Party for all reasonable fees and expenses (including fees and expenses of counsel) (collectively, "Expenses") as incurred in connection with investigating, preparing, pursuing or defending any threatened or pending claim, action, proceeding or investigation (collectively, "Proceedings") arising there from, and regardless of whether such Indemnified Party is a formal party to such Proceeding. Client agrees not to enter into any waiver, release or settlement of any Proceeding (whether or not any Indemnified Party is a formal party to such Proceeding) without the prior written consent of Consultant (which consent will not be unreasonably withheld or delayed) unless such waiver, release or settlement includes an unconditional release of each Indemnified Party from all liability arising out of such Proceeding.



Attachment K
CBRE Hotels Study of Hotel Market
(Submitted by Applicant)

COMMERCIAL REAL ESTATE SERVICES

Bruce Baltin
Managing Director

May 26, 2016

Mr. David Shu
Wanda Beverly Hills Properties, LLC
439 N. Canon Drive, Suite 207
Beverly Hills, California 90210

Mr. Jay Newman
Athens BH Properties, LLC
433 North Camden Drive, Suite 960
Beverly Hills, California 90210

Dear Messrs. Shu and Newman:

Pursuant to your request, we have conducted a study of the potential impact on the Beverly Hills luxury hotel market from the opening of the One Beverly Hills, a luxury hotel in Beverly Hills, California.

The conclusions set forth in this report are based on an analysis of the existing and potential future supply and demand for the competitive lodging market as of the completion of our fieldwork in February 2016. This report has been prepared for you and may be shared with Beverly Hills hoteliers and City representatives. The report is subject to the Terms and Conditions presented in the Addenda.

This report presents our estimate of the potential impact to competitive luxury hotels located in the City of Beverly Hills in terms of occupancy and average daily room rate over the first five full calendar years following the opening of the 134-room luxury hotel to be located at 9900 Wilshire Boulevard in Beverly Hills, California.

It has been a pleasure to work on the assignment and if we can be of any further assistance in the interpretation of our findings, please do not hesitate to contact us.

Yours sincerely,

CBRE Hotels



By: Bruce Baltin
Managing Director

CBRE HOTELS

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SCOPE OF THE STUDY

INTRODUCTION

The scope of this study includes an analysis of the impact of the proposed 134-room luxury hotel on the Beverly Hills luxury hotel market. The proposed subject is to be located at 9900 Wilshire Boulevard in Beverly Hills, California. Based on the information gathered from Wanda Beverly Hills Properties LLC, we have assumed the proposed subject to open in January 2020.

In order to meet the objectives of this study, the scope of our analysis included, but was not limited to, the following:

- Analysis of the economic and demographic factors of the market area to assess the economic environment which influences the existing lodging market;
- Determination of the competitive supply of lodging facilities for the properties involved in this study;
- Preparation of a summary of historical performance levels for the competitive lodging supply;
- Estimate of anticipated growth in rooms supply and demand in the market area;
- Calculation of future occupancy levels and market segmentation based on the estimated growth rates and anticipated market conditions; and,
- Estimation of the impact associated with the opening of the project, for the period 2020 through 2024, which incorporates a full five years of operation of the subject following its opening in 2020.

Several resources were utilized in compiling the analytical information and preparing the analysis in this report. The resources included, but were not limited to: *Trends in the Hotel Industry*, CBRE Hotels; data on the lodging market assembled from research independent of our publications; data provided by Athens BH Properties, LLC and Wanda Beverly Hills Properties, LLC; planning departments in the local area; other local agencies; and, interviews with local industry professionals.

SUMMARY OF CONCLUSIONS

Based on the research and analysis conducted, we have made a determination of the potential impact on the Beverly Hills luxury hotel market by the opening of the proposed subject hotel. The following factors influence the impact on the market, as summarized below.

- **Overall market strength:** The Beverly Hills hotel submarket is part of the larger Los Angeles hotel market and as such enjoys a very strong level of economic activity that correlates directly to the demand for room nights. While the competitive market's revenue per available room (RevPAR) was negatively affected by the recession, current and projected economic indicators foretell continued economic growth for the region.
- **Limited impact to supply:** As noted later in this report, the proposed subject's 134 rooms are projected to be absorbed into the market during its first year of operation and, apart from the opening of the 170-room Waldorf Astoria in 2017, there are no other anticipated competitive additions to the luxury market supply.
- **Significant unsatisfied demand:** Given historically high levels of occupancy and lack of new supply in the marketplace, there has been and continues to be a significant level of unsatisfied demand. At 78 percent occupancy hotels in the local market are effectively at capacity every 5.5 days of the week. Thus with projected continued growth in demand and even considering the introduction of two new hotels in the future, the market could accommodate additional hotel rooms beyond what is forecast in this report.
- **Induced demand:** Given the unique and high quality branding of the additions to supply not currently found in the local hotel market, as well as the planned facilities, amenities, and service levels of each, the proposed hotels are anticipated to induce a total of approximately 20,000 room nights during the projection period from guests not currently frequenting the local market.
- **High barriers to entry:** The Beverly Hills luxury hotel market has had minimal additions to supply. The most recent addition to supply was the Montage Beverly Hills in 2009 and prior to that was the Peninsula Beverly Hills in 1991. The entitlement process in the City of Beverly Hills is lengthy and securing approvals for development continues to be challenging. Furthermore, there are very few suitable sites left in the market for hotel development.
- **Strong overnight visitation to Los Angeles:** According to the Los Angeles Tourism & Convention Board (LATCB) estimates overnight visitation to Los Angeles reached over 30 million people in 2015, comprised of over 23 million domestic visitors and 6.8 million international visitors. The U.S. government is taking several steps to attract more international visitors including: expanding the Visa Waiver Program, decreasing visa wait times, and increasing the number of countries with preclearance. The LATCB forecasts overnight visitation to increase to 33.5 million and total to more than 50 million visitors by 2019.

- **Internationally recognized luxury destination:** Beverly Hills offers some of the finest hotels in the world, providing luxurious accommodations and unparalleled service set within a glamorous enclave in the center of Los Angeles. Beverly Hills boasts one of the largest concentrations of Forbes Five Star and AAA Five Diamond properties in the United States.

Our projection of impact on the Beverly Hills luxury hotel market is illustrated on the following table.

Projected Performance of the Competitive Market									
Year	Annual Supply	Percent Change	Occupied Rooms	Percent Change	Market Occupancy	ADR	Percent Change	RevPAR	Percent Change
2016	549,325	N/A	428,600	N/A	78%	\$691.00	N/A	\$539.14	N/A
2017	611,375	11.3%	476,900	11.3%	78%	\$732.00	5.9%	\$570.99	5.9%
2018	611,375	0.0%	476,900	0.0%	78%	\$754.00	3.0%	\$588.15	3.0%
2019	611,375	0.0%	476,900	0.0%	78%	\$777.00	3.1%	\$606.09	3.1%
2020	660,285	8.0%	515,000	8.0%	78%	\$817.00	5.1%	\$637.23	5.1%
2021	660,285	0.0%	515,000	0.0%	78%	\$842.00	3.1%	\$656.73	3.1%
2022	660,285	0.0%	515,000	0.0%	78%	\$867.00	3.0%	\$676.23	3.0%
2023	660,285	0.0%	515,000	0.0%	78%	\$893.00	3.0%	\$696.51	3.0%
2024	660,285	0.0%	515,000	0.0%	78%	\$920.00	3.0%	\$717.57	3.0%
CAGR	2.3%	-	2.3%	-	-	3.6%		3.6%	

Source: CBRE Hotels

As can be noted in the preceding table, there is no negative projected impact on overall aggregate market occupancy in 2020, the proposed subject's projected year of opening. Furthermore, the opening of the higher rated subject causes market average daily rate (ADR) to increase by 5.1 percent, more than the inflationary rate of 3.0 percent.

PROPERTY DESCRIPTION

SITE DESCRIPTION

Neighborhood, Location, Access and Visibility

The subject site is located on Wilshire Boulevard, to the west of its intersection with Santa Monica Boulevard. Its physical address is 9900 Wilshire Boulevard in Beverly Hills, California. The site is currently a vacant lot, which was previously improved with a 62-year old building which housed the Robinsons-May department store more than a decade ago. The building was demolished to allow for construction of the subject hotel and a larger mixed-use project that will also include 193 luxury residences subject to city approval.

The subject is located only a few minutes from Rodeo Drive, one of the most prestigious concentrations of upper-end retail outlets in Southern California and the country. In addition, the subject is located proximate to corporate offices, restaurants, and other luxury hotels in the surrounding area. Its location is on the edge of the "Golden Triangle", bounded by Wilshire Boulevard, Beverly Drive and Santa Monica Boulevard. The Golden Triangle is a high-end shopping district that caters to the extremely wealthy and affluent.

The immediate area surrounding the hotel is generally comprised of retail stores, office buildings, restaurants, hotels, and residences. Access to the area is considered good. The site is approximately two miles east of the San Diego Freeway (Interstate 405) and less than three miles north of the Santa Monica Freeway (Interstate 10).

The site is bordered by Wilshire Boulevard to the north, Santa Monica Boulevard to the south, Merv Griffin Way and the Beverly Hilton Hotel to the east, and the Los Angeles Country Club to the west.

Uses proximate to the site include:

- North:** Wilshire Boulevard, El Rodeo School, low-rise residential
- South:** Santa Monica Boulevard, low-rise commercial
- East:** Merv Griffin Way, Beverly Hilton, under construction Waldorf Astoria
- West:** The Los Angeles Country Club

Overall, the subject property is situated within the attractive urban community of Beverly Hills. The site is located near one of the most prominent shopping intersections (Wilshire and Rodeo Drive) in Beverly Hills.

The subject site is located approximately nine miles northwest of downtown Los Angeles, approximately nine miles northeast of the LAX International Airport and approximately ten miles south of the Burbank International Airport.

Demand Generators and Supporting Amenities

The subject site is well situated to benefit from its location relative to local demand generators and supporting amenities which include:

- West Los Angeles' commercial office space located in Beverly Hills, Westwood, and Century City;
- Accessibility in and around West Los Angeles and other parts of the County via freeways and surface streets; and,
- The retail and entertainment districts of Beverly Hills, including Rodeo Drive.

IMPROVEMENT DESCRIPTION

We have reviewed the available development options for the subject site and analyzed the Beverly Hills and West Los Angeles luxury hotel markets. Our comments concerning facility programming for the subject are based on our analysis of the competitive hotels and the intended positioning of the subject within the competitive market. Based on our analysis of the site and competitive lodging properties, as well as our interviews with hotel representatives, planning officials, and representatives of potential demand generators for the proposed subject, the following provides a general scope of facilities for the subject property.

Scope of Facilities

The subject will be competing with seven full service, luxury hotels located primarily in the City of Beverly Hills and its surrounding communities. These hotels are considered to be among the highest quality properties in the greater Los Angeles area. Each features a very high quality of construction, extensive facilities, furnishings, and amenities, and highly-sophisticated guest services. To appropriately position the subject within the competitive market, the hotel's overall quality level will be at or above the higher end competitive properties. The property will offer all the amenities characteristic of luxury hotels in the area, including high-end design, various food & beverage outlets, meeting and banquet space, outdoor pool area, spa, and fitness center, as well as an array of guest services. A description of the proposed facilities is presented in the following paragraphs.

Guest Rooms

The proposed hotel will consist of approximately 134 units. With a count of 134 rooms and its location within Beverly Hills, the subject hotel will be well-positioned to capture a mix of small group, but primarily transient demand. Additionally, the planned approximately 7,942 square feet of meeting space (discussed in the next section) will compliment this room count, and allow the subject to capture its share of the high-end group market, including corporate retreats, and social functions and events.

Given the intended positioning of the subject hotel we anticipate that the rooms and accompanying bathrooms will be stylishly designed, featuring a unique design theme and one-of-a-kind touches. The bedrooms will contain one king bed or two queen beds, wireless internet access, interactive iPod players, flat panel televisions with HDTV satellite channels and movies on demand, four- or five-fixture bathrooms, and high-quality furnishings.

According to conversations with the developers of the subject, plans indicate that standard rooms will range from 430 to 500 square feet, suites will range from 970 to 1,940 square feet, and the subject will feature 15 suites, or approximately 11.0 percent of its room mix.

Food and Beverage Facilities

Unique food and beverage outlets are an integral piece of any high-quality hotel property. The proposed hotel will provide a more casual three-meal restaurant, one high-end Chinese full service restaurant, a freestanding bar, a lounge area, a separate private lounge, room service, and catering services. The high-quality restaurant will be positioned as a destination that meets the needs of guests as well as local residents (including those of the proposed 193 residential units), and complement the hotel's facilities. The lounge area will provide comfortable seating, offer a limited food menu, and have the ability to accommodate special events.

Meeting Facilities/Banquet Rooms

As currently programmed, the subject hotel will have 7,942 square feet of dedicated indoor meeting space. We believe that this amount of meeting space will allow the subject to capture its fair share of corporate and social group business. All meeting facilities will be equipped with the latest audio-visual, sound, and lighting equipment, as well as wireless internet access.

Spa

As it is customary for luxury properties, the subject will offer a 7,365 square foot full service spa and wellness center, complete with separate men's and women's areas. The proposed spa will include five treatment rooms, a salon, and locker facilities with wet area that will allow it to capture local demand as well as hotel guests. The hotel will utilize the spa as a vehicle for creating packages to capture additional leisure demand, allowing the hotel drive its average daily rate, and offer an additional amenity to groups.

Amenities and Services

In addition to the aforementioned, the subject will also offer the following services and amenities:

- Heated outdoor pool, whirlpool and cabanas
- Fitness center

- Sundry shop
- Elevators from the ground floor, with direct access to the rooftop
- Local transportation
- Concierge service
- Valet service

MANAGEMENT AND AFFILIATION

The subject hotel will be affiliated with Wanda Hotels and Resorts, China's largest five-star hotel management company. At present, the company owns and manages four hotel brands: Wanda Realm, Wanda Vista, Wanda Reign, and Wanda Jin. There are 38 Realm Hotels, 16 Wanda Vista Hotels, and three Wanda Reign Hotels currently in operation, with additional properties under construction throughout China.

The hotel will be self-managed under the Wanda brand.

PROPERTY SUMMARY

The subject hotel will be one of the newest built hotels in Beverly Hills and is anticipated to be a first class, luxury hotel with an attractive design that is anticipated to generate regional, national, and international recognition. Further, the proposed hotel will be built to and positioned at a level equal to or above its luxury competitors in Beverly Hills. With the planned facilities and the site's convenient location accessible to offices, retail, restaurants, and entertainment, as well as its proximity to leisure and recreational amenities, the property will be positioned to service the needs of the high-end and luxury corporate, leisure, and group market segments. The following analysis and our market projections assume the abovementioned facilities, amenities, and services will be included.

NEIGHBORHOOD ANALYSIS

CITY OF BEVERLY HILLS

Few locations around the world generate the immediate recognition and prestige that is associated with Beverly Hills. The City of Beverly Hills is a small, yet highly sophisticated group of housing and commercial improvements. Located in the heart of Los Angeles County midway between downtown Los Angeles and the Pacific Ocean, the city is located approximately 11 miles west of downtown Los Angeles. The city was incorporated in 1914 and consists of approximately 5.7 square miles of Los Angeles County's most prominent and expensive real estate. It is carried by the focus of the entertainment industry and retail sales as well as high-income families and celebrities with high-value housing stock throughout the community.

The community is landlocked with little residential expansion opportunity other than the demolition and replacement of existing structures. However, the current political climate does not encourage this practice. The trend in residential housing is flat, as the properties on the fringes of commercial areas are highly desirable for retail and office development as the revenue per square foot for retail space escalates. However, the current political posture also discourages the re-zoning of residential areas to promote commercial development and imposes several limitations on the hours of operation, parking, noise and other factors to ensure and respect the quiet enjoyment by residents of their homes.

Unemployment rates in Beverly Hills have traditionally been below that of the metropolitan area, and have remained considerably lower than the Los Angeles County unemployment rate in recent years. As of December 2015, the unemployment rate in Beverly Hills was 5.4 percent, as compared to 5.7 percent for the county as a whole.

Office Market

The West Los Angeles commercial office market, which includes Beverly Hills, consists of approximately 50,307,440 square feet of space, with a total vacancy rate of 10.9 percent as reported in the fourth quarter of 2015 by CBRE, compared to a vacancy rate in the prior quarter at 12.0 percent. The weighted average asking lease rate was \$4.56, up from \$4.35 in the prior quarter. Net absorption was positive for the fourth quarter at 710,511 square feet, in contrast with third quarter 2015, which was negative 374,487 square feet.

Retail Market

Rodeo Drive, one of the most prestigious streets in Los Angeles and the country, is located in the City of Beverly Hills, and includes such world-renowned retailers as Gucci, Cartier, Hermes, Bulgari, and Van Cleef and Arpels. One block east of Rodeo Drive is Beverly Drive, which is also home to several well-established tenants. One block east of Beverly Drive is Canon Drive, which is lined with its well-regarded restaurants, as well as upscale businesses such as banks, beauty salons, and real estate offices. Multi-family

residential buildings dominate Crescent Drive, one block east of Canon Drive. The retail space that exists here consists primarily of facilities which serve the local residents.

Transient Occupancy Tax (TOT)

The City of Beverly Hills collected approximately \$35,400,000 in TOT in 2013/14, an approximate 14.2 percent increase from 2012/13. For 2014/15, the City closed out the fiscal year at approximately \$36,700,000, an increase of approximate 3.6 percent over the 2013/14 fiscal year. The budget for 2015/16 is \$39,100,000.

Transportation

The major air gateway to the Los Angeles area is Los Angeles International Airport (LAX). Additional airport service into Los Angeles is provided via the Bob Hope (Burbank) Airport located to the northeast of Beverly Hills. Several smaller airports provide charter and private aircraft access to the area. Amtrak and a variety of other transportation alternatives serve the area as well. The following table shows the history of passenger travel at Los Angeles International Airport.

Los Angeles International Airport Passenger Counts 2004 – 2015			
Year	Domestic	International	Total
2004	44,200,000	16,500,000	60,700,000
2005	44,000,000	17,500,000	61,500,000
2006	44,100,000	16,900,000	61,000,000
2007	45,200,000	17,200,000	62,400,000
2008	43,100,000	16,700,000	59,800,000
2009	41,400,000	15,100,000	56,500,000
2010	43,100,000	15,900,000	59,100,000
2011	45,100,000	16,700,000	61,800,000
2012	46,500,000	17,200,000	63,700,000
2013	48,800,000	17,900,000	66,700,000
2014	51,600,000	19,100,000	70,700,000
2015	54,200,000	20,700,000	74,900,000
CAAG	1.87%	2.08%	1.93%

Source: Los Angeles World Airports and CBRE Hotels

Following two years of decline (2008 and 2009), passenger travel at LAX began to grow in 2010 and reached record levels in 2015. Overall, from 2004 to 2015, total passenger counts increased by an aggregate of 1.87 percent, and recently reached a record level of more than 70 million passengers. In addition, Los Angeles World Airports (LAWA) is in the midst of a multi-billion dollar development program for Los Angeles International Airport (LAX), including recently completed upgrades to Tom Bradley International Terminal.

The primary form of transportation in and around Beverly Hills is the automobile. An extensive network of interstate highways, state highways, and arterial streets service the area. Most areas of the Los Angeles metropolitan area are less than four miles by major

streets from the interstate network. The network of highways requires careful watching and map reading for those from out of town and first time drivers in the area; however, multiple exits and well-signed highways make travel relatively easy. There are numerous limousine, charter and public transportation alternatives.

Tourism

The tourism market in Beverly Hills is strong as the City maintains its place as one of the most attractive destinations in Southern California. Recognized as a shopping hub in Southern California, its international allure attracts a very specific, elite, and affluent niche of visitors from throughout the country and around the world. Its reputation for high-end retail brings over five million visitors to the area annually. This affluent community is home to the most prestigious hotels, designer and luxury department stores, well-known museums and galleries, and libraries. Growth is driven by increases in international arrivals, including continued increases in travel originating from Asia.

The Visa Waiver program continues to induce visitation from Asia to the United States. Luxury markets such as Beverly Hills are one of the primary benefactors of this increase in travel, and the traveler type is more lucrative with a longer average length of stay and higher daily visitor spending. The U.S. government also increased visa validity for Chinese travelers from one year to ten years, resulting in a 50 percent increase in visa demand by Chinese citizens; the number of Chinese visitors is expected to reach over 5.0 million per year by 2020. Chinese travelers are the largest international inbound market for Los Angeles with 686,000 visitors in 2014, or 10.5 percent of international inbound travel.

According to Los Angeles Tourism & Convention Board, total visitation to Los Angeles County in 2015 was 45.3 million people, including over 30 million overnight visitors, reflective of a 2.5 percent increase over 2014, marking the fifth consecutive year of record-breaking tourism. International visitors made one of the largest impacts on Los Angeles' tourism with 6.7 million visitors to the city, a 3.1 percent increase over 2014. Visitors from China drove international tourist numbers with a July 2015 year-to-date growth of 26.5 percent. Travelers from South Korea also grew by double digits, up 23.2 percent July 2015 YTD.

In 2014, the most recent data available, direct tourism spending rose with visitors accounting for \$19.6 billion in expenditures, a 6.8 percent increase over 2013. The tourism board notes that nearly one-third of the total was spent by foreign visitors since they tend to stay longer and spend more per person. These numbers represent an all-time high for both visitors and spending in the history of the county.

In 2015, hotels in LA County set records for total number of room nights sold, topping out at 28.4 million, a 1.3 percent increase over 2014. Average daily rate for the hotels in the county also climbed to record highs. These metrics, combined with the LA Tourism

and Convention Board's continued marketing efforts, indicate that Los Angeles should be able to meet its goal of 50 million visitors by 2020.

The overall increase in visitation stems from Los Angeles Tourism & Convention Board's successful digital, television, and online advertising campaigns launched in multiple domestic feeder cities such as San Francisco, San Diego, Phoenix, New York City coupled with improvements made to the city's tourism website, discoverLosAngeles.com. Furthermore, to spread awareness abroad, the tourism board operates two tourism offices in the cities of Shanghai and Beijing in China. The following table summarizes the number of overnight visitors to Los Angeles County and their direct spending between 2004 and 2015. According to the Los Angeles Tourism & Convention Board, the total overnight visitor count in 2015 ranked fourth in the nation at 30.2 million visitors. International visitors achieved 6.8 million visitors, a new record, driven by additional visitation from China and South Korea.

Overnight Visitor Volumes and Expenditures Los Angeles County				
Year	Overnight Visitation (Millions)	Percent Change	Direct Spending (Billions)	Percent Change
2004	24.3	9.5%	\$12.0	9.1%
2005	25.0	2.9	12.9	7.7
2006	25.7	2.8	13.6	5.4
2007	25.9	0.8	14.2	4.4
2008	25.7	(1.2)	13.8	(2.8)
2009	23.9	(7.0)	11.8	(14.5)
2010	26.1	8.4	14.1	19.5
2011	27.0	4.2	15.2	7.8
2012	27.9	3.7	16.5	7.1
2013	28.5	4.5	17.5	6.1
2014	29.5	3.5	18.6	4.4
2015	30.2	2.4	20.6	10.8

Source: CIC Research and Los Angeles Tourism & Convention Board

According to a statewide report released by Visit California, tourism in L.A. County is the largest contributor of direct visitor spend in the Southern California region and all of California, contributing more than 21 percent of the state's overall direct spend total.

Conclusions

In summary, the Los Angeles and Beverly Hills markets are strong and diverse. The area's economic base is expected to maintain Beverly Hills' position as a center for the entertainment industry, tourism, and retail trade. Since Los Angeles is one of the most prominent gateways serving the Pacific Basin, its allure to domestic and international leisure travelers is expected to continue to grow with the help of development happening in Beverly Hills and the greater Los Angeles area. The combined effect of these characteristics has a positive impact on the future outlook for Los Angeles' hospitality industry and Beverly Hills' hotel market.

HOTEL MARKET ANALYSIS

COMPETITIVE SUPPLY

Presented in the following text is an overview of the Beverly Hills luxury hotel market. This overview includes a summary of hotels in the competitive market, occupancy characteristics, average daily rate (ADR) characteristics, and performance projections for the future.

We have reviewed the existing luxury hotel supply in Beverly Hills and West Los Angeles including Bel-Air. The hotels in the competitive market and their room counts are presented in the table below.

Competitive Set	
Property	Rooms
Peninsula Beverly Hills	194
Hotel Bel-Air	103
Beverly Hills Hotel	203
Montage Beverly Hills	201
Four Seasons Beverly Wilshire	395
Four Seasons Los Angeles	285
L'Ermitage Hotel	124
Total	1,505

It should be noted that there are other lodging facilities within the market that may be considered secondarily competitive to the subject and have not been included in our analysis due to facilities, market orientation, average rate, and/or location.

Except for the potential addition of the subject, and the addition of the under construction 170-room Waldorf Astoria in 2017 (which will replace the same number of rooms in the Beverly Hilton Hotel), we are not aware of any other definitive changes or additions to the competitive supply in the Beverly Hills luxury hotel area.

The following map indicates the location of various properties which comprise the competitive set.

Competitive Lodging Supply

Historical Market Performance

The following table presents a summary of the historical market performance of the competitive set.

Historical Performance of the Competitive Market									
Year	Annual Supply	Percent Change	Occupied Rooms	Percent Change	Market Occupancy	ADR	Percent Change	RevPAR	Percent Change
2005	471,215	N/A	354,747	N/A	75.3%	\$439.57	N/A	\$330.93	N/A
2006	471,215	0.0%	348,465	-1.8%	74.0	499.61	13.7%	369.46	11.6%
2007	471,215	0.0	363,201	4.2	77.1	552.71	10.6	426.01	15.3
2008	471,215	0.0	337,810	-7.0	71.7	588.46	6.5	421.86	-1.0
2009	536,550	13.9	305,979	-9.4	57.0	523.16	-11.1	298.35	-29.3
2010	511,365	-4.7	323,520	5.7	63.3	499.10	-4.6	315.76	5.8
2011	519,030	1.5	368,681	14.0	71.0	536.89	7.6	381.36	20.8
2012	548,960	5.8	403,463	9.4	73.5	558.46	4.0	410.44	7.6
2013	549,325	0.1	416,477	3.2	75.8	599.31	7.3	454.38	10.7
2014	549,325	0.0	428,744	2.9	78.0	641.72	7.1	500.86	10.2
2015	549,325	0.0	430,239	0.3	78.3	664.76	3.6	520.65	4.0
CAGR	1.5%	-	1.9%	-	-	4.2%	-	4.6%	-

Source: CBRE Hotels

As indicated in the table above, changes in supply occurred in 2009 with the opening of the Montage Beverly Hills and the temporary closing of the Hotel Bel-Air due to renovation. Positive changes in supply were recorded in 2011 as the Hotel Bel-Air reopened after completion of its renovation, which resulted in positive change in 2012 also as the remaining rooms were annualized into the market. Supply increased marginally in 2013 due to a one-room addition at the Peninsula Beverly Hills. Demonstrated demand increased at an average rate of 1.9 percent from 2005 through 2015, greater than the average annual increase in supply of 1.5 percent over the same period. As a result, occupancy increased from 75.3 percent in 2005 to 78.3 percent in 2015, the best year ever. The competitive market experienced a sharp decline due to the recession in 2008, resulting in declines in occupancy for 2008 and 2009. Since 2010 market occupancy has been growing steadily, ending 2015 with a period high occupancy of 78.3 percent, which was the best year on record.

The average daily rate of the competitive market has fluctuated over the historical period, with 2009 and 2010 reflecting the impact of the recession and 2011 and 2012 the recovery therefrom. The competitive market finished 2015 at \$664.76, or a 3.6 percent growth over 2014 and the best year ever. Over the observed period, from 2005 through 2015, average daily rate has grown at an average annual rate of 4.2 percent, nearly 17 percent above the long term average of Los Angeles County.

Demand Segmentation

Presented in the following table is our estimate of the mix of demand for the market for year-end 2015.

Competitive Market 2015 Mix of Demand		
Market Segment	Room Nights	Ratio
Commercial	221,300	52%
Leisure	139,100	32
Group	68,300	16
Total	428,700	100%
Source: CBRE Hotels		

Commercial Segment

As outlined in the previous table, corporate demand represents the single largest demand source for the competitive supply, with 52 percent of the total occupied rooms in 2015. This equates to approximately 221,300 room nights of captured demand in the competitive set. The commercial demand in the competitive market generally is derived from conventional commercial demand, generated largely by the financial services, real estate, and law firms located in Beverly Hills, Century City, Downtown, Westwood, and West Los Angeles. These travelers appear to select hotels based on the proximity of the property to their office and usually have a shorter length of stay. We note increases in inbound travel from Australia, Asia, and Europe have increased significantly in recent years, resulting in additional commercial and leisure demand

In addition, this competitive market also has strong demand from entertainment-related businesses. The demand from entertainment and creative industries is generated by the motion picture, recording and related technology, advertising and design and fashion industries. Entertainment-related commercial travelers appear to select a hotel based on its location relative to area amenities such as restaurants and shopping or location and setting rather than its proximity to the company's office. The entertainment and creative industry traveler typically has a longer length of stay. We have estimated demand in the corporate segment to increase 3.0 percent (the industry standard for long-term economic growth) in 2016 and for the remainder of the projection period. Based on the facilities, amenities, branding and nature of the planned Waldorf Astoria and subject hotel we have conservatively induced approximately 10,000 commercial room nights during the projection period.

Leisure Segment

The leisure segment consists of pleasure travelers to and within Southern California for mostly recreational reasons. This segment is comprised of both domestic weekend travelers, as well as international travelers. In 2015, the leisure tourist market segment is estimated to have accounted for 32 percent of total demand, or approximately 139,100 room nights of captured demand. The competitive properties' location within Beverly Hills, Century City, Downtown, and Santa Monica, and the available entertainment, shopping, and tourism attractions generate the majority of leisure demand in the area. International tourists make up a significant (and growing) portion of this demand. We have estimated demand in the leisure segment to increase 3.0 percent in 2016 and thereafter throughout the projection period. Based on the exciting nature of the planned

Waldorf Astoria and subject hotel we have conservatively induced approximately 6,000 leisure room nights during the projection period.

Group Segment

The group market represented 16 percent of the market demand for the competitive supply in 2015 with approximately 68,300 group room nights. Within the competitive market, the group segment comprises various types of group demand categorized as follows:

- Traditional group business, such as executive corporate meetings and other high-end retreats; and,
- Catering-based social group business, such as wedding parties, which primarily utilize the hotels during weekends.

As the commercial base grows in the area, commercial group demand is expected to grow. Based on trends in group-meeting activity in the competitive market, we have estimated annual growth of 3.0 percent per year throughout the projection period. Based on the available meeting facilities of the planned Waldorf Astoria and subject hotel we have conservatively induced approximately 4,000 group room nights during the projection period.

Summary of Demand Growth and Market Occupancies

Based on the foregoing analysis, future demand growth is projected to be driven by increases in corporate, leisure, and group room nights. Although both supply and demand are expected to continue to grow, we have capped the market occupancy at 78 percent, due to the highly corporate nature of this market and the rate structure within this market. While the market will perform at occupancies above and below this level, the stabilized rate of occupancy is an average based on the historical performance of the competitive market as well as the market orientations of the individual properties.

Market Demand Analysis

Projected Market Performance of the Competitive Supply

With regard to growth in demand in future years, overall demand is expected to increase as the overall market recovery continues and economic conditions continue to improve. The following tables present our estimated performance of the competitive market, which assumes the addition of the subject in 2020.

In the following table is our analysis of the projected market occupancy performance for the competitive market.

Projected Performance of the Competitive Market									
Year	Annual Supply	Percent Change	Occupied Rooms	Percent Change	Market Occupancy	ADR	Percent Change	RevPAR	Percent Change
2016	549,325	N/A	428,600	N/A	78%	\$691.00	N/A	\$539.14	N/A
2017	611,375	11.3%	476,900	11.3%	78%	\$732.00	5.9%	\$570.99	5.9%
2018	611,375	0.0%	476,900	0.0%	78%	\$754.00	3.0%	\$588.15	3.0%
2019	611,375	0.0%	476,900	0.0%	78%	\$777.00	3.1%	\$606.09	3.1%
2020	660,285	8.0%	515,000	8.0%	78%	\$817.00	5.1%	\$637.23	5.1%
2021	660,285	0.0%	515,000	0.0%	78%	\$842.00	3.1%	\$656.73	3.1%
2022	660,285	0.0%	515,000	0.0%	78%	\$867.00	3.0%	\$676.23	3.0%
2023	660,285	0.0%	515,000	0.0%	78%	\$893.00	3.0%	\$696.51	3.0%
2024	660,285	0.0%	515,000	0.0%	78%	\$920.00	3.0%	\$717.57	3.0%
CAGR	2.3%	-	2.3%	-	-	3.6%		3.6%	

Source: CBRE Hotels

As can be noted, the opening of the subject hotel in 2020 does not cause any negative impact to market occupancy. Furthermore the opening of the subject hotel, and its projected high average daily rate, results in an increase in market average ADR of 5.1 percent; more than the inflationary rate of 3.0 percent.

Unsatisfied Demand Analysis

As shown in the preceding table and extrapolated below, there is projected to be a significant amount of unsatisfied or unaccommodated demand in the local competitive hotel market for the duration of the projection period.

	PROJECTED DEMAND									
	2016	2017	2018	2019	2020	2021	2022	2023	2024	
Corporate (Unsatisfied)	(13,616)	4,160	(8,244)	(15,870)	(4,690)	(16,881)	(25,338)	(34,049)	(43,022)	
Leisure (Unsatisfied)	(8,562)	2,472	(5,179)	(9,970)	(2,459)	(10,634)	(15,962)	(21,450)	(27,102)	
Group (Unsatisfied)	(4,203)	1,741	(2,560)	(4,928)	(698)	(5,289)	(7,938)	(10,667)	(13,478)	
Total (Unsatisfied)	(26,381)	(1,628)	(15,983)	(30,768)	(16,848)	(32,804)	(49,239)	(66,166)	(83,602)	

Given our supply and demand projections for the competitive market and the subject hotel, as well as the other addition to supply, the preceding table clearly highlights the fact that a significant amount of unsatisfied demand is projected to exist in the local market, even considering the openings of the additions to supply, including the Waldorf Astoria and the proposed Wanda Hotel. As noted the amount of unsatisfied demand present in the market is anticipated to decline as the subject hotel comes online in 2020, although not to such a level that it is anticipated to cannibalize existing demand in the immediate area. Further with increase leisure, business, and group activity, even with the opening of the two proposed hotel projects, unmet demand in total is anticipated to reach more than 83,600 unaccommodated room nights by the end of 2024,

demonstrating the projected supply and demand imbalance will continue to exist in the local market going forward.

Induced Demand Analysis

In addition to current and future projected unsatisfied demand in the local market, we are also of the opinion that given the unique attributes of the proposed Wanda project and the Waldorf Astoria Hotel, a potential exists for these hotels to induce a significant amount of room nights to the competitive market. Induced demand refers to the additional room nights that the entrance of a new demand generator is expected to bring to a market. A new hotel acts as a demand generator for the market, bringing in new business through its brand affiliation, reservation system, sales team, and unique facilities and amenities. Moreover, new hotels potentially increase the exposure and awareness of a market and open up new sources of potential demand. This is especially true in the case of the hotels that are slated to open in the Beverly Hills luxury market in the foreseeable future. The proposed facilities and Wanda branding, all of which are new to the market are likely to induced new demand into the market, especially from Asia. Similarly, there are no Waldorf Astoria hotels in the greater Los Angeles area, and only one affiliated hotel in the entire State of California. Thus like the proposed Wanda Hotel, the under construction Waldorf Astoria Hotel is anticipated to induce leisure and corporate guests from across the world to the property. Further, new available meeting and event space at both luxury hotels will allow these hotels to induce group meeting and social catering room nights from groups or companies currently holding their events elsewhere.

Projected Market Performance of the Subject

The following tables present our estimated performance of the subject for its first five years of operation.

Projected Performance of the Subject										
Year	Annual Supply	Percent Change	Occupied Rooms	Percent Change	Occupancy Percentage	Market Penetration	ADR	Percent Change	RevPAR	Percent Change
2020	48,910	N/A	34,300	N/A	70%	90%	\$858.00	N/A	\$601.71	N/A
2021	48,910	0.0%	36,500	6.4%	75	96	884.00	3.0%	659.70	9.6%
2022	48,910	0.0	38,900	6.6	80	102	911.00	3.0	638.87	9.8
2023	48,910	0.0	38,900	0.0	80	102	938.00	3.0	700.00	3.0
2024	48,910	0.0	38,900	0.0	80	102	966.00	3.0	768.30	3.0
CAGR	0.0%	-	3.2%	-	-	-	3.0%	-	6.3%	-

Source: CBRE Hotels

Due to the subject's planned high quality build, luxury facilities and amenities, and unique positioning as previously stated in this report, we project the subject to command a rate above the market average in its first year of operation and onwards.

CONCLUSION - IMPACT ANALYSIS

Based on our analysis of the competitive market and experience with hotels, we are of the opinion that the opening of the subject will not impact the Beverly Hills luxury hotel market, both in terms of occupancy and rate. As can be seen in the preceding tables, there is no impact to market occupancy and in fact, we project that the market average daily rate will increase at a rate above the rate of inflation in the subject's year of opening due to its higher rated positioning. The following list summarizes factors we have taken into account when analyzing the impact.

- **Overall market strength:** The Beverly Hills hotel submarket is part of the larger Los Angeles hotel market and as such enjoys a very strong level of economic activity that correlates directly to the demand for room nights. While the competitive market's revenue per available room (RevPAR) was negatively affected by the recession, current and projected economic indicators foretell continued economic growth for the region.
- **Limited impact to supply:** As noted later in this report, the proposed subject's 134 rooms are projected to be absorbed into the market during its first year of operation and, apart from the opening of the 170-room Waldorf Astoria in 2017, there are no other anticipated competitive additions to the luxury market supply.
- **Significant unsatisfied demand:** Given historically high levels of occupancy and lack of new supply in the marketplace, there has been and continues to be a significant level of unsatisfied demand. At 78 percent occupancy hotels in the local market are effectively at capacity every 5.5 days of the week. Thus with projected continued growth in demand and even considering the introduction of two new hotels in the future, the market could accommodate additional hotel rooms beyond what is forecast in this report.
- **Induced demand:** Given the unique and high quality branding of the additions to supply not currently found in the local hotel market, as well as the planned facilities, amenities, and service levels of each, the proposed hotels are anticipated to induce a total of approximately 20,000 room nights during the projection period from guests not currently frequenting the local market.
- **High barriers to entry:** The Beverly Hills luxury hotel market has had minimal additions to supply. The most recent addition to supply was the Montage Beverly Hills in 2009 and prior to that was the Peninsula Beverly Hills in 1991. The entitlement process in the City of Beverly Hills is lengthy and securing approvals for development continues to be challenging. Furthermore, there are very few suitable sites left in the market for hotel development.

- **Strong overnight visitation to Los Angeles:** According to the Los Angeles Tourism & Convention Board (LATCB) estimates overnight visitation to Los Angeles reached over 30 million people in 2015, comprised of over 23 million domestic visitors and 6.8 million international visitors. The U.S. government is taking several steps to attract more international visitors including: expanding the Visa Waiver Program, decreasing visa wait times, and increasing the number of countries with preclearance. The LATCB forecasts overnight visitation to increase to 33.5 million and total to more than 50 million visitors by 2019.
- **Internationally recognized luxury destination:** Beverly Hills offers some of the finest hotels in the world, providing luxurious accommodations and unparalleled service set within a glamorous enclave in the center of Los Angeles. Beverly Hills boasts one of the largest concentrations of Forbes Five Star and AAA Five Diamond properties in the United States.

TERMS AND CONDITIONS

1. The Terms and Conditions herein are part of an agreement for consulting services (the "Agreement") between CBRE, Inc. (the "Consultant") and the client signing this Agreement, and for whom the consulting services will be performed (the "Client"), and shall be deemed a part of such Agreement as though set forth in full therein. The Agreement shall be governed by the laws of the state where the consulting office is located for the Consultant executing this Agreement.
2. Client shall be responsible for the payment of all fees stipulated in the Agreement. Payment of the consulting fee and preparation of an consulting report (the "Consulting Report, or the "report") are not contingent upon any predetermined value or on an action or event resulting from the analyses, opinions, conclusions, or use of the Consulting Report. Final payment is due as provided in the Proposal Specifications Section of this Agreement. If a draft report is requested, the fee is considered earned upon delivery of the draft report. It is understood that the Client may cancel this assignment in writing at any time prior to delivery of the completed report. In such event, the Client is obligated only for the prorated share of the fee based upon the work completed and expenses incurred (including travel expenses to and from the job site), with a minimum charge of \$500. Additional copies of the Consulting Reports are available at a cost of \$250 per original color copy and \$100 per photocopy (black and white), plus shipping fees of \$30 per report.
3. If Consultant is subpoenaed or ordered to give testimony, produce documents or information, or otherwise required or requested by Client or a third party to participate in meetings, phone calls, conferences, litigation or other legal proceedings (including preparation for such proceedings) because of, connected with or in any way pertaining to this engagement, the Consulting Report, the Consultant's expertise, or the Property, Client shall pay Consultant's additional costs and expenses, including but not limited to Consultant's attorneys' fees, and additional time incurred by Consultant based on Consultant's then-prevailing hourly rates and related fees. Such charges include and pertain to, but are not limited to, time spent in preparing for and providing court room testimony, depositions, travel time, mileage and related travel expenses, waiting time, document review and production, and preparation time (excluding preparation of the Consulting Report), meeting participation, and Consultant's other related commitment of time and expertise. Hourly charges and other fees for such participation will be provided upon request. In the event Client requests additional consulting services beyond the scope and purpose stated in the Agreement, Client agrees to pay additional fees for such services and to reimburse related expenses, whether or not the completed report has been delivered to Client at the time of such request.
4. Consultant shall have the right to terminate this Agreement at any time for cause effective immediately upon written notice to Client on the occurrence of fraud or the willful misconduct of Client, its employees or agents, or without cause upon 30 days written notice.
5. In the event Client fails to make payments when due then, from the date due until paid, the amount due and payable shall bear interest at the maximum rate permitted in the state where the office is located for the Consultant executing the Agreement. In the event either party institutes legal action against the other to enforce its rights under this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees and expenses. Each party waives the right to a trial by jury in any action arising under this Agreement.
6. Consultant assumes there are no major or significant items or issues affecting the Property that would require the expertise of a professional building contractor, engineer, or environmental consultant for Consultant to prepare a valid report. Client acknowledges that such additional expertise is not covered in the Consulting fee and agrees that, if such additional expertise is required, it shall be provided by others at the discretion and direction of the Client, and solely at Client's additional cost and expense.
7. In the event of any dispute between Client and Consultant relating to this Agreement, or Consultant's or Client's performance hereunder, Consultant and Client agree that such dispute shall be resolved by means of binding arbitration in accordance with the commercial arbitration rules of the American Arbitration Association, and judgment upon the award rendered by an arbitrator may be entered in any court of competent jurisdiction. Depositions may be taken and other discovery obtained during such arbitration proceedings to the same extent as authorized in civil judicial proceedings in the state where the office of the Consultant executing this Agreement is located. The arbitrator shall be limited to awarding compensatory damages and shall have no authority to award punitive, exemplary or similar damages. The prevailing party in the arbitration proceeding shall be entitled to recover its expenses from the losing party, including costs of the arbitration proceeding, and reasonable attorney's fees. Client acknowledges that Consultant is being retained hereunder as an independent contractor to perform the services described herein and nothing in this Agreement shall be deemed to create any other relationship between Client and Consultant. This engagement shall be deemed concluded and the services hereunder completed upon delivery to Client of the Consulting Report discussed herein.
8. All statements of fact in the report which are used as the basis of the Consultant's analyses, opinions, and conclusions will be true and correct to Consultant's actual knowledge and belief. Consultant does not make any representation or warranty, express or implied, as to the accuracy or completeness of the information or the

TERMS AND CONDITIONS

(continued)

condition of the Property furnished to Consultant by Client or others. The conclusions and any permitted reliance on and use of the Consulting Report shall be subject to the assumptions, limitations, and qualifying statements contained in the report.

9. Consultant shall have no responsibility for legal matters, including zoning, or questions of survey or title, soil or subsoil conditions, engineering, or other similar technical matters. The report will not constitute a survey of the Property analyzed.
10. Client shall provide Consultant with such materials with respect to the assignment as are requested by Consultant and in the possession or under the control of Client. Client shall provide Consultant with sufficient access to the Property to be analyzed, and hereby grants permission for entry unless discussed in advance to the contrary.
11. The data gathered in the course of the assignment (except data furnished by Client) and the report prepared pursuant to the Agreement are, and will remain, the property of Consultant. With respect to data provided by Client, Consultant shall not violate the confidential nature of the Consultant-Client relationship by improperly disclosing any proprietary information furnished to Consultant. Notwithstanding the foregoing, Consultant is authorized by Client to disclose all or any portion of the report and related data as may be required by statute, government regulation, legal process, or judicial decree, including to appropriate representatives of the Appraisal Institute if such disclosure is required to enable Consultant to comply with the Bylaws and Regulations of such Institute as now or hereafter in effect.
12. Unless specifically noted, in preparing the Consulting Report the Consultant will not be considering the possible existence of asbestos, PCB transformers, or other toxic, hazardous, or contaminated substances and/or underground storage tanks (collectively, "Hazardous Material") on or affecting the Property, or the cost of encapsulation or removal thereof. Further, Client represents that there is no major or significant deferred maintenance of the Property that would require the expertise of a professional cost estimator or contractor. If such repairs are needed, the estimates are to be prepared by others, at Client's discretion and direction, and are not covered as part of the Consulting fee.
13. In the event Client intends to use the Consulting Report in connection with a tax matter, Client acknowledges that Consultant provides no warranty, representation or prediction as to the outcome of such tax matter. Client understands and acknowledges that any relevant taxing authority (whether the Internal Revenue Service or any other federal, state or local taxing authority) may disagree with or reject the Consulting Report or otherwise disagree with Client's tax position, and further understands and acknowledges that the taxing authority may seek to collect additional taxes, interest, penalties or fees from Client beyond what may be suggested by the Consulting Report. Client agrees that Consultant shall have no responsibility or liability to Client or any other party for any such taxes, interest, penalties or fees and that Client will not seek damages or other compensation from Consultant relating to any such taxes, interest, penalties or fees imposed on Client, or for any attorneys' fees, costs or other expenses relating to Client's tax matters.
14. Consultant shall have no liability with respect to any loss, damage, claim or expense incurred by or asserted against Client arising out of, based upon or resulting from Client's failure to provide accurate or complete information or documentation pertaining to an assignment ordered under or in connection with this Agreement, including Client's failure, or the failure of any of Client's agents, to provide a complete copy of the Consulting Report to any third party.

LIMITATION OF LIABILITY. EXCEPT TO THE EXTENT ARISING FROM SECTION 16 BELOW, OR SECTION 17 IF APPLICABLE, IN NO EVENT SHALL EITHER PARTY OR ANY OF ITS AFFILIATE, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, OR CONTRACTORS BE LIABLE TO THE OTHER, WHETHER BASED IN CONTRACT, WARRANTY, INDEMNITY, NEGLIGENCE, STRICT LIABILITY OR OTHER TORT OR OTHERWISE, FOR ANY SPECIAL, CONSEQUENTIAL, PUNITIVE, INCIDENTAL OR INDIRECT DAMAGES AND AGGREGATE DAMAGES IN CONNECTION WITH THIS AGREEMENT FOR EITHER PARTY (EXCLUDING THE OBLIGATION TO PAY THE FEES REQUIRED HEREUNDER) SHALL NOT EXCEED THE GREATER OF THE TOTAL FEES PAYABLE TO CONSULTANT UNDER THIS AGREEMENT OR TEN THOUSAND DOLLARS (\$10,000). THIS LIABILITY LIMITATION SHALL NOT APPLY IN THE EVENT OF A FINAL FINDING BY AN ARBITRATOR OR A COURT OF COMPETENT JURISDICTION THAT SUCH LIABILITY IS THE RESULT OF A PARTY'S FRAUD OR WILLFUL MISCONDUCT.

15. Client shall not disseminate, distribute, make available or otherwise provide any Consulting Report prepared hereunder to any third party (including without limitation, incorporating or referencing the Consulting Report, in whole or in part, in any offering or other material intended for review by other parties) except to (i) any third party expressly acknowledged in a signed writing by Consultant as an "Intended User" of the Consulting Report provided that either Consultant has received an acceptable release from such third party with respect to such Consulting Report or Client provides acceptable indemnity protections to Consultant against any claims resulting from the distribution of the Consulting Report to such third party, (ii) any third party service provider (including rating agencies and Client's auditors) using the Consulting Report in the course of providing services for the sole benefit of Client, or (iii) as required by statute, government regulation, legal process, or judicial decree. In the event Consultant consents, in writing, to Client incorporating or referencing the Consulting Report in any offering

TERMS AND CONDITIONS

(continued)

or other materials intended for review by other parties, Client shall not distribute, file, or otherwise make such materials available to any such parties unless and until Client has provided Consultant with complete copies of such materials and Consultant has approved all such materials in writing. Client shall not modify any such materials once approved by Consultant. In the absence of satisfying the conditions of this paragraph with respect to a party who is not designated as an Intended User, in no event shall the receipt of a Consulting Report by such party extend any right to the party to use and rely on such report, and Consultant shall have no liability for such unauthorized use and reliance on any Consulting Report. In the event Client breaches the provisions of this paragraph, Client shall indemnify, defend and hold Consultant, and its affiliates and their officers, directors, employees, contractors, agents and other representatives (Consultant and each of the foregoing an "Indemnified Party" and collectively the "Indemnified Parties"), fully harmless from and against all losses, liabilities, damages and expenses (collectively, "Damages") claimed against, sustained or incurred by any Indemnified Party arising out of or in connection with such breach, regardless of any negligence on the part of any Indemnified Party in preparing the Consulting Report.

16. In the event Client incorporates or references the Consulting Report, in whole or in part, in any offering or other material intended for review by other parties, Client shall indemnify, defend and hold each of the Indemnified Parties harmless from and against any Damages in connection with (i) any transaction contemplated by this Agreement or in connection with the consulting or the engagement of or performance of services by any Indemnified Party hereunder, (ii) any actual or alleged untrue statement of a material fact, or the actual or alleged failure to state a material fact necessary to make a statement not misleading in light of the circumstances under which it was made with respect to all information furnished to any Indemnified Party or made available to a prospective party to a transaction, or (iii) an actual or alleged violation of applicable law by Client (including, without limitation, securities laws) or the negligent or intentional acts or omissions of Client (including the failure to perform any duty imposed by law); and will reimburse each Indemnified Party for all reasonable fees and expenses (including fees and expenses of counsel) (collectively, "Expenses") as incurred in connection with investigating, preparing, pursuing or defending any threatened or pending claim, action, proceeding or investigation (collectively, "Proceedings") arising therefrom, and regardless of whether such Indemnified Party is a formal party to such Proceeding. Client agrees not to enter into any waiver, release or settlement of any Proceeding (whether or not any Indemnified Party is a formal party to such Proceeding) without the prior written consent of Consultant (which consent will not be unreasonably withheld or delayed) unless such waiver, release or settlement includes an unconditional release of each Indemnified Party from all liability arising out of such Proceeding.
17. Time Period for Legal Action. Unless the time period is shorter under applicable law, except in connection with paragraphs 16 and 17 above, Consultant and Client agree that any legal action or lawsuit by one party against the other party or its affiliates, officers, directors, employees, contractors, agents, or other representatives, whether based in contract, warranty, indemnity, negligence, strict liability or other tort or otherwise, relating to (a) this Agreement or the Consulting Report, (b) any services or studies under this Agreement or (c) any acts or conduct relating to such services or studies, shall be filed within two (2) years from the date of delivery to Client of the Consulting Report to which the claims or causes of action in the legal action or lawsuit relate. The time period stated in this section shall not be extended by any incapacity of a party or any delay in the discovery or accrual of the underlying claims, causes of action or damages.



Attachment L
Proposed Revisions to Development Agreement

RECORDING REQUESTED BY:
CITY OF BEYERLY HILLS

WHEN RECORDED MAIL TO:

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

AMENDED AND RESTATED
DEVELOPMENT AGREEMENT

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

RECITALS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~L.M.~~ On ~~_____~~, ~~2016, April~~, ~~2008~~, the City Council adopted Ordinance No. _____ approving this Agreement, and such ordinance became effective on ~~_____~~, ~~201608~~.

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

AGREEMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(n)~~(m) "EMS Fee" means the fee paid pursuant to the provisions of Section 1-00(e) of this Agreement, which payments may be used by the City for various public projects and programs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Recitals of Premises. Purpose and Intent.

(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. Subject to the exercise of the City's Reserved Powers, any Subsequent Project Approvals shall, at the election of Developer, be subject to the Applicable Rules or the rules,

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

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

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

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

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

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

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

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

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

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

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

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

10. Developer's Obligations.

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

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

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

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

Comment [dg1]: Economic terms to be discussed.

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

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

Comment [dg2]: Security to be discussed.

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

(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 shall be—equal to **\$4.50 for each \$1,000** of the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrance remaining thereon at the time of sale). The EMS Fee shall be paid from the escrow account set up for the Sales Transaction. The fee shall be paid upon each Sales Transaction by the then current owner.

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

(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. Developer, or any subsequent owner of the Property or any portion thereof, shall provide notice to City, in a form satisfactory to City, upon any opening of escrow that will result in a Sales Transaction or any other conveyance of the Property or portion thereof. The notice shall include a declaration stating the amount of the EMS Fee due upon closing of any Sales Transaction, or in the case of a conveyance that is not a Sales Transaction, the reason that such conveyance is not a Sales Transaction and therefore not subject to the EMS Fee. Upon receipt of the full amount of the EMS Fee payable with respect to a sale, the City shall execute and deliver such documentation, in recordable form, as Developer, the buyer or the title company may reasonably request to evidence the payment of the EMS Fee and extinguishment of the City's lien rights with respect to such sale (a "Lien Release"). Such Lien Release shall also indicate that payment of the EMS Fee shall not extinguish the City's lien rights with respect to subsequent Sales Transactions. In the event that the City determines that a conveyance is not a Sales Transaction, the City shall execute and deliver to the seller, buyer or title company documentation that the City has determined that the conveyance is not a Sales Transaction and not subject to the EMS Fee.

(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 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.

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

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

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

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

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

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

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

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

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

~~(k)~~(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 commercial uses~~ on the Project site (to the extent the Project includes valet parking, or otherwise at the ~~Hotel commercial~~ parking entrance area). The easement shall be in form and

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

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

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

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

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

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, unless: (A) at least thirty (30) days before any transfer, Developer has submitted to City the name of the proposed transferee and financial information regarding the transferee reasonably satisfactory to the City's Chief Financial Officer, and the City determines, prior to transfer, that the proposed transferee is able to satisfactorily fulfill the obligations of this Agreement, and (B) the transferee accepts, in writing, the obligations of Developer under this Agreement. Such writing shall be in form and content reasonably satisfactory to the City Attorney. No owner of a residential condominium interest shall have any development rights under this Agreement by virtue of such ownership interest.

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 if, in order to cure such failure or default, it is necessary for the Mortgagee to obtain possession of the property such as by seeking the appointment of a receiver or other legal process. Any Mortgagee that undertakes to cure or attempt to cure any such failure or default shall provide written notice to the City that it is undertaking efforts of such a nature; provided that no initiation of any such efforts by a Mortgagee shall obligate such Mortgagee to complete or succeed in any such curative efforts.

(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 draftsman, 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 EIR.

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

To Developer: Wanda Beverly Hills Properties, LLC
Project Lotus LLC
Attn: Mr. David Shu~~Manager Rodeo-Collection~~
43924 North Canon Rodeo
Drive
Suite 207~~Third Floor~~
Beverly Hills, CA 90210

With Copy to:

To City: Reed Smith LLP
Candy & Candy
~~100 Brompton Road, Knightsbridge~~
~~London~~
Attn: Charles Seeman, Esq.
101 Second Street
Suite 1800~~SW3-1ER~~
United
San Francisco, CA 94105-3659
Kingdom

With Copy to:

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

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

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

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 _____, 200-16

CITY OF BEYERLY HILLS,
A Municipal Corporation

JIMMY DELSHADOHN MIRISCH
Mayor of the City of
Beverly Hills, California

ATTEST:

_____(SEAL)

BYRON POPE
City Clerk

B0785-142511044069v2.doc

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

By: _____
Name: _____
Its: _____

APPROVED AS TO FORM:

LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

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

EXHIBIT A
Legal Description

9900 WILSHIRE LEGAL DESCRIPTION.

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

PARCEL 1:

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

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

PARCEL 2:

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

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

EXHIBIT A-1

Processing Fees

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 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.

OPEN SPACE EASEMENT AGREEMENT

This OPEN SPACE EASEMENT AGREEMENT (the "Agreement") is entered into as of _____, ~~201~~ 201608 (the "Effective Date"), by and between WANDA BEVERLY HILLS PROPERTIES, LLC, PROJECT LOTUS, 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 _____, 201608 (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 to 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 Grantor 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
Project Lotus
LLC Attn:
Manager Rodeo
Collection
424 North Rodeo

Drive Third Floor
Beverly Hills, CA 90210

With a copy to: [Reed Smith LLP](#)
[Attn: Charles Seeman, Esq.](#)
[101 Second Street](#)
[Suite 1800](#)
[San Francisco, CA 94105-3659](#)
[Candy & Candy](#)

If to Grantee: ~~[100 Brampton Road, Knightsbridge](#)~~
~~[London](#)~~
~~[S.W. 3](#)~~
~~[United Kingdom](#)~~

With a copy to: City of Beverly Hills
Beverly Hills City Hall
455 North Rexford Drive, Third Floor
Beverly Hills, California 90210
Attn: City Manager

City of Beverly Hills
455 North Rexford Drive, Suite 220
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
PROJECT LOTUS, LLC, a Delaware limited liability company

By: _____
Print Name: _____
Title: _____

GRANTEE:

THE CITY OF BEYERLY HILLS,
a municipal corporation

By: _____
Print Name: _____
Title: _____

ATTEST:

_____(SEAL)
BYRON POPE
City Clerk

Approved as to form:

Approved as to content:

LAURENCE WIENER
City Attorney

MAHDI ALUZRIRODERICK J. WOOD
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, Connty of Los Angeles described as follows:

PARCEL 1:

THAT PORTION OF BLOCK 33 OF BEYERLY, 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:

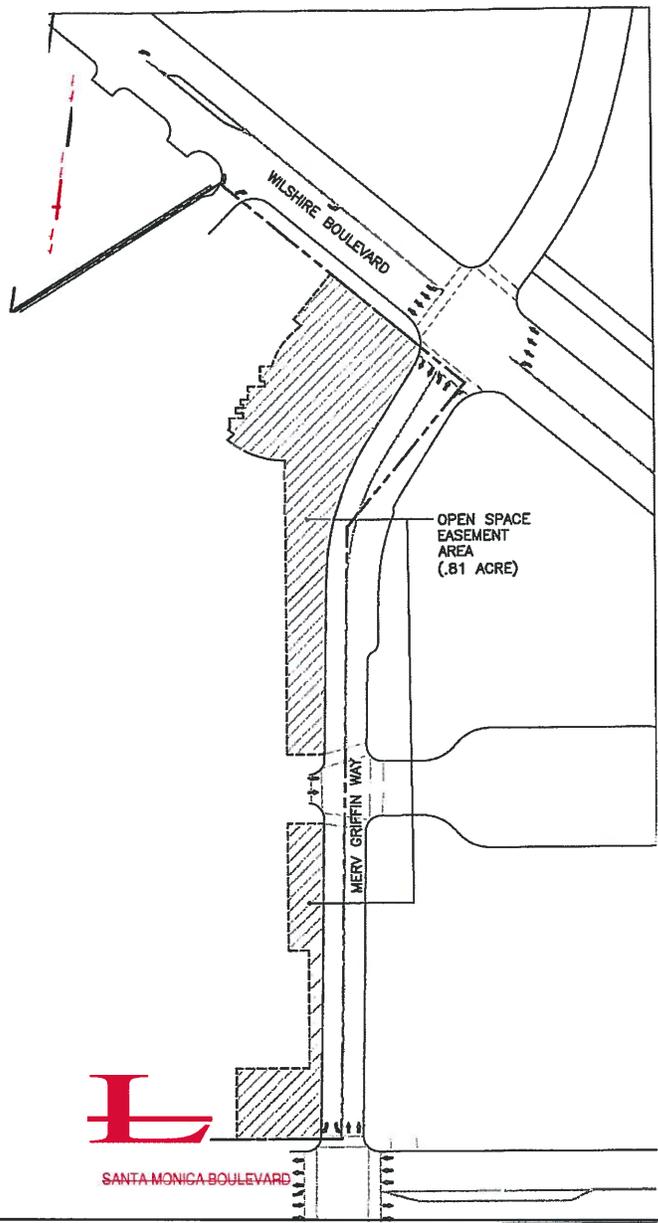
AN EASEMENT FOR PRIVATE ROAD PURPOSES OVER THE EASTERLY 20 FEET OF THOSE PORTIONS OF LOTS 3 AND 7 IN BLOCK 33 OF BEYERLY, IN THE CITY OF BEVERLY HILLS, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 13 PAGES 62 AND 63 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, 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]



ATTACHMENT B

9900 WILSHIRE
PUBLIC OPEN SPACE

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 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.

BUS TURNOUT EASEMENT AGREEMENT

This BUS TURNOUT EASEMENT AGREEMENT (the "Agreement") is entered into as of _____, ~~201~~ 201608 (the "Effective Date"), by and between WANDA BEVERLY HILLS PROPERTIES, LLC, - PROJECT LOTUS, LLC, a Delaware limited liability company ("Grantor") and THE CITY OF BEYERLY 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

B. _____, 201608 (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 easements for bus turnouts along the Development's Wilshire Boulevard ~~and Santa Monica Boulevard~~ frontages that ~~is are~~ 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 ~~two a~~ perpetual ~~-easements~~ in and over the Grantor Parcel described on Exhibit B (the "Easements") ~~as follows: (i) one easement~~ sufficient to provide a sidewalk area, behind a bus turnout along the Development's Wilshire Boulevard frontage, ~~and (ii) one easement sufficient to provide a sidewalk area, behind bus turnout along the Development's Santa Monica 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 Grantor 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 Project Lotus LLC Attn:-
Manager Rodeo Collection

With a copy
to:

424 North Rodeo Drive Third Floor
Beverly Hills, CA 90210

Reed Smith LLP
Attn: Charles Seeman, Esq.

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105-3659 Candy & Candy
100 Brampton Road,
Knightsbridge London
SW3 1ER
United Kingdom

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 220
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 or Santa Monica 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

PROJECT LOTUS, LLC, a Delaware limited liability company

By: _____
Print Name: _____
Title: _____

GRANTEE:

THE CITY OF BEVERLY HILLS

By: _____
Print Name: _____
Title: _____

ATTEST:

_____(SEAL)
BYRON POPE
City Clerk

Approved as to form:

Approved as to content:

LAURENCE WIENER
City Attorney

MAHDI ALUZRI RODERICK J. WOOD
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 _____
Signature of Notary Public

(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 BEYERLY, 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:

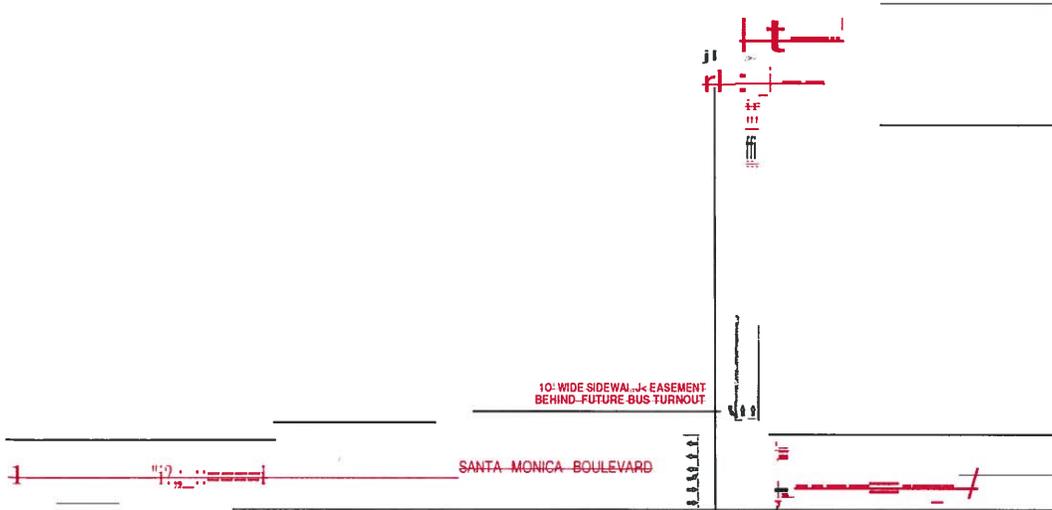
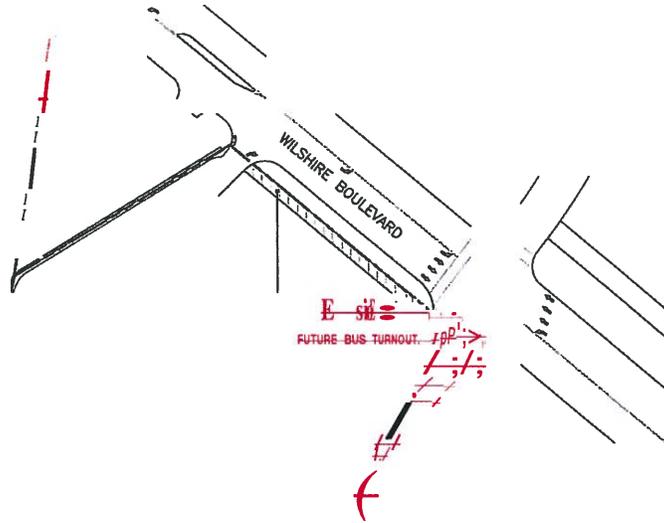
AN EASEMENT FOR PRIVATE ROAD PURPOSES OVER THE EASTERLY 20 FEET OF THOSE PORTIONS OF LOTS 3 AND 7 IN BLOCK 33 OF BEYERLY, IN THE CITY OF BEYERLY HILLS, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 13 PAGES 62 AND 63 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY,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

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

EXHIBIT "B"

DESCRIPTION OF EASEMENTS

[To be added]



ATTACHMENT D

9900 WILSHIRE-BUS TURNOUT
SIDEWALKS

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 into as of _____, ~~201~~ 201608 (the "Effective Date"), by and between WANDA BEVERLY HILLS PROPERTIES, LLC PROJECT LOTUS, LLC, a Delaware limited liability company ("Grantor") and THE CITY OF BEYERLY 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 A~~ Development Agreement dated _____

B. _____, ~~201608~~ (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 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 Project Lotus LLC
Attn: Manager Rodeo Collection
424 North Rodeo Drive Third Floor
Beverly Hills, CA 90210

With a copy
to:

If to Grantee: Reed Smith LLP
Attn: Charles Seeman, Esq.
101 Second Street
Suite 1800
San Francisco, CA 94105-3659
Candy & Candy
100 Brompton Road,
Knightsbridge London
SW3 1ER

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Is City Hall
455 North Rexford Drive, Third Floor
Beverly Hills, California 90210
Attn: City Manager

With a copy to: City of Beverly Hills
 455 North Rexford Drive, Suite 220
 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~~PROJECT LOTUS,~~
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:

Approved as to content:

LAURENCE
WIENER
City Attorney

RODERICK J. WOOMAHDËI 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:

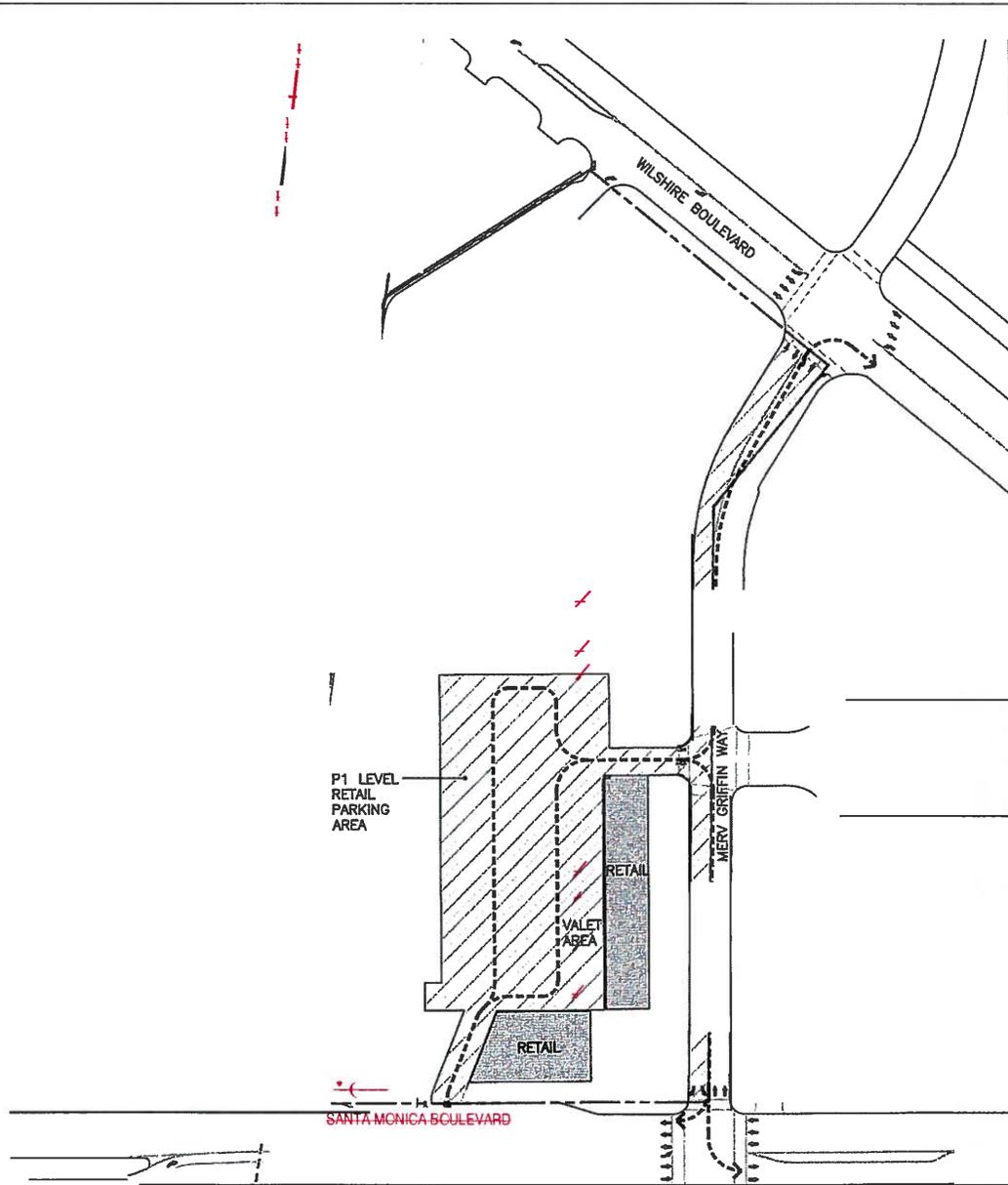
AN EASEMENT FOR PRIVATE ROAD PURPOSES OVER THE EASTERLY 20 FEET OF THOSE PORTIONS OF LOTS 3 AND 7 IN BLOCK 33 OF BEVERLY, IN THE CITY OF BEVERLY HILLS, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 13 PAGES 62 AND 63 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, 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]



ATTACHMENT E
9900 WILSHIRE
ACCESS FOR CITY SHUTTLE

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 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.

SUBWAY PORTAL EASEMENT AGREEMENT

This SUBWAY PORTAL EASEMENT AGREEMENT (the "Agreement") is entered into as of _____, ~~201~~ 2016~~08~~ (the "Effective Date"), by and between ~~WANDA BEVERLY HILLS PROPERTIES, LLC-PROJECT LOTUS, 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

B. _____, ~~2008~~, 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 Wilshire Boulevard or 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 ~~twentieth~~twelfth (1220th) 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~~twentieth (1220th) 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 Grantor 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 (~~14~~) 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 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 ~~Project Lotus LLC~~
Attn: Manager Rodeo Collection
424 North Rodeo Drive Third Floor
Beverly Hills, CA 90210

With a copy to:

Candy & Candy
100 Brompton Road, Knightsbridge
London
SW3 1ER
United Kingdom

If to Grantee:

With a copy to: Reed Smith LLP
Attn: Charles Seeman, Esq.
101 Second Street
Suite 1800
San Francisco, CA 94105-3659

City of Beverly Hills
Beverly Hills City Hall
455 North Rexford Drive
Beverly Hills, California 90210
Attn: City Manager

City of Beverly Hills
455 North Rexford Drive, Suite 220
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:

PROJECT LOTUS, LLC, WANDA
BEVERLY HILLS PROPERTIES, LLC.

a Delaware limited liability company

By: _____
Print Name: _____
Title: _____

GRANTEE:

THE CITY OF BEVERLY HILLS

By: _____
Print Name: _____
Title: _____

ATTEST:

_____(SEAL)
BYRON POPE
City Clerk

Approved as to form:

Approved as to content:

LAURENCE WIENER
City Attorney

MAHDI ALUZRI, RODERICK J. WOOD
City Manager

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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
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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
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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 BEYERLY HILLS, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 13, PAGES 62 AND 63 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

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

PARCEL 2:

AN EASEMENT FOR PRIVATE ROAD PURPOSES OVER THE EASTERLY 20 FEET OF THOSE PORTIONS OF LOTS 3 AND 7 IN BLOCK 33 OF BEYERLY, IN THE CITY OF 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 _____, ~~201~~ ~~20016~~, 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: _____, 200__

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.

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



Attachment M
Final Supplemental Environmental Impact Report
(Separate Attachment)



Planning Commission Report
9900 Wilshire Boulevard (One Beverly Hills)
August 23, 2016

Attachment N
Architectural Plans
(Separate Attachment)