
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

Form 10-Q

(Mark One)

**QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES
EXCHANGE ACT OF 1934**

For the quarterly period ended June 30, 2010

OR

**TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES AND
EXCHANGE ACT OF 1934**

For the transition period from _____ to _____

Commission File Number 001-14429

SKECHERS U.S.A., INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or Other Jurisdiction of Incorporation or Organization)

95-4376145
(I.R.S. Employer Identification No.)

228 Manhattan Beach Blvd.
Manhattan Beach, California
(Address of Principal Executive Office)

90266
(Zip Code)

(310) 318-3100
(Registrant's Telephone Number, Including Area Code)

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).
Yes No

Indicate by check mark whether the Registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definitions of "large accelerated filer", "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer Accelerated filer Non-accelerated filer Smaller reporting company
(Do not check if a smaller reporting company)

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes No

THE NUMBER OF SHARES OF CLASS A COMMON STOCK OUTSTANDING AS OF AUGUST 2, 2010: 36,166,847.

THE NUMBER OF SHARES OF CLASS B COMMON STOCK OUTSTANDING AS OF AUGUST 2, 2010: 11,390,610.

SKECHERS U.S.A., INC. AND SUBSIDIARIES
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PART I – FINANCIAL INFORMATION**ITEM 1. CONDENSED CONSOLIDATED FINANCIAL STATEMENTS****SKECHERS U.S.A., INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED BALANCE SHEETS
(Unaudited)
(In thousands)**

	June 30, 2010	December 31, 2009
ASSETS		
Current Assets:		
Cash and cash equivalents	\$ 273,266	\$ 265,675
Short-term investments	0	30,000
Trade accounts receivable, net	304,992	219,924
Other receivables	7,526	12,177
Total receivables	312,518	232,101
Inventories	219,360	224,050
Prepaid expenses and other current assets	30,012	28,233
Deferred tax assets	8,950	8,950
Total current assets	844,106	789,009
Property and equipment, at cost, less accumulated depreciation and amortization	236,709	171,667
Intangible assets, less accumulated amortization	8,147	9,011
Deferred tax assets	13,667	13,660
Other assets, at cost	33,213	12,205
TOTAL ASSETS	\$1,135,842	\$ 995,552
LIABILITIES AND EQUITY		
Current Liabilities:		
Short-term borrowings	\$ 1,956	\$ 2,006
Current installments of long-term borrowings	15,899	529
Accounts payable	191,653	196,163
Accrued expenses	22,142	31,843
Total current liabilities	231,650	230,541
Long-term borrowings, excluding current installments	14,532	15,641
Total liabilities	246,182	246,182
Commitments and contingencies		
Equity:		
Preferred Stock, \$.001 par value; 10,000 authorized; none issued and outstanding	0	0
Class A Common Stock, \$.001 par value; 100,000 shares authorized; 36,204 and 34,229 shares issued and outstanding at June 30, 2010 and December 31, 2009, respectively respectively	36	34
Class B Common Stock, \$.001 par value; 100,000 shares authorized; 11,346 and 12,360 shares issued and outstanding at June 30, 2010 and December 31, 2009, respectively respectively	11	13
Additional paid-in capital	295,857	272,662
Accumulated other comprehensive income (loss)	(1,067)	9,348
Retained earnings	560,398	463,865
Skechers U.S.A., Inc. equity	855,235	745,922
Noncontrolling interests	34,425	3,448
Total equity	889,660	749,370
TOTAL LIABILITIES AND EQUITY	\$1,135,842	\$ 995,552

See accompanying notes to unaudited condensed consolidated financial statements.

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SKECHERS U.S.A., INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE INCOME
(Unaudited)
(In thousands, except per share data)

	Three-Months Ended June 30,		Six-Months Ended June 30,	
	2010	2009	2010	2009
Net sales	\$ 504,859	\$ 298,976	\$ 997,623	\$ 642,446
Cost of sales	267,214	176,373	522,560	394,414
Gross profit	237,645	122,603	475,063	248,032
Royalty income	875	332	1,260	604
	<u>238,520</u>	<u>122,935</u>	<u>476,323</u>	<u>248,636</u>
Operating expenses:				
Selling	52,437	34,813	86,746	56,323
General and administrative	127,299	95,848	249,786	193,886
	<u>179,736</u>	<u>130,661</u>	<u>336,532</u>	<u>250,209</u>
Earnings (loss) from operations	<u>58,784</u>	<u>(7,726)</u>	<u>139,791</u>	<u>(1,573)</u>
Other income (expense):				
Interest income	436	581	1,864	1,290
Interest expense	(118)	(912)	(833)	(957)
Other, net	1,611	245	1,820	27
	<u>1,929</u>	<u>(86)</u>	<u>2,851</u>	<u>360</u>
Earnings (loss) before income taxes (benefit)	60,713	(7,812)	142,642	(1,213)
Income tax expense (benefit)	20,396	(1,186)	46,202	(1,939)
Net earnings (loss)	40,317	(6,626)	96,440	726
Less: Net earnings (loss) attributable to noncontrolling interests	80	(699)	(93)	(1,567)
Net earnings (loss) attributable to Skechers U.S.A., Inc.	<u>\$ 40,237</u>	<u>\$ (5,927)</u>	<u>\$ 96,533</u>	<u>\$ 2,293</u>
Net earnings (loss) per share attributable to Skechers U.S.A., Inc.:				
Basic	<u>\$ 0.85</u>	<u>\$ (0.13)</u>	<u>\$ 2.05</u>	<u>\$ 0.05</u>
Diluted	<u>\$ 0.82</u>	<u>\$ (0.13)</u>	<u>\$ 1.97</u>	<u>\$ 0.05</u>
Weighted average shares used in calculating earnings (loss) per share attributable to Skechers U.S.A., Inc.:				
Basic	<u>47,422</u>	<u>46,282</u>	<u>47,107</u>	<u>46,252</u>
Diluted	<u>49,130</u>	<u>46,282</u>	<u>48,955</u>	<u>46,424</u>
Comprehensive income:				
Net earnings (loss)	\$ 40,237	\$ (5,927)	\$ 96,533	\$ 2,293
Unrealized gain on marketable securities, net of tax	0	10,234	0	8,151
Gain (loss) on foreign currency translation adjustment, net of tax	(6,147)	6,836	(10,415)	3,874
Total comprehensive income	<u>\$ 34,090</u>	<u>\$ 11,143</u>	<u>\$ 86,118</u>	<u>\$ 14,318</u>

See accompanying notes to unaudited condensed consolidated financial statements.

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SKECHERS U.S.A., INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)
(In thousands)

	Six-Months Ended June 30,	
	2010	2009
Cash flows from operating activities:		
Net earnings	\$ 96,533	\$ 2,293
Adjustments to reconcile net earnings to net cash provided by (used in) operating activities:		
Noncontrolling interest in subsidiaries	(93)	(1,567)
Depreciation of property and equipment	10,870	9,337
Amortization of deferred financing costs	741	0
Amortization of intangible assets	892	410
Provision (recoveries) for bad debts and returns	3,135	(352)
Tax benefits from stock-based compensation	0	0
Non-cash stock compensation	6,665	1,210
Loss on disposal of property and equipment	50	2
Deferred taxes	(12)	(605)
Impairment of property and equipment	0	761
(Increase) decrease in assets:		
Receivables	(91,260)	(17,288)
Inventories	3,718	71,199
Prepaid expenses and other current assets	(2,215)	(548)
Other assets	(22,555)	(1,357)
Increase (decrease) in liabilities:		
Accounts payable	(5,058)	11,012
Accrued expenses	(9,381)	(6,173)
Net cash provided by (used in) operating activities	<u>(7,970)</u>	<u>68,334</u>
Cash flows from investing activities:		
Capital expenditures	(29,721)	(26,860)
Maturities of investments	30,000	375
Redemption of auction rate securities	0	95,250
Intangible additions	(31)	0
Net cash provided by investing activities	<u>248</u>	<u>68,765</u>
Cash flows from financing activities:		
Net proceeds from the issuances of stock through employee stock purchase plan and the exercise of stock options		
	10,772	958
Payments on long-term debt	(281)	(166)
Increase (decrease) in short-term borrowings	(61)	639
Capital contribution from noncontrolling interest of consolidated entity	1,000	3,000
Excess tax benefits from stock-based compensation	5,758	—
Net cash provided by financing activities	<u>17,188</u>	<u>4,431</u>
Net increase in cash and cash equivalents	9,466	141,530
Effect of exchange rates on cash and cash equivalents	(1,875)	553
Cash and cash equivalents at beginning of the period	<u>265,675</u>	<u>114,941</u>
Cash and cash equivalents at end of the period	<u>\$ 273,266</u>	<u>\$ 257,024</u>
Supplemental disclosures of cash flow information:		
Cash paid during the period for:		
Interest	\$ 1,512	\$ 1,978
Income taxes	53,343	1,030
Non-cash transactions:		
Land contribution from noncontrolling interest of consolidated entity	30,000	0
Note payable contribution from noncontrolling interest of consolidated entity	14,567	0

See accompanying notes to unaudited condensed consolidated financial statements.

SKECHERS U.S.A., INC. AND SUBSIDIARIES
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
JUNE 30, 2010 and 2009
(Unaudited)

(1) GENERAL*Basis of Presentation*

The accompanying condensed consolidated financial statements of the Company have been prepared in accordance with accounting principles generally accepted in the United States of America for interim financial information and in accordance with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include certain footnotes and financial presentations normally required under accounting principles generally accepted in the United States of America for complete financial reporting. The interim financial information is unaudited, but reflects all material normal recurring adjustments and accruals which are, in the opinion of management, considered necessary to provide a fair presentation for the interim periods presented. The accompanying condensed consolidated financial statements should be read in conjunction with the audited consolidated financial statements included in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2009.

The results of operations for the six months ended June 30, 2010 are not necessarily indicative of the results to be expected for the entire fiscal year ending December 31, 2010.

Use of Estimates

The preparation of the condensed consolidated financial statements, in conformity with accounting principles generally accepted in the United States of America, requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting periods. Actual results could differ from those estimates.

Noncontrolling interests

The Company has interests in certain joint ventures which are consolidated into its financial statements. Noncontrolling interest was income of \$0.1 million and loss of \$0.7 million for the three months ended June 30, 2010 and 2009, respectively, which represents the share of net earnings or loss that is attributable to our joint venture partners. Noncontrolling interest was loss of \$0.1 million and a loss of \$1.6 million for the six months ended June 30, 2010 and 2009, respectively. Our joint venture partners made a \$30.0 million capital contribution in land and a cash capital contribution of \$1.0 million during the six months ended June 30, 2010.

For the period ended June 30, 2010, the Company has determined that its joint venture with HF Logistics I, LLC ("HF") is a variable interest entity ("VIE") and that the Company is the primary beneficiary. The VIE is consolidated into the condensed consolidated financial statements and the carrying amounts and classification of assets and liabilities was as follows (in millions):

	<u>June 30, 2010</u>	<u>December 31, 2009</u>
Current assets	\$ 4,178	\$ 0
Noncurrent assets	75,990	0
Total assets	<u>\$ 80,168</u>	<u>\$ 0</u>
Current liabilities	\$ 5,584	\$ 0
Noncurrent liabilities	14,567	0
Total liabilities	<u>\$ 20,151</u>	<u>\$ 0</u>

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The Company did not have a significant variable interest in any unconsolidated VIE's.

Recent accounting pronouncements

In June 2009, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") 2009-17, *Amendments to FASB Interpretation No. 46(R)*. ASU 2009-17 requires a qualitative approach to identifying a controlling financial interest in a VIE, and requires ongoing assessment of whether an entity is a VIE and whether an interest in a VIE makes the holder the primary beneficiary of the VIE. ASU 2009-17 is effective for interim and annual reporting periods beginning after November 15, 2009. Our adoption of ASU 2009-17 did not have a material impact on our consolidated financial statements.

(2) INVESTMENTS

At December 31, 2009, short-term investments were \$30.0 million, which consisted of U.S. government obligations with maturities of greater than 90 days. These investments were redeemed during the six months ended June 30, 2010.

(3) REVENUE RECOGNITION

The Company recognizes revenue on wholesale sales when products are shipped and the customer takes title and assumes risk of loss, collection of relevant receivable is reasonably assured, persuasive evidence of an arrangement exists and the sales price is fixed or determinable. This generally occurs at time of shipment. The Company recognizes revenue from retail sales at the point of sale. Allowances for estimated returns, discounts, doubtful accounts and chargebacks are provided for when related revenue is recorded. Related costs paid to third-party shipping companies are recorded as a cost of sales.

Royalty income is earned from licensing arrangements. Upon signing a new licensing agreement, we receive up-front fees, which are generally characterized as prepaid royalties. These fees are initially deferred and recognized as revenue as earned (i.e., as licensed sales are reported to the company or on a straight-line basis over the term of the agreement). The first calculated royalty payment is based on actual sales of the licensed product. Typically, at each quarter-end we receive correspondence from our licensees indicating the actual sales for the period. This information is used to calculate and accrue the related royalties based on the terms of the agreement.

(4) OTHER COMPREHENSIVE INCOME

In addition to net earnings (loss), other comprehensive income includes changes in foreign currency translation adjustments and unrealized gains and losses on marketable securities. The Company operates internationally through several foreign subsidiaries. Assets and liabilities of the foreign operations denominated in local currencies are translated at the rate of exchange at the balance sheet date. Revenues and expenses are translated at the weighted average rate of exchange during the period of translation. The resulting translation adjustments, along with translation adjustments related to long-term intercompany loans, make up the translation adjustment in other comprehensive income.

The activity in other comprehensive income, net of income taxes, was as follows (in thousands):

Diluted earnings (loss) per share	Three-Months Ended June 30,		Six-Months Ended June 30,	
	2010	2009	2010	2009
Net earnings (loss)	\$ 40,317	\$ (6,626)	\$ 96,440	\$ 726
Unrealized gain on marketable securities, net of tax	0	10,234	0	8,151
Income (loss) on foreign currency translation adjustment, net of tax	(6,120)	6,881	(10,350)	3,899
Comprehensive income	34,197	10,489	86,090	12,776
Comprehensive income (loss) attributable to noncontrolling interest	(107)	(654)	28	(1,542)
Comprehensive income attributable to parent	<u>\$ 34,090</u>	<u>\$ 11,143</u>	<u>\$ 86,118</u>	<u>\$ 14,318</u>

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(5) STOCK COMPENSATION

The Company recognizes compensation expense for stock-based awards based on the grant date fair value. Stock compensation expense was \$3.4 million and \$0.6 million for the three months ended June 30, 2010 and 2009, respectively. Stock compensation expense was \$6.7 million and \$1.2 million for the six months ended June 30, 2010 and 2009, respectively.

Stock options granted pursuant to the 1998 Stock Option, Deferred Stock and Restricted Stock Plan and the 2007 Incentive Award Plan (collectively, the “Equity Incentive Plan”) were as follows:

	SHARES	WEIGHTED AVERAGE EXERCISE PRICE	WEIGHTED AVERAGE REMAINING CONTRACTUAL TERM	AGGREGATE INTRINSIC VALUE
Outstanding at December 31, 2009	1,505,694	\$ 12.01		
Granted	0	0		
Exercised	(838,283)	12.56		
Cancelled	(24,791)	3.94		
Outstanding at June 30, 2010	<u>642,620</u>	11.61	1.9 years	\$ 16,008,636
Exercisable at June 30, 2010	<u>642,620</u>	11.61	1.9 years	\$ 16,008,636

A summary of the status and changes of our nonvested shares related to the Equity Incentive Plan as of and during the six months ended June 30, 2010 is presented below:

	SHARES	WEIGHTED AVERAGE GRANT-DATE FAIR VALUE
Nonvested at December 31, 2009	2,158,644	\$ 17.86
Granted	129,000	30.96
Vested	(102,644)	17.06
Cancelled	0	0
Nonvested at June 30, 2010	<u>2,185,000</u>	18.67

As of June 30, 2010, there was \$31.5 million of unrecognized compensation cost related to nonvested common shares. The cost is expected to be amortized over a weighted average period of 2.3 years.

(6) EARNINGS PER SHARE

Basic earnings (loss) per share represents net earnings divided by the weighted average number of common shares outstanding for the period. Diluted earnings per share represents the weighted average number of common shares and potential common shares, if dilutive, that would arise from the exercise of stock options and nonvested shares using the treasury stock method.

The following is a reconciliation of net earnings (loss) and weighted average common shares outstanding for purposes of calculating basic earnings per share (in thousands, except per share amounts):

Basic earnings (loss) per share	Three-Months Ended June 30,		Six-Months Ended June 30,	
	2010	2009	2010	2009
Net earnings (loss) attributable to Skechers U.S.A., Inc.	\$ 40,237	\$ (5,927)	\$ 96,533	\$ 2,293
Weighted average common shares outstanding	47,422	46,282	47,107	46,252
Basic earnings (loss) per share attributable to Skechers U.S.A., Inc.	\$ 0.85	\$ (0.13)	\$ 2.05	\$ 0.05

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The following is a reconciliation of net earnings (loss) and weighted average common shares outstanding for purposes of calculating diluted earnings per share (in thousands, except per share amounts):

Diluted earnings (loss) per share	Three-Months Ended June 30,		Six-Months Ended June 30,	
	2010	2009	2010	2009
Net earnings (loss) attributable to Skechers U.S.A., Inc.	\$ 40,237	\$ (5,927)	\$ 96,533	\$ 2,293
Weighted average common shares outstanding	47,422	46,282	47,107	46,252
Dilutive effect of stock options	1,708	0	1,848	172
Weighted average common shares outstanding	49,130	46,282	48,955	46,424
Diluted earnings (loss) per share attributable to Skechers U.S.A., Inc.	\$ 0.82	\$ (0.13)	\$ 1.97	\$ 0.05

There were no options excluded from the computation of diluted earnings per share for the three months and six months ended June 30, 2010, respectively. Options to purchase 993,742 shares and 995,742 shares of Class A common stock were not included in the computation of diluted earnings (loss) per share for the three months and six months ended June 30, 2009, respectively, because their effect would have been anti-dilutive.

(7) INCOME TAXES

The Company's effective tax rates for the second quarter and first six months of 2010 were 33.6% and 32.4%, respectively, compared to the effective tax rates of 15.2% and 159.9% for the second quarter and first six months of 2009, respectively. Income tax expense for the three months ended June 30, 2010 was \$20.4 million compared to an income tax benefit of \$1.2 million for the same period in 2009. Income tax expense for the six months ended June 30, 2010 was \$46.2 million compared to an income tax benefit of \$1.9 million for the same period in 2009. The income tax benefit for the six months ended June 30, 2009 includes a \$1.9 million discrete tax benefit adjusting the amount of tax benefit recognized in 2008 relating to the Company entering into an advanced pricing agreement ("APA") with the U.S. Internal Revenue Service ("IRS").

The tax provision for the six months ended June 30, 2010 was computed using the estimated effective tax rates applicable to each of the domestic and international taxable jurisdictions for the full year. The estimated effective tax rate is subject to management's ongoing review and revision, if necessary. The rate for the six months ended June 30, 2010 is lower than the expected domestic rate of approximately 40% due to our non-U.S. subsidiary earnings in lower tax rate jurisdictions and our planned permanent reinvestment of undistributed earnings from our non-U.S. subsidiaries, thereby indefinitely postponing their repatriation to the United States. As such, the Company did not provide for deferred income taxes on accumulated undistributed earnings of our non-U.S. subsidiaries.

The Company files income tax returns in the U.S. federal jurisdiction and various state, local and foreign jurisdictions. The Company has completed U.S. federal audits through 2003, and is currently under examination by the IRS for the 2008 tax year. The Company is also under examination by a number of states. During the six months ended June 30, 2010, settlements were reached with certain state tax jurisdictions which reduced the balance of 2010 and prior year unrecognized tax benefits by \$0.3 million.

(8) LINE OF CREDIT AND SHORT-TERM BORROWINGS

On June 30, 2009, the Company entered into a \$250 million secured credit agreement with a group of eight banks that replaced the existing \$150 million credit agreement. The new credit facility matures in June 2013. The credit agreement permits the Company and certain of its subsidiaries to borrow up to \$250 million based upon a borrowing base of eligible accounts receivable and inventory, which amount can be increased to \$300 million at the Company's request and upon satisfaction of certain conditions including obtaining the commitment of existing or prospective lenders willing to provide the incremental amount. Borrowings bear interest at the borrowers' election based on LIBOR or a Base Rate (defined as the greatest of LIBOR plus 1.00%, the Federal Funds Rate plus 0.5% or one of the lenders' prime rate), in each case, plus an applicable margin based on the average daily principal balance of revolving loans under the credit agreement (2.75% to 3.25% for Base Rate Loans and 3.75% to 4.25% for LIBOR loans). The Company pays a monthly unused line of credit fee between 0.5% and 1.0% per annum, which varies

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based on the average daily principal balance of outstanding revolving loans and undrawn amounts of letters of credit outstanding during such month. The credit agreement further provides for a limit on the issuance of letters of credit to a maximum of \$50 million. The credit agreement contains customary affirmative and negative covenants for secured credit facilities of this type, including a fixed charges coverage ratio that applies when excess availability is less than \$50 million. In addition, the credit agreement places limits on additional indebtedness that the Company is permitted to incur as well as other restrictions on certain transactions. We and our subsidiaries were in compliance with all of the covenants of the credit agreement at June 30, 2010. We and our subsidiaries had \$1.8 million of outstanding letters of credit and short-term borrowings of \$2.0 million as of June 30, 2010. We paid syndication and commitment fees of \$5.9 million on this facility which are being amortized over the four-year life of the facility.

(9) LITIGATION

The Company's claims and advertising for its products including for its Shape-ups are subject to the requirements of various regulatory and quasi-government agencies around the world and the Company receives periodic requests for information. The Company is currently responding to requests for information from regulatory and quasi-regulatory agencies in several countries throughout the world and fully cooperates with such requests. The Company believes that its claims and advertising are supported by tests, medical opinions and other relevant data.

Asics Corporation and Asics America Corporation v. Skechers USA, Inc. – On May 11, 2010, Asics Corporation and Asics America Corporation (collectively, "Asics") filed an action against the Company in the United States District Court for the Central District of California, SACV 10-00636 CJC/MLG, alleging trademark infringement, unfair competition, and trademark dilution under both federal and California law and false advertising under California law arising out of our alleged use of stripe designs similar Asics trademarks. The complaint seeks, inter alia, permanent and preliminary injunctive relief, compensatory damages, profits, treble and punitive damages, and attorneys fees. The matter is in the early discovery phase. While it is too early to predict the outcome of the litigation and whether an adverse result would have a material adverse impact on the Company's operations or financial statements, the Company believes it has meritorious defenses and counterclaims, vehemently denies the allegations and intends to defend the case vigorously.

Tamara Grabowski v. Skechers USA, Inc. – On June 18, 2010, Tamara Grabowski filed an action against the Company in the United States District Court for the Southern District of California, Case No. 10 CV 1300 JM (WVG), on her behalf and on behalf of all others similarly situated, alleging that the Company's advertising for Shape-ups violates California's Unfair Competition Law and the California Consumer Legal Remedies Act, and constitutes a breach of express warranty (the "*Grabowski*" action). The complaint seeks certification of a nationwide class, damages, restitution and disgorgement of profits, declaratory and injunctive relief, corrective advertising, and attorneys' fees and costs. The matter is still in the early pleading stage and the Company has not yet answered or filed a responsive pleading. While it is too early to predict the outcome of the litigation and whether an adverse result would have a material adverse impact on the Company's operations or financial statements, the Company believes it has meritorious defenses, vehemently denies the allegations, believes that class certification is not warranted and intends to defend the case vigorously.

Sonia Stalker v. Skechers USA, Inc. – On July 2, 2010 Sonia Stalker filed an action against the Company in the Superior Court of the State of California for the County of Los Angeles, on her behalf and on behalf others all similarly situated, alleging that the Company's advertising for Shape-ups violates California's Unfair Competition Law and the California Consumer Legal Remedies Act. The complaint seeks certification of a nationwide class, restitution, declaratory and injunctive relief, corrective advertising, and attorneys' fees and costs. On July 22, 2010, the Company answered the complaint and filed a notice of related case referencing the *Grabowski* action. On July 23, 2010, the Company removed the case to the United States District Court for the Central District of California, and it is now pending as *Sonia Stalker v Skechers USA, Inc.*, CV 10-5460 SJO (JEM). The matter is still in its early stages. While it is too early to predict the outcome of the litigation and whether an adverse result would have a material adverse impact on the Company's operations or financial statements, the Company believes it has

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meritorious defenses, vehemently denies the allegations, believes that class certification is not warranted and intends to defend the case vigorously.

(10) STOCKHOLDERS' EQUITY

Certain Class B stockholders converted 852,225 shares of Class B common stock into an equivalent number of shares of Class A common stock during the three months ended June 30, 2010. No shares of Class B common stock were converted into shares of Class A common stock during the three months ended June 30, 2009. Certain Class B stockholders converted 1,014,105 and 43,902 shares of Class B common stock into an equivalent number of shares of Class A common stock during the six months ended June 30, 2010 and 2009, respectively.

The following table reconciles equity attributable to noncontrolling interest (in thousands):

	Six-Months Ended June 30,	
	2010	2009
Noncontrolling interest, January 1	\$ 3,448	\$ 3,199
Net loss attributable to noncontrolling interest	(88)	(1,567)
Foreign currency translation adjustment	65	25
Capital contribution by noncontrolling interest	31,000	3,000
Noncontrolling interest, June 30	<u>\$ 34,425</u>	<u>\$ 4,657</u>

(11) SEGMENT AND GEOGRAPHIC REPORTING INFORMATION

We have four reportable segments – domestic wholesale sales, international wholesale sales, retail sales, and e-commerce sales. Management evaluates segment performance based primarily on net sales and gross profit. All other costs and expenses of the Company are analyzed on an aggregate basis, and these costs are not allocated to the Company's segments. Net sales, gross profit and identifiable assets for the domestic wholesale segment, international wholesale, retail, and the e-commerce segment on a combined basis were as follows (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2010	2009	2010	2009
Net sales				
Domestic wholesale	\$ 317,788	\$ 160,890	\$ 591,747	\$ 341,389
International wholesale	77,779	61,490	201,128	161,040
Retail	102,344	72,252	189,586	132,292
E-commerce	6,948	4,344	15,162	7,725
Total	<u>\$ 504,859</u>	<u>\$ 298,976</u>	<u>\$ 997,623</u>	<u>\$ 642,446</u>

	Three Months Ended June 30,		Six Months Ended June 30,	
	2010	2009	2010	2009
Gross profit				
Domestic wholesale	\$ 134,643	\$ 55,881	\$ 257,983	\$ 112,387
International wholesale	32,017	20,258	86,003	53,846
Retail	67,331	44,091	123,113	77,664
E-commerce	3,654	2,373	7,964	4,135
Total	<u>\$ 237,645</u>	<u>\$ 122,603</u>	<u>\$ 475,063</u>	<u>\$ 248,032</u>

	June 30, 2010	December 31, 2009
	Identifiable assets	
Domestic wholesale	\$ 850,540	\$ 712,712
International wholesale	181,330	192,085
Retail	103,719	90,049
E-commerce	253	706
Total	<u>\$ 1,135,842</u>	<u>\$ 995,552</u>

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	<u>Three Months Ended June 30,</u>		<u>Six Months Ended June 30,</u>	
	<u>2010</u>	<u>2009</u>	<u>2010</u>	<u>2009</u>
Additions to property and equipment				
Domestic wholesale	\$ 15,409	\$ 5,488	\$ 16,742	\$ 19,227
International wholesale	2,154	1,599	2,592	3,093
Retail	5,509	3,367	10,387	4,540
Total	<u>\$ 23,072</u>	<u>\$ 10,454</u>	<u>\$ 29,721</u>	<u>\$ 26,860</u>

Geographic Information:

The following summarizes our operations in different geographic areas for the period indicated (in thousands):

	<u>Three Months Ended June 30,</u>		<u>Six Months Ended June 30,</u>	
	<u>2010</u>	<u>2009</u>	<u>2010</u>	<u>2009</u>
Net sales (1)				
United States	\$ 416,122	\$ 230,115	\$ 776,833	\$ 470,406
Canada	11,851	6,552	27,875	15,945
Other international (2)	76,886	62,309	192,915	156,095
Total	<u>\$ 504,859</u>	<u>\$ 298,976</u>	<u>\$ 997,623</u>	<u>\$ 642,446</u>

	<u>June 30, 2010</u>	<u>December 31, 2009</u>
Long-lived assets		
United States	\$ 221,212	\$ 160,444
Canada	931	866
Other international (2)	14,566	10,357
Total	<u>\$ 236,709</u>	<u>\$ 171,667</u>

- (1) The Company has subsidiaries in Canada, United Kingdom, Germany, France, Spain, Italy, Netherlands, Brazil, and Chile that generate net sales within those respective countries and in some cases the neighboring regions. The Company has joint ventures in China, Hong Kong, Malaysia, Singapore, and Thailand that generate net sales from those countries. The Company also has a subsidiary in Switzerland that generates net sales from Switzerland in addition to net sales to our distributors located in numerous non-European countries. Net sales are attributable to geographic regions based on the location of the Company subsidiary.
- (2) Other international consists of Switzerland, United Kingdom, Germany, France, Spain, Italy, Netherlands, China, Hong Kong, Malaysia, Singapore, Thailand, Brazil and Chile.

(12) BUSINESS AND CREDIT CONCENTRATIONS

The Company generates the majority of its sales in the United States; however, several of its products are sold into various foreign countries, which subjects the Company to the risks of doing business abroad. In addition, the Company operates in the footwear industry, which is impacted by the general economy, and its business depends on the general economic environment and levels of consumer spending. Changes in the marketplace may significantly affect management's estimates and the Company's performance. Management performs regular evaluations concerning the ability of customers to satisfy their obligations and provides for estimated doubtful accounts. Domestic accounts receivable, which generally do not require collateral from customers, were equal to \$236.3 million and \$148.3 million before allowances for bad debts, sales returns and chargebacks at June 30, 2010 and December 31, 2009, respectively. Foreign accounts receivable, which in some cases are collateralized by letters of credit, were equal to \$86.7 million and \$86.0 million before allowance for bad debts, sales returns and chargebacks at June 30, 2010 and December 31, 2009, respectively. The Company's credit losses due to write-offs for the three months ended June 30, 2010 and 2009 were \$0.2 million and (\$0.3) million recovery, respectively. The Company's credit losses due to write-offs for the six months ended June 30, 2010 and 2009 were \$1.6 million and (\$0.8) million recovery, respectively.

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Net sales to customers in the U.S. exceeded 70% of total net sales for the three and six months ended June 30, 2010 and 2009. Assets located outside the U.S. consist primarily of cash, accounts receivable, inventory, property and equipment, and other assets. Net assets held outside the United States were \$200.0 million and \$205.9 million at June 30, 2010 and December 31, 2009, respectively.

The Company's net sales to its five largest customers accounted for approximately 31.3% and 29.1% of total net sales for the three months ended June 30, 2010 and 2009, respectively. The Company's net sales to its five largest customers accounted for approximately 28.2% and 25.6% of total net sales for the six months ended June 30, 2010 and 2009, respectively. One customer accounted for 10.9% of our net sales during the three months ended June 30, 2010 and 2009. No customer accounted for more than 10% of our net sales during the six months ended June 30, 2010 and 2009, respectively. One customer accounted for 15.1% of our outstanding accounts receivable balance at June 30, 2010. One customer accounted for 11.3% of net trade receivables at December 31, 2009. One customer accounted for 14.4% and another customer accounted for 10.0% of our outstanding accounts receivable balance at June 30, 2009.

The Company's top five manufacturers produced the following for the three and six months ended June 30, 2010 and 2009, respectively:

	<u>Three Months Ended June 30,</u>		<u>Six Months Ended June 30,</u>	
	<u>2010</u>	<u>2009</u>	<u>2010</u>	<u>2009</u>
Manufacturer #1	36.8%	29.7%	34.6%	26.3%
Manufacturer #2	14.2%	12.4%	13.3%	11.3%
Manufacturer #3	9.4%	11.3%	10.1%	11.0%
Manufacturer #4	8.1%	10.8%	8.6%	10.2%
Manufacturer #5	4.6%	7.2%	4.7%	7.3%
	<u>73.1%</u>	<u>71.4%</u>	<u>71.3%</u>	<u>66.1%</u>

The majority of the Company's products are produced in China. The Company's operations are subject to the customary risks of doing business abroad, including, but not limited to, currency fluctuations and revaluations, custom duties and related fees, various import controls and other monetary barriers, restrictions on the transfer of funds, labor unrest and strikes and, in certain parts of the world, political instability. The Company believes it has acted to reduce these risks by diversifying manufacturing among various factories. To date, these business risks have not had a material adverse impact on the Company's operations.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion should be read in conjunction with our Condensed Consolidated Financial Statements and Notes thereto in Item 1 of this document and our company's annual report on Form 10-K for the year ended December 31, 2009.

We intend for this discussion to provide the reader with information that will assist in understanding our financial statements, the changes in certain key items in those financial statements from period to period, and the primary factors that accounted for those changes, as well as how certain accounting principles affect our financial statements. The discussion also provides information about the financial results of the various segments of our business to provide a better understanding of how those segments and their results affect the financial condition and results of operations of our company as a whole.

This quarterly report on Form 10-Q may contain forward-looking statements made pursuant to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995, which can be identified by the use of forward-looking language such as "intend," "may," "will," "believe," "expect," "anticipate" or other comparable terms. These forward-looking statements involve risks and uncertainties that could cause actual results to differ materially from those projected in forward-looking statements, and reported results shall not be considered an indication of our company's future performance. Factors that might cause or contribute to such differences include:

- international, national and local general economic, political and market conditions, including the recent global economic slowdown and financial crisis;
- entry into the highly competitive performance footwear market;
- sustaining, managing and forecasting our costs and proper inventory levels;
- losing any significant customers, decreased demand by industry retailers and cancellation of order commitments due to the lack of popularity of particular designs and/or categories of our products;
- maintaining our brand image and intense competition among sellers of footwear for consumers;
- anticipating, identifying, interpreting or forecasting changes in fashion trends, consumer demand for the products and the various market factors described above;
- sales levels during the spring, back-to-school and holiday selling seasons; and
- other factors referenced or incorporated by reference in our company's annual report on Form 10-K for the year ended December 31, 2009.

The risks included here are not exhaustive. Other sections of this report may include additional factors that could adversely impact our business, financial condition and results of operations. Moreover, we operate in a very competitive and rapidly changing environment. New risk factors emerge from time to time and we cannot predict all such risk factors, nor can we assess the impact of all such risk factors on our business or the extent to which any factor or combination of factors may cause actual results to differ materially from those contained in any forward-looking statements. Given these risks and uncertainties, investors should not place undue reliance on forward-looking statements as a prediction of actual results. Investors should also be aware that while we do, from time to time, communicate with securities analysts, we do not disclose any material non-public information or other confidential commercial information to them. Accordingly, individuals should not assume that we agree with any statement or report issued by any analyst, regardless of the content of the report. Thus, to the extent that reports issued by securities analysts contain any projections, forecasts or opinions, such reports are not our responsibility.

FINANCIAL OVERVIEW

We have four reportable segments – domestic wholesale sales, international wholesale sales, retail sales, which includes domestic and international retail sales, and e-commerce sales. We evaluate segment performance based primarily on net sales and gross profit. The largest portion of our revenue is derived from the domestic wholesale segment. Net earnings for the three months ended June 30, 2010 was \$40.2 million, or \$0.82 per diluted share.

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Revenue as a percentage of net sales was as follows:

	Three-Months Ended June 30,	
	2010	2009
Percentage of revenues by segment		
Domestic wholesale	62.9%	53.8%
International wholesale	15.4%	20.6%
Retail	20.3%	24.2%
E-commerce	1.4%	1.4%
Total	100%	100%

As of June 30, 2010, we owned 228 domestic retail stores and 34 international retail stores, and we have established our presence in most of what we believe to be the major domestic retail markets. During the first six months of 2010, we opened six domestic concept stores, four domestic outlet stores and seven international outlet stores and we closed one domestic outlet store. We periodically review all of our stores for impairment, and we carefully review our under-performing stores and consider the potential for non-renewal of leases upon completion of the current term of the applicable lease.

During the remainder of 2010, we intend to focus on: (i) growing our international business to 25% to 30% of our total sales, (ii) expanding our retail distribution channel by opening another 15 to 20 stores, including four international company-owned stores, (iii) increasing the product count of all customers by delivering trend-right styles at reasonable prices, and (iv) developing our domestic infrastructure to support ongoing growth.

RESULTS OF OPERATIONS

The following table sets forth for the periods indicated, selected information from our results of operations (in thousands) and as a percentage of net sales:

	Three-Months Ended June 30,				Six-Months Ended June 30,			
	2010		2009		2010		2009	
Net sales	\$504,859	100.0%	\$298,976	100.0%	\$997,623	100.0%	\$642,446	100.0%
Cost of sales	267,214	52.9	176,373	59.0	522,560	52.4	394,414	61.4
Gross profit	237,645	47.1	122,603	41.0	475,063	47.6	248,032	38.6
Royalty income	875	0.1	332	0.1	1,260	0.1	604	0.1
	238,520	47.2	122,935	41.1	476,323	47.7	248,636	38.7
Operating expenses:								
Selling	52,437	10.4	34,813	11.6	86,746	8.7	56,323	8.8
General and administrative	127,299	25.2	95,848	32.1	249,786	25.0	193,886	30.1
	179,736	35.6	130,661	43.7	336,532	33.7	250,209	38.9
Earnings (loss) from operations	58,784	11.6	(7,726)	(2.6)	139,791	14.0	(1,573)	(0.2)
Interest income	436	0.1	581	0.2	1,864	0.2	1,290	0.2
Interest expense	(118)	0	(912)	(0.3)	(833)	(0.1)	(957)	(0.2)
Other, net	1,611	0.3	245	0.1	1,820	0.2	27	0
Earnings (loss) before income taxes	60,713	12.0	(7,812)	(2.6)	142,642	14.3	(1,213)	(0.2)
Income tax expense (benefit)	20,396	4.0	(1,186)	(0.4)	46,202	4.6	(1,939)	(0.3)
Net earnings (loss)	40,317	8.0	(6,626)	(2.2)	96,440	9.7	726	0.1
Less: Net income (loss) attributable to noncontrolling interests	80	0	(699)	(0.2)	(93)	0	(1,567)	(0.2)
Net earnings (loss) attributable to Skechers U.S.A., Inc.	\$ 40,237	8.0%	\$ (5,927)	(2.0)%	\$ 96,533	9.7%	\$ 2,293	0.3%

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THREE MONTHS ENDED JUNE 30, 2010 COMPARED TO THREE MONTHS ENDED JUNE 30, 2009

Net sales

Net sales for the three months ended June 30, 2010 were \$504.9 million, an increase of \$205.9 million or 68.9%, as compared to net sales of \$299.0 million for the three months ended June 30, 2009. The increase in net sales was broad-based in all our segments.

Our domestic wholesale net sales increased \$156.9 million, or 97.5%, to \$317.8 million for the three months ended June 30, 2010, from \$160.9 million for the three months ended June 30, 2009. The largest increases in our domestic wholesale segment came in our Women's and Men's divisions. The average selling price per pair within the domestic wholesale segment was \$24.87 per pair for the three months ended June 30, 2010 compared to \$18.91 per pair for the same period last year, primarily due to acceptance of new designs and styles for our in-season products and reduced close-outs. The increase in the domestic wholesale segment's net sales came on a 50.2% unit sales volume increase to 12.8 million pairs from 8.5 million pairs for the same period in 2009.

Our international wholesale segment net sales increased \$16.3 million, or 26.5%, to \$77.8 million for the three months ended June 30, 2010, compared to \$61.5 million for the three months ended June 30, 2009. Our international wholesale sales consist of direct subsidiary sales—sales we make to department stores and specialty retailers—and sales to our distributors who in turn sell to retailers in various international regions where we do not sell direct. Direct subsidiary sales increased \$17.1 million, or 44.2%, to \$56.0 million for the three months ended June 30, 2010 compared to net sales of \$38.9 million for the three months ended June 30, 2009. The largest sales increases during the quarter came from our subsidiaries in Canada and Germany. Our distributor sales decreased \$0.9 million, or 3.9%, to \$21.7 million for the three months ended June 30, 2010, compared to sales of \$22.6 million for the three months ended June 30, 2009. This was primarily due to decreased sales to our distributors in Panama and Japan as well as the acquisition of our distributor in Chile on June 1, 2009.

Our retail segment sales increased \$30.0 million to \$102.3 million for the three months ended June 30, 2010, a 41.7% increase over sales of \$72.3 million for the three months ended June 30, 2009. The increase in retail sales was due to positive comparable store sales (i.e. those open at least one year) and a net increase of 23 stores. For the three months ended June 30, 2010, we realized positive comparable store sales of 31.7% in our domestic retail stores and 16.0% in our international retail stores. During the three months ended June 30, 2010, we opened four new domestic concept stores, three domestic outlet stores, six international outlet stores, and closed one domestic outlet store. Our domestic retail sales increased 40.4% for the three months ended June 30, 2010 compared to the same period in 2009 due to positive comparable store sales and a net increase of 13 domestic stores. Our international retail sales increased 52.5% for the three months ended June 30, 2010 compared to the same period in 2009 attributable to positive comparable store sales and a net increase of 10 international stores.

Our e-commerce sales increased \$2.6 million, or 59.9%, to \$6.9 million for the three months ended June 30, 2010 from \$4.3 million for the three months ended June 30, 2009. Our e-commerce sales made up approximately 1% of our consolidated net sales for each of the three-month periods ended June 30, 2010 and 2009.

Gross profit

Gross profit for the three months ended June 30, 2010 increased \$115.0 million to \$237.6 million as compared to \$122.6 million for the three months ended June 30, 2009. Gross profit as a percentage of net sales, or gross margin, increased to 47.1% for the three months ended June 30, 2010 from 41.0% for the same period in the prior year. Our domestic wholesale segment gross profit increased \$78.7 million, or 141.0%, to \$134.6 million for the three months ended June 30, 2010 compared to \$55.9 million for the three months ended June 30, 2009. Domestic wholesale margins increased to 42.4% in the three months ended June 30, 2010 from 34.7% for the same period in the prior year. The increase in domestic wholesale margins was due to increased average selling prices, less closeouts and more in-season inventory.

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Gross profit for our international wholesale segment increased \$11.7 million, or 58.1%, to \$32.0 million for the three months ended June 30, 2010 compared to \$20.3 million for the three months ended June 30, 2009. Gross margins were 41.2% for the three months ended June 30, 2010 compared to 33.0% for the three months ended June 30, 2009. The increase in gross margins for our international wholesale segment was due to less closeouts and more in-season inventory. International wholesale sales through our foreign subsidiaries historically have achieved higher gross margins than our international wholesale sales through our foreign distributors. Gross margins for our direct subsidiary sales were 46.9% for the three months ended June 30, 2010 as compared to 37.2% for the three months ended June 30, 2009. Gross margins for our distributor sales were 26.4% for the three months ended June 30, 2010 as compared to 25.6% for the three months ended June 30, 2009.

Gross profit for our retail segment increased \$23.2 million, or 52.7%, to \$67.3 million for the three months ended June 30, 2010 as compared to \$44.1 million for the three months ended June 30, 2009. Gross margins for all stores were 65.8% for the three months ended June 30, 2010 as compared to 61.0% for the three months ended June 30, 2009. Gross margins for our domestic stores were 65.7% for the three months ended June 30, 2010 as compared to 61.2% for the three months ended June 30, 2009. The increase in domestic retail margins was due to less closeouts and more in-season inventory. Gross margins for our international stores were 66.4% for the three months ended June 30, 2010 as compared to 59.5% for the three months ended June 30, 2009. The increase in international retail margins was due to less closeouts and more in-season inventory.

Our cost of sales includes the cost of footwear purchased from our manufacturers, royalties, duties, quota costs, inbound freight (including ocean, air and freight from the dock to our distribution centers), broker fees and storage costs. Because we include expenses related to our distribution network in general and administrative expenses while some of our competitors may include expenses of this type in cost of sales, our gross margins may not be comparable, and we may report higher gross margins than some of our competitors in part for this reason.

Selling expenses

Selling expenses increased by \$17.6 million, or 50.6%, to \$52.4 million for the three months ended June 30, 2010 from \$34.8 million for the three months ended June 30, 2009. As a percentage of net sales, selling expenses were 10.4% and 11.6% for the three months ended June 30, 2010 and 2009, respectively. The increase in selling expenses was primarily due to higher advertising expenses of \$14.8 million for the three months ended June 30, 2010.

Selling expenses consist primarily of sales representative sample costs, sales commissions, trade shows, advertising and promotional costs, which may include television, print ads, ad production costs and point-of-purchase (POP) costs.

General and administrative expenses

General and administrative expenses increased by \$31.5 million, or 32.8%, to \$127.3 million for the three months ended June 30, 2010 from \$95.8 million for the three months ended June 30, 2009. As a percentage of sales, general and administrative expenses were 25.2% and 32.1% for the three months ended June 30, 2010 and 2009, respectively. The increase in general and administrative expenses was primarily due to increased salaries and wages of \$15.1 million, which included \$3.4 million in stock compensation costs, increased warehouse and distribution costs of \$2.9 million, increased temporary help costs of \$2.6 million and higher professional fees of \$2.4 million. In addition, the expenses related to our distribution network, including the functions of purchasing, receiving, inspecting, allocating, warehousing and packaging of our products totaled \$25.7 million and \$22.3 million for the three months ended June 30, 2010 and 2009, respectively. The \$3.4 million increase was primarily due to significantly higher sales volumes.

General and administrative expenses consist primarily of the following: salaries, wages and related taxes and various overhead costs associated with our corporate staff, stock-based compensation, domestic and international retail store operations, non-selling-related costs of our international operations, costs associated with our domestic and European distribution centers, professional fees related to legal, consulting and accounting, insurance,

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depreciation and amortization, and expenses related to our distribution network, which includes the functions of purchasing, receiving, inspecting, allocating, warehousing and packaging our products. These costs are included in general and administrative expenses and are not allocated to segments.

Interest income

Interest income for the three months ended June 30, 2010 decreased \$0.2 million to \$0.4 million compared to \$0.6 million for the same period in 2009. The decrease in interest income resulted from lower interest rates for the three months ended June 30, 2010 as compared to the same period in 2009.

Interest expense

Interest expense was \$0.1 million for the three months ended June 30, 2010 compared to \$0.9 million for the same period in 2009. The decrease was due to reduced interest paid to our foreign manufacturers. Interest expense was incurred on our mortgages for our domestic distribution center and our corporate office located in Manhattan Beach, California, and on amounts owed to our foreign manufacturers.

Income taxes

The Company's effective tax rate was 33.6% and 15.2% for the three months ended June 30, 2010 and 2009, respectively. Income tax expense for the three months ended June 30, 2010 was \$20.4 million compared to an income tax benefit of \$1.2 million for the same period in 2009. The tax provision for the three months ended June 30, 2010 was computed using the estimated effective tax rates applicable to each of the domestic and international taxable jurisdictions for the full year. The estimated effective tax rate is subject to management's ongoing review and revision, if necessary. We expect our effective annual tax rate in 2010 to be approximately 32.5 percent.

The rate for the three months ended June 30, 2010 is lower than the expected domestic rate of approximately 40% due to our non-U.S. subsidiary earnings in lower tax rate jurisdictions and our planned permanent reinvestment of undistributed earnings from our non-U.S. subsidiaries, thereby indefinitely postponing their repatriation to the United States. As such, the Company did not provide for deferred income taxes on accumulated undistributed earnings of our non-U.S. subsidiaries.

Noncontrolling interest in net income and loss of consolidated subsidiaries

Noncontrolling interest for the three months ended June 30, 2010 increased \$0.8 million to income of \$0.1 million as compared to a loss of \$0.7 million for the same period in 2009. Noncontrolling interest represents the share of net earnings or loss that is attributable to our joint venture partners.

SIX MONTHS ENDED JUNE 30, 2010 COMPARED TO SIX MONTHS ENDED JUNE 30, 2009

Net sales

Net sales for the six months ended June 30, 2010 were \$997.6 million, an increase of \$355.2 million or 55.3%, as compared to net sales of \$642.4 million for the six months ended June 30, 2009. The increase in net sales was broad-based in all our segments.

Our domestic wholesale net sales increased \$250.3 million, or 73.3%, to \$591.7 million for the three months ended June 30, 2010, from \$341.4 million for the six months ended June 30, 2009. The largest increases in our domestic wholesale segment came in our Women's and Men's divisions. The average selling price per pair within the domestic wholesale segment was \$24.28 per pair for the six months ended June 30, 2010 compared to \$17.92 per pair for the same period last year, primarily due to acceptance of new designs and styles for our in-season products and reduced close-outs. The increase in the domestic wholesale segment's net sales came on a 27.9% unit sales volume increase to 24.4 million pairs from 19.1 million pairs for the same period in 2009.

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Our international wholesale segment net sales increased \$40.1 million, or 24.9%, to \$201.1 million for the six months ended June 30, 2010, compared to \$161.0 million for the six months ended June 30, 2009. Direct subsidiary sales increased \$46.4 million, or 42.6%, to \$155.3 million for the six months ended June 30, 2010 compared to net sales of \$108.9 million for the six months ended June 30, 2009. The largest sales increases during the six months ended June 30, 2010 came from our subsidiaries in Canada and Brazil as well as the acquisition of our distributor in Chile on June 1, 2009. Our distributor sales decreased \$6.3 million, or 12.0%, to \$45.8 million for the six months ended June 30, 2010, compared to sales of \$52.1 million for the six months ended June 30, 2009. This was primarily due to decreased sales to our distributors in Panama and Japan as well as the acquisition of our distributor in Chile on June 1, 2009.

Our retail segment sales increased \$57.3 million to \$189.6 million for the six months ended June 30, 2010, a 43.3% increase over sales of \$132.3 million for the six months ended June 30, 2009. The increase in retail sales was due to positive comparable store sales and a net increase of 23 stores. For the six months ended June 30, 2010, we realized positive comparable store sales of 31.1% in our domestic retail stores and 16.4% in our international retail stores. During the six months ended June 30, 2010, we opened six new domestic concept stores, four domestic outlet stores, seven international outlet stores, and closed one domestic outlet store. Our domestic retail sales increased 40.1% for the six months ended June 30, 2010 compared to the same period in 2009 due to positive comparable store sales and a net increase of 13 domestic stores. Our international retail sales increased 78.8% for the six months ended June 30, 2010 compared to the same period in 2009 attributable to positive comparable store sales and a net increase of 10 international stores.

Our e-commerce sales increased \$7.5 million, or 96.3%, to \$15.2 million for the six months ended June 30, 2010 from \$7.7 million for the six months ended June 30, 2009. Our e-commerce sales made up approximately 2% of our consolidated net sales in the six months ended June 30, 2010 compared to approximately 1% during the same period in the prior year.

Gross profit

Gross profit for the six months ended June 30, 2010 increased \$227.1 million to \$475.1 million as compared to \$248.0 million for the six months ended June 30, 2009. Gross profit as a percentage of net sales, or gross margin, increased to 47.6% for the six months ended June 30, 2010 from 38.6% for the same period in the prior year. Our domestic wholesale segment gross profit increased \$145.6 million, or 129.6%, to \$258.0 million for the six months ended June 30, 2010 compared to \$112.4 million for the six months ended June 30, 2009. Domestic wholesale margins increased to 43.6% in the six months ended June 30, 2010 from 32.9% for the same period in the prior year. The increase in domestic wholesale margins was due to increased average selling prices, less closeouts and more in-season inventory.

Gross profit for our international wholesale segment increased \$32.2 million, or 59.7%, to \$86.0 million for the six months ended June 30, 2010 compared to \$53.8 million for the six months ended June 30, 2009. Gross margins were 42.8% for the six months ended June 30, 2010 compared to 33.4% for the six months ended June 30, 2009. The increase in gross margins for our international wholesale segment was due to less closeouts and more in-season inventory. Gross margins for our direct subsidiary sales were 47.1% for the six months ended June 30, 2010 as compared to 36.5% for the six months ended June 30, 2009. Gross margins for our distributor sales were 28.0% for the six months ended June 30, 2010 as compared to 27.0% for the six months ended June 30, 2009.

Gross profit for our retail segment increased \$45.4 million, or 58.5%, to \$123.1 million for the six months ended June 30, 2010 as compared to \$77.7 million for the six months ended June 30, 2009. Gross margins for all stores were 64.9% for the six months ended June 30, 2010 as compared to 58.7% for the six months ended June 30, 2009. Gross margins for our domestic stores were 65.1% for the six months ended June 30, 2010 as compared to 59.0% for the six months ended June 30, 2009. The increase in domestic retail margins was due to less closeouts and more in-season inventory. Gross margins for our international stores were 64.0% for the six months ended June 30, 2010 as compared to 55.5% for the six months ended June 30, 2009. The increase in international retail margins was due to less closeouts and more in-season inventory.

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Selling expenses

Selling expenses increased by \$30.4 million, or 54.0%, to \$86.7 million for the six months ended June 30, 2010 from \$56.3 million for the six months ended June 30, 2009. As a percentage of net sales, selling expenses were 8.7% and 8.8% for the six months ended June 30, 2010 and 2009, respectively. The increase in selling expenses was primarily due to higher advertising expenses of \$25.6 million for the six months ended June 30, 2010.

General and administrative expenses

General and administrative expenses increased by \$55.9 million, or 28.8%, to \$249.8 million for the six months ended June 30, 2010 from \$193.9 million for the six months ended June 30, 2009. As a percentage of sales, general and administrative expenses were 25.0% and 30.1% for the six months ended June 30, 2010 and 2009, respectively. The increase in general and administrative expenses was primarily due to increased salaries and wages of \$26.8 million, which included \$6.7 million in stock compensation costs, increased warehouse and distribution costs of \$4.4 million, higher professional fees of \$4.3 million, higher rent expense of \$3.6 million due to an additional 23 stores from prior year, higher bank fees of \$2.8 million, increased bad debt expense of \$2.3 million, increased office supplies of \$2.3 million, and higher payroll expenses of \$2.2 million. In addition, the expenses related to our distribution network, including the functions of purchasing, receiving, inspecting, allocating, warehousing and packaging of our products totaled \$58.8 million and \$54.1 million for the six months ended June 30, 2010 and 2009, respectively. The \$4.7 million increase was primarily due to significantly higher sales volumes.

Interest income

Interest income for the six months ended June 30, 2010 increased \$0.6 million to \$1.9 million compared to \$1.3 million for the same period in 2009. The increase in interest income was primarily due to interest received on refunds of customs and duties payments for the six months ended June 30, 2010 as well as higher cash balances.

Interest expense

Interest expense was \$0.8 million for the six months ended June 30, 2010 compared to \$1.0 million for the same period in 2009. The decrease was due to reduced interest paid to our foreign manufacturers.

Income taxes

The Company's effective tax rate was 32.4% and 159.9% for the six months ended June 30, 2010 and 2009, respectively. Income tax expense for the six months ended June 30, 2010 was \$46.2 million compared to an income tax benefit of \$1.9 million for the same period in 2009. The income tax benefit for the six months ended June 30, 2009 includes a \$1.9 million discrete benefit adjusting the amount of tax benefit recognized in 2008 relating to the APA with the IRS. The tax provision for the six months ended June 30, 2010 was computed using the estimated effective tax rates applicable to each of the domestic and international taxable jurisdictions for the full year. The estimated effective tax rate is subject to management's ongoing review and revision, if necessary. We expect our effective annual tax rate in 2010 to be approximately 32.5 percent.

The rate for the six months ended June 30, 2010 is lower than the expected domestic rate of approximately 40% due to our non-U.S. subsidiary earnings in lower tax rate jurisdictions and our planned permanent reinvestment of undistributed earnings from our non-U.S. subsidiaries, thereby indefinitely postponing their repatriation to the United States. As such, the Company did not provide for deferred income taxes on accumulated undistributed earnings of our non-U.S. subsidiaries.

Noncontrolling interest in net income and loss of consolidated subsidiaries

Noncontrolling interest for the six months ended June 30, 2010 increased \$1.5 million to a loss of \$0.1 million as compared to a loss of \$1.6 million for the same period in 2009.

LIQUIDITY AND CAPITAL RESOURCES

Our working capital at June 30, 2010 was \$612.5 million, an increase of \$54.0 million from working capital of \$558.5 million at December 31, 2009. Our cash and cash equivalents at June 30, 2010 were \$273.3 million compared to \$265.7 million at December 31, 2009. The increase in cash and cash equivalents of \$7.6 million was the result of our net earnings of \$96.5 million and the maturity of \$30.0 million in short-term investments, partially offset by increased receivables of \$91.3 million, decreased payables of \$5.1 million due to accelerated factory payments of \$64.0 million and capital expenditures of \$29.7 million.

For the six months ended June 30, 2010, net cash used in operating activities was \$8.0 million compared to net cash provided of \$68.3 million for the six months ended June 30, 2009. The decrease in our operating cash flows for the six months ended June 30, 2010, when compared to the six months ended June 30, 2009 was primarily the result of a larger increase in accounts receivable due to higher sales and a smaller reduction in inventory levels, reduced payables balances partially offset by higher net earnings.

Net cash provided by investing activities was \$0.2 million for the six months ended June 30, 2010 as compared to \$68.8 million for the six months ended June 30, 2009. The decrease in cash provided by investing activities in the six months ended June 30, 2010 as compared to the same period in the prior year was primarily the result of the redemption of auction rate securities that were classified as long-term investments in the prior year. Capital expenditures for the six months ended June 30, 2010 were approximately \$29.7 million, which primarily consisted of warehouse equipment for our new distribution center, new store openings and remodels and a corporate real property purchase. This compared to capital expenditures of \$26.9 million for the six months ended June 30, 2009, which primarily consisted of warehouse equipment upgrades and new store openings and remodels. Excluding the costs of our new distribution center, we expect our ongoing capital expenditures for the remainder of 2010 to be approximately \$15 million to \$20 million, which includes opening an additional 15 to 20 domestic retail stores and store remodels. We are currently in the process of designing and purchasing the equipment to be used in our new distribution center and estimate the cost of this equipment to be approximately \$85.0 million, of which \$39.3 million was incurred as of June 30, 2010. We expect to spend the remaining balance in the second half of 2010 and 2011. Our operating cash flows, current cash, and available lines of credit should be adequate to fund these capital expenditures, although we may seek additional funding for all or a portion of these expenditures.

Net cash provided by financing activities was \$17.2 million during the six months ended June 30, 2010 compared to \$4.4 million during the six months ended June 30, 2009. The increase in cash provided by financing activities was primarily due to higher proceeds from the issuance of Class A common stock upon the exercise of stock options during the six months ended June 30, 2010 as compared to the same period in the prior year.

On January 30, 2010, we entered into a joint venture agreement with HF Logistics I, LLC through Skechers RB, LLC, a newly formed wholly-owned subsidiary, regarding the ownership and management of HF Logistics-SKX, LLC, a Delaware limited liability company (the "JV"). The purpose of the JV is to acquire and to develop real property consisting of approximately 110 acres situated in Rancho Belago, California, and to construct approximately 1.8 million square feet of buildings and other improvements to lease to us as a distribution facility. The term of the JV is fifty years. The parties are equal fifty percent partners. In April 2010, we made an initial cash capital contribution of \$30 million and HF made an initial capital contribution of land to the JV. Additional capital contributions, if necessary, would be made on an equal basis by Skechers RB, LLC and HF. During the second quarter, the JV obtained \$55 million in construction financing and broke ground on the facility, which we expect to occupy when completed in 2011. We have completed our assessment of the joint venture and have determined it to be a VIE and that Skechers is the primary beneficiary, and therefore began to consolidate the operations of the joint venture into our financial statements for the quarter ended June 30, 2010.

We have outstanding debt of \$30.4 million. The current portion of \$15.9 million relates to notes payable for one of our distribution center warehouses and one of our administrative offices, which notes are secured by the respective properties. The long-term portion of \$14.5 million relates to a note for costs paid by HF for our new distribution center.

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On June 30, 2009, we entered into a \$250 million secured credit agreement with a group of eight banks that replaced the existing \$150 million credit agreement. The new credit facility matures in June 2013. The credit agreement permits us and certain of our subsidiaries to borrow up to \$250 million based upon a borrowing base of eligible accounts receivable and inventory, which amount can be increased to \$300 million at our request and upon satisfaction of certain conditions including obtaining the commitment of existing or prospective lenders willing to provide the incremental amount. Borrowings bear interest at the borrowers' election based on LIBOR or a Base Rate (defined as the greatest of the base LIBOR plus 1.00%, the Federal Funds Rate plus 0.5% or one of the lenders' prime rate), in each case, plus an applicable margin based on the average daily principal balance of revolving loans under the credit agreement (2.75% to 3.25% for Base Rate loans and 3.75% to 4.25% for LIBOR loans). We pay a monthly unused line of credit fee between 0.5% and 1.0% per annum, which varies based on the average daily principal balance of outstanding revolving loans and undrawn amounts of letters of credit outstanding during such month. The credit agreement further provides for a limit on the issuance of letters of credit to a maximum of \$50 million. The credit agreement contains customary affirmative and negative covenants for secured credit facilities of this type, including a fixed charges coverage ratio that applies when excess availability is less than \$50 million. In addition, the credit agreement places limits on additional indebtedness that we are permitted to incur as well as other restrictions on certain transactions. We and our subsidiaries were in compliance with all of the covenants of the credit agreement at June 30, 2010. We and our subsidiaries had \$1.8 million of outstanding letters of credit and short-term borrowings of \$2.0 million as of June 30, 2010. We paid syndication and commitment fees of \$5.9 million on this facility which are being amortized over the four year life of the facility.

We believe that anticipated cash flows from operations, available borrowings under our secured line of credit, cash on hand and financing arrangements will be sufficient to provide us with the liquidity necessary to fund our anticipated working capital and capital requirements through June 30, 2011. However, in connection with our current strategies, we will incur significant working capital requirements and capital expenditures. Our future capital requirements will depend on many factors, including, but not limited to, costs associated with moving to a new distribution facility, the levels at which we maintain inventory, the market acceptance of our footwear, the success of our international operations, the levels of advertising and marketing required to promote our footwear, the extent to which we invest in new product design and improvements to our existing product design, any potential acquisitions of other brands or companies, and the number and timing of new store openings. To the extent that available funds are insufficient to fund our future activities, we may need to raise additional funds through public or private financing of debt or equity. We cannot be assured that additional financing will be available or that, if available, it can be obtained on terms favorable to our stockholders and us. Failure to obtain such financing could delay or prevent our current business plans, which could adversely affect our business, financial condition and results of operations. In addition, if additional capital is raised through the sale of additional equity or convertible securities, dilution to our stockholders could occur.

OFF-BALANCE SHEET ARRANGEMENTS

We do not have any relationships with unconsolidated entities or financial partnerships such as entities often referred to as structured finance or special purpose entities that would have been established for the purpose of facilitating off-balance-sheet arrangements or for other contractually narrow or limited purposes. As such, we are not exposed to any financing, liquidity, market or credit risk that could arise if we had engaged in such relationships.

CRITICAL ACCOUNTING POLICIES AND USE OF ESTIMATES

Management's Discussion and Analysis of Financial Condition and Results of Operations is based upon our consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States. The preparation of these financial statements requires us to make estimates and judgments that affect the reported amounts of assets, liabilities, sales and expenses, and related disclosure of contingent assets and liabilities. We base our estimates on historical experience and on various other assumptions that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions. For a detailed discussion of our critical

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accounting policies please refer to our annual report on Form 10-K for the year ended December 31, 2009 filed with the U.S. Securities and Exchange Commission (“SEC”) on March 5, 2010. Our critical accounting policies and estimates did not change materially during the quarter ended June 30, 2010.

RECENT ACCOUNTING PRONOUNCEMENTS

In June 2009, the FASB issued ASU 2009-17, *Amendments to FASB Interpretation No. 46(R)*. ASU 2009-17 requires a qualitative approach to identifying a controlling financial interest in a VIE, and requires ongoing assessment of whether an entity is a VIE and whether an interest in a VIE makes the holder the primary beneficiary of the VIE. ASU 2009-17 is effective for interim and annual reporting periods beginning after November 15, 2009. Our adoption of ASU 2009-17 did not have a material impact on our consolidated financial statements.

QUARTERLY RESULTS AND SEASONALITY

While sales of footwear products have historically been somewhat seasonal in nature with the strongest sales generally occurring in the second and third quarters, we believe that our product offerings somewhat mitigate the effect of this seasonality and, consequently, our sales are not necessarily as subjected to seasonal trends as those of our competitors in the footwear industry.

We have experienced, and expect to continue to experience, variability in our net sales and operating results on a quarterly basis. During 2009, various macroeconomic pressures created a difficult retail environment which caused a downturn in our overall business. Our domestic customers generally assume responsibility for scheduling pickup and delivery of purchased products. Any delay in scheduling or pickup which is beyond our control could materially negatively impact our net sales and results of operations for any given quarter. We believe the factors which influence this variability include (i) the timing of our introduction of new footwear products, (ii) the level of consumer acceptance of new and existing products, (iii) general economic and industry conditions that affect consumer spending and retail purchasing, (iv) the timing of the placement, cancellation or pickup of customer orders, (v) increases in the number of employees and overhead to support growth, (vi) the timing of expenditures in anticipation of increased sales and customer delivery requirements, (vii) the number and timing of our new retail store openings and (viii) actions by competitors. Due to these and other factors, the operating results for any particular quarter are not necessarily indicative of the results for the full year.

INFLATION

We do not believe that the relatively moderate rates of inflation experienced in the United States over the last three years have had a significant effect on our sales or profitability. However, we cannot accurately predict the effect of inflation on future operating results. We do not believe that inflation has had or will have a material effect on our sales or profitability. While we have been able to offset our foreign product cost increases by increasing prices or changing suppliers in the past, we cannot assure you that we will be able to continue to make such increases or changes in the future.

EXCHANGE RATES

Although we currently invoice most of our customers in U.S. Dollars, changes in the value of the U.S. Dollar versus the local currency in which our products are sold, along with economic and political conditions of such foreign countries, could adversely affect our business, financial condition and results of operations. During 2009, we experienced unfavorable currency translations; however, during 2010, we have experienced favorable currency translations. We cannot predict whether currency translations will be favorable or unfavorable in the future. Purchase prices for our products may be impacted by fluctuations in the exchange rate between the U.S. dollar and the local currencies of the contract manufacturers, which may have the effect of increasing our cost of goods in the future. In addition, the weakening of an international customer’s local currency and banking market may negatively impact such customer’s ability to meet their payment obligations to us. We regularly monitor the creditworthiness of our international customers and make credit decisions based on both prior sales experience with such customers and their current financial performance, as well as overall economic conditions. While we currently believe that our

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international customers have the ability to meet all of their obligations to us, there can be no assurance that they will continue to be able to meet such obligations. During 2009 and the first six months of 2010, exchange rate fluctuations did not have a material impact on our inventory costs. We do not engage in hedging activities with respect to such exchange rate risk.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

We do not hold any derivative securities that require fair value presentation per FASB ASC 815-25.

Market risk is the potential loss arising from the adverse changes in market rates and prices, such as interest rates and foreign currency exchange rates. Changes in interest rates and changes in foreign currency exchange rates have had and may continue to have an impact on our results of operations.

Interest rate fluctuations. The interest rate charged on our secured line of credit fluctuates and changes in interest rates will have an effect on the interest charged on outstanding balances. No amounts relating to this secured line of credit facility are currently outstanding at June 30, 2010. We had \$2.0 million of outstanding short-term borrowings subject to changes in interest rates; however, we do not expect any changes will have a material impact on our financial condition or results of operations.

Foreign exchange rate fluctuations. We face market risk to the extent that changes in foreign currency exchange rates affect our non-U.S. dollar functional currency foreign subsidiary's revenues, expenses, assets and liabilities. In addition, changes in foreign exchange rates may affect the value of our inventory commitments. Also, inventory purchases of our products may be impacted by fluctuations in the exchange rates between the U.S. dollar and the local currencies of the contract manufacturers, which could have the effect of increasing the cost of goods sold in the future. We manage these risks by primarily denominating these purchases and commitments in U.S. dollars. We do not engage in hedging activities with respect to such exchange rate risks.

Assets and liabilities outside the United States are located in the United Kingdom, France, Germany, Spain, Switzerland, Italy, Canada, Belgium, the Netherlands, Brazil, Chile, China, Hong Kong, Singapore, Malaysia and Thailand. Our investments in foreign subsidiaries with a functional currency other than the U.S. dollar are generally considered long-term. Accordingly, we do not hedge these net investments. The fluctuation of foreign currencies resulted in a cumulative foreign currency translation loss of \$10.4 million and gain of \$3.9 million for the six months ended June 30, 2010 and 2009, respectively, that are deferred and recorded as a component of accumulated other comprehensive income in stockholders' equity. A 200 basis point reduction in the exchange rates used to calculate foreign currency translations at June 30, 2010 would have reduced the values of our net investments by approximately \$4.0 million.

ITEM 4. CONTROLS AND PROCEDURES

Attached as exhibits to this quarterly report on Form 10-Q are certifications of our Chief Executive Officer ("CEO") and Chief Financial Officer ("CFO"), which are required in accordance with Rule 13a-14 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). This Controls and Procedures section includes information concerning the controls and controls evaluation referred to in the certifications.

EVALUATION OF DISCLOSURE CONTROLS AND PROCEDURES

The term "disclosure controls and procedures" refers to the controls and procedures of a company that are designed to ensure that information required to be disclosed by a company in the reports that it files under the Exchange Act is recorded, processed, summarized and reported within required time periods. We have established disclosure controls and procedures to ensure that material information relating to Skechers and its consolidated subsidiaries is made known to the officers who certify our financial reports, as well as other members of senior management and the Board of Directors, to allow timely decisions regarding required disclosures. As of the end of the period covered by this quarterly report on Form 10-Q, we carried out an evaluation under the supervision and with the participation of our management, including our CEO and CFO, of the effectiveness of the design and

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operation of our disclosure controls and procedures pursuant to Rule 13a-15 of the Exchange Act. Based upon that evaluation, our CEO and CFO concluded that our disclosure controls and procedures are effective in timely alerting them, at the reasonable assurance level, to material information related to our company that is required to be included in our periodic reports filed with the SEC under the Exchange Act.

CHANGES IN INTERNAL CONTROL OVER FINANCIAL REPORTING

There were no changes in our internal control over financial reporting during the three months ended June 30, 2010 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

INHERENT LIMITATIONS ON EFFECTIVENESS OF CONTROLS

Our management, including our Chief Executive Officer and Chief Financial Officer, does not expect that our disclosure controls or our internal control over financial reporting will prevent or detect all error and all fraud. A control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that the control system's objectives will be met. The design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Further, because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that misstatements due to error or fraud will not occur or that all control issues and instances of fraud, if any, within the company have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty and that breakdowns can occur because of simple error or mistake. Controls can also be circumvented by the individual acts of some persons, by collusion of two or more people, or by management override of the controls. The design of any system of controls is based in part on certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions. Projections of any evaluation of controls effectiveness to future periods are subject to risks. Over time, controls may become inadequate because of changes in conditions or deterioration in the degree of compliance with policies or procedures. Because of the inherent limitations in a cost-effective control system, misstatements due to error or fraud may occur and not be detected.

PART II – OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

See note nine to the financial statements on page 10 of this quarterly report for a discussion of legal proceedings as required under applicable SEC rules and regulations.

ITEM 1A. RISK FACTORS

The information presented below updates the risk factors disclosed in our annual report on Form 10-K for the year ended December 31, 2009 and should be read in conjunction with the risk factors and other information disclosed in our 2009 annual report that could have a material effect on our business, financial condition and results of operations.

We Depend Upon A Relatively Small Group Of Customers For A Large Portion Of Our Sales.

During the six months ended June 30, 2010 and June 30, 2009, our net sales to our five largest customers accounted for approximately 28.2% and 25.6% of total net sales, respectively. No customer accounted for more than 10% of our net sales during the six months ended June 30, 2010 or 2009. One customer accounted for 15.1% and 14.4% of our outstanding accounts receivable balance at June 30, 2010 and 2009, respectively. One other customer accounted for 10.0% of our outstanding accounts receivable at June 30, 2009. Although we have long-term relationships with many of our customers, our customers do not have a contractual obligation to purchase our products and we cannot be certain that we will be able to retain our existing major customers. Furthermore, the retail industry regularly experiences consolidation, contractions and closings which may result in our loss of customers or

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our inability to collect accounts receivable of major customers. If we lose a major customer, experience a significant decrease in sales to a major customer or are unable to collect the accounts receivable of a major customer, our business could be harmed.

We Rely On Independent Contract Manufacturers And, As A Result, Are Exposed To Potential Disruptions In Product Supply.

Our footwear products are currently manufactured by independent contract manufacturers. During the six months ended June 30, 2010 and June 30, 2009, the top five manufacturers of our manufactured products produced approximately 71.3% and 66.1% of our total purchases, respectively. One manufacturer accounted for 34.6% of total purchases for the six months ended June 30, 2010 and the same manufacturer accounted for 26.3% of total purchases for the same period in 2009. A second manufacturer accounted for 13.3% and 11.3% of our total purchases during the six months ended June 30, 2010 and 2009, respectively. A third manufacturer accounted for 10.1% and 11.0% of our total purchases during the six months ended June 30, 2010 and 2009, respectively. A fourth manufacturer accounted for 10.2% of our total purchases during the six months ended June 30, 2009. We do not have long-term contracts with manufacturers, and we compete with other footwear companies for production facilities. We could experience difficulties with these manufacturers, including reductions in the availability of production capacity, failure to meet our quality control standards, failure to meet production deadlines or increased manufacturing costs. This could result in our customers canceling orders, refusing to accept deliveries or demanding reductions in purchase prices, any of which could have a negative impact on our cash flow and harm our business.

If our current manufacturers cease doing business with us, we could experience an interruption in the manufacture of our products. Although we believe that we could find alternative manufacturers, we may be unable to establish relationships with alternative manufacturers that will be as favorable as the relationships we have now. For example, new manufacturers may have higher prices, less favorable payment terms, lower manufacturing capacity, lower quality standards or higher lead times for delivery. If we are unable to provide products consistent with our standards or the manufacture of our footwear is delayed or becomes more expensive, our business would be harmed.

One Principal Stockholder Is Able To Exert Significant Influence Over All Matters Requiring A Vote Of Our Stockholders And His Interests May Differ From The Interests Of Our Other Stockholders.

As of June 30, 2010, Robert Greenberg, Chairman of the Board and Chief Executive Officer, beneficially owned 39.5% of our outstanding Class B common shares and members of Mr. Greenberg's immediate family beneficially owned an additional 18.0% of our outstanding Class B common shares. The remainder of our outstanding Class B common shares is held in two irrevocable trusts for the benefit of Mr. Greenberg and his immediate family members, and voting control of such shares resides with an independent trustee. The holders of Class A common shares and Class B common shares have identical rights except that holders of Class A common shares are entitled to one vote per share while holders of Class B common shares are entitled to ten votes per share on all matters submitted to a vote of our stockholders. As a result, as of June 30, 2010, Mr. Greenberg beneficially owned approximately 29.5% of the aggregate number of votes eligible to be cast by our stockholders, and together with shares beneficially owned by other members of his immediate family, they beneficially owned approximately 43.9% of the aggregate number of votes eligible to be cast by our stockholders. Therefore, Mr. Greenberg is able to exert significant influence over all matters requiring approval by our stockholders. Matters that require the approval of our stockholders include the election of directors and the approval of mergers or other business combination transactions. Mr. Greenberg also has significant influence over our management and operations. As a result of such influence, certain transactions are not likely without the approval of Mr. Greenberg, including proxy contests, tender offers, open market purchase programs or other transactions that can give our stockholders the opportunity to realize a premium over the then-prevailing market prices for their shares of our Class A common shares. Because Mr. Greenberg's interests may differ from the interests of the other stockholders, Mr. Greenberg's significant influence on actions requiring stockholder approval may result in our company taking action that is not in the interests of all stockholders. The differential in the voting rights may also adversely affect the value of our Class A common shares to the extent that investors or any potential future purchaser view the superior voting rights of our Class B common shares to have value.

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ITEM 6. EXHIBITS

<u>Exhibit Number</u>	<u>Description</u>
10.1+	Agreement dated April 23, 2010 between HF Logistics-SKX T1, LLC, which is a wholly owned subsidiary of a joint venture entered into between HF Logistics I, LLC and a wholly owned subsidiary of the Registrant, and J. D. Diffenbaugh, Inc. regarding 29800 Eucalyptus Avenue, Rancho Belago, California.
10.1(a)	General Conditions of the Contract for Construction regarding 29800 Eucalyptus Avenue, Rancho Belago, California.
10.2+	Construction Loan Agreement dated as of April 30, 2010, by and among HF Logistics-SKX T1, LLC, which is a wholly owned subsidiary of a joint venture entered into between HF Logistics I, LLC and a wholly owned subsidiary of the Registrant, Bank of America, N.A., as administrative agent and as a lender, and Raymond James Bank FSB, as a lender.
10.3	Lease Agreement dated May 20, 2008 between Skechers EDC SPRL, a subsidiary of the Registrant, and ProLogis Belgium III SPRL, regarding ProLogis Park Liege Distribution Center II in Liege, Belgium.
10.4	Addendum to Lease Agreement dated May 20, 2008 between Skechers EDC SPRL, a subsidiary of the Registrant, and ProLogis Belgium III SPRL, regarding ProLogis Park Liege Distribution Center II in Liege, Belgium.
10.5**	Amendment No. 1 to 2008 Employee Stock Purchase Plan.
31.1	Certification of the Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certification of the Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1***	Certification of the Chief Executive Officer and the Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

+ The Company has applied with the Secretary of the Securities and Exchange Commission for confidential treatment of certain information pursuant to Rule 24b-2 of the Securities Exchange Act of 1934. The Company has filed separately with its application a copy of the exhibit including all confidential portions, which may be made available for public inspection pending the Securities and Exchange Commission's review of the application in accordance with Rule 24b-2.

** Management contract or compensatory plan or arrangement required to be filed as an exhibit.

*** In accordance with Item 601(b)(32)(ii) of Regulation S-K, this exhibit shall not be deemed "filed" for the purposes of Section 18 of the Exchange Act or otherwise subject to the liability of that section, nor shall it be deemed incorporated by reference in any filing under the Securities Act of 1933, as amended, or the Exchange Act.

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SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

Date: August 6, 2010

SKECHERS U.S.A., INC.

By: /S/ DAVID WEINBERG

David Weinberg
Chief Financial Officer

(Confidential Portions Omitted)

Contract #: **MHOO-121-226-A**
Project: **HIGHLAND CORPORATE PARK**
SKECHERS DISTRIBUTION CENTER
Trade: **GENERAL CONTRACTOR**

AIA Document A111 – 1997

Standard Form of Agreement between Owner and Contractor where the basis for payment is the COST OF THE WORK PLUS A FEE with a negotiated Guaranteed Maximum Price.

AGREEMENT made as of the 7th day of April in the year 2010
(In words, indicate day, month and year)

BETWEEN the Owner:
(Name, address and other information)

HF Logistics-SKX T1, LLC
14225 Corporate Way
Moreno Valley, California 92553

and the Contractor:
(Name, address and other information)

J. D. Diffenbaugh, Inc.
6865 Airport Drive
Riverside, California 92504

The Project is:
(Name and location)

Highland Fairview Corporate Park
Skechers Distribution Center
29800 Eucalyptus Avenue
Rancho Belago, California 92555

The Architect is:
(Name, address and other information)

“Vertical Architect”:

HPA, Inc.
18831 Bardeen Avenue, Suite 100
Irvine, California 92612

“Civil Engineer”:

RBF Consulting
14725 Alton Parkway
Irvine, Ca 92618
(949) 855-5716

“Landscape Architect”:

Mission Landscape Architecture
16361 Scientific Way
Irvine, CA 92618
(949) 224-0044

As used in the Contract Documents, the term "Architect" shall mean and refer to either (1) the Vertical Architect to the extent the rights and obligations of the Architect relate to the vertical improvements for the Project, (2) the Civil Engineer to the extent the rights and obligations of the Architect relate to the site work for the Project, (3) the Landscape Architect to the extent the rights and obligations of the Architect relate to landscaping for the Project. If the Contractor is unsure of which party to be contacting in a particular context, the Contractor shall request the guidance and direction from the Owner.

The Owner and Contractor agree as follows.

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, including Addendum A, Exhibits, including the Conditions of Approval from City of Moreno Valley ("Conditions of Approval") and the January 7, 2010 Settlement Agreement with the Sierra Club ("Settlement Agreement") further set out in Exhibit "G" except to the extent indicated in the Contract Documents to be the responsibility of others, other documents listed in this Agreement and Modifications issued after execution of this Agreement; these form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 15. If anything in the other Contract Documents is inconsistent with this Agreement, this Agreement shall govern.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, including but not limited to the direct scope of work of Exhibit "G" except to the extent specifically indicated in the Contract Documents to be the responsibility of others. The Work under this Contract shall not include the work being performed by Contractor under a separate agreement with Owner related to the street improvements for Eucalyptus Avenue (such separate agreement being referred to herein as the "Eucalyptus Work Agreement"). Contractor represents that it is aware of the terms of the Conditions of Approval and terms of the Settlement Agreement and will coordinate its Work as necessary with same. The Contract Documents shall be interpreted together and in harmony with one another. The Contractor must call any known conflict or discrepancy to the Owner's attention, in writing, prior to executing this Agreement. In the case of any conflict between the Contract Documents regarding the obligations or responsibilities of Contractor, whichever document imposes the greater obligation on the Contractor shall be controlling.

ARTICLE 3 RELATIONSHIP OF THE PARTIES

The Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Owner and exercise the Contractor's best skill, efforts and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. Contractor shall at all times provide an adequate work force of competent, suitably qualified and trained personnel to survey and lay out the Work and to cause such work force to prosecute the Work to completion in conformance with the best trade practices, free from defects and in accordance with the requirements of the Contract Documents. The Owner agrees to furnish and approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents. Contractor shall provide a project team consisting of the positions and durations described in Exhibit "C" attached hereto and incorporated herein ("Project Team"). The selection of the Project Team shall be subject to Owner's prior written approval. In addition, after selection of the Project Team, Contractor shall not remove or replace any members of the Project Team, or add any new members to the Project Team, without Owner's prior written approval. Owner may at any time reasonably direct

Contractor to replace any member of the Project Team, in which case, Contractor shall promptly terminate such member and replace such member with a new member acceptable to Owner.

ARTICLE 4 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 4.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

(Insert the date of commencement, if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

Date of commencement shall be fixed in a Notice to Proceed.

If, prior to commencement of the Work, the Owner requires time to file mortgages, mechanic's liens and other security interests, the Owner's time requirement shall be as follows:

§ 4.2 The Contract Time shall be measured from the date of commencement. All parties to the Contract recognize the volatility of construction materials and related commodity pricing, as well as the urgency of the Contractor's need to establish final pricing from Subcontractors and Suppliers. Therefore, if the Notice to Proceed is not received by the Contractor within 15 days of the execution of the Contract, the Owner will bear the responsibility and costs of any documented cost escalation of materials that occur after the 15-day period. In addition, if the Contractor is unable to lock in material prices with Subcontractors, including approval of any material delivery constraints proffered by suppliers, due to the Owner's delays in obtaining approved plans or approval of subcontractors, the Owner will also bear the responsibility and costs of any documented cost escalation of materials that result.

Contractor will perform the Work in accordance with the Construction Schedule attached hereto as Exhibit "B" and incorporated herein. The Contract Time is specified as 334 calendar days as shown in more detail in the Construction Schedule attached as Exhibit "B." The Construction Schedule sets forth the commencement date, the date of Substantial Completion ("Substantial Completion Date"), the completion date and the starting and completion dates of various stages of the Work and shall provide for expeditious and practicable execution of the Work. Normal holidays and weather conditions have been accounted for within the Construction Schedule. Except as provided in Section 8.3 of the General Conditions, the Construction Schedule may not be changed. Contractor shall use a scheduling system acceptable to Owner, which system shall employ a clearly defined critical path for the Project. Prior to submitting each Application for Payment, Contractor will update the Construction Schedule indicating actual progress of, a percentage of completion, and a dollar amount applied to date for each activity listed on the Schedule of Values. Owner will review the updated Construction Schedule and Schedule of Values, and after its approval, such updated Construction Schedule and Schedule of Values will be used as the basis for Applications for Payment.

Within fifteen (15) days from the date of the Notice to Proceed, Contractor shall provide Owner with an updated detailed Construction Schedule which shall: (1) be in a detailed critical path method ("CPM") setting forth the dates that are crucial in ensuring the timely and orderly completion of the Work in accordance with the requirements of the Contract Documents; (2) provide a graphic representation of all activities and events that will occur during the performance of the Work; (3) not exceed the time limits for completion of the Work under the Contract Documents; (4) be reasonably satisfactory to the Architect and Owner; (5) identify float time, if any, and (6) identify dates for major material and equipment acquisition, material purchases, the hiring of all trades, delivery of shop drawings, Owner provided items such as FF&E, and submittals.

The Construction Schedule shall be updated and revised as of the first business day of each month as the Work is completed, or at the reasonable request of the Owner and/or Architect, whichever is sooner but no greater than 2x per month. A written copy of the updated Construction Schedule (not changing the

Substantial Completion Date unless approved by Owner in writing in an executed Permissible Change Order) as revised, shall be delivered to the Owner and Architect in printed form and, if requested, also provided in electronic form (by E-mail or Compact Disk), together with the monthly Application for Payment. Contractor shall furnish the Owner with an updated Construction Schedule within five (5) business days of receipt of a written request. The Contractor shall also provide the electronic files constituting the logic and scheduling of the Construction Schedule.

The Contractor shall prepare, on at least a monthly basis, and shall deliver to Owner together with the monthly Application for Payment, a detailed written Progress Report in a form, and of a character, reasonably approved by Owner, which form as approved is attached hereto as Exhibit "L". The Progress Report shall specify, among other things, the estimated percentage of completion, whether the Work is on schedule, and if not, the reasons therefore, and a revised completion schedule. Each Progress Report shall also identify any and all modifications, bulletins, pending change orders, and any other relevant issues to the construction of the Project and the status of such issues separating critical path issues from those that are not critical path issues, and a priority ranking for all.

Contractor shall timely prepare such additional progress reports as the Owner may reasonably require from time to time.

Within thirty (30) days from the Notice to Proceed or upon execution of Contracts and/or Purchase Orders with various Subcontractors/Vendors/Material Suppliers, Contractor shall provide a Subcontractor/Vendor Subcontract and/or Purchase Order Log (see attached Exhibit "M" and Exhibit "N" as the approved Forms) as information becomes available. Contractor shall furnish copies to the Owner of all executed purchase orders and/or invoices relating to all materials installed, or services performed, in connection with the Project. Contractor shall also furnish the Owner with all executed subcontracts and purchase orders for any labor, services and/or materials to be furnished by any subcontractor, sub-subcontractor, laborers, and/or material suppliers on the Project and a Job Cost Report or Commitment to Estimate Variance Report detailing same as attached in Exhibit "O".

The Contractor shall hold weekly progress meetings with the Owner at the Project site or at such other time and frequency as the Owner requires, which requirement shall not be unreasonable. The Contractor shall also hold weekly progress meetings with Subcontractors at the Project site or at such other time and frequency as the Owner requires, which requirement shall not be unreasonable. The Owner may be present at all such progress meetings and interact with all participants. The progress of the Work shall be recorded by the Contractor and reported in detail at each meeting with reference to the current Construction Schedule. Subcontractors to the Contractor who are currently performing work or whose work is scheduled to be performed in the near term shall have a competent representative present at each meeting to report the condition of the Subcontractor's work and to receive information discussed at the meeting. Contractor shall issue detailed meeting minutes, in writing, within forty-eight (48) hours or up to seventy-two (72) hours with Owner's prior written approval, after each progress meeting, including the names and contact information of all participants.

As used in this Contract and elsewhere in the Contract Documents, "Substantial Completion" or "Substantially Complete" is the stage in the progress of the Work (or the applicable phase thereof) when (a) the Work (or the applicable phase thereof) is completed in a substantially finished condition consistent with the Plans and Specifications and other applicable Contract Documents sufficient for the Owner to be able to occupy and utilize the Project for its intended purpose subject only to completion of "punch list" items that do not materially interfere with the utilization of the Work; (b) no occupancy with other necessary permits and approvals related to the Work (or the applicable phase thereof) are being withheld due to any failure to complete any portion of the Work; (c) Contractor is in compliance with the payment and lien provisions of this Agreement at the time of such Substantial Completion; (d) all temporary utilities are disconnected if requested by the Owner; (e) Contractor has complied with all reasonable requirements of the Owner's construction lender regarding Substantial Completion; (f) all remaining "punch list" items can reasonably be completed by Contractor within forty-five (45) days thereafter, subject, however, to long lead time items

that must be ordered and to seasonal requirements for any landscaping and exterior work; and (g) all systems for which Contractor is responsible are operable and the Work is habitable.

Subject to time extensions resulting from executed Change Orders issued and resolved pursuant to the Contract Documents, Contractor shall strictly comply with, and conform to, the Construction Schedule attached hereto and all amendments and supplements thereto, the failure of which shall constitute a material default hereunder. Contractor may not extend the Construction Schedule without the written approval of the Owner, as set forth in the Contract Documents, which approval shall not be unreasonably withheld.

All Work shall be performed in an expeditious manner. **TIME IS OF THE ESSENCE IN THIS AGREEMENT.**

Contractor shall work additional hours or days, as and if permitted by local ordinances and other applicable laws as is necessary to timely complete the Work. In the event that Contractor causes a delay to the Project, the Contractor shall be obligated to use whatever means necessary to accelerate its work in order to make up for the delays and meet the Construction Schedule without any cost impact to the Owner.

(Insert provisions, if any, for liquidated damages relating to failure to complete on time, or for bonus payments for early completion of the Work.)

Liquidated damages for failure to complete the Work according to the Project Schedule shall be assessed against Contractor at the rate of \$10,000 per day for the first thirty (30) days of delay and \$20,000 per day thereafter and may, at Owner's election, be deducted from any payment to Contractor, including but not limited to, the Final Payment. The total liquidated damages assessed against Contractor under this Contract and the Eucalyptus Work Agreement is limited to the sum of (a) \$1,037,978 plus (b) the amount of Contract Savings that Contractor receives or is otherwise entitled to receive pursuant to Section 5.2.1.3 below and Section 5.2.1.3 of the A111 Document that is part of the Eucalyptus Work Agreement. The Parties agree and acknowledge that given the nature of the circumstances and the Work to be performed it would be impracticable or extremely difficult to fix the actual damage that would result to Owner in the event Contractor does not perform and complete the Work according to the Project Schedule, including but not limited to achieving Substantial Completion and Final Completion according to the Project Schedule and that the foregoing amount of liquidated damages for Contractor's failure to do so is reasonable at the time of entering into this Agreement and does not constitute a penalty under California law. The foregoing liquidated damages represent all and any damages attributable solely to a delay that Owner would be entitled to recover in the event of actual delay to the completion of the Work that is directly attributable to the acts or omissions on the part of the Contractor. The liquidated damages set forth herein are intended to compensate the Owner for all damages sustained and attributable solely to a delay including, but not limited to, any and all damages resulting from claims asserted against the Owner by a third party that relate to delayed completion of the Work."

ARTICLE 5 BASIS FOR PAYMENT

§ 5.1 CONTRACT SUM

§ 5.1.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Contractor's Fee.

§ 5.1.2 The Contractor's Fee is:

"Cost of the Work Plus a Fee with a Guaranteed Maximum Price" contract for a fee of One point Seven-Five percent (1.75%) applied to the Cost of the Work.

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee, and describe the method of adjustment of the Contractor's Fee for changes in the Work.)

§ 5.2 GUARANTEED MAXIMUM PRICE

§ 5.2.1 The sum of the Cost of the Work and the Contractor’s Fee is guaranteed by the Contractor not to exceed \$[*] subject to additions and deductions by Change Order as provided in the Contract Documents. Such maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price or GMP. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.

(Insert specific provisions if the Contractor is to participate in any savings.)

5.2.1.1 [intentionally deleted]

5.2.1.2 **CONTRACT SAVINGS** “Contract Savings” is defined as the GMP, less the Cost of the Work, the General Conditions as provided for in Exhibit D and the Contractor’s Fee, if any. If such calculation yields a negative number, then the amount of savings is equal to zero. The Contractor shall not be entitled to any portion of the Contract Savings if Owner terminates this Agreement for cause or if Contractor terminates this Agreement for any reason prior to Substantial Completion.

5.2.1.3 **CONTRACT SAVINGS SPLIT** Owner and Contractor agree to share any “Contract Savings” in the following ratio:

Amount of Contract Savings to Owner: 75%

Amount of Contract Savings to Contractor: 25%

The calculation of the “Contract Savings” shall occur only after Final Completion and after all other Change Orders and extras have been fully executed. The result of the calculation shall be included in a final Change Order called a “Final GMP Reconciliation Change Order” whereby the amount of savings due to the Owner shall be credited against the GMP. Any savings attributable to the Contractor shall be added to the Contractor’s Fee.

5.2.1.4 **CONTRACT PRICE:**

The GMP is based upon the scope of Work required in order to construct the Work in accordance with the Contract Documents, including but not limited to the Conditions of Approval and terms of the Settlement Agreement as detailed in Exhibit G, all building materials purchased and erected, mobilization, other miscellaneous costs and associated labor costs, all machinery, purchased and erected, together with associated labor costs, all electrical, refrigeration automation controls, wiring, and related installation labor costs, all plumbing, HVAC installation and related labor costs, and the fire protection system and related installation labor costs, all in accordance with and as indicated by the Contract Documents. Except for adjustments to the GMP by duly authorized Change Order pursuant to Article 7 of the General Conditions, Contractor is obligated to build and complete the Work in conformance with the Contract Documents. Contractor will be solely responsible for all costs in excess of the GMP and Owner will in no event be charged or liable for amounts in excess of the GMP as adjusted by approved, written Change Orders.

5.2.1.5 Contractor further warrants and represents to Owner that (i) Contractor is fully familiar with, and the GMP includes, the entire Cost of the Work associated with all of the terms, conditions (including, without limitation, ingress and egress, traffic flow patterns, and hours of Work) and obligations of the Contract Documents or arising under governmental requirements, including but not limited to the Conditions of Approval and terms of the Settlement Agreement as detailed in Exhibit G, the location and condition of the site, and the conditions under which the Work is to be performed, including all surface conditions and characteristics and all typical subsurface conditions and characteristics that prevail or that can be reasonably expected in the location of the site, as well as all subsurface conditions and characteristics indicated in any reports provided by Owner to Contractor; (ii) Contractor enters into this

* Confidential Portions Omitted and Filed Separately with the Commission.

Contract based upon its investigation of all of such matters; and (iii) Contractor is in no way relying upon any opinions, statements, warranties or representations of Owner. Contractor acknowledges that it is Contractor's responsibility and Contractor is required, prior to entering into this Agreement, to investigate and familiarize itself with all conditions affecting the performance of its obligations under the Contract Documents, including, without limitation, all governmental requirements and local practices applicable to its Work under this Agreement; the availability and adequacy of personnel, workmen, material, supplies, equipment, power, utilities, fuel, etc. and, with respect to each of the foregoing, the cost and suitability thereof; prevailing weather and climatological conditions and history; and any other factor or factors which may affect Contractor's obligations under the Contract Documents, including, without limitation, the Work. Contractor hereby warrants and represents to Owner that it has examined the site, investigated all such matters, fully satisfied itself as to the nature of such conditions and characteristics and has included the effect of all such conditions and characteristics and all Costs of the Work and Work related thereto in the GMP. Except as provided in Paragraph 4.3.4 of the General Conditions, Contractor further agrees that Contractor shall not be entitled to any additional payment or additional time or any claim whatsoever resulting from the matters described in this paragraph.

5.2.1.6 With the Owner's consent, which consent shall not be unreasonably withheld, the Contractor can exceed the budgeted General Conditions of the Schedule of Values in Exhibit D by up to 10% so long as the GMP, as adjusted in accordance with the Contract Documents, is not exceeded.

§ 5.2.2 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If decisions on other alternates are to be made by the Owner subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when the amount expires.)

§ 5.2.2.1 The following is an alternate not included in the GMP:

Tree Removal at Sinclair \$[*] Plans & Specifications

§ 5.2.3 Unit prices, if any, are as follows:

Description	Units	Price (\$0.00)
Place 4" owner supplied base	Sqft	\$ [*]
Place 4" contractor supplied base	Sqft	\$ [*]
Monthly maintenance city landscaping	Monthly	\$ [*]
Six Foot (6') Chain Link Cal-Trans Fencing	Lineal Foot	\$ [*]
Polished Concrete floor W/ Exposed aggregate	Sqft	\$ [*]
Saw-Cut Lines Polished Concrete Floor	Lineal Foot	\$ [*]
Conduit roof penetrations for CATV cameras @ building perimeter		\$ [*] each
Conduit & 120v power to perimeter parking lot light poles for data scanners		\$ [*] each
Palm Tree lighting & exterior architectural lighting		\$ [*] each

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§ 5.2.4 Allowances, if any, are as follows

(Identify and state the amounts of any allowances, and state whether they include labor, materials, or both.)

Allowance	Amount (\$0.00)	Included items
Left Turn Widening @ Theodore & SR 60 off ramp	\$ [*]	Plans & Specifications
12" Water line West Eucalyptus and Ironwood Pressure Reducing Station to POC @ NW point Redlands/SR60 ramp	\$ [*]	Plans & Specification
Ground Sign program allowance		\$[*] each

§ 5.2.5 Assumptions, Clarifications and Exclusions, if any, on which the Guaranteed Maximum Price is based, are identified in Exhibit "F".

§ 5.2.6 To the extent that the Drawings and Specifications are anticipated to require further development by the Architect, the Contractor has provided in the Guaranteed Maximum Price for such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include such things as changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.

§ 5.2.7 The parties acknowledge that the GMP has been established prior to Contractor receiving bids from all Subcontractors for performance of the Work. As such, Contractor has provided Allowances for certain portions of the Work identified above. Exhibit D, Schedule of Values, contains a separate line item breakdown for each portion of the Work, including specifically identifying those portions that are currently identified as Allowances that Contractor anticipates will be bid out. The Schedule of Values, including Allowances, can only be changed with prior, written approval of Owner. To reduce Allowances to sums certain, Contractor will submit all bids to Owner for its review and approval. If Owner approves of a bid in writing, and if the amount of such approved bid differs from the amount set forth as an Allowance above, then the GMP shall be increased or decreased, as appropriate, by an amount equal to such difference, according to the terms of the Contract Documents.

ARTICLE 6 CHANGES IN THE WORK

§ 6.1 Adjustments to the Guaranteed Maximum Price on account of changes in the Work may be determined by any of the methods listed in Section 7.3.3 of AIA Document A201-1997. All references to AIA Document A201-1997 shall include all amendments made to such document by Owner and Contractor.

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§ 6.2 In calculating adjustments to subcontracts (except those awarded with the Owner's prior consent on the basis of cost plus a fee), the terms "cost" and "fee" as used in Section 7.3.3.3 of AIA Document A201-1997 shall have the meanings assigned to them in AIA Document A201-1997 and shall not be modified by Articles 5, 7 and 8 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 6.3 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in the above-referenced provisions of AIA Document A201-1997 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the terms "fee" and "a reasonable allowance for overhead and profit" shall mean the Contractor's Fee as defined in Section 5.1.2 of this Agreement.

ARTICLE 7 COSTS TO BE REIMBURSED

§7.1 COST OF THE WORK

The term Cost of the Work shall mean the actual costs reasonably and necessarily incurred and ultimately paid by the Contractor in the proper performance of the Work. Such costs shall be at rates not higher than the standard paid at the place of the Project except with prior consent of the Owner. The Cost of the Work shall include only the items set forth in this Article 7.

§ 7.2 LABOR COSTS

§ 7.2.1 Wages of construction workers directly employed by the Contractor to perform the construction of the Work at the site or, with the Owner's approval, at off-site workshops. Wages of Contractor's personnel as identified in and to the extent of Exhibit D's line item for General Conditions.

§ 7.2.2 Costs paid or incurred by the Contractor for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Section 7.2.1.

§7.3 SUBCONTRACT COSTS

§ 7.3.1 Payments made by the Contractor to Subcontractors in accordance with the requirements of the subcontracts.

§ 7.4 COSTS OF MATERIALS AND EQUIPMENT INCORPORATED IN THE COMPLETED CONSTRUCTION

§ 7.4.1 Costs, including transportation and storage, of materials and equipment incorporated or to be incorporated in the completed construction. Contractor shall cause all materials supplied for or intended to be utilized in the construction of the Project, but not yet affixed to or incorporated into the Project, to be stored on the Project site or at such other site as Lender and Owner may approve, in each case with adequate safeguards to prevent loss, theft, damage or commingling with materials for other projects. Contractor shall not purchase or order materials for delivery more than sixty (60) days prior to the scheduled incorporation of such materials into the Project without the prior approval of Owner and Lender, which will not be unreasonably withheld (and in that regard, Owner and Lender shall give due consideration to expected "lead times" for any such orders and potential cost savings resulting from early ordering of materials). No advances for building materials or furnishings that are not yet incorporated into the Project ("stored materials") unless (i) Owner has good title to the stored materials and the stored materials are components in a form ready for incorporation into the Project and will be so incorporated within a period of one hundred twenty (120) days, (ii) the stored materials are in Owner's possession and satisfactorily stored on the Project site or such materials are satisfactorily stored at such other site as Owner and Lender may approve, (iii) the stored materials are protected and insured against theft and damage in a manner and amount satisfactory to Owner and Lender, (iv) the stored materials have been paid for in full or will be paid for with the funds to be advanced and all lien rights and claims of the supplier have been released or will be released upon payment with the advanced funds, and (v) Lender has or will have upon payment with the advanced funds a perfected, first priority security interest in the stored materials. Notwithstanding the foregoing, the aggregate amount of advances for stored materials that have not yet been incorporated into the Project shall not exceed THREE MILLION DOLLARS (\$3,000,000.00).
Any

Application for Payment which includes an advance for the cost of stored materials shall be accompanied by copies of invoices for such stored materials in form and content satisfactory to Lender. All advances for the cost of stored materials shall be on the basis of ninety percent (90%) of the invoiced amount.

§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Contractor. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ 7.5 COSTS OF OTHER MATERIALS AND EQUIPMENT, TEMPORARY FACILITIES AND RELATED ITEMS

§ 7.5.1 Costs, including transportation and storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers, that are provided by the Contractor at the site and fully consumed in the performance of the Work; and cost (less salvage value) of such items if not fully consumed, whether sold to others or retained by the Contractor. Cost for items previously used by the Contractor shall mean fair market value.

§ 7.5.2 Rental charges for temporary facilities, machinery, equipment, trucks and autos (including auto allowance) and hand tools not customarily owned by construction workers that are provided by the Contractor at the site, whether rented from the Contractor or others, and costs of transportation, installation, gas, fuel, oil, minor repairs and replacements, dismantling and removal thereof. Rates and quantities of equipment rented shall be subject to the Owner's prior approval. In cases where the equipment is owned by Contractor and "rented" to the project under this paragraph, Contractor's monthly rental rates shall not exceed 85% of the fair market rental rate for the same, or similar, equipment. Additionally, in no case shall the cumulative rental charges to the project exceed 90% of the fair market value of any one piece of equipment.

§ 7.5.3 Costs of removal of debris from the site and interim and final site cleanup.

§ 7.5.4 Costs of document reproductions, facsimile transmissions and long-distance telephone calls, postage and parcel delivery charges, telephone service at the site and reasonable petty cash expenses of the site office.

§ 7.5.5 That portion of the reasonable expenses of the Contractor's personnel incurred while traveling outside of area of Southern California known as the Inland Empire in discharge of duties connected with the Work only if approved in advance and in writing by Owner.

§ 7.5.6 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, if approved in advance by the Owner.

§ 7.6 MISCELLANEOUS COSTS

§ 7.6.1 That portion of insurance and bond premiums, including subcontractor performance and payment bonds that can be directly attributed to this Contract, but only if approved in writing in advance by Owner, in which case Owner and Lender will be named as additional Obligees. The Owner must also approve in writing of the bond form used.

§ 7.6.2 Sales, use or similar taxes imposed by a governmental authority that are related to the Work.

§ 7.6.3 Fees and assessments for the building permit and for other permits, licenses and inspections for which the Contractor is required by the Contract Documents to pay.

§ 7.6.4 Fees of laboratories for tests required by the Contract Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Section 13.5.3 of AIA Document A201-1997 or other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

§ 7.6.5 Royalties and license fees paid for the use of a particular design, process or product required by the Contract Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Contract Documents; and payments made in accordance with legal judgments against the Contractor resulting from such suits or claims and payments of settlements made with the Owner's consent. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Contractor's Fee or subject to the Guaranteed Maximum Price. If such royalties, fees and costs are excluded by the last sentence of Section 3.17.1 of AIA Document A201-1997 or other provisions of the Contract Documents, then they shall not be included in the Cost of the Work.

§ 7.6.6 Data processing costs related to the Work.

§ 7.6.7 Deposits lost for causes other than the Contractor's negligence or failure to fulfill a specific responsibility to the Owner as set forth in the Contract Documents.

§ 7.6.8 When Contractor is directed in writing by Owner to take any action for which the Contractor believes legal, mediation and/or arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Contractor or Contractor and a subcontractor, or anyone directly or indirectly employed by them, will be reasonably necessary and reasonably incurred by the Contractor in the performance of the Work, the Contractor must notify the Owner in advance of same and obtain the Owner's prior written approval; which approval shall not be unreasonably withheld.

§ 7.6.9 Expenses incurred in accordance with the Contractor's standard personnel policy for relocation and temporary living allowances of personnel required for the Work, if approved by the Owner.

§ 7.7 OTHER COSTS AND EMERGENCIES

§ 7.7.1 Other costs incurred in the performance of the Work if and to the extent approved in advance in writing by the Owner.

§ 7.7.2 Costs due to emergencies incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property, as provided in Section 10.6 of AIA Document A201-1997.

§ 7.7.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Contractor, Subcontractors or suppliers, provided that such damaged or nonconforming Work was not caused by negligence or failure to fulfill a specific responsibility of the Contractor and only to the extent that the cost of repair or correction is not recoverable by the Contractor from insurance, sureties, Subcontractors or suppliers.

§ 7.8 RELATED PARTY TRANSACTIONS

§ 7.8.1 For purposes of Section 7.8, the term "related party" shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Contractor; any entity in which any stockholder in, or management employee of, the Contractor owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Contractor. The term "related party" includes any member of the immediate family of any person identified above.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Contractor and a related party, the Contractor shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed, and the Contractor shall procure the Work, equipment, goods or service from the related party, as a Subcontractor, according to the terms of Article 10. If the Owner fails to authorize the transaction, the Contractor shall procure the Work,

equipment, goods or service from some person or entity other than a related party according to the terms of Article 10.

ARTICLE 8 COSTS NOT TO BE REIMBURSED

§ 8.1 The Cost of the Work shall not include:

§ 8.1.1 Salaries and other compensation of the Contractor's personnel stationed at the Contractor's principal office or offices other than the site office, except as specifically provided in Section 7.2 or as may be provided in Article 14.

§ 8.1.2 Expenses of the Contractor's principal office and offices other than the site office.

§ 8.1.3 Overhead and general expenses, except as may be expressly included in General Conditions as provided for in Exhibit D.

§ 8.1.4 The Contractor's capital expenses, including interest on the Contractor's capital employed for the Work.

§ 8.1.5 Rental costs of machinery and equipment, except as specifically provided in Section 7.5.2.

§ 8.1.6 Except as provided in Section 7.7.3 of this Agreement, Costs due to defective Work, the negligence or failure to fulfill a specific responsibility of the Contractor, Subcontractors and suppliers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable.

§ 8.1.7 Any cost not specifically and expressly described in Article 7.

§ 8.1.8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded.

§ 8.1.9 Any other costs compensated by payment of the General Conditions as provided for in Exhibit D.

§ 8.1.10 Any attorneys' fees or costs, except as allowed by Article 7.6.8 and except that attorney's fees incurred by the Contractor for the purpose of Contract negotiation will be reimbursable, provided that such reimbursement is facilitated by Project cost savings and does not require that the GMP be exceeded to do so.

ARTICLE 9 DISCOUNTS, REBATES AND REFUNDS

§ 9.1 Cash discounts obtained on payments made by the Contractor shall accrue to the Owner if (1) before making the payment, the Contractor included them in an Application for Payment and received payment therefor from the Owner, or (2) the Owner has deposited funds with the Contractor with which to make payments; otherwise, cash discounts shall accrue to the Contractor; provided, however, Contractor will deliver notice of potential discounts, rebates, or refunds at least 10 days in advance to fund such amounts. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Contractor shall make provisions so that they can be secured.

§ 9.2 Amounts that accrue to the Owner in accordance with the provisions of Section 9.1 shall be credited to the Owner as a deduction from the Cost of the Work.

ARTICLE 10 SUBCONTRACTS AND OTHER AGREEMENTS

§ 10.1 Those portions of the Work that the Contractor does not customarily perform with the Contractor's own personnel shall be performed under subcontracts or by other appropriate agreements with the Contractor. The Owner may designate specific persons or entities from whom the Contractor shall obtain bids. The Contractor shall obtain bids from Subcontractors and from suppliers of materials or equipment fabricated especially for the Work and shall deliver such bids to the Owner. The Owner shall then

determine, with the advice of the Contractor and the Architect, which bids will be accepted. The Contractor shall not be required to contract with anyone to whom the Contractor has reasonable objection.

§ 10.2 If a specific bidder among those whose bids are delivered by the Contractor to the Owner (1) is recommended to the Owner by the Contractor; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Contractor may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Contractor and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 10.3 Subcontracts or other agreements shall conform to all requirements and obligations of the Work and Contract Documents, including but not limited to the Conditions of Approval and terms of the Settlement Agreement as detailed in Exhibit G, indemnity obligations, insurance obligations and the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. Contractor shall provide Owner with names and addresses of all Subcontractors, Sub-subcontractors and material suppliers for the Project. Contractor shall provide Owner with copies of Subcontracts and sub-subcontracts for the Project.

§ 10.4 It is further agreed that all subcontracts and material and equipment purchase contracts entered into by Contractor or its subcontractors or material suppliers, shall contain a provision stating that the Owner is an intended third party beneficiary of all warranty/guarantees regarding the Work or materials/equipment furnished and that owner may bring claim directly against any subcontractor or material supplier of Contractor [or lower tier subcontractor/material or equipment provider] for breach of Contract, warranty rights, quality of workmanship, merchantability of equipment, feasibility and fitness for the particular purpose of materials and equipment and workmanship. It is further agreed and understood that such assignment(s) is part of the consideration to Owner for entering into this Agreement with Contractor and may not be withdrawn. The Contractor shall ensure that all subcontractors shall purchase and maintain insurance for claims under Worker's Compensation acts and other employee benefit acts, from claims for damages because of bodily injury, including death, and from claims for damages to the Owner's property which may arise out of or result from the subcontractors' operations under this Agreement. Contractor hereby agrees that Contractor shall be responsible for, and shall indemnify Owner against, all losses, costs, claims, and damages resulting from the Contractor's failure to require its Subcontractors to obtain such insurance. The Owner shall be named as an additional insured in all policies required to be maintained under this Article with the exception of the Worker's compensation insurance, and the Subcontractors' Certificates of Insurance shall be provided to the Owner. Additionally, nothing contained in this Agreement shall constitute an assignment of Contractor's rights against Owner or create any third party beneficiary rights against Owner, in any subcontractors or material and equipment suppliers of Contractor. The purpose of this provision is to allow the Owner, in addition to Contractor, to make claims for damages or indemnification against any subcontractors or material and equipment suppliers that may be ultimately responsible for defects or deficiencies in the Work or materials and equipment.

ARTICLE 11 ACCOUNTING RECORDS

The Contractor shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management under this Contract, and the accounting and control systems shall be satisfactory to the Owner. The Owner, Lender (as defined in Section 14.7 below) and the Owner's accountants shall be afforded access to, and shall be permitted to audit and copy, the Contractor's records, books, correspondence, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda and other data relating to this Contract, the Work performed and/or the Cost of the Work, and the Contractor shall preserve these for a period of three years after final payment, or for such longer period as may be required by law. If any inspection by the Owner or Lender of the Contractor's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda and any other data relating to the Contract, the Work performed and/or the Cost of the Work, reveals an overcharge, including, without

limitation, any untimely request for payment as described in Section 13.3, the Contractor shall pay the Owner upon demand an amount equal to such overcharge, as reimbursement for said overcharge.

ARTICLE 12 PAYMENTS

§ 12.1 PROGRESS PAYMENTS

§ 12.1.1 Based upon Applications for Payment submitted to the Owner by the Contractor on AIA Form G702 and G703, if applicable, and Certificates of Payment issued by the Architect, if requested by Owner, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 12.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 12.1.3 Provided that an Application for Payment is received by the Owner not later than the **first** day of a month, the Owner shall make payment to the Contractor not later than the **fifth** day of the **next** month. If an Application for Payment is received by the Owner after the application date fixed above, payment shall be made by the Owner not later than **thirty (30)** days after the Owner receives the Application for Payment. Contractor shall receive all Subcontractors' invoices and, on a monthly basis, shall prepare a "pencil copy" sworn statement showing all requested payment amounts for Contractor and Subcontractors. All sworn statements and pencil copies thereof shall be of a form acceptable to Owner. Contractor shall deliver the pencil copy with all supporting documentation (including Subcontractors' invoices) to Owner. If required by Owner, four calendar days thereafter or at another mutually agreed time, the Contractor shall meet with Owner ("Pencil Draw Meeting") at Owner's office or at any other mutually agreed location, to review the pencil copy and recommend that individual Subcontractors' invoices be approved for payment, reduction or rejection. Based on the results of the Pencil Draw Meeting (if any), Contractor shall prepare and submit to Owner a sworn statement and Application for Payment requesting payment to the Contractor for the Contractor and all Subcontractors. If Owner's lender or the lender's representative requires a payout meeting, Contractor shall participate in the payout meeting or review the reviewed pencil draft and all supporting documentation. If requested, the Contractor will re-revise the Application for Payment. Contractor will then issue as many copies of the Application for Payment, sworn statement and such supporting documentation as Owner and lender may require. Furthermore, with each application for payment the Contractor shall submit evidence that all inspections necessary to issue Warranties required pursuant to the Contract Documents have been made.

§ 12.1.4 With each Application for Payment, the Contractor shall submit those items set forth in Section 9.3 of the General Conditions as well as payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner to demonstrate that cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor; less (2) that portion of those payments attributable to the Contractor's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

§ 12.1.5 Each Application for Payment shall be based on the most recent Schedule of Values submitted by the Contractor and approved by Owner in accordance with the Contract Documents. The Schedule of Values shall allocate the entire Guaranteed Maximum Price among the various portions of the Work, except that the Contractor's Fee and the General Conditions as provided for in Exhibit D shall be shown as single separate items. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule, unless objected to by the Owner, shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 12.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Contractor on account of that portion of the Work for which the Contractor has made or intends to make actual payment

prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 12.1.7 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 take that portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.8 of AIA Document A201-1997;
- .2 if approved in advance by the Owner, add that portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work, or suitably stored off the site at a location agreed upon in writing;
- .3 add the Contractor's Fee less retainage of **ten percent (10%)**. The Contractor's Fee shall be computed upon the Cost of the Work described in the two preceding Clauses at the rate stated in Section 5.1.2 or, if the Contractor's Fee is stated as a fixed sum in that Subsection, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work in the two preceding Clauses bears to a reasonable estimate of the probable Cost of the Work upon its completion. Subject to the approval of Owner's construction lender, when the Work is determined to be 50% complete, retainage shall be reduced to 5%. Any scope of Work that has been paid in full without retainage withheld shall not be included for purposes of determining whether the Work is 50% complete.
- .4 subtract the aggregate of previous payments made by the Owner;
- .5 subtract the shortfall, if any, indicated by the Contractor in the documentation required by Section 12.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's accountants in such documentation; and
- .6 subtract amounts, if any, for which the Owner has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201-1997.

§ 12.1.8 Except with the Owner's prior approval, payments to Subcontractors and to Contractor for Work performed by its own personnel shall be subject to retainage of not less than ten percent (10%). The Owner and the Contractor shall agree upon a mutually acceptable procedure for review and approval of payments and retention for Subcontractors.

§ 12.1.9 PAYMENTS AFTER SUBSTANTIAL COMPLETION BUT PRIOR TO FINAL PAYMENT

After the entire Project has reached Substantial Completion as defined in Section 9.8 of the General Conditions, Contractor may submit a "Substantial Completion" application for payment. Subject to the consent of the surety, such application for payment shall allow Contractor to request payment for 100% of the contract amount, less the following amounts which shall be withheld as retention (collectively, "Punch List Retention").

a) 100% of the amount then estimated to be returned to Owner as "savings" under Section 5.2.1.3, if any. Architect or Owner and Contractor shall confer to discuss this good faith estimate immediately after substantial completion is achieved.

b) 150% of the value of uncompleted work, including punch list work, at the time of Substantial Completion as reasonably estimated by the Owner and the Architect.

c) unsettled claims.

Thereafter, but no earlier than 30 days subsequent to the prior application for payment, Contractor may make additional monthly "applications for payment" described in this paragraph until it is feasible to make its "Final Application for Payment" as described below.

§ 12.2 FINAL PAYMENT

§ 12.2.1 Upon Final Completion, Contractor shall request Final Payment from Owner by submitting to Owner and the Architect an Application for Payment and a final accounting for the Cost of the Work to be reviewed by Owner. Before the final Application for Payment is made by Contractor, all items of the Work shall be complete, ready to operate and in a clean condition.

§ 12.2.2 When Final Completion has occurred, except as otherwise set forth herein, Owner shall pay Contractor the balance of the Contract Sum subject to the provisions of this Article 12, including the Punch List Retention, either (i) within thirty (30) days following approval of the final Application for Payment by Owner and the Architect, or (ii) as set forth in Section 12.2.3 below. As a condition to final payment Contractor must deliver to Owner all fully executed warranties from the Contractor, subcontractors and any material/equipment warranties as provided in the Contract Documents.

§ 12.2.3 The Owner's accountants may review and report in writing on the Contractor's final accounting within 30 days after delivery of the final accounting to the Owner by the Contractor. Based upon such Cost of the Work as the Owner's accountants report to be substantiated by the Contractor's final accounting, the Owner will, within seven days after receipt of the written report of the Owner's accountants, either approve the final Application for Payment with a copy to the Contractor, or notify the Contractor and Owner in writing of the reasons for withholding payment as provided in Section 9.5.1 of the AIA Document A201-1997.

§ 12.2.4 If the Owner's accountants report the Cost of the Work as substantiated by the Contractor's final accounting to be less than claimed by the Contractor, the Contractor shall be entitled to demand the Dispute Resolution Procedures set forth in the General Conditions for determination of the disputed amount. Such demand shall be made by the Contractor within 30 days after the Contractor's receipt of a copy of the final approval of the Application for Payment; failure to demand dispute resolution within this 30-day period shall result in the substantiated amount reported by the Owner's accountants becoming binding on the Contractor.

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 The Contract may be terminated by the Contractor, or by the Owner for convenience, as provided in Article 14 of AIA Document A201-1997. However, the amount to be paid to the Contractor under Section 14.1.3 of AIA Document A201 -1997 shall not exceed the amount the Contractor would be entitled to receive under Section 13.2 below.

§ 13.2 The Contract may be terminated by the Owner for cause as provided in Article 14 of AIA Document A201-1997. The amount, if any, to be paid to the Contractor under Section 14.2.4 of AIA Document A201-1997 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

§ 13.2.1 Take the Cost of the Work incurred by the Contractor to the date of termination;

§ 13.2.2 Add the Contractor's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 5.1.2 or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and

§ 13.2.3 Subtract the aggregate of previous payments made by the Owner.

§ 13.3 The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders.

§ 13.4 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-1997; in such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A201-1997 except that the term "profit" shall be understood to mean the Contractor's Fee as described in Sections 5.1.2 of this Agreement.

ARTICLE 14 MISCELLANEOUS PROVISIONS

§ 14.1 Where reference is made in this Agreement to a provision AIA Document A201-1997 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 14.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the Prime Rate plus 2% in effect at the beginning of each month as published in the Wall Street Journal. *(Insert rate of interest agreed upon, if any.)*

(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Contractor's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)

§ 14.3 The Owner's representative is:

(Name, address and other information.)

Jack Stones
Vice President of Construction
14225 Corporate Way
Moreno Valley, California 92553

§ 14.4 The Contractor's representative is:

(Name, address and other information.)

Paul Richardson, Project Manager
6865 Airport Drive
Riverside, California 92504

§ 14.5 Further Project Representatives are specified in Exhibit C. None of the Project representatives shall be changed without ten days' written notice to the other party. However, the Owner may insist on the

replacement of a Project Representative. In the event of a change to any of the Project representatives for the Contractor as identified in Exhibit C, the Owner shall have the right to reject Contractor's replacement personnel.

§ 14.6 ASSIGNMENT. The Contractor shall not assign this Agreement and/or any subcontract under this Agreement or any portion thereof or any money due or which may become due hereunder without the prior written consent of Owner. In addition to constituting a default under this Agreement, any assignment or attempted assignment made in violation of this Section will be null and void and the assignee will acquire no rights thereunder. If Owner does consent in writing to an assignment of this Agreement and/or any subcontract under this Agreement, the assignee or subcontractor will be bound to the terms of this Agreement, including specifically and without limitation the insurance provisions contained herein. If any assignment or subcontract is made in breach of this Agreement, Contractor will be liable to Owner for all damages resulting therefrom. In connection with the sale or financing of the Project, Contractor shall execute and deliver, and (if appropriate) acknowledge, any and all documents and instruments reasonably required by Owner or any purchaser or lender, including but not limited to, reasonable modifications to this Agreement, consents, estoppel certificates, and subordinating any rights, interests and claims under this Agreement, at law or otherwise, to the liens, benefits, rights and privileges of any lender. Contractor subordinates all of its lien rights that it may have or acquire under this Agreement or otherwise as to the Work or the Project to the lien and security interest securing payment of sums now or hereafter borrowed by Owner from any lender. Contractor shall execute such additional documents as may be requested from time to time by the Owner or any lender to evidence the provisions hereof.

§ 14.7 CONSTRUCTION LOAN. This Agreement is subject to the approval of Owner's construction lender and mezzanine lender (in either case, the "Lender") and may be collaterally assigned to Owner's construction lender, as such construction lender may require. Owner's Lender is currently Bank of America, N.A., whose addresses for purposes of notices are as follows:

Kim Abreu
SVP - Commercial Real Estate
BANK OF AMERICA
1 Alhambra Plaza, Penthouse
Coral Gables, FL 33134
Facsimile: (312) 453-3838

Bertie Chawla, P.E.
1626 E.4th Street
Santa Ana, CA 92701
Telephone: (714) 571-0287
Facsimile: (714) 571-0033

Contractor agrees to subordinate, and shall cause all other Lienors to subordinate, their construction lien to any construction loan obtained by Owner and agrees to execute any document required by the Lender to evidence such subordination. Contractor also agrees to execute a consent in the form attached hereto as Exhibit "K" and shall also execute, and shall require its Subcontractors to execute, such agreements as the Lender may reasonably require binding Contractor to continue and complete performance under the Agreement in the case of a default by Owner under construction loan, so long as the Lender makes payment of the amounts due Contractor under the Agreement. Contractor shall fully cooperate with any construction lender and provide such information and documentation as may be reasonably required by such construction lender from time to time in connection with the loan and disbursements made thereunder. All subcontracts shall be assignable to Owner and its construction lender and may be assumed by Owner or its construction lender in the event of any termination of the Agreement, all at the option of Owner and/or its construction lender. All subcontracts shall provide that they are terminable by Owner and/or its construction lender in the event that the Agreement is terminated without additional costs beyond that actually incurred to the date of termination. Contractor hereby authorizes Owner to disclose to any financial institution, any information concerning Contractor's financial status, Contractor's credit rating or similar information. Contractor agrees to execute any amendment to the Agreement as may be reasonably required by Owner's construction lender, provided that such amendment(s) shall not amend the Contract Sum or the Contract Time. Notwithstanding any requirements contained herein, Contractor reserves the

right to require mutually acceptable language as part of any consent documents required by the Lender. Contractor hereby approves of the language set forth in Exhibit "K" attached hereto.

§ 14.8 ENTIRE AGREEMENT. This Agreement, together with the Contract Documents which are incorporated herein by reference, constitute the entire Agreement between the parties. Neither this Agreement nor the Contract Documents may be amended or supplemented except by written instrument duly executed by both parties hereto. No estimates or bids of Contractor preceding this Agreement and no verbal Agreement or conversation with any representative of Owner, either before or after execution of this Agreement, will affect or modify any of the terms or provisions contained in this Agreement or the Contract Documents.

§ 14.9 WAIVER. No consent or waiver, express or implied, by either party to this Agreement relating to any breach or default by the other in the performance of any obligation hereunder will be deemed or construed to be a consent to or waiver of any other breach or default by such party. Failure on the part of either party to complain of any act or failure to act of the other party or to declare the other party in default irrespective of how long such failure continues will not constitute a waiver of the rights of such party.

§ 14.10 TIME. Time is of the essence of this Agreement and each provision herein contained.

§ 14.11 WORDS AND HEADINGS. Words used herein will include the plural as well as the singular. Words used in the masculine gender include the feminine and neuter. The section headings used herein are for convenience only and will have no affect upon the construction or interpretation of any part of this document.

§ 14.12 BONDS. Owner will require Contractor to provide a performance bond or completion bond as a condition precedent to payment. Contractor shall furnish a Payment Bond and a Performance Bond in the GMP Sum, utilizing AIA Document A312, respectively for each, or as otherwise may be agreed, as attached in Exhibit "I". The Payment and Performance Bonds shall be furnished by a surety licensed in the State of California that is satisfactory to Owner, naming the Owner and Lender (and such other parties designated by the Owner) as obligees and conditioned that the Contractor shall perform all Work required by the Contract Documents. The surety on any bonds is expressly responsible for performance of the Work, including all warranty work and completion of the Work when Contractor is terminated for cause. The Contractor will be required to either furnish Subcontractor payment and performance bonds, or enroll Subcontractors in the Subguard insurance program, at Owner's election. The Contractor will be reimbursed by the Owner for the cost differential between the Subcontractor bond premium and the Subguard premium, if any.

§ 14.13 OTHER AGREEMENTS. Should there now or hereafter exist one or more other agreements between the parties or with any affiliated corporation or company of either concerning this or any other construction project, then a breach by Contractor under the terms of any such agreement, at the option of Owner, will be considered a breach of this Agreement and all such other agreements. In such event Owner or its affiliates may declare a default under any or all agreements so breached in accordance with their terms and may withhold money due or to become due under any such agreement and apply the same toward payment of any damages suffered.

§ 14.14 INDEPENDENT CONTRACTOR. Contractor will be an independent contractor with respect to the Work, and neither Contractor nor anyone employed by Contractor will be deemed for any purpose to be the agent, employee, servant or representative of Owner in the performance of the Work. Contractor acknowledges and agrees that Owner will have no direction or control over the means, methods, procedures or manner of the Work performed by Contractor or any of its subcontractors, or any of their employees, vendors or suppliers.

§ 14.15 SEVERABILITY. If any paragraph, section, sentence, clause or phrase contained in this Agreement shall become illegal, null or void, against public policy or otherwise unenforceable for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void, against public policy, or otherwise unenforceable, the remaining paragraphs, sections, sentences, clauses or phrases contained in this Agreement shall not be affected thereby.

§ 14.16 REPRESENTATIONS AND WARRANTIES. The Contractor represents and warrants the following to Owner (in addition to any other representations and warranties contained in the Contract Documents) as a material inducement to the Owner to execute this Agreement, which representations and warranties shall survive the execution and delivery of this Agreement, any termination of this Agreement and the final completion of the Work:

.1 the Contractor is financially solvent, able to pay all debts as they mature and possessed of sufficient working capital to complete the Work, perform all obligations hereunder and comply with all Laws, including, without limitation, California Labor Code Section 2810;

.2 the Contract contains a Contract Sum and a Guaranteed Maximum Price sufficient to allow the Contractor to comply with all Laws, including, without limitation, California Labor Code Section 2810;

.3 the Contractor is able to furnish the plant, tools, materials, supplies, equipment and labor required to complete the Work and perform its obligations hereunder and has sufficient experience and competence to do so;

.4 the Contractor is authorized to do business in the State of California and is properly licensed by all necessary governmental and public and quasi-public authorities having jurisdiction over the Contractor and over the Work and the Project;

.5 the Contractor's execution of this Agreement and performance thereof is within the Contractor's duly authorized powers;

.6 the Contractor's duly authorized representative has visited the site of the Project and is familiar with the local conditions under which the Work is to be performed and has correlated observations with the requirements of the Contract Documents;

.7 the Contractor is a sophisticated contractor who possesses a high level of experience in construction, construction management and superintendence of projects of the size, complexity and nature of this particular Project and will perform the Work with the care, skill and diligence of such a contractor;

.8 the Project as designed in the Contract Documents, including but not limited to the scope and means and methods requirements of the Conditions of Approval and terms of the Settlement Agreement as detailed in Exhibit G: (a) is capable of being constructed as contemplated thereby and (b) shall be constructed in conformity therewith and all governmental regulations, the Contract Documents and generally accepted industry standards, practices and principles in effect at the time of Contract execution; and

.9 As of the date of issuance of a Certificate of Substantial Completion for the Work, that the Project as constructed:

(a) meets and complies in all material respects with all approved plans and specifications;

(b) does not violate in any material respect any governmental regulations;

(c) contains no Hazardous Substances which are not permitted by governmental regulations;

(d) fully meets all requirements of the Contract Documents; and

(e) including, without limitation, materials, articles and equipment furnished by the General Contractor under this Contract, will be free of deficiencies and defects for the period set forth in Section 3.5 of the General Conditions or as otherwise specified in the Contract Documents.

§ 14.17 COUNTERPARTS. For the convenience of the parties to the Contract Documents, this Agreement may be executed in several original counterparts, each of which shall together constitute but one and the same Agreement.

§ 14.18 NEUTRAL INTERPRETATION. This Agreement is deemed to be jointly prepared by all the parties hereto and shall not be construed against any particular party. Rather, this Agreement shall be construed as if it were jointly prepared by all the parties.

§ 14.19 EXHIBITS AND ADDENDA. All exhibits, riders or addenda attached hereto are incorporated herein by reference.

§ 14.20 CONFIDENTIALITY. Contractor agrees that it will not: (i) without the prior written approval of the Owner, publicize the fact that the Owner has entered into this Contract; (ii) disclose, confirm or deny any details of the Contract Documents. Contractor agrees that it will not use Owner's name in connection with Contractor's publicity with respect to the Project without the prior review and written approval in each instance by the Owner. Contractor shall also insert the terms of this provision in all contracts, subcontracts and/or agreements executed in connection with the services to be performed under the Contract Documents and require that its Subcontractors do the same. Contractor agrees to comply with these obligations except as required by law or as reasonably necessary to conduct a Contractor's business with auditors, insurers, parent companies, holding companies, financial institutions, regulatory agencies, taxing authorities and administrative bodies.

ARTICLE 15 ENUMERATION OF CONTRACT DOCUMENTS

§ 15.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows: See below

§ 15.1.1 The Agreement is this executed 1997 edition of the Standard Form of Agreement Between Owner and Contractor, AIA Document A111-1997.

§ 15.1.2 The General Conditions are the 1997 edition of the General Conditions of the Contract for Construction, AIA Document A201-1997.

§ 15.1.3 The Supplementary and other Conditions of the Contract are those contained in the Project Manual and are as follows: See Exhibit "E"

<u>Document</u>	<u>Title</u>	<u>Pages</u>
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§ 15.1.4 The Specifications are those contained in the Project Manual dated as in Section 15.1.3, and are as follows:

(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

Exhibit "E" Drawing Log, Project Manuals & Reports

§ 15.1.5 The Drawings are as follows, and are dated _____ unless a different date is shown below:

(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Exhibit “E” Drawing Log, Project Manuals & Reports

§ 15.1.6 The Addenda, if any, are as follows:

Addendum “A” to the General Conditions — Insurance Provisions

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 15.

§ 15.1.7 Other Documents, if any, forming part of the Contract Documents are as follows:

(List here any additional documents, such as a list of alternates that are intended to form part of the Contract Documents. AIA Document A201-1997 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor’s bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

Addendum “A” — Insurance requirements

Exhibit “B” — Construction Schedule

Exhibit “C” — Project Team

Exhibit “D” — Schedule of Values

Exhibit “E” — Drawing Log, Project Manuals & reports

Exhibit “F” — Qualifications

Exhibit “G” — Matrix from Conditions of Approval and Settlement Agreement

Exhibit “H” — Conditions of Approval from City of Moreno Valley and January 7, 2010 Settlement Agreement with the Sierra Club

Exhibit “I” — Payment and Performance Bonds

Exhibit “J” — Extended Warranties”

Exhibit “K” — Form of Contractor’s Consent

Exhibit “L” — Form of Progress Report

Exhibit “M” — Form of Subcontractor/Vendor Subcontract

Exhibit “N” — Purchase Order Log

Exhibit “O” — Form of Job Cost Report or Commitment to Estimate Variance Report

Exhibit “P” — Form of Payment Application

Exhibit “Q” — Proof of Financing Requirement

ARTICLE 16 INSURANCE AND BONDS

(List required limits of liability for insurance and bonds. AIA Document A201-1997 gives other specific requirements for insurance and bonds.)

See Addendum “A” to the General Conditions

Contract #: MHOO-121-226-A
Project: **HIGHLAND CORPORATE PARK
SKECHERS DISTRIBUTION CENTER**
Trade: **GENERAL CONTRACTOR**

This Agreement is entered into as of the day and year first written above and is executed in at least three original copies, of which one is to be delivered to the Contractor, one to the Architect for use in the administration of the Contract, and the remainder to the Owner.

CONTRACTORS ARE REQUIRED BY LAW TO BE LICENSED AND REGULATED BY THE CONTRACTORS' STATE LICENSE BOARD WHICH HAS JURISDICTION TO INVESTIGATE COMPLAINTS AGAINST CONTRACTORS IF A COMPLAINT REGARDING A PATENT ACT OR OMISSION IS FILED WITHIN FOUR YEARS OF THE DATE OF THE ALLEGED VIOLATION. A COMPLAINT REGARDING A LATENT ACT OR OMISSION PERTAINING TO STRUCTURAL DEFECTS MUST BE FILED WITHIN 10 YEARS OF THE DATE OF THE ALLEGED VIOLATION. ANY QUESTIONS CONCERNING A CONTRACTOR MAY BE REFERRED TO THE REGISTRAR, CONTRACTORS' STATE LICENSE BOARD P.O. BOX 26000, SACRAMENTO, CALIFORNIA 95826. Contractor's California contractor's license number is 703175.

Contract #: **MHOO-121-226-A**
Project: **HIGHLAND CORPORATE PARK**
SKECHERS DISTRIBUTION CENTER
Trade: **GENERAL CONTRACTOR**

HF LOGISTICS-SKX T1, LLC,
a Delaware limited liability company

J.D. Diffenbaugh, Inc.

By: HF Logistics-SKX, LLC, a
Delaware limited
liability company, its sole member

By: HF Logistics I, LLC, a Delaware
limited liability company, its managing member

By: /s/ Iddo Benzeevi
Iddo Benzeevi, President and
Chief Executive Officer

By: /s/ Joel Alexander
Joel Alexander, Vice President / CFO

Date: 4/23/2010

Date: 4/23/2010

ADDENDUM "A"

This Addendum ("Addendum") is attached to and incorporated in that certain Standard Form of Agreement Between Owner and Contractor ("Agreement") between **HF Logistics SKX T1**, a **California Limited Liability Company ("Owner")** and **J. D. Diffenbaugh, Inc. ("Contractor")**. In the event of any conflict, inconsistency or ambiguity between the terms and provisions of this Addendum and those of the Agreement, this Addendum shall govern. Where any article, paragraph or subparagraph of the Agreement is modified or deleted by this Addendum, the unaltered provisions of that article, paragraph or subparagraph shall remain in effect. All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Agreement. The terms and provisions of the Agreement are hereby modified as set forth below.

1.1 General Contractor shall obtain and maintain, and Contractor shall require and ensure that each of its subcontractors agree to obtain and maintain, the insurance coverage specified in this Addendum ("**Required Insurance**"), in a form and from insurance companies reasonably acceptable to Owner. Such insurance shall cover all portions of the Work whether performed by Contractor or subcontractors at the Project site or any other location that may be away from the Project site. The coverage set forth herein are the minimum requirements Contractor must satisfy and will not relieve Contractor of any liability for loss or damage not covered by, or in excess of the coverage limits for, the insurance policies required hereunder. The Required Insurance shall cover Contractor, its authorized representatives, employees, agents and any other person performing any work under any contract or agreement with Contractor. If Contractor fails to procure, maintain or pay for the Required Insurance, Owner shall have the right (but not the obligation) to secure the same in the name of and for the account of Contractor, in which event, Contractor shall pay the cost thereof and shall furnish upon demand, all information that may be required to procure such insurance. The insurance requirements set forth herein shall in no way limit Contractor's liability arising out of the Work or related activities. The inclusions, coverage and limits set forth herein are minimum inclusions, coverage and limits. Nothing contained herein shall be construed as limiting the type, quality or quantity of insurance coverage that Contractor should maintain. Contractor shall be responsible for determining appropriate inclusions, coverage and limits which may be in excess of the minimum requirements set forth herein. Owner may require Contractor to obtain and maintain such other insurance as Owner deems reasonably necessary so long as Owner agrees to pay the additional premiums therefor pursuant to a Change Order.

Contractor shall ensure that the Owner and such other parties designated by Owner, including but not limited to the Owner's Lender, are named as additional insured on the Comprehensive General Liability and Excess Liability Policies. Contractor shall ensure that each of its subcontractors agree to name the Owner and such other parties designated by Owner, including but not limited to the Owner's Lender, as additional insured on any General Liability policies. All policies of Contractor and its subcontractors shall contain an endorsement whereby the insurance carriers agree that its insurance is primary and not contributory with or in excess of any coverage which the Owner has purchased. The Contractor shall be responsible for all deductibles under the Contractor's insurance policies.

The Contractor shall secure, pay for, and maintain whatever insurance they may deem necessary for protection against loss of owned or rented capital equipment and tools, including any tools owned by mechanics, any tools, equipment, stagings, towers and forms owned or rented by their subcontractors or agents under this Contract. Failure of the Contractor to secure such insurance to maintain adequate levels of coverage shall not obligate the Owner or their agents and employees for any losses of owned or rented equipment. If the Contractor secures such insurance, the insurance policy shall include a waiver of subrogation as follows: "it is agreed that in no event shall this insurance company have any right of recovery against the Owner."

All insurance policies shall be obtained by the Contractor and shall be agreed upon by the Owner prior to the commencement of the Work. During the term of this Contract, the Contractor must promptly produce on demand of Owner evidence of the required insurance coverage (including providing a complete copy of the insurance policy) and payment of premiums thereon unless Owner assumes responsibility for payment of such premium. If not so produced, the Owner shall have the immediate right to procure the required insurance on behalf of the Contractor, and to charge and deduct the cost thereof from the Contract Sum, but the Owner shall not be under any obligation to do so. Contractor's failure to maintain the insurance required by this Section shall be grounds for the termination of this Contract, and Contractor shall be liable for all losses, damages, costs and expenses of every nature and kind associated with the failure to maintain the required insurance.

Contractor shall notify Owner as soon as is reasonably possible after the occurrence of any accidents, incidents or events which could give rise to a claim arising from the performance of services by Contractor under this Agreement. Contractor must submit all claims in a timely manner to all carriers that may respond and pay such claims so as to avoid any chance of loss of coverage. Contractor must produce evidence of each and every notice, and the failure to timely provide the required notices shall constitute a material breach of contract and shall be a basis for non-payment of any application for payment and final payment.

Certificates of insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work. The Owner's Lender shall be the certificate holder. These certificates and the insurance policies required shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the final Application for Payment. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

1.2 Policies/Endorsements Prior to the date on which Contractor or any subcontractors commences performance of its part of the Work (including, without limitation, bringing any equipment or personnel onto the Project site), Contractor shall provide Owner with certified copies of all Required Insurance policies maintained by Contractor and all subcontractors or, if requested by Contractor or Owner in writing, certificates of insurance together with all required endorsements, including endorsements naming Contractor and Owner (and such other parties designated by Owner, including but not limited to the Owner's Lender) as additional insureds. The Required Insurance shall not contain any exclusionary language or limitations that are applicable to any additional insureds that are not applicable to the named insured. As and when Contractor may direct, copies of the actual insurance policies, renewals or replacements thereof shall be submitted to Contractor. Contractor and any subcontractor shall not commence the Work until true copies of policies or certificates evidencing such Required Insurance together with the required endorsements have been submitted to and are approved by Contractor and Owner, which certificates must comply with the following requirements: (1) the Required Insurance coverage and limits shall be for the amounts as set forth in **Section 1.4** below; (2) all Required Insurance policies shall be carried with companies lawfully authorized to do business in California with a "Best" rating of "A-IX" or better; (3) the certificates of insurance shall contain an endorsement that coverage afforded under the policies will not be canceled, non-renewed, or materially altered until at least thirty (30) calendar days after written notice has been given to Contractor and Owner, or ten (10) calendar days after written notice has been given to Contractor and Owner if due to non-payment of premium; (4) the Required Insurance shall be "Occurrence" insurance and not "Claims Made" or "Modified Claims Made" with the exception of insurance required under 1.4.4 and 1.4.6; (5) the Required Insurance shall be primary to any insurance held by Owner or Contractor; (6) the project/job description and/or description of operations on all certificates, endorsements and other insurance documentation shall read "All Operations"; and (7) the certificate for Contractor's and any subcontractor's commercial general liability insurance shall include a "per project, per location" endorsement.

1.3 Cancellation/Non-Renewal/Material Alteration Upon receipt of any notice of such insurance carrier's cancellation, non-renewal or material alteration, Contractor shall within ten (10) calendar days procure other policies of insurance (or make payment of premium if that was the reason for such notice), similar in all respects to the policy or policies about to expire, be canceled or materially altered. If Contractor fails to procure and deliver acceptable policies of insurance in accordance with the terms hereof, Owner may, at its option, obtain such insurance at the cost and expense of Contractor and so notify Contractor.

1.4 Required Insurance The insurance required under this Section shall include the following coverage and limits, or such greater coverage or larger limits as may be required by all applicable laws, in the following categories, and amounts and detail:

1.4.1 Commercial General Liability. Commercial General Liability insurance covering all operations by or on behalf of Contractor and any subcontractor providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below and including coverage for:

(a) \$2,000,000 each occurrence limit, \$1,000,000 personal and advertising injury limit, \$2,000,000 products-complete operations aggregate limit, and \$2,000,000 general aggregate limit or equivalent approved by Contractor, or current limit carried, whichever is greater;

(b) ISO or comparable Occurrence Form (Occurrence Form #CG0001-1093 or equivalent) (Modified Occurrence and Claims Made form are not acceptable; if Modified Occurrence or Claims Made

coverage is submitted, Owner shall have the right to cancel any Agreement or stop work and withhold payment to Contractor until proof of Occurrence Form coverage is received);

(c) Bodily injury liability (A, B and C with employee exclusion and contractual exclusions removed), broad form property damage coverage, products liability/completed operations coverage, premises operations (which Contractor shall maintain for a period of at least ten (10) years after completion of the Project and acceptance of the Work), incidental malpractice, liquor legal liability, blanket contractual liability insuring the obligations assumed by Contractor under this Agreement, including all indemnification obligations, personal and advertising injury, independent contractor's liability, mobile equipment, owners and contractors protective liability, damage from explosion, collapse and underground hazards [i.e., "XCU" exclusion deleted), and cross-liability and severability of interest clauses;

(d) Endorsement ISO-Form B #CG2010-1185 or its equivalent at no expense to Owner naming Owner and their officers, directors, partners, members and employees, as additional insureds;

(e) A provision that such insurance afforded by the policy for the benefit of the additional insureds shall be primary insurance but only as respects any claims, losses, or liabilities relating to or arising out of the operations of the named insureds, and any insurance maintained by the additional insureds shall be non-contributing;

(f) An endorsement affording thirty (30) calendar days prior written notice to Contractor by certified mail in the event of cancellation, non-renewal, material change and/or reduction in policy limits. The reference to "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" in the cancellation notification portion of the certificate and/or endorsement must be deleted. To the full extent permitted by law, any provision on the face of any certificate of insurance provided by Contractor that states anything to the effect that the certificate of insurance does not confer rights to insurance upon Contractor or Owner is hereby deemed deleted from such certificate of insurance;

(g) A deductible or self-insured retention of not more than \$5,000 per occurrence or accident (unless approved in writing by Contractor) and no deductible or self-insured retention as to any additional insureds;

(h) With respect to Contractor performing trenching activities over five (5) feet in depth or grading operations of any manner, no exclusionary language or limitations relating to soils subsidence or earth movement of any kind regardless of cause;

(i) A provision that defense costs are paid in addition to and do not deplete any policy limits;

(j) Waiver of subrogation endorsement in favor of Contractor and Owner;

(k) If insurable by law, no exclusionary language or limitations relating to punitive or exemplary damages, fines or penalties; and

(l) No exclusionary language or limits relating to the scope of coverage for liability arising from pollution, mold or fungus, or arising from the use of EIFS, DEIFS or similar products. This insurance requirement is applicable to Contractor only.

1.4.2 **Workers' Compensation and Employer's Liability Insurance.** Workers' Compensation and Employer's Liability Insurance for all of Contractor's employees and subcontractors (if applicable to any subcontractors), at the Project Site as follows: Workers' Compensation shall be in the amount of statutory limits and Employer's Liability insurance shall be in an amount not less than \$1,000,000 each accident for bodily injury, \$1,000,000 policy limit for bodily injury by disease, and \$1,000,000 for each employee for bodily injury by disease. Coverage must include a waiver of subrogation endorsement in favor of the Indemnitees and any Other Contractors. Contractor shall require similar written express waivers and insurance clauses from each of its subcontractors.

1.4.3 **Automobile Liability Insurance.** Automobile Liability Insurance (Bodily Injury and Property Damage Liability) including coverage for owned, hired and non-owned automobiles, the limits of liability shall not be less than \$1,000,000 Combined Single Limit each accident for Bodily Injury and Property Damage combined.

1.4.4 **Pollution and Hazardous Materials Liability Insurance.** Should the Work of Contractor and/or any of its subcontractors and/or suppliers involve the type of work or risk exposure covered in the any of the sub-subparagraphs below under this subparagraph (1.4.4), Contractor must obtain a pollution liability insurance policy naming Owner as an additional insured with limits in amounts not less than those set forth below:

(a) If Contractor's Work includes the remediation of hazardous materials, it must obtain a pollution liability insurance policy with limits not less than \$2,000,000 per occurrence and \$5,000,000 aggregate for Bodily Injury, Personal Injury and Property Damage;

(b) If Contractor's Work creates exposure to hazardous materials, it must obtain a pollution liability insurance policy with limits not less than \$2,000,000 per occurrence and \$5,000,000 aggregate for Bodily Injury, Personal Injury and Property Damage;

Regardless of whether Contractor's Work is covered under subparagraph (a) or (b), above, if Contractor's Work includes the hauling of hazardous materials or pollutants (including waste), its pollution liability insurance policy must extend pollution coverage to the transportation of hazardous materials or pollutants. Contractor will attach any endorsements required by law, such as the MCS-90 endorsement required by the Motor Carrier Act of 1980, if applicable.

The term "hazardous materials," as used herein, shall have the same definition as in federal and California law.

Owner shall, in its sole discretion, determine whether Contractor's Work triggers the above requirements for a pollution liability insurance policy.

1.4.5 **Equipment Coverage.** "All Risks" Contractor's Equipment coverage in an amount equal to the full replacement cost of all property owned, leased or rented construction tools machinery and equipment, including scaffolding and temporary buildings used by Contractor and its subcontractors in the performance of the Work as well as real and personal property which becomes a final part of the Project, while it is in transit or is stored off site or is worked upon away from the Project Site until such materials and supplies are delivered to the Project Site and incorporated into the Work. All policy proceeds shall be used for the repair or replacement of the property damaged or destroyed. Such policy shall be endorsed waiving rights of subrogation against Contractor, Owner and all other subcontractors engaged in the construction operations at the Project.

1.4.6 **Professional Liability Insurance.** This insurance requirement is applicable to Contractor and any of its subcontractors or subconsultants engaged in design services only. To the extent applicable to the Work to be provided by Contractor under the Agreement, Contractor shall also, at its sole expense, procure and maintain during the course of its performance of the Agreement, and for the time periods set forth herein, "Professional Liability Insurance" covering the professional services to be provided by Contractor under the Agreement. The limits of liability shall be not less than \$3,000,000. Such Professional Liability Insurance shall be maintained during the term of the Agreement and, to the extent available on commercially reasonable terms, for a period of at least ten (10) years after final completion of the Project and acceptance of the Work.

1.4.7 **Umbrella or Excess Liability Coverage.** This insurance requirement is applicable to Contractor only. Contractor shall maintain umbrella or excess liability insurance on a follow form basis in an amount not less than \$25,000,000, on an occurrence basis, that applies excess of required commercial general liability, automobile liability, workers' compensation, and employer's liability policies. These limits shall be in addition to and not including those stated for underlying commercial general liability, automobile liability, workers' compensation and employer's liability, pollution liability, and professional liability insurance. Such policies shall name Owner as an additional insured with respect to all work performed by or for Contractor.

1.4.8 **Subguard Insurance.** If approved in writing in advance by the Owner, instead of requiring Subcontractors to provide payment and performance bonds, the Contractor may provide a Subcontractor Default Insurance ("Subguard") policy to cover its Subcontractors' Work and performance on this Project in an amount not less than \$15,000,000 each loss limit and \$30,000,000 aggregate limit. The Contractor shall provide a "Financial Interest Endorsement." Such endorsement shall provide that the Subguard policy is assignable only in the event of the insolvency of the Contractor. This Endorsement shall become part of the Subguard policy. If a Subcontractor is not eligible to be covered under the Subguard policy, such Subcontractor shall provide 100% performance and payment bonds to the extent required by the Contract. The Contractor warrants and represents that no Subcontractor used to perform any part of the Work will be omitted or excluded from coverage under the

Subguard policy (except as noted above) and that the Subguard policy shall apply to all claims related to default by such Subcontractors except as excluded by Exclusions F (nuclear radiation), G (war), and H (terrorism) thereof. The existence of the Subguard policy does not limit the liability of the Contractor under the Contract Documents. The Contractor shall give the Owner notice of any default by a Subcontractor covered by the Subguard policy, and the Contractor shall keep the Owner fully apprised of the amount and status of any claims made under the Subguard policy that may diminish the limits available to this Project. Premiums associated with the Subguard policy are included in the Contract Sum and any additional premium shall not be paid as a Cost of the Work, unless such additional premium amount is a direct result of a Change Order or Construction Change Directive for which the Owner is responsible under the Contract Documents.

1.5 Subrogation The Owner and Contractor waive all rights against each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, for damages caused by fire or other causes of loss to the extent recovered from property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. Contractor shall also require that all insurance policies related to the Work secured by its subcontractors to include similar express waivers and insurance clauses providing that each insurance underwriter shall waive all of its rights of recovery by subrogation, or otherwise, against Owner and such other parties. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

J. D. Diffenbaugh, Inc.		HIGHLAND FAIRVIEW CORPORATE PARK - SKECHERS for HIGHLAND FAIRVIEW LOGISTICS I, LLC												Revised January 18, 2010		
		PRELIMINARY BID SCHEDULE												EXHIBIT "B"		
ID	Task Name	2nd Quarter			3rd Quarter			4th Quarter			1st Quarter			2nd Quarter		
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	
1	CLIENTS KEY OBJECTIVE MILESTONES	4/19 ————— 3/21														
2	Start Grading Operations	◆ 4/19														
3	Certify Center 1/3rd Building Pad	◆ 5/21														
4	Start Mezzanine / Racking Vendor	◆ 9/21														
5	Shell Completion	◆ 3/21														
6	OVERALL CONSTRUCTION	4/5 ————— 3/18														
7	PRE-CONSTRUCTION COORDINATION and MOBILIZATION	4/5 ————— 7/14														
8	Contract Award and Negotiations	4/5 □ 4/9														
9	Contract Fully Executed	◆ 4/9														
10	Evidence of Financing in Place	◆ 4/9														
11	Subcontract Negotiations and Release to Secure Materials	4/12 □ 4/23														
12	Release Subs to Secure Materials	◆ 4/23														
13	MATERIAL ACQUISITION	4/19 ————— 7/14														
14	Finalize Material Orders	4/28 □ 5/4														
15	Reinforcing Steel	5/5 ————— 6/21														
16	Foundations	5/5 □ 5/25														
17	Panels	5/5 ————— 6/21														
18	Structural Steel	4/19 ————— 7/1														
19	Anchor Bolts and Templates	5/5 □ 5/25														
20	Mill Order Beams and Columns in Local Warehouse	◆ 4/19														
21	Shop Fabrication	5/5 ————— 7/1														
22	Panelized Roof	5/5 ————— 7/14														
23	Joists and Girders	5/5 ————— 7/14														
24	Plywood and Dimensional Lumber	5/5 ————— 7/14														
25	Permit Acquisition	4/5 ▼ 4/9														
26	Grading and Utility Permits Acquired	◆ 4/5														
27	Building and All Remaining Permits Acquired	◆ 4/5														
28	Construction Issue Drawings Acquired	◆ 4/9														
29	Mobilization	4/9 ▼ 4/19														
30	Notice to Proceed	◆ 4/9														
31	Mobilization (Based on Critical Path Material Acquisitions)	4/12 □ 4/16														
32	All Diffenbaugh Requirements for Project Start In-Place	◆ 4/9														
33	Contract Commencement Milestone	◆ 4/19														
34	VENDOR REQUIRED WORK	◆ 5/24														
35	Conveyor Mezzanine Footings Installation	◆ 5/24														
36	ROUGH GRADING (Site Package Element)	4/12 ————— 7/26														
37	Schedule and Conduct Pre-Grade Meeting	4/12 □ 4/14														
38	Mobilize Equipment	4/14 □ 4/19														
39	Coordinate Water Sources	4/14 □ 4/16														
40	Building Pad	4/19 ————— 7/21														
41	Develop Building Pad - Area 33 thru 17	4/19 □ 5/19														
42	Develop Building Pad - Area 49 thru 33	5/19 □ 6/22														

ID	Task Name	2nd Quarter			3rd Quarter			4th Quarter			1st Quarter			2nd Quarter	
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
43	Develop Building Pad - Area 17 thru 1				6/22	7/21									
44	Progressive Pad Certifications				5/19	7/26									
45	Pad Certification - Area 33 thru 17				5/19	5/24									
46	Pad Certification - Area 49 thru 33					6/22	6/25								
47	Pad Certification - Area 17 thru 1					7/21	7/26								
48	WEATHER DELAY ALLOCATIONS				4/26										11/29
49	Allocation 1st Qtr Schedule - 2 Days				4/26										
50	Allocation 2nd Qtr Schedule - 3 Days					6/1									
51	Allocations 3rd Qtr Schedule - 2 Days							8/31							
52	Allocation 4th Qtr Schedule - 3 Days														11/29
53	GENERAL CONSTRUCTION				5/24										3/18
54	BELOW GRADE UTILITIES				5/24										8/12
55	Plumbing and Other - Area 33 thru 17				5/24										6/11
56	Column Line 33 to 29 (149,413 sf)				5/24										6/4
57	Column Line 29 to 25 (149,360 sf)				5/26										6/8
58	Column Line 25 to 21 (149,360 sf)				6/7										6/10
59	Column Line 21 to 17 (149,413 sf)				6/9										6/14
60	Plumbing and Other - Area 49 thru 33				6/25										7/15
61	Column Line 49 to 45 (150,159 sf)				6/25										7/7
62	Column Line 45 to 41 (149,360 sf)				7/6										7/9
63	Column Line 41 to 37 (149,360 sf)				7/6										7/13
64	Column Line 37 to 33 (149,413 sf)				7/12										7/15
65	Plumbing and Other - Area 17 thru 1				7/26										8/12
66	Column Line 17 to 13 (149,413 sf)				7/26										7/29
67	Column Line 13 to 9 (149,360 sf)				7/26										8/2
68	Column Line 9 to 5 (149,360 sf)				7/30										8/4
69	Column Line 5 to 1 (153,425 sf)				8/3										8/12
70	BUILDING CONCRETE				5/24										10/5
71	Building Concrete - Area 33 thru 17				5/24										7/26
72	Interior Foundations				5/24										6/11
73	Column Line 33 to 29 (149,413 sf)				5/24										5/28
74	Verify Line and Grade				5/24										5/25
75	Layout and Excavation				5/24										5/26
76	Receive, Inventory and Store Anchor Bolt A														5/25
77	Install Rebar				5/25										5/26
78	Install Bolts and Embeds				5/26										5/26
79	Place Foundations				5/27										5/27
80	Strip Forms and Clean Embeds				5/28										5/28
81	Column Line 29 to 25 (149,360 sf)				5/27										6/7
82	Layout and Excavation				5/27										5/28
83	Receive, Inventory and Store Anchor Bolt A														5/27
84	Install Rebar				5/28										5/28

ID	Task Name	2nd Quarter				3rd Quarter			4th Quarter			1st Quarter			2nd Quarter
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
85	Install Bolts and Embeds			5/28	5/28										
86	Place Foundations			6/4	6/4										
87	Strip Forms and Clean Embeds			6/7	6/7										
88	Column Line 25 to 21 (149,360 sf)			6/4	6/9										
89	Layout and Excavation			6/4	6/7										
90	Receive, Inventory and Store Anchor Bolt A			6/4	6/4										
91	Install Rebar			6/7	6/7										
92	Install Bolts and Embeds			6/7	6/7										
93	Place Foundations			6/8	6/8										
94	Strip Forms and Clean Embeds			6/9	6/9										
95	Column Line 21 to 17 (149,413 sf)			6/8	6/11										
96	Layout and Excavation			6/8	6/9										
97	Receive, Inventory and Store Anchor Bolt A			6/8	6/8										
98	Install Rebar			6/9	6/9										
99	Install Bolts and Embeds			6/9	6/9										
100	Place Foundations			6/10	6/10										
101	Strip Forms and Clean Embeds			6/11	6/11										
102	Interior and Perimeter / Panel Foundations			6/10	7/13										
103	Column Line 33 to 29 (149,413 sf)			6/10	6/30										
104	Layout and Excavate			6/10	6/15										
105	Receive, Inventory and Store Anchor Bolt A			6/10	6/10										
106	Install Rebar			6/11	6/16										
107	Install Bolts and Embeds			6/16	6/17										
108	Place Foundations			6/18	6/22										
109	Strip Forms and Clean Embeds			6/21	6/22										
110	Install Erection Pads			6/21	6/23										
111	Cure Time Prior to Loading			6/24	6/30										
112	Column Line 29 to 25 (149,360 sf)			6/16	7/6										
113	Layout and Excavate			6/16	6/17										
114	Receive, Inventory and Store Anchor Bolt A			6/16	6/16										
115	Install Rebar			6/17	6/18										
116	Install Bolts and Embeds			6/18	6/18										
117	Place Foundations			6/23	6/24										
118	Strip Forms and Clean Embeds			6/25	6/25										
119	Install Erection Pads			6/25	6/28										
120	Cure Time Prior to Loading			6/29	7/6										
121	Column Line 25 to 21 (149,360 sf)			6/18	7/8										
122	Layout and Excavate			6/18	6/21										
123	Receive, Inventory and Store Anchor Bolt A			6/18	6/18										
124	Install Rebar			6/21	6/22										
125	Install Bolts and Embeds			6/22	6/22										
126	Place Foundations			6/25	6/28										

ID	Task Name	2nd Quarter			3rd Quarter			4th Quarter			1st Quarter			2nd Quarter	
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
127	Strip Forms and Clean Embeds				6/29	6/29									
128	Install Erection Pads				6/29	6/30									
129	Cure Time Prior to Loading				7/1	7/8									
130	Column Line 25 to 21 (149,360 sf)				6/22	7/13									
131	Layout and Excavate				6/22	6/25									
132	Receive, Inventory and Store Anchor Bolt A				6/22										
133	Install Rebar				6/23	6/28									
134	Install Bolts and Embeds				6/28	6/29									
135	Place Foundations				6/30	7/2									
136	Strip Forms and Clean Embeds				7/1	7/2									
137	Install Erection Pads				7/1	7/6									
138	Cure Time Prior to Loading				7/7	7/13									
139	Slab on Grade				6/7	7/13									
140	Confirm Backfills Approved				6/7										
141	Panel Casting Slab Area #1 - (+/- 65,000 sf)				6/8	6/18									
142	Fine Grade and Prep				6/8	6/9									
143	Install Edge Form				6/9	6/9									
144	Place Reinforcing Steel / Dowels				6/9	6/10									
145	Place and Finish Slab				6/10	6/11									
146	Wet Cure				6/14	6/18									
147	Panel Casting Slab Area #2 - (+/- 65,000 sf)				6/10	6/22									
148	Fine Grade and Prep				6/10	6/11									
149	Install Edge Form				6/11	6/11									
150	Place Reinforcing Steel / Dowels				6/11	6/14									
151	Place and Finish Slab				6/14	6/15									
152	Wet Cure				6/16	6/22									
153	Panel Casting Slab Area #3 - (+/- 65,000 sf)				6/14	6/24									
154	Fine Grade and Prep				6/14	6/15									
155	Install Edge Form				6/15	6/15									
156	Place Reinforcing Steel / Dowels				6/15	6/16									
157	Place and Finish Slab				6/16	6/17									
158	Wet Cure				6/18	6/24									
159	Panel Casting Slab Area #4 - (+/- 65,000 sf)				6/16	6/28									
160	Fine Grade and Prep				6/16	6/17									
161	Install Edge Form				6/17	6/17									
162	Place Reinforcing Steel / Dowels				6/17	6/18									
163	Place and Finish Slab				6/18	6/21									
164	Wet Cure				6/22	6/28									
165	Panel Casting Slab Area #5 - (+/- 65,000 sf)				6/18	6/30									
166	Fine Grade and Prep				6/18	6/21									
167	Install Edge Form				6/21	6/21									
168	Place Reinforcing Steel / Dowels				6/21	6/22									

ID	Task Name	2nd Quarter			3rd Quarter			4th Quarter			1st Quarter			2nd Quart	
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
169	Place and Finish Slab				6/22	6/23									
170	Wet Cure				6/24	6/30									
171	Panel Casting Slab Area #6 - (+/- 65,000 sf)				6/22	7/2									
172	Fine Grade and Prep				6/22	6/23									
173	Install Edge Form				6/23	6/23									
174	Place Reinforcing Steel / Dowels				6/23	6/24									
175	Place and Finish Slab				6/24	6/25									
176	Wet Cure				6/28	7/2									
177	Interior Slab Area #7 - (+/- 65,000 sf)				6/24	7/7									
178	Fine Grade and Prep				6/24	6/25									
179	Install Edge Form				6/25	6/25									
180	Place and Finish Slab				6/28	6/29									
181	Wet Cure				6/30	7/7									
182	Interior Slab Area #8 - (+/- 65,000 sf)				6/28	7/9									
183	Fine Grade and Prep				6/28	6/29									
184	Install Edge Form				6/29	6/29									
185	Place and Finish Slab				6/30	7/1									
186	Wet Cure				7/2	7/9									
187	Interior Slab Area #9 - (+/- 65,000 sf)				6/30	7/13									
188	Fine Grade and Prep				6/30	7/1									
189	Install Edge Form				7/1	7/1									
190	Place and Finish Slab				7/2	7/6									
191	Wet Cure				7/7	7/13									
192	Panels				6/21	7/26									
193	Panels and Reinforcing Steel				6/21	7/19									
194	Panels #74 thru #50 (Group #1 25 Panels)				6/21	7/8									
195	Layout and Snap Lines				6/21	6/21									
196	Form Panels and Apply Bond Breaker				6/21	6/23									
197	Install Down Side Embeds				6/21	6/23									
198	Install Panel Reinforcing Steel				6/22	6/24									
199	Install Lift Steel				6/23	6/24									
200	Install Upside Panel Embeds				6/22	6/25									
201	Install Other Embedded Systems				6/22	6/25									
202	Ring Panel / Panel Check				6/25	6/28									
203	Place and Finish Panel				6/29	6/30									
204	Cure Time Prior to Lift				7/1	7/8									
205	Strip Formwork and Clean				7/7	7/8									
206	Install Panel Braces				7/6	7/8									
207	Panels #49 -#39 and #296 - #309 (Group				6/23	7/12									
208	Layout and Snap Lines				6/23	6/23									
209	Form Panels and Apply Bond Breaker				6/23	6/25									
210	Install Down Side Embeds				6/23	6/25									

ID	Task Name	2nd Quarter			3rd Quarter				4th Quarter			1st Quarter			2nd Quarter
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
211	Install Panel Reinforcing Steel				6/24	6/28									
212	Install Lift Steel				6/25	6/28									
213	Install Upside Panel Embeds				6/24	6/29									
214	Install Other Embedded Systems				6/24	6/29									
215	Ring Panel / Panel Check				6/29	6/30									
216	Place and Finish Panel				7/1	7/2									
217	Cure Time Prior to Lift				7/8	7/12									
218	Strip Formwork and Clean				7/9	7/12									
219	Install Panel Braces				7/8	7/12									
220	Panels #206 - #295 and #320 -#334 (Group)				6/29	7/15									
221	Layout and Snap Lines				6/29	6/29									
222	Form Panels and Apply Bond Breaker				6/29	7/1									
223	Install Down Side Embeds				6/29	7/1									
224	Install Panel Reinforcing Steel				6/29	7/1									
225	Install Lift Steel				6/30	7/1									
226	Install Upside Panel Embeds				6/29	7/2									
227	Install Other Embedded Systems				6/29	7/2									
228	Ring Panel / Panel Check				7/2	7/6									
229	Place and Finish Panel				7/7	7/8									
230	Cure Time Prior to Lift				7/9	7/15									
231	Strip Formwork and Clean				7/14	7/15									
232	Install Panel Braces				7/13	7/15									
233	Panels #198 - #212 and #310 -#319 (Group)				7/1	7/16									
234	Layout and Snap Lines				7/1	7/1									
235	Form Panels and Apply Bond Breaker				7/1	7/8									
236	Install Down Side Embeds				7/1	7/8									
237	Install Panel Reinforcing Steel				7/1	7/8									
238	Install Lift Steel				7/2	7/6									
239	Install Upside Panel Embeds				7/1	7/7									
240	Install Other Embedded Systems				7/1	7/7									
241	Ring Panel / Panel Check				7/6	7/7									
242	Place and Finish Panel				7/8	7/9									
243	Cure Time Prior to Lift				7/12	7/16									
244	Strip Formwork and Clean				7/15	7/16									
245	Install Panel Braces				7/14	7/16									
246	Panels #176 - #197 and #280 - #285 (Group)				7/1	7/19									
247	Layout and Snap Lines				7/1	7/1									
248	Form Panels and Apply Bond Breaker				7/6	7/8									
249	Install Down Side Embeds				7/6	7/8									
250	Install Panel Reinforcing Steel				7/6	7/8									
251	Install Lift Steel				7/7	7/8									
252	Install Upside Panel Embeds				7/6	7/8									

ID	Task Name	2nd Quarter			3rd Quarter			4th Quarter			1st Quarter			2nd Quarter	
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
253	Install Other Embedded Systems					7/6	7/6								
254	Ring Panel / Panel Check					7/8	7/9								
255	Place and Finish Panel					7/9	7/12								
256	Cure Time Prior to Lift					7/13	7/19								
257	Strip Formwork and Clean					7/16	7/19								
258	Install Panel Braces					7/15	7/19								
259	Panel Erection					7/7	7/26								
260	Column Line 17 thru 33					7/7	7/26								
261	Crane Delivery and Assembly					7/9	7/12								
262	Crane Access / Travel Prepared					7/7	7/6								
263	Panel Erection					7/14	7/20								
264	Panel Group #1					7/14	7/14								
265	Panel Group #2					7/15	7/15								
266	Panel Group #3					7/16	7/16								
267	Panel Group #4					7/19	7/19								
268	Panel Group #5					7/20	7/20								
269	Plumb, Line and Weld					7/14	7/22								
270	Grout Panel Bottoms					7/19	7/26								
271	Building Concrete - Area 49 thru 33					6/28	6/26								
272	Interior Foundations					6/28	7/12								
273	Column Line 49 to 45 (150,159 sf)					6/28	7/1								
274	Verify Line and Grade					6/28	6/28								
275	Layout and Excavation					6/28	6/29								
276	Receive, Inventory and Store Anchor Bolt A					6/28	6/28								
277	Install Rebar					6/29	6/29								
278	Install Bolts and Embeds					6/29	6/29								
279	Place Foundations					6/30	6/30								
280	Strip Forms and Clean Embeds					7/1	7/1								
281	Column Line 45 to 41 (149,360 sf)					6/30	7/6								
282	Layout and Excavation					6/30	7/1								
283	Receive, Inventory and Store Anchor Bolt A					6/30	6/30								
284	Install Rebar					7/1	7/1								
285	Install Bolts and Embeds					7/1	7/1								
286	Place Foundations					7/2	7/2								
287	Strip Forms and Clean Embeds					7/6	7/6								
288	Column Line 41 to 37 (149,360 sf)					7/2	7/8								
289	Layout and Excavation					7/2	7/6								
290	Receive, Inventory and Store Anchor Bolt A					7/2	7/2								
291	Install Rebar					7/6	7/6								
292	Install Bolts and Embeds					7/6	7/6								
293	Place Foundations					7/7	7/7								
294	Strip Forms and Clean Embeds					7/8	7/8								

ID	Task Name	2nd Quarter				3rd Quarter			4th Quarter			1st Quarter			2nd Quart
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
295	Column Line 37 to 33 (149,413 sf)					7/7	7/12								
296	Layout and Excavate					7/7	7/8								
297	Receive, Inventory and Store Anchor Bolt A					7/7									
298	Install Rebar					7/8	7/8								
299	Install Bolts and Embeds					7/8	7/8								
300	Place Foundations					7/9	7/9								
301	Strip Forms and Clean Embeds					7/12	7/12								
302	Interior and Perimeter / Panel Foundations					7/9	8/9								
303	Column Line 49 to 45 (150,159 sf)					7/9	7/29								
304	Layout and Excavate					7/9	7/14								
305	Receive, Inventory and Store Anchor Bolt A					7/9									
306	Install Rebar					7/12	7/15								
307	Install Bolts and Embeds					7/15	7/16								
308	Place Foundations					7/19	7/21								
309	Strip Forms and Clean Embeds					7/20	7/21								
310	Install Erection Pads					7/20	7/22								
311	Cure Time Prior to Loading					7/23	7/29								
312	Column Line 45 to 41 (149,360 sf)					7/15	8/3								
313	Layout and Excavate					7/15	7/16								
314	Receive, Inventory and Store Anchor Bolt A					7/15									
315	Install Rebar					7/16	7/19								
316	Install Bolts and Embeds					7/19	7/19								
317	Place Foundations					7/22	7/23								
318	Strip Forms and Clean Embeds					7/26	7/26								
319	Install Erection Pads					7/26	7/27								
320	Cure Time Prior to Loading					7/28	8/3								
321	Column Line 41 to 37 (149,360 sf)					7/19	8/5								
322	Layout and Excavate					7/19	7/20								
323	Receive, Inventory and Store Anchor Bolt A					7/19									
324	Install Rebar					7/20	7/21								
325	Install Bolts and Embeds					7/21	7/21								
326	Place Foundations					7/26	7/27								
327	Strip Forms and Clean Embeds					7/26	7/28								
328	Install Erection Pads					7/26	7/29								
329	Cure Time Prior to Loading					7/30	8/5								
330	Column Line 37 to 33 (149,413 sf)					7/21	8/9								
331	Layout and Excavate					7/21	7/22								
332	Receive, Inventory and Store Anchor Bolt A					7/21									
333	Install Rebar					7/22	7/23								
334	Install Bolts and Embeds					7/23	7/23								
335	Place Foundations					7/26	7/29								
336	Strip Forms and Clean Embeds					7/29	7/29								

ID	Task Name	2nd Quarter				3rd Quarter			4th Quarter			1st Quarter			2nd Quarter
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
337	Install Erection Pads					7/30	8/2								
338	Cure Time Prior to Loading					8/3	8/9								
339	Slab on Grade					7/1	8/11								
340	Confirm Backfills Approved					7/1									
341	Panel Casting Slab Area #1 - (+/- 65,000 sf)					7/7	7/20								
342	Fine Grade and Prep					7/7	7/9								
343	Install Edge Form					7/8	7/9								
344	Place Reinforcing Steel / Dowels					7/8	7/12								
345	Place and Finish Slab					7/9	7/13								
346	Wet Cure					7/13	7/20								
347	Panel Casting Slab Area #2 - (+/- 65,000 sf)					7/9	7/22								
348	Fine Grade and Prep					7/9	7/13								
349	Install Edge Form					7/12	7/13								
350	Place Reinforcing Steel / Dowels					7/12	7/14								
351	Place and Finish Slab					7/13	7/15								
352	Wet Cure					7/15	7/22								
353	Panel Casting Slab Area #3 - (+/- 65,000 sf)					7/13	7/26								
354	Fine Grade and Prep					7/13	7/15								
355	Install Edge Form					7/14	7/15								
356	Place Reinforcing Steel / Dowels					7/14	7/16								
357	Place and Finish Slab					7/15	7/19								
358	Wet Cure					7/19	7/26								
359	Panel Casting Slab Area #4 - (+/- 65,000 sf)					7/15	7/28								
360	Fine Grade and Prep					7/15	7/19								
361	Install Edge Form					7/16	7/19								
362	Place Reinforcing Steel / Dowels					7/16	7/20								
363	Place and Finish Slab					7/19	7/21								
364	Wet Cure					7/21	7/28								
365	Panel Casting Slab Area #5 - (+/- 65,000 sf)					7/19	7/30								
366	Fine Grade and Prep					7/19	7/21								
367	Install Edge Form					7/20	7/21								
368	Place Reinforcing Steel / Dowels					7/20	7/22								
369	Place and Finish Slab					7/21	7/23								
370	Wet Cure					7/23	7/30								
371	Interior Slab Area #6 - (+/- 65,000 sf)					7/21	8/3								
372	Fine Grade and Prep					7/21	7/23								
373	Install Edge Form					7/22	7/23								
374	Place Reinforcing Steel / Dowels					7/22	7/26								
375	Place and Finish Slab					7/23	7/27								
376	Wet Cure					7/27	8/3								
377	Interior Slab Area #7 - (+/- 65,000 sf)					7/23	8/5								
378	Fine Grade and Prep					7/23	7/27								

ID	Task Name	2nd Quarter				3rd Quarter			4th Quarter			1st Quarter			2nd Quarter
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
379	Install Edge Form					7/26		7/27							
380	Place and Finish Slab					7/27		7/29							
381	Wet Cure					7/29		8/5							
382	Interior Slab Area #8 - (+/- 65,000 sf)					7/27	▣	8/9							
383	Fine Grade and Prep					7/27		7/29							
384	Install Edge Form					7/26		7/29							
385	Place and Finish Slab					7/29		8/2							
386	Wet Cure					8/2		8/9							
387	Interior Slab Area #9 - (+/- 65,000 sf)					7/29	▣	8/11							
388	Fine Grade and Prep					7/29		8/2							
389	Install Edge Form					7/30		8/2							
390	Place and Finish Slab					8/2		8/4							
391	Wet Cure					8/4		8/11							
392	Panels					7/20	▣	8/26							
393	Panels and Reinforcing Steel					7/20	▣	8/16							
394	Panels #73 -#114 and #126 - #130 (Group)					7/20	▣	8/5							
395	Layout and Snap Lines					7/20		7/21							
396	Form Panels and Apply Bond Breaker					7/20		7/23							
397	Install Down Side Embeds					7/20		7/23							
398	Install Panel Reinforcing Steel					7/20		7/23							
399	Install Lift Steel					7/21		7/23							
400	Install Upside Panel Embeds					7/20		7/26							
401	Install Other Embedded Systems					7/20		7/26							
402	Ring Panel / Panel Check					7/23		7/27							
403	Place and Finish Panel					7/27		7/29							
404	Cure Time Prior to Lift					7/29		8/5							
405	Strip Formwork and Clean					8/3		8/5							
406	Install Panel Braces					8/2		8/5							
407	Panels #115 -#127 and #146 - #157 (Group)					7/22	▣	8/9							
408	Layout and Snap Lines					7/22		7/23							
409	Form Panels and Apply Bond Breaker					7/22		7/27							
410	Install Down Side Embeds					7/22		7/27							
411	Install Panel Reinforcing Steel					7/22		7/27							
412	Install Lift Steel					7/23		7/27							
413	Install Upside Panel Embeds					7/22		7/28							
414	Install Other Embedded Systems					7/22		7/28							
415	Ring Panel / Panel Check					7/27		7/29							
416	Place and Finish Panel					7/29		8/2							
417	Cure Time Prior to Lift					8/2		8/9							
418	Strip Formwork and Clean					8/5		8/9							
419	Install Panel Braces					8/4		8/9							
420	Panels #83 - #92 and #131 -#145 (Group)					7/28	▣	8/13							

ID	Task Name	2nd Quarter				3rd Quarter			4th Quarter			1st Quarter			2nd Quart
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
421	Layout and Snap Lines					7/28	7/29								
422	Form Panels and Apply Bond Breaker					7/28	8/2								
423	Install Down Side Embeds					7/28	8/2								
424	Install Panel Reinforcing Steel					7/28	8/2								
425	Install Lift Steel					7/29	8/2								
426	Install Upside Panel Embeds					7/28	8/3								
427	Install Other Embedded Systems					7/28	8/3								
428	Ring Panel / Panel Check					8/2	8/4								
429	Place and Finish Panel					8/4	8/6								
430	Cure Time Prior to Lift					8/6	8/13								
431	Strip Formwork and Clean					8/11	8/13								
432	Install Panel Braces					8/10	8/13								
433	Panels #75 - #82 and #158 -#175 (Group A)					7/30	8/16								
434	Layout and Snap Lines					7/30	8/2								
435	Form Panels and Apply Bond Breaker					7/30	8/4								
436	Install Down Side Embeds					7/30	8/4								
437	Install Panel Reinforcing Steel					7/30	8/4								
438	Install Lift Steel					8/2	8/4								
439	Install Upside Panel Embeds					7/30	8/5								
440	Install Other Embedded Systems					7/30	8/5								
441	Ring Panel / Panel Check					8/3	8/5								
442	Place and Finish Panel					8/5	8/9								
443	Cure Time Prior to Lift					8/9	8/16								
444	Strip Formwork and Clean					8/12	8/16								
445	Install Panel Braces					8/11	8/16								
446	Panel Erection					8/2	8/26								
447	Column Line 33 thru 49					8/2	8/26								
448	Crane Delivery and Assembly					8/4	8/6								
449	Crane Access / Travel Prepared					8/2	8/4								
450	Panel Erection					8/13	8/19								
451	Panel Group #1					8/13	8/16								
452	Panel Group #2					8/16	8/17								
453	Panel Group #3					8/17	8/18								
454	Panel Group #4					8/18	8/19								
455	Plumb, Line and Weld					8/13	8/24								
456	Grout Panel Bottoms					8/18	8/26								
457	Building Concrete - Area 17 thru 1					7/26	10/5								
458	Interior Foundations					7/26	8/9								
459	Column Line 17 to 13 (148,413 sf)					7/26	7/30								
460	Verify Line and Grade					7/26	7/27								
461	Layout and Excavation					7/26	7/28								
462	Receive, Inventory and Store Anchor Bolt A					7/26									

ID	Task Name	2nd Quarter				3rd Quarter			4th Quarter			1st Quarter			2nd Quart
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
463	Install Rebar					7/27		7/28							
464	Install Bolts and Embeds					7/27		7/28							
465	Place Foundations					7/28		7/29							
466	Strip Forms and Clean Embeds					7/29		7/30							
467	Column Line 13 to 9 (149,360 sf)					7/28	▼	8/3							
468	Layout and Excavation					7/28	□	7/30							
469	Receive, Inventory and Store Anchor Bolt A					◆	7/28								
470	Install Rebar					7/29		7/30							
471	Install Bolts and Embeds					7/29		7/30							
472	Place Foundations					7/30	□	8/2							
473	Strip Forms and Clean Embeds					8/2		8/3							
474	Column Line 9 to 5 (149,360 sf)					7/30	▼	8/5							
475	Layout and Excavation					7/30	□	8/3							
476	Receive, Inventory and Store Anchor Bolt A					◆	7/30								
477	Install Rebar					8/2		8/3							
478	Install Bolts and Embeds					8/2		8/3							
479	Place Foundations					8/3		8/4							
480	Strip Forms and Clean Embeds					8/4		8/5							
481	Column Line 5 to 1 (153,425 sf)					8/3	▼	8/9							
482	Layout and Excavation					8/3	□	8/5							
483	Receive, Inventory and Store Anchor Bolt A					◆	8/3								
484	Install Rebar					8/4		8/5							
485	Install Bolts and Embeds					8/4		8/5							
486	Place Foundations					8/5		8/6							
487	Strip Forms and Clean Embeds					8/6		8/9							
488	Interior and Perimeter / Panel Foundations					8/4	▼	9/8							
489	Column Line 17 to 13 (149,413 sf)					8/4	▼	8/16							
490	Layout and Excavate					8/5	□	8/9							
491	Receive, Inventory and Store Anchor Bolt A					◆	8/5								
492	Install Rebar					8/4	□	8/6							
493	Install Bolts and Embeds					8/5		8/6							
494	Place Foundations					8/6	□	8/10							
495	Strip Forms and Clean Embeds					8/6	□	8/9							
496	Install Erection Pads					8/5	□	8/9							
497	Cure Time Prior to Loading					8/9	□	8/16							
498	Column Line 13 to 9 (149,360 sf)					8/9	▼	8/25							
499	Layout and Excavate					8/9	□	8/11							
500	Receive, Inventory and Store Anchor Bolt A					◆	8/9								
501	Install Rebar					8/10	□	8/12							
502	Install Bolts and Embeds					8/11		8/12							
503	Place Foundations					8/12	□	8/16							
504	Strip Forms and Clean Embeds					8/16		8/17							

ID	Task Name	2nd Quarter				3rd Quarter			4th Quarter			1st Quarter			2nd Quart
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
505	Install Erection Pads						8/16 8/18								
506	Cure Time Prior to Loading						8/18 8/25								
507	Column Line 9 to 5 (149,360 sf)						8/11 8/27								
508	Layout and Excavate						8/11 8/13								
509	Receive, Inventory and Store Anchor Bolt A						8/11								
510	Install Rebar						8/12 8/16								
511	Install Bolts and Embeds						8/13 8/16								
512	Place Foundations						8/16 8/18								
513	Strip Forms and Clean Embeds						8/18 8/19								
514	Install Erection Pads						8/18 8/20								
515	Cure Time Prior to Loading						8/20 8/27								
516	Column Line 5 to 1 (153,425 sf)						8/13 9/8								
517	Layout and Excavate						8/13 8/19								
518	Receive, Inventory and Store Anchor Bolt A						8/13								
519	Install Rebar						8/16 8/20								
520	Install Bolts and Embeds						8/19 8/23								
521	Place Foundations						8/23 8/26								
522	Strip Forms and Clean Embeds						8/24 8/26								
523	Install Erection Pads						8/24 8/27								
524	Cure Time Prior to Loading						8/27 9/8								
525	Slab on Grade						7/30 9/13								
526	Confirm Backfills Approved						7/30								
527	Panel Casting Slab Area #1 - (+/- 65,000 sf)						8/3 8/16								
528	Fine Grade and Prep						8/3 8/5								
529	Install Edge Form						8/4 8/5								
530	Place Reinforcing Steel / Dowels						8/4 8/6								
531	Place and Finish Slab						8/5 8/9								
532	Wet Cure						8/9 8/16								
533	Panel Casting Slab Area #2 - (+/- 65,000 sf)						8/5 8/18								
534	Fine Grade and Prep						8/5 8/9								
535	Install Edge Form						8/6 8/9								
536	Place Reinforcing Steel / Dowels						8/6 8/10								
537	Place and Finish Slab						8/9 8/11								
538	Wet Cure						8/11 8/18								
539	Panel Casting Slab Area #3 - (+/- 65,000 sf)						8/9 8/20								
540	Fine Grade and Prep						8/9 8/11								
541	Install Edge Form						8/10 8/11								
542	Place Reinforcing Steel / Dowels						8/10 8/12								
543	Place and Finish Slab						8/11 8/13								
544	Wet Cure						8/13 8/20								
545	Panel Casting Slab Area #4 - (+/- 65,000 sf)						8/12 8/25								
546	Fine Grade and Prep						8/12 8/16								

ID	Task Name	2nd Quarter				3rd Quarter			4th Quarter			1st Quarter			2nd Quarter
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
547	Install Edge Form						8/13	8/16							
548	Place Reinforcing Steel / Dowels						8/13	8/17							
549	Place and Finish Slab						8/16	8/18							
550	Wet Cure						8/18	8/25							
551	Panel Casting Slab Area #5 - (+/- 65,000 sf)						8/16	8/27							
552	Fine Grade and Prep						8/16	8/18							
553	Install Edge Form						8/17	8/18							
554	Place Reinforcing Steel / Dowels						8/17	8/19							
555	Place and Finish Slab						8/18	8/20							
556	Wet Cure						8/20	8/27							
557	Interior Slab Area #6 - (+/- 65,000 sf)						8/18	9/2							
558	Fine Grade and Prep						8/18	8/20							
559	Install Edge Form						8/19	8/20							
560	Place Reinforcing Steel / Dowels						8/19	8/23							
561	Place and Finish Slab						8/20	8/24							
562	Wet Cure						8/24	9/2							
563	Interior Slab Area #7 - (+/- 65,000 sf)						8/20	9/7							
564	Fine Grade and Prep						8/20	8/24							
565	Install Edge Form						8/23	8/24							
566	Place and Finish Slab						8/24	8/26							
567	Wet Cure						8/26	9/7							
568	Interior Slab Area #8 - (+/- 65,000 sf)						8/24	9/9							
569	Fine Grade and Prep						8/24	8/26							
570	Install Edge Form						8/25	8/26							
571	Place and Finish Slab						8/26	8/30							
572	Wet Cure						8/30	9/9							
573	Interior Slab Area #9 - (+/- 65,000 sf)						8/26	9/13							
574	Fine Grade and Prep						8/26	8/30							
575	Install Edge Form						8/27	8/30							
576	Place and Finish Slab						8/30	9/3							
577	Wet Cure						9/3	9/13							
578	Panels						8/16	10/5							
579	Panels and Reinforcing Steel						8/16	9/24							
580	Panels #14 -#38 (Group #1 25 Panels)						8/16	9/3							
581	Layout and Snap Lines						8/16	8/17							
582	Form Panels and Apply Bond Breaker						8/16	8/19							
583	Install Down Side Embeds						8/16	8/19							
584	Install Panel Reinforcing Steel						8/16	8/19							
585	Install Lift Stool						8/17	8/19							
586	Install Upside Panel Embeds						8/16	8/20							
587	Install Other Embedded Systems						8/16	8/20							
588	Ring Panel / Panel Check						8/19	8/23							

ID	Task Name	2nd Quarter				3rd Quarter			4th Quarter			1st Quarter			2nd Quart
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
589	Place and Finish Panel						8/23	8/25							
590	Cure Time Prior to Lift						8/25	9/3							
591	Strip Formwork and Clean						8/30	9/3							
592	Install Panel Braces						8/27	9/3							
593	Panels #1 -#13 and #268 - #279 (Group #						8/18	9/8							
594	Layout and Snap Lines						8/18	8/19							
595	Form Panels and Apply Bond Breaker						8/18	8/23							
596	Install Down Side Embeds						8/18	8/23							
597	Install Panel Reinforcing Steel						8/18	8/23							
598	Install Lift Steel						8/19	8/23							
599	Install Upside Panel Embeds						8/18	8/24							
600	Install Other Embedded Systems						8/18	8/24							
601	Ring Panel / Panel Check						8/23	8/25							
602	Place and Finish Panel						8/25	8/27							
603	Cure Time Prior to Lift						8/27	9/8							
604	Strip Formwork and Clean						9/3	9/8							
605	Install Panel Braces						9/2	9/8							
606	Panels #243 - #267 (Group #3 25 Panels)						8/25	9/15							
607	Layout and Snap Lines						8/25	8/26							
608	Form Panels and Apply Bond Breaker						8/25	8/30							
609	Install Down Side Embeds						8/25	8/30							
610	Install Panel Reinforcing Steel						8/25	8/30							
611	Install Lift Steel						8/26	8/30							
612	Install Upside Panel Embeds						8/25	9/2							
613	Install Other Embedded Systems						8/25	9/2							
614	Ring Panel / Panel Check						8/30	9/3							
615	Place and Finish Panel						9/3	9/8							
616	Cure Time Prior to Lift						9/8	9/15							
617	Strip Formwork and Clean						9/13	9/15							
618	Install Panel Braces						9/10	9/15							
619	Panels #213- #342 (Group #4 32 Panels)						8/27	9/24							
620	Layout and Snap Lines						8/27	8/30							
621	Form Panels and Apply Bond Breaker						8/27	9/8							
622	Install Down Side Embeds						9/2	9/10							
623	Install Panel Reinforcing Steel						9/7	9/14							
624	Install Lift Steel						9/10	9/14							
625	Install Upside Panel Embeds						9/9	9/15							
626	Install Other Embedded Systems						9/9	9/15							
627	Ring Panel / Panel Check						9/13	9/15							
628	Place and Finish Panel						9/15	9/17							
629	Cure Time Prior to Lift						9/17	9/24							
630	Strip Formwork and Clean						9/22	9/24							

ID	Task Name	2nd Quarter				3rd Quarter			4th Quarter			1st Quarter			2nd Quarter
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
631	Install Panel Braces														
632	Panel Erection							9/10	9/21	10/5					
633	Column Line 1 thru 17							9/10	9/14	9/16	10/5				
634	Crane Delivery and Assembly							9/10	9/14						
635	Crane Access / Travel Prepared							9/10	9/14						
636	Panel Erection							9/17	9/28						
637	Panel Group #1							9/17	9/20						
638	Panel Group #2							9/20	9/21						
639	Panel Group #3							9/21	9/22						
640	Panel Group #4							9/24	9/28						
641	Plumb, Line and Weld							9/22	10/1						
642	Grout Panel Bottoms							9/27	10/5						
643	STRUCTURAL STEEL							6/28	7/30	10/11					
644	Structural Steel - Area 33 thru 17							6/28	7/30						
645	Level Base Plate Setting Nuts							6/28	6/29						
646	Slab on Grade In Place for Delivery							6/30							
647	Deliver, Shake Out and Spread Steel							7/2	7/6						
648	Panel Erection Complete							7/2	7/22						
649	Brace Frame - Column Line 25							7/2	7/9						
650	Erect Wide Flange Columns, Beams and Chevr							7/2	7/6						
651	Plumb, Line, Weld and Temporary Brace							7/9	7/9						
652	Column Line 33 to 29 (149,413 sf)							7/7	7/26						
653	Erect Inboard Interior Columns							7/7	7/9						
654	Erect Perimeter Columns							7/23	7/23						
655	Plumb, Line, Weld and Certifications							7/26	7/26						
656	Column Line 29 to 25 (149,360 sf)							7/12	7/28						
657	Erect Inboard Interior Columns							7/12	7/14						
658	Erect Perimeter Columns and Remaining Brace							7/26	7/27						
659	Plumb, Line, Weld and Certifications							7/26	7/28						
660	Column Line 25 to 21 (149,360 sf)							7/15	7/29						
661	Erect Inboard Interior Columns							7/15	7/19						
662	Erect Perimeter Columns							7/26	7/26						
663	Plumb, Line, Weld and Certifications							7/29	7/29						
664	Column Line 21 to 17 (149,413 sf)							7/20	7/30						
665	Erect Inboard Interior Columns							7/20	7/22						
666	Erect Perimeter Columns							7/29	7/29						
667	Plumb, Line, Weld and Certifications							7/30	7/30						
668	Structural Steel - Area 49 thru 33							7/27	8/3						
669	Level Base Plate Setting Nuts							7/27	7/26						
670	Slab on Grade In Place for Delivery							7/30	7/30						
671	Deliver, Shake Out and Spread Steel							7/30	8/3						
672	Panel Erection Complete							8/24							

ID	Task Name	2nd Quarter				3rd Quarter			4th Quarter			1st Quarter			2nd Quart
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
673	Brace Frame - Column Line 41					7/29	8/4								
674	Erect Wide Flange Columns, Beams and Chevr					7/29	8/3								
675	Plumb, Line, Weld and Temporary Brace					8/4	8/4								
676	Column Line 49 to 45 (150,159 sf)					8/6	8/30								
677	Erect Inboard Interior Columns					8/6	8/11								
678	Erect Perimeter Columns and Remaining Brace					8/25	8/27								
679	Plumb, Line, Weld and Certifications					8/27	8/30								
680	Column Line 45 to 41 (149,360 sf)					8/3	8/26								
681	Erect Inboard Interior Columns					8/3	8/6								
682	Erect Perimeter Columns					8/24	8/25								
683	Plumb, Line, Weld and Certifications					8/25	8/26								
684	Column Line 41 to 37 (149,360 sf)					8/11	9/2								
685	Erect Inboard Interior Columns					8/11	8/16								
686	Erect Perimeter Columns					8/27	8/30								
687	Plumb, Line, Weld and Certifications					8/30	9/2								
688	Column Line 37 to 33 (149,413 sf)					8/16	9/3								
689	Erect Inboard Interior Columns					8/16	8/19								
690	Erect Perimeter Columns					8/30	9/2								
691	Plumb, Line, Weld and Certifications					9/2	9/3								
692	Structural Steel - Area 17 thru 1					8/23	10/11								
693	Level Base Plate Setting Nuts					8/23	8/25								
694	Slab on Grade In Place for Delivery						8/27								
695	Deliver, Shake Out and Spread Steel					8/27	9/2								
696	Panel Erection Complete						10/1								
697	Brace Frame - Column Line 9					8/25	9/3								
698	Erect Wide Flange Columns, Beams and Chevr					8/25	9/2								
699	Plumb, Line, Weld and Temporary Brace					9/2	9/3								
700	Column Line 17 to 13 (149,413 sf)					9/2	10/5								
701	Erect Inboard Interior Columns					9/2	9/8								
702	Erect Perimeter Columns						10/1	10/4							
703	Plumb, Line, Weld and Certifications						10/4	10/5							
704	Column Line 13 to 9 (149,360 sf)					9/8	10/7								
705	Erect Inboard Interior Columns					9/8	9/13								
706	Erect Perimeter Columns and Remaining Brace						10/4	10/6							
707	Plumb, Line, Weld and Certifications						10/6	10/7							
708	Column Line 9 to 5 (149,360 sf)					9/13	10/8								
709	Erect Inboard Interior Columns					9/13	9/16								
710	Erect Perimeter Columns						10/6	10/7							
711	Plumb, Line, Weld and Certifications						10/7	10/8							
712	Column Line 5 to 1 (153,425 sf)					9/16	10/11								
713	Erect Inboard Interior Columns					9/16	9/21								
714	Erect Perimeter Columns						10/7	10/8							

ID	Task Name	2nd Quarter				3rd Quarter			4th Quarter			1st Quarter			2nd Quarter
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
715	Plumb, Line, Weld and Certifications								10/8	10/11					
716	PANELIZED ROOF					7/15									
717	Panelized Roof - Area 33 thru 17					7/15			8/12						
718	Deliver, Shake Out and Spread Joists / Sheathing					7/15			7/19						
719	Set Up Panelized Tables					7/20			7/21						
720	Column Line 33 to 29 (149,413 sf)					7/22			7/28						
721	Erect Girders, Joists and Panelized Sheathing					7/22			7/28						
722	Nail Roof Sheathing					7/26			7/27						
723	Secure Nailing Inspection					7/28			7/28						
724	Column Line 29 to 25 (149,360 sf)					7/29			8/4						
725	Erect Girders, Joists and Panelized Sheathing					7/29			8/2						
726	Nail Roof Sheathing					8/2			8/3						
727	Secure Nailing Inspection					8/4			8/4						
728	Roof System Approved For Roofing to Brace Fra								8/4						
729	Column Line 25 to 21 (149,360 sf)					8/3			8/9						
730	Erect Girders, Joists and Panelized Sheathing					8/3			8/5						
731	Nail Roof Sheathing					8/5			8/6						
732	Secure Nailing Inspection					8/9			8/9						
733	Column Line 21 to 17 (149,413 sf)					8/6			8/12						
734	Erect Girders, Joists and Panelized Sheathing					8/6			8/10						
735	Nail Roof Sheathing					8/10			8/11						
736	Secure Nailing Inspection					8/12			8/12						
737	Roof System Approved For Roofing to Separatio								8/12						
738	Panelized Roof - Area 49 thru 33					8/17			8/20						
739	Deliver, Shake Out and Spread Joists / Sheathing					8/17			8/20						
740	Set Up Panelized Tables					8/20			8/24						
741	Column Line 49 to 45 (150,159 sf)					8/26			9/7						
742	Erect Girders, Joists and Panelized Sheathing					8/26			9/2						
743	Nail Roof Sheathing					8/30			9/3						
744	Secure Nailing Inspection					9/3			9/7						
745	Column Line 45 to 41 (149,360 sf)					9/2			9/10						
746	Erect Girders, Joists and Panelized Sheathing					9/2			9/8						
747	Nail Roof Sheathing					9/7			9/9						
748	Secure Nailing Inspection					9/9			9/10						
749	Roof System Approved For Roofing to Brace Fra								9/10						
750	Column Line 41 to 37 (149,360 sf)					9/8			9/15						
751	Erect Girders, Joists and Panelized Sheathing					9/8			9/13						
752	Nail Roof Sheathing					9/10			9/14						
753	Secure Nailing Inspection					9/14			9/15						
754	Column Line 37 to 33 (149,413 sf)					9/13			9/20						
755	Erect Girders, Joists and Panelized Sheathing					9/13			9/16						
756	Nail Roof Sheathing					9/15			9/17						

ID	Task Name	2nd Quarter				3rd Quarter			4th Quarter				1st Quarter			2nd Quarter
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	
757	Secure Nailing Inspection							9/17	9/20							
758	Roof System Approved For Roofing to Separatio							9/20								
759	Panelized Roof - Area 17 thru 1							9/24	10/25							
760	Deliver, Shake Out and Spread Joists / Sheathing							9/24	9/29							
761	Set Up Panelized Tables							9/29	10/1							
762	Column Line 17 to 13 (149,413 sf)							10/5	10/12							
763	Erect Girders, Joists and Panelized Sheathing							10/5	10/8							
764	Nail Roof Sheathing							10/7	10/11							
765	Secure Nailing Inspection							10/11	10/12							
766	Column Line 13 to 9 (149,360 sf)							10/8	10/15							
767	Erect Girders, Joists and Panelized Sheathing							10/8	10/13							
768	Nail Roof Sheathing							10/12	10/14							
769	Secure Nailing Inspection							10/14	10/15							
770	Roof System Approved For Roofing to Brace Fra							10/15								
771	Column Line 9 to 5 (149,360 sf)							10/13	10/20							
772	Erect Girders, Joists and Panelized Sheathing							10/13	10/18							
773	Nail Roof Sheathing							10/15	10/19							
774	Secure Nailing Inspection							10/19	10/20							
775	Column Line 5 to 1 (153,425 sf)							10/18	10/25							
776	Erect Girders, Joists and Panelized Sheathing							10/18	10/21							
777	Nail Roof Sheathing							10/20	10/22							
778	Secure Nailing Inspection							10/22	10/25							
779	Roof System Approved For Roofing to Separatio							10/25								
780	ROOF SYSTEMS						7/28									
781	Roof Curbs / Roof Drains / Penetrations						7/28									
782	Roof Curbs / Drains- Area 33 thru 17						7/28									
783	Column Line 33 to 29 (149,413 sf)						7/28	7/30								
784	Column Line 29 to 25 (149,360 sf)						8/4	8/6								
785	Column Line 25 to 21 (149,360 sf)						8/9	8/11								
786	Column Line 21 to 17 (149,413 sf)						8/12	8/16								
787	Roof Curbs / Drains - Area 49 thru 33						9/3	9/22								
788	Column Line 49 to 45 (150,159 sf)						9/3	9/9								
789	Column Line 45 to 41 (149,360 sf)						9/9	9/14								
790	Column Line 41 to 37 (149,360 sf)						9/14	9/17								
791	Column Line 37 to 33 (149,413 sf)						9/17	9/22								
792	Roof Curbs / Drains - Area 17 thru 1															
793	Column Line 17 to 13 (149,413 sf)															
794	Column Line 13 to 9 (149,360 sf)															
795	Column Line 9 to 5 (149,360 sf)															
796	Column Line 5 to 1 (153,425 sf)															
797	Membrane Roof System						7/30									
798	Membrane Roof System - Area 33 thru 17						7/30	8/19								

ID	Task Name	2nd Quarter				3rd Quarter			4th Quarter			1st Quarter			2nd Quarter
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
799	Pre-Roof Meeting					7/30	7/30								
800	Column Line 33 to 29 (149,413 sf)					8/2	8/6								
801	Load Roofing Materials					8/2	8/3								
802	Base and Two Ply					8/4	8/5								
803	Detail and Cap Sheet					8/5	8/6								
804	Column Line 29 to 25 (149,360 sf)					8/4	8/11								
805	Load Roofing Materials					8/4	8/5								
806	Base and Two Ply					8/9	8/10								
807	Detail and Cap Sheet					8/10	8/11								
808	Column Line 25 to 21 (149,360 sf)					8/6	8/16								
809	Load Roofing Materials					8/6	8/9								
810	Base and Two Ply					8/12	8/13								
811	Detail and Cap Sheet					8/13	8/16								
812	Column Line 21 to 17 (149,413 sf)					8/10	8/19								
813	Load Roofing Materials					8/10	8/11								
814	Base and Two Ply					8/17	8/18								
815	Detail and Cap Sheet					8/18	8/19								
816	Membrane Roof System - Area 49 thru 33					9/3	9/27								
817	Pre-Roof Meeting					9/3	9/7								
818	Column Line 49 to 45 (150,159 sf)					9/7	9/14								
819	Load Roofing Materials					9/7	9/9								
820	Base and Two Ply					9/9	9/13								
821	Detail and Cap Sheet					9/10	9/14								
822	Column Line 45 to 41 (149,360 sf)					9/9	9/17								
823	Load Roofing Materials					9/9	9/13								
824	Base and Two Ply					9/14	9/16								
825	Detail and Cap Sheet					9/15	9/17								
826	Column Line 41 to 37 (149,360 sf)					9/13	9/22								
827	Load Roofing Materials					9/13	9/15								
828	Base and Two Ply					9/17	9/21								
829	Detail and Cap Sheet					9/20	9/22								
830	Column Line 37 to 33 (149,413 sf)					9/15	9/27								
831	Load Roofing Materials					9/15	9/17								
832	Base and Two Ply					9/22	9/24								
833	Detail and Cap Sheet					9/23	9/27								
834	Membrane Roof System - Area 17 thru 1					10/11	11/1								
835	Pre-Roof Meeting					10/11	10/12								
836	Column Line 17 to 13 (149,413 sf)					10/12	10/19								
837	Load Roofing Materials					10/12	10/14								
838	Base and Two Ply					10/14	10/18								
839	Detail and Cap Sheet					10/15	10/19								
840	Column Line 13 to 9 (149,360 sf)					10/14	10/22								

ID	Task Name	2nd Quarter				3rd Quarter			4th Quarter			1st Quarter			2nd Quart
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
841	Load Roofing Materials								10/14	10/18					
842	Base and Two Ply								10/19	10/21					
843	Detail and Cap Sheet								10/20	10/22					
844	Column Line 9 to 5 (149,360 sf)								10/18	10/27					
845	Load Roofing Materials								10/16	10/20					
846	Base and Two Ply								10/22	10/26					
847	Detail and Cap Sheet								10/25	10/27					
848	Column Line 5 to 1 (153,425 sf)								10/20	11/1					
849	Load Roofing Materials								10/20	10/22					
850	Base and Two Ply								10/27	10/29					
851	Detail and Cap Sheet								10/28	11/1					
852	Finish Roof Accessories and Sheet Metal							8/9	8/24	11/4					
853	Roof Accessories and Sheet Metal - Area 33 thru 1							8/9	8/11						
854	Column Line 33 to 29 (149,413 sf)							8/9	8/11						
855	Column Line 29 to 25 (149,360 sf)							8/12	8/16						
856	Column Line 25 to 21 (149,360 sf)							8/17	8/19						
857	Column Line 21 to 17 (149,413 sf)							8/20	8/24						
858	Roof Accessories and Sheet Metal - Area 49 thru 3							9/14	9/30						
859	Column Line 49 to 45 (150,159 sf)							9/14	9/17						
860	Column Line 45 to 41 (149,360 sf)							9/17	9/22						
861	Column Line 41 to 37 (149,360 sf)							9/22	9/27						
862	Column Line 37 to 33 (149,413 sf)							9/27	9/30						
863	Roof Accessories and Sheet Metal - Area 17 thru 1							10/19	11/4						
864	Column Line 17 to 13 (149,413 sf)							10/19	10/22						
865	Column Line 13 to 9 (149,360 sf)							10/22	10/27						
866	Column Line 9 to 5 (149,360 sf)							10/27	11/1						
867	Column Line 5 to 1 (153,425 sf)							11/1	11/4						
868	Roof System Watertight							8/24	11/4						
869	Roof Systems Watertight - Area 33 thru 17							8/24							
870	Roof Systems Watertight - Area 49 thru 33							9/30							
871	Roof Systems Watertight - Area 17 thru 1								11/4						
872	EXTERIOR FINISH SYSTEMS							7/30	12/15						
873	Sack and Patch							7/30	11/4						
874	Sack and Patch - Area 33 thru 17							7/30	8/13						
875	Column Line 33 to 29 (149,413 sf)							7/30	8/9						
876	Column Line 29 to 25 (149,360 sf)							8/10	8/13						
877	Column Line 33 to 29 (149,413 sf)							7/30	8/9						
878	Column Line 29 to 25 (149,360 sf)							8/10	8/13						
879	Column Line 25 to 21 (149,360 sf)							8/16	8/19						
880	Column Line 21 to 17 (149,413 sf)							8/20	8/30						
881	Sack and Patch - Area 49 thru 33							9/2	9/30						
882	Column Line 49 to 45 (150,159 sf)							9/2	9/14						

ID	Task Name	2nd Quarter				3rd Quarter			4th Quarter				1st Quarter			2nd Quarter
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	
883	Column Line 45 to 41 (149,360 sf)							9/14	9/20							
884	Column Line 41 to 37 (149,360 sf)							9/20	9/24							
885	Column Line 37 to 33 (149,413 sf)							9/24	9/30							
886	Sack and Patch - Area 17 thru 1							10/8	11/4							
887	Column Line 17 to 13 (149,413 sf)							10/8	10/14							
888	Column Line 13 to 9 (149,360 sf)							10/14	10/20							
889	Column Line 9 to 5 (149,360 sf)							10/20	10/26							
890	Column Line 5 to 1 (153,425 sf)							10/26	11/4							
891	Overhead and Man Doors						8/10	11/12								
892	Overhead and Man Doors - Area 33 thru 17						8/10	9/9								
893	Column Line 33 to 29 (149,413 sf)						8/10	8/16								
894	Column Line 29 to 25 (149,360 sf)						8/17	8/23								
895	Column Line 25 to 21 (149,360 sf)						8/24	8/30								
896	Column Line 21 to 17 (149,413 sf)						9/2	9/9								
897	Overhead and Man Doors - Area 49 thru 33							9/14	10/12							
898	Column Line 49 to 45 (150,159 sf)							9/14	9/21							
899	Column Line 45 to 41 (149,360 sf)							9/21	9/28							
900	Column Line 41 to 37 (149,360 sf)							9/28	10/5							
901	Column Line 37 to 33 (149,413 sf)							10/5	10/12							
902	Overhead and Man Doors - Area 17 thru 1							10/15	11/12							
903	Column Line 17 to 13 (149,413 sf)							10/15	10/22							
904	Column Line 13 to 9 (149,360 sf)							10/22	10/29							
905	Column Line 9 to 5 (149,360 sf)							10/29	11/5							
906	Column Line 5 to 1 (153,425 sf)							11/5	11/12							
907	Window Features with Framing, Skin System and Glaz						8/10	12/15								
908	Window Systems - Area 33 thru 17						8/10	9/16								
909	Column Line 33 to 29 (149,413 sf)						8/10	9/16								
910	Window Systems - Area 49 thru 33							9/17	10/21							
911	Column Line 49 to 45 (150,159 sf)							9/17	10/21							
912	Window Systems - Area 17 thru 1								11/2	12/15						
913	Column Line 5 to 1 (153,425 sf)								11/2	12/15						
914	Caulking and Prep						8/10	11/12								
915	Caulking and Prep - Area 33 thru 17						8/10	9/9								
916	Column Line 33 to 29 (149,413 sf)						8/10	8/16								
917	Column Line 29 to 25 (149,360 sf)							8/17	8/19							
918	Column Line 25 to 21 (149,360 sf)							8/20	8/24							
919	Column Line 21 to 17 (149,413 sf)							9/2	9/9							
920	Caulking and Prep - Area 49 thru 33							9/14	10/5							
921	Column Line 49 to 45 (150,159 sf)							9/14	9/22							
922	Column Line 45 to 41 (149,360 sf)							9/22	9/27							
923	Column Line 41 to 37 (149,360 sf)							9/27	9/30							
924	Column Line 37 to 33 (149,413 sf)							9/30	10/5							

ID	Task Name	2nd Quarter				3rd Quarter			4th Quarter			1st Quarter			2nd Quarter
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
925	Caulking and Prep - Area 17 thru 1														
926	Column Line 17 to 13 (149,413 sf)									10/14	11/12				
927	Column Line 13 to 9 (149,360 sf)									10/14	10/19				
928	Column Line 9 to 5 (149,360 sf)									10/20	10/25				
929	Column Line 5 to 1 (153,425 sf)									10/26	10/29				
930	Painting and Trim														
931	Painting and Trim - Area 33 thru 17														
932	Column Line 33 to 29 (149,413 sf)									8/17	9/16				
933	Column Line 29 to 25 (149,360 sf)									8/17	8/23				
934	Column Line 25 to 21 (149,360 sf)									8/24	8/30				
935	Column Line 21 to 17 (149,413 sf)									9/2	9/9				
936	Painting and Trim - Area 49 thru 33														
937	Column Line 49 to 45 (150,159 sf)									9/22	10/27				
938	Column Line 45 to 41 (149,360 sf)									9/22	10/6				
939	Column Line 41 to 37 (149,360 sf)									10/6	10/13				
940	Column Line 37 to 33 (149,413 sf)									10/13	10/20				
941	Painting and Trim - Area 17 thru 1														
942	Column Line 17 to 13 (149,413 sf)									10/27	12/9				
943	Column Line 13 to 9 (149,360 sf)									10/27	11/3				
944	Column Line 9 to 5 (149,360 sf)									11/3	11/10				
945	Column Line 5 to 1 (153,425 sf)									11/10	11/17				
946	Exterior Skin Systems Watertight														
947	Exterior Systems Watertight - Area 33 thru 17									9/16	12/9				
948	Exterior Systems Watertight - Area 49 thru 33									9/16	10/27				
949	Exterior Systems Watertight - Area 17 thru 1														
950	INTERIOR FINISH SYSTEMS														
951	Pour Strips and Block-outs - No Pits														
952	Pour Strips and Block-outs - Area 33 thru 17														
953	Column Line 33 to 29 (149,413 sf)									7/28	11/8				
954	Column Line 29 to 25 (149,360 sf)									7/28	8/24				
955	Column Line 25 to 21 (149,360 sf)									7/28	8/3				
956	Column Line 21 to 17 (149,413 sf)									8/4	8/10				
957	Pour Strips and Block-outs - Area 49 thru 33														
958	Column Line 49 to 45 (150,159 sf)									8/11	8/17				
959	Column Line 45 to 41 (149,360 sf)									8/18	8/24				
960	Column Line 41 to 37 (149,360 sf)									9/3	10/4				
961	Column Line 37 to 33 (149,413 sf)									9/3	9/13				
962	Pour Strips and Block-outs - Area 17 thru 1														
963	Column Line 17 to 13 (149,413 sf)									9/13	9/20				
964	Column Line 13 to 9 (149,360 sf)									9/20	9/27				
965	Column Line 9 to 5 (149,360 sf)									9/27	10/4				
966	Column Line 5 to 1 (153,425 sf)									10/11	11/8				

ID	Task Name	2nd Quarter				3rd Quarter			4th Quarter			1st Quarter			2nd Quarter	
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	
967	Overhead Distribution					7/28										1/28
968	Fire Sprinklers					7/28										12/20
969	Fire Sprinklers and Risers - Area 33 thru 17					7/28										
970	Column Line 33 to 29 (149,413 sf)					7/28	8/6									
971	Column Line 29 to 25 (149,360 sf)					7/28	8/6									
972	Column Line 25 to 21 (149,360 sf)					7/28	8/6									
973	Column Line 21 to 17 (149,413 sf)					7/28	8/6									
974	Fire Sprinklers and Risers - Area 49 thru 33					7/28	8/6									
975	Column Line 49 to 45 (150,159 sf)					7/28	8/6									
976	Column Line 45 to 41 (149,360 sf)					7/28	8/6									
977	Column Line 41 to 37 (149,360 sf)					7/28	8/6									
978	Column Line 37 to 33 (149,413 sf)					7/28	8/6									
979	Fire Sprinklers and Risers - Area 17 thru 1					7/28	8/6									
980	Column Line 17 to 13 (149,413 sf)					7/28	8/6									
981	Column Line 13 to 9 (149,360 sf)					7/28	8/6									
982	Column Line 9 to 5 (149,360 sf)					7/28	8/6									
983	Column Line 5 to 1 (153,425 sf)					7/28	8/6									
984	Exit Signs, Alarms and Other					7/28	8/6									
985	Exit Signs, Alarms and Other - Area 33 thru 17					7/28	8/6									
986	Column Line 33 to 29 (149,413 sf)					7/28	8/6									
987	Column Line 29 to 25 (149,360 sf)					7/28	8/6									
988	Column Line 25 to 21 (149,360 sf)					7/28	8/6									
989	Column Line 21 to 17 (149,413 sf)					7/28	8/6									
990	Exit Signs, Alarms and Other - Area 49 thru 33					7/28	8/6									
991	Column Line 49 to 45 (150,159 sf)					7/28	8/6									
992	Column Line 45 to 41 (149,360 sf)					7/28	8/6									
993	Column Line 41 to 37 (149,360 sf)					7/28	8/6									
994	Column Line 37 to 33 (149,413 sf)					7/28	8/6									
995	Exit Signs, Alarms and Other - Area 17 thru 1					7/28	8/6									
996	Column Line 17 to 13 (149,413 sf)					7/28	8/6									
997	Column Line 13 to 9 (149,360 sf)					7/28	8/6									
998	Column Line 9 to 5 (149,360 sf)					7/28	8/6									
999	Column Line 5 to 1 (153,425 sf)					7/28	8/6									
1000	Overhead Lighting and Power					7/28	8/6									
1001	Overhead Lighting and Power - Area 33 thru 17					7/28	8/6									
1002	Column Line 33 to 29 (149,413 sf)					7/28	8/6									
1003	Column Line 29 to 25 (149,360 sf)					7/28	8/6									
1004	Column Line 25 to 21 (149,360 sf)					7/28	8/6									
1005	Column Line 21 to 17 (149,413 sf)					7/28	8/6									
1006	Overhead Lighting and Power - Area 49 thru 33					7/28	8/6									
1007	Column Line 49 to 45 (150,159 sf)					7/28	8/6									
1008	Column Line 45 to 41 (149,360 sf)					7/28	8/6									

ID	Task Name	2nd Quarter				3rd Quarter			4th Quarter			1st Quarter			2nd Quart
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
1009	Column Line 41 to 37 (149,360 sf)								10/14	10/27					
1010	Column Line 37 to 33 (149,413 sf)								10/28	11/10					
1011	Overhead Lighting and Power - Area 17 thru 1								11/11	11/17					
1012	Column Line 17 to 13 (149,413 sf)								11/11	12/2					
1013	Column Line 13 to 9 (149,360 sf)								12/3	12/16					
1014	Column Line 9 to 5 (149,360 sf)								12/17	1/3					
1015	Column Line 5 to 1 (153,425 sf)								1/4	1/17					
1016	Floor Joint Filler / Re-Saw														
1017	Floor Joint Filler / Re-Saw - Area 33 thru 17								8/13	9/17					
1018	Column Line 33 to 29 (149,413 sf)								8/13	8/19					
1019	Column Line 29 to 25 (149,360 sf)								8/23	8/27					
1020	Column Line 25 to 21 (149,360 sf)								9/2	9/9					
1021	Column Line 21 to 17 (149,413 sf)								9/13	9/17					
1022	Floor Joint Filler / Re-Saw - Area 49 thru 33								9/30	11/16					
1023	Column Line 49 to 45 (150,159 sf)								9/30	10/7					
1024	Column Line 45 to 41 (149,360 sf)								10/14	10/21					
1025	Column Line 41 to 37 (149,360 sf)								10/28	11/4					
1026	Column Line 37 to 33 (149,413 sf)								11/11	11/18					
1027	Floor Joint Filler / Re-Saw - Area 17 thru 1														
1028	Column Line 17 to 13 (149,413 sf)								12/3	12/10					
1029	Column Line 13 to 9 (149,360 sf)								12/17	12/27					
1030	Column Line 9 to 5 (149,360 sf)								1/4	1/11					
1031	Column Line 5 to 1 (153,425 sf)								1/18	1/25					
1032	Floor Cleaning and Sealer														
1033	Floor Cleaning and Sealer - Area 33 thru 17								8/19	9/20					
1034	Column Line 33 to 29 (149,413 sf)								8/19	8/23					
1035	Column Line 29 to 25 (149,360 sf)								8/30	9/3					
1036	Column Line 25 to 21 (149,360 sf)								9/10	9/14					
1037	Column Line 21 to 17 (149,413 sf)								9/16	9/20					
1038	Floor Cleaning and Sealer - Area 49 thru 33														
1039	Column Line 49 to 45 (150,159 sf)								10/8	11/23					
1040	Column Line 45 to 41 (149,360 sf)								10/8	10/12					
1041	Column Line 41 to 37 (149,360 sf)								10/22	10/26					
1042	Column Line 37 to 33 (149,413 sf)								11/5	11/9					
1043	Floor Cleaning and Sealer - Area 17 thru 1														
1044	Column Line 17 to 13 (149,413 sf)								11/19	11/23					
1045	Column Line 13 to 9 (149,360 sf)								12/13	12/15					
1046	Column Line 9 to 5 (149,360 sf)								12/28	12/30					
1047	Column Line 5 to 1 (153,425 sf)								1/12	1/14					
1048	PROGRESSIVE MILESTONES														
1048	Progressive Inspection and Occupancy								9/16	3/18					
1049	Progressive Inspection and Occupancy								9/16	3/18					
1050	Progressive Inspection and Occupancy - Area 33								9/16	10/1					

ID	Task Name	2nd Quarter				3rd Quarter			4th Quarter			1st Quarter			2nd Quarter
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
1051	Final Cleaning							9/17	9/21						
1052	Progress City Inspection							9/16	9/20						
1053	Utility Release and Service Start							9/21	9/23						
1054	System Testing and Start-up							9/24	9/28						
1055	Temporary Inspection							9/29	10/1						
1056	Start Mezzanine Subcontractor							9/21							
1057	Progressive Inspection and Occupancy - Area 49							10/28					12/14		
1058	Final Cleaning											12/2	12/6		
1059	Progress City Inspection											10/28	11/1		
1060	Utility Release and Service Start											11/2	11/8		
1061	System Testing and Start-up												12/7	12/9	
1062	Temporary Inspection												12/10	12/14	
1063	Partial Temporary Occupancy												12/14		
1064	Progressive Inspection and Occupancy - Area 17												1/18	2/10	
1065	Final Cleaning												1/31	2/2	
1066	Progress City Inspection												1/18	1/20	
1067	Utility Release and Service Start												1/21	1/27	
1068	System Testing and Start-up													2/3	2/7
1069	Temporary Inspection													2/8	2/10
1070	Partial Temporary Occupancy													2/10	
1071	Progressive Inspection and Occupancy														3/18
1072	All Tenant Improvement Areas														3/18
1073	Final Occupancy Process														3/18
1074	Final Inspection / Certifications for Entire Development														3/18
1075	INTERIOR IMPROVEMENTS / TENANT IMPROVEMENTS							6/25							3/18
1076	MEZZANINE IMPROVEMENTS - Area 49 thru 45							6/25							10/4
1077	Below Grade Utilities							6/25	7/7						
1078	Rough-in Plumbing							6/25	7/7						
1079	Rough-in Electrical							6/25	7/7						
1080	Concrete							6/28	7/13						
1081	Interior Foundations and Pit							6/28	7/13						
1082	Verify Line and Grade							6/28	6/28						
1083	Layout and Excavation							6/29	7/1						
1084	Receive, Inventory and Store Anchor Bolt A							6/29	6/29						
1085	Install Rebar							7/1	7/1						
1086	Install Bolts and Embeds							7/1	7/1						
1087	Place Foundations							7/2	7/6						
1088	Strip Forms and Clean Embeds							7/7	7/7						
1089	Ready for Slab Sequence							7/7	7/7						
1090	Install Erection Pads							7/8	7/8						
1091	Cure Time Prior to Loading							7/7	7/13						
1092	Erect Shear Walls with Exterior Panels							7/13	7/13						

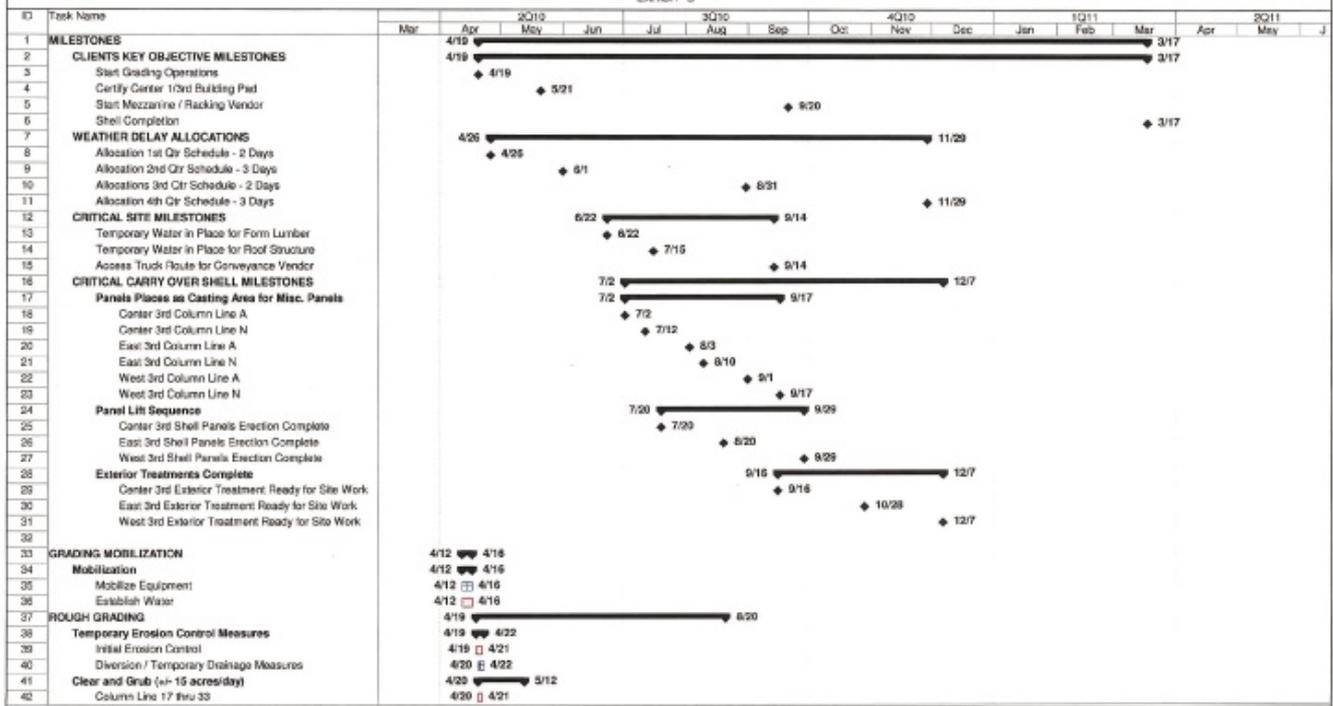
ID	Task Name	2nd Quarter			3rd Quarter			4th Quarter				1st Quarter			2nd Quarter
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
1093	Roof Columns in Place - Panelized Roof System Com							9/3							
1094	Steel and Structural Deck							9/3	10/4						
1095	Erect Mezzanine Columns and Beams							9/3	9/10						
1096	Erect Bar Joists and Misc. Steel							9/10	9/16						
1097	Install Stair Pans							9/16	9/20						
1098	Metal Decking							9/20	9/27						
1099	Edge Closures and Studs							9/27	9/30						
1100	Place Concrete over Metal Deck							9/30	10/4						
1101	TENANT IMPROVEMENTS							9/27							
1102	Exterior Wall Systems Weather Tight								10/27						
1103	Roof Structure Weather Tight							9/30							
1104	Main Office - Area 49 thru 45							9/27							
1105	Ground Floor							9/27							
1106	Start Improvements							9/27							
1107	Overhead Rough-in							9/27	10/4						
1108	Fire Sprinkler							9/27	10/4						
1109	Plumbing							9/27	10/4						
1110	Mechanical							9/27	10/4						
1111	Electrical							9/27	10/4						
1112	Other							9/27	10/4						
1113	Walls							9/27							
1114	Metal Stud Framing for Walls and Soffit							9/27	10/18						
1115	Wall Rough-in							10/7	10/21						
1116	Plumbing							10/7	10/21						
1117	Electrical							10/7	10/21						
1118	Other							10/7	10/21						
1119	One Side Drywall							10/19	10/29						
1120	Insulation							10/27	11/1						
1121	Second Side Drywall							10/28	11/11						
1122	Tape and 1st Coat Walls							11/8	11/18						
1123	Finish Coat Walls / Texture							11/15	12/7						
1124	Prep Walls for Grid							12/7	12/9						
1125	Ceilings							11/11							
1126	Ceiling Framing							11/11	11/15						
1127	Install Ceiling Grid							12/9	12/21						
1128	Overhead Fixtures							12/16	12/23						
1129	Cut Fire Sprinkler Drops							12/16	12/23						
1130	Mechanical Drops							12/16	12/23						
1131	Electrical Fixtures							12/16	12/23						
1132	Other							12/16	12/23						
1133	Drywall Ceilings							11/15	11/23						
1134	Hang Drywall Ceilings							11/15	11/17						

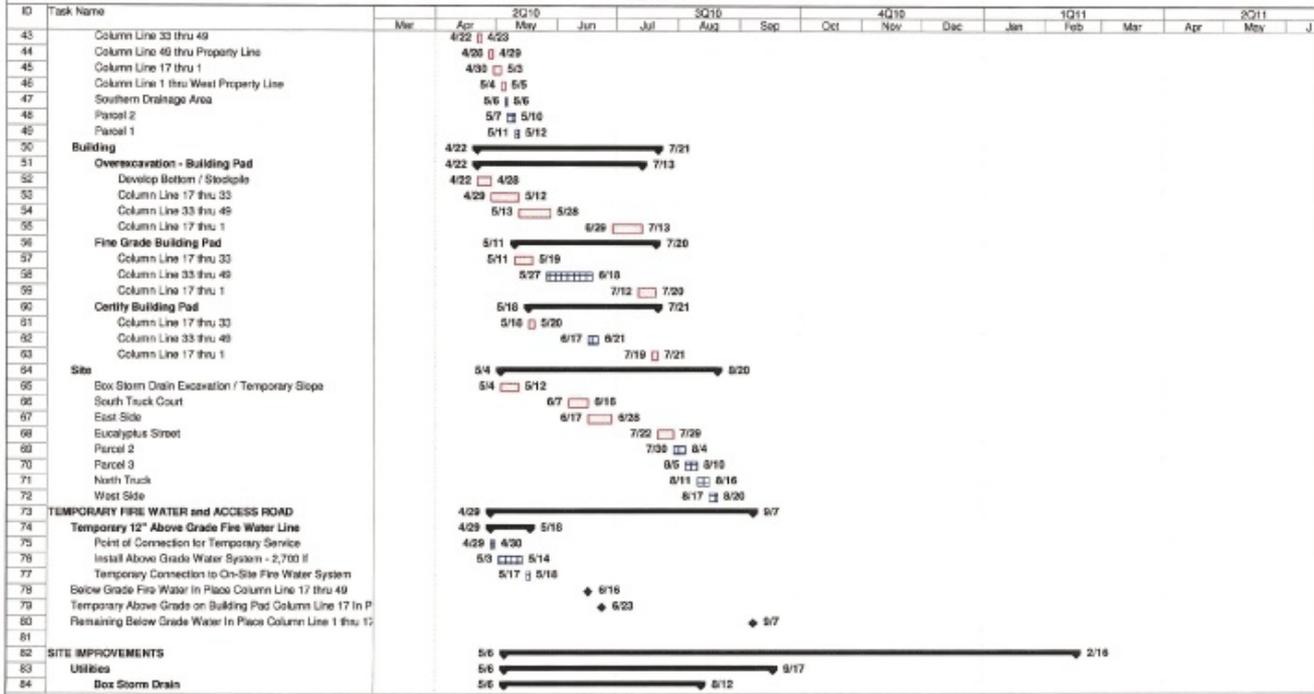
ID	Task Name	2nd Quarter				3rd Quarter			4th Quarter			1st Quarter			2nd Quart
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
1135	Tape and 1st Coat Ceiling										11/17	11/19			
1136	Finish Coat Ceilings / Texture										11/19	11/23			
1137	Acoustic Ceiling										12/23	1/10			
1138	Drop Cut In Tiles and Tiles at Fixt										12/23	12/29			
1139	Overhead Inspections										12/29	1/3			
1140	Drop Ceiling Tiles										1/3	1/10			
1141	Conductors and Controls									11/11	12/16				
1142	Pull Conductors and Make-up Wiring									11/11	11/18				
1143	Pull Control Conductors and Make-up										12/9	12/16			
1144	Install Door Frames										12/9	12/13			
1145	Elevator								10/11	12/23					
1146	Rough-in Hoist way								10/11	10/20					
1147	Build Cab								10/20	10/29					
1148	Finish Hoist way and Equipment								10/29	11/5					
1149	Finish Cab								11/5	11/12					
1150	Preliminary Testing								11/12	11/17					
1151	Schedule Elevator Inspection								11/17	12/9					
1152	Permanent Power, Phone and Adjustm									12/9	12/16				
1153	State Inspection and Certification									12/16	12/23				
1154	Finishes									11/23	2/3				
1155	Ceramic Tile									12/13	12/28				
1156	Toilet Room Floors and Walls									12/13	12/28				
1157	Other Floor Areas									12/13	12/17				
1158	Millwork									12/13	1/20				
1159	Cabinets and Counters									12/13	12/16				
1160	Finish Carpentry / Paneling / Trim									12/13	12/22				
1161	Base and Other Trim									1/17	1/20				
1162	Doors									12/13	2/3				
1163	Swing Doors									12/13	12/20				
1164	Install Hardware										1/24	2/3			
1165	Painting and Finishes									11/23	1/27				
1166	Paint Walls and Ceilings									11/23	12/15				
1167	Finish Trim and Other										1/20	1/27			
1168	Wall Covering									12/15	12/20				
1169	Floor Covering									12/13	1/17				
1170	VCT / Sheet Goods									12/20	12/23				
1171	Wood Flooring										1/10	1/13			
1172	Carpeting										1/10	1/17			
1173	Other									12/13	12/15				
1174	Access Flooring									12/13	12/16				
1175	Finish Fixtures and Trim										12/28	2/8			
1176	Plumbing Fixtures										12/28	1/17			

ID	Task Name	2nd Quarter				3rd Quarter			4th Quarter			1st Quarter			2nd Quarter
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
1177	Set Plumbing Fixtures											12/28	1/5		
1178	Finish Fixtures and Trim											1/10	1/17		
1179	Toilet Partitions and Accessories											1/5	1/20		
1180	Toilet Partitions											1/5	1/10		
1181	Toilet Accessories											1/17	1/20		
1182	Mechanical Thermostats / Control Devi											1/27	1/31		
1183	Electrical Cover Plates and Trim											1/27	2/3		
1184	Misc. Accessories / Mats / FE Cabinets											1/27	2/3		
1185	Window Coverings											1/27	2/1		
1186	Final Cleaning											2/3	2/8		
1187	2nd Floor Mezzanine								10/4						2/22
1188	Start Improvements								10/4						
1189	Overhead Rough-in								10/4						
1190	Fire Sprinkler								10/4						
1191	Plumbing								10/4						
1192	Mechanical								10/4						
1193	Electrical								10/4						
1194	Other								10/4						
1195	Walls								10/11						12/23
1196	Metal Stud Framing for Walls and Soffi								10/11						11/1
1197	Wall Rough-in								10/21						11/4
1198	Plumbing								10/21						11/4
1199	Electrical								10/21						11/4
1200	Other								10/21						11/4
1201	One Side Drywall											11/2			11/12
1202	Insulation											11/10			11/15
1203	Second Side Drywall											11/11			12/3
1204	Tape and 1st Coat Walls											11/22			12/10
1205	Finish Coat Walls / Texture											12/7			12/21
1206	Prep Walls for Grid											12/21			12/23
1207	Ceilings											12/3			1/24
1208	Ceiling Framing											12/3			12/7
1209	Install Ceiling Grid											12/23			1/6
1210	Overhead Fixtures											1/3			1/10
1211	Cut Fire Sprinkler Drops											1/3			1/10
1212	Mechanical Drops											1/3			1/10
1213	Electrical Fixtures											1/3			1/10
1214	Other											1/3			1/10
1215	Drywall Ceilings											12/7			12/15
1216	Hang Drywall Ceilings											12/7			12/9
1217	Tape and 1st Coat Ceiling											12/9			12/13
1218	Finish Coat Ceilings / Texture											12/13			12/15

ID	Task Name	2nd Quarter				3rd Quarter			4th Quarter			1st Quarter			2nd Quarter
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
1219	Acoustic Ceiling											1/10	1/24		
1220	Drop Cut In Tiles and Tiles at Fixt											1/10	1/13		
1221	Overhead Inspections											1/13	1/17		
1222	Drop Ceiling Tiles											1/17	1/24		
1223	Conductors and Controls										12/3	1/3			
1224	Pull Conductors and Make-up Wiring										12/3	12/10			
1225	Pull Control Conductors and Make-up										12/23	1/3			
1226	Install Door Frames										12/23	12/28			
1227	Finishes										12/15	2/17			
1228	Ceramic Tile										12/28	1/12			
1229	Toilet Room Floors and Walls										12/28	1/12			
1230	Other Floor Areas										12/28	1/4			
1231	Millwork										12/28	2/3			
1232	Cabinets and Counters										12/28	1/3			
1233	Finish Carpentry / Paneling / Trim										12/28	1/7			
1234	Base and Other Trim											1/31	2/3		
1235	Doors										12/28	2/17			
1236	Swing Doors										12/28	1/5			
1237	Install Hardware											2/7	2/17		
1238	Painting and Finishes										12/15	2/10			
1239	Paint Walls and Ceilings										12/15	12/30			
1240	Finish Trim and Other											2/3	2/10		
1241	Wall Covering										12/30	1/5			
1242	Floor Covering										12/28	1/31			
1243	VCT / Sheet Goods										1/5	1/10			
1244	Wood Flooring											1/24	1/27		
1245	Carpeting											1/24	1/31		
1246	Other										12/28	12/30			
1247	Access Flooring										12/28	1/3			
1248	Finish Fixtures and Trim										1/12	2/22			
1249	Plumbing Fixtures										1/12	1/31			
1250	Set Plumbing Fixtures										1/12	1/19			
1251	Finish Fixtures and Trim											1/24	1/31		
1252	Toilet Partitions and Accessories										1/19	2/3			
1253	Toilet Partitions										1/19	1/24			
1254	Toilet Accessories											1/31	2/3		
1255	Mechanical Thermostats / Control Devi											2/10	2/14		
1256	Electrical Cover Plates and Trim											2/10	2/17		
1257	Misc. Accessories / Mats / FE Cabinets											2/10	2/17		
1258	Window Coverings											2/10	2/15		
1259	Final Cleaning											2/17	2/22		
1260	Tenant Improvement Inspection											2/22	3/18		

ID	Task Name	2nd Quarter			3rd Quarter			4th Quarter			1st Quarter			2nd Quarter	
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
1261	City Inspections														
1262	Power and Utilities In Place												2/22	3/1	
1263	Start-up and Testing												3/1	3/8	
1264	Ready for Occupancy												3/8	3/15	
1265	REMOTE AREA TENANT IMPROVEMENTS														
1266	Remote Office - Column Lines 31 - A							8/23							1/19
1267	Remote Office - Column Lines 17 - A							8/23							11/3
1268	Remote Office - Column Lines 16 - A							9/8							11/3
1269	Remote Toilet Rooms - Column Lines 5 - A									10/12					11/23
1270	Remote Toilet Rooms - Column Lines 9 - N											11/10			1/19
1271	Remote Office - Column Lines 9 - N											11/5			1/19
1272	SITE IMPROVEMENTS														
1273	Anticipated Site Development Improvements														





ID	Task Name	2010			2010			2010			1Q11		2Q11				
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
85	Excavation Complete			5/12													
86	Box Storm Drain - Form, Rebar, Place, Strip and			5/6	5/20	5/26	6/5										
87	Station 95+00 thru 96+00			5/6	5/27	5/29	6/5										
88	Station 95+00 to 100+00			5/6	5/27	5/29	6/5										
89	Station 122+56 to 103+00			5/6	5/27	5/29	6/5										
90	Critical Backfill Zone - No Scrappers			6/10	6/16	6/12											
91	Station 95+00 thru 96+00			6/10	6/16	6/12											
92	Station 95+00 to 100+00			6/10	6/16	6/12											
93	Station 122+56 to 103+00			6/10	6/16	6/12											
94	Storm Drain Laterals			7/1	7/16	7/23											
95	Lateral F-7			7/1	7/16	7/23											
96	Lateral F-6			7/16	7/23	7/30											
97	Lateral F-5			7/16	7/23	7/30											
98	Lateral D-6			7/23	7/30	8/5											
99	Lateral D-5			7/23	7/30	8/5											
100	Lateral F-2			8/3	8/11	8/17											
101	Lateral F-2A			8/3	8/11	8/17											
102	Sewer			8/17	8/17	9/17											
103	East Truck Lane - 1,200 ft			6/29	7/22												
104	Survey			6/29	7/22												
105	Excavate			6/29	7/5												
106	Install Sewer Piping			7/2	7/12												
107	Install Manholes Bottoms and Clean Out Risers			7/2	7/14												
108	Backfill Lifts			7/13	7/20												
109	Top Out Manholes and Clean-outs			7/21	7/22												
110	South Truck Court (West End) - 450 ft			6/17	7/1												
111	Survey			6/17	7/1												
112	Excavate			6/17	6/21												
113	Install Sewer Piping			6/22	6/23												
114	Install Manholes Bottoms and Clean Out Risers			6/23	6/25												
115	Backfill Lifts			6/25	6/29												
116	Top Out Manholes and Clean-outs			6/30	7/1												
117	South Truck Court (East End) - 370 ft			6/19	7/5												
118	Survey			6/19	7/5												
119	Excavate			6/22	6/23												
120	Install Sewer Piping			6/24	6/25												
121	Install Manholes Bottoms and Clean Out Risers			6/25	6/29												
122	Backfill Lifts			6/30	7/1												
123	Top Out Manholes and Clean-outs			7/2	7/6												
124	West Truck Lane - 1,100 ft			8/23	8/17												
125	Survey			8/23	8/23												
126	Excavate			8/24	9/2												

ID	Task Name	2Q10			3Q10			4Q10			1Q11			2Q11			
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
127	Install Sewer Piping						8/28	9/7									
128	Install Manholes Bottoms and Clean Out Risers							9/7	9/9								
129	Backfill Lifts							9/8	9/15								
130	Top Out Manholes and Clean-outs							9/15	9/17								
131	East / South East Parking - 309 #1						6/30	7/26									
132	Survey					6/30	6/30										
133	Excavate					7/6	7/12										
134	Install Sewer Piping					7/13	7/14										
135	Install Manholes Bottoms and Clean Out Risers					7/14	7/16										
136	Backfill Lifts					7/21	7/22										
137	Top Out Manholes and Clean-outs					7/23	7/25										
138	Fire Water					5/13	9/16										
139	North Truck Court - Col 17 thru 33					5/13	5/28										
140	Survey					5/13	5/13										
141	Excavate					5/14	5/19										
142	Install Water System Piping, Laterals and Devic					5/17	5/20										
143	Install Thrust Blocks / Restraints					5/18	5/21										
144	Load and Test System					5/24	5/25										
145	Backfill					5/25	5/27										
146	Install Above Grade Devices					5/27	5/28										
147	North East Truck Court - Col 33 thru 49					5/20	6/16										
148	Survey					5/20	5/20										
149	Excavate					5/21	5/26										
150	Install Water System Piping, Laterals and Devic					5/27	6/8										
151	Install Thrust Blocks / Restraints					5/28	6/9										
152	Load and Test System					6/10	6/11										
153	Backfill					6/11	6/16										
154	Install Above Grade Devices					6/15	6/16										
155	East Truck Lane					5/17	6/16										
156	Survey					5/17	5/17										
157	Excavate					5/18	5/21										
158	Install Water System Piping, Laterals and Devic					5/27	6/8										
159	Install Thrust Blocks / Restraints					5/28	6/9										
160	Load and Test System					6/10	6/11										
161	Backfill					6/11	6/16										
162	Install Above Grade Devices					6/15	6/16										
163	South Truck Court - Col 17 thru 30					5/14	6/10										
164	Survey					5/14	5/14										
165	Excavate					5/17	5/20										
166	Install Water System Piping, Laterals and Devic					5/21	5/26										
167	Install Thrust Blocks / Restraints					5/24	5/27										
168	Load and Test System					5/28	6/7										

ID	Task Name	2010			2010			2010			2011						
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
169	Backfill				6/7	6/9											
170	Install Above Grade Devices				6/9	6/10											
171	North West Truck Court - Col 1 thru 17																
172	Survey						8/5	8/23									
173	Excavate						8/5	8/5									
174	Install Water System Piping, Laterals and Devis						8/5	8/11									
175	Install Thrust Blocks / Restraints						8/9	8/12									
176	Load and Test System						8/10	8/13									
177	Backfill						8/16	8/17									
178	Install Above Grade Devices						8/17	8/20									
179	South West Truck Court - Col 1 thru 17						8/20	8/23									
180	Survey						8/8	8/27									
181	Excavate						8/8	8/6									
182	Install Water System Piping, Laterals and Devis						8/12	8/17									
183	Install Thrust Blocks / Restraints						8/13	8/10									
184	Load and Test System						8/16	8/19									
185	Backfill						8/20	8/23									
186	Install Above Grade Devices						8/23	8/26									
187	West Truck Lane						8/26	8/27									
188	Survey						8/9	8/7									
189	Excavate						8/9	8/9									
190	Install Water System Piping, Laterals and Devis						8/18	8/23									
191	Install Thrust Blocks / Restraints						8/19	8/24									
192	Load and Test System						8/26	8/25									
193	Backfill						8/26	8/27									
194	Install Above Grade Devices						8/27	8/3									
195	East / South East Parking - Col 30 thru 48						5/16	8/23									
196	Survey						5/18	5/18									
197	Excavate						5/19	5/24									
198	Install Water System Piping, Laterals and Devis						6/9	6/14									
199	Install Thrust Blocks / Restraints						6/10	6/15									
200	Load and Test System						6/16	6/17									
201	Backfill						6/17	6/22									
202	Install Above Grade Devices						6/22	6/23									
203	Charge, Test, Chlorinate and Inspect																
204	Complete Point of Connection / Active Service																
205	Pump House Equipment																
206	Pump House Structure In Place						6/16	8/5									
207	Install Pump House Equipment						6/17	7/8									
208	Electrical System Installation						7/9	7/22									
209	Fueling and Testing						7/23	8/5									
210	Domestic Water						7/2	8/16									

ID	Task Name	2Q10			3Q10			4Q10			1Q11			2Q11		
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May
211	South Truck Court (West End) - 300 lf					7/2	7/25									
212	Survey					7/2 7/2										
213	Excavate					7/6 7/7										
214	Prepare Point of Connection					7/6 7/6										
215	Install Water Piping					7/9 7/12										
216	Backfill					7/13 7/13										
217	Install Above Grade Devices					7/13 7/14										
218	Charge, Test, Chlorinate and Inspect					7/15 7/21										
219	Complete Point of Connection / Active Service					7/22 7/23										
220	East / South East Parking - 310 lf					7/27	8/16									
221	Survey					7/27 7/27										
222	Excavate					7/28 7/29										
223	Prepare Point of Connection					7/30 7/30										
224	Install Water Piping					8/2 8/3										
225	Backfill					8/4 8/4										
226	Install Above Grade Devices					8/4 8/5										
227	Charge, Test, Chlorinate and Inspect					8/6 8/12										
228	Complete Point of Connection / Active Service					8/13 8/16										
229	Dock Ramp and Stairs					7/2	10/5									
230	Dock Ramp and Stair Panels (Cast on Wall Panels)					7/2	10/1									
231	Column Line A - 17 thru 33 - (18 Panels)					7/2	7/19									
232	Layout and Snap Lines					7/2 7/2										
233	Form Panels and Apply Bond Breaker					7/2 7/6										
234	Install Down Feature Element / Side Embeds					7/7 7/7										
235	Install Panel Reinforcing Steel / L/R Steel					7/7 7/8										
236	Ring Panel / Panel Check					7/9 7/9										
237	Place and Finish Panel					7/12 7/12										
238	Cure Time Prior to Lift					7/13 7/19										
239	Strip Formwork and Clean					7/16 7/16										
240	Column Line N - 17 thru 33 - (22 Panels)					7/12	7/26									
241	Layout and Snap Lines					7/12 7/12										
242	Form Panels and Apply Bond Breaker					7/12 7/13										
243	Install Down Feature Element / Side Embeds					7/14 7/14										
244	Install Panel Reinforcing Steel / L/R Steel					7/14 7/15										
245	Ring Panel / Panel Check					7/16 7/16										
246	Place and Finish Panel					7/19 7/19										
247	Cure Time Prior to Lift					7/20 7/26										
248	Strip Formwork and Clean					7/22 7/23										
249	Column Line A - 33 thru 49 - (29 Panels)					8/3	8/17									
250	Layout and Snap Lines					8/3 8/3										
251	Form Panels and Apply Bond Breaker					8/3 8/4										
252	Install Down Feature Element / Side Embeds					8/6 8/6										

ID	Task Name	2Q10				3Q10			4Q10			1Q11			2Q11		
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
253	Install Panel Reinforcing Steel / Lift Steel						8/5 8/6										
254	Ring Panel / Panel Check						8/9 8/9										
255	Place and Finish Panel						8/10 8/10										
256	Cure Time Prior to Lift						8/11 8/17										
257	Strip Formwork and Clean						8/16 8/16										
258	Column Line N - 33 thru 49 - (14 Panels)						8/10 8/24										
259	Layout and Snap Lines						8/10 8/10										
260	Form Panels and Apply Bond Breaker						8/10 8/11										
261	Install Down Feature Element / Side Embeds						8/12 8/12										
262	Install Panel Reinforcing Steel / Lift Steel						8/12 8/13										
263	Ring Panel / Panel Check						8/16 8/16										
264	Place and Finish Panel						8/17 8/17										
265	Cure Time Prior to Lift						8/18 8/24										
266	Strip Formwork and Clean						8/23 8/23										
267	Column Line A - 1 thru 17 - (20 Panels)						8/2 9/17										
268	Layout and Snap Lines						8/2 8/2										
269	Form Panels and Apply Bond Breaker						8/2 8/3										
270	Install Down Feature Element / Side Embeds						8/7 8/7										
271	Install Panel Reinforcing Steel / Lift Steel						8/7 8/8										
272	Ring Panel / Panel Check						8/9 8/9										
273	Place and Finish Panel						8/10 8/10										
274	Cure Time Prior to Lift						8/13 8/17										
275	Strip Formwork and Clean						8/16 8/16										
276	Column Line N - 1 thru 17 - (22 Panels)						8/17 10/1										
277	Layout and Snap Lines						8/17 8/17										
278	Form Panels and Apply Bond Breaker						8/17 8/20										
279	Install Down Feature Element / Side Embeds						8/21 8/21										
280	Install Panel Reinforcing Steel / Lift Steel						8/21 8/22										
281	Ring Panel / Panel Check						8/23 8/23										
282	Place and Finish Panel						8/24 8/24										
283	Cure Time Prior to Lift						8/27 10/1										
284	Strip Formwork and Clean						8/30 8/30										
285	Ramp Wall and Stair Foundations					7/2	8/29										
286	Column Line A - 17 thru 33					7/2	7/15										
287	Layout and Excavate Setting Pads					7/2 7/2											
288	Receive, Inventory and Store Anchor Bolt Assemblies					7/2 7/2											
289	Install Rebar					7/6 7/6											
290	Install Embeds					7/6 7/6											
291	Place Foundations					7/7 7/7											
292	Strip Forms and Clean Embeds					7/8 7/8											
293	Install Erection Pads					7/8 7/8											
294	Cure Time Prior to Loading					7/8 7/15											

ID	Task Name	2010			2011			2010			2011			2011			
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
295	Column Line N - 17 thru 33					7/12	7/22										
296	Layout and Excavate Setting Pads					7/12 7/12											
297	Receive, Inventory and Store Anchor Bolt Asser					7/12 7/12											
298	Install Rebar					7/13 7/13											
299	Install Embeds					7/13 7/13											
300	Place Foundations					7/14 7/14											
301	Strip Forms and Clean Embeds					7/16 7/16											
302	Install Erection Pads					7/15 7/15											
303	Cure Time Prior to Loading					7/16 7/22											
304	Column Line A - 33 thru 40					8/3	8/13										
305	Layout and Excavate Setting Pads					8/3 8/3											
306	Receive, Inventory and Store Anchor Bolt Asser					8/3 8/3											
307	Install Rebar					8/4 8/4											
308	Install Embeds					8/4 8/4											
309	Place Foundations					8/5 8/5											
310	Strip Forms and Clean Embeds					8/6 8/6											
311	Install Erection Pads					8/6 8/6											
312	Cure Time Prior to Loading					8/6 8/13											
313	Column Line N - 33 thru 40					8/16	8/20										
314	Layout and Excavate Setting Pads					8/10 8/10											
315	Receive, Inventory and Store Anchor Bolt Asser					8/10 8/10											
316	Install Rebar					8/11 8/11											
317	Install Embeds					8/11 8/11											
318	Place Foundations					8/12 8/12											
319	Strip Forms and Clean Embeds					8/13 8/13											
320	Install Erection Pads					8/13 8/13											
321	Cure Time Prior to Loading					8/16 8/20											
322	Column Line A - 1 thru 17					9/2	9/15										
323	Layout and Excavate Setting Pads					9/2 9/2											
324	Receive, Inventory and Store Anchor Bolt Asser					9/2 9/2											
325	Install Rebar					9/3 9/3											
326	Install Embeds					9/3 9/3											
327	Place Foundations					9/7 9/7											
328	Strip Forms and Clean Embeds					9/8 9/8											
329	Install Erection Pads					9/8 9/8											
330	Cure Time Prior to Loading					9/9 9/15											
331	Column Line N - 1 thru 17					9/17	9/29										
332	Layout and Excavate Setting Pads					9/17 9/17											
333	Receive, Inventory and Store Anchor Bolt Asser					9/17 9/17											
334	Install Rebar					9/20 9/20											
335	Install Embeds					9/20 9/20											
336	Place Foundations					9/21 9/21											

ID	Task Name	2010			2010			2010			2010			2011		
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May
337	Strip Forms and Clean Embeds							8/22	8/22							
338	Install Erection Pads							8/22	8/22							
339	Cure Time Prior to Loading							8/25	8/29							
340	Erect Ramp Walls (Lift with Building)					7/23										
341	Column Line N - 17 thru 33					7/23										
342	Column Line A - 33 thru 49						8/26									
343	Column Line A - 1 thru 17								8/29							
344	Column Line N - 1 thru 17								8/30							
345	Erect Stair Walls / Brace / Place Locking Footing					7/20										
346	Column Line A - 17 thru 33 - (18 Panels)					7/20	7/22									
347	Column Line N - 17 thru 33 - (16 Panels)					7/26	7/28									
348	Column Line A - 33 thru 49 - (14 Panels)						8/20	8/24								
349	Column Line N - 33 thru 49 - (14 Panels)						8/24	8/26								
350	Column Line A - 1 thru 17 - (14 Panels)								9/29	10/1						
351	Column Line N - 1 thru 17 - (16 Panels)								10/1	10/5						
352	Truck Court Concrete Paving					7/23										
353	Column Line A - 17 thru 33 - (+/-56,000 sf)					7/23	7/29									
354	Fine Grade and Prep					7/23	7/28									
355	Place and Finish Concrete					7/27	7/29									
356	Column Line N - 17 thru 30 - (+/-42,000 sf)					7/28	8/4									
357	Fine Grade and Prep					7/29	7/30									
358	Place and Finish Concrete					8/2	8/4									
359	Truck Court Paving In Place for Conveyance Vendor						8/4									
360	Column Line A - 33 thru 45 - (+/-44,000 sf)						8/25	8/2								
361	Fine Grade and Prep						8/25	8/26								
362	Place and Finish Concrete						8/27	9/2								
363	Column Line A - 3 thru 17 - (+/-46,000 sf)								10/4	10/8						
364	Fine Grade and Prep								10/4	10/5						
365	Place and Finish Concrete								10/6	10/8						
366	Column Line N - 3 thru 17 - (+/-46,000 sf)								10/6	10/13						
367	Fine Grade and Prep								10/6	10/7						
368	Place and Finish Concrete								10/11	10/13						
369	Site Screen Walls / Trash Enclosures / Pump House Walls					6/28										
370	Foundations					6/28										
371	NE Truck Court Internal Screen (Lift with Building)						7/21	8/2								
372	Layout and Excavate Setting Pads						7/21	7/21								
373	Receive, Inventory and Store Anchor Bolt Asses						7/21	7/21								
374	Install Rebar						7/22	7/22								
375	Install Embeds						7/22	7/22								
376	Place Foundations						7/22	7/23								
377	Strip Forms and Clean Embeds						7/26	7/26								
378	Install Erection Pads						7/26	7/26								

ID	Task Name	2Q10			3Q10			4Q10			1Q11			2Q11			
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
375	Cure Time Prior to Loading					7/27	8/2										
380	NW Truck Court Internal Screen (Lift with Buildin						8/16	8/30									
381	Layout and Excavate Setting Pads						8/18	8/18									
382	Receive, Inventory and Store Anchor Bolt Asser						8/18	8/18									
383	Install Rebar						8/19	8/19									
384	Install Embeds						8/19	8/19									
385	Place Foundations						8/20	8/20									
386	Strip Forms and Clean Embeds						8/23	8/23									
387	Install Erection Pads						8/23	8/23									
388	Cure Time Prior to Loading						8/24	8/30									
389	South Truck Court Internal Security Screen (Lift v				8/28	7/9											
390	Layout and Excavate Setting Pads				8/28	8/28											
391	Receive, Inventory and Store Anchor Bolt Asser				8/29	8/28											
392	Install Rebar				8/29	8/29											
393	Install Embeds				8/29	8/29											
394	Place Foundations				8/30	8/30											
395	Strip Forms and Clean Embeds				7/1	7/1											
396	Install Erection Pads				7/1	7/1											
397	Cure Time Prior to Loading				7/2	7/9											
398	Southern Truck Court - Group #1						8/19	9/2									
399	Layout and Excavate Setting Pads						8/19	8/19									
400	Receive, Inventory and Store Anchor Bolt Asser						8/19	8/19									
401	Install Rebar						8/20	8/20									
402	Install Embeds						8/20	8/20									
403	Place Foundations						8/23	8/23									
404	Strip Forms and Clean Embeds						8/24	8/24									
405	Install Erection Pads						8/24	8/24									
406	Cure Time Prior to Loading						8/25	9/2									
407	Southern Truck Court - Group #2						8/20	9/3									
408	Layout and Excavate Setting Pads						8/20	8/20									
409	Receive, Inventory and Store Anchor Bolt Asser						8/20	8/20									
410	Install Rebar						8/23	8/23									
411	Install Embeds						8/23	8/23									
412	Place Foundations						8/24	8/24									
413	Strip Forms and Clean Embeds						8/25	8/25									
414	Install Erection Pads						8/25	8/25									
415	Cure Time Prior to Loading						8/26	9/3									
416	Southern Truck Court - Group #3						8/23	9/7									
417	Layout and Excavate Setting Pads						8/23	8/23									
418	Receive, Inventory and Store Anchor Bolt Asser						8/23	8/23									
419	Install Rebar						8/24	8/24									
420	Install Embeds						8/24	8/24									

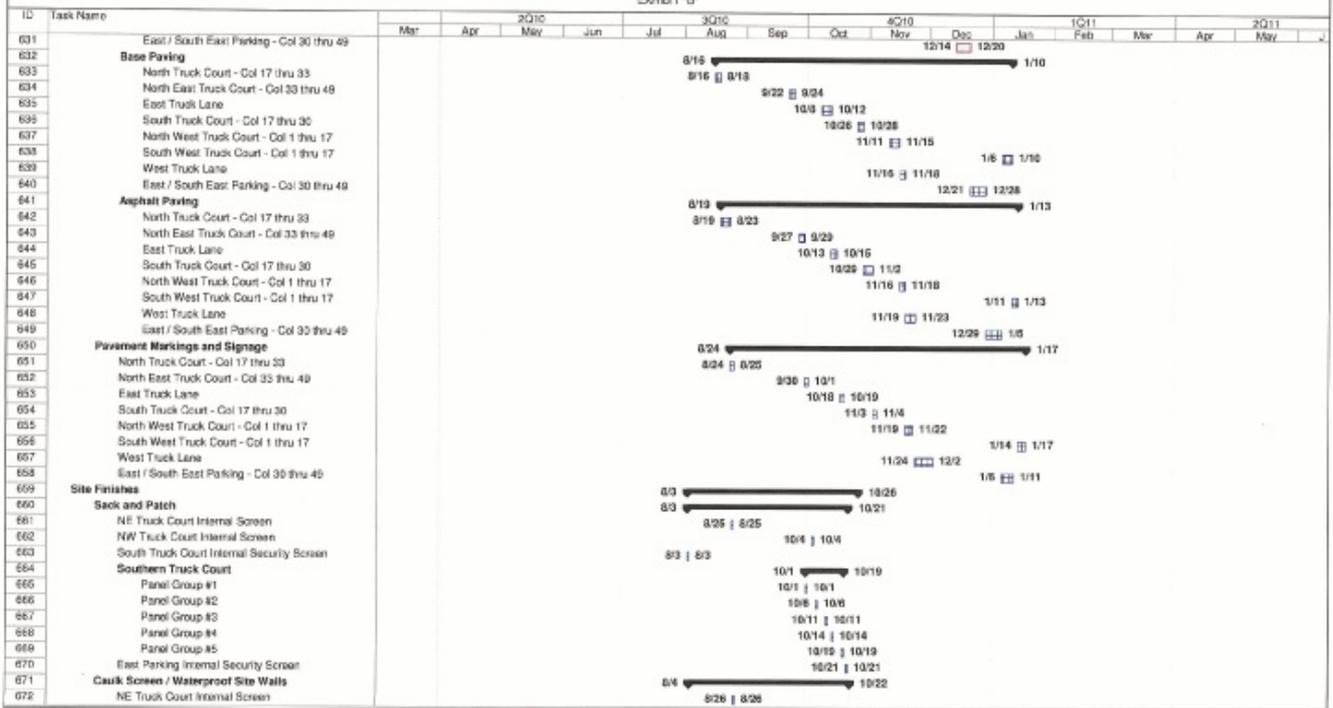
ID	Task Name	2010					2010		2010			2011			2011		
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
421	Place Foundations						8/25 8/25										
422	Strip Forms and Clean Embeds						8/26 8/26										
423	Install Erection Pads						8/26 8/26										
424	Cure Time Prior to Loading						8/27 [] 9/7										
425	Southern Truck Court - Group #4						8/24 [] 9/8										
426	Layout and Excavate Setting Pads						8/24 8/24										
427	Receive, Inventory and Store Anchor Bolt Asses						8/24 8/24										
428	Install Rebar						8/25 8/25										
429	Install Embeds						8/25 8/25										
430	Place Foundations						8/26 8/26										
431	Strip Forms and Clean Embeds						8/27 8/27										
432	Install Erection Pads						8/27 8/27										
433	Cure Time Prior to Loading						8/30 [] 9/8										
434	Southern Truck Court - Group #5						8/25 [] 9/9										
435	Layout and Excavate Setting Pads						8/25 8/25										
436	Receive, Inventory and Store Anchor Bolt Asses						8/25 8/25										
437	Install Rebar						8/26 8/26										
438	Install Embeds						8/26 8/26										
439	Place Foundations						8/27 8/27										
440	Strip Forms and Clean Embeds						8/30 8/30										
441	Install Erection Pads						8/30 8/30										
442	Cure Time Prior to Loading						9/2 [] 9/9										
443	East Parking Internal Security Screen						8/28 [] 9/10										
444	Layout and Excavate Setting Pads						8/26 8/26										
445	Receive, Inventory and Store Anchor Bolt Asses						8/26 8/26										
446	Install Rebar						8/27 8/27										
447	Install Embeds						8/27 8/27										
448	Place Foundations						8/30 8/30										
449	Strip Forms and Clean Embeds						9/2 9/2										
450	Install Erection Pads						9/2 9/2										
451	Cure Time Prior to Loading						9/3 [] 9/10										
452	Screen Wall Panels - Cast on Slab					7/12	[] 9/20										
453	NE Truck Court Internal Screen (Lift with Building)						8/3 [] 8/16										
454	Layout and Snap Lines						8/3 8/3										
455	Form Panels and Apply Bond Breaker						8/3 8/4										
456	Install Down Feature Element / Side Embeds						8/5 8/5										
457	Install Panel Reinforcing Steel						8/5 [] 8/9										
458	Install Lift Steel						8/9 8/9										
459	Install Upside Panel Embeds						8/9 8/9										
460	Ring Panel / Panel Check						8/10 8/10										
461	Place and Finish Panel						8/11 8/11										
462	Cure Time Prior to Lift						8/12 [] 8/18										

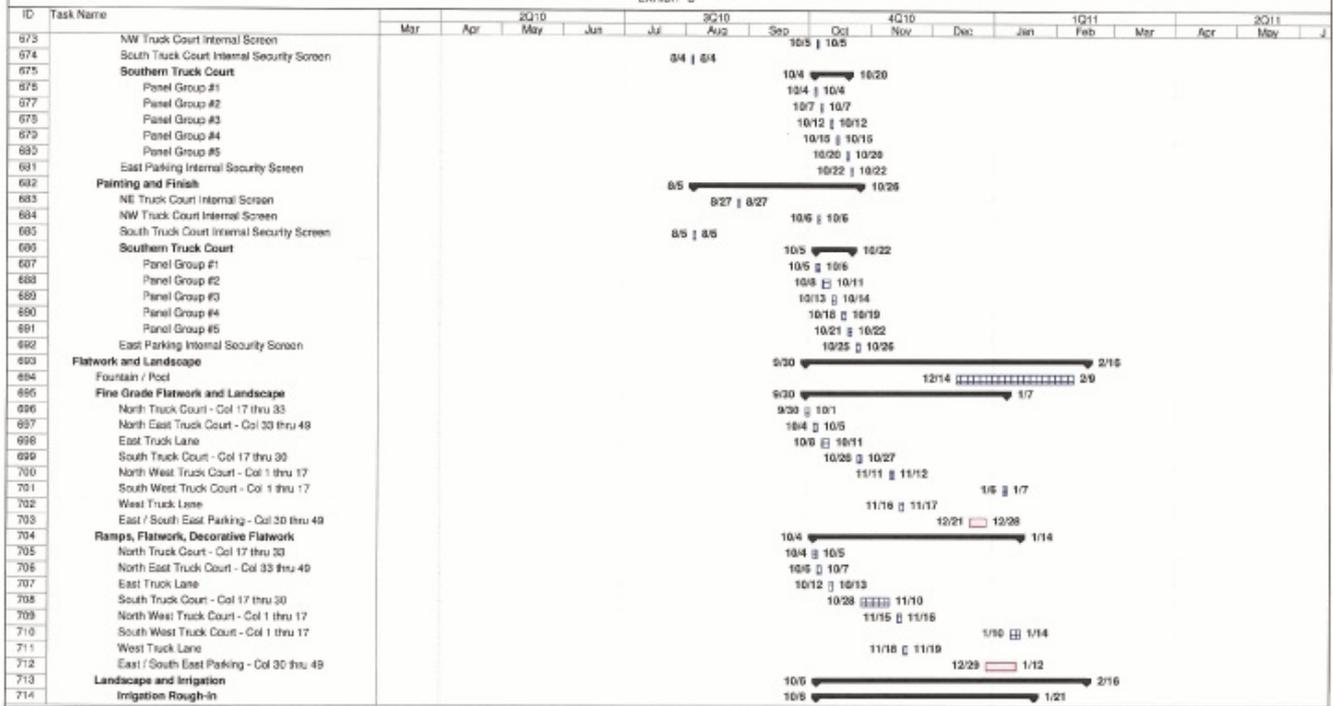
ID	Task Name	2010			2011			2011			2011			
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
463	Strip Formwork and Clean						8/17	8/17						
464	Install Panel Braces						8/18	8/18						
465	NW Truck Court Internal Screen (Lift with Building)							8/2	8/20					
466	Layout and Snap Lines							8/2	8/2					
467	Form Panels and Apply Bond Breaker							8/2	8/3					
468	Install Down Feature Element / Side Embeds							8/7	8/7					
469	Install Panel Reinforcing Steel							8/7	8/9					
470	Install Lift Steel							8/9	8/9					
471	Install Upside Panel Embeds							8/9	8/9					
472	Ring Panel / Panel Check							8/10	8/10					
473	Place and Finish Panel							8/13	8/13					
474	Cure Time Prior to Lift							8/14	8/20					
475	Strip Formwork and Clean							8/17	8/17					
476	Install Panel Braces							8/20	8/20					
477	South Truck Court Internal Security Screen (Lift with Building)					7/12	7/27							
478	Layout and Snap Lines					7/12	7/12							
479	Form Panels and Apply Bond Breaker					7/12	7/13							
480	Install Down Feature Element / Side Embeds					7/14	7/14							
481	Install Panel Reinforcing Steel					7/14	7/16							
482	Install Lift Steel					7/16	7/16							
483	Install Upside Panel Embeds					7/16	7/16							
484	Ring Panel / Panel Check					7/18	7/18							
485	Place and Finish Panel					7/20	7/26							
486	Cure Time Prior to Lift					7/21	7/27							
487	Strip Formwork and Clean					7/26	7/26							
488	Install Panel Braces					7/27	7/27							
489	Temporary Casting Slab					7/19	10/18							
490	Prepare Grade for Casting Slab					7/19	7/23							
491	Place Casting Slab					7/26	7/26							
492	Remove Casting Slab / Dead Men								10/14	10/18				
493	Screen Wall Panels								8/3	10/12				
494	Southern Truck Court								8/3	10/7				
495	Southern Truck Court - Group #1 (~30 Panels)								8/3	8/21				
496	Layout and Snap Lines								8/3	8/3				
497	Form Panels and Apply Bond Breaker								8/3	8/7				
498	Install Down Feature Element / Side Embeds								8/8	8/8				
499	Install Panel Reinforcing Steel								8/8	8/10				
500	Install Lift Steel								8/10	8/10				
501	Install Upside Panel Embeds								8/10	8/10				
502	Ring Panel / Panel Check								8/13	8/13				
503	Place and Finish Panel								8/14	8/14				
504	Cure Time Prior to Lift								8/15	8/21				

ID	Task Name	2010												2011				
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	
505	Strip Formwork and Clean																	
506	Install Panel Braces																	
507	Southern Truck Court - Group #2 (+/- 30 Panels)																	
508	Layout and Snap Lines																	
509	Form Panels and Apply Bond Breaker																	
510	Install Down Feature Element / Side Embed																	
511	Install Panel Reinforcing Steel																	
512	Install Lift Steel																	
513	Install Upside Panel Embeds																	
514	Ring Panel / Panel Check																	
515	Place and Finish Panel																	
516	Cure Time Prior to Lift																	
517	Strip Formwork and Clean																	
518	Install Panel Braces																	
519	Southern Truck Court - Group #3 (+/- 30 Panels)																	
520	Layout and Snap Lines																	
521	Form Panels and Apply Bond Breaker																	
522	Install Down Feature Element / Side Embed																	
523	Install Panel Reinforcing Steel																	
524	Install Lift Steel																	
525	Install Upside Panel Embeds																	
526	Ring Panel / Panel Check																	
527	Place and Finish Panel																	
528	Cure Time Prior to Lift																	
529	Strip Formwork and Clean																	
530	Install Panel Braces																	
531	Southern Truck Court - Group #4 (+/- 30 Panels)																	
532	Layout and Snap Lines																	
533	Form Panels and Apply Bond Breaker																	
534	Install Down Feature Element / Side Embed																	
535	Install Panel Reinforcing Steel																	
536	Install Lift Steel																	
537	Install Upside Panel Embeds																	
538	Ring Panel / Panel Check																	
539	Place and Finish Panel																	
540	Cure Time Prior to Lift																	
541	Strip Formwork and Clean																	
542	Install Panel Braces																	
543	Southern Truck Court - Group #5 (+/- 30 Panels)																	
544	Layout and Snap Lines																	
545	Form Panels and Apply Bond Breaker																	
546	Install Down Feature Element / Side Embed																	

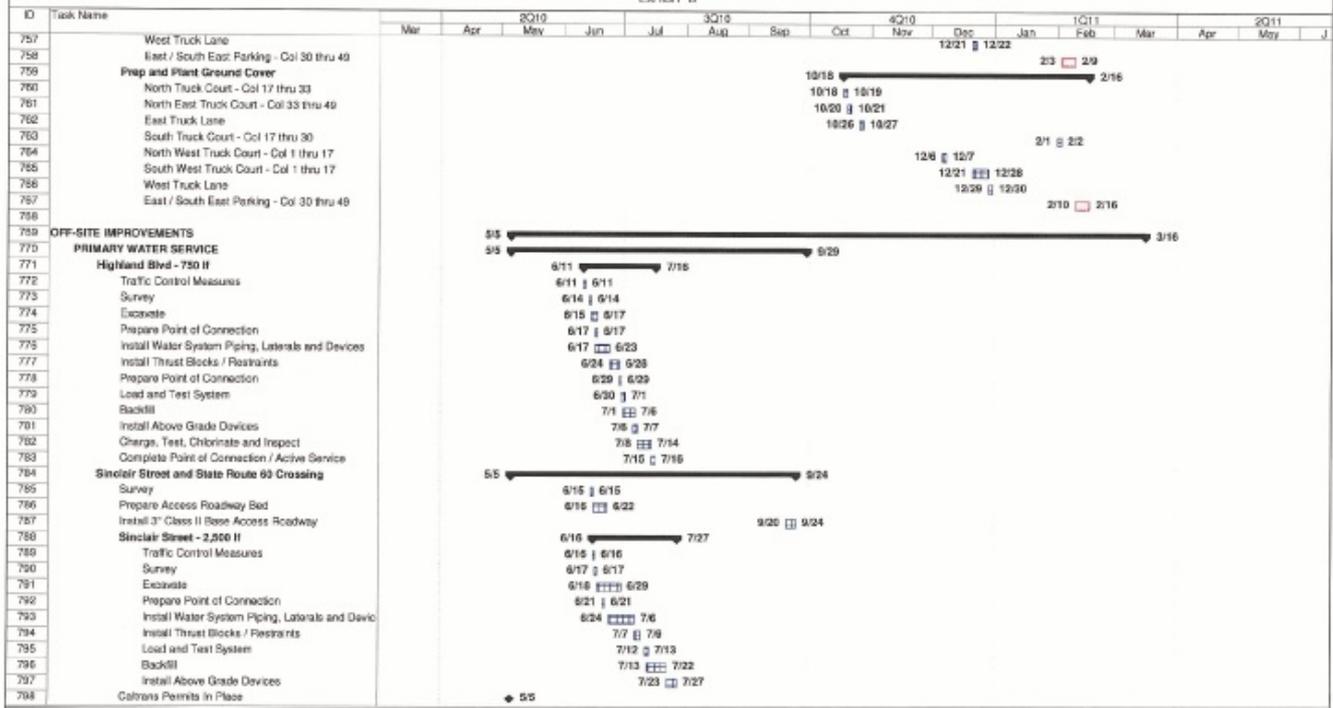
ID	Task Name	2010			3Q10			4Q10			1Q11			2Q11			
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
547	Install Panel Reinforcing Steel							9/24	9/28								
548	Install Lift Steel							9/28	9/28								
549	Install Upside Panel Embeds							9/28	9/28								
550	Ring Panel / Panel Check							9/29	9/29								
551	Place and Finish Panel							9/30	9/30								
552	Cure Time Prior to Lift							10/1	10/7								
553	Strip Formwork and Clean							10/6	10/6								
554	Install Panel Braces							10/7	10/7								
555	East Parking Internal Security Screen (+/- 16 Panels)							9/13	10/12								
556	Layout and Snap Lines							9/13	9/13								
557	Form Panels and Apply Bond Breaker							9/20	9/21								
558	Install Down Feature Element / Sika Embeds							9/22	9/22								
559	Install Panel Reinforcing Steel							9/29	10/1								
560	Install Lift Steel							10/1	10/1								
561	Install Upside Panel Embeds							10/1	10/1								
562	Ring Panel / Panel Check							10/4	10/4								
563	Place and Finish Panel							10/5	10/5								
564	Cure Time Prior to Lift							10/6	10/12								
565	Strip Formwork and Clean							10/11	10/11								
566	Install Panel Braces							10/12	10/12								
567	Panel Erection						7/20	10/13									
568	Crane Delivery and Assembly							8/12	8/13								
569	Crane Access / Travel Prepared							8/16	8/17								
570	Erect Panels						7/20	10/13									
571	NE Truck Court Internal Screen (Lift with Building)							8/19	8/19								
572	NW Truck Court Internal Screen (Lift with Building)							9/28	9/28								
573	South Truck Court Internal Security Screen (Lift with Building)						7/28	7/28									
574	Southern Truck Court							9/22	10/11								
575	Panel Group #1 (+/-30 Panels)							9/22	9/23								
576	Panel Group #2 (+/-30 Panels)							9/27	9/28								
577	Panel Group #3 (+/-30 Panels)							9/30	10/1								
578	Panel Group #4 (+/-30 Panels)							10/5	10/6								
579	Panel Group #5 (+/-30 Panels)							10/5	10/11								
580	East Parking Internal Security Screen (+/- 16 Panels)							10/13	10/13								
581	Plumb, Line and Brace						7/29	10/16									
582	NE Truck Court Internal Screen (Lift with Building)							8/20	8/23								
583	NW Truck Court Internal Screen (Lift with Building)							9/29	9/30								
584	South Truck Court Internal Security Screen (Lift with Building)						7/29	7/30									
585	Southern Truck Court							9/24	10/13								
586	Panel Group #1 (+/-30 Panels)							9/24	9/27								
587	Panel Group #2 (+/-30 Panels)							9/29	9/30								
588	Panel Group #3 (+/-30 Panels)							10/4	10/5								

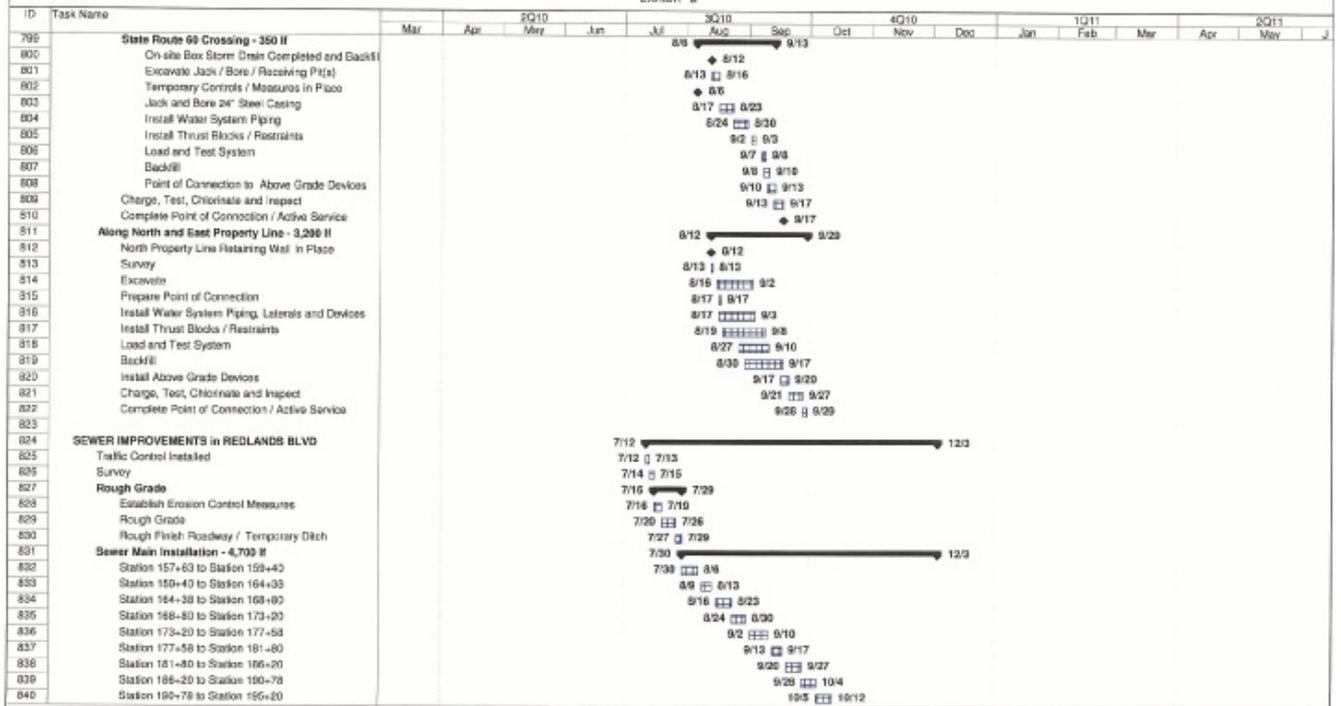
ID	Task Name	2010			2010			2010			2011						
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
589	Panel Group #4 (+/-30 Panels)								10/7	10/8							
590	Panel Group #5 (+/-30 Panels)								10/12	10/13							
591	East Parking Internal Security Screen (+/- 16 Panels)								10/14	10/15							
592	Place Footings / Lock-in Panels / Remove Braces						8/2				10/20						
593	NE Truck Court Internal Screen (Lift with Building)						8/24	8/24									
594	NW Truck Court Internal Screen (Lift with Building)								10/1	10/1							
595	South Truck Court Internal Security Screen (Lift with						8/2	8/2									
596	Southern Truck Court								9/28	10/18							
597	Panel Group #1 (+/-30 Panels)								9/20	9/30							
598	Panel Group #2 (+/-30 Panels)								10/1	10/6							
599	Panel Group #3 (+/-30 Panels)								10/6	10/8							
600	Panel Group #4 (+/-30 Panels)								10/11	10/13							
601	Panel Group #5 (+/-30 Panels)								10/14	10/18							
602	East Parking Internal Security Screen (+/- 16 Panels)								10/19	10/20							
603	Site Hardscape																
604	Curb Grade																
605	North Truck Court - Col 17 thru 33																
606	North East Truck Court - Col 33 thru 49																
607	East Truck Lane							9/8	9/10								
608	South Truck Court - Col 17 thru 30							9/27	9/28								
609	North West Truck Court - Col 1 thru 17								10/13	10/14							
610	South West Truck Court - Col 1 thru 17								10/20	11/1							
611	West Truck Lane																
612	East / South East Parking - Col 30 thru 49																
613	Site Concrete - Curb, Gutter, Flowlines and Aprons																
614	North Truck Court - Col 17 thru 33																
615	North East Truck Court - Col 33 thru 49																
616	East Truck Lane							8/13	8/16								
617	South Truck Court - Col 17 thru 30							9/29	10/4								
618	North West Truck Court - Col 1 thru 17								10/15	10/20							
619	South West Truck Court - Col 1 thru 17								11/2	11/6							
620	West Truck Lane																
621	East / South East Parking - Col 30 thru 49																
622	Asphalt Paving																
623	Fine Grade																
624	North Truck Court - Col 17 thru 33																
625	North East Truck Court - Col 33 thru 49																
626	East Truck Lane							9/17	9/21								
627	South Truck Court - Col 17 thru 30								10/5	10/7							
628	North West Truck Court - Col 1 thru 17								10/21	10/25							
629	South West Truck Court - Col 1 thru 17																
630	West Truck Lane																

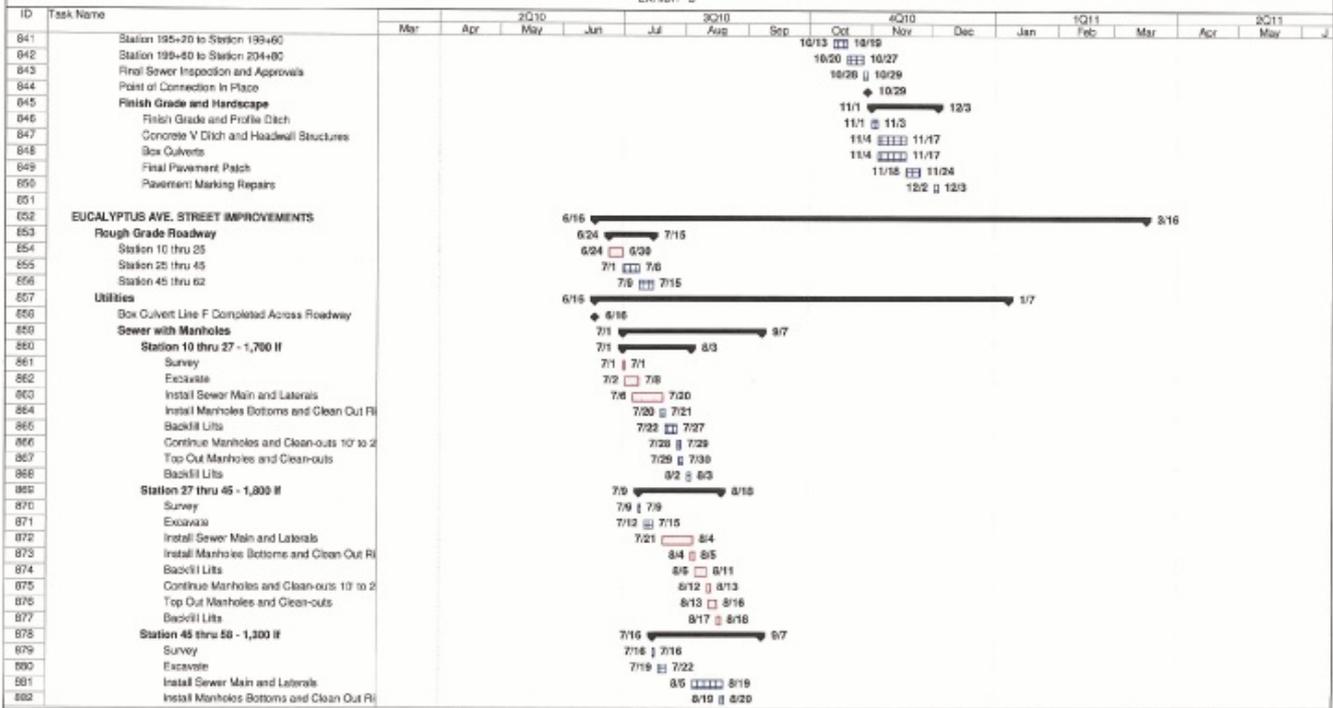




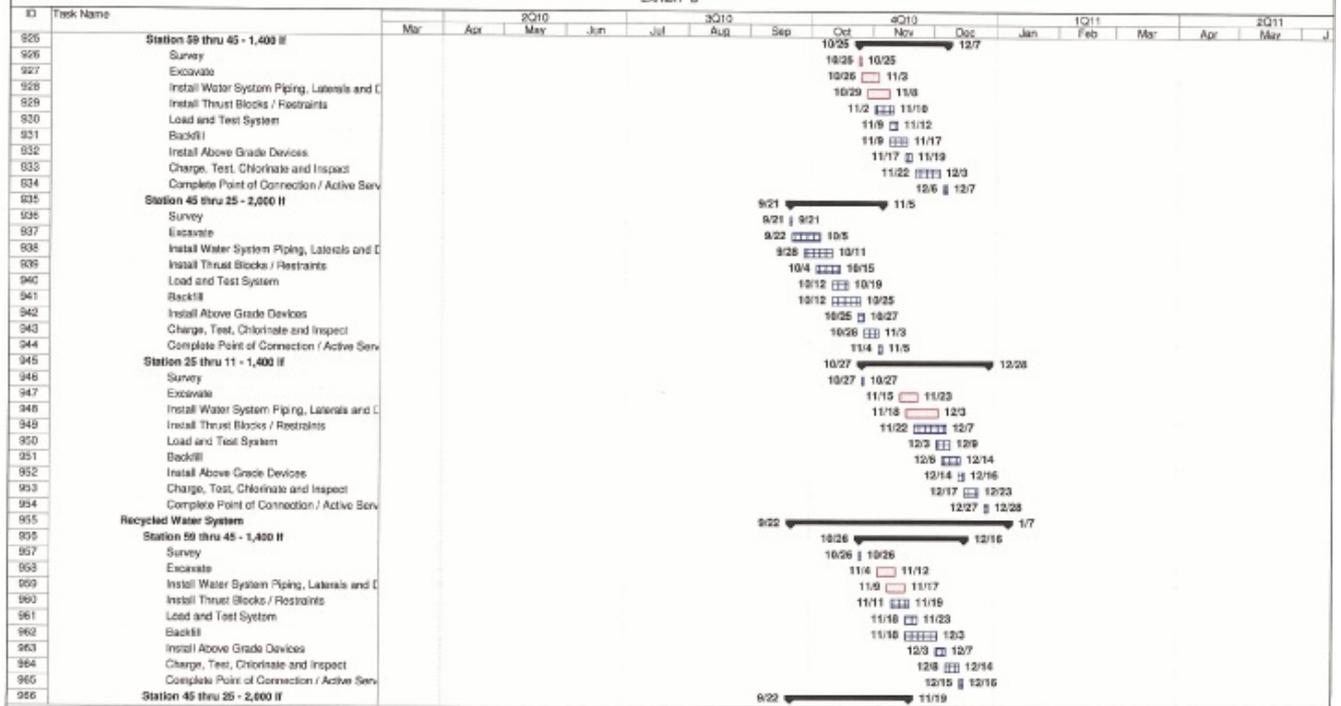
ID	Task Name	2010				2010				2010				2011			
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
715	North Truck Court - Col 17 thru 33								10/6	10/7							
716	North East Truck Court - Col 33 thru 49								10/6	10/11							
717	East Truck Lane								10/14	10/15							
718	South Truck Court - Col 17 thru 33									11/11	11/12						
719	North West Truck Court - Col 1 thru 17									11/17	11/18						
720	South West Truck Court - Col 1 thru 17												1/17	1/21			
721	West Truck Lane																
722	East / South East Parking - Col 30 thru 40												1/13	1/19			
723	Install Heads and Trim								10/6								1/26
724	North Truck Court - Col 17 thru 33								10/6	10/11							
725	North East Truck Court - Col 33 thru 49								10/12	10/13							
726	East Truck Lane								10/18	10/19							
727	South Truck Court - Col 17 thru 33													1/24	1/25		
728	North West Truck Court - Col 1 thru 17										11/19	11/22					
729	South West Truck Court - Col 1 thru 17										11/23	12/6					
730	West Truck Lane										11/24	12/2					
731	East / South East Parking - Col 30 thru 49												1/20	1/26			
732	Finish and Adjust								10/12								2/2
733	North Truck Court - Col 17 thru 33								10/12	10/13							
734	North East Truck Court - Col 33 thru 49								10/14	10/15							
735	East Truck Lane								10/20	10/21							
736	South Truck Court - Col 17 thru 33													1/26	1/27		
737	North West Truck Court - Col 1 thru 17										11/23	11/24					
738	South West Truck Court - Col 1 thru 17										12/2	12/6					
739	West Truck Lane										12/9	12/10					
740	East / South East Parking - Col 30 thru 49												1/27	2/2			
741	Prep and Plant Trees								10/12								2/2
742	North Truck Court - Col 17 thru 33								10/12	10/13							
743	North East Truck Court - Col 33 thru 49								10/14	10/15							
744	East Truck Lane								10/20	10/21							
745	South Truck Court - Col 17 thru 33													1/26	1/27		
746	North West Truck Court - Col 1 thru 17										11/23	11/24					
747	South West Truck Court - Col 1 thru 17										12/7	12/13					
748	West Truck Lane										12/14	12/15					
749	East / South East Parking - Col 30 thru 49												1/27	2/2			
750	Prep and Plant Shrubs								10/14								2/9
751	North Truck Court - Col 17 thru 33								10/14	10/15							
752	North East Truck Court - Col 33 thru 49								10/16	10/19							
753	East Truck Lane								10/22	10/25							
754	South Truck Court - Col 17 thru 33													1/28	1/31		
755	North West Truck Court - Col 1 thru 17										12/2	12/3					
756	South West Truck Court - Col 1 thru 17										12/14	12/20					

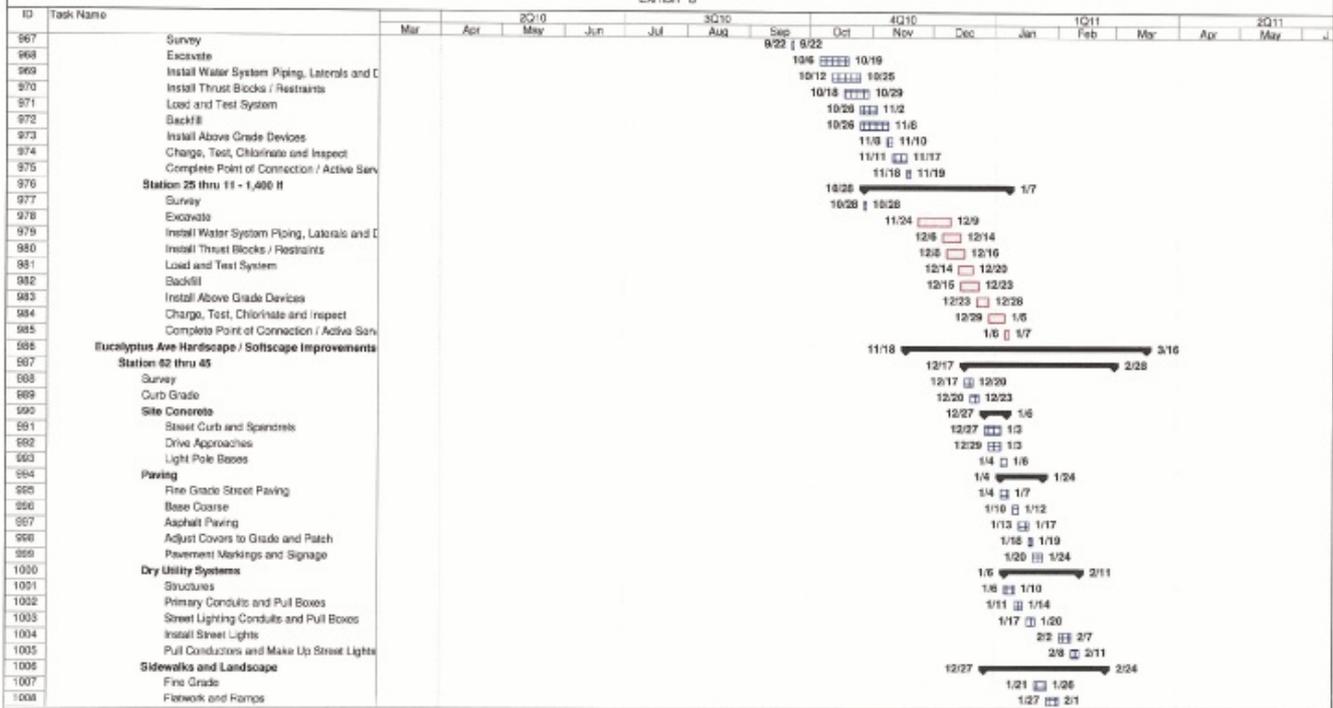


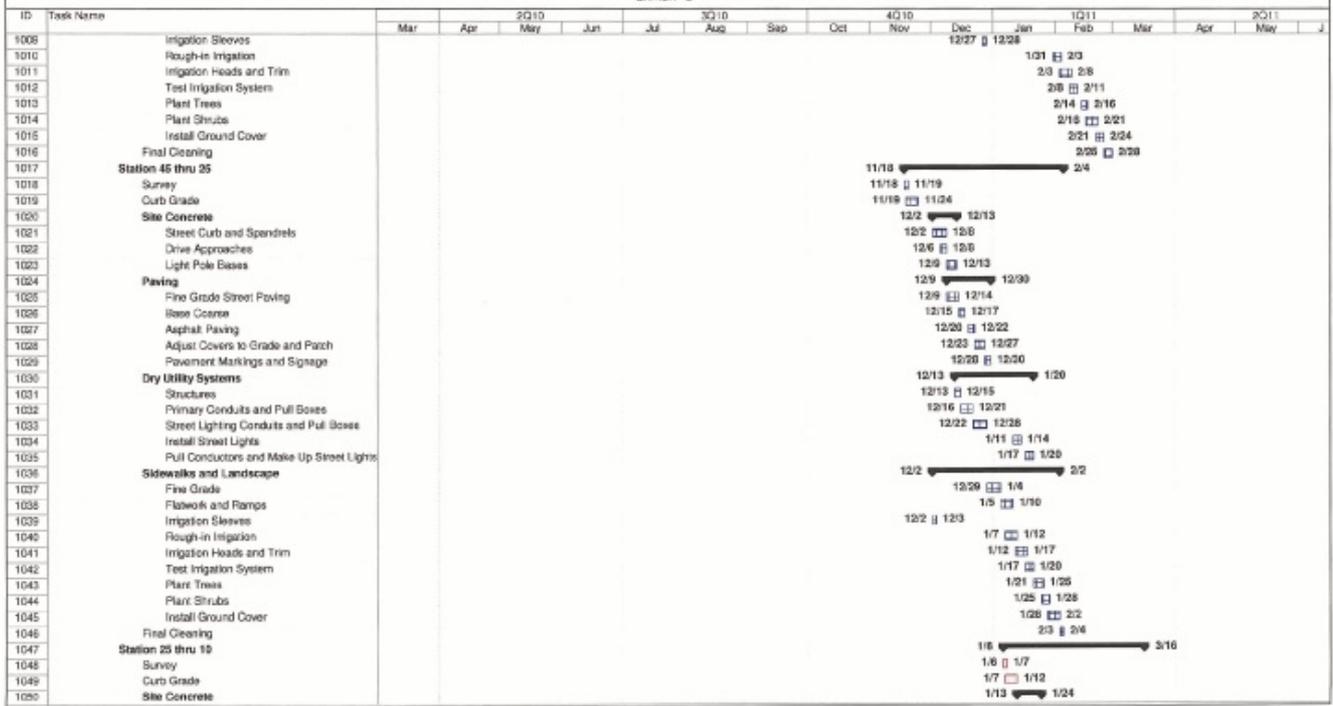




ID	Task Name	2010					2010				2010			2011			J
		Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	
883	Backfill Lifts						8/23	8/26									
884	Continue Manholes and Clean-outs 10' to 2						8/27	8/30									
885	Top Out Manholes and Clean-outs						8/30	9/2									
886	Backfill Lifts						9/3	9/7									
887	Storm Drain						8/19	10/22									
888	Lateral F-9 Station 26 thru 12 - 1,400 ft						8/8	10/14									
889	Survey						8/9	8/9									
890	Excavate						8/21	8/24									
891	Install Storm Drain Piping						8/30	10/7									
892	Install Structures						10/8	10/12									
893	Backfill						10/11	10/14									
894	Laterals F-9A thru F-9D						8/10	10/22									
895	Survey						8/10	8/10									
896	Excavate						8/27	9/30									
897	Install Storm Drain Piping						10/8	10/15									
898	Install Structures						10/15	10/20									
899	Backfill						10/19	10/22									
900	Lateral F-8 Station 26 thru 45 - 1,900 ft						8/19	9/10									
901	Survey						8/19	8/19									
902	Excavate						8/20	8/25									
903	Install Storm Drain Piping						8/24	9/2									
904	Install Structures						9/3	9/8									
905	Backfill						9/7	9/10									
906	Laterals F-8C thru F-8H						8/20	9/20									
907	Survey						8/20	8/20									
908	Excavate						8/25	9/2									
909	Install Storm Drain Piping						9/3	9/13									
910	Install Structures						8/14	8/16									
911	Backfill						9/15	9/20									
912	Lateral F-8 Station 45 thru 69 - 1,400						8/8	9/28									
913	Survey						8/8	8/8									
914	Excavate						8/9	8/14									
915	Install Storm Drain Piping						8/14	8/21									
916	Install Structures						8/22	8/24									
917	Backfill						8/23	8/28									
918	Laterals F-8I thru F-8P						8/9	10/6									
919	Survey						8/9	8/9									
920	Excavate						8/15	8/20									
921	Install Storm Drain Piping						8/22	8/29									
922	Install Structures						8/30	10/4									
923	Backfill						10/1	10/6									
924	Domestic Water System						8/21	12/20									







ID	Task Name	2010			2010			2010			2011			2011			
		Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
1051	Street Curb and Spandrels											1/18	1/19				
1052	Drive Approaches											1/17	1/19				
1053	Light Pole Bases											1/20	1/24				
1054	Paving											1/20	2/9				
1055	Fine Grade Street Paving											1/20	1/25				
1056	Base Course											1/26	1/28				
1057	Asphalt Paving											1/31	2/2				
1058	Adjust Covers to Grade and Patch											2/3	2/4				
1059	Pavement Markings and Signage											2/7	2/9				
1060	Dry Utility Systems											1/24	3/1				
1061	Structures											1/24	1/26				
1062	Primary Conduits and Pull Boxes											1/27	2/1				
1063	Street Lighting Conduits and Pull Boxes											2/2	2/7				
1064	Install Street Lights											2/18	2/23				
1065	Pull Conduits and Make Up Street Lights											2/24	3/1				
1066	Sidewalks and Landscape											1/13	3/14				
1067	Fine Grade											2/8	2/11				
1068	Flatwork and Ramps											2/14	2/17				
1069	Irrigation Sleeves											1/13	1/14				
1070	Rough in Irrigation											2/15	2/21				
1071	Irrigation Heads and Trier											2/21	2/24				
1072	Test Irrigation System											2/24	3/1				
1073	Plant Trees											3/2	3/4				
1074	Plant Shrubs											3/4	3/9				
1075	Install Ground Cover											3/9	3/14				
1076	Final Cleaning											3/15	3/16				

EXHIBIT "C"

Contract #: **MH00-121-226**
 Project: **Highland Fairview Corporate Park**
 Trade: **General Contractor**

SKECHERS PROJECT DIRECTORY

DEVELOPER		<u>BLDG.</u>	<u>On-Site</u>	<u>Off-Site</u>
HIGHLAND FAIRVIEW				
Corporate Office: *	Corporate Office: **			
3070 Bristol Street, Suite 320	14225 Corporate Way			
Costa Mesa, California 92626	Moreno Valley, California 92553			
Iddo Benzeevi **				
<i>President & Chief Executive Officer</i>				
Office: 951-867-5301	E-Mail: ibenzeevi@highlandfairview.com			
Fax: 951-867-5302				
Cell: 310-500-7117				
Danette Fenstermacher *				
<i>Executive Vice President & Chief Operations Officer</i>				
Office: 714-824-8001	E-Mail: danette@highlandfairview.com			
Fax: 714-824-8002				
Cell: 714-271-6703				
Brian Hixson *				
<i>Vice President of Land Development</i>				
Office: 714-824-8023	E-Mail: bhixson@highlandfairview.com		X	X
Fax: 714-824-8024				
Cell: 951-520-5015				
Jack Stones **				
<i>Vice President of Construction</i>				
Office: 951-867-5317	E-Mail: jstones@highlandfairview.com	X	X	X
Fax: 951-867-5318				
Cell: 951-201-3329				
Joe Stone **				
<i>Senior Site Superintendent</i>				
Office: 951-867-5373	E-Mail: jstones@highlandfairview.com		X	X
Fax: 951-867-5374				
Cell: 951-489-6872				
Paul Fierro **				
<i>Senior Site Superintendent</i>				
Office: 951-867-5373	E-Mail: pfierro@highlandfairview.com	X	X	X
Fax: 951-867-5374				
Cell: 951-489-6871				

EXHIBIT "C"

Contract #: **MH00-121-226**
Project: **Highland Fariview Corporate Park**
Trade: **General Contractor**

DEVELOPER		<u>BLDG.</u>	<u>On-Site</u>	<u>Off-Site</u>
SKECHERS USA				
1670 Champagne Avenue **	1777 South Vintage Avenue *			
Ontario, California 91761	Ontario, California 91761			

Paul Galliher *

Office:	909-390-1600 x 2619	E-Mail:	paulg@skechers.com	
Fax:	909-390-1648			
Cell:				

Mickey Griffin **

Office:	909-390-1600 x 2671	E-Mail:	mickeyg@skechers.com	
Fax:	909-390-1632			
Cell:				

Bud Biggs *

Director of I. T.				
Office:	909-390-1600	E-Mail:	budb@skechers.com	
Fax:	909-390-1632			
Cell:				

Greg Drivas *

Director of Loss Prevention				
Office:	909-390-1600	E-Mail:	gdrivas@skechers.com	
Fax:	909-390-1632			
Cell:				

BUILDING ARCHITECT		<u>BLDG.</u>	<u>On-Site</u>	<u>Off-Site</u>
HPA, INC				
18831 Bardeen Avenue, Suite 100				
Irvine, California 92612				

Yong Nam

Partner				
Office:	949-863-1770 x 138	E-Mail:	yong@hparchs.com	X
Fax:	949-863-0851			
Direct:	949-862-2118			

EXHIBIT "C"

Contract #: **MH00-121-226**
Project: **Highland Fariview Corporate Park**
Trade: **General Contractor**

BUILDING ARCHITECT		<u>BLDG.</u>	<u>On-Site</u>	<u>Off-Site</u>
Insik Chang				
Project Architect				
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Direct:	949-862-2115			

Bridget Herdman				
Project Architect				
Office:	949-863-1770 x 119	E-Mail:	bridget@hparchs.com	X
Fax:	949-863-0851			
Direct:	949-862-2119			

STRUCTURAL ENGINEER		<u>BLDG.</u>	<u>On-Site</u>	<u>Off-Site</u>
KRAMER ENGINEERING, INC.				
3002 Dow Avenue , Suite 136				
Tustin, California 92780				

David Kramer				
President / Structural Engineer				
Office:	714-838-6222	E-Mail:	info@kramerengineeringinc.com	X
Fax:	714-838-2023			
Direct:	714-402-1292			

John Whiteman				
Project Engineer				
Office:	714-838-6222 x 116	E-Mail:	johnw@kramerengineeringinc.com	X
Fax:	714-838-2023			
Direct:	714-402-1292			

SOILS ENGINEER		<u>BLDG.</u>	<u>On-Site</u>	<u>Off-Site</u>
LEIGHTON & ASSOCIATES, CIN.				
41715 Enterprise Circle N., Suite 103				
Temecula, California 92590				

Bob Riha				
V.P.				
Office:	951-252-8914	E-Mail:	rriha@leightongroup.com	X X
Fax:	951-296-0534			
Cell:	951-830-9290			

EXHIBIT "C"

Contract #: **MH00-121-226**
Project: **Highland Fariview Corporate Park**
Trade: **General Contractor**

CIVIL ENGINEER		<u>BLDG.</u>	<u>On-Site</u>	<u>Off-Site</u>
RBF CONSULTING				
14725 Alton Parkway Irvine, California 92618-2027				
Patrick F. Revere				
Senior Associate / Project Manager			X	X
Office:	949-855-5716	E-Mail:	prevere@rbf.com	
Fax:	949-472-8122			
Cell:	949-910-8807			
DRY UTILITY CONSULTANT		<u>BLDG.</u>	<u>On-Site</u>	<u>Off-Site</u>
BUTSKO, INC.				
74-130 Country Club Drive, Suite 102 Palm Desert, California 92260				
Eddie Pablos				
Senior Project Manager			X	X
Office:	760-601-3390	E-Mail:	epablos@butskoutility.com	
Fax:	760-346-8518			
Cell:				
LANDSCAPE ARCHITECT CONSULTANT		<u>BLDG.</u>	<u>On-Site</u>	<u>Off-Site</u>
LANDARCWEST				
16361 Scientific Way Irvine, California 92618				
Paul T. Wong				
Senior Principle			X	X
Office:	949-224-0040	E-Mail:	p.wong@landarcwest.com	
Fax:	949-224-0044			
Cell:				
Darin Farnworth				
Associate, Senior Designer			X	X
Office:	949-224-0040	E-Mail:	d.farnworth@landarcwest.com	
Fax:	949-224-0044			
Cell:				
LEED CERTIFICATION & COMMISSIONING		<u>BLDG.</u>	<u>On-Site</u>	<u>Off-Site</u>
LPA, ARCHITECTS				
5161 California Avenue, Suite 100 Irvine, California 92617				

EXHIBIT "C"

Contract #: **MH00-121-226**
Project: **Highland Fariview Corporate Park**
Trade: **General Contractor**

LEED CERTIFICATION & COMMISSIONING		BLDG.	On-Site	Off-Site
Erik Ring				
Director of MEP Services / LEED Accredited Professional		X		
Office: 949-261-1001	E-Mail: ering@lpainc.com			
Fax: 949-701-4398				
Cell:				

FARNSWORTH GROUP
9431 Haven Avenue, Suite 117
Rancho Cucamonga, California 91730

Oliver Wu				
Commissioning Manager		X		
Office: 909-912-1860	E-Mail: owu@f-w.com			
Fax: 909-912-1861				
Cell: 909-635-5030				

GENERAL CONTRACTOR		BLDG.	On-Site	Off-Site
DIFFENABUGH				
6865 Airport Drive Riverside, California 92504				

Jeff Dale				
Vice President				
Office: 909-351-6865	E-Mail: jdale@differbaugh.com	X	X	X
Fax: 951-351-6880				
Cell: 909-906-8148				

Wendell Jackson		X	X	X
Senior Estimator				
Office: 909-351-6865	E-Mail: wjackson@differbaugh.com			
Fax: 951-351-6880				
Cell:				

GENERAL CONTRACTOR		BLDG.	On-Site	Off-Site
Paul Richardson		X	X	X
Project Manager				
Office: 909-351-6865	E-Mail: prichardson@differbaugh.com			
Fax: 951-351-6880				
Cell: 951-906-8077				

EXHIBIT "C"

Contract #: **MH00-121-226**
 Project: **Highland Fariview Corporate Park**
 Trade: **General Contractor**

GENERAL CONTRACTOR		<u>BLDG.</u>	<u>On-Site</u>	<u>Off-Site</u>
Joe Hamilton, SR		X	X	X
General Superintendent				
Office:	909-351-6865	E-Mail: jhamilton@diffenbaugh.com		
Fax:	951-351-6880			
Cell:	951-906-8365			
Bob Sanchez		X	X	X
Senior Superintendent				
Office:	909-351-6865	E-Mail: bsanchez@diffenbaugh.com		
Fax:	951-351-6880			
Cell:	951-377-7918			
Joe Schlemmer		X	X	X
Site Superintendent				
Office:	909-351-6865	E-Mail: jschlemmer@diffenbaugh.com		
Fax:	951-351-6880			
Cell:	951-906-8522			
Shawn Lagana		X	X	X
Project engineer				
Office:	909-351-6865	E-Mail: slagana@diffenbaugh.com		
Fax:	951-351-6880			
Cell:	951-906-8439			
Paul Lindley		X	X	X
Warrantee & Safety Director				
Office:	909-351-6865	E-Mail: plindley@diffenbaugh.com		
Fax:	951-351-6880			
Cell:	951-906-8354			
CONCRETE CONTRACTOR		<u>BLDG.</u>	<u>On-Site</u>	<u>Off-Site</u>
INLAND CONCRETE CONSTRUCTORS				
6879 Airport Drive				
Riverside, California 92504				
Rob Fazio		X	X	
COO / General Manager				
Office:	951-351-7770	E-Mail: rfazio@inlandconcrete.net		
Fax:	951-351-7776			
Cell:	909-208-2459			

EXHIBIT "C"

Contract #: **MH00-121-226**
Project: **Highland Fariview Corporate Park**
Trade: **General Contractor**

CONCRETE CONTRACTOR

	<u>BLDG.</u>	<u>On-Site</u>	<u>Off-Site</u>
Adrian Cruz	X	X	
Director of Field Operations			
Office: 951-351-7770			
E-Mail: acruz@inlandconcrete.net			
Fax: 951-351-7776			
Cell: 909-208-2519			

DESIGN-BUILD SUBCONTRACTOR'S

	<u>BLDG.</u>	<u>On-Site</u>	<u>Off-Site</u>
TBD			
Electrical:			
Merclan Electric			
, California 92260			
Office: E-Mail:	X	X	X
Fax:			
Cell:			

Mechanical:

Blake Air Conditioning			
, California 92260			
Office: E-Mail:	X	X	X
Fax:			
Cell:			

Plumbing:

A Good Plumbing			
California 92260			
Office: E-Mail:	X	X	X
Fax:			
Cell:			



EXHIBIT "C"

Contract #: **MH00-121-226**
 Project: **Highland Fariview Corporate Park**
 Trade: **General Contractor**

DESIGN-BUILD SUBCONTRACTOR'S		<u>BLDG.</u>	<u>On-Site</u>	<u>Off-Site</u>
Advance Fire Protection, Inc.				
615 South Oaks Ontario, California 91762				
Chris Holland		X	X	X
General Manager				
Office:	909-460-2510	E-Mail: cholland@advancofire.com		
Fax:	909-460-2513			
Cell:	909-560-6187			
Josh Huber				
Project Engineer		X	X	X
Office:	909-460-2510	E-Mail: jhuber@advancofire.com		
Fax:	909-460-2513			
Cell:	909-560-6187			
SKECHERS - VENDORS		<u>BLDG.</u>	<u>On-Site</u>	<u>Off-Site</u>
Wynright Engineers & Integrators				
14373 Telephone Avenue *		1480 W. Willow Drive **		
Chino, California 91710		Kaysville, Utah 84037		
Bob Liebe *				
President				
Office:	909-902-9880 x 275	E-Mail: bliebe@wynright.com		
Fax:	909-902-9660			
Cell:	909-895-9440			
Jason Henkle *				
Project Engineer				
Office:	909-902-9880 x 254	E-Mail: jhenkle@wynright.com		
Fax:	909-902-9660			
Cell:	909-896-0921			
Jim Neuner **				
V.P. Systems Sales				
Office:	801-444-7112	E-Mail: jneuner@wynright.com		
Fax:	909-902-9660			
Cell:	801-698-8861			

EXHIBIT "C"

Contract #: **MH00-121-226**
Project: **Highland Fariview Corporate Park**
Trade: **General Contractor**

SKECHERS - VENDORS

BLDG. On-Site Off-Site

Dan Au *

Project Manager

Office: 909-902-9880 x 232 E-Mail: dau@wynright.com

Fax: 909-902-9660

Cell: 909-224-6664

Patrick Thibalut

Project Manager

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Fax: 909-902-9660

Cell: 909-702-6114

Premier Fire Consulting, LLC

Greg Cox

Office: 562-865-5134 E-Mail: greg@premier-fire.net

Fax: 562-865-2004

Cell:

Fireman's Fund Insurance Caompany

Craig D Spansail MSc, CFPS

Senior HPR Engineer

Office: 818-217-4708 E-Mail: craig.spansail@ffic.com

Fax: 818-383-0757

Cell:

TYCO Fire & Security — ADT

1120 Palmyrity Avenue, Suite 280

Riverside, California 92507

Senior Commercial Account Executive

Office: 951-680-3554 E-Mail: pantolowitz@adt.com

Fax: 951-787-8275

Cell:

Dependable Vending

Pat Maule

Project Engineer

Office: E-Mail:

Fax:

Cell:



EXHIBIT "D"

Contract #: **MH00-121-226A**
 Project: **Highland Fairview Corporate Park**
 Trade: **General Contractor**

SKECHERS PROJECT BUDGET

Account Code	CSI	Description	Total
3-40000-1021	00-7213	General Conditions	[*]
3-40000-1015	01-3100	Project Management & Coordination	[*]
3-40000-1012	01-5126	Temporary Power & Lighting	[*]
3-40000-1010	01-5623	Temporary Barricades	[*]
3-40000-1011	01-5626	Temporary Fencing	[*]
3-20000-1054	01-5723	Temporary Storm Water Pollution (SWPPP)	[*]
3-40000-1002	01-7423	Final Cleaning	[*]
		General Conditions Subtotal	\$[*]
3-25000-1004	02-2113	Survey & Control	[*]
	13-1213	Fountain Entry Feature (Reflecting Pond)	[*]
3-20000-1000	31-2213	Grading Rough & Precise	[*]
3-20000-7052		Landscape Maintenance	[*]
3-20000-2073	32-1123	Aggregate Base (Fire Road & Maintenance)	[*]
3-23000-1045	32-1313	Concrete Paving	[*]
3-20000-4084	32-1219	Asphalt Paving	[*]
		Theodore Ramp -Allowance	[*]
		Theodore Street	[*]
3-20000-5020	31-1316	Stamped Concrete Paving	[*]
3-20000-5008	32-1613.16	Cast-In-Place Concrete Curbs	[*]
3-20000-4032	32-1723	Pavement Markings, Signage, Tactile Surfacing	[*]
3-20000-7547	32-3113	Chain Link Fencing & Gates	[*]
3-24003-3053	32-3213	Cast-In-Place Concrete Screen Walls	[*]
3-24032-3119	32-3119	Decorative Metal Fences & Gates	[*]
3-20000-7550	32-3219	Unit Masonry Walls	[*]
3-20000-7012	32-8413	Irrigation & Drip Systems	[*]
3-20000-7001	32-9113.26	Landscape Planting	[*]
3-20000-3501	33-1116	Water Domestic	[*]
		Redlands Ramp Domestic Water Loop Connector	[*]
3-20000-3547	33-1119	Water Fire	[*]
3-20000-3001	33-3113	Sanitary Sewer Systems	[*]
3-20000-2001	33-4113	Storm Drainage systems	[*]
3-20000-2030	33-4216	Concrete Storm Drainage Box Culverts	[*]
3-20000-6012	33-7139-23	Site Underground Electrical	[*]
3-20000-6012	33-7119.13	Site Electrical Transformers & Vault	[*]
3-20000-6012	33-7139-23	Offsite Electrical Form Dracaea	[*]
3-20000-6012	33-7183	Offsite Electrical (60 HWY Jack & Bore)	[*]
3-20000-6014	33-8113	Low Voltage-Dry Utilities (Communications)	[*]
3-20000-7085	12-9313	Bike Racks, Benches, Pots, Urns, Trash Recept	[*]
2051477	10-7516	Flag Poles	[*]
3-20000-7543	32-3119	Structural Steel (Trash Gates & Lids)	[*]
3-24009-9100	09-9113	Paint	[*]
3-20000-7009	26-3213	Site Electrical & generator	[*]
		Site Subtotal	\$[*]

* Confidential Portions Omitted and Filed Separately with the Commission.

EXHIBIT "D"

Contract #: **MH00-121-226A**
 Project: **Highland Fairview Corporate Park**
 Trade: **General Contractor**

SKECHERS PROJECT BUDGET

Account Code	CSI	Description	Total
	03-2100	Reinforcement Steel	[*]
	03-3100	Cast-In-Place Concrete	[*]
	05-1223	Structural Steel building	[*]
	05-3113	Metal Deck	[*]
	05-7313	Glazing Decorative Metal Railing	[*]
	06-1113	Rough Carpentry	[*]
	06-1516	Panelized Roof	[*]
	06-2033	Interior Finish Carpentry (Millwork)	[*]
	06-8200	Glass Fiber reinforced Plastic (Marlite)	[*]
	07-1113	Bituminous Dampproofing	[*]
	07-2116	Blanket Insulation	[*]
	07-4213	Metal Wall/Soffit Panels	[*]
	07-5423	Thermoplastic Polyolefin Roofing	[*]
	07-6200	Sheet Metal Flashing a trim	[*]
	07-7236	Smoke Ventilating Skylights	[*]
		Vertical Joint Sealant	[*]
	07-9216	Rigid Joint Sealants	[*]
	08-1213	Doors/Frames/Hardware	[*]
	08-3619	Multi-Leaf Vertical Lift Doors	[*]
	08-8000	Glass & Glazing	[*]
	09-2116	Gypsum Board Assemblies	[*]
	09-3100	Thin-Set Tiling	[*]
	09-5113	Acoustical Panel Ceilings	[*]
	09-6223	Bamboo Flooring	[*]
	09-6536	Static Control Resilient Flooring	[*]
	09-6816	Sheet Carpeting	[*]
	09-6953	Access Flooring Accessories (Mats)	[*]
	09-9100	Painting & wall Covering	[*]
	09-9723	Concrete Coating Floor Sealer	[*]
	10-1400	Plastic Signage restrooms	[*]
	10-2813.13	Metal toilet Compartments & Accessories	[*]
	10-4116	Emergency Key Cabinets (Knox Box)	[*]
	10-4416	Fire Extinguisher & Cabinets	[*]
	10-5113	Lockers (solid Plastic)	[*]
	10-8213	Decorative Airfoil Louvers & Wire Screening	[*]
	11-1313	Loading Dock Bumpers	[*]
	12-2413	Roller Window Shades	[*]
	14-2423	Hydraulic Passenger Elevator	[*]
	21-1313	Wet-Pipe Sprinkler System	[*]
	22-4213	Commercial Water Closet, Urinals, Fixtures	[*]
	23-0000	Heating, Ventilating & Air Conditioning	[*]
	26-0100	Electrical	[*]
	26-5113	Lighting	[*]
	28-3100	Fire Alarm System	[*]
		Building Subtotal	\$[*]

* Confidential Portions Omitted and Filed Separately with the Commission.

EXHIBIT "D"

Contract #: MH00-121-226A
Project: Highland Fairview Corporate Park
Trade: General Contractor

SKECHERS PROJECT BUDGET

Account Code	CSI	Description	Total
		PROJECT BUDGET SUMMARY	
		GC's	\$[*]
		Site	\$[*]
		Building	\$[*]
		Subtotal	\$[*]
		Pre-Purchase of Steel & Sprinkler Pipe	-\$[*]
		Subtotal	[*]
		Professional Insurance — Design Build	[*]
		Diffenbaugh Professional Lib / Pollution	[*]
		Liability Insurance & Sub-Guard (0.5%)	[*]
		Subtotal	\$[*]
		Overhead & Profit (1.75%)	[*]
		Subtotal	\$[*]
		Bond/Subguard Fees (1.15%)	\$[*]
		Subtotal	\$[*]
		Bond Three Major Subcontractors	[*]
		Contingency Allowance	[*]
		Contract Total	\$[*]

* Confidential Portions Omitted and Filed Separately with the Commission.

EXHIBIT "E"

DRAWING LOG

SKECHERS DISTRIBUTION CENTER

29800 Eucalyptus Avenue, Rancho Belago, California 92555

ARCHITECTURAL			
A0.1	Highland Fairview Corporate Park Title Sheet — ASI #2	11/11/2008	Delta 2
A0.2	Highland Fairview Corporate Park General Sheet	5/21/2008	
A0.3.1	Disability Access Notes	5/21/2008	
A0.3.2	Disability Access Notes	5/21/2008	
A0.3.3	Disability Access Notes	5/21/2008	
A1.1	Overall Site Plan	5/21/2008	
A1.2	Enlarged Site Plan	5/21/2008	
A1.3	Enlarged Site Plan	5/21/2008	
A1.4	Enlarged Site Plan	12/4/2008	Delta 4
A1.5	Enlarged Site Plan	12/4/2008	Delta 5
A1.6	Enlarged Site Plan	12/4/2008	Delta 6
A1.7	Pump House Plans	5/21/2008	
A1.8	Enlarged Site Plan	12/4/2008	Delta 4
A2.1	Overall Floor Plan	5/21/2008	
A2.2	Enlarged Floor Plan — ASI #4	1 /28/2009	Delta 6
A2.3	Enlarged Mezzanine Plan — ASI #2	11/11/2008	Delta 2
A2.4	Enlarged Floor Plan	5/21/2008	
A2.5	Enlarged Floor Plan	5/21/2008	
A2.6	Enlarged Floor Plan	5/21/2008	
A2.7	Enlarged Floor Plan — ASI #2	11/11/2008	Delta 3
A2.8	Enlarged Restroom Plan	5/21/2008	
A2.9	Enlarged Restroom Plan — ASI #4	1/28/2009	Delta 6
A2.10	Enlarged Stair Plan	5/21/2008	
A2.11	Reflected Ceiling Plan — ASI #4	1/28/2009	Delta 6
A2.12	Reflected Ceiling Plan — ASI #2	11/11/2008	Delta 2
A2.13	Reflected Ceiling Plan — ASI #4	1 /28/2009	Delta 6
A2.14	Floor Plan — ASI #2	11/11/2008	Delta 2
A2.15	Enlarged Floor Plan	5/21/2008	
A2.16	Enlarged Roof Plan	5/21/2008	
A3.1	Elevations	5/21/2008	
A3.2	Elevations	5/21/2008	
A3.3	Elevations	5/21/2008	
A3.4	Elevations	5/21/2008	
A3.5	Elevations — ASI #2	11/11/2008	Delta 2
A4.1	Wall Section	5/21/2008	
A4.2	Wall Section — ASI #2	11/11/2008	Delta 2
A4.3	Wall Section	5/21/2008	
A4.4	Wall Section	5/21/2008	
A4.5	Wall Section	5/21/2008	

ARCHITECTURAL CONTINUATION

A4.6	Wall Section	5/21/2008	
A4.7	Wall Section	5/21/2008	
A5.1	Room Finish Schedule — ASI #2	11/11/2008	Delta 3
A5.1A	Door Hardware Schedule	5/21/2008	
A5.2	Door Schedule	11/11/2008	Delta 2
A5.3	Room Finish Legend — ASI #2	11/11/2008	Delta 2
A5.4	First Floor Office Finish Plan — ASI #2	11/11/2008	Delta 2
A5.5	Mezzanine Finish Plan — ASI #2	11/11/2008	Delta 2
A5.6	Finish Plan @ Warehouse	5/21/2008	
A6.1	Interior Elevations — ASI #2	11/11/2008	Delta 2
A6.2	Interior Elevations — ASI #3	11/11/2008	Delta 3
A6.3	Interior Elevations — ASI #4	11/11/2008	Delta 4
A6.4	Interior Elevations	5/21/2008	
A6.5	Interior Elevations	5/21/2008	
A6.6	Interior Elevations — ASI #2	11/11/2008	Delta 2
A6.7	Not Used		
A6.8	Interior Elevations	5/21/2008	
A6.9	Interior Elevations	5/21/2008	
A6.10	Interior Elevations	5/21/2008	
AD.1	Details	5/21/2008	
AD.1A	Site Details for ADA Access	12/4/2009	Delta 4
AD.2	Details	5/21/2008	
AD.3	Details — ASI #1	9/15/2008	Delta 1
AD.3A	Details — ASI #3	12/30/2008	Delta 5
AD.4	Details	5/21/2008	
AD.5	Details	5/21/2008	
AD.6	Details	5/21/2008	
AD.7	Details	5/21/2008	
AD.8	Details	5/21/2008	
AD.9	Details	5/21/2008	
AD.10	Details — ASI #2	11/11/2008	Delta 2
AD.11	Details — ASI #2	11/11/2008	Delta 2

EGRESS PLAN

T01	Title Layout Egress Plan West Section	12/10/2008	Rev. 05
T02	Title Layout Egress Plan Center Section Mezzanine Level	12/10/2008	Rev. 05
T03	Title Layout Egress Plan Center Section Floor Level	12/10/2008	Rev. 05
T04	Title Layout Egress Plan East Section	12/10/2008	Rev. 05
	Floor Level Restrooms / Mezzanine Level Restrooms	12/10/2008	

STRUCTURAL

S1	Foundation Plan — ASI #4	1/28/2009	(Delta 6)
S2	Foundation Plan — ASI #4	1/28/2009	(Delta 6)
S3	Foundation Plan — ASI #4	1/28/2009	(Delta 6)
S4	Partial Enlarged Foundation Plan — ASI #4	1/28/2009	(Delta 6)
S5	Partial Enlarged Foundation Plan	7/25/2008	
S6	Partial Enlarged Foundation Plan	7/25/2008	

STRUCTURAL CONTINUATION

S7	Partial Enlarged Foundation Plan — ASI #2	11/11/2008	Delta 2
S8	Mezzanine Floor Framing Plan — ASI #2	11/11/2008	Delta 3
S9	Partial Roof Framing Plan — ASI #4	1/28/2009	Delta 6
S10	Partial Roof Framing Plan — ASI #4	1/28/2009	Delta 6
S11	Partial Roof Framing Plan — ASI #4	1/28/2009	Delta 6
S12	Roof Information	7/25/2008	
S13	Partial Enlarged Roof Framing Plan — ASI #4	1 /28/2009	Delta 6
S14	Partial Enlarged Roof Framing Plan — ASI #1	9/15/2008	Delta 1
S15	Partial Enlarged Roof Framing Plan — ASI #4	1/28/2009	Delta 6
S15A	Curtain Wall Framing Plan	7/25/2008	
S16	Partial Enlarged Roof Framing Plan — ASI #2	11/11/2008	Delta 2
S17	Panel Elevation — ASI #1	9/15/2008	Delta 1
S18	Panel Elevation — ASI #1	9/16/2008	Delta 1
S19	Panel Elevation — ASI #1	9/17/2008	Delta 1
S20	Panel Elevation — ASI #2	11/11/2008	Delta 3
S21	Panel Elevation — ASI #1	9/15/2008	Delta 1
S22	Panel Elevation — ASI #1	9/15/2008	Delta 1
S23	Panel Elevation — ASI #1	9/15/2008	Delta 1
S24	Panel Elevation — ASI #1	9/15/2008	Delta 1
S25	Panel Elevation — ASI #1	9/15/2008	Delta 1
S26	Panel Elevation — ASI #1	9/15/2008	Delta 1
S27	Panel Elevation — ASI #2	11/11/2008	Delta 2
S28	Panel Elevation — ASI #2	11/11/2008	Delta 2
S29	Panel Elevation — ASI #1	9/15/2008	Delta 1
S30	Panel Elevation — ASI #1	9/15/2008	Delta 1
S31	Panel Elevation — ASI #1	9/15/2008	Delta 1
S32	Panel Elevation — ASI #1	9/15/2008	Delta 1
S33	Panel Elevation — ASI #1	9/15/2008	Delta 1
S34	Panel Elevation — ASI #1	9/15/2008	Delta 1
S35	Panel Elevation — ASI #1	9/15/2008	Delta 1
S36	Panel Elevation — ASI #1	9/15/2008	Delta 1
S37	Panel Elevation — ASI #1	9/15/2008	Delta 1
S38	Panel Elevation — ASI #1	9/15/2008	Delta 1
S39	Panel Elevation	7/25/2008	
S40	Panel Elevation — ASI #2	11/11/2008	Delta 2
S41	Panel Elevation — ASI #2	11/11/2008	Delta 2
SD1	General Notes	7/25/2008	
SD1A	Special Inspections	7/25/2008	
SD2	Construction Details — ASI #2	11/11/2008	Delta 2
SD3	Construction Details	7/25/2008	
SD4	Construction Details	7/25/2008	
SD5	Construction Details — ASI #1	9/15/2008	Delta 1
SD6	Construction Details	7/25/2008	
SD7	Construction Details — ASI #2	11/11/2008	Detail 2
SD8	Construction Details — ASI #4	1 /28/2009	Detail 6

STRUCTURAL CONTINUATION

SD9	Construction Details	7/25/2008	
SD10	Construction Details — ASI #1	9/15/2008	Delta 1
SD11	Construction Details — ASI #1	9/15/2008	Delta 1
SD12	Construction Details — ASI #2	11/11/2008	Detail 2
SD13	Construction Details — ASI #2	11/11/2008	Detail 2
SD14	Construction Details — ASI #2	11/11/2008	Detail 2
SD15	Construction Details — ASI #1	9/15/2008	Delta 1
SD16	Construction Details — ASI #1	9/15/2008	Delta 1
SD17	Construction Details — ASI #2	11/11/2008	Detail 2
SD18	Construction Details — ASI #2	11/11/2008	Detail 2
SD19	Construction Details	7/25/2008	
SD20	Construction Details — ASI #1	9/15/2008	Delta 1
SD21	Construction Details	7/25/2008	
SD22	Construction Details — ASI #1	9/15/2008	Delta 1
SD23	Construction Details — ASI #2	11/11/2008	Delta 2
SD24	Construction Details — ASI #3	12/30/2008	Delta 5
SPH1	Construction Details	7/25/2008	
SPH2	Construction Details	7/25/2008	
SPH3	General Notes	7/25/2008	

MECHANICAL

M-0.0	Title Sheet	11/14/2008	
M-0.1	Title 24	11/14/2008	
M-1	Schedules & Notes	11/14/2008	Delta 2
M-1.1	Schedules — ASI #4	1/21/2009	Delta 6
M-2	Partial Roof Plan	11/14/2008	Delta 2
M-3	Partial Roof Plan	11/14/2008	Delta 2
M-4	Partial Floor Plan — ASI #4	1/21/2009	Delta 6
M-5	Mezzanine Floor Plan — ASI #2	11/13/2008	Delta 3
M-6	Partial Floor Plan — ASI #4	1/21/2009	Delta 6
M-7	Partial Roof Plan	11/14/2008	Delta 2
M-8	Partial Roof Plan -ASI #4	1/21/2009	Delta 6
M-9	Details	11/14/2008	Delta 2
M-10	Controls — ASI #4	1/21/2009	Delta 6

PLUMBING

P-1	Specifications & Calculations — ASI #4	1/28/2009	Delta 6
P-2	Overall Site Plan ASI #4	1/28/2009	Delta 6
P-2.1	Partial Site Plan — ASI #4	1/28/2009	Delta 6
P-2.2	Partial Site Plan — ASI #4	1/28/2009	Delta 6
P-3	Partial Floor, Roof Plan — ASI #4	1/28/2009	Delta 6
P-4	Partial Floor, Roof Plan — ASI #4	1/28/2009	Delta 6
P-5	Partial Floor, Roof Plan	11/14/2008	Delta 2
P-6	Restroom Details ASI #4	1/28/2009	Delta 6
P-7	Restroom Details	11/11/2008	Delta 2
P-8	Restroom Details	11/11/2008	Delta 2
P-9	Restroom Details	11/11/2008	Delta 2

PLUMBING CONTINUATION

P-10	Restroom Details	11/11/2008	Delta 2
P-11	Restroom Details	11/11/2008	Delta 2
P-12	Restroom Details	11/11/2008	Delta 2
P-13	Restroom Details	11/11/2008	Delta 2
P-14	Restroom Details	11/11/2008	Delta 2
P-15	Waste & Vent Isometrics	11/11/2008	Delta 2
P-16	Hot & Cold Water Isometrics	11/11/2008	Delta 2
P-17	Plumbing Details — ASI #4	1/28/2009	Delta 6

ELECTRICAL

EO.1	Specifications, Symbols & Abbreviations	11/14/2008	
EO.2	Outdoor Title 24 — ASI #4	1/28/2009	Delta 6
EO.3	Indoor Title 24 — ASI #4	1/28/2009	Delta 6
E1.1A	Partial Site Electrical Plan — ASI #4	1/28/2009	Delta 6
E1.1B	Partial Site Electrical Plan — ASI #4	1/28/2009	Delta 6
E1.2A	Partial Site Lighting Plan	11/14/2008	
E1.2B	Partial Site Lighting Plan	11/14/2008	
E1.2C	Partial Site Photometric Plan	11/14/2008	
E1.2D	Partial Site Photometric Plan	11/14/2008	
E2.1	Single Line Diagram — ASI #2	11/11/2008	Delta 2
E2.2	Single Line Diagram — ASI #4	1/28/2009	Delta 6
E2.3	Single Line Diagram — ASI #4	1/28/2009	Delta 6
E2.4	Single Line Diagram — ASI #2	11/11/2008	Delta 2
E2.5	Single Line Diagram — ASI #4	1/28/2009	Delta 6
E2.6	Single Line Diagram — ASI #2	11/11/2008	Delta 2
E2.7	Single Line Diagram — ASI #4	1/28/2009	Delta 6
E3.1	Warehouse Electrical Plan — ASI #4	1/28/2009	Delta 6
E3.2	Warehouse Underground Conduit Plan	11/14/2008	
E3.3	Partial Warehouse Lighting Plan — ASI #2	11/11/2008	Delta 2
E3.4	Partial Warehouse Lighting Plan — ASI #2	11/11/2008	Delta 2
E3.5	Partial Warehouse Lighting Plan — ASI #2	11/11/2008	Delta 2
E3.6	Partial Warehouse Lighting Plan — ASI #2	11/11/2008	Delta 2
E3.7	Partial Warehouse Lighting Plan — ASI #2	11/11/2008	Delta 2
E3.8	Partial Warehouse Lighting Plan — ASI #2	11/11/2008	Delta 2
E4	Warehouse Electrical Roof Plan	11/14/2008	
E5.1	Enlarged Main Office Ground Floor Lighting Plan — ASI #4	1/28/2009	Delta 6
E5.2	Enlarged Main Office Second Floor Lighting Plan — ASI #2	11/11/2008	Delta 2
E5.3	Enlarged Warehouse Office Lighting Plan — ASI #4	1/28/2009	Delta 6
E6.1	Enlarged Main Office Ground Floor Plan — ASI #2	11/11/2008	Delta 2
E6.2	Enlarged Main Office Second Floor Plan — ASI #2	11/11/2008	Delta 2
E6.3	Enlarged Main Office Roof Plan — ASI #2	11/11/2008	Delta 2
E6.4	Enlarged Warehouse Office Power Plan — ASI #4	1/28/2009	Delta 6
E6.5	Enlarged Dock Door Power Plans — ASI #2	11/11/2008	Delta 2
E7	Details — ASI #2	11/11/2008	Delta 2
E8.1	Wiring Diagram — ASI #2	11/11/2008	Delta 2
E8.2	Wiring Diagram & Fixture Schedule — ASI #2	11/11/2008	Delta 2

ELECTRICAL CONTINUED

E8.3	Wiring Diagrams — ASI #2	11/11/2008	Delta 2
E8.4	Wiring Diagrams — ASI #2	11/11/2008	Delta 2
E9	Schedules — ASI #4	1/28/2009	Delta 6
E10	Schedules — ASI #4	1/28/2009	Delta 6
E11	Schedules — ASI #4	1/28/2009	Delta 6
E12	Schedules — ASI #4	1/28/2009	Delta 6
E13	Schedules — ASI #4	1/28/2009	Delta 6
E14	Schedules — ASI #4	1/28/2009	Delta 6
EFP1	Fire Pump House Plan	11/14/2008	

FIRE PROTECTION PARCEL 1 / SKECHERS

HFCP	Cover Page		
FP 1	Underground Fire Master Plan	7/29/2008	
FP 2	Enlarged Underground Fire Piping Part I	7/29/2008	
FP 3	Enlarged Underground Fire Piping Part II	7/29/2008	
FP 4	Underground Fire Notes / Details	7/29/2008	
FP 5	Diesel Fire Pump Plans & Details	7/29/2008	
FP 6	Overhead Master Plan Area "A" (reference only)	7/29/2008	
FP 7	Overhead Master Plan Area "B" (reference only)	7/29/2008	
FP 8	Overhead Master Plan Area "C" (reference only)	7/29/2008	
FP 9	System 1 — 4 Overhead Piping Plan	2/12/2009	
FP 10	System 5 — 9 Overhead Piping Plan	2/12/2009	
FP 11	System 10 — 14 Overhead Piping Plan	2/12/2009	
FP 12	System 15 — 19 Overhead Piping Plan	2/12/2009	
FP 13	System 20 — 24 Overhead Piping Plan	2/12/2009	
FP 14	System 25 — 29 Overhead Piping Plan	2/12/2009	
FP 15	System 30 — 34 Overhead Piping Plan	2/12/2009	
FP 16	System 35 — 39 Overhead Piping Plan	2/12/2009	
FP 17	System 40 — 44 Overhead Piping Plan	2/12/2009	
FP 18	System 45 — 48 Overhead Piping Plan	2/12/2009	
FP 19	Building Section & Maximum Storage Heights	2/12/2009	
FP 20	Overhead Sprinkler Layout Notes	2/12/2009	
FP 21	1st Floor Room Coverage Plan	2/12/2009	
FP 22	Mezzanine Piping Plan & Details	2/12/2009	
FP 23	2 Second Floor Room Coverage Plan	2/12/2009	
FP 24	2 Second Floor Piping Enlarged	2/12/2009	
FP 25	Warehouse Office Room Coverage Plans & Piping Enlargements	2/12/2009	

SR-60 CONSTRUCTION STAGING PLAN

SC 1	Stage Construction	4/9/2010	
TH 01	Traffic Handling / Construction area Sign Plan	4/9/2010	
TH 02	Traffic Handling / Construction area Sign Plan	4/9/2010	
TH 03	Traffic Handling / Construction area Sign Plan	4/9/2010	

REDLANDS BLVD. TRAFFIC CONTROL PLAN

TCP 1	Traffic Control Plan — Title Sheet	2/18/2009
TCP 2	Traffic Control Plan — Phase I & II	2/18/2009
TCP 3	Traffic Control Plan — Phase I	2/18/2009
TCP 4	Traffic Control Plan — Phase II	2/18/2009
TCP 5	Traffic Control Plan — Phase I	2/18/2009
TCP 6	Traffic Control Plan — Phase II	2/18/2009

ROUGH GRADING

RGP 1	Rough Grading Plan — Title Sheet	4/9/2010
RGP 2	Rough Grading Plan — Detail Sheet	4/9/2010
RGP 3	Rough Grading Plan — Detail Sheet	4/9/2010
RGP 4	Rough Grading Plan — Detail Sheet	4/9/2010
RGP 5	Rough Grading Plan — Storm Drain Profiles	4/9/2010
RGP 6	Rough Grading Plan	4/9/2010
RGP 7	Rough Grading Plan	4/9/2010
RGP 8	Rough Grading Plan	4/9/2010
RGP 9	Rough Grading Plan	4/9/2010
RGP 10	Rough Grading Plan	4/9/2010
RGP 11	Rough Grading Plan	4/9/2010
RGP 12	Rough Grading Plan	4/9/2010
RGP 13	Rough Grading Plan	4/9/2010
RGP 14	Rough Grading Plan	4/9/2010
RGP 15	Rough Grading Plan — Erosion Control	4/9/2010
RGP 16	Rough Grading Plan — Erosion Control	4/9/2010
RGP 17	Rough Grading Plan — Noise Reduction Compliance Plan	4/9/2010
RGP 18	Rough Grading Plan — Conditions of Approval	4/9/2010
RGP 19	Rough Grading Plan — Conditions of Approval	4/9/2010

PRECISE GRADING

PG 1	Precise Grading — Title Sheet	4/12/2010
PG 2	Precise Grading — Detail Sheet	4/12/2010
PG 3	Precise Grading — Detail Sheet	4/12/2010
PG 4	Precise Grading Plan	4/12/2010
PG 5	Precise Grading Plan	4/12/2010
PG 6	Precise Grading Plan	4/12/2010
PG 7	Precise Grading Plan	4/12/2010
PG 8	Precise Grading Plan	4/12/2010
PG 9	Precise Grading Plan	4/12/2010
PG 10	Precise Grading Plan	4/12/2010
PG 11	Precise Grading Plan	4/12/2010
PG 12	Precise Grading Plan	4/12/2010
PG 13	Precise Grading Plan	4/12/2010
PG 14	Precise Grading Plan	4/12/2010
PG 15	Precise Grading Plan	4/12/2010
PG 16	Precise Grading Plan	4/12/2010
PG 17	Erosion Control Plan	4/12/2010
PG 18	Erosion Control Plan	4/12/2010

PRECISE GRADING CONTINUED		
PG 19	Erosion Control Plan	4/12/2010
PG 20	Erosion Control Plan	4/12/2010
PG 21	Erosion Control Plan	4/12/2010
PG 22	Erosion Control Plan	4/12/2010
PG 23	Conditions of Approval	4/12/2010
PG 24	Conditions of Approval	4/12/2010
ENCROACHMENT PERMIT PLAN — ROUGH GRADING		
EPP 1	Encroachment Permit Plan — Title Sheet	4/9/2010
EPP 2	Encroachment Permit Plan — Rough Grading Sheet	4/9/2010
EPP 3	Encroachment Permit Plan — Rough Grading Sheet	4/9/2010
EPP 4	Encroachment Permit Plan — Rough Grading Sheet	4/9/2010
EPP 5	Encroachment Permit Plan — Rough Grading Sheet	4/9/2010
ROUGH GRADING — REDLANDS SEWER		
RGP 1	Rough grading Plan — Redlands Sewer — Title Sheet	4/9/2010
RGP 2	Rough grading Plan — Redlands Sewer — Drainage	4/9/2010
RGP 3	Rough grading Plan — Redlands Sewer — Drainage	4/9/2010
RGP 4	Rough grading Plan — Redlands Sewer — Drainage	4/9/2010
RGP 5	Rough grading Plan — Redlands Sewer — Erosion Control	4/9/2010
RGP 6	Rough grading Plan — Redlands Sewer — Conditions of Approval	4/9/2010
RGP 7	Rough grading Plan — Redlands Sewer — Conditions of Approval	4/9/2010
RGP 8	Rough grading Plan — Redlands Sewer — Conditions of Approval	4/9/2010
RGP 9	Rough grading Plan — Redlands Sewer — Conditions of Approval	4/9/2010
RGP 10	Rough grading Plan — Redlands Sewer — Conditions of Approval	4/9/2010
RGP 11	Rough grading Plan — Redlands Sewer — Conditions of Approval	4/9/2010
RGP 12	Rough grading Plan — Redlands Sewer — Conditions of Approval	4/9/2010
RGP 13	Rough grading Plan — Redlands Sewer — Conditions of Approval	4/9/2010
CALTRANS EROSION CONTROL PLAN		
EC 5	EROSION CONTROL WPCD	2/18/2009
TEMPORARY STORM DRAIN SYSTEM PHASE 1		
TDD 1	Phase 1 Temporary Drainage Ditch	2/18/2009
GRADING CROSS SECTIONS		
GCS 1	Grading Cross Sections	2/18/2009
GCS 2	Grading Cross Sections	2/18/2009
SITE FIRE ACCESS PLAN		
FPS 1	Site Fire Access Plan (During Construction)	7/29/2008
FPS 2	Site Fire Access Plan (Job Completion)	7/29/2008
PARCEL 1 WALL & FENCE — TILT-UP WALL		
LCS-0	HFCP — Parcel 1 — Wall & Fence — Cover Sheet	3/30/2010
LR-01	HFCP — Parcel 1 — Wall & Fence — Reference Plan	3/30/2010
LW-01	HFCP — Parcel 1 — Wall & Fence — Plan	3/30/2010
LW-02	HFCP — Parcel 1 — Wall & Fence — Plan	3/30/2010
LW-03	HFCP — Parcel 1 — Wall & Fence — Plan	3/30/2010
LW-04	HFCP — Parcel 1 — Wall & Fence — Plan	3/30/2010
LW-05	HFCP — Parcel 1 — Wall & Fence — Plan	3/30/2010
LW-06	HFCP — Parcel 1 — Wall & Fence — Plan	3/30/2010
LW-07	HFCP — Parcel 1 — Wall & Fence — Plan	3/30/2010

PARCEL 1 WALL & FENCE — TILT-UP WALL CONTINUED

LW-08	HFCP — Parcel 1 - Wall & Fence — Plan	3/30/2010
LW-09	HFCP — Parcel 1 - Wall & Fence — Plan	3/30/2010
LW-10	HFCP — Parcel 1 - Wall & Fence — Plan	3/30/2010
LW-11	HFCP — Parcel 1 - Wall & Fence — Plan	3/30/2010
LW-12	HFCP — Parcel 1 - Wall & Fence — Plan	3/30/2010
LWD-01	HFCP — Parcel 1 - Wall & Fence — Construction Notes	3/30/2010
LWD-02	HFCP — Parcel 1 - Wall & Fence — Tilt-Up Wall Elevations	3/30/2010
LWD-03	HFCP — Parcel 1 - Wall & Fence — Tilt-Up Wall Elevations	3/30/2010
LWD-04	HFCP — Parcel 1 - Wall & Fence — Tilt-Up Wall Elevations	3/30/2010
LWD-05	HFCP — Parcel 1 - Wall & Fence — Tilt-Up Wall Elevations	3/30/2010
LWD-06	HFCP — Parcel 1 - Wall & Fence — Tilt-Up Wall Elevations	3/30/2010
LWD-07	HFCP — Parcel 1 - Wall & Fence — Tilt-Up Wall Elevations	3/30/2010
LWD-08	HFCP — Parcel 1 - Wall & Fence — Tilt-Up Wall Elevations	3/30/2010
LWD-09	HFCP — Parcel 1 - Wall & Fence — Tilt-Up Wall Elevations	3/30/2010
LWD-10	HFCP — Parcel 1 - Wall & Fence — Tilt-Up Wall Elevations	3/30/2010
LWD-11	HFCP — Parcel 1 - Wall & Fence — Tilt-Up Wall Elevations	3/30/2010
LWD-12	HFCP — Parcel 1 - Wall & Fence — Tilt-Up Wall Elevations	3/30/2010
LWD-13	HFCP — Parcel 1 - Wall & Fence — Construction Details	2/18/2009
LWD-14	HFCP — Parcel 1 - Wall & Fence — Construction Details	3/30/2010
LWD-15	HFCP — Parcel 1 - Wall & Fence — Construction Details	3/30/2010
LWD-16	HFCP — Parcel 1 - Wall & Fence — Construction Details	3/30/2010
LWD-17	HFCP — Parcel 1 - Wall & Fence — Construction Details	3/30/2010
LWD-18	HFCP — Parcel 1 - Wall & Fence — Construction Details	3/30/2010
LWD-19	HFCP — Parcel 1 - Wall & Fence — Construction Details	3/30/2010
LWD-20	HFCP — Parcel 1 - Wall & Fence — Construction Details	3/30/2010
LWN-01	HFCP — Parcel 1 - Wall & Fence — Construction Specifications	3/30/2010

LINE "F" STORM DRAIN SYSTEM

SHT 1	Moreno MDP Line — F — Title Sheet	4/9/2010
SHT 2	Moreno MDP Line — F — Notes & Details	4/9/2010
SHT 3	Moreno MDP Line — F — Station 95+20 to 97+00	4/9/2010
SHT 4	Moreno MDP Line — F — Station 97+00 to 103+00	4/9/2010
SHT 5	Moreno MDP Line — F — Station 103+00 to 110+00	4/9/2010
SHT 6	Moreno MDP Line — F — Station 110+00 to 118+05	4/9/2010
SHT 7	Moreno MDP Line — F — Station 118+05 to 122+56.73	4/9/2010
SHT 8	Moreno MDP Line — F — Station 122+56.73 to 124+42.37	4/9/2010
SHT 9	Moreno MDP Line — F — Lat F-2 10+00 to 11+49.18	4/9/2010
SHT 10	Moreno MDP Line — F — Lat F-2-A 10+00 to 11+41.56	4/9/2010
SHT 11	Moreno MDP Line — F — Lat D-5 10+00 to 11+52.91	4/9/2010
SHT 12	Moreno MDP Line — F — Lat D-6 10+00 to 14+68.98	4/9/2010
SHT 13	Moreno MDP Line — F — Lat F-8 0+25.13 to 8+00	4/9/2010
SHT 14	Moreno MDP Line — F — Lat F-8 8+00 to 16+00	4/9/2010
SHT 15	Moreno MDP Line — F — Lat F-8 16+00 to 24+00	4/9/2010
SHT 16	Moreno MDP Line — F — Lat F-8 24+00 to 31+50	4/9/2010
SHT 17	Moreno MDP Line — F — Lat F-8 10+00 to 12+00.25	4/9/2010

LINE "F" STORM DRAIN SYSTEM CONTINUED		4/9/2010
SHT 18	Moreno MDP Line — F — Lat F-9 11+02.55 to 18+00	4/9/2010
SHT 19	Moreno MDP Line — F — Lat F-9 18+00 to 25+65.60	4/9/2010
SHT 20	Moreno MDP Line — F — Profiles	4/9/2010
SHT 21	Moreno MDP Line — F — Profiles	4/9/2010
SHT 22	Moreno MDP Line — F — Profiles	4/9/2010
SHT 23	Moreno MDP Line — F — Outlet, Access Raod & Basin	4/9/2010
SHT 24	Moreno MDP Line — F — General Notes & typ Details	4/9/2010
SHT 25	Moreno MDP Line — F — Typ Details	4/9/2010
SHT 26	Moreno MDP Line — F — Lateral & Sections	4/9/2010
SHT 27	Moreno MDP Line — F — Lateral	4/9/2010
SHT 28	Moreno MDP Line — F Access Opening Sections & typ Details	4/9/2010
SHT 29	Moreno MDP Line — F — typ Sections & Details	4/9/2010
REDLANDS SANITARY SEWER		
SWP 1	Redlands Blvd Sanitary Sewer Plan — Title Sheet	4/9/2010
SWP 2	Redlands Blvd Sanitary Sewer Plan — Index & Legends	4/9/2010
SWP 3	Redlands Blvd Sanitary Sewer Plan & Profile	4/9/2010
SWP 4	Redlands Blvd Sanitary Sewer Plan & Profile	4/9/2010
SWP 5	Redlands Blvd Sanitary Sewer Plan & Profile	4/9/2010
SWP 6	Redlands Blvd Sanitary Sewer Plan & Profile	4/9/2010
SWP 7	Redlands Blvd Sanitary Sewer Plan & Profile	4/9/2010
SWP 8	Redlands Blvd Sanitary Sewer Plan & Profile	4/9/2010
EUCALYPTUS SANITARY SEWER PLAN		
SSIP 1	Eucalyptus Avenue — Sanitary Sewer Plan — Title Sheet	4/9/2010
SSIP 2	Eucalyptus Avenue — Sanitary Sewer Plan — Index & Legend	4/9/2010
SSIP 3	Eucalyptus Avenue — Sanitary Sewer Plan — Plan Profile	4/9/2010
SSIP 4	Eucalyptus Avenue — Sanitary Sewer Plan — Plan Profile	4/9/2010
SSIP 5	Eucalyptus Avenue — Sanitary Sewer Plan — Plan Profile	4/9/2010
SSIP 6	Eucalyptus Avenue — Sanitary Sewer Plan — Plan Profile	4/9/2010
SSIP 7	Eucalyptus Avenue — Sanitary Sewer Plan — Plan Profile	4/9/2010
LOGISTIC BUILDING SEWER AND WATER		
SSIP 1	Logistics Bldg Sewer & Water Plan — Title Sheet	4/9/2010
SSIP 2	Logistics Bldg Sewer & Water Plan — Notes & Quantities	4/9/2010
SSIP 3	Logistics Bldg Sewer & Water Plan	4/9/2010
SSIP 4	Logistics Bldg Sewer & Water Plan	4/9/2010
SSIP 5	Logistics Bldg Sewer & Water Plan	4/9/2010
SSIP 6	Logistics Bldg Sewer & Water Plan	4/9/2010
SSIP 7	Logistics Bldg Sewer & Water Plan	4/9/2010
SSIP 8	Logistics Bldg Sewer & Water Plan	4/9/2010
EUCALPTUS RECYCLED WATER IMPROVEMENT PLAN		
RWIP 1	Title Sheet	4/9/2010
RWIP 2	Plan	4/9/2010
RWIP 3	Plan & Profile	4/9/2010
RWIP 4	Plan & Profile	4/9/2010
RWIP 5	Plan & Profile	4/9/2010
RWIP 6	Plan & Profile	4/9/2010
RWIP 7	Plan & Profile	4/9/2010

EUCALYPTUS WATER IMPROVEMENT PLAN		
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DW 2	Index Map & Legend	4/9/2010
DW 3	Plan Profile	4/9/2010
DW 4	Plan Profile	4/9/2010
DW 5	Plan Profile	4/9/2010
DW 6	Plan Profile	4/9/2010
DW 7	Plan Profile	4/9/2010
DW 8	Line 'A' thru 'D' profile	4/9/2010
Off-Site (Sinclair) DOMESTIC WATER IMPROVEMENT PLAN		
DWIP 1	Domestic Water Plans — title Sheet	4/9/2010
DWIP 2	Domestic Water Plans — Index Map & Legends	4/9/2010
DWIP 3	Domestic Water Plans & Profile	4/9/2010
DWIP 4	Domestic Water Plans & Profile	4/9/2010
DWIP 5	Domestic Water Plans & Profile	4/9/2010
DWIP 6	Domestic Water Plans & Profile	4/9/2010
DWIP 7	Domestic Water Plans & Profile	4/9/2010
DWIP 8	Domestic Water Plans & Profile	4/9/2010
DWIP 9	Domestic Water Plans & Profile	4/9/2010
DWIP 10	Domestic Water Plans & Profile	4/9/2010
REDLANDS WATER IMPROVEMENT PLAN		
DWIP 1	Title Sheet	4/9/2010
DWIP 2	Index Map	4/9/2010
DWIP 3	Plan & Profile	4/9/2010
DWIP 4	Plan & Profile	4/9/2010
EUCALYPTUS ELECTRICAL DISTRIBUTION PLAN		
SHT 1	Eucalyptus Avenue Utility Design — BUTSKO	3/4/2010
SHT 2	Eucalyptus Avenue Utility Design — BUTSKO	3/4/2010
SHT 3	Eucalyptus Avenue Utility Design — BUTSKO	3/4/2010
SHT 4	Eucalyptus Avenue Utility Design — BUTSKO	3/4/2010
REDLANDS ELECTRICAL DISTRIBUTION PLAN		
SHT 1	Electrical Distribution Plan — BUTSKO	3/4/2010
SHT 2	Electrical Distribution Plan — BUTSKO	3/4/2010
SHT 3	Electrical Distribution Plan — BUTSKO	3/4/2010
SHT 4	Electrical Distribution Plan — BUTSKO	3/4/2010
SHT 5	Electrical Distribution Plan — BUTSKO	3/4/2010
SKECHERS ONSITE ELECTRIC		
SWP 1	TPM 35629 Onsite Utilities — Butsko	3/4/2010
SWP 2	TPM 35629 Onsite Utilities — Butsko	3/4/2010
SWP 3	TPM 35629 Onsite Utilities — Butsko	3/4/2010
SWP 4	TPM 35629 Onsite Utilities — Butsko	3/4/2010
EUCALYPTUS STREET IMPROVEMENT PLAN		
STIP 1	Eucalyptus Avenue Street Improvement Plan — Title Sheet	4/9/2010
STIP 2	Eucalyptus Avenue Street Improvement Plan — Notes & Index Map	4/9/2010
STIP 3	Eucalyptus Avenue Street Improvement Plan — Details & Sections	4/9/2010
STIP 4	Eucalyptus Avenue Street Improvement Plan	4/9/2010
STIP 5	Eucalyptus Avenue Street Improvement Plan	4/9/2010

EUCALYPTUS STREET IMPROVEMENT PLAN CONTINUATION

STIP 6	Eucalyptus Avenue Street Improvement Plan	4/9/2010
STIP 7	Eucalyptus Avenue Street Improvement Plan	4/9/2010
STIP 8	Eucalyptus Avenue Street Improvement Plan	4/9/2010
STIP 9	Eucalyptus Avenue Street Improvement Plan	4/9/2010
STIP 10	Eucalyptus Avenue Street Improvement Plan	4/9/2010
STIP 11	Eucalyptus Avenue — Signing & Striping Title Sheet	4/9/2010
STIP 12	Eucalyptus Avenue — Signing & Striping Title Sheet	4/9/2010
STIP 13	Eucalyptus Avenue — Conditions of Approval	4/9/2010
STIP 14	Eucalyptus Avenue — Conditions of Approval	4/9/2010

SCE EXHIBIT — JACK & BORE SCE CONDUIT

SCE-J&B	Jack & Bore Exhibit — SE Conduit Under SR60	8/25/2009
SCE-Pole	Cross Section B-B (SCE Pole No. 4001945E)	8/25/2009
SCE-Pole	Cross Section A-A (SCE Pole No. 214347/T2964)	8/25/2009

MEDIAN EXHIBIT

E-1	Exhibit — Sections Eucalyptus Street Median	7/22/2009
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TOLERANCE EXHIBIT

TE	Tolerance Exhibit	2/18/2009
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THEODORE STREET IMPROVEMENT PLAN (THEODORE RAMP IMPROVEMENT PLANS)

STIP 1	Theodore Street — Title Sheet	4/9/2010
STIP 2	Theodore Street — Notes & Index Map Typical Sections	4/9/2010
STIP 3	Theodore Street — Improvement Plans	4/9/2010
STIP 4	Theodore Street — Construction Details	4/9/2010
STIP 5	Theodore Street — Construction Details	4/9/2010
STIP 6	Theodore Street — Grading-Drainage-Utility Plan	4/9/2010
STIP 7	Theodore Street — W.P.C.P	4/9/2010
STIP 8	Theodore Street — Signing and Striping Plan	4/9/2010
STIP 9	Theodore Street — Traffic Handling Details	4/9/2010
STIP 10	Theodore Street — Traffic Handling	4/9/2010
STIP 11	Theodore Street — Traffic Handling	4/9/2010
STIP 12	Theodore Street — Traffic Handling	4/9/2010
STIP 13	Theodore Street — Detour Plan	4/9/2010

TRAFFIC SIGNAL INTERCONNECT

421	Traffic Signal Interconnect Detail	1/1/2008
EVTSI	Emergency Vehicle & Traffic Signal Interconnect	10/22/2009

THEODORE STREET IMPROVEMENT PLAN

STIP 1	Theodore Street Phase 1 — Title Sheet	4/9/2010
STIP 2	Theodore Street Phase 1 — Construction Notes	4/9/2010
STIP 3	Theodore Street Phase 1 Typical Street Secitons	4/9/2010
STIP 4	Theodore Street Phase 1 — Plan & Profile	4/9/2010
STIP 5	Theodore Street Phase 1 Plan & Profile	4/9/2010
STIP 6	Theodore Street Phase 1 Signing and Striping	4/9/2010
STIP 7	Theodore Street Phase 1 Conditions of Approval	4/9/2010
STIP 8	Theodore Street Phase 1 — Conditions of Approval	4/9/2010
STIP 9	Theodore Street Phase 1 — Conditions of Approval	4/9/2010

EUCALYPTUS STREET LANDSCAPE & IRRIGATION

SHT 1	Eucalyptus Street — Cover Sheet	2/18/2009
SHT 2	Eucalyptus Street — Construction Plan	2/18/2009

EUCALYPTUS STREET LANDSCAPE & IRRIGATION CONTINUED

SHT 3	Eucalyptus Street — Construction Plan	2/18/2009
SHT 4	Eucalyptus Street — Construction Plan	2/18/2009
SHT 5	Eucalyptus Street — Construction Plan	2/18/2009
SHT 6	Eucalyptus Street — Construction Plan	2/18/2009
SHT 7	Eucalyptus Street — Construction Plan	2/18/2009
SHT 8	Eucalyptus Street — Construction Details	2/18/2009
SHT 9	Eucalyptus Street — Construction Details	2/18/2009
SHT 10	Eucalyptus Street — Construction Details	2/18/2009
SHT 11	Eucalyptus Street — Construction Specifications	2/18/2009
SHT 12	Eucalyptus Street — Irrigation Plan	2/18/2009
SHT 13	Eucalyptus Street — Irrigation Plan	2/18/2009
SHT 14	Eucalyptus Street — Irrigation Plan	2/18/2009
SHT 15	Eucalyptus Street — Irrigation Plan	2/18/2009
SHT 16	Eucalyptus Street — Irrigation Plan	2/18/2009
SHT 17	Eucalyptus Street — Irrigation Plan	2/18/2009
SHT 18	Eucalyptus Street — Irrigation Details	2/18/2009
SHT 19	Eucalyptus Street — Irrigation Details	2/18/2009
SHT 20	Eucalyptus Street — Irrigation Notes	2/18/2009
SHT 21	Eucalyptus Street — Irrigation Specifications	2/18/2009
SHT 22	Eucalyptus Street — Irrigation Specifications	2/18/2009
SHT 23	Eucalyptus Street — Planting Plan	2/18/2009
SHT 24	Eucalyptus Street — Planting Plan	2/18/2009
SHT 25	Eucalyptus Street — Planting Plan	2/18/2009
SHT 26	Eucalyptus Street — Planting Plan	2/18/2009
SHT 27	Eucalyptus Street — Planting Plan	2/18/2009
SHT 28	Eucalyptus Street — Planting Plan	2/18/2009
SHT 29	Eucalyptus Street — Planting Details	2/18/2009
SHT 30	Eucalyptus Street — Planting Details	2/18/2009
SHT 31	Eucalyptus Street — Planting Specifications	2/18/2009
SHT 32	Eucalyptus Street — Planting Specifications	2/18/2009

HFCEP ASSOCIATION LANDSCAPE & IRRIGATION

LCS-0	HFCEP Association — Cover Sheet	3/22/2010
LI-01	HFCEP Association — Irrigation Plan	3/22/2010
LI-02	HFCEP Association — Irrigation Plan	3/22/2010
LI-03	HFCEP Association — Irrigation Plan	3/22/2010
LI-04	HFCEP Association — Irrigation Plan	3/22/2010
LI-05	HFCEP Association — Irrigation Plan	3/22/2010
LI-06	HFCEP Association — Irrigation Plan	3/22/2010
LI-07	HFCEP Association — Irrigation Plan	3/22/2010
LI-08	HFCEP Association — Irrigation Plan	3/22/2010
LI-09	HFCEP Association — Irrigation Plan	3/22/2010
LI-10	HFCEP Association — Irrigation Plan	3/22/2010
LI-11	HFCEP Association — Irrigation Plan	3/22/2010
LI-12	HFCEP Association — Irrigation Plan	3/22/2010

HFCP ASSOCIATION LANDSCAPE & IRRIGATION CONTINUED

LI-13	HFCP Association — Irrigation Plan	3/22/2010
LI-14	HFCP Association — Irrigation Plan	3/22/2010
LI-15	HFCP Association — Irrigation Plan	3/22/2010

HFCP ASSOCIATION LANDSCAPE & IRRIGATION

LI-16	HFCP Association — Irrigation Plan	3/22/2010
LI-17	HFCP Association — Irrigation Plan	3/22/2010
LID-1	HFCP Association — Irrigation Details	3/22/2010
LID-2	HFCP Association — Irrigation Details	3/22/2010
LIN-1	HFCP Association — Irrigation Notes	3/22/2010
LIN-2	HFCP Association — Irrigation Specifications	3/22/2010
LIN-3	HFCP Association — Irrigation Specifications	3/22/2010
LP-01	HFCP Association — Construction and Planting Plan	3/22/2010
LP-02	HFCP Association — Construction and Planting Plan	3/22/2010
LP-03	HFCP Association — Construction and Planting Plan	3/22/2010
LP-04	HFCP Association — Construction and Planting Plan	3/22/2010
LP-05	HFCP Association — Construction and Planting Plan	3/22/2010
LP-06	HFCP Association — Construction and Planting Plan	3/22/2010
LP-07	HFCP Association — Construction and Planting Plan	3/22/2010
LP-08	HFCP Association — Construction and Planting Plan	3/22/2010
LP-09	HFCP Association — Construction and Planting Plan	3/22/2010
LP-10	HFCP Association — Construction and Planting Plan	3/22/2010
LP-11	HFCP Association — Construction and Planting Plan	3/22/2010
LP-12	HFCP Association — Construction and Planting Plan	3/22/2010
LP-13	HFCP Association — Construction and Planting Plan	3/22/2010
LP-14	HFCP Association — Construction and Planting Plan	3/22/2010
LP-15	HFCP Association — Construction and Planting Plan	3/22/2010
LP-16	HFCP Association — Construction and Planting Plan	3/22/2010
LP-17	HFCP Association — Construction and Planting Plan	3/22/2010
LPD-01	HFCP Association — Planting Details	3/22/2010
LPD-02	HFCP Association — Planting Details	3/22/2010
LCD-01	HFCP Association — Construction Specification	3/22/2010
LCD-02	HFCP Association — Construction Details	3/22/2010

PARCEL 1 LANDSCAPE & IRRIGATION

LCS-0	HFCP — Parcel 1 — Cover Sheet	2/18/2009
LC-01	HFCP — Parcel 1 — Construction Plan	2/18/2009
LC-02	HFCP — Parcel 1 — Construction Plan	2/18/2009
LC-03	HFCP — Parcel 1 — Construction Plan	2/18/2009
LC-04	HFCP — Parcel 1 — Construction Plan	2/18/2009
LC-05	HFCP — Parcel 1 — Construction Plan	2/18/2009
LC-06	HFCP — Parcel 1 — Construction Plan	2/18/2009
LC-07	HFCP — Parcel 1 — Construction Plan	2/18/2009
LC-08	HFCP — Parcel 1 — Construction Plan	2/18/2009
LC-09	HFCP — Parcel 1 — Construction Plan	2/18/2009
LC-010	HFCP — Parcel 1 — Construction Plan	2/18/2009
LC-011	HFCP — Parcel 1 — Construction Plan Enlargements	2/18/2009

PARCEL 1 LANDSCAPE & IRRIGATION CONTINUATION

LCD-01	HFCP - Parcel 1 - Construction Notes	2/18/2009	
LCD-02	HFCP - Parcel 1 - Construction Details	2/18/2009	
LCD-03	HFCP - Parcel 1 - Construction Details	2/18/2009	
LCD-04	HFCP - Parcel 1 - Construction Details	2/18/2009	
LCD-05	HFCP - Parcel 1 - Construction Details	2/18/2009	
LCD-06	HFCP - Parcel 1 - Construction Details	2/18/2009	
LCN-01	HFCP - Parcel 1 - Construction Specifications	2/18/2009	
LI-01	HFCP - Parcel 1 - Irrigation Plan	2/18/2009	
LI-02	HFCP - Parcel 1 - Irrigation Plan	2/18/2009	
LI-03	HFCP - Parcel 1 - Irrigation Plan	2/18/2009	
LI-04	HFCP - Parcel 1 - Irrigation Plan	2/18/2009	
LI-05	HFCP - Parcel 1 - Irrigation Plan	2/18/2009	
LI-06	HFCP - Parcel 1 - Irrigation Plan	2/18/2009	
LI-07	HFCP - Parcel 1 - Irrigation Plan	2/18/2009	
LI-08	HFCP - Parcel 1 - Irrigation Plan	2/18/2009	
LI-09	HFCP - Parcel 1 - Irrigation Plan	2/18/2009	
LI-10	HFCP - Parcel 1 - Irrigation Plan	2/18/2009	
LID-1	HFCP - Parcel 1 - Irrigation Details	2/18/2009	
LID-2	HFCP - Parcel 1 - Irrigation Details	2/18/2009	
LIN-01	HFCP - Parcel 1 - Irrigation Notes	2/18/2009	
LIN-02	HFCP - Parcel 1 - Irrigation Notes	2/18/2009	
LIN-03	HFCP - Parcel 1 - Irrigation Notes	2/18/2009	
LP-01	HFCP - Parcel 1 - Planting Plan	2/18/2009	
LP-02	HFCP - Parcel 1 - Planting Plan	2/18/2009	
LP-03	HFCP - Parcel 1 - Planting Plan	2/18/2009	
LP-04	HFCP - Parcel 1 - Planting Plan	2/18/2009	
LP-05	HFCP - Parcel 1 - Planting Plan	2/18/2009	
LP-06	HFCP - Parcel 1 - Planting Plan	2/18/2009	
LP-07	HFCP - Parcel 1 - Planting Plan	2/18/2009	
LP-08	HFCP - Parcel 1 - Planting Plan	2/18/2009	
LP-09	HFCP - Parcel 1 - Planting Plan	2/18/2009	
LP-10	HFCP - Parcel 1 - Planting Plan	2/18/2009	
LPD-01	HFCP - Parcel 1 - Planting Details	2/18/2009	
LPD-02	HFCP - Parcel 1 - Planting Details	2/18/2009	
LPN-01	HFCP - Parcel 1 - Planting Notes	2/18/2009	
WEI WEST WAREHOUSE EQUIPMENT, INC.			
SA00	Structure Layout VAS Platform Overall Plan View	12/10/2008	Rev. 05
SA01	Structure Layout VAS Platform Enlarged Foundation Plan	12/10/2008	Rev. 05
SA02	Structure Layout	12/10/2008	Rev. 05
SA03	Structure Layout VAS Platform Enlarged Foundation Plan	12/10/2008	Rev. 05
SA04	Structure Layout VAS Platform Enlarged Foundation Plan	12/10/2008	Rev. 05
SA05	Structure Layout VAS Platform Enlarged Foundation Plan	12/10/2008	Rev. 05
SA06	Structure Layout VAS Platform Enlarged Foundation Plan	12/10/2008	Rev. 05
SA07	Structure Layout VAS Platform Enlarged Foundation Plan	12/10/2008	Rev. 05

WEI WEST WAREHOUSE EQUIPMENT, INC. CONTINUED

SA08	Structure Layout VAS Platform Enlarged Foundation Plan	12/10/2008	Rev. 05
SA09	Structure Layout VAS Platform Footing Details	12/10/2008	Rev. 05
SB00	Structure Layout Shipping Platform Overall Plan View	12/10/2008	Rev. 05
SB01	Structure Layout Shipping Platform Overall Enlarged Foundation Plan	12/10/2008	Rev. 05
SB02	Structure Layout Shipping Platform Overall Enlarged Foundation Plan	12/10/2008	Rev. 05
SB03	Structure Layout Shipping Platform Footing Detail	12/10/2008	Rev. 05
SG01	Structure Layout Extendable Conveyor Foundation Plans	12/10/2008	Rev. 05
SG02	Structure Layout Extendable Conveyor Foundation Plans	12/10/2008	Rev. 05
SG03	Structure Layout Extendable Footings Foundation Plans	12/10/2008	Rev. 05
SG04	Structure Layout Extendable Footings Foundation Plans	12/10/2008	Rev. 05
SG05	Structure Layout Extendable Footings Foundation Plans	12/10/2008	Rev. 05
SG06	Structure Layout Extendable Tracks Footing Cross Sections	12/10/2008	Rev. 05

HIGHLAND FAIRVIEW CORPORATE PARK — PROJECT MANUAL

Div 00	Procurement and Contracting requirements	7/24/2008	
Div 01	General requirements	7/24/2008	
Div 02	Sitework	7/24/2008	
Div 03	Concrete	7/24/2008	
Div 04	Masonry	7/24/2008	
Div 05	Metals	7/24/2008	
Div 06	Wood and Plastics	7/24/2008	
Div 07	Thermal and Moisture Control	7/24/2008	
Div 08	Doors and Windows	7/24/2008	
Div 09	Finishes	7/24/2008	
Div 10	Specialties	7/24/2008	
Div 11	Equipment	7/24/2008	
Div 12	Furnishings	7/24/2008	
Div 13	Special Construction	7/24/2008	
Div 14	Conveyor Systems	7/24/2008	
Div 15	Mechanical	7/24/2008	
Div 16	Electrical	7/24/2008	

PRELIMINARY GEOTECHNICAL REPORT LEIGHTON & ASSOC.

1.0	Introduction	6/15/2007	
2.0	Geotechnical Investigation & Lab	6/15/2007	
3.0	Summary	6/15/2007	
4.0	Faulting & Seismicity	6/15/2007	
5.0	Conclusions	6/15/2007	
6.0	Preliminary Recommendations	6/15/2007	
7.0	Geotechnical Review	6/15/2007	
8.0	Limitations	6/15/2007	
map	Geotechnical Map / Boring Log	6/15/2007	

UPDATED PRELIMINARY GEOTECHNICAL REPORT LEIGHTON & ASSOC.

1.0	Introduction	4/30/2008	
2.0	Geotechnical Investigation & Lab	4/30/2008	
3.0	Summary	4/30/2008	
4.0	Faulting & Seismicity	4/30/2008	

UPDATED PRELIMINARY GEOTECHNICAL REPORT LEIGHTON & ASSOC. CONTINUED		
5.0	Conclusions	4/30/2008
6.0	Preliminary Recommendations	4/30/2008
7.0	Geotechnical Review	4/30/2008
8.0	Limitations	4/30/2008
map	Geotechnical Map / Boring Log	4/30/2008
OTHER SOILS REPORTS		
	Update Seismic Design Parameters	11/30/2007
	Preliminary Geotechnical Evaluation, SR-60 Widening	7/30/2008
	Clarifications to Soils, Highland Fairview Corporate Park	8/15/2008
	response to City of M.V. Review Comments & Map	11/5/2008
	geotechnical Recommendations for Temporary Fire Access Road	1/5/2009
	Clarifications #2 to Soils Report, Highland Fairview Corporate Park	1/14/2009
	Response to City of M.V. Review Comments, Public Works Depart.	1/16/2009
	Geotechnical Review of Improvements & rough Grade for Sanitary Sewer	1/21/2009
	Clarifications #3 to Soils report, Highland Fairview Corporate Park	1 /29/2009
	Rough Grading Anticipated Keyway Locations	1 /29/2009
	recommended Sub drain Locations	2/6/2009
	Infiltration Characteristics of onsite soils	6/23/2008
	Supplemental Remedial Grading Rec. Skechers VAS Platform	2/6/2009
STRUCTURAL CALCULATIONS		
	Structural Calculations by David Kramer	2/2/2009
TITLE 24 REPORT		
	title 24 Report by Alan Poydock - Thermalair, Inc.	1/30/2009
CIVIL MISC. EXHIBITS & REPORTS		
	Drainage Bypass for Redlands Sewer Work Area	2/18/2009
	Grading Balance Area	2/18/2009
	Highland SWPPP	2/18/2009
	Set Back for Restricted Hours of Work	2/18/2009
	Existing Stockpile Locations	2/18/2009
	Mitigation Monitoring Program by Michael Brandman Assoc.	12/23/2008
	Septic Exhibit	1/7/2009

EXHIBIT "F"
Qualifications / Changes from Plans & Specifications

General Clarifications:

1. Value Engineering will be ongoing in an attempt to reduce the project cost of construction with help of the architect and owner.
2. A total of ten (10) rain days are included in the project schedule.
3. Accelerated Schedule is included.
4. Site & Construction signage will require owner approval; also recommendation will be made for layout and style requirements as directed by owner.

General Conditions:

1. Temporary Barricades W/ Gawk screen shall be used (K-Rails).
2. Site construction fencing to be three (3) sides for duration of project and kept in good order & appearance, with screening at public view locations.
3. Car pooling and documentation shall be administered for duration of project.
4. All construction access shall be from Theodore Street only.
5. Street sweeping must be on-going, street maintained for total duration of project, "Must Be Clean" and street sweepers used during the construction of Corporate Park adhere to Mitigation & Monitoring Plan; MM AQ-1 and Plot Plan COA P37...equipment certification under SCAQMD Rule 1186.1.
6. Documentation of notification to subcontractors and their workers to Rules & Regulations.
7. Coordination with Native American groups to monitor site grading.
8. Sign-In Sheet & Visitors Log must be managed at all times.
9. Building LEED certification target goal to be Silver Certification.
10. Temporary Project signage must be (prior to installation) approved by Owner.
11. Waste Management: The contractor will recycle and or salvage a minimum of 50% (by weight) of non-hazardous construction and demolition debris.
12. Recycled Materials: The contractor will use materials with recycled content at all opportunities with review by Owner. The sum of post-consumer recycled content plus one-half of the pre-construction recycled content constitutes at least 10% (cost-based) on the total value of the materials in the project.
13. Regional Materials: The project will use building materials of products that have been extracted, harvested or recovered, as well as manufactured, with-in 500 miles of the project site for a minimum of 10% (cost-based) of the total materials value.
14. Contractor will utilize only those paints and coatings that comply with credit 4.2, 4.3 and 4.4 of the LEED standards.
15. The project will utilize a locally-sourced concrete supplier and interior fixture providing a 40% water use savings.
16. A temporary power and communications line to Owner trailers is included.
17. Survey and control of Jack-N-Bore at SR-60 and Redlands Boulevard is included.

Fountain Entry Feature:

1. Entry fountain budget "Black Plaster Finish" in lieu of Pebble Tech is accepted
2. No coping on the Jewel Box, building to look as if it is floating on water.
3. Fountain final design by Fountain Contractor (Design-Build) contract.

Grading — Rough & Precise:

1. Control of nuisance dust created by the work of this contract is included. Dust control resulting from inclement weather or winds (above and beyond AQMD standards) is excluded.
2. Tier III / B20 Fuel equipment must be utilized; Tier II equipment must have prior approval by Owner before use on site.
3. For retaining walls and any details missing, the contractor will use the Moreno Valley Standards for the construction methods.
4. Envirotec II Acrylic Polymer w/ green dye to slopes is included.
5. SWPPP changes as of July 1, 2010 are included.

6. Access road added at Theodore Ramp & SR-60 for Cal-Trans access is included.
 7. Additional removal and Engineered fill for stabilization at retention area at Cal-trans slope Pad Two (2), is included.
-

EXHIBIT "F"
Qualifications / Changes from Plans & Specifications

8. Access road for maintenance Line "F" is included.
9. Staging area changed form south of project to Parcel 4, is included.
10. Removal of septic tanks is included.
11. Removal of foundations from barn removal is included.
12. Removal of trees stubs is included.
13. Theodore left-turn widening — allowance is included.
14. Pre-Watering is included.
15. 95% compaction under all PCC driveways and parking is included.
16. Over-X and pads for tenant equipment is included.
17. Sub-drainage systems in all basins typ. Is included.
18. Fine grading and base on Sinclair is included.
19. Documentation for B20 Biodiesel is included.
20. Rumble plates — BMP's at site entrance and exit is included.
21. Fine grade and base is included at Sinclair Street.

Landscape / Irrigation / Maintenance:

1. Vine Trellis fencing is included as specified.
2. Washingtonia Palms in lieu of Date Palms at locations (other than Main Entry) is included.
3. Street and City Landscaping will carry One (1) year maintenance agreement.
4. Association and Corporate Park landscaping will carry a ninety (90) day maintenance agreement.
5. Tukur RKD 2 -in lieu of specified controllers is included.
6. A plant pre-purchase growing material is included.
7. Service laterals for irrigation not shown on drawings are included
8. Meter laterals, Backflow Preventers (Median 1" meter) (Assoc. 3" meter) (CP 2" meter) are included.
9. Irrigation buster pumps are included as required.

Aggregate Base:

1. Aggregate base for fire roads to be supplied by Owner.
2. Aggregate base for city streets to be furnished by subcontractor.

Concrete Paving:

1. All On-Site Drives and Parking to be concrete per Leighton Engineering specifications.
2. All on-site pavers to be colored stamped concrete to be in lieu of Pavers.
3. Pervious concrete in median is included or Pavers may be used to meet pervious requirement.

Asphalt Paving:

1. AG Base included per city standards on all city streets in lieu of Owner supplied base.
2. Asphalt paving to be on city streets only.
3. Current profile 6:12 in lieu of 6:10 is included.
4. Slurry Sealer by Owner for Eucalyptus Street at a later date.
5. Street patching and slurry at all crossing (patch & slurry), is included.
6. Adjust all water valve and manhole covers to finish grade is included.

7. Theodore Ramp @ SR-60, allowances per drawings and direction by Highland Fairview is included.

Theodore Ramp — Allowance:

Cast-In-Place Concrete Gutters:

1. Addition of V-Ditch is included.

Chain Link Fencing:

1. Added Four Thousand Four Hundred Seventy-One (4,471) lineal feet of Cal-Trans standard chain link fence (157/lf shown on plan) is included.

Cast-In-Place Concrete Screen walls:

1. Site screen wall overhead panels have been removed at gate entries.

Decorative Metal Fences & Gates:

1. Gates, Motors, Controllers at employee parking areas is included.
 2. Entry Gate motors and controllers are included.
 3. Gates to have Strobe Sensors — per Moreno Valley Fire authority standards.
 4. Protection bollards at entry gates are included.
-

EXHIBIT "F"
Qualifications / Changes from Plans & Specifications

5. Fire Access gate operating system to be Opticon System per Fire Marshal's direction is included.

Unit Masonry Walls:

1. PCC concrete in lieu of masonry walls is included.
2. Details to be Moreno valley city standards for retaining walls.

Water Domestic:

1. Water assembly for water meters is included.
2. Two (2) each pressure reducing valve stations Redlands and Sinclair are included.
3. Backflow preventer devices are included.
4. Provisions for 1" meter at Median, 2" meter at Corporate Park and 3" meter at Association are included.

Redlands Ramp DW Loop Connector:

1. Scope and drawings per Highland Fairview direction is included.

Water Fire:

1. Temporary fire water will be required at the time of roofing materials delivery and installation.
2. Added fire laterals to pads 1 and 4 are included.
3. Fire line change from 10" to 12" is included.
4. Stainless Steel hardware is included.
5. Fire protection bollards are included.

Sanitary Sewer Systems:

1. Added laterals to service future pads 2, 3 and 4 are included.

Storm Drainage Systems:

1. Rip-Rap change in design Line "F" is included.
2. Secondary Outlet structure is included.
3. Temporary transitions=al 24" HDPE pipe from north basin is not required and not included.
4. Off-Site storm drainage at Redlands Blvd. is included.
5. Added — Large trash gate and fencing is included.

Site Underground Electrical:

1. Includes all conductors.
2. Includes changes to 2,500 KVA transformers.
3. Includes traffic signal interconnect.
4. Includes power for landscape maintenance electrical powered maintenance equipment.
5. Underground Electrical includes High-Voltage Transformer & Secondary Distribution is included.
6. Underground Jack-N-Bore @ SR 60 for future electrical service is included.

Low-Voltage Dry Utilities (Communication):

1. Includes all on-site and off-site cabling.
2. Includes telephone backbone.
3. Low-Voltage, Dry Utilities, Communications infrastructure, (Verizon, Time Warner, Gas trench only) are included

Street Lights & Bases:

1. Twenty-Six (26) Marbelite Street lights to be furnished and installed with all underground and infrastructure.

Guard Shacks:

1. Guard shacks are furnished by tenant, installed by contractor.

Site Specialties:

1. Flag poles to be: one (1) US flag and pole, one (1) California flag and pole and one (1) pole for Skechers USA flag.
2. Knox Boxes locations to be determined by Fire Marshal are included.

Paint:

1. Dock numbers interior and exterior located at dock doors per architectural drawings.
2. Interior Columns to receive "Yellow Caution Color" to eight feet high.

Site Electrical & Generator:

1. Service duct and cable two (2) each are included.
 2. Gas trenching and sanding is included.
 3. Transformer increased to Seven (7) each 2,500 KVA are included.
-

EXHIBIT "F"
Qualifications / Changes from Plans & Specifications

4. Added Four (4) each conduits at Redlands – in lieu of Two (2) each for Primary and Secondary distribution is included.
5. Electric Car charging stations is included.
6. UG electrical service from Dracaea Street west on Redlands Blvd. is included.
7. Patch & Slurry Redlands Blvd. is included.
8. UG power under SR-60 – Two (2) 4" schedule 80 conduits in 12" casing – Jack-N-Bore are included.

Reinforcing Steel:

1. Foundation reinforcement for Wynright (WEI) racking equipment is included.

Cast-In-Place Concrete:

1. Foundations for WEI equipment by ICC, per Wynright (WEI) drawings & Kramer Structural Drawings, are included.
2. Erecting bolts, & column grouting by Wynright.
3. Re-saw and joint filler for Wynright columns.
4. Exposed Interior Slabs finish Tolerances shall be FF55, and Tile areas may be FF35.
5. Sixty-Five (65%) percent of forms liners removed.
6. Exposed aggregate finish (sand blasting) deleted.
7. Site perimeter walls to be tilt panel wall construction.
8. Haul off of concrete foundations spoils to off-site location for recycling.
9. Polished concrete floor finish reviewed at ICC office was accepted by Tenant

Structural steel:

1. Over-Wall ladders at fire wall on roof are included.

Glazing Decorative Metal railing:

1. To be HDI 'Circum'

Rough Carpentry:

1. Skylight curbs are not pressure treated.

Panelized Roof:

1. Discount taken for Ten (10) day pay discount Four Hundred Twenty-Five (425,000.) thousand dollars.

Plastic Fabrication:

1. Alabaster Wall detail deleted – value One Hundred Thousand Dollars.

Bituminous Dampproofing:

1. Site retaining wall
2. Elevator Pit
3. On-grade tile and VCT areas.

Metal Wall. / Soffit Panels:

1. Aluminum composite panels by Omega – Omega-Lite panels

Thermal plastic Polyolefin roofing:

1. Firestone 45mil TPO w/ 20 year NDL warrantee.

Smoke Ventilating Skylights:

1. Bristolite 4896-SSVDL-CM-HS1-MF-OR curb mounted double 10# smoke hatch.

Vertical Joint Sealants:

1. Truck apron and building is included.

Multi-Leaf Vertical Lift Doors:

1. Northwest 24ga. #924 and 20ga at ramp doors.

Glass & glazing:

1. Frosted glass in lieu of Polycarbonate panels and hardware
2. Standard Kynar Color and finish is accepted.
3. Vision Glass – 1” insulated (1/4” Solar Cool Cariba 1/2” air gap 1/4” Solarban 60 is accepted
4. Spandrel Glass – 1/4” Solar Cool Cariba w/ warm Gray Opacicoat is accepted
5. Alternate to Polycarbonate Panel – 1/4” Clear Annealed glass with frosted finish is accepted

Thin-Set Tile:

1. Crack isolation underlayment on Mezzanine level is included.
 2. Polished concrete floors in lieu of to be determined.
-

EXHIBIT "F"
Qualifications / Changes from Plans & Specifications

Acoustical Panel Ceilings:

1. 15/16th tile in lieu of specification thickness.

Bamboo Flooring:

1. Includes matching base.

Carpeting Tiles / VCT:

1. Areas to receive polished concrete to be determined.
2. Rubber base to be at all polished concrete locations.

Metal Toilet Compartments & Accessories:

1. ASI manufactures change in lieu of Bobrick.

Emergency Key Cabinets (Knox Box):

1. Nine (9) in bids at this time.

Decorative Airfoil Louvers & Wire Screening:

1. Radius-edge custom louvers are included.
2. Jewel Box exterior finish – Hendricks Screen per HPA directive, (v-wire, 69v, spacing 3/8" with support rod style Fin, height 1.00)

Window Shades:

1. Shades on windows boxed openings tilt concrete wall cover.
2. Shades added at exterior office glazing

Elevator:

1. Otis Holeless Hydraulic 2,500# w/ level 2 cab finish.

Fire Sprinkler Systems:

1. FM 200 System and Pre-Action System included.

Commercial Water Closet, Urinals, Fixturers:

1. L-4 fixturers in lieu of L-1, L-2, and L-3
2. Plumbing design to be taken over to maintain the Design-Build status.

Heating, Ventilating & Air Conditioning:

1. Clarifiers to filters and racks in warehouse.
2. Mechanical design to be taken over to maintain the Design-Build status.

Electrical:

1. Electrical design to be taken over to maintain the Design-Build status.
2. Power to parking lot light poles north parking lot for data scanners.
3. Connections to Balers, Shredders and Compactors (furnished by tenant).
4. CO2 sensors for interlock.
5. Install tenant supplied 'Big Ass Fans'.
6. Roof penetrations and power for roof top cameras.
7. Distribution of electrical for landscape irrigation.
8. Charging Station for Electric powered cars by contractor
9. Power, Support, Installation of tenant supplied Big Ass Fans shall be included.

Lighting:

1. Lighting upgrade included.

Fire Alarm:

1. Silent Knight Addressable Fire Alarm panel

Notes:

1. Included: hook-up of tenant/owner supplied equipment by plumber and electrician.
2. Maintenance office area not designed, power has been incorporated in plan.
3. Battery charging designed, but power has been incorporated in plan.
4. Design based on LEED certification.
5. On-Site bollards on project have been included (100%)
6. Electrical, Mechanical and Plumbing drawings must be taken over by contractor and engineering to complete and sign for submittal for permitting

GENERAL EXCLUSIONS:

1. Permits and plan check fees, utility company charges, encroachment permits.
 2. Testing and Special Inspections by deputy inspector by owner.
-

EXHIBIT "F"
Qualifications / Changes from Plans & Specifications

3. Builders risk insurance by owner.
 4. Cost incurred to remove or relocate unknown utilities or structures buried on site not disclosed in contract documents and site visit by General Contractor & his Subcontractor.
 5. Toxic waste removal.
 6. Export or import of soil beyond project adjoining land owned by owner.
 7. Special Insurance to the extent not set forth in Addendum A.
 8. Site gas line meter.
 9. Dewatering of ground water not resulting from action or inaction by contractor.
 10. Soils stabilization methods not shown on plan or specifications which is not a result of action or inaction by the contractor.
 11. Pest control.
 12. It is to the General Contractors decision if he employees Guard service; but this does not relieve the responsibility of the contractor to protect all materials and work in place until the time the owner has taken full and final acceptance of same.
 13. Eyewash at battery storage equipment by owner, rough-in and hock-up by contractor.
-

HFCP (Skechers)**EXHIBIT G Contractor Obligations**

No.	General Description	Actual Text	Timing	Status	Notes	Resp.
	Tentative Parcel Map	Conditions of Approval				
P5	Site Maintenance	All undeveloped portions of the site shall be maintained in a manner that provides for the control of weeds, erosion and dust.	Construction			GC
P12	Archaeo/Paleo	If potential historic, archaeological, or paleontological resources are uncovered during excavation or construction activities at the project site, work in the affected area will cease immediately and a qualified person (meeting the Secretary of the Interior's standards (36CFR61)) shall be consulted by the applicant to evaluate the find, and as appropriate recommend alternative measures to avoid, minimize or mitigate negative effects on the historic, prehistoric, or paleontological resource. Determinations and recommendations by the consultant shall be implemented as deemed appropriate by the Community Development Director, in consultation with the State Historic Preservation Officer (SHPO) and any and all affected Native American Tribes before any further work commences in the affected area. (Advisory) If human remains are discovered, work in the affected area shall cease immediately and the County Coroner shall be notified. If it is determined that the remains are potentially native American, the California Native American Heritage Commission and any and all affected native American Indians tribes such as the Morongo Band of Mission Indians or the Pechanga Band of Luiseno Indians shall be notified and appropriate measures provided by State law shall be implemented.	Construction			HF/GC
P15	Archaeology	A qualified archaeologist and or tribal monitors from any affected Native American Indian tribes shall be present during grading to evaluate and recommend appropriate actions for any archaeological deposits exposed by construction activity. The monitoring archaeologist shall be empowered to halt grading in the vicinity of an exposed archaeological deposit until that deposit can be fully evaluated. The consultant (i.e. archaeologist) shall consult with any and all affected Native American Indian tribes in the area on any Treatment Plan prepared for the project.	Grading			HF/GC
P16	Mitigation Measures	Prior to the issuance of precise grading permits, mitigation measures contained in the Mitigation Monitoring Program approved with this project shall be implemented as provided therein.	Construction			HF/GC
B-1	Applicable Codes	The above project shall comply with the current California Codes (CBC, CEC, CMC and the CPC) as well as all other city ordinances. All new projects shall provide a soils report. Plans shall be submitted to the Building Department as a separate submittal.	Construction			HF/GC
F2	Fire Flows	The Fire Prevention Bureau is required to set a minimum fire flow for the remodel or construction of all commercial buildings per CFC Appendix B and Table B105.1. The applicant/developer shall provide documentation to show there exists a water system capable of delivering 4000 GPM for 4 hour(s) duration at 20-PSI residual operating pressure. The required fire flow may be adjusted during the approval process to reflect changes in design, construction type, or automatic fire protection measures as approved by the Fire Prevention Bureau. Specific requirements for the project will be determined at time of building plan submittal. (CFC 508.3, Appendix B and MVMC 8.36.100 Section D). The 50% reduction in fire flow was granted for the use of fire sprinklers throughout the facility. The reduction shall only apply to fire flow, hydrant spacing shall be per the fire flow requirements listed in CFC Appendix B and C.	Construction			HF/GC

Updated: 3/18/2010

HFCP (Skechers)**EXHIBIT G Contractor Obligations**

No.	General Description	Actual Text	Timing	Status	Notes	Resp.
F3	Fire Hydrants	Industrial, Commercial, Multi-family, Apartment, Condominium, Townhouse or Mobile Home Parks. A combination of on-site and off-site super enhanced fire hydrants (6" x 4" x 4" x 2 1/2") shall not be closer than 40 feet and more than 150 feet from any portion of the building as measured along approved emergency vehicular travel ways. The required fire flow shall be available from any adjacent fire hydrant(s) in the system. Where new water mains are extended along streets where hydrants are not needed for protection of structures or similar fire problems, super or enhanced fire hydrants as determined by the fire code official shall be provided at spacing not to exceed 500 feet of frontage for transportation hazards.	Construction			HF/GC
LD6	Nuisances (This condition is in both TPM and Plot Plan)	The developer shall monitor, supervise and control all construction and construction supportive activities, so as to prevent these activities from causing a public nuisance, including but not limited to, insuring strict adherence to the following: a. Removal of dirt, debris, or other construction material deposited on any public street no later than the end of each working day. b. Observance of working hours as stipulated on permits issued by the Public Works Department. c. The construction site shall accommodate the parking of all motor vehicles used by persons working at or providing deliveries to the site. d. All dust control measures per South Coast Air Quality Management District (SCAQMD) requirements shall be adhered to during the grading operations. Violation of any condition or restriction or prohibition set forth in these conditions shall subject the owner, applicant, developer or contractor(s) to remedies as noted in the City Municipal Code 8.14.090. In addition, the City Engineer or Building Official may suspend all construction related activities for violation of any condition, restriction or prohibition set forth in these conditions until such time as it has been determined that all operations and activities are in conformance with these conditions.	Construction			GC
LD7	Downstream Properties (This condition is in both TPM and Plot Plan)	The developer shall protect downstream properties from damage caused by alteration of drainage patterns, i.e., concentration or diversion of flow. Protection shall be provided by constructing adequate drainage facilities, including, but not limited to, modifying existing facilities or by securing a drainage easement.	Grading			GC
LD19	SWPPP (This condition is in both TPM and Plot Plan)	Prior to grading permit issuance, the developer shall prepare a Storm Water Pollution Prevention Plan (SWPPP) in conformance with the State's Construction Activities Storm Water General Permit. A copy of the the current SWPPP shall be kept at the project site and be available for review upon request. The SWPPP shall be submitted to the City's Storm Water Program Manager on compact disk(s) in Microsoft Word format. The developer is required to bring the SWPPP to the grading pre-construction meeting.	Grading			HF/GC
LD40	R-O-W Permits (This condition is in both TPM and Plot Plan)	All work performed within the City right-of-way requires a construction permit. As determined by the City Engineer, security may be required for work within the right-of-way. Security shall be in the form of a cash deposit or other approved means. The City Engineer may require the execution of a public improvement agreement as a condition of the issuance of the construction permit. All inspection fees shall be paid prior to issuance of construction permit.	Construction			HF/GC
LD44	Waste Management Plan (This condition is in both TPM and Plot Plan)	Prior to issuance of a building permit, the developer shall submit for review and approval, a Waste Management Plan (WMP) per City code and Land Development Division requirements.	Building Permit			HF/GC

Updated: 3/18/2010

HFCP (Skechers)

EXHIBIT G Contractor Obligations

<u>No.</u>	<u>General Description</u>	<u>Actual Text</u>	<u>Timing</u>	<u>Status</u>	<u>Notes</u>	<u>Resp.</u>
LD46	Public Improvements (This condition is in both TPM and Plot Plan)	Prior to issuance of a certificate of occupancy or building final, the developer shall construct all public improvements in conformance with applicable City standards, unless otherwise approved by the City Engineer, including but not limited to the following applicable improvements: a. Street improvements including, but not limited to: pavement, base, curb and/or gutter, cross gutters, spandrel, sidewalks, drive approaches, pedestrian ramps, street lights, signing, striping, under sidewalk drains, landscaping and irrigation, medians, redwood header boards, pavement tapers/transitions and traffic control devices as appropriate. b. Storm drain facilities including, but not limited to: storm drain pipe, storm drain laterals, open channels catch basins and local depressions. c. City-owned utilities. d. Sewer and water systems including, but not limited to: sanitary sewer, potable water and recycled water. e. Under grounding of existing and proposed utility lines less than 115,000 volts. f. Relocation of overhead electrical utility lines including, but not limited to: electrical, cable and telephone.	Occupancy		HF responsible for Item "F"	HF/GC
LD47	Utilities (This condition is in both TPM and Plot Plan)	Prior to issuance of a certificate of occupancy or building final, all existing and new utilities adjacent to and on-site shall be placed underground in accordance with City of Moreno Valley ordinances.	Occupancy		No existing utilites known	GC
LD48	Water Quality Improvements (This condition is in both TPM and Plot Plan)	Prior to issuance of a certification of occupancy or building final, the Developer must comply with the following: a. Any required water quality basins, associated treatment control BMPs, and associated hardware per the approved civil drawing must be constructed, certified and approved by the City Engineer including, but not limited to, piping, forebay, aftbay, trash rack. b. An Engineer's Line and Grade Certification shall be provided to the City. c. Said facilities shall pass a a flow test per City test procedures.	Occupancy			GC
LD50	Aggregate Slurry (This condition is in both TPM and Plot Plan)	Aggregate slurry, per Section 203-5 of Standard Specifications for Public Works Construction, may be required just prior to acceptance of street(s) into the City maintained road system at the discretion of the City Engineer.	Acceptance of Streets			HF
LD55	Caltrans Property (This condition is in both TPM and Plot Plan)	Notwithstanding what is shown on the tentative parcel map and grading plan, no grading on Caltrans property shall be permitted without an encroachment permit.	Grading			HF/GC
LD60	Pavement Edge Treatment (This condition is in both TPM and Plot Plan)	Prior to improvement plan approval, the plans shall show redwood headers, or other pavement edge treatment as approved by the City Engineer, at all edge-of-pavement locations in the public right-of-way. If redwood header board is approved, the redwood header shall be installed per the City Standard, using a nominal minimum of 2" wide by 6" deep board. This shall include, but not be limited to, the following locations: a. Along the frontage of Parcels 1,2 and 4 of PM 35629, south side of Eucalyptus Avenue, south edge of the east bound travel lane to be constructed in Phase 1. b. Along the frontage of Parcel 4 of PM 35629, east side of Theodore Street, east edge of the northbound travel lane to be constructed in Phase 2. c. Along the frontage of Parcel 3 of PM 35629, west side of Redlands Boulevard, west edge of the southbound travel lane to be constructed in Phase 3. d. Along the frontage of Parcel 3 of PM 35629, south side of Eucalyptus Avenue, south edge of the eastbound travel lane to be constructed in Phase 3. e. At proposed pavement Transitions at edge of pavement. f. As required by the City Public Works Inspector(s).	Construction		Phase 1 only	GC
LD62	Caltrans Encroachment (This condition is in both TPM and Plot Plan)	Prior to commencing any work within Caltrans right-of-way, the developer shall obtain an encroachment permit from Caltrans. Work within Caltrans right-of-way may include that work associated with storm drain connections to existing freeway culverts, water line removal, water line extension from north of the freeway including jack and bore operation, power pole relocation and/or undergrounding, and any grading.	Construction			HF/GC

Updated: 3/18/2010

HFCP (Skechers)**EXHIBIT G Contractor Obligations**

<u>No.</u>	<u>General Description</u>	<u>Actual Text</u>	<u>Timing</u>	<u>Status</u>	<u>Notes</u>	<u>Resp.</u>
LD72	Grading Certification (This condition is in both TPM and Plot Plan)	Prior to issuance of a building permit, final line and grade certification shall be provided by the licensed engineer of record stating the building pad is in substantial conformance with the approved grading plan. For Parcel 1, the developer shall coordinate with Land Development staff to facilitate partial pad certification in conjunction with construction sequencing as approved by the City Engineer. The relocation and/or abandonment of existing utilities and quitclaim of existing easements shall be coordinated with the sequencing of the Parcel 1 development such that these do not interfere or encumber the particular building area being developed at any given time.	Building Permit			HF/GC
LD77	Caltrans Jack and Bore (This condition is in both TPM and Plot Plan)	Prior to occupancy for the proposed building in Phase 1, the developer shall obtain an encroachment permit from Caltrans and complete the following jack and bore operation for the installation of a proposed water line underneath SR-60 to be located within Sinclair Street right-of-way north of the freeway. The developer shall apply Caltrans crossing requirements to the portion of the water line that will lie within Parcel G of the tentative parcel map.	Occupancy			HF/GC
LD80	Utilities (This condition is in both TPM and Plot Plan)	Prior to occupancy of the proposed building in Phase 1, existing utilities shall be relocated outside of Parcels G, 5, and 6, as identified on the tentative parcel map (Parcels 5 and 6 to be dedicated as lettered lots on the final parcel map), being offered for dedication for highway and road purposes.	Occupancy			HF/GC
LD81	Overhead Electrical Service (This condition is in both TPM and Plot Plan)	Prior to occupancy of the proposed building in Phase 1, the developer shall bring overhead electrical service to the building from the nearest source identified by the developer to be located on the west side of Redlands Boulevard near Dracaea Avenue. This will require the developer to bore under Redlands Boulevard to the east side of Redlands Boulevard.	Occupancy			HF/GC
LD83	Infiltrometer Test (This condition is in both TPM and Plot Plan)	In accordance with the City of Moreno Valley standards, the Double Ring Infiltrometer field testing method per ASTM D3385 shall be utilized to perform in-situ percolation testing in the location of proposed infiltration area treatment control Best Management Practice (BMP) and the results included as an amendment to the Final WQMP prior to issuance of the first occupancy.	Occupancy			HF/GC
LD85	Water Quality BMPs (This condition is in both TPM and Plot Plan)	The Applicant shall select and implement treatment control BMPs that are medium to highly effective for treating Pollutants of Concern (POC) for the project. POC include project pollutants associated with a 303(d) listing or a Total Maximum Daily Load (TMDL) for receiving waters. Project pollutants of concern include: sediment/turbidity, nutrients, organic compounds, oxygen demanding substances, and pathogens. Exhibit C of the document, "Riverside County Water Quality Management Plan for Urban Runoff" dated July 24, 2006 shall be consulted for determining the effectiveness of proposed treatment BMPs.	Construction			HF/GC
LD86	Water Quality BMPs (This condition is in both TPM and Plot Plan)	Overall, the proposed treatment control concept is accepted as the conceptual treatment control BMP for the proposed site. The Applicant has proposed to incorporate the use of combined detention and infiltration basins with underdrain systems. Final design details of these detention and infiltration systems must be provided in the first submittal of the F-WQMP. The size of the treatment control BMP is to be determined using the procedures set forth in Exhibit C of the Riverside County Guidance Document. The Applicant acknowledges that more area than currently shown on the plans may be required to treat site runoff as required by the WQMP Guidance Document.	Construction			HF/GC

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HFCP (Skechers)**EXHIBIT G Contractor Obligations**

<u>No.</u>	<u>General Description</u>	<u>Actual Text</u>	<u>Timing</u>	<u>Status</u>	<u>Notes</u>	<u>Resp.</u>
LD88	Water Quality BMPs (This condition is in both TPM and Plot Plan)	The Applicant shall, prior to building or grading permit closeout or the issuance of a certificate of occupancy, demonstrate: a. That all structural BMPs have been constructed and installed in conformance with the approved plans and specifications; b. That all structural BMPs described in the F-WQMP have been implemented in accordance with approved plans and specifications; c. That the Applicant is prepared to implement all non-structural BMPs included in the F-WQMP, conditions of approval, and building/grading permit conditions; and d. That an adequate number of copies of the approved F-WQMP are available for the future owners/occupants of the project.	Occupancy			HF/GC
SD4	Damage Repair (This condition is in both TPM and Plot Plan)	Any damage to existing landscape easement areas due to project construction shall be repaired/replaced by the Developer, or Developer's successors in interest, at no cost to the Moreno Valley Community Services District.	Construction			GC
SD12	Median Improvements (This condition is in both TPM and Plot Plan)	All median landscaping specified in the tentative map or in these Conditions of Approval shall be constructed pursuant to the project phasing plan dated December 10, 2008.	Construction			GC
TE1	Signal Interconnect	Install Citywide Communication System (Traffic Signal Interconnect) per City Standards along Eucalyptus Avenue and Theodore Street.	Occupancy			HF/GC
TE7	Street Sweeping	Prior to final approval of the street improvement plans, the developer shall submit to the City a contract between the developer and a street sweeping company for sweeping the streets during the warranty period, for the day shown on the posted street sweeping signage. The contract shall include a contact person and phone number for said contact person.	SIP Approval		Post- construction only	HF
TE8	Traffic Control Plan	Prior to issuance of a construction permit, construction traffic control plans prepared by a qualified, Registered Civil or Traffic Engineer shall be required.	Construction			HF/GC
TE16	Signing and Striping	Prior to issuance of a certificate of occupancy, all approved signing and striping shall be installed per current City Standards and the approved plans.	Occupancy			GC
TE17	Intersection and Roadway Improvements	Prior to issuance of a certificate of occupancy for Phase 1, the project applicant shall construct the intersection/roadway improvements identified in TE11, TE12, and TE13 per the approved plans.	Occupancy			GC
TE19	Driveways	Prior to the issuance of a certificate of occupancy for the project, driveway access at the following locations will be installed as follows: a) The easternmost driveway: full access; b) The second driveway from the east: right-in, right-out access by means of a raised median; c) The third driveway from the east (employee parking lot): full access; d) The second driveway from the west: right-in, right-out by means of a raised median; e) The westernmost driveway: full access; f) Additional driveways for Phases 2 and 3 shall be reviewed at the time of their entitlement, and conditions of approval shall be prepared as necessary regarding access. NOTE: All truck driveways shall have curb return radii of 50 feet.	Occupancy			GC

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No.	General Description	Actual Text	Timing	Status	Notes	Resp.
TE20	Traffic Control, Signing/Striping	Prior to the acceptance of streets into the City-maintained road system, all approved traffic control and signing and striping shall be installed per current City Standards and the approved plans.	Acceptance of Streets			GC
Parks(b)	Contractor Licenses (This condition is in both TPM and Plot Plan)	The General Contractor shall be a State of California Class 'A' General Engineering Contractor, per the Business and Professions Code Section 7056, or a combination of State of California Class 'C' licenses for which the work is being performed. Licenses must be current and in good standing, for the duration of the project.	General			GC
Parks(f)	Trail Grading (This condition is in both TPM and Plot Plan)	Grading certification and compaction tests for trails and bikeways are required, prior to any trail or bikeway improvements being installed.	Grading			HF/GC
Parks(m)	Trail Staking (This condition is in both TPM and Plot Plan)	The trail and bikeway shall be surveyed and staked by the developer. The trail shall be inspected and approved by the Parks and Community Services Director or his/her designee prior to the commencement of related work.	Grading			GC
Parks(n)	Trail Damage (This condition is in both TPM and Plot Plan)	Any damage to bikeways, trails, or fencing during construction shall be repaired by the developer and inspected by the Parks and Community Services Director or his/her designee; prior to Certificate of Occupancy.	Construction			GC
Parks(o)	Trail Accesses (This condition is in both TPM and Plot Plan)	Concrete access areas to trails with decomposed granite surfaces shall be rough finished concrete (typically tine finish). The access shall extend to the main trail flat surface.	Construction			GC
Parks(s)	Landscape Damage (This condition is in both TPM and Plot Plan)	Any damage to existing landscape or hardscape areas due to project construction shall be repaired/replaced by the developer, or developer's successors in interest, at no cost to the City or Community Services District.	Construction			GC
Parks(t)	Parks Inspections (This condition is in both TPM and Plot Plan)	All inspections shall be requested two (2) working days in advance from the Parks and Community Services Department at the time of rough and precise grading; fence and gate installation; curb and drainage; flatwork; D.G. installation; graffiti coating; and final inspection.	Construction			GC
PD1	Site Fencing (This condition is in both TPM and Plot Plan)	Prior to the start of any construction, temporary security fencing shall be erected. The fencing shall be a minimum of six (6) feet high with locking, gated access and shall remain through the duration of construction. Security fencing is required if there is: construction, unsecured structures, unenclosed storage of materials and/or equipment, and/or the condition of the site constitutes a public hazard as determined by the Public Works Department. If security fencing is required, it shall remain in place until the project is completed or the above conditions no longer exist.	Construction			GC
PD2	Project Signage (This condition is in both TPM and Plot Plan)	Prior to the issuance of grading permits, a temporary project identification sign shall be erected on the site in a secure and visible manner. The sign shall be conspicuously posted at the site and remain in place until occupancy of the project. The sign shall include the following: a. The name (if applicable) and address of the development. b. The developer's name, address, and a 24-hour emergency telephone number.	Grading			HF/GC

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HFCP (Skechers)**EXHIBIT G Contractor Obligations**

No.	General Description	Actual Text	Timing	Status	Notes	Resp.
	Plot Plan Conditions of Approval					
P11	Drainage	Prior to the issuance of any grading permits and prior to any physical disturbance of any natural drainage course, for any area determined to contain riparian vegetation, the applicant shall obtain a stream bed alteration agreement or permit, or a written waiver of the requirement for such an agreement or permit, from both the California Department of Fish and Game and the U.S. Army Corps of Engineers. Written verification of such a permit or waiver shall be provided to the Community Development Department—Planning Division and the Public Works Department—Land Development Division.	Grading		For GC info only. All permits by HF.	HF/GC
P29	Completion of Improvements	Prior to issuance of Certificates of Occupancy or building final, all required landscaping, buildings, lighting, parking lot improvements including, but limited to paving and striping, and irrigation shall be installed for the required phase.	Occupancy			GC
P30	Fences and Walls	Prior to the issuance of Certificates of Occupancy or building final, all required and proposed fences and walls shall be constructed and installed for the required phase according to the approved plans on file in the Community Development Department—Planning Division.	Occupancy			GC
P31	Landscape Review	Prior to issuance of Certificate of Occupancy or building final, all required landscaping and irrigation, including basins, shall be reviewed by the Community Development Department — Planning Division. The landscaping shall be installed for the required phase in accordance with the City's Landscape Standards the approved landscape plans, and conditions of approval included in the grading and building sections above.	Occupancy			HF/GC
P35	Construction Lighting	MM A-1 During project construction, the construction site manager or supervisor shall ensure that construction lighting shall be limited to lighting within the work area and light trespass shall be avoided through directional lighting, shielding, and other similar control measures.	Construction			GC
P38	Low Emission Construction	MM AQ-2 The project applicant shall meet CARB standards by assuring use of lowest emission construction equipment reasonably available for use on this project. The construction fleet average shall meet or exceed Tier II level and the applicant shall project incentives in the bidding process in selecting construction contractors that propose the lowest-emission construction equipment (i.e., high pressure injectors; smaller engine sizes; electric equipment; gasoline powered equipment with catalytic converters; and alternatively fueled construction equipment). The applicant shall also provide incentives in the bidding process in selecting grading and construction contractors that propose the use of equipment using Level III diesel particulate filters.	Construction		GC will use Level III diesel particulate filters if available.	GC
P39	Equipment Maintenance	MM AQ-3 During project construction, construction equipment shall be properly maintained in accordance with manufacturer's specifications; maintenance shall include proper tuning and timing of engines. During maintenance, precautions shall be taken to ensure that fuel is not leaked onto the ground. Equipment maintenance records and equipment design specification data sheets shall be kept onsite during construction and subject to inspection by the SCAQMD.	Construction			GC
P40	Equipment Idling	MM AQ-4 During project construction, the project applicant shall require all contractors to turn off all construction equipment and delivery vehicles when not in use or prohibit idling in excess of five (5) minutes.	Construction			GC

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P41	Traffic Control	MM AQ-5 Prior to issuance of a grading permit, the project applicant shall provide a traffic control plan to the City of Moreno Valley that will describe in detail safe detours around the project construction site with temporary traffic control (e.g., flag person) during construction-related truck hauling activities, as required by the City. Construction activities that affect traffic flow on the arterial system shall be minimized by scheduling such activities to off-peak hours. Construction truck travel shall be routed to minimize travel on congested streets and near to sensitive receptor areas. Construction traffic shall gain access to the project site via Theodore Street and Eucalyptus Avenue to the greatest extent possible to minimize traffic and dust along Redlands Boulevard. The traffic control plan is primarily intended as a safety measure but also can minimize traffic congestion and delays that increase idling and acceleration emissions. The traffic control plan shall be prepared in accordance with U.S. Department of Transportation Federal Highways Administration Rule on Work Zone Safety 23 CFR 630 Subpart J. Developing and Implementing Traffic Management Plans for Work Zones.	Grading			HF/GC
P43	Carpooling	MM AQ-7A Construction Phases. Prior to the issuance of grading permits, the developer shall provide documentation to the City of Moreno Valley indicating that construction workers will be encouraged to carpool to the greatest extent practical, including providing information on park and ride programs available to workers. The project shall also provide for lunch services onsite during construction to minimize the need for offsite vehicle trips. Workers shall be informed in writing and a letter placed on file at the City of Moreno Valley documenting the efforts to encourage carpooling.	Grading			GC
P45	Electric Hook-ups	MM AQ-8 During project construction, onsite electrical hook-ups shall be provided for electric construction tools including saws, drills and compressors, to minimize the need for diesel powered electric generators.	Construction			GC
P46	Rumble Strips	MM AQ-9 During project construction, rumble or bumper strips or similar best management practices shall be provided where vehicles enter and exit the construction site onto paved roads, or wash off trucks or any equipment leaving the site with each trip.	Construction			GC
P47	Offsite Construction Hours	MM AQ-10 Offsite construction improvements shall be limited to an 8-hour day during daylight hours.	Construction			GC
P55	Food Service	MM AQ-18. Food services shall be provided onsite.	Construction			GC
P64	Archaeology	MM CR-2. Project-related archaeological monitoring shall include the following constraints: 1) All construction-related earthmoving shall be monitored to a depth of ten (10) feet below grade by the Project Archaeologist or his/her designated representative; 2) Once 50 percent of the earth to be moved has been examined by the Project Archaeologist, the Project Archaeologist may, at his or her discretion, terminate monitoring if and only if no buried cultural resources have been detected; 3) If buried cultural resources are detected during monitoring, monitoring must continue until 100 percent of virgin earth within the study area has been disturbed and inspected by the Project Archaeologist or his/her designated representative; 4) Grading shall cease in the area of a cultural artifact or potential cultural artifact as delineated by the Project Archaeologist or his/her designated representative. Grading should continue in other areas of the site while particular find are investigated; and 5) If cultural artifacts are uncovered during grading, they shall be examined by a professional archaeologist subject to MM CR-3, and decisions shall be made as to mitigation, treatment and/or disposition in consultation with the culturally affiliated Tribe(s), as determined by the City. A mitigation-monitoring report must accompany the artifacts.	Grading			HF/GC

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<u>No.</u>	<u>General Description</u>	<u>Actual Text</u>	<u>Timing</u>	<u>Status</u>	<u>Notes</u>	<u>Resp.</u>
P65	Cultural Resources	MM CR-3. Should buried prehistoric cultural resources be encountered during monitoring, the resources shall be evaluated for significance in consultation with the culturally affiliated Tribe(s), as determined by the City, following CEQA Guidelines prior to continuance of grading in the area.	Grading			HF/GC
P67	Paleontology	MM CR-5. (GP) Prior to the issuance of a grading permit, a City-approved Project Paleontologist shall be retained to initiate and supervise paleontological mitigation-monitoring in all areas of the project, subject to certain constraints found below: 1) Once excavations reach ten (10) feet in depth, monitoring of excavation in areas identified as likely to contain paleontological resources by a qualified paleontological monitor or his/her representative must take place; 2) Paleontological monitors shall be equipped to salvage fossils as they are unearthed to avoid construction delays and to remove samples of sediments that are likely to contain the remains of small fossil invertebrates and vertebrates; 3) Monitors shall be empowered to temporarily halt or divert equipment to allow removal of abundant or large specimens, and 4) Monitoring may be reduced if the potentially fossiliferous units described herein are not present, or, if present, are determined upon exposure and examination by qualified paleontological personnel to have low potential to contain fossil resources.	Grading			HF/GC
P68	Discovery of Remains	MM CR-6. Although considered unlikely, there is always the possibility that ground-disturbing activities may uncover previously unknown human remains. Should this occur, Section 7050.5 of the California Health and Safety Code applies, and the following procedures shall be followed. In the event of an accidental discovery or recognition of any human remains, California Health & Safety Code 7050.5 and California Public Resource Code (PRC) Section 5097.98 must be followed. In this instance, once project-related earthmoving begins and if there is accidental discovery or recognition of any human remains, the following steps shall be taken: There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until a determination as to disposition and treatment is made. The Riverside County Coroner shall be contacted to determine if the remains are Native American and if an investigation of the cause of death is required. If the coroner determines the remains to be Native American, the coroner shall contact the NAHC within 24 hours to allow the NAHC to identify the person or persons it believes to be the "most likely descendant" (MLD) of the deceased Native American. The MLD may make recommendations and enter into consultation with the landowner, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in PRC Section 5097.98.	Grading			HF/GC
P69	Engineering Geologist	The project will be subject to the City's Grading Ordinance and all applicable California Building Codes. MM GEO-1. During excavation and grading activities a qualified engineering geologist shall observe the in-grading excavation to confirm the absence of any fault features within the building site. If any currently unknown fault features are observed, such features shall be evaluated by the geologist and, if determined necessary, remediation measures or other measures as appropriate shall be implemented to address such features in accordance with applicable City and State requirements. The geologist's record of observations shall be summarized in a final report to be submitted to the City at the conclusion of excavation/grading activities.	Grading			HF/GC
P75	Redlands Boulevard Restrictions	MM N-1 No construction Vehicles on Redlands Boulevard south of Future Eucalyptus Avenue. Other than construction vehicles necessary for identified offsite improvements within Redlands Boulevard, no construction vehicles shall be allowed in the vicinity of any residences on Redlands Boulevard south of exiting Fir/future Eucalyptus Avenue. The prohibition for construction traffic shall apply to all phases of the proposed project.	Construction			GC

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HFCP (Skechers)**EXHIBIT G Contractor Obligations**

<u>No.</u>	<u>General Description</u>	<u>Actual Text</u>	<u>Timing</u>	<u>Status</u>	<u>Notes</u>	<u>Resp.</u>
P76	Nighttime Grading Restrictions	MM N-2 No nighttime grading or construction within 1,200 Feet of Residences south of Future Eucalyptus Avenue. City grading hours are from 7 a.m. to 8 p.m., Monday through Friday. No grading or construction activities shall occur at night (8 p.m. to 7 a.m.) within 1,200 feet from any noise-sensitive land uses (i.e. occupied residences including yard areas, schools, etc.) located south of SR-60 (Exhibit 5.11-6 shows the current location of occupied residences). Prior to the issuance of a grading permit, the project applicant shall submit a Noise Reduction Compliance Plan (NRCP) to the City as part of the grading permit submittal showing the limits of nighttime construction based on the location of occupied residential dwellings and their associated parcels, and other noise sensitive uses. The limits of nighttime grading or construction shall be shown on the NRCP and grading plan submitted to the City. The limits of construction allowed at night shall be staked or posted on site, and contractors will be provided with a copy of the plan showing the limits of nighttime construction. In the event any new residential units or other noise sensitive land uses are built and occupied in the vicinity of the project site prior to completion of Phase 1 construction, nighttime construction and grading activities shall be prohibited within 1,200 feet of such residences. Compliance shall be demonstrated through a modification of the NRCP. With the implementation of this mitigation measure, the loudest noise level that would be experienced at any developed residential parcel would be less than 55 dBA (Leq) during the nighttime, and this level would be consistent with the limits established in the City's Noise Ordinance. Compliance with these standards during Phase 1 construction of the project should be assured through the Noise Reduction Compliance Plan (NRCP) and periodic monitoring of noise levels at developed residential parcels within 1,200 feet of the project site.	Construction			GC
P77	Daytime Construction Noise	MM N-3 Daytime Construction Noise. City grading hours are from 7 a.m. to 8 p.m., Monday through Friday. If project site grading activities must occur within 560 feet of noise-sensitive land uses during the daytime (7 a.m. to 8 p.m.), then temporary sound barriers of sufficient height and density to reduce daytime noise levels to 60 dBA (Leq) or less shall be placed between the grading activities and the noise-sensitive land uses. Prior to the issuance of a grading permit, the developer shall submit a NRCP to the City as part of the grading permit submittal showing the limits of daytime construction based on the 560 foot setback in relation to the location of occupied residential dwellings and their associated parcels and other noise sensitive uses. In the event any new residential units or other noise sensitive land uses are built and occupied in the vicinity of the project site prior to completion of Phase 1 construction, the NRCP shall be modified to show the revised new 560 foot setback for day time construction and grading activities in relation to the new residences. With the implementation of this mitigation measure the loudest noise level that would be experienced at any developed residential parcel would be less than 60 dBA (Leq) during the daytime, and these levels would be consistent with the limits established in the City's Noise Ordinance. Compliance with these standards during Phase 1 construction of the project should be assured through the NRCP and periodic monitoring of noise levels at developed residential parcels within 560 feet of the project site. This mitigation measure does not apply to off-site construction.	Construction			GC
P78	Equipment Maintenance	MM N-4 Require Equipment Maintenance. All construction equipment shall be maintained in good working order and fitted with the appropriate silencers, mufflers or acoustic covers where applicable.	Construction			GC
P79	Material Stockpiles	MM N-5 Locate material Stockpiles 1,200 Feet from Residences south of the Freeway. Material stockpiles shall be located at least 1,200 feet from residences south of future Eucalyptus Avenue along Theodore Street and Redlands Boulevard. Remotely locating the stockpiles reduces the noise at the residences from equipment traveling to and from the stock piles and the noise that is sometimes associated with handling of material.	Grading			GC

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EXHIBIT G Contractor Obligations

<u>No.</u>	<u>General Description</u>	<u>Actual Text</u>	<u>Timing</u>	<u>Status</u>	<u>Notes</u>	<u>Resp.</u>
P80	Turn Lanes	MM TT-1. (CO) Prior to issuance of Certificate of Occupancy for Phase 1, turn lanes shall be improved along Theodore Street at SR-60 and at Eucalyptus Avenue. In addition, minor pavement shall be added to the Eastbound and West bound State Route 60 Freeway ramp intersections with Theodore Street to accommodate truck turning movements. These proposed improvements should enhance safety and improve mobility between the freeway and Eucalyptus Avenue.	Occupancy		Plans by HF. Construction by GC.	HF/GC
P83	Turn Lanes	MM TT(C)-1. (CO) Prior to issuance of certificate of occupancy for Phase 1 of the project, turn lanes shall be provided along Theodore Street at SR-60 and at Eucalyptus Avenue. In addition, minor pavement shall be added to the Eastbound and West bound State Route 60 Freeway ramp intersections with Theodore Street to accommodate truck turning movements These proposed improvements should enhance safety and improve mobility between the freeway and Eucalyptus Avenue.	Occupancy		Plans by HF. Construction by GC.	HF/GC
P93	Biodiesel Fuel	MM GCC-7 During onsite construction phases of mass grading, fine grading, and building (excluding asphalt paving, trenching, and offsite improvements), off-road construction equipment shall use biodiesel fuel (a minimum of B20, or 20 percent of biodiesel). Construction equipment exempt from this measure include those with warranties that would be voided if B20 biodiesel fuel is used. Prior to issuance of grading permits, the applicant shall provide documentation to the City that verifies that certain equipment are exempt; that a biodiesel supply has been secured; and that the construction contractor is aware that the use of biodiesel is required.	Grading			GC
F4	Fire Turnaround	During phased construction, dead end roadways and streets which have not been completed shall have a turn-around capable of accommodating fire apparatus.	Construction			GC
F6	Emergency Fire Access	Prior to building construction, all locations where structures are to be built shall have an approved Fire Department emergency vehicular access road (all weather surface) capable of sustaining an imposed load of 80,000 lbs. GVW, based on street standards approved by the Public Works Director and the Fire Prevention Bureau.	Construction			GC
F7	Fire Access Roads	Prior to building construction, fire lanes and fire apparatus access roads shall have an unobstructed width of not less the twenty-four (24) or thirty (30) feet as approved by the Fire Prevention Bureau and an unobstructed vertical clearance of not less the thirteen (13) feet six (6) inches.	Construction			GC
F8	Road Grade	All roads, driveways and private roads shall not exceed 12 percent grade.	Construction			GC
F9	Emergency	If construction is phased, each phase shall provide an approved emergency vehicular access way for fire protection prior to any building construction.	Construction			GC
F10	Fire Access	Prior to construction, all locations where structures are to be built shall have an approved Fire Department access based on street standards approved by the Public Works Director and the Fire Prevention Bureau.	Construction			GC
F11	Fire Turnarounds	Prior to building construction, dead end roadways and streets which have not been completed shall have a turnaround capable of accommodating fire apparatus.	Construction			GC

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HFCP (Skechers)**EXHIBIT G Contractor Obligations**

No.	General Description	Actual Text	Timing	Status	Notes	Resp.
F14	Reflective Markers	Prior to issuance of Certificate of Occupancy or Building Final, "Blue Reflective Markers" shall be installed to identify fire hydrant locations in accordance with City specifications.	Occupancy			GC
F15	Building Numbers	Prior to issuance of Certificate of Occupancy or Building Final, all commercial buildings shall display street numbers in a prominent location on the street side and rear access locations. The numerals shall be a minimum of twelve (12) inches in height for buildings and six (6) inches in height for suite identification on a contrasting background. Unobstructed lighting of the address(s) shall be by means approved by the Fire Prevention Bureau and Police Department. In multiple suite centers (strip malls), businesses shall post the name of the business on the rear door(s).	Construction			GC
F16	Fire Sprinklers	Prior to issuance of Certificate of Occupancy or Building Final, the applicant/developer shall install a fire sprinkler system based on square footage and type of construction, occupancy or use. Fire sprinkler plans shall be submitted to the Fire Prevention Bureau for approval prior to installation.	Occupancy			GC
F17	Fire Alarm	Prior to issuance of Certificate of Occupancy or Building Final, the applicant/developer shall install a fire alarm system monitored by an approved Underwriters Laboratory listed central station based on a requirement for monitoring the sprinkler system, occupancy or use. Fire alarm panel shall be accessible from exterior of building in an approved location. Plans shall be submitted to the Fire Prevention Bureau for approval prior to installation.	Occupancy		Flow switches by GC, Alarm System by SKX.	HF/GC/SKX
F18	Knox Box	Prior to issuance of a Certificate of Occupancy or Building Final, a "Knox Box Rapid Entry System" shall be provided. The Knox-Box shall be installed in an accessible location approved by the Fire Chief. The Knox-Box shall be supervised by the alarm system and all exterior security emergency access gates shall be electronically operated and be provided with Knox key switches for access by emergency personnel.	Occupancy			GC
F22	Fire Accesses	The angle of approach and departure for any means of Fire Department access shall not exceed 1 ft drop in 20 ft (0.3 m drop in 6 m), and the design limitations of the fire apparatus of the Fire Department shall be subject to approval by the AHJ.	Construction			GC
F23	Paved Access	Prior to issuance of the building permit for development, independent paved access to the nearest paved road, maintained by the City shall be designed and constructed by the developer within the public right of way in accordance with City Standards.	Construction		Compliance with the Fire Access Plan satisfies this condition.	GC
F26	Fire Safety	Approval of the safety precautions required for buildings being constructed, altered or demolished shall be required by the Fire Chief in addition to other approvals required for specific operations or processes associated with such construction, alteration or demolition.	Construction			GC
F29	Fire Inspections	Construction or work for which the Fire Prevention Bureau's approval is required shall be subject to inspection by the Fire Chief and such construction or work shall remain accessible and exposed for inspection purposes until approved.	Construction			GC

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F30	Fire Inspections	The Fire Prevention Bureau shall maintain the authority to inspect, as often as necessary, buildings and premises, including such other hazards or appliances designated by the Fire Chief for the purpose of ascertaining and causing to be corrected any conditions which would reasonably tend to cause fire or contribute to its spread, or any violation of the purpose or provisions of this code and of any other law or standard affecting fire safety.	Construction			GC
F35	Median Breaks	Prior to Certificate of Occupancy all locations where medians are constructed and prohibit vehicular ingress/egress into or away from the site, provisions must be made to construct a median-crossover at all locations determined by the Fire Marshal and the City Engineer. Prior to the construction, design plans will be submitted for review and approval by the City Engineer and all applicable inspections conducted by Land Development Division.	Occupancy			HF/GC
LD39	Partial Pad Certification	The developer shall coordinate with Land Development staff to facilitate partial pad certification in conjunction with construction sequencing as approved by the City Engineer.	Grading			HF/GC
LD52	Caltrans Property	Notwithstanding what is shown on the tentative parcel map and grading plan, no grading on Caltrans property shall be permitted without an encroachment permit.	Grading			HF/GC
TE17	Intersection/Roadway Improvements	Each gated entrance shall be provided with the following, or as approved by the City Traffic Engineer: a) A storage lane with a minimum of 75 feet queuing length for entering traffic; b) Appropriate signing and striping; c) The employee gated entrance along Eucalyptus Avenue shall remain open for a half hour prior to and a half hour after a shift change.	Occupancy			GC
Settlement Agreement Terms						
2	Tier II/Tier III Equipment	Highland Fairview shall include a requirement in the contract with the general contractor for the Project that all off-road equipment with a horsepower rating of 25 hp or greater used on the Project Site during the construction of the Project will meet a minimum Tier II rating and at least 80% of such equipment will meet a minimum Tier III rating and that the general contractor certify that this requirement has been satisfied. Highland Fairview shall provide a copy of the certification to the Sierra Club upon receipt of the certification from the general contractor.	Contract			GC
3	Diesel-powered portable generators prohibited	Highland Fairview shall include a requirement in the contract with the general contractor for the Project that diesel-powered portable generators not be used during the construction of the Project.	Contract			GC
4b	Energy Demand Documents	Provide the City and the Sierra Club with the appropriate design documents demonstrating that the electrical energy demand of the 50,000 sq. ft. office portion of the Skechers Building will be met by the solar cells to be mounted on the roof of the Skechers Building.	Occupancy			HF/GC
4c	Roof Design	Design and construct the roof of the Skechers Building to accommodate the maximum number of solar cells.	Construction			HF/GC
5	Solar Water Heaters	Highland Fairview shall provide solar water heaters, which may include supplemental conventional heating sources, throughout the Project for all personal uses, such as bathrooms and showers, but not for industrial uses.	Construction			GC

Updated: 3/18/2010

HFCP (Skechers)**EXHIBIT G Contractor Obligations**

No.	General Description	Actual Text	Timing	Status	Notes	Resp.
6	Signage	Highland Fairview shall provide the signs required by Mitigation measure AQ-11 at locations, and of a size, to be easily readable from future Eucalyptus Avenue.	Occupancy			HF/GC
8	On-Site Signage	Highland Fairview shall provide on-site signs directing large trucks (over 10,000 pounds) will be required to make a left turn, towards Theodore Street, when exiting the Project Site unless prohibited by the City from doing so.	Occupancy			HF/GC
9	Median	Highland Fairview shall provide the landscaped median in Eucalyptus Avenue between Redlands Boulevard and Theodore Street in substantially the form currently planned, as shown on Exhibit A, subject to final approval by the City.	Occupancy			HF/GC
13	LEED	The Skechers Building has been designed with the goal of achieving LEED silver certification. Highland Fairview shall seek to obtain the highest commercially reasonable level of LEED certification of the Skechers Building and shall, in any event, take all of the actions set forth on Exhibit B. As used in this Agreement, "commercially reasonable" shall mean that the actions involved are capable of being accomplished in a successful manner within a reasonable period of time taking into account economic and other circumstances that would be considered by a prudent commercial entity.	LEED Certification			HF/GC
15	Driveway Design	To the extent consistent with the Project Approvals and adopted City regulations and policies: a. The design and installation of improvements and signs shall direct all large trucks (over 10,000 pounds) to use Theodore Street, rather than Redlands Boulevard, when entering or leaving the Project Site unless the site-specific traffic analysis required prior to the approval of a plot plan for Phase III (Condition TE3 of the Project Approvals, City Council Resolution 2009-10) provides compelling evidence that: (i) Keeping large trucks (over 10,000 pounds) off of Redlands Boulevard will cause Eucalyptus Avenue, Theodore Street or its on- or off-ramps to State Route 60 to fall below the City's Level of Service Standard; and (ii) mitigation within the limits of the currently planned right-of-way of Theodore Street is unavailable to improve the Level of Service to acceptable levels: and (iii) Allowing large trucks (over 10,000 pounds) to use Redlands Boulevard will not cause Redlands Boulevard to fall below the applicable City's Level of Service Standards after mitigation. b. To the extent that any part of subparagraph a above is found not to be consistent with existing Project Approvals or City regulations or policies, Highland Fairview shall apply for and the City will consider, under its existing procedures and preserving the Council's legislative and discretionary policy authority, modifications of conditions, and/or amendments to existing Project Approvals, regulations and policies.	Construction			HF/GC
LEED Projected Certification Items						
	Construction Waste Management	The project will recycle and/or salvage a minimum of 50% (by weight) of non-hazardous construction and demolition debris.	Construction			GC
	Recycled Content	The project will use materials with recycled content such that the sum of post-consumer recycled content plus one-half of the pre-consumer content constitutes at least 10% (cost-base) on the total value of the materials in the project.	Construction			GC
	Regional Materials	The project will use building materials or products that have been extracted, harvested or recovered, as well as manufactured, within 500 miles of the project site for a minimum of 10% (cost-based) of the total materials value.	Construction			GC
	Increased Ventilation	The project will develop and implement an Indoor Air Quality (IAQ) Management Plan for the construction and pre-occupancy phases of the building.	Construction			GC

Updated: 3/18/2010

HFCP (Skechers)**EXHIBIT G Contractor Obligations**

<u>No.</u>	<u>General Description</u>	<u>Actual Text</u>	<u>Timing</u>	<u>Status</u>	<u>Notes</u>	<u>Resp.</u>
	Innovation in Design	The project will utilize locally-sourced concrete and interior fixtures providing a 50% water use savings.	Construction			HF/GC
	75% of Construction Waste Salvaged or Recycled	The project will salvage or recycle as much construction waste as is feasible, but in no case less than 50% by weight of such waste. The project will utilize recycled (crushed) concrete during construction for temporary access roads and for paving base where acceptable. The project is directing green waste from clearing operations during construction, to a location for mulching and will be re-used.	Construction			GC

NOTE: All design issues are generally the responsibility of Highland Fairview, as they relate to these Conditions of Approval.

SETTLEMENT AGREEMENT

This settlement agreement (this "Agreement") is made at Moreno Valley, California as of January 7, 2010, between the SIERRA CLUB, a California not-for-profit corporation, on the one hand, and THE CITY OF MORENO VALLEY (the "City"), HIGHLAND FAIRVIEW PARTNERS, I, a California general partnership, HIGHLAND FAIRVIEW PARTNERS, II, a California general partnership, HIGHLAND FAIRVIEW PARTNERS, III, a Delaware general partnership, and HIGHLAND FAIRVIEW PARTNERS, IV, a Delaware partnership, and HF LOGISTICS I, LLC, a California limited liability company, (collectively, "Highland Fairview"), on the other hand, with the respect to the following facts:

A. Highland Fairview is the owner of a site located in the City. The site, which contains approximately 158 acres, is bounded on the north by State Route 60, on the east by Theodore Street, on the south by future Eucalyptus Avenue and on the west by Redlands Boulevard (the "Project Site").

B. Highland Fairview intends to develop the Project Site in three phases with a total of 2,620,000 square feet of logistic uses, associated office space, and commercial uses (the "Project"). The Project is known as the Highland Fairview Corporate Park.

C. The first phase of the Project will include a building containing 1,820,000 square feet which has been leased to Skechers USA, Inc. ("Skechers"). The building will be used primarily for logistic uses and some associated office and commercial facilities (the "Skechers Building").

D. Highland Fairview also owns approximately 1,800 acres of land located south and east of the Project Site which is subject to the Moreno Highlands Specific Plan (the "Specific Plan Area") which has vested development rights under a development agreement. Highland Fairview is considering developing the Specific Plan Area in the near future and may, as part of that development, seek to include industrial uses in areas not currently so designated in the Moreno Highlands Specific Plan.

E. On February 10, 2009, the City Council certified that environmental impact report P07-157 (the "EIR") analyzing the environmental impacts of the Project had been prepared in compliance with the California Environmental Quality Act ("CEQA") and then granted a number of approvals including general plan amendment PA07-0089, change of zone PA07-0088, tentative parcel map 35629, PA07-0090 and plot plan PA07-0091 for the Project (the "Project Approvals").

F. The development of the Specific Plan Area is unrelated to the that of the Project and no development of the Specific Plan Area has been authorized by the Project Approvals.

G. On February 20, 2009, the Sierra Club filed a lawsuit entitled *Sierra Club v. City of Moreno Valley*, Riverside Superior Court Case No. RIC 519566, which sought to set aside the Project Approvals, primarily on the basis that the EIR failed to comply with CEQA (the "Lawsuit").

H. The Sierra Club, the City and Highland Fairview wish to resolve the dispute between them concerning the Lawsuit, the Project and the development of the Project Site on the terms set forth in this Agreement. Further, they seek to work together to pursue areas of common interest.

I. The Sierra Club wants the City to adopt a climate action plan and a solar energy incentive program and to require additional Code enforcement for commercial properties in order to decrease the emission of greenhouse gases, conserve energy and protect the health of the City's inhabitants. Highland Fairview concurs that the plans, programs and actions sought by the Sierra Club could be beneficial, endorses them and will use its best efforts to encourage the City to consider them. The City believes that the actions desired by the Sierra Club are worthy of consideration, but cannot and does not commit to their adoption. The City Council, in response to the Sierra Club's concerns, has directed staff to prepare both a climate action plan, projected to be available for consideration by the Council within 18 months, and to review possible participation in the Western Riverside County Council of Governments' proposed program to facilitate the production of solar energy, including the use of the financing mechanism available under AB 811. However, because all of the plans, programs and actions are solely within the City Council's legislative authority which cannot be contracted away neither the City nor Highland Fairview can guarantee that either of them will be adopted.

J. The Sierra Club is concerned that truck traffic serving the Project could unduly impact Redlands Boulevard and wants that truck traffic to use Theodore Street to the greatest extent practical. Neither the City nor Highland Fairview has any objection to reducing the amount of truck traffic using Redlands Boulevard.

K. The Sierra Club has been concerned about truck traffic on a portion of Ironwood Avenue. The City Council, in response to the Sierra Club's concerns, has eliminated the truck route designation for Ironwood Avenue between Moreno Beach Drive and Theodore Street.

L. The Sierra Club further wants Skechers to take several steps to minimize the emission of greenhouse gases. These steps are solely within the control of Skechers and require Skechers' agreement in order to allow Highland Fairview to take the actions specified in this Agreement. Highland Fairview concurs that the actions sought by the Sierra Club could be beneficial and wants to assist the Sierra Club in seeing that they are seriously considered. However, because Highland Fairview does not control Skechers' actions, it cannot guarantee that any of them will occur.

M. This Agreement is acknowledged by the parties to be a compromise settlement and does not constitute an admission of the validity of any claims which have been, or might have been, made in the Lawsuit. However, Highland Fairview desires that the settlement be comprehensive with respect to the Project and that there shall be no further opposition to the Project on the terms set out in this Agreement.

N. Civil Code § 1542 states:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release which if known by him or her must have materially affected his or her settlement with the debtor.”

IN LIGHT OF THE FOREGOING FACTS, IT IS MUTUALLY AGREED THAT:

1. Immediately upon the execution of this Agreement, the Sierra Club shall dismiss the Lawsuit in its entirety and as to all parties, with prejudice, and shall then provide conformed copies of the dismissal to Robert L. Hansen, the City’s Interim City Attorney, and to Kenneth B. Bley, Highland Fairview’s counsel.

2. Highland Fairview shall include a requirement in the contract with the general contractor for the Project that all off-road equipment with a horsepower rating of 25 hp or greater used on the Project Site during the construction of the Project will meet a minimum Tier II rating and at least 80% of such equipment will meet a minimum Tier III rating and that the general contractor certify that this requirement has been satisfied. Highland Fairview shall provide a copy of the certification to the Sierra Club upon receipt of the certification from the general contractor

3. Highland Fairview shall include a requirement in the contract with the general contractor for the Project that diesel-powered portable generators not be used during the construction of the Project.

4. Highland Fairview shall:

a. Provide the amount of electrical power generated through solar cells mounted on the roof of the Skechers Building to the extent needed to provide for the estimated energy demand of the 50,000 sq ft office portion of the Skechers Building. The construction of the solar cells will be initiated within six months of Skechers’ occupancy of the Building and completed within 18 months of Skechers’ occupancy of the Building. Highland Fairview anticipates that AB 811 sources of funds will be used to finance the construction of the solar cells as well as incentive programs from the City electrical utility which are comparable to the programs offered by Southern California Edison, *i.e.*, which will yield the same economic result, but such programs are not yet adopted by the City and may not be; and

b. Provide the City and the Sierra Club with the appropriate design documents demonstrating that the electrical energy demand of the 50,000 sq ft office portion of the Skechers Building will be met by the solar cells to be mounted on the roof of the Skechers Building; and

c. Design and construct the roof of the Skechers Building to accommodate the maximum number of solar cells; and

d. Increase the amount of electrical power generated through solar cells mounted on the roof of the Skechers Building within ten years to provide 100% of the

energy needed for the Project to the extent that it is reasonably and economically feasible for Highland Fairview to do so. This will largely depend upon the policies adopted by the City's electrical utility with respect to the subsidization of solar-generated electrical energy, which requires a rate of not less than \$0.22 per kilowatt-hour, the rate currently paid by Southern California Edison under its performance-based incentive program, and provisions on a par with Southern California Edison's solar subsidy programs. Further, Highland Fairview will expand the solar energy generating capacity of the Skechers Building based upon the benefits afforded through AB 811 financing and grants, incentives provided by the City's electrical utility, federal and state tax programs and commercially reasonable financing such that the maximum investment does not exceed \$7,500,000 and the projected after-tax return generated is at least 5.5% over the rate for 20 year United States Treasury bonds but not less than 10% in any event. Should Highland Fairview develop solar capacity beyond the energy usage required by the Project, the excess energy will be sold to a utility provider at a mutually agreeable negotiated rate. Highland Fairview can not guarantee that any increase in the amount of electrical power generated through solar cells will occur because neither the necessary policies nor the rate to be paid have been adopted by the City and may not be.

5. Highland Fairview shall provide solar water heaters, which may include supplemental conventional heating sources, throughout the Project for all personal uses, such as bathrooms and showers, but not for industrial uses.

6. Highland Fairview shall provide the signs required by Mitigation Measure AQ-11 at locations, and of a size, to be easily readable from future Eucalyptus Avenue.

7. Highland Fairview shall physically configure the access areas to future Eucalyptus Avenue so that large trucks (over 10,000 pounds) will be required to make a left turn, towards Theodore Street, when exiting the Project Site unless prohibited by the City from doing so.

8. Highland Fairview shall provide on-site signs directing large trucks (over 10,000 pounds) leaving the Project Site to use Theodore Avenue unless prohibited by the City from doing so.

9. Highland Fairview shall provide the landscaped median in Eucalyptus Avenue between Redlands Boulevard and Theodore Street in substantially the form currently planned, as shown on Exhibit A, subject to final approval by the City.

10. Highland Fairview shall provide a disclosure document in substantially the following form to each buyer/lessee of any residential unit developed on property owned by Highland Fairview which is located southerly of State Route 60 and within 300 feet of the Project Site. The document shall be signed by the buyer/lessee and recorded against the unit:

“Buyer/Lessee acknowledges that the property which Buyer/Lessee is purchasing/leasing is located in the vicinity of the Highland Fairview Corporate Park project. Buyer/Lessee acknowledges that, in addition to commercial and office uses, there are, or may be, distribution warehouses for national and regional

Companies located within the Corporate Park project. As a result of these uses, there will be automobile and truck traffic, which may operate on a 24/7 basis for pick up and delivery of products from various buildings from within the Corporate Park project. There may also be increased diesel fumes, which contain toxic air contaminants which are known to cause cancer, noise and light as a result of the operations of these facilities. A copy of the Highland Fairview Corporate Park Environmental Impact Report, which includes a detailed evaluation of the potential impacts of the Corporate Park project, has been made available for the Buyer's/Lessee's review."

11. Highland Fairview shall within 30 days of the receipt of a written request from the Sierra Club, contribute \$100,000 to the Riverside Land Conservancy. The contribution may only be used for the preservation of agriculture through the purchase of agricultural land or of agricultural conservation easements on agricultural land located in Riverside County.

12. If Highland Fairview includes industrial uses in areas not currently designated for industrial uses in the Moreno Highlands Specific Plan, it shall provide buffers of commercial uses within the Specific Plan Area between industrial uses and residential uses. The extent of the buffers shall be determined by appropriate technical studies conducted by a qualified third party air quality expert, selected and paid for by Highland Fairview, subject to the City's approval.

13. The Skechers building has been designed with the goal of achieving LEED silver certification. Highland Fairview shall seek to obtain the highest commercially reasonable level of LEED certification of the Skechers Building and shall, in any event, take all of the actions set forth on Exhibit B. As used in this Agreement, "commercially reasonable" shall mean that the actions involved are capable of being accomplished in a successful manner within a reasonable period of time taking into account economic and other circumstances that would be considered by a prudent commercial entity.

14. Highland Fairview shall submit a formal request to the California Department of Transportation ("CalTrans") for the installation of signs to be installed, at Highland Fairview's expense, along State Route 60, east bound and west bound, directing Project traffic to the Theodore Street exit.

15. To the extent consistent with the Project Approvals and adopted City regulations and policies:

a. The design and installation of improvements and signs shall direct all large trucks (over 10,000 pounds) to use Theodore Street, rather than Redlands Boulevard, when entering or leaving the Project Site unless the site-specific traffic analysis required prior to the approval of a plot plan for Phase III (condition TE3 of the Project Approvals. City Council Resolution 2009-10) provides compelling evidence that: and

(i) Keeping large trucks (over 10,000 pounds) off of Redlands Boulevard will cause Eucalyptus Avenue. Theodore Street or its on – or off-ramps to State Route 60 to fall below the City's Level of Service standard; and

(ii) Mitigation within the limits of the currently planned right of way of Theodore Street is unavailable to improve the Level of Service to acceptable levels; and

(iii) Allowing large trucks (over 10,000 pounds) to use Redlands Boulevard will not cause Redlands Boulevard to fall below the applicable City's Level of Service Standards after mitigation.

b. To the extent that any part of subparagraph a above is found not to be consistent with existing Project Approvals or City regulations or policies, Highland Fairview shall apply for and the City will consider, under its existing procedures and preserving the Council's legislative and discretionary policy authority, modifications of conditions, and/or amendments to existing Project Approvals, regulations and policies.

16. The City Council has, in Study Session of October 20, 2009 or previously, directed City staff to analyze, as quickly as feasible, and then to report back to the Council, for its consideration without commitment to adoption, each of the following:

- a. The adoption/enforcement of a City-wide commercial truck idling ordinance; and
- b. The acquisition, generation and distribution of "green" energy by the City's electric utility; and
- c. An amendment of the City's Municipal Code current lighting standards to incorporate the guidelines of the International Dark Sky Association and the exterior lighting standards set forth in the Palm Desert Municipal Code; and
- d. The submission of a request to CalTrans and/or the Riverside County Transportation Commission that a regional traffic mitigation fee be adopted for the Improvement of State Route 60; and
- e. The use of LED lamps in City-owned streetlights.

17. Highland Fairview shall require any user of the Skechers facility, other than Skechers, and will use reasonable efforts to seek to have Skechers:

- a. Have its trucking fleet (all trucks owned and operated by Skechers) and all trucking carriers that distribute Skechers' products to its retail stores be classified as SmartWay 1.0 or higher at the time that it takes possession of the Skechers building, increase the SmartWay classification to 1.25 for Skechers' trucking fleet and such other trucking carriers within five years and provide an annual report to Highland Fairview, which Highland Fairview shall then provide to the Sierra Club; and
- b. Continue to provide incentives to its employees to encourage carpooling; and

c. Conduct an annual review for five years following the occupancy of the Skechers Building to determine the level of use of alternatively fueled vehicles and the demand for designated spaces for such vehicles, beyond the 37 spaces already designated. Spaces located closest to building entries will be converted by Highland Fairview from general parking to alternatively fueled vehicle parking to meet the demand; and

d. Conduct an annual review for five years following the occupancy of the Skechers Building to determine the level of use of plug-in electrical vehicles and the demand for plug-in-stations. Additional plug-in-stations will be provided by Highland Fairview to meet the demand; and

e. Not use diesel-powered “yard goats” in its operations.

18. Highland Fairview shall provide the Sierra Club with notice of the submission of any application for a discretionary permit for the development of the Project within five business days of the submission.

19. The Sierra Club shall not sue to invalidate the development, use or modification of the Project, including, but not limited to, any approvals needed for the development of any phase of the Project, as long as the development or use is consistent with the terms of this Agreement and the Project, as analyzed in the EIR, and any modification will not result in a significant adverse impact on the environment, as defined in CEQA Guidelines § 15382, as determined by the City. For the purpose of this Agreement, changes in the manner in which the Project is financed, in whole or in part, and removal of vegetation within State Route 60 right-of- way shall not be considered to be significant adverse impacts on the environment by the Sierra Club. Nothing in this paragraph 19 shall apply to a modification of the terms of this Agreement.

20. Highland Fairview shall pay Johnson & Sedlack, the Sierra Club’s attorneys, \$183,000 within 10 days of the dismissal of the Lawsuit. Except for this payment, each party shall bear its own attorneys’ fees and costs incurred in connection with the Lawsuit and the preparation of this Agreement.

21. Any party alleging a breach of this Agreement shall provide written notice of the alleged breach to the party alleged to be in breach. That party shall then have 30 days from receipt of the notice in which to cure the breach or to begin curing the breach if it is one which cannot be cured within 30 days. If the breach has not been cured within the 30 day period or, if no effort has been begun within the 30 day period for a breach which cannot be cured within the 30 day period, then the party alleging the breach shall be entitled to avail itself of its legal remedies.

22. All notices and communications shall be provided in writing, which may be delivered by e-mail, to the following addresses:

Sierra Club Environmental Law Program:

85 Second Street
San Francisco, CA 94105
Aaron.Isherwood@sierraclub.org

Sierra Club, San Gorgonio Chapter:

Chapter Chair/Conservation Chair
4079 Mission Inn Avenue
Riverside, CA 92501-3204
san.gorgonio.chapter@sierraclub.org

Sierra Club, Moreno Valley Group:

Ann Turner-McKibben and George Hague
P.O. Box 1325
Moreno Valley, CA 92556-1325
morenovalleygroup@yahoo.com

with a copy to Raymond W. Johnson, Esq.:

Johnson & Sedlack
26785 Camino Seco
Temecula, CA 92590
esqaicp@wildblue.net

The City attention of the City Manager,
w/ copy attention of the City Attorney:

14177 Frederick Street
P.O. Box 88005
Moreno Valley, CA 92552
CMOffice@moval.org
CityAttorney@moval.org

Highland Fairview:

14225 Corporate Way
Moreno Valley, CA 92553
ibenzeevi@highlandfairview.com

with a copy to Kenneth B. Bley, Esq.:

Cox, Castle & Nicholson LLP
2049 Century Park East, 28th Floor,
Los Angeles CA 90067
kbley@coxcastle.com

Any address may be changed by providing written notice to all of the other parties.

23. Except as set forth in this Agreement, the Sierra Club releases the City and Highland Fairview and their owners, affiliates, members, officers, employees, agents and attorneys from any and all claims, demands, liabilities, obligations, costs, expenses, fees, actions, and/or causes of action arising out of, or connected to, the Lawsuit or the Project, whether known, unknown or suspected and the Sierra Club hereby waives the provisions of Civil Code § 1542 set forth in Recital N. The release in this paragraph 23 is a separate consideration for the release contained in paragraph 24 and the Sierra Club would not have executed this Agreement nor agreed to this paragraph 23 but for the release contained in paragraph 24.

24. Except as set forth in this Agreement, the City and Highland Fairview release the Sierra Club and its members, officers, employees, agents and attorneys from any and all claims, demands, liabilities, obligations, costs, expenses, fees, actions, and/or causes of action arising out of, or connected to, the Lawsuit or the Project, whether known, unknown or suspected and the

City and Highland Fairview hereby waive the provisions of Civil Code § 1542 set forth in Recital N. The release in this paragraph 24 is a separate consideration for the release contained in paragraph 23 and neither the City nor Highland Fairview would have executed this Agreement nor agreed to this paragraph 24 but for the release contained in paragraph 23.

25. The rights and obligations of the Sierra Club under this Agreement are personal to it and may not be transferred or assigned to any other person or entity. This Agreement is entered into solely for the benefit of the parties hereto and, with the exception of the Sierra Club, their successors, transferees and assigns. Other than the parties hereto and, with the exception of the Sierra Club, their successors, transferees and assigns, no third party shall be entitled, directly or indirectly, to base any claim, or to have any right arising from, or related to, this Agreement.

26. The parties to this Agreement shall act in good faith and shall take all further actions reasonably necessary to effectuate the letter and the spirit of this Agreement.

27. This Agreement and all rights and obligations arising out of it shall be construed in accordance with the laws of the State of California.

28. Any litigation arising out of this Agreement shall be conducted only in the Riverside Superior Court. Only equitable remedies shall be available to the prevailing party in any such litigation, damages for breach of this Agreement being expressly waived. Each party to any such litigation shall bear its own attorneys' fees and costs, the right to recover them under any statute, including, but not limited to Code of Civil Procedure § 1021.5, any Rule of Court or any rule of law being expressly waived.

29. This Agreement contains the entire agreement and understanding concerning the Lawsuit and the Project and supersedes and replaces all prior negotiations or proposed agreements, written or oral. Each of the parties hereto acknowledges that no other party, nor the agents nor the attorneys for any party, has made any promise, representation or warranty whatsoever, express or implied, not contained herein, to induce the execution of this Agreement and acknowledges that this Agreement has not been executed in reliance upon any promise, representation or warranty not contained herein.

30. This Agreement may not be amended except in a writing signed by all the parties hereto.

31. The parties to this Agreement hereby acknowledge that they have undertaken an independent investigation of the facts concerning the Lawsuit and the Project. The parties expressly assume the risk that the true facts concerning the foregoing may differ from those currently understood by them.

32. Each individual signing this Agreement represents and warrants that he or she has been authorized to do so by proper action of the party on whose behalf he or she has signed.

33. This Agreement may be signed in one or more counterparts and, when all parties have signed the original or a counterpart, such counterparts, whether originals, facsimiles or email attachments, together shall constitute one original document.

January 7, 2010

SIERRA CLUB

By: [ILLEGIBLE]
Its: CHAPTER CHAIR, SAN GORGONIO
CHAPTER

January 11, 2010

THE CITY OF MORENO VALLEY

By: [ILLEGIBLE]
Its: MAYOR

January 7, 2010

HIGHLAND FAIRVIEW PARTNERS I

By: HFP Realty Investment, LP, its Managing Partner
By: HFP Realty Holdings, LLC, its General Partner

By: /s/ Iddo Benzeevi
Its: President

January 7, 2010

HIGHLAND FAIRVIEW PARTNERS II

By: New Sands Holdings, LP, its Managing Partner
By: Sand Holdings, LLC, its General Partner

By: /s/ Iddo Benzeevi
Its: President

January 7, 2010

HIGHLAND FAIRVIEW PARTNERS III

By: HFP Realty Investment, LP, its Managing Partner
By: HFP Realty Holdings, LLC, its General Partner

By: /s/ Iddo Benzeevi
Its: President

January 7, 2010

HIGHLAND FAIRVIEW PARTNERS IV

By: Sinclair Holdings, LP, its Managing Partner
By: Sinclair Realty Holdings, LLC, its General
Partner

By: Iddo Benzeevi
Its: President

January 7, 2010

HF LOGISTICS I, LLC

By: Iddo Benzeevi
Its: President

APPROVED AS TO FORM:

January 11, 2010

JOHNSON & SEDLACK

By: /s/ Raymond W. Johnson
Raymond W. Johnson
Attorneys for the SIERRA CLUB

January 11, 2010

CITY ATTORNEY
OF THE CITY OF MORENO VALLEY

By: [ILLEGIBLE]
Its: INTERIM CITY ATTORNEY

January 7, 2010

COX CASTLE & NICHOLSON LLP

By: /s/ Kenneth B. Bley
Kenneth B. Bley
Attorneys for HIGHLAND FAIRVIEW PARTNERS
I; HIGHLAND FAIRVIEW PARTNERS, II,
HIGHLAND FAIRVIEW PARTNERS, III,
HIGHLAND FAIRVIEW PARTNERS, IV and HF
LOGISTICS I, LLC

EXHIBIT A

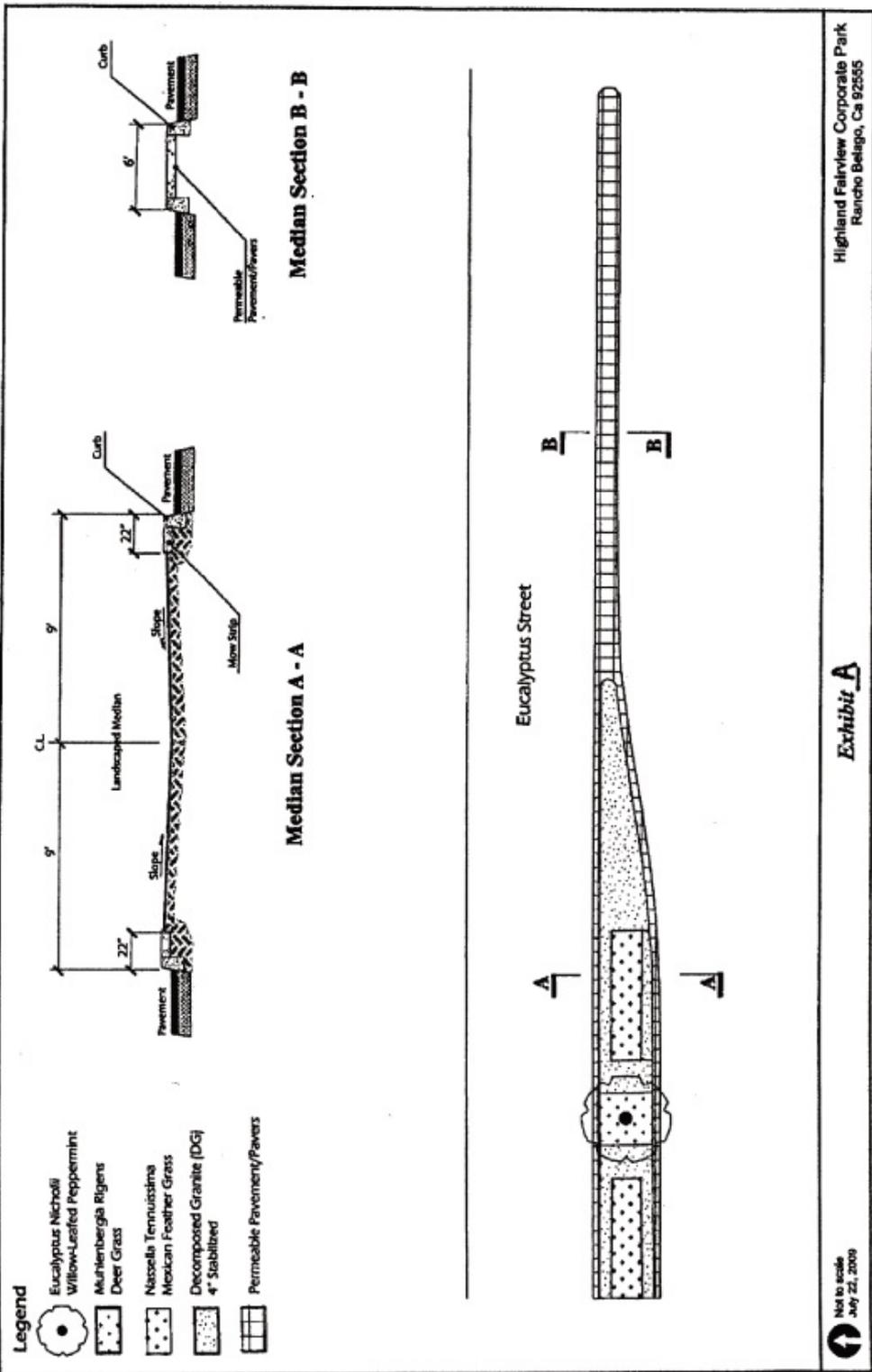


Exhibit B

**Highland Fairview Corporate Park — TPM 35629 Parcel 1 (Skechers)
LEED Projected Certification Items
(Based upon LEED current standards)**

- **Alternative Transportation:**

Bicycle Storage & Changing Rooms

The project will provide secure bicycle racks within 200 yards of the building entrances for 5% or more of all building users and will provide shower and changing facilities in the building for 0.5% of full-time equivalent occupants.

Low Emission and Fuel Efficient Vehicles

The project will provide preferred parking for low-emission and fuel efficient vehicles for 5% of the total vehicle parking capacity of the site.

Parking Capacity

The project will meet, but not exceed the number of parking stalls required by the local zoning requirements and will provide preferred parking for carpools and vanpools for 5% of the total parking spaces.

Site Development:

Maximum Open Space

As approved by the City of Moreno Valley, the project will provide vegetated open space within the project boundary in accordance with the local zoning's open space requirement.

- **Storm Water Design:**

Quality Control

Highland Fairview will implement the City approved Storm Water Pollution Prevention Program (SWPPP).

- **Heat Island Effect:**

Roof

The project will use roofing materials having a Solar Reflectance Index (SRI) equal to or greater than 78 for a minimum of 75% of the roof surface.

- **Water Efficient Landscaping:**

The project will reduce potable water consumption for irrigation by 50% from a calculated mid-summer baseline case.

The above are based upon existing design criteria and availability of material and labor. Should some of these conditions adversely change, the above items may need to be modified.

Exhibit B

**Highland Fairview Corporate Park — TPM 35629 Parcel 1 (Skechers)
LEED Projected Certification Items
(Based upon LEED current standards)**

- **Water Use Reduction:**

 - Reduce Water Usage by 30%**

 - The project will employ strategies that in aggregate use 30% less water than the water use baseline calculated for the building (not including irrigation).

- **Optimize Energy Performance:**

 - The project will demonstrate a percentage improvement in the proposed building performance rating compared to the baseline building performance rating.

- **On-Site Renewable Energy:**

 - The project will use on-site renewable energy systems (solar) to offset a portion of building energy cost.

- **Enhanced Commissioning:**

 - The project began the commissioning process during the design process and will execute additional activities after systems performance verification is completed.

- **Construction Waste Management:**

 - The project will recycle and/or salvage a minimum of 50% (by weight) of non-hazardous construction and demolition debris.

- **Recycled Content:**

 - The project will use materials with recycled content such that the sum of post-consumer recycled content plus one-half of the pre-consumer content constitutes at least 10% (cost-based) on the total value of the materials in the project.

- **Regional Materials:**

 - The project will use building materials or products that have been extracted, harvested or recovered, as well as manufactured, within 500 miles of the project site for a minimum of 10% (cost-based) of the total materials value.

The above are based upon existing design criteria and availability of material and labor. Should some of these conditions adversely change, the above items may need to be modified.

Exhibit B

Highland Fairview Corporate Park — TPM 35629 Parcel 1 (Skechers) LEED Projected Certification Items (Based upon LEED current standards)

- **Increased Ventilation:**

The project will increase breathing zone outdoor air ventilation rates to all occupied spaces by at least 30% above the minimum rates required by ASHRAE Std. 62.1-2004.

- **Construction IAQ Management Plan:**

The project will develop and implement an Indoor Air Quality (IAQ) Management Plan for the construction and pre-occupancy phases of the building.

- **Low Emitting Materials:**

The project will utilize only those paints and coatings that comply with Credit 4.2, 4.3 and 4.4 of the LEED standards.

- **Indoor Chemical & Pollutant Source Control:**

The project will provide entryway systems to reduce the infiltration of dirt and particulates into the indoor environment. Separate ventilation systems will be provided for storage areas for hazardous chemicals in order to minimize and control pollutants in the building.

- **Daylight and Views:**

The project, will achieve day-lighting via skylights for building occupants in 75% of all regularly occupied areas.

- **Innovation In Design:**

The project will utilize locally-sourced concrete and interior fixtures providing a 40% water use savings.

- **LEED Accredited Professional:**

At least one principal participant of the project team is a LEED Accredited Professional (AP).

The above are based upon existing design criteria and availability of material and labor. Should some of these conditions adversely change, the above items may need to be modified.

Exhibit B

Highland Fairview Corporate Park — TPM 35629 Parcel 1 (Skechers) LEED Projected Certification Items (Based upon LEED current standards)

The Following are Energy-Saving and Other Design Features:

- **Use of More Shade Trees vs. Palm Trees to Reduce Temperature**

As shown in the City-approved Plot Plan package, palm trees used on the site will be located at the building's primary entry as part of the decorative entry treatment, and along the freeway, near gates and building corners as accent elements. All other trees on the site, in the parking areas, adjacent to the building, in the landscape areas, and along the freeway will be varieties of shade trees.

- **Waterless Urinals**

Use of these products was investigated but ultimately rejected based upon marginal performance and excessive maintenance costs. Very low flow urinals will be used in the facility which will provide a 30% reduction in water use over typical low-flow urinals.

- **Automatic turn on and off for lavatory faucets—only allow 1/2 gal per minute**

These products will be installed throughout the building.

- **Monitoring system that keeps track of all systems so that response can be quick if one of the systems does not function properly**

The Skechers building will include a building systems monitoring program which will immediately notify maintenance personnel of any system malfunction.

- **Photo Sensors for Lighting**

Motion sensors will be installed in the office areas of the building to turn off all lighting (except security lighting) when these areas of the building are not occupied. A network of thousands of roof-mounted skylights will provide substantial natural light in the warehouse areas. Sensors will be installed in the warehouse areas to automatically turn off artificial area lighting when ambient light is adequate.

- **Reduce carpet and flooring glue toxics by environmentally friendly carpet and non toxic glue.**

Low VOC carpeting, paint and adhesives will be used throughout the building. Polished concrete flooring will replace vinyl flooring originally

The above are based upon existing design criteria and availability of material and labor. Should some of these conditions adversely change, the above items may need to be modified.

Exhibit B

Highland Fairview Corporate Park — TPM 35629 Parcel 1 (Skechers) LEED Projected Certification Items (Based upon LEED current standards)

planned for the warehouse restrooms, break rooms and shipping/receiving areas.

- **Recycle of All Used Materials**

Recycling bins will be provided at the site for recycling during the operation of the building. Recycling of construction waste will be required to the greatest degree practicable. Skechers currently bundles and recycles all cardboard waste and will provide recycling bins for employee use throughout the facility. Skechers is exploring opportunities for recycling (mulching) of damaged wood pallets.

- **75% of Construction Waste Salvaged or Recycled**

The project will salvage or recycle as much construction waste as is feasible, but in no case less than 50% by weight of such waste. The project will utilize recycled (crushed) concrete during construction for temporary access roads and for paving base where acceptable. The project is directing green waste from clearing operations during construction, to a location for mulching and will be re-used.

- **Independent Venting for Toxic Places**

The storage of toxic materials, as identified by the State of California, will be in accordance with all applicable building code requirements including the independent venting of such storage areas.

- **Thermal Controls in Various Work Spaces**

The warehouse area is not heated or cooled, utilizing a controlled air exchange system to moderate interior temperatures. The office and commercial areas will be served by a number of HVAC zones each with its own controls. The units are equipped with an automatic time switch with an accessible manual override that allows operation of the system during off-hours.

- **The building occupant/owner must share whole-project energy and water usage data for at least five years with the US Green Building Council or Green Building Certification Institute.**

Highland Fairview will provide all documentation used to secure LEED certification, including any tenant operational documentation. Such documentation requirements will be addressed in the lease documents.

The above are based upon existing design criteria and availability of material and labor. Should some of these conditions adversely change, the above items may need to be modified.

EXHIBIT "H"

RESOLUTION NO. 2009-08

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT (P07-157), ADOPTION OF THE FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS, AND APPROVAL OF THE MITIGATION MONITORING PROGRAM FOR THE HIGHLAND FAIRVIEW CORPORATE PARK PROJECT, GENERALLY LOCATED ADJACENT TO AND SOUTH OF HIGHWAY 60 ALONG FUTURE EUCALYPTUS AVENUE (FIR AVENUE) BETWEEN REDLANDS BOULEVARD AND THEODORE STREET

WHEREAS, on February 3, 2009, the City Council of the City of Moreno Valley held a public hearing to consider the proposed project, which includes a tentative parcel map to subdivide a 158 gross acre site (265.3 acres including offsite improvements and drainage) into four buildable parcels and two primary parcels dedicated for freeway improvement purposes (thirteen parcels overall to include lettered lots for public access and dedication) with a first phase plot plan for an approximately 1,820,000 square foot warehouse industrial building on approximately 83 acres, and a total of approximately 2,620,000 square foot of building for all phases of development. The project also includes related offsite improvements and drainage. The project site currently lies within the BP (Business Park) and CC (Community Commercial) land use districts and will require a change of zone to LI (Light Industrial) to allow the proposed industrial structures and a General Plan Amendment to move a planned multi-use trail from the south side to the north side of future Eucalyptus Avenue (Fir Avenue), eliminate a planned multi-use trail along the Sinclair Street alignment over Highway 60, and the adjustment of parcel lines and land use for two parcels located in the CC land use district, and to consider all environmental documentation;

WHEREAS, the project includes applications for a Change of Zone (PA07-0088), General Plan Amendment (PA07-0089), phasing (P08-057) tentative parcel map (PA07-0090) and a plot plan (PA07-0091). All are related but will be included in separate resolutions with individual findings and shall not be approved unless the Environmental impact Report (P07-157) is certified and approved.

WHEREAS, a Draft Environmental Impact Report (DEIR) was initially prepared for this project. Said DEIR was initially circulated for review on August 5, 2008, while the review period ended on September 19, 2008. A Final EIR, (including the Draft EIR dated August 4, 2008; and responses to comments), has been completed and is being recommended for certification, prior to the approval of discretionary permits related to the project.

WHEREAS, on January 8, 2009, the Planning Commission conducted a public

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hearing to consider the proposed project, or the Highland Fairview Corporate Park project consisting of a tentative parcel map to subdivide a 158 gross acre portion of land into four (4) separate buildable parcels and two primary parcels dedicated for freeway improvement purposes (thirteen parcels overall to include lettered lots for public access and dedication purposes.), and a first phase plot plan for an approximately 1,820,000 square foot warehouse industrial building on approximately 83 acres and a total of approximately 2,620,000 square foot of building for all phases of development, and a related Change of Zone and General Plan Amendment, and to consider environmental documentation in its final form;

WHEREAS, on January 15, 2009, the Planning Commission conducted a continued public meeting and forwarded the project to the City Council for consideration;

WHEREAS on February 3, 2009 and February 10, 2009, the City Council reviewed in full the Final EIR, the Statement of Overriding Considerations and Mitigation Monitoring Program;

WHEREAS, the draft and final EIR concerning the proposed Highland Fairview Corporate Park Project were prepared in sufficient detail and duly circulated in compliance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines and the City of Moreno Valley Rules and Procedures to Implement CEQA;

WHEREAS, the comment period for the draft Environmental Impact Report (EIR) for the Highland Fairview Corporate Park Project began on August 5, 2008, while said document was circulated for a 45 day period to the public and to responsible agencies for comments, concluding on September 19, 2008;

WHEREAS, on December 19, 2008, the City published a Notice of Availability in the local newspaper (Press Enterprise), posted the Notice of Availability at the Riverside County Clerk's office, and distributed copies of the draft Final EIR to the State Clearinghouse, local agencies and other interested parties;

WHEREAS, since August 5, 2008, copies of the draft EIR have been made available to the public at the City's offices, on the City's website and at the City's public library;

WHEREAS, the final public comment period closed on September 19, 2008, and the City has prepared responses, which have been included in the Final EIR, to all comments received by that date and through the month of October;

WHEREAS, the Final EIR recommended to the City Council includes all responses to comments thereon;

WHEREAS, the final EIR includes a review of potential impacts associated with the implementation of the Highland Fairview Corporate Park Project, including, but not limited to land use, traffic and circulation, air quality, noise and aesthetics, light and glare. A

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statement of overriding considerations is provided for environmental impacts related to aesthetics, agriculture, air quality, noise as well as climate change and greenhouse gas emissions;

WHEREAS, a Mitigation Monitoring Program has been completed to ensure that all of the mitigation measures outlined in the final EIR are implemented, and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, the City Council of the City of Moreno Valley does hereby resolve as follows:

1. The Planning Commission hereby recommends that the City Council certify that the final Environmental Impact Report (EIR) for the Highland Fairview Corporate Park Project on file with the Community and Development Department, incorporated herein by this reference, has been completed in compliance with the California Environmental Quality Act, that the Planning Commission reviewed and considered the information contained in the final EIR and that the final EIR reflects the City's independent judgment and analysis; and
2. The Planning Commission recommends that the City Council hereby adopt the Findings and Statement of Overriding Considerations regarding the final EIR for the Highland Fairview Corporate Park Project, attached hereto as Exhibit A; and
3. The Planning Commission recommends that the City Council hereby approve the Mitigation Monitoring Program for the final EIR for the proposed Highland Fairview Corporate Park project, attached hereto as Exhibit B.

APPROVED AND ADOPTED this 10th day of February, 2009.

SIGNATURE PAGE FOLLOWS.

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/s/ Richard A. Stewart

Mayor

ATTEST:

/s/ [ILLEGIBLE]

City Clerk

APPROVED AS TO FORM:

(SEAL)

/s/ Robert D. Herrick

City Attorney

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RESOLUTION JURAT

STATE OF CALIFORNIA)

COUNTY OF RIVERSIDE) ss.

CITY OF MORENO VALLEY)

I, Jane Halstead, City Clerk of the City of Moreno Valley, California, do hereby certify that Resolution No. 2009-08 was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the 10th day of February, 2009 by the following vote:

AYES: Council Members Batey, Hastings, Molina, Mayor Pro Tem Flickinger and Mayor Stewart

NOES: None

ABSENT: None

ABSTAIN: None

/s/ [ILLEGIBLE]

CITY CLERK

(SEAL)

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**Facts, Findings and Statement of Overriding Considerations
Regarding the Environmental Effects of the Approval of the
Highland Fairview Corporate Park Project
(State Clearinghouse No. 2007101132)**

I. INTRODUCTION

The City Council of Moreno Valley (the "Council") in approving the Highland Fairview Corporate Park project (the "Project"), makes the Findings described below and adopts the Statement of Overriding Considerations presented at the end of the Findings. The Findings are based upon the entire record before the Council, as described in Section III below, including the Environmental Impact Report ("EIR") prepared for the Project by the City, acting as the lead agency under the California Environmental Quality Act ("CEQA").

II. PROJECT SUMMARY

A. PROJECT DESCRIPTION

The Project consists of the development of a corporate park in three phases comprising a 1,820,000 square foot ("sf") logistics (i.e., warehouse and distribution) building, which will be leased to Skechers, and 80,000 sf of commercial facilities in Phase 1; a second 600,000 sf logistics building in Phase 2; and 120,000 sf of commercial facilities in Phase 3. The Project will affect three different areas which, together, will contain approximately 265 acres: the Project Site which will contain approximately 125 acres which will be developed and approximately 33 acres which will be dedicated or improved for various improvements and utility extensions; and approximately 23 acres, located south of the Project Site, which will be used for drainage purposes in connection with the development of the Project Site. The Project Site is bounded on the north by State Route 60 ("SR-60"), on the east by Theodore Street, on the south by future Eucalyptus Avenue (approximately on the current alignment of Fir Avenue) and on the west by Redlands Boulevard.

The eastern and western portions of the Project Site are currently designated for Commercial uses in the City's General Plan and are zoned for Community Commercial uses. The center of the Project Site is designated for Business Park/Light Industrial use in the General Plan and is zoned for Business Park uses. The development of the Project requires a General Plan amendment to increase the commercial area on the western portion of the Project Site, to reduce the commercial area on the eastern portion of the Project Site, to amend the City's Master Plan of Trails and to amend the Circulation Element of its General Plan to make future Eucalyptus Avenue a four lane divided arterial street with a median; a zone change to reflect the changes in the areas designated for Commercial and Business Park uses; a change in the zoning in the center of the

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Project Site from Business Park to Light Industrial; a tentative parcel map to create four parcels on which development will occur, three parcels which will be used for SR-60 improvements and six parcels which will serve as common areas; the approval of the Plot Plan for the development planned for Parcel 1; the approval of alternate work hours during the construction period; and future discretionary approvals needed to complete the development of the Project.

B. PROJECT OBJECTIVES

The objectives for the Project are to:

1. Perform construction in an accelerated manner in order to meet Skechers' occupancy needs;
2. Provide additional employment opportunities;
3. Provide logistic facilities in a single building containing at least 1,800,000 sf to allow for the consolidation of several existing Skechers' logistics facilities into one;
4. Plan for, and entitle, the Project Site to allow for the possibility of adding another building containing up to 600,000 sf to account for future growth in the need for logistics facilities;
5. Provide logistics facilities on land with immediate access to State Route-60 to minimize the use of City streets;
6. Provide the City with new jobs and revenues from the construction and operation of the logistics facilities;
7. Construct the logistics facilities in a manner that maximizes the use of green technology; and
8. Develop the Project Site to ensure an adequate rate of return on the Project applicant's investment.

III. ENVIRONMENTAL REVIEW AND PUBLIC PARTICIPATION

The City has conducted an extensive environmental review of the Project to ensure that both the City's decision makers and the public are fully informed about potential significant environmental effects of the Project; to identify ways that environmental damage can be avoided or significantly reduced; to prevent significant, avoidable damage to the environment by requiring changes in the Project through the use of mitigation measures which have been found to be feasible; and to disclose to the public the reasons why the City has approved the Project in the manner chosen in light of the significant

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environmental effects which have been identified in the EIR. In order to do this, the City, as the lead agency under CEQA, has done all of the following:

1. Prepared and distributed an Initial Study/Notice of Preparation, dated October 29, 2007, a copy of which was circulated the following day through the State Clearinghouse to various state agencies for their comments;
2. Sent the Initial Study/Notice of Preparation, which contained the notice of a scoping meeting to be held on November 26, 2007, to each of the governmental agencies, organizations and individuals shown on the distribution list for the Notice of Preparation/Initial Study, Appendix A to the Draft EIR, on October 29, 2007;
3. Held a public scoping meeting on November 26, 2007, to solicit comments from the public on what should be analyzed in the EIR;
4. Sent a Notice of Completion and a copy of the Draft EIR to the State Clearinghouse on August 4, 2008;
5. Filed a Notice of Availability with the Clerk of the Riverside County Board of Supervisors on August 4, 2008, informing the public that the Draft EIR was available for public review for a 45 day period beginning on August 6, 2008, and ending on September 19, 2008;
6. Mailed the Notice of Availability to all organizations and individuals who had previously requested the Notice on August 4, 2008;
7. Mailed the Notice of Availability to all residents and property owners within 300 feet of the Project Site on August 4, 2008;
8. Provided copies of the Draft EIR to 132 public agencies, organizations and individuals on August 4, 2008;
9. Placed copies of the Draft EIR on the City's website, at the City's Planning Department's public counter and at the public library located at 25480 Alessandro Boulevard on August 4, 2008;
10. Published the Notice of Availability on August 8, 2008, in the Press Enterprise, which is the newspaper of general circulation which has the largest circulation in the areas affected by the Project;
11. Prepared responses to comments on the Draft EIR received during and after the 45 day comment period on the Draft EIR, which have been included in the Final EIR;

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12. Published a Notice on December 19, 2008, in the Press Enterprise, a newspaper of general circulation which has the largest circulation in the areas affected by the Project, that the City's Planning Commission would hold a public hearing on January 8, 2009, to consider the Final EIR and the Project in order to provide recommendations to the Council;
13. Sent copies of the Final EIR on December 19, 2008, to all public agencies, organizations and individuals who had submitted comments;
14. Held a public hearing of the City's Planning Commission to consider the adequacy of the Final EIR on January _____, 2009, and, at the conclusion of the hearing, recommended that the Council certify that the Final EIR had been prepared in full compliance with CEQA;
15. Published a notice on January _____, 2009, in the Press Enterprise, a newspaper of general circulation which has the largest circulation in the areas affected by the Project, that the Council would hold a public hearing on January _____, 2009, to consider certification of the Final EIR as having been prepared in compliance with CEQA and the approval of the Project;
16. Mailed notice of the Council's hearing to all residents and property owners within 300 feet of the Project Site on January _____, 2009;
17. Sent notice of the Council's hearing to all organizations and individuals who had previously requested notification of anything having to do with the Project on January _____, 2009; and
18. Held a public hearing of the Council on January _____, 2009, and, after full consideration of all comments, written and oral, certified that the Final EIR had been completed in compliance with CEQA and approval of the Project.

All of the documents identified above and all of the documents which are required to be part of the record pursuant to Public Resources Code § 21167.6(e) are on file with the City's Community Development Department, Planning Division, located at 14177 Frederick Street, Moreno Valley, CA 92552-0805. Questions should be directed to Mark Gross, AICP, Senior Planner, in the Division.

A. INDEPENDENT JUDGMENT FINDING

Finding: The Final EIR for the Project reflects the City's and the Council's independent judgment and analysis.

Factual Basis for the Finding: The EIR was prepared by Michael Brandman Associates, an independent consulting firm, under the supervision and direction of Planning Division staff of

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the City's Community Development Department and was thoroughly reviewed by the Chambers Group, an expert consultant hired by the City to provide independent peer review and assure the exercise of thorough and independent review and judgment by the City. The Council, as the City's final decision making body for the Project, received and reviewed the Final EIR and the comments, both written and oral, provided by public agencies and members of the public prior to certifying that the Final EIR complied with CEQA. The participation of City Staff in selection and approval of Michael Brandman Associates as the EIR Consultant, the professional qualifications and reputation of the EIR Consultant, the supervision and direction of the EIR Consultant by the City Staff, the thorough and independent review of the Draft and Final EIRs, including comments and responses to comments, by both the City Staff and the Chambers Group and the review and careful consideration by the City Council of the Final EIR, comments and responses to comments all conclusively show that the Final EIR is the product of and reflects the independent judgment and analysis of the City as the Lead Agency, and of the City Council as its governing body.

B. FINDING OF THE ABSENCE OF ANY NEED TO RECIRCULATE THE FINAL EIR

Finding: The Council finds that the Final EIR does not add significant new information to the Draft EIR that would require recirculation of the Project EIR.

Factual Basis for the Finding:

The Council recognizes that the Final EIR incorporates information obtained and produced after the Draft EIR was completed and that the Final EIR contains additions, clarifications and minor modifications to the Draft EIR. The Council has reviewed and considered the Final EIR and all of the information contained in it and has determined that the new information added to the Final EIR does not involve a new significant environmental impact, a substantial increase in the severity of an environmental impact nor a feasible

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mitigation measure or an alternative considerably different from others previously analyzed that the Project applicant declined to adopt and that would clearly lessen the significant environmental impacts of the Project. No information provided to the Council indicates that the Draft EIR was inadequate or conclusory or that the public was deprived of a meaningful opportunity to review and comment on the Draft EIR.

C. GENERAL TREATMENT OF MITIGATION MEASURES

It is the Council's intention to adopt all mitigation measures recommended by the Final EIR. If a measure has been omitted from the Conditions of Approval, from the Findings or from the Mitigation Monitoring Program (the "MMP"), a copy of which is attached as Exhibit A and which is hereby adopted, that mitigation measure shall be deemed to be adopted pursuant to this paragraph.

In addition, all Conditions of Approval and the MMP repeating or rewording mitigation measures recommended in the Final EIR are intended to be substantially similar to the mitigation measures as stated in the Final EIR and are found to be equally effective in avoiding or lessening the identified environmental impact.

IV. ENVIRONMENTAL IMPACTS AND FINDINGS

Based on the Initial Study, Appendix A.2 to the Draft EIR, and the responses to the Notice of Preparation, the EIR analyzed 16 potential areas where significant environmental impacts could result from the development of the Project. Five of those, aesthetics, agricultural resources, air quality, noise and global climate change and greenhouse gases, were found to have significant and unavoidable environmental impacts after the imposition of all feasible mitigation measures. The remaining 11 areas, biology, cultural resources, geology, hazards and hazardous materials, hydrology, land use and planning, mineral resources, population, housing and employment, public services, transportation and traffic and utilities and service systems were found to have either no significant and unavoidable environmental impacts or that the environmental impacts could be mitigated into a level of insignificance. The description of each environmental area, the potential impacts and the feasible mitigation measures are set forth in Sections 5 and 6 of the Draft EIR together with the changes and additions set forth in Section 4 of the Final EIR.

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A. IMPACTS IDENTIFIED IN THE EIR AS LESS THEN SIGNIFICANT REQUIRING NO MITIGATION

1. AESTHETICS

a. Potential Significant Impact: Damage to scenic resources (Impact 5.1-2)

Finding: The Project will not substantially damage scenic resources, including, but not limited to trees, rock outcroppings and historic buildings visible from a State scenic highway.

Factual Basis for the Finding: As discussed in Sections 5.1 and 5.2 of the Draft EIR and as shown in the Aesthetics Assessment, Appendix M.1 to the Draft EIR, the Project Site is flat, having been used for farming in the past and contains no trees, rock outcroppings or historic buildings within any State scenic highway.

b. Potential Significant Impact: Degradation of the existing visual character or quality of the Project Site and its surroundings (Impact 5.1-3)

Finding: The Project will not substantially degrade the existing visual character or quality of the Project Site or its surroundings.

Factual Basis for the Finding: As discussed on pages 5.1-25-26 of the Draft EIR, the development of the Project will introduce urban development into an area of the City that has historically been used for ranching and agricultural purposes. However, the City's General Plan has identified the Project Site for business park and commercial development with the recognition that the visual attributes of the Project Site will change. That change is a continuation of planned development that is visually compatible with the proposed future urbanization of the area surrounding the Project Site.

2. AGRICULTURAL RESOURCES

a. Potential Significant Impact: Conflict with existing zoning for agricultural use or a Williamson Act contract (Impact 5.2-2)

Finding: The Project does not conflict with existing zoning for agricultural use or a Williamson Act contract.

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Factual Basis for the Finding:

As discussed on page 5.2-5 of the Draft EIR and in the Agricultural Resources Report and Land Evaluation and Site Assessment and the Agricultural Impact Evaluation, Appendices B.1 and B.2 to the Draft EIR, the Project Site is zoned as Business Park and Commercial and is not subject to a Williamson Act contract.

b. Potential Significant Impact: Conversion of other farmland to nonagricultural use (Impact 5.2-3)

Finding: The Project will cause changes in the existing environment which could result in the conversion of other farmland to nonagricultural use. However, such changes will not rise to a level of significance because the surrounding farmland is designated for development in the City’s General Plan and is not suitable for farming in the long term in any event.

Factual Basis for the Finding:

As discussed on page 5.2-6 of the Draft EIR and in the Agricultural Resources Report and Land Evaluation and Site Assessment and the Agricultural Impact Evaluation, Appendices B.1 and B.2 to the Draft EIR, the Project Site and the area surrounding the Project Site are vacant and, in the past, have been used for dry land farming. However, the development of the Project would not, by itself, in any way limit the use of adjacent land for agricultural purposes. Moreover, the surrounding land is designated for urban use with the understanding that whatever limited agricultural use now exists will not continue to exist for much longer.

Moreover, as discussed on pages 5.2-1 and -6-7 of the Draft EIR and in the Agricultural Resources Report and Land Evaluation and Site Assessment and the Agricultural Impact Evaluation, Appendices B.1 and B.2 to the Draft EIR, the City’s General Plan recognizes that farming has become less economically viable because of the high cost of water, the cost of land and property taxes, conflicts with surrounding urban uses and the lack of agri-business support in the area. Although land near the Project Site does contain land which has been identified by the California Department of Conservation as suitable for farming, the absence of an agricultural “infrastructure” — crop managers, labor, farm implements and processing

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facilities — in the vicinity, the cost of bringing suitable water to the Project Site, the cost of the water itself and the fact that the sale of the products which could be grown if water were available would not cover the costs of production means that the land near the Project Site cannot be realistically considered as an agricultural resource.

3. AIR QUALITY

- a. Potential Significant Impact:** Conflict with, or obstruction of, implementation of the applicable air quality plan (Impact 5.3-1)

Finding: The Project will not conflict with, nor will it obstruct implementation of, the applicable air quality plan.

Factual Basis for the Finding: As discussed on pages 5.3-22-23 of the Draft EIR and in the Air Quality and Health Risk Report, Appendix D.1 to the Draft EIR, the Project is consistent with the Air Quality Management Plan prepared by the South Coast Air Quality Management District because, as set forth in Response 20-2 on page 3-94 of the Final EIR, the number of trips generated under the existing General Plan land use designation, which forms the basis for the Air Quality Management Plan, contemplates vehicle trips substantially in excess of those which will result once the Project is fully developed.

- b. Potential Significant Impact:** Creation of objectionable odors (Impact 5.3-5)

Finding: The Project will not create objectionable odors affecting substantial numbers of people.

Factual Basis for the Finding: As discussed on page 5.3-54 of the Draft EIR and in the Air Quality and Health Risk Report, Appendix D.1 to the Draft EIR, the project will not contain land uses typically associated with emitting objectionable odors. Diesel exhaust and volatile organic compounds would be emitted during construction and operation of the project, which may be objectionable; however, emissions would disperse rapidly from the project site

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and therefore will not be at a level that would induce any significant negative response.

4. BIOLOGICAL RESOURCES

a. Potential Significant Impact: Substantial adverse impact on habitat (Impact 5.4-2)

Finding: The Project will not have a substantial adverse affect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or the U.S.A. Fish and Wildlife Service.

Factual Basis for the Finding: As discussed on page 5.4-31 of the Draft EIR and in the Habitat. Assessment and MSHCP Consistency Analysis, Appendix C. 1 to the Draft EIR, the Project Site does not contain any riparian habitat nor does it contain any habitat for either sensitive plants or wildlife.

b. Potential Significant Impact: Substantial adverse effect on protected wetlands (Impact 5.4-3)

Finding: The Project will not have any effect on federally protected wetlands as defined by Section 404 of the Clean Water Act.

Factual Basis for the Finding: As discussed on page 5.4-31 of the Draft EIR and in the Habitat Assessment and MSHCP Consistency Analysis and the Delineation of Jurisdictional Waters and Wetlands, Tentative Parcel Map No. 35629 and Associated Offsite Areas, Appendices C.1 and C.2 to the Draft EIR, there are no wetlands or wetland vegetation on the Project Site.

c. Potential Significant Impact: Interference with migratory wildlife corridors (Impact 5.4-4)

Finding: The Project will not interfere with the movement of native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors nor impede the use of native wildlife nursery sites.

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Factual Basis for the Finding: As discussed on pages 5.4-31-32 of the Draft EIR and in the Habitat Assessment and MSHCP Consistency Analysis, Appendix C.1 to the Draft EIR, no wildlife movement corridors occur on, or directly adjacent to, the Project Site nor will there be any impact on native wildlife nursery sites because no such sites were observed on, or directly adjacent to, the Project Site.

4. GEOLOGY AND SOILS

a. Potential Significant Impact: Exposure of people or structures to potential substantial adverse effects (Impact 5.6-1)

Finding: The Project will not expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: (i) rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist, for the Project Site or based on other substantial evidence of a known fault; (ii) strong seismic ground shaking; (iii) seismic-related ground failure, including liquefaction; and (iv) landslides.

Factual Basis for the Finding: As discussed on pages 5.6-1-15 and Responses 15-1-5 on pages 3-137-138 of the Final EIR and in the geotechnical studies, Appendix F to the Draft EIR, the Project Site is not located in an area that is underlain by any active fault segments although there may be unnamed fault splays nearby. The Project Site is located in an area where there is a moderate potential for liquefaction. However, liquefaction occurs only when groundwater is present within 50 feet of the surface, something which exploratory wells have shown does not occur on the Project Site. The combination of required setbacks and adherence to the structural design requirements set forth in the California Building Code means that the chances of substantial adverse effects will be no greater on the Project Site than anywhere else in Southern California.

Although no mitigation is required to reduce any significant impact, Mitigation Measure GEO-1, set forth on page 4-52 of the Final EIR, has been imposed as a condition of Project approval to ensure that any fault features found on the Project Site will be suitably dealt with.

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b. Potential Significant Impact: Substantial soil erosion or loss of topsoil (Impact 5.6-2)

Finding: The Project will not result in substantial soil erosion or the loss of topsoil.

Factual Basis for the Finding: As discussed on page 5.6-15 of the Draft EIR, the Project Site has a gentle slope which does not have a high erosion potential. The fine sandy soil on the Site does have a potential for wind erosion but standard best management practices and air quality emission dust controls during grading will ensure that the soils are properly moistened during high wind conditions. Topsoil on the Site will be lost due to the construction of the Project. However, because the Project Site will ultimately be converted to urban uses and no longer available for agricultural production, the loss of the topsoil will not result in any significant impact.

c. Potential Significant Impact: Unstable geologic location (Impact 5.6-3)

Finding: The Project will not be located on a geologic unit or soil that is unstable or that would become unstable as a result of the Project and will not potentially result in on-or off-site landslides, lateral spreading, subsidence, liquefaction or collapse.

Factual Basis for the Finding: As discussed on pages 5.6-1-10 and –15 of the Draft EIR and in the geotechnical studies, Appendix F to the Draft EIR, and in subsection IV.4.a. above, no evidence of geologic instability underlying the Project Site has been identified as a result of the geotechnical investigations carried out on the Site. Moreover, the development of the Project Will be subject to the City’s Grading Ordinance and the California Building Code, both of which are designed to deal with potential problems of geologic instability.

d. Potential Significant Impact: Location of the Project on expansive soil (Impact 5.6-4)

Finding: The Project will not be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), nor will it create substantial risk to life or property.

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Factual Basis for the Finding: As discussed on page 5.6-16 of the Draft EIR and in the geotechnical studies, Appendix F to the Draft EIR, limited laboratory tests of the soils at the Project Site at shallow depth show that they have a low expansion potential. Moreover, the Project will be required to comply with the City's Grading Ordinance and the California Building Code, both of which are designed to deal with the potential of expansive soils.

e. Potential Significant Impact: Wastewater disposal systems (Impact 5.6-5)

Finding: Wastewater disposal will have no effect on the soils on the Project Site.

Factual Basis for the Finding: As discussed on page 5.6-16 of the Draft EIR, the Project will be connected to wastewater service provided by the Eastern Municipal Water District and no septic tanks will be used.

f. Potential Significant Impact: Cumulative impacts on geology and soils

Finding: Cumulative impacts on geology and soils caused by the Project, in conjunction with other development, will not be cumulatively considerable and thus will be less than significant.

Factual Basis for the Finding: As discussed on page 6-12 of the Draft EIR, the physical development of other land will be subject to the same strict safeguards applicable to the development of the Project Site. Further, impacts to geology and soils are site specific so that a problem on one site does not contribute to problems on other sites.

5. HAZARDS AND HAZARDOUS MATERIALS

a. Potential Significant Impact: Hazardous emissions within one-quarter mile of an existing or proposed school (Impact 5.7-2)

Finding: The Project will not emit hazardous emissions nor will it handle hazardous or acutely hazardous materials, substances or wastes within one-quarter mile of an existing or proposed school.

Factual Basis for the Finding: As discussed on page 5.7-9 of the Draft EIR and in the letter from Jeff Hoskinson dated April 21, 2008, Appendix L to the Draft EIR, the nearest school site, the Calvary Chapel Christian School, is located

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approximately 1.3 miles northwest of the Project Site. Two school sites which had previously been considered by the Moreno Valley Unified School District within one-quarter mile of the Project Site have been abandoned.

b. Potential Significant Impact: Safety hazard due to proximity to an airport (Impact 5.7-3)

Finding: The Project will not result in a safety hazard for people residing or working in the area due to the proximity of an airport or private airstrip.

Factual Basis for the Finding: As discussed on page 5.7-19 of the Draft EIR, the nearest airport or private airstrip is March Air Force Base which is located approximately 7.3 miles southwest of the Project Site. The Site is not within any airport land use plan area.

c. Potential Significant Impact: Impairment or interference with an adopted emergency response plan (Impact 5.7-4)

Finding: The Project's implementation will not impair or physically interfere with any adopted emergency response plan or any emergency evacuation plan.

Factual Basis for the Finding: As discussed on pages 5.7-9-10 of the Draft EIR, the Project Site is located on the City's urban fringe and does not interfere with access to any other area. Emergency access to the Project Site will be available from both Redlands Boulevard and Theodore Street along future Eucalyptus Avenue for all three Phases of the Project.

d. Potential Significant Impact: Exposure to wildland fires (Impact 5.7-5)

Finding: The development of the Project will not expose people or structures to significant risk of loss, injury or death involving wildland fires.

Factual Basis for the Finding: As discussed on page 5.7-10 of the Draft EIR, the Project Site is located in an area which is currently undeveloped and actively dry farmed. No heavy natural vegetation exists in the area surrounding the Site, the surrounding areas cannot be characterized as wildlands nor is the Project Site located in an area identified as a high fire area by Riverside County. The

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closest high fire area is approximately eight-tenths of a mile west of the Site.

6. HYDROLOGY AND WATER QUALITY

- a. **Potential Significant Impact:** Violation of water quality or waste discharge standards (Impact 5.8-1)

Finding: The Project will not violate any water quality standards nor any waste discharge standards nor will it otherwise degrade water quality.

Factual Basis for the Finding: As discussed on pages 5.8-11-15 of the Draft EIR, as modified on page 4-56-57 of the Final EIR, and in the Logistics Building Runoff Management Plan and the Project Specific Preliminary Water Quality Management Plan, Appendices H.1 and H.2 to the Draft EIR, the Project applicant will be required to prepare a Stormwater Pollution Prevention Plan (“SWPPP”) that conforms to the State Water Resources Control Board’s National Pollutant Discharge Elimination System permit prior to the issuance of grading or construction permits. The SWPPP will identify best management practices to prevent construction related pollutants from reaching Stormwater and all products of erosion from moving off-site. Conformance with the mandatory requirements of the SWPPP will ensure that no substantial degradation of water quality associated with the short-term construction activities will occur.

Long-term operational stormwater quality concerns will be managed pursuant to a City approved Water Quality Management Plan for the Project Site. The Plan requires the construction of a stormwater conveyance system that will include a series of extended detention basins, which will also serve as infiltration basins, with catch basin inserts for the removal of trash. The result will be a significant reduction in pollutant loads in the Stormwater runoff from the Project Site which might otherwise reach surface water bodies.

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b. Potential Significant Impact: Depletion of groundwater supplies or interference with groundwater recharge (Impact 5.8-2)

Finding: The Project will not substantially deplete groundwater supplies nor will it interfere substantially with groundwater recharge.

Factual Basis for the Finding: As discussed on page 5.8-15 of the Draft EIR, and in the geotechnical studies, Appendix F to the Draft EIR, development of the Project Site will increase the amount of impervious area on the Site. However, because groundwater is located more than 110 feet below the existing ground surface, existing recharge is currently minimal. Stormwater runoff from the Project Site will be released into existing downstream drainage areas which will continue to allow runoff from the Site to percolate into the soil.

c. Potential Significant Impact: Alteration of existing drainage patterns resulting in substantial erosion, siltation or flooding on- or off-site (Impact 5.8-3)

Finding: The Project will not substantially alter the existing drainage pattern in a manner which would result in substantial erosion, siltation or flooding on- or off-site.

Factual Basis for the Finding: As discussed on pages 5.8-16-18 of the Draft EIR, as modified on page 4-58 of the Final EIR, and in the Logistics Building Runoff Management Plan and the Project Specific Preliminary Water Quality Management Plan, Appendices H.1 and H.2 to the Draft EIR, the best management practices requirement of the SWPPP will ensure that runoff from the Project Site, including siltation, will be cleaned and delivered into existing off-site drainage channels in an amount which will not exceed predevelopment flows.

The Project Site is located in an area which is subject to a 500-year flood or a 100-year flood with an average flooding depth of less than one foot. The Project's detention basins will be utilized to reduce the 100-year peak storm flows to levels at or below existing peak discharges for the Project Site. Thus, the

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development of the Project will not add to the potential for flooding on- or off-site.

- d. Potential Significant Impact:** Creation or contribution of runoff waters exceeding the capacity of existing or planned drainage systems or resulting in substantial additional sources of polluted runoff (Impact 5.8-4)

Finding: The Project will not create, nor will it contribute to, runoff water which would exceed the capacity of existing or planned stormwater drainage systems nor will it provide substantial additional sources of polluted runoff.

Factual Basis for the Finding: As discussed on pages 5.8-17-18 of the Draft EIR, as modified on page 4-38 of the Final EIR, and in the Logistics Building Runoff Management Plan and the Project Specific Preliminary Water Quality Management Plan, Appendices H.1 and H.2 to the Draft EIR, development of the Project Site will increase the impervious surface and would, in the absence of suitable improvements, result in increased stormwater runoff. However, because of the drainage improvements discussed in Section 5.8 of the Draft EIR, stormwater runoff from the Project Site will be less than, or equal to, the peak discharges under existing conditions. Further, the Project's treatment of stormwater runoff, discussed in subsection IV.7.a. above, will ensure the absence of pollutants leaving the Project Site.

- e. Potential Significant Impact:** The location of housing within a 100-year flood hazard area (Impact 5.8-5)

Finding: The Project will not place housing or other structures within a 100-year flood hazard area.

Factual Basis for the Finding: As discussed on page 5.8-18 of the Draft EIR, the Project will not contain any housing and the Project Site is not located within a 100-year flood hazard area.

- f. Potential Significant Impact:** Exposure of people or structures to significant risk of loss, injury or death involving flooding (Impact 5.8-6)

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Finding: The Project will not expose people or structures to a significant risk of loss, injury or death involving flooding as a result of the failure of a levee or a dam.

Factual Basis for the Finding: As discussed on page 5.8-18 of the Draft EIR, the nearest dam is approximately five miles downstream of the Project Site so that there is no risk from dam failure. Further, there are no levees located anywhere in the vicinity of the Project Site.

g. Potential Significant Impact: Inundation by seiche, tsunami or mud flow (Impact 5.8-7)

Finding: The Project Site will not be subject to inundation by seiche, tsunami or mud flow.

Factual Basis for the Finding: As discussed on pages 5.8-18-19 of the Draft EIR, the Project Site is not located near the Pacific Ocean nor any large body of water. Therefore, neither tsunamis nor seiches, which are defined as standing waves in a partially enclosed body of water, present any hazard to the Project Site. Further, the Site and its surrounding vicinity is relatively flat and the nearest foothills are more than a mile away so that the potential for a mud flow affecting the Site is remote.

h. Potential Significant Impact: Cumulative impacts on hydrology and water quality

Finding: Cumulative impacts on hydrology and water quality caused by the Project, in conjunction with other development, will not be cumulatively considerable and thus will be less than significant.

Factual Basis for the Finding: As discussed on page 6-14 of the Draft EIR, the EIR prepared for the City's General Plan found that the development of the Project Site and surrounding areas has the potential to increase flooding, erosion, stormwater pollutants. These impacts will be avoided through the implementation of required Best management Practices on a project by project basis in accordance with the national Pollutant Discharge Elimination Stormwater Permit and Water Quality Management Plans. All flood control measures and infrastructure maintenance will be required to comply

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with either the Riverside County Flood Control and Water Conservation District's or the City's standard engineering practices. Additionally, all new development will be required to build master drainage plan facilities and/or pay fees which will be used to build them.

7. LAND USE AND PLANNING

a. Potential Significant Impact: Physical division of an established community (Impact 5.9-1)

Finding: The Project will not physically divide an established community.

Factual Basis for the Finding: As discussed on page 5.9-16 of the Draft EIR, there is no established community in the Project area at the present time. Further, the existing General Plan designates the Project Site for nonresidential development.

b. Potential Significant Impact: Cumulative impacts on land use and planning

Finding: Cumulative impacts on land use and planning caused by the Project, in conjunction with other development, will not be cumulatively considerable and thus will be less than significant.

Factual Basis for the Finding: As discussed on pages 6-14-16 of the Draft EIR, the changes in land use for the Project Site will produce fewer jobs than currently projected based on the development contemplated by the existing General Plan designation and zoning but will still increase the City's job/housing ratio. Further, the impacts resulting from changes in land use are site specific so that a change of use on one site does not contribute to a change of use on other sites.

8. MINERAL RESOURCES

a. Potential Significant Impact: Loss of a known valuable mineral resource (Impact 5.10-1)

Finding: The Project will not result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state.

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Factual Basis for the Finding: As discussed on page 5.10-3 of the Draft EIR, there are no known mineral resources on the Project Site.

b. Potential Significant Impact: Loss of availability of a locally-important mineral resource recovery site (Impact 5.10-2)

Finding: The Project will not result in the loss of availability of a locally-important mineral resource recovery site delineated on the City's General Plan or any other land use plan.

Factual Basis for the Finding: As discussed on page 5.10-3 of the Draft EIR, the Project Site is not identified on any land use plan as containing any locally-important mineral resource recovery site.

c. Potential Significant Impact: Cumulative impacts on mineral resources

Finding: Cumulative impacts on mineral resources caused by the Project, in conjunction with other development, will not be cumulatively considerable and thus will be less than significant

Factual Basis for the Finding: As discussed on pages 6-16-17 of the Draft EIR, there are no mineral resources located on the Project Site so the development of the Project will not have any impact on mineral resources. Further, impacts to mineral resources are site specific so that a problem on one site does not contribute to problems on other sites.

9. NOISE

a. Potential Significant Impact: Exposure of people to noise levels in excess of applicable standards or a substantial permanent noise increase in the vicinity of the Project (Impact 5.11-1)

Finding: The Project will not expose people to noise levels in excess of applicable standards. The Project will produce a permanent noise increase in the vicinity of the Project Site but will not result in any significant impact.

Factual Basis for the Finding: As discussed on pages 5.11-17-24 of the Draft EIR and in the Noise Assessment, Appendix I to the Draft EIR, the Project will result in a permanent noise increase in the vicinity of the Project Site because the Site is currently vacant. Traffic servicing the Project Site will

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add to the existing noise along Redlands Boulevard and Theodore Street between future Eucalyptus Avenue and SR-60. However, there are no sensitive receptors along either of these street segments which would be adversely affected by the increased noise. Any residential development on land south of future Eucalyptus Avenue will require a sound study, which will review the physical layout of the development, and, if noise problems are found, will require the imposition of appropriate noise reduction measures to ensure that the noise impacting future residents will not exceed that allowed by the City's Municipal Code.

The buildings housing the Project's logistics and commercial uses will be serviced by loading docks and other accessory equipment which will operate outside of the buildings. If adjacent to residential and other sensitive land uses, these activities could result in adverse noise impacts. However, all of the Project related activities will be separated from surrounding areas by surface streets or SR-60. The traffic generated noise on these roadways will be much greater than noise generated on the Project Site and will, therefore, completely mask any such noise. Further, noise generated on the Project Site will be under 65 CNEL, the City's noise standard for residential areas, for all areas zoned for residential development.

b. Potential Significant Impact: Exposure of people to excessive ground borne vibration or noise (Impact 5.11-2)

Finding: The Project will not expose people to, nor will it generate, excessive ground borne vibration or noise.

Factual Basis for the Finding: As discussed on page 5.11-24 of the Draft EIR and in the Noise Assessment, Appendix I to the Draft EIR, the grading and construction associated with the development of the Project will not require pile drivers, blasting or other vibration causing equipment or events. Rubber tired vehicles, such as the trucks and cars which will be servicing the Project, generally do not cause significant vibration.

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c. Potential Significant Impact: Exposure of people to excessive noise levels from airports (Impact 5.11-4)

Finding: People working on the Project Site will not be subjected to excessive noise levels as a result of the Site being located within an airport land use plan area or within two miles of a public or public use airport.

Factual Basis for the Finding: As discussed on page 5.11-26 of the Draft EIR, the Project Site is not located within an airport land use plan area nor is it located within two miles of a public or public use airport.

d. Potential Significant Impact: Excessive noise levels due to the proximity of a private airstrip (Impact 5.11-5)

Finding: People working on the Project Site will not be subjected to excessive noise levels as a result of the Site being located within the vicinity of a private airstrip.

Factual Basis for the Finding: As discussed on pages 5.7-9 and 5.11-26 of the Draft EIR, the nearest airport is more than seven miles away from the Project Site and there are no known private airstrips in the vicinity. Therefore, the Project Site will not be subject to excessive noise levels from aircraft.

10. POPULATION, HOUSING AND EMPLOYMENT

a. Potential Significant Impact: The inducement of substantial population growth in the Project area (Impact 5.12-1)

Finding: The Project will not, directly or indirectly, induce substantial population growth in the Project area through the introduction of homes or businesses nor through the extension of roads or other infrastructure.

Factual Basis for the Finding: As discussed on page 5.12-3 of the Draft EIR, approximately 2,000 jobs will be generated by the development of the Project. It is expected that most of the workers will reside in the local area. There is a sufficient housing supply already in existence to accommodate those employees who will move into the City.

The construction of future Eucalyptus Avenue, as well as the extension of public services and utilities, will primarily serve the Project Site and will not lead,

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directly or indirectly, to any substantial population growth in the Project area. Adjacent properties may use future Eucalyptus Avenue, which will run between Redlands Boulevard and Theodore Street, but adjacent properties already have access to these two roadways.

b. Potential Significant Impact: Displacement of existing housing (Impact 5.12-2)

Finding: The Project will not displace existing housing nor will it necessitate the construction of replacement housing elsewhere.

Factual Basis for the Finding: As discussed on pages 5.12-3-4 of the Draft EIR, the Project Site does not have any housing on it.

c. Potential Significant Impact: Displacement of people (Impact 5.12-3)

Finding: The Project will not displace people nor will it necessitate the construction of replacement housing elsewhere.

Factual Basis for the Finding: As discussed on page 5.12-4 of the Draft EIR, the Project Site is currently vacant so that the development of the Project will not result in the displacement of anyone.

d. Potential Significant Impact: Cumulative impacts on population, housing and employment.

Finding: Cumulative impacts caused by the development of the Project, in conjunction with other development, will not be cumulatively considerable and thus will be less than significant.

Factual Basis for the Finding: As discussed on pages 6-23-24 of the Draft EIR, the development of the Project will help improve the City's jobs/housing imbalance by adding jobs but not housing. Development of other land will be pursuant to the City's existing General Plan, which contemplates a substantial increase in jobs and homes, and will not be affected by the development of the Project.

11. PUBLIC SERVICES

a. Potential Significant Impact: The provision of new or physically altered police facilities (Impact 5.13-1)

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Finding: The Project will not result in substantial adverse physical impacts associated with the provision of new or physically altered police facilities, the construction of which would cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for police services.

Factual Basis for the Finding: As discussed on pages 5.13-1-2 of the Draft EIR and in the letter from Moreno Valley's Police Chief, in Appendix L to the Draft EIR, the development of the Project may require an incremental increase in the need for police services but no new facilities will have to be constructed to provide that service which will be in the form of personnel and equipment which will be paid for out of general City revenues.

b. Potential Significant Impact: Adverse physical impacts associated with the provision of new or physically altered school facilities (Impact 5.13-3)

Finding: The Project will not result in substantial adverse physical impacts associated with the provision of new or physically altered school facilities, the construction of which would cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for school services.

Factual Basis for the Finding: As discussed on page 5.13-4 of the Draft EIR, the Project will not contain any homes and therefore will not house any school-age children and will not, therefore, create the need for new or altered school facilities. Further, the payment of school fees authorized by Government Code § 65995 would constitute full mitigation even if any additional needs were created.

c. Potential Significant Impact: Substantial adverse physical impacts associated with the provision of new or physically altered park facilities (Impact 5.13-4)

Finding: The Project will not result in substantial adverse physical impacts associated with the provision of new or physically altered park facilities, the construction of which would cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for park services.

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Factual Basis for the Finding: As discussed on pages 5.13-5-6 of the Draft EIR, the Project is not expected to generate more than a few new residents in the City. The satisfaction of the park needs of those new citizens has already been accounted for as part of the City's projected population and residential growth in the existing General Plan. There are currently no City recreational facilities near the Project Site that would be used by employees.

d. Potential Significant Impact: Substantial adverse physical impacts associated with the provision of other new or physically altered other facilities (Impact 5.13-6)

Finding: The Project will not result in substantial adverse physical impacts associated with the provision of other new or physically altered other facilities, the construction of which would cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for other services.

Factual Basis for the Finding: As discussed on page 5.13-6 of the Draft EIR, the Project is not expected to generate more than a few new residents in the City. The satisfaction of the other needs of those new citizens has already been accounted for as part of the City's projected population and residential growth in the existing General Plan. There are currently no other City facilities near the Project Site that would be used by employees.

e. Potential Significant Impact: Cumulative impacts on public services

Finding: Cumulative impacts caused by the Project, in conjunction with other development, will not be cumulatively considerable and thus will be less than significant.

Factual Basis for the Finding: As discussed on pages 6-24-25 of the Draft EIR, the impacts on public services caused by the development of the Project will be less than significant. Development of other land will be pursuant to the City's existing General Plan, which incorporates the need for, and the provision of, public services and will not be affected by the development of the Project.

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12. TRANSPORTATION AND TRAFFIC

a. Potential Significant Impact: Exceeding a level of service set by a congestion management agency (Impact 5.14-2)

Finding: No roadway or highway subject to Riverside County's Congestion Management Plan will be significantly affected by Project traffic.

Factual Basis for the Finding: As discussed on pages 5.14-4 and -29-34 of the Draft EIR, as modified on pages 4-64-65 of the Final EIR, and in Traffic Study, Appendix J to the Draft EIR and in the Traffic Topical response, pages 3-145-163 of the Final EIR, the Project traffic will account for approximately 2% of the traffic at SR 60/I-215 which is less than the 3% level of significance threshold contained in the Riverside County Congestion Management Plan.

SR-60 is the only roadway or highway affected by the Project which is also subject to the Riverside County Congestion Management Plan. Two segments just east of the SR-60/I-215 intersection are currently, and will remain, at level of service F with or without Project traffic. However, while this exceeds the Riverside County Congestion Management Plan's level of service requirement of E, it is less than significant because the Project's contribution of approximately 2% is less than the 3% level of significance threshold.

b. Potential Significant Impact: Increase in hazards due to a design feature or an incompatible use (Impact 5.14-3)

Finding: The Project will not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or an incompatible use (e.g., farm equipment).

Factual Basis for the Finding: As discussed on pages 5.14-34-35 of the Draft EIR, the Project Site will be served by large trucks. All roadways and entryways associated with the Project Site have been designed in accordance with standards provided by the City. Moreover, a separate northbound left-turn lane at the Theodore Street/SR-60

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eastbound ramp will improve safety for truck operations over that currently existing.

The normal hazards associated with blind spots created when people in vehicles are in close proximity to large trucks and trailers will be substantially reduced because a single driveway will serve as a primary entrance for truck traffic serving the Project Site and potential blind spots will be addressed through the design feature of the individual driveways.

Finally, a Construction Management Plan will be implemented to address traffic during the grading and construction phases of the Project to ensure that construction traffic will not result in any hazards to the traveling public.

c. Potential Significant Impact: Inadequate emergency access (Impact 5.14-4)

Finding: The Project will not result in inadequate emergency access.

Factual Basis for the Finding: As discussed on page 5.14-35 of the Draft EIR, the Project does not create any barriers between roadways and any other land use. Emergency access to the Project Site will be available over future Eucalyptus Avenue from both Redlands Boulevard and Theodore Street for all three Phases of the Project-even though access from Redlands Boulevard will not be available to the general public until Phase 3.

d. Potential Significant Impact: Conflict with adopted policies, plans or programs supporting alternative transportation (Impact 5.14-5)

Finding: The Project will not conflict with adopted policies, plans or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks, etc.).

Factual Basis for the Finding: As discussed on pages 5.14-35-39 of the Draft EIR, future Eucalyptus Avenue will be improved adjacent to the Project Site and will be suitable for a bus route should one be extended to the Site by the Riverside County Transit Agency. Further, a multi-use trail, suitable for pedestrians and bicyclists, will be

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constructed adjacent to the Project Site on the north side of future Eucalyptus Avenue.

13. UTILITIES AND SERVICE SYSTEMS

a. Potential Significant Impact: Exceeding wastewater treatment requirements (Impact 5.15-1)

Finding: The Project will not exceed wastewater treatment requirements set by the Regional Water Quality Control Board.

Factual Basis for the Finding: As discussed on pages 5.15-1 and -9 of the Draft EIR, the Project's wastewater flows will be typical of those from commercial/retail facilities and, for the logistics facilities, would consist of domestic waste from employees. No effluents are expected that would exceed the treatment requirements set by the Regional Water Quality Control Board.

b. Potential Significant Impact: Construction of new water and wastewater treatment facilities or the expansion of existing facilities, the construction of which could cause significant environmental effects (Impact 5.15-2)

Finding: The Project will not require, nor result in, the construction of new water and wastewater treatment facilities nor the expansion of existing facilities, the construction of which could cause significant environmental effects.

Factual Basis for the Finding: As discussed on pages 5.15-2-5 and -9 of the Draft EIR, as modified on pages 4-65-68 of the Final EIR, no expansion of existing water and wastewater treatment facilities will be required to serve the Project Site.

c. Potential Significant Impact: Construction of new stormwater drainage facilities or the expansion of existing facilities, the construction of which could cause significant environmental effects (Impact 5.15-3)

Finding: The Project will not require, nor will it result in, the construction of new stormwater drainage facilities nor will it require, nor result in, the expansion of existing facilities, the construction of which could cause significant environmental effects.

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Factual Basis for the Finding: As discussed in Section 5.8 and page 5.15-9 of the Draft EIR, as modified by pages 4-55-58 of the Final EIR, the Project's new stormwater drainage facilities will decrease stormwater runoff from the Project Site compared to that which currently exists and will also significantly reduce the pollutant load of stormwater runoff over that which currently exists.

d. Potential Significant Impact: Adequacy of water supplies available to serve the Project (Impact 5.15-4)

Finding: Sufficient water supplies are available to serve the Project from existing resources so that neither new nor expanded entitlements are required.

Factual Basis for the Finding: As discussed on pages 5.15-2-5, 9-11 and 14-15 of the Draft EIR, as modified on pages 4-67-68 of the Final EIR, and the March 5, 2008, Water Supply Assessment prepared for the Project by the water provider, the Eastern Municipal Water District (the "EMWD") as corrected by the June 4, 2008, letter from the EMWD, Appendix K.2 to the Draft EIR, the Project, at build out, will use just over 140 acre feet of potable water per year. The Water Supply Assessment, which was prepared pursuant to SB610, took into consideration the October, 2007, reduction in water from Northern California through the State Water Project which substantially reduced the amount of water available to Southern California. After taking that information into consideration, the EMWD determined that "it will be able to provide adequate water supply to meet the potable water demand for Tentative Parcel Map 35629, in addition to existing and future uses." (Page 33 of the Water Supply Assessment.)

Further, existing water infrastructure currently exists which, with the addition of a 12 inch pipeline to the Project Site from an existing water line located south of and adjacent to SR-60, west of Redlands Boulevard, will allow water to be brought to the Project Site.

Although no mitigation is required to reduce any significant impact, Mitigation Measure W-1, set forth on pages 5.15-14-15 of the Draft EIR, which requires the preparation of a planting and irrigation for the

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City's review and approval, has been imposed as a condition of Project approval to ensure further reduction of water used for landscaping.

e. Potential Significant Impact: Adequacy of wastewater treatment capacity (Impact 5.15-5)

Finding: Adequate wastewater treatment capacity exists to serve the Project in addition to existing commitments.

Factual Basis for the Finding: As discussed on pages 5.15-1 and 11 of the Draft EIR, the Project will generate approximately 61,680 gallons of wastewater per day. The EMWD's Moreno Valley Regional Water Reclamation Facility has a capacity to treat 16,000,000 gallons of wastewater per day with the ability to expand to 41,000,000 gallons per day. The current utilization is approximately 11,200,000 gallons per day.

An existing sewer line will be extended along Redlands Boulevard and then easterly along future Eucalyptus Avenue to serve the Project Site.

f. Potential Significant Impact: Insufficient landfill capacity to accommodate the Project's solid waste disposal needs (Impact 5.15-6)

Finding: Adequate landfill capacity exists to accommodate the Project's solid waste disposal needs.

Factual Basis for the Finding: As discussed on pages 5.15-6-7 and -11-12 of the Draft EIR, the Project, at build out, will generate just under 129 tons of solid waste per day. The City currently has available to it three landfills. The three landfills have a total capacity to accept solid waste of just under 14,600 tons per day, a minimum of 3,820 tons per day of which is not currently being used. The total remaining capacity in the three landfills is approximately 134,200,000 tons with sufficient capacity for the next 10 to 15 years with the ability to expand for another 15 years after that.

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g. Potential Significant Impact: Compliance with federal, state and local statutes and regulations related to solid waste capacity (Impact 5.15-7)

Finding The Project will comply with federal, state and local statutes and regulations related to solid waste capacity.

Factual Basis for the Finding: As discussed on page 5.15-12 of the Draft EIR, the City has regulations which govern the disposal of solid waste. Skechers, the tenant for the building to be constructed on the Parcel 1, has instituted a significant recycling program at its current locations which will be continued upon relocation to the Project Site. Further, recycled material will be used to the greatest extent practicable in the construction of the Project.

h. Potential Significant Impact: Sufficiency of electrical service for the Project (Impact 5.15-8)

Finding: The Project will be provided with sufficient electrical service.

Factual Basis for the Finding: As discussed on pages 5.15-7-8, -12-14 and 5.16-11-13, as modified on pages 4-68-69 of the Final EIR, the Project will use approximately 3.7 megawatts of electricity which will be provided by the City of Moreno Valley Utilities. The substation which will serve the Project Site has a current capacity of 56 megawatts, expandable to 112 megawatts, with a current peak load of 15 megawatts.

Although no mitigation is required to reduce any significant impact, Mitigation Measure GCC-1 through GCC-4, set forth on page 5.16-11 of the Draft EIR, which require increased energy efficiency, the use of "cool" roofs and paints, the production of energy on-site through the use of alternate, renewable energy sources and the use of energy efficient appliances and systems, and GCC-9, set forth on page 5.15-13 of the Draft EIR, as modified on page 4.20 of the Final EIR, which requires LEED certification, have been imposed as conditions of Project approval to ensure greater reductions in energy used by the Project.

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i. Potential Significant Impact: Cumulative impacts on utilities and service systems

Finding: Cumulative impacts on utilities and service systems caused by the Project, in conjunction with other development, will not be cumulatively considerable and thus will be less than significant.

Factual Basis for the Finding: As discussed on pages 6-32-33 of the Draft EIR and in subsections I.V.A.14.a-h above, the Project's impacts on water and wastewater treatment requirements and capacity, stormwater drainage facilities, water supply availability, solid waste disposal capacity and availability of electricity at build out will be less than significant. The Projects impacts on each of these utilities and public services has already been factored in to long term needs and requirements so that its cumulative impacts will also be less than significant.

B. IMPACTS IDENTIFIED IN THE EIR AS POTENTIALLY SIGNIFICANT THAT HAVE BEEN MITIGATED TO LESS THAN SIGNIFICANT

1. AESTHETICS

a. Potential Significant Impact: Creation of a new source of substantial light or glare which would adversely affect day or nighttime views in the area (Impact 5.1-4)

Finding: The Project has the potential of creating a new source of substantial light or glare which would adversely affect day or nighttime views in the area. However, with the imposition of Mitigation Measure A-1, which requires limitations on night time lighting during construction, and compliance with existing City ordinances, standards and regulations, the impact will be less than significant.

Factual Basis for the Finding: As discussed on pages 5.1-26-35 of the Draft EIR, the lighting associated with the operation of the Project will be required to comply with all of the City's lighting regulations and will therefore result in a less than significant impact. Nighttime lighting during the Project's construction has the potential to create temporary new sources of light and glare that will emanate from the Project Site. Requiring the use of directional lighting, shielding and other similar measures will ensure that the impact will be less than

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significant. Accordingly, Mitigation Measure A-1, set forth on page 5.1-35 of the Draft EIR, has been imposed as a condition of approval of the Project.

2. BIOLOGICAL RESOURCES

a. Potential Significant Impact: Substantial adverse effect on federally and California protected and special-status plant and wildlife (Impact 5.4-1)

Finding: The Project Site contains moderately suitable habitat for the Stephens' kangaroo rat, the burrowing owl and for ground-, tree- and shrub-nesting birds, all of which could be adversely affected by the development of the Project. The imposition of Mitigation Measures BR-1 through BR-3, which require the protection of birds which might be found on the Project Site and the payment of mitigation fees which will be used to protect the Stephens' Kangaroo Rat, will reduce the impact to less than significant.

Factual Basis for the Finding: As discussed on pages 5.4-1-31 and -35-36 of the Draft EIR and in the Habitat Assessment and MSHCP Consistency Analysis, Appendix C.1 to the Draft EIR, the Project Site contains moderately suitable habitat for several federally and state protected plants and wildlife which would be affected directly, and through the loss of habitat, indirectly, as a result of the development of the Project. However, a pre-construction survey of the Project Site, avoidance of activities which would affect nesting sites and payment of the mitigation fee called for under the Stephens' Kangaroo Rat Habitat Conservation Plan will ensure that the impacts will be less than significant. Accordingly, Mitigation Measures BR-1, BR-2 and BR-3, set forth on pages 5.4-34-35 of the Draft EIR, have been imposed as conditions of approval of the Project.

b. Potential Significant Impact: Conflict with local policies or ordinances protecting biological resources (Impact 5.4-5)

Finding: The Project Site is located within an area which is subject both to the Multiple Species Habitat Conservation Plan and the Stephens' Kangaroo Rat Habitat Conservation Plan so that the development of the Project has the potential to adversely affect biological resources. The imposition of

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Mitigation Measures BR-2 through BR-4, which require the protection of birds which might be found on the Project Site and the payment of mitigation fees which will be used to protect the Stephens' Kangaroo Rat and the species protected under the Multiple Species Habitat Conservation Plan, will reduce the impact to less than significant.

Factual Basis for the Finding: As discussed on pages 5.4-32-33 of the Draft EIR and in the Habitat Assessment and MSHCP Consistency Analysis, Appendix C.1 to the Draft EIR, the Project Site is located within an area which is subject both to the Multiple Species Habitat Conservation Plan and the Stephens' Kangaroo Rat Habitat Conservation Plan. However, with respect to both Plans, the Project Site is located in an area which calls for the payment of mitigation fees which have been determined to be full mitigation for the impacts which may occur. Accordingly, Mitigation Measures BR-2, BR-3 and BR-4, set forth on pages 5.4-34-35 of the Draft EIR, have been imposed as conditions of approval of the Project.

c. Potential Significant Impact: Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan or other approved local, regional or state habitat conservation plan (Impact 5.4-6)

Finding: The Project Site lies within an area subject to the Multiple Species Habitat Conservation Plan and the Stephens' Kangaroo Rat Habitat Conservation Plan. The development of the Project could significantly affect the species and their habitats protected by the two Plans. However, the imposition of Mitigation Measures BR-2, which requires the payment of mitigation fees which will be used to protect the Stephens' Kangaroo Rat, and BR-4, which requires the payment of mitigation fees which will be used to protect the species protected under the Multiple Species Habitat Conservation Plan, will reduce the impact to less than significant.

Factual Basis for the Finding: As discussed on pages 5.4-1-33-34 of the Draft EIR and the Habitat Assessment and MSHCP Consistency Analysis, Appendix C.1 to the Draft EIR, the Project Site is located in an area subject to both Plans. However, both Plans identify the Project Site as an area where the payment of mitigation fees will fully mitigate any impact which might otherwise occur.

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Accordingly, Mitigation Measures BR-2 and BR-4, set forth on pages 5.4-34-35 of the Draft EIR, have been imposed as conditions of approval of the Project.

d. Potential Significant Impact: Cumulative impacts on biological resources

Finding: Cumulative impacts caused by the development of the Project, in conjunction with other development, could result in significant and adverse impacts to biological resources. However, the imposition of Mitigation Measures BR-1 through BR-4, which require the protection of birds which might be found on the Project Site, the payment of mitigation fees which will be used to protect the Stephens' Kangaroo Rat and the species protected under the Multiple Species Habitat Conservation Plan, and compliance by other projects with the requirements of the Multiple Species Habitat Conservation Plan and The Stephens' Kangaroo Rat Conservation Plan will reduce the impacts to less than cumulatively considerable and thus to less than significant.

Factual Basis for the Finding: As discussed on pages 6-10-11 of the Draft EIR and in the Habitat Assessment and MSHCP Consistency Analysis, Appendix C.1 to the Draft EIR, substantial amounts of land in the vicinity of the Project contain habitat beneficial to various species. However, the land is also within the areas subject to the Multiple Species Habitat Conservation Plan and The Stephens' Kangaroo Rat Conservation Plan, both of which are designed to protect habitat and species. The imposition of Mitigation Measures BR-1 through BR-4, discussed in subsections IV.2.a-c above, on the Project and the compliance of other projects with the requirements of the two plans will ensure that the impacts on biological resources will be reduced to less than significant.

3. CULTURAL RESOURCES

a. Potential Significant Impact: Substantial change in the significance of an historical or archeological resource pursuant to CEQA Guideline § 15064.5 (Impact 5.5-1)

Finding: Although no known cultural resources are located on the Project Site, 14 cultural resources have been identified within one mile of the Site so that

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development of the Project could have a significant impact on cultural resources. However, the imposition of Mitigation Measures CR-1 through CR-4, which require a City approved archeologist to oversee cultural resource mitigation monitoring while earth moving activities are taking place on the Project Site and which set forth the procedures to be followed if archeological resources are encountered, including consultation with the appropriate culturally affiliated native American Tribe, will reduce the impact to less than significant.

Factual Basis for the Finding:

As discussed on pages 5.5-1-7 of the Draft EIR and the Phase 1 Cultural Resources Survey Report, Appendix E to the Draft EIR, the Project Site does not contain any prehistoric sites or isolated artifacts. However, a record search indicated that 14 cultural resources are located within one mile of the Site. The Project Site has been plowed for many years and it is possible that cultural resources might be found once grading begins. Requiring continuing archeological review and monitoring, in cooperation with the representative of a City designated Tribe, will reduce the impact to less than significant. Accordingly, Mitigation Measures CR-1, CR-2, CR-3 and CR-4, set forth on page 5.5-8 of the Draft EIR, as modified on pages 4-9-10 of the Final EIR, which will ensure adequate protection of any cultural resources which may be found during grading of the Project Site, have been imposed as conditions of approval of the Project.

b. Potential Significant Impact: Destruction of a unique paleontological resource or site or unique geologic feature (Impact 5.5-2).

Finding:

There are no unique paleontological resource or unique geologic features on the Project Site. However, the impact of the development of the Project on paleontological resources is considered significant because there is a moderate possibility that paleontological resources exist because the geological feature underlying the Project Site has a high potential to contain such resources. However, the imposition of Mitigation Measure CR-5, which require a City approved paleontologist to oversee paleontological resource mitigation monitoring while earth moving activities are taking place on the Project Site and which sets forth the procedures to be followed if paleontological resources are encountered, will reduce the impact to less than significant.

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Factual Basis for the Finding: As discussed on pages 5.5-6-7 of the Draft EIR and in the Phase 1 Cultural Resources Survey Report, Appendix E to the Draft EIR, a literature search indicated that no paleontological resources have been identified on the Project Site. However, the Project Site is situated upon a geologic feature which is highly sensitive for fossil resources. Accordingly, Mitigation Measure CR-5, set forth on page 5.5-9 of the Draft EIR, as modified on page 4-10 of the Final EIR, which will ensure adequate protection of any paleontological resources which may be found during grading of the Project Site, has been imposed as a condition of approval of the Project.

c. Potential Significant Impact: Disturbance of human remains, including those interred outside of formal cemeteries (Impact 5.5-3)

Finding: The location of human remains within the Project Site would be a significant impact even though no human remains have been identified on the Site nor are any expected to be found. However, the imposition of Mitigation Measure CR-6, which requires compliance with the procedures set forth if human remains are encountered, will reduce the impact to less than significant.

Factual Basis for the Finding: As discussed on page 5.5-7 of the Draft EIR and the Phase 1 Cultural Resources Survey Report, Appendix E to the Draft EIR, no human remains have been located in or near the Project Site and none are expected. However, the Site is located in an area which has been inhabited by several Native American Tribes in the past and the possibility that human remains may be found on the Site cannot be rejected. Accordingly, Mitigation Measure CR-6, set forth on pages 5.5-9-10, as modified on pages 4-11-12 of the Final EIR, which will ensure adequate protection of any human remains which may be found during grading of the Project Site, have been imposed as conditions of approval of the Project.

d. Potential Significant Impact: Cumulative impacts on cultural resources

Finding: Cumulative impacts caused by the development of the Project, in conjunction with other development, could result in significant adverse impacts to

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cultural resources. However, the imposition of Mitigation Measures CR-1 through CR-6, which require a City approved archeologist to oversee cultural resource mitigation monitoring, and a City approved paleontologist to oversee paleontological resources, while earth moving activities are taking place on the Project Site and which set forth the procedures to be followed if archeological or paleontological resources or human remains are encountered, including consultation with the appropriate culturally affiliated native American Tribe, will reduce the impacts to less than cumulatively considerable and thus to less than significant.

Factual Basis for the Finding: As set forth on pages 6-11-12 of the Draft EIR and in the Phase 1 Cultural Resources Survey Report, Appendix E to the Draft EIR, no cultural resources have been found on or near the Project Site although cultural resources have been found within a mile of the Site and the Site itself lies within an area which has been historically used by several Native American Tribes. There therefore exists the possibility that cultural resources may be found on the Site once grading begins. However, Mitigation Measures CR-1 through CR-6, discussed in subsections IV.3.a-c above, which will ensure that the information associated with any cultural resources found on the Site will not be lost but will, instead, be available to be used in the context of cultural resources recovered from other, nearby sites, have been imposed as conditions of approval of the Project.

4. HAZARDS AND HAZARDOUS MATERIALS

a. Potential Significant Impact: The creation of a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials (Impact 5.7-1)

Finding: Neither the construction nor the operation of the Project will create a significant hazard to the public or the environment through the routine transfer, use or disposal of hazardous materials. However, fire and smoke hazards and emissions from diesel powered trucks serving the Project can result in significant environmental and health hazards. However, the imposition of Mitigation Measures HH-1 through HH-4, Which require compliance with fire safety design and construction standards, AQ-5, which requires the review and approval by the City of a construction travel plan, AQ-8, which requires the use of electrically powered equipment during

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construction, AQ-10 through AQ-13, which require off-site construction to be limited to day light hours, posting signs prohibiting diesel idling for more than three minutes and prohibiting the establishment of sensitive receptors near the Project Site, and GCC-11, which prohibits heavy trucks from coming on to the Project Site if properly certified, will reduce the impacts to less than significant.

Factual Basis for the Finding: As discussed on pages 5.7-7-9 of the Draft EIR, the potentially hazardous materials that will be used in the construction and operation of the Project are all subject to substantial regulation in order to ensure that their use will not adversely affect the public health or safety.

Potential fire and smoke hazards associated with the Project, particularly given its size, could present a significant impact. However, the imposition of Mitigation Measures HH-1 through HH-4, set forth on page 5.7-11 of the Draft EIR, which will substantially minimize the chance of a major fire, have been imposed as conditions of approval of the Project.

As discussed on pages 5.3-49-53 and 5.7-8-9, emissions from diesel trucks serving the Project Site could have a substantial impact on the health of anyone living south of future Eucalyptus Avenue. Prohibiting idling of diesel trucks, providing electricity to trucks at the Project Site, requiring that only trucks in good operating condition be allowed to access the Project Site and requiring the applicant to record a land use restriction which will prohibit residential development south of future Eucalyptus Avenue will ensure that adverse health impacts will be mitigated into insignificance. Accordingly, Mitigation Measures AQ-11 through AQ-13, as set forth on page 5.3-52 of the Draft EIR, as modified on pages 4-5-6 of the Final EIR, and GCC-11, set forth on pages 4-5-6 of the Final EIR, have been imposed as conditions of approval of the Project.

b. Potential Significant Impact: Cumulative hazard and hazardous materials impacts

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Finding: Cumulative impacts caused by the development of the Project, in conjunction with other development, could result in significant adverse impacts resulting from hazards and hazardous materials. However, the imposition of Mitigation Measures HH-1 through HH-4, which require compliance with fire safety design and construction standards, and AQ-13 which prohibits the establishment of sensitive receptors near the Project Site, on the Project and similar mitigation measures on other projects will reduce the impact to less than cumulatively considerable and thus will be less than significant.

Factual Basis for the Finding: As discussed on pages 6.12-13 of the Draft EIR, the potentially hazardous materials that will be used in the construction and operation of the Project are all subject to substantial regulation in order to ensure that their use will not adversely affect the public health or safety. Similar regulation will also apply to the development of other projects. The imposition of Mitigation Measures HH-1 through HH-4 and AQ-13, discussed in subsection IV.4.a above, on the Project and the imposition of similar mitigation measures on other projects will reduce the impacts to less than significant.

5. LAND USE AND PLANNING

a. Potential Significant Impact: Conflict with any applicable land use plan, policy or regulation of an agency with jurisdiction over the Project adopted to avoid or mitigate environmental effects (Impact 5.9-2)

Finding: The Project would be technically inconsistent with the City's General Plan and Zoning Ordinance prior to approval of the proposed General Plan amendment and the change of zone. However, after the adoption of the General Plan amendment and the change of zone, the Project will be fully consistent with the goals and policies of the City's General Plan for this area of the City under the existing land use plan and will not conflict with any of the City's policies or regulations adopted to avoid or mitigate an environmental effect. The imposition of Mitigation Measure LU-1, which prohibits the establishment of sensitive receptors near the Project Site, will reduce the impacts to less than significant consistent with goals set by regional planning organizations.

Factual Basis for the Finding: As discussed on pages 5.9-16-27 of the Draft EIR and pages 4-58-59 of the Final EIR, with the adoption of

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the required General Plan Amendment and Zone Change, the Project is consistent with all of the City's applicable land use, General Plan and Zoning Goals and Policies, including those designed to avoid or mitigate environmental effects. The Project will be consistent with all of the regional and County plans except that it will be inconsistent with the air quality goals of the South Coast Air Quality Management District, the Southern California Association of Governments' Regional Transportation Plan and the Western Riverside County Council of Governments' Comprehensive Plan but neither the Air Quality Management District nor the Associations have any permitting jurisdiction over the Project. Imposing a buffer immediately south of future Eucalyptus Avenue, which will prohibit the location of residences and other sensitive receptors through the recordation of a deed restriction, will ensure that no sensitive receptors near the Project Site will be affected by adverse air quality impacts emanating from the construction and operation of the Project. Accordingly, Mitigation Measure LU-1, set forth on page 4-13 of the Final EIR, has been imposed as a condition of approval of the Project.

b. Potential Significant Impact: Conflict with an applicable habitat conservation plan or natural communities conservation plan (Impact 5.9-3)

Finding: The Project could conflict with any applicable habitat conservation plan or natural communities conservation plan. However, the imposition of Mitigation Measures BR-2 through BR-4 which require the protection of birds which might be found on the Project Site and the payment of mitigation fees which will be used to protect the Stephens' Kangaroo Rat and the species protected under the Multiple Species Habitat Conservation Plan, will reduce the impact to less than significant.

Factual Basis for the Finding: As discussed on pages 5.4-32-33 of the Draft EIR and in the Habitat Assessment and MSHCP Consistency Analysis, Appendix C-1 to the Draft EIR, the Project Site is located within an area which is subject to both the Multiple Species Habitat Conservation Plan and the Stephens' Kangaroo Rat Habitat Conservation Plan. However, with respect to both Plans, the Project

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Site is located in an area which calls for the payment of mitigation fees which have been determined to be full mitigation for the impacts which may occur. Accordingly, Mitigation Measures BR-2, BR-3 and BR-4, set forth on pages 5.4-34-35 of the Draft EIR, as modified on page 4-8 of the Final EIR, have been imposed as conditions of approval of the Project.

6. NOISE

- a. Potential Significant Impact:** Temporary or periodic increases in ambient noise levels in the Project vicinity above levels existing without the Project (Impact 5.11-3)

Finding: Construction work on the Project Site could result in substantial temporary increases in ambient noise levels for existing residences located along Redlands Boulevard. However, the imposition of Mitigation Measures N-1 through N-5, which require that no construction vehicles use Redlands Boulevard south of future Eucalyptus Avenue, that there be no night time construction within 1200 feet of sensitive receptors, that temporary sound barriers be constructed to ensure that day time construction noise not exceed City standards, that all equipment be kept in good working order and that materials be stockpiled at least 1200 feet from residences south of future Eucalyptus Avenue along Redlands Boulevard and Theodore Street, will reduce the impact to less than significant.

Factual Basis for the Finding: As discussed in Section 5.11 of the Draft EIR and in the Noise Assessment, Appendix I to the Draft EIR, off-site construction along Redlands Boulevard, Theodore Street, future Eucalyptus Avenue and the drainage facilities to the south of the Project Site will take place during daylight hours and, with the exception of noisy equipment which will be used for very limited periods of time, there will be no substantial exposure of residents to significant noise impacts. The grading and construction which will take place on the Project Site will take place around the clock for almost a year and would expose nearby residents to noise levels in excess of those allowed under the City's Municipal — Code. However, prohibiting construction vehicles on Redlands Boulevard south of future Eucalyptus Avenue, prohibiting nighttime grading within 1,200 feet of

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residences south of future Eucalyptus Avenue, the erection of temporary sound barriers, maintaining equipment in good working order and locating material stockpiles at least 1,200 feet from residences south of future Eucalyptus Avenue along Redlands Boulevard and Theodore Street will ensure that none of the residences will be exposed to noise levels in excess of those allowed by the City's Municipal Code. Accordingly, Mitigation Measures N-1 through N-5, as set forth on pages 5.11-29-30 of the Draft EIR, as modified on pages 4-14-15 of the Final EIR, have been imposed as conditions of approval of the Project.

7. TRANSPORTATION AND TRAFFIC

a. Potential Significant Impact: Substantial increase on traffic load and street capacity (Impact 5.14-1)

Finding: As there is currently little traffic between Redlands Boulevard and Theodore Street between future Eucalyptus Avenue and SR-60 any additional traffic by comparison could be considered significant and would cause the intersection of Redlands Boulevard and the SR-60 westbound ramps to exceed the City's level of service during the AM peak hour. However, with the imposition of Mitigation Measures TT-1 through TT-3, which require the constructions of improvements on Redlands Boulevard, Theodore Street and at their intersections with SR-60 or the payment of fees for the construction of the improvements, the impacts will be less than significant.

Factual Basis for the Finding: As discussed on pages 5.14-15-28 and -39-40 of the Draft EIR, as modified on pages 4-64-65 of the Final EIR, and in the Traffic Study, Appendix J to the Draft EIR, a large number of trucks serving the Project Site will use Redlands Boulevard and Theodore Street between future Eucalyptus Avenue and SR-60. The City's level of service is D. Without improvements, the intersection of Redlands Boulevard and the SR-60 westbound ramps would be at level of service E in the AM peak hour. Requiring the improvement of the intersection will reduce the impact to less than significant. Accordingly, Mitigation Measure TT-2, set forth on page 5.14-39 of the Draft EIR, as modified on page 4-16 of the Final EIR, has been imposed as a condition of approval of the Project. Although no mitigation is required to reduce any other significant

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impact, Mitigation Measures TT-1 and TT-3, set forth on pages 5.14-39-40 of the Draft EIR, as modified on page 4-16 of the Final EIR, have also been imposed as conditions of approval of the Project to ensure that any improvements needed at the intersections of future Eucalyptus Avenue and Redland Boulevard and Theodore Street and at the intersection of Theodore Street and SR-60 will also be constructed.

b. Potential Significant Impact: Cumulative traffic impacts

Finding: Cumulative impacts of the Project, in conjunction with other development, could result in significant adverse impacts on traffic. However, the imposition of Mitigation Measures TT-1 through TT-3, which require the constructions of improvements on Redlands Boulevard, Theodore Street and at their intersections with SR-60 or the payment of fees for the construction of the improvements, and TT(C)-1 through TT(C)-3, which require the constructions of improvements on Redlands Boulevard, Theodore Street and at their intersections with SR-60 or the payment of fees for the construction of the improvements, on the Project, together similar mitigation measures imposed on other projects, will reduce the impacts to less than cumulatively considerable and thus will be less than significant.

Factual Basis for the Finding: As discussed on pages 6-25-32 of the Draft EIR and in the Traffic Study, Appendix J to the Draft EIR, traffic impacts of other projects have the potential to cause a number of intersections to exceed the City's level of service D requirement. Requiring the Project to provide improvements to the intersections of future Eucalyptus Avenue with Redland Boulevards and Theodore Street and at the intersections of SR-60 and Redlands Boulevard and Theodore Street will ensure that the project's impacts will be less than significant. Accordingly, Mitigation measures TT-1 through TT-3, as set forth on pages 5.14-39-40 of the Draft EIR, as modified on page 4-16 of the Final EIR, and TT-1(C) through TT-3(C), set forth on pages 6-32 of the Draft EIR, have been imposed as condition of approval of the Project. The City's General Plan requires that new development mitigate their traffic impacts so that similar mitigation measures will be imposed on other projects.

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C. IMPACTS IDENTIFIED IN THE EIR AS BEING SIGNIFICANT AND UNAVOIDABLE EVEN AFTER THE IMPOSITION OF ALL FEASIBLE MITIGATION MEASURES

1. AESTHETICS

a. Significant Unavoidable Impact: Substantial adverse effect on a scenic vista (Impact 5.1-1)

Finding: The development of the Project will have a substantial adverse effect on a significant scenic vista and there are no feasible mitigation measures which will reduce the impact to less than significant.

Factual Basis for the Finding: As shown and discussed on pages 5.1-4-25 of the Draft EIR and Appendix M to the Draft EIR, the Project Site is currently vacant except for a single structure and thus is part of a scenic open space vista. In addition, the Project Site as it now exists is somewhat obscured by existing trees and vegetation but does not completely interfere with the views of mountains and foothills to the north, east and south. The development of the Project will block views of these scenic vistas from SR-60, Redlands Boulevard, future Eucalyptus Avenue and Theodore Street along the full length of each of these roadways adjacent to the Project Site. Further, the buildings to be constructed on the Project Site will be visible from higher elevations to the north, the east and the south and will alter the expansive view of the undeveloped property now evidenced from these areas.

These impacts are significant and unavoidable and there are no feasible mitigation measures which will reduce the impact to less than significant which would feasibly attain most of the basic objectives of the Project.

b. Significant Unavoidable Impact: Cumulative aesthetic impacts

Finding: The development of the Project, in conjunction with related projects and that authorized by the Moreno Highlands Specific Plan, will result in significant and unavoidable cumulative impacts on scenic vistas and there are no feasible mitigation measures which will reduce the impact to less than significant.

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Factual Basis for the Finding: As discussed on pages 6-5-6 of the Draft EIR, the development of land in the vicinity of the Project Site will add to the loss of scenic vistas which will occur because of the development of the Project. There are no mitigation measures which will reduce the impacts to less than significant which would feasibly attain most of the basic objectives of the Project. Given the similarity of impacts of other likely uses for the Project Site, only prohibiting any development would mitigate the impacts to less than significant.

2. AGRICULTURAL RESOURCES

a. Significant Unavoidable Impact: Conversion of farmland to non-agricultural use (Impact 5.2-1)

Finding: The development of the Project will have a significant and unavoidable impact on 24.1 acres of Prime Farmland, 98.8 acres of Farmland of Local Importance and 35.5 acres of Other Land which will be converted from agricultural uses into commercial and industrial uses. There are no feasible mitigation measures which will reduce the impact to less than significant which would feasibly attain most of the basic objectives of the Project. Given the similarity of impacts of other likely uses for the Project Site, only prohibiting any development would mitigate the impacts to less than significant.

Factual Basis for the Finding: As discussed on pages 5.2-1 and -6-7 of the Draft EIR and in the Agricultural Resources Report and Land Evaluation and Site Assessment and the Agricultural Impact Evaluation, Appendices B.1 and B.2 to the Draft EIR, the City's General Plan recognizes that farming has become less economically viable because of the high cost of water, the cost of land and property taxes, conflicts with surrounding urban uses and the lack of agri-business support in the area. Although the Project Site does contain land which has been identified by the California Department of Conservation as suitable for farming, the absence of an agricultural "infrastructure" — crop managers, labor, farm implements and processing facilities — in the vicinity, the cost of bringing suitable water to the Project Site, the cost of the water itself and the fact that the sale of the products which could be grown if water were available would not cover the costs of

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production means that the Project Site cannot be realistically considered as an agricultural resource.

There are no feasible mitigation measures which could reduce the loss of the farmland. There is a finite amount of land that is suitable for agricultural use. The purchase of fee title or of agricultural conservation easements over other parcels used for agriculture would not avoid, reduce or compensate for the impact of converting the Project Site from agricultural to commercial and industrial uses because it would not offset the loss of agricultural land caused by the development of the Project, i.e., there would still be a net reduction in the total amount of land suitable for agricultural use. Further, no City policy requires the acquisition of replacement agricultural land, either in fee or through the use of a conservation easement, and no program to oversee such acquisitions exist.

b. Significant Unavoidable Impact: Cumulative loss of farmland

Finding: The development of the Project, in conjunction with related projects and that authorized by the Moreno Highlands Specific Plan, will result in significant and unavoidable cumulative impacts on farming. There are no mitigation measures which will reduce the impact to less than significant other than prohibiting development on sites now used for agriculture.

Factual Basis for the Finding: As discussed on pages 5.2-5-7 and 6-6-7 of the Draft EIR and in the Agricultural Resources Report and Land Evaluation and Site Assessment and the Agricultural Impact Evaluation, Appendices B.1 and B.2 to the Draft EIR, the City's General Plan recognizes that farming has become less economically viable because of the high cost of water, the cost of land and property taxes, conflicts with surrounding urban uses and the lack of agri-business support in the area. Although the Project Site does contain land which has been identified by the California Department of Conservation as suitable for farming, the absence of an agricultural "infrastructure" — crop managers, labor, farm implements and processing facilities — in the vicinity, the cost of bringing suitable water to the Project Site, the cost of the water itself and the fact that the sale of the products which could

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be grown if water were available would not cover the costs of production means that the Project Site cannot be realistically considered as an agricultural resource.

There are no feasible mitigation measures which could reduce the loss of the farmland. There is a finite amount of land that is suitable for agricultural use. The purchase of fee title or of agricultural conservation easements over other parcels used for agriculture would not avoid, reduce or compensate for the impact of converting the Project Site from agricultural to commercial and industrial uses because it would not offset the loss of agricultural land caused by the development of the Project, i.e., there would still be a net reduction in the total amount of land suitable for agricultural use. Further, no City policy requires the acquisition of replacement agricultural land, either in fee or through the use of a conservation easement, and no program to oversee such acquisitions exist.

3. AIR QUALITY

a. Significant Unavoidable Impact: Violation of an air quality standard or substantial contribution to an existing or projected air quality violation (Impact 5.3-2)

Finding: The construction and operation of the Project will not violate any air quality standards for localized impacts with two exceptions: those promulgated by the South Coast Air Quality Management District for the emission of coarse and fine particulate matter ("PM10" and "PM2.5") during the construction of the Project. The imposition of Mitigation Measures AQ-1 through AQ-10, which require the control of fugitive dust, the acquisition of Tier II level construction equipment, to the extent available, the proper maintenance of construction equipment, the turning off of construction equipment when not in use and prohibiting idling for more than five minutes, the control of traffic around the Project Site, the use of low volatile organic compound paints applied using either high-volume low-pressure spray equipment or by hand, the encouragement of construction workers to carpool, the provision of on-site electrical hook-ups during construction, the reduction of the amount of dust which will be tracked off-site and limiting off-site construction improvements to an eight hour day during daylight hours will reduce the impact of the emission of PM10, to less than significant. There are no mitigation measures which will reduce the emission of PM2.5 to less than

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significant which would feasibly attain most of the basic objectives of the Project.

Factual Basis for the Finding: As discussed on pages 5.3-22-40 of the Draft EIR, as modified on pages 4-40-44 of the Final EIR, and in the Air Quality and Health Risk Report, Appendix D.1 to the Draft EIR, the grading of the Project Site and the operation of the Project will result in the emission of pollutants — nitrogen dioxide (“NO₂”), carbon monoxide (“CO”), PM₁₀ and PM_{2.5}. The South Coast Air Quality Management District has established localized significance thresholds to determine whether the emission of any of the pollutants will have a significant adverse effect on those nearby, both residents and workers. None of the thresholds will be exceeded after the construction of the buildings on the Project Site has been completed and operations begun. The same thing is true for NO₂ and CO during the construction Phases of the Project. However, without mitigation, the thresholds will be exceeded for both PM₁₀ and PM_{2.5}. Requiring the control of fugitive dust, acquiring Tier II level construction equipment, to the extent available, properly maintaining construction equipment, turning off construction equipment when not in use and prohibiting idling for more than five minutes, controlling traffic around the Project Site, using low volatile organic compound paints applied using either high-volume low-pressure spray equipment or by hand, encouraging construction workers to carpool, providing on-site electrical hook-ups during construction, reducing the amount of dust which will be tracked off-site and limiting off-site construction improvements to an eight hour day during daylight hours will ensure that the emission of PM₁₀ will be mitigated into insignificance. Accordingly, Mitigation Measures AQ-1 through AQ-10, as set forth on pages 5.3-38-39 of the Draft EIR, as modified on pages 4-2-5 of the Final EIR, have been imposed as conditions of approval of the Project. However, there are no feasible mitigation measures which will reduce the emissions of PM_{2.5} to less than significant which would feasibly attain most of the basic objectives of the Project.

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b. Significant Unavoidable Impact: Cumulatively significant net increase of any criteria pollutant for which the Project area is non-attainment under an applicable federal or state ambient air quality standard (Impact 5.3-3)

Finding: The Project Site is located in a non-attainment area for ozone, PM₁₀ and PM_{2.5}. The grading of the Project Site and the construction of Phase 1 of the Project on the Site could result in emissions of volatile organic compounds (“VOC”), nitrogen oxides (“NOX”), PM₁₀ and PM_{2.5} in excess of the thresholds promulgated by the South Coast Air Quality Management District. The imposition of Mitigation Measures AQ-1 through AQ-10, which require the control of fugitive dust, the acquisition of Tier II level construction equipment, to the extent available, the proper maintenance of construction equipment, the turning off of construction equipment when not in use and prohibiting idling for more than five minutes, the control of traffic around the Project Site, the use of low volatile organic compound paints applied using either high-volume low-pressure spray equipment or by hand, the encouragement of construction workers to carpool, the provision of on-site electrical hook-ups during construction, the reduction of the amount of dust which will be tracked off-site and limiting off-site construction improvements to an eight hour day during daylight hours will reduce the impact of the emission of PM₁₀, will ensure that the daily amount of PM₁₀ and PM_{2.5} emitted during the grading and construction Phase 1 of the Project will reduce their impacts to less than significant and will reduce the daily amount of the emission of VOC and NOX but not to less than significant.

The grading and construction associated with Phase 2 of the Project will result in the daily amount of emissions of VOC and NOX in excess of the thresholds promulgated by the South Coast Air Quality Management District; the daily amount of emissions of PM₁₀ and PM_{2.5} will be less than those thresholds. The imposition of Mitigation Measures AQ-1 through AQ-10, described above, will reduce the daily amount of emissions of VOC and NOX but not to less than significant.

The grading and construction associated with Phase 3 of the Project will result in the daily amount of emissions of VOC exceeding the threshold promulgated by the South Coast Air Quality Management District; the daily amount of emissions of NOX, PM₁₀ and PM_{2.5} will not exceed those thresholds. The imposition of Mitigation Measures AQ-1 through AQ-10, described above, will reduce the daily amount of emissions of VOC but not to less than significant.

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The daily amount of emissions of VOC, NOX, PM10 and PM2.5 associated with the operation of the Project during all Project Phases will exceed the thresholds promulgated by the South Coast Air Quality Management District. The imposition of Mitigation Measures AQ-11 through AQ-21, which require off-site construction be limited to day light hours, signs be posted stating that diesel trucks not idle for more than three minutes, the provision of electricity and electrical hooks-ups for transportation refrigeration, the prohibition against trucks not using electrically powered refrigeration units the prohibition of the establishment of sensitive receptors near the Project Site, the encouragement of the use of “clean” trucks and vehicles, the design of the Project Site to diminish queuing of trucks, the provision of food service on-site, the provision of incentives for employees to carpool and the maximization of electrical electrically powered equipment for landscape maintenance, and GCC-5(a), which requires the provision of facilities designed to encourage the use of bicycles, GCC-5(e), which requires preferential parking for carpools, vanpools and alternatively fueled vehicles, GCC-9, which requires LEED credit in a number of areas, and GCC-11, which prohibits access of heavy trucks to the Project Site for heavy trucks which do not have an Engine Certification label, will reduce the daily amount of emissions slightly but in no case will they cause the emissions to be less than significant.

In no case will the daily amount of the emission of CO exceed the threshold promulgated by the South Coast Air Quality Management District during either the grading of the Project Site or the construction of buildings on the Site. The daily amount of emissions of CO will exceed the threshold for CO promulgated by the South Coast Air Quality Management District during all of the three operational Phases of the Project. The imposition of Mitigation Measures AQ-11 through AQ-21 and GCC-5(a), GCC-5(e), GCC-9 and GCC-11, all as described above, will reduce the daily amount of emissions slightly but not to less than significant.

There are no further mitigation measures which will reduce the foregoing impacts to insignificant which would feasibly attain most of the basic objectives of the Project.

The daily amount of emissions of SOX will be less than the thresholds promulgated by the South Coast Air Quality Management District throughout the grading of the Project Site, the construction of buildings on the Site and the operation of the Project.

Factual Basis for the Finding: As discussed on Section 5.3 of the Draft EIR, as modified on pages 4.40-4.46 of the Final EIR, and in the Air Quality and Health Risk Report, Appendix D.1

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to the Draft EIR, the development of the Project has the potential of emitting criteria pollutants, except for SOX, in excess of the thresholds promulgated by the South Coast Air Quality Management District during the grading of the Project Site, construction of buildings on the Site and the operation of the Project. Requiring the control of fugitive dust, acquiring Tier II level construction equipment, to the extent available, properly maintaining construction equipment, turning off construction equipment when not in use and prohibiting idling for more than five minutes, controlling traffic around the Project Site, using low volatile organic compound paints applied using either high-volume low-pressure spray equipment or by hand, encouraging construction workers to carpool, providing on-site electrical hook-ups during construction, reducing the amount of dust which will be tracked off-site and limiting off-site construction improvements to an eight hour day during daylight hours will ensure that the daily amount of emissions of PM10 and PM2.5 during the grading and construction associated with Phase 1 of the Project will be mitigated into insignificance. Accordingly, Mitigation Measures AQ-1 through AQ-10, set forth on pages 5.3-38-39 of the Draft EIR, as modified on pages 4-2-5 of the Final EIR, have been imposed as conditions of approval of the Project. The same conditions will reduce the daily amount of emissions of NOX during the grading and construction associated with Phase 2 of the Project to less than significant but will reduce the daily amount of emissions of VOC only slightly and not below the threshold promulgated by the South Coast Air Quality Management District. The daily amount of emissions of the other criteria pollutants will be below the thresholds promulgated by the South Coast Air Quality Management District.

The daily amount of emissions of VOC associated with the grading and construction of Phase 3 of the Project will exceed the threshold promulgated by the South Coast Air Quality Management District. The imposition of Mitigation Measures AQ-1 through AQ-10, as described above, will reduce the daily amount of

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emissions of VOC slightly but not to less than significant. The daily amount of emissions of the remaining criteria pollutants will all be below the thresholds promulgated by the South Coast Air Quality Management District.

The daily amount of emissions for all three operational phases of the Project, with the exception of SOX, will exceed the thresholds promulgated by the South Coast Air Quality Management District. The imposition of Mitigation Measures AQ-11 through AQ-13, as set forth on page 5.3-52 of the Draft EIR, as modified on pages 4-5-6 of the Final EIR, AQ-14 through AQ-21, set forth on pages 4-6-6 of the Final EIR, GCC-5(a), GCC-5(e) and GCC-9, set forth on pages 5.16-11-13, as modified on pages 4-19-20 of the Final EIR, and GCC-11, set forth on page 4-21 of the Final EIR, all as described above, will reduce the daily amount of emissions of each of the other five criteria pollutants slightly but not to less than significant.

There are no further mitigation measures which will reduce the emissions of the criteria pollutants to less than significant which would feasibly attain most of the basic objectives of the Project. The emissions of VOC and NOX are associated with the grading of the Project Site and the asphalt, building and architectural coatings for those buildings. The operational emissions are due almost entirely to mobile sources — cars and trucks — over which the City has no control because the Legislature has vested all authority to deal with the emissions from cars and trucks in the California Air Resources Board.

c. Significant Unavoidable Impact: Exposure of sensitive receptors to substantial pollutant concentrations (Impact 5.3-4)

Finding: The development of the Project has the potential to expose sensitive receptors to emissions of PM10 and PM2.5 in excess of local significance thresholds promulgated by the South Coast Air Quality Management District and to the risk of cancer from the operation of the Project in excess of the significance threshold of 10 in 1,000,000. The imposition of Mitigation Measures AQ-1 through AQ-21, which require the control of fugitive dust, the acquisition of

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Tier II level construction equipment, to the extent available, the proper maintenance of construction equipment, the turning off of construction equipment when not in use and prohibiting idling for more than five minutes, the control of traffic around the Project Site, the use of low volatile organic compound paints applied using either high-volume low-pressure spray equipment or by hand, the encouragement of construction workers to carpool, the provision of on-site electrical hook-ups during construction, the reduction of the amount of dust which will be tracked off-site, limiting off-site construction improvements to an eight hour day during daylight hours, off-site construction be limited to day light hours, signs be posted stating that diesel trucks not idle for more than three minutes, the provision of electricity and electrical hooks-ups for transportation refrigeration, the prohibition against trucks not using electrically powered refrigeration units the prohibition of the establishment of sensitive receptors near the Project Site, the encouragement of the use of "clean" trucks and vehicles, the design of the Project Site to diminish queuing of trucks, the provision of food service on-site, the provision of incentives for employees to carpool and the maximization of electrical electrically powered equipment for landscape maintenance; and GCC-5(a), which requires the provision of facilities designed to encourage the use of bicycles, GCC-5(e), which requires preferential parking for carpools, vanpools and alternatively fueled vehicles, GCC-9, which requires LEED credit in a number of areas, and GCC-11, which prohibits access of heavy trucks to the Project Site for heavy trucks which do not have an Engine Certification label will reduce the impacts of PM10 and the risk of cancer to less than significant but the risk associated with the emissions of PM10 during the grading and construction associated with Phase 1 of the Project will remain significant and unavoidable. There are no mitigation measures which will reduce the impacts to less than significant which would feasibly attain most of the basic objectives of the Project.

Factual Basis for the Finding: As discussed in Section 5.3 of the Draft EIR, as modified on pages 4-2-5 of the Final EIR, in the Air Quality and Health Risk Report, Appendix D.1 to the Draft EIR, as amplified and clarified in the Supplemental Health Risk Assessment Report, Appendix D.1 to the Final EIR, and in subsection IV.C.3.a above, the grading, construction and operation associated with the Project has the potential to exceed localized significance thresholds and cancer risks for sensitive receptors near the Project Site. Controlling fugitive dust, acquiring Tier II level construction equipment, to the extent available,

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properly maintaining construction equipment, turning off construction equipment when not in use and prohibiting idling for more than five minutes, controlling traffic around the Project Site, using low volatile organic compound paints applied using either high-volume low-pressure spray equipment or by hand, encouraging construction workers to carpool, providing on-site electrical hook-ups during construction, reducing the amount of dust which will be tracked off-site, limiting off-site construction improvements to an eight hour day during daylight hours, providing bicycle parking spaces and on-site showers, preferential parking for carpools and alternatively fueled vehicles, obtaining LEED, or if not available an approved program to achieve the same level of environmental benefit, certification for the Project, prohibiting access to trucks over 10,000 pounds which do not have an Engine Certification Label and establishing a buffer area on land immediately south of future Eucalyptus Avenue through a deed restriction will ensure that the risks associated with PM2.5 and cancer will be mitigated into insignificance. Accordingly, The imposition of Mitigation Measures AQ-1 through AQ-13, as set forth on pages 5.3-38-39 and -52 of the Draft EIR, as modified on pages 4-2-6 of the Final EIR, AQ-14 through AQ-21, set forth on pages 4-6-6 of the Final EIR, GCC-5(a), GCC-5(e) and GCC-9, set forth on pages 5.16-11-13, as modified on pages 4-19-20 of the Final EIR, Mitigation measures AQ-1 through AQ-21, GCC-5(a), GCC-5(e) and GCC-9, set forth on pages 5.3-38-39 and -52 of the Draft EIR, as modified on pages 4-2-5 and -19-20 of the Final EIR, have been imposed as conditions of approval of the Project. However, as set forth in the factual basis for the finding in subsection IV.C.3.a above, there are no feasible mitigation measures which will reduce the emissions of PM10 associated with the grading and construction of Phase 1 of the Project to less than significant.

d. Significant Unavoidable Impact: Cumulative contribution to air quality impacts

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Finding: The development of the Project, in conjunction with related projects and that authorized by the Moreno Highlands Specific Plan, will result in significant and unavoidable cumulative impacts on VOC, NOX, CO, PM10 and PM2.5. There are no mitigation measures which will reduce the impacts to less than significant.

Factual Basis for the Finding: As discussed on pages 6-8-10 of the Draft EIR, in the Air Quality and Health Risk Analysis Report, Appendix D.1 to the Draft EIR, Response 10-2, page 3-99 of the Final EIR and in subsections IV.C.3.a-c above, the air quality pollutants emitted during the operation of the Project, alone or in conjunction with those emitted by surrounding development, will be cumulatively significant. All feasible mitigation measures have been imposed as conditions of approval of the Project. The City will impose feasible mitigation measures on projects seeking approval within the future. However, the air quality problems that exist in the area of the Project are, in most cases, problems affecting the entirety of the South Coast air basin and, as such, are beyond the City's control.

4. NOISE

a. Significant Unavoidable Impact: Cumulative adverse noise impacts

Finding: The development of the Project, in conjunction with the development of related projects and that authorized by the Moreno Highlands Specific Plan will result in significant and unavoidable cumulative noise impacts on houses located near SR-60. There are no feasible mitigation measures which will reduce the impacts to less than significant.

Factual Basis for the Finding: As discussed on pages 6-17-23 of the Draft EIR and in the Noise Assessment, Appendix I to the Draft EIR, the increase in noise due to the operation of the Project will be small. However, when added to that which can be expected by the use of vehicles on SR-60 from both related projects and the development of the Moreno Highlands Specific Plan area, the result will be that at least one residence east of Theodore Street and several residences located west of Redlands Boulevard will experience a noise increase of more than 3 dB with a future noise level above 65 CNEL, the City's noise level for residential areas. There are no mitigation

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measures which will reduce the impacts to less than significant.

5. GLOBAL CLIMATE CHANGE AND GREENHOUSE GASES

- a. Significant Unavoidable Impact:** Hindrance or delay of California's ability to meet the climate reduction targets contained in AB32 (Impact GCC-1)

Finding: The grading and construction associated with the Project will, after the application of all feasible mitigation measures, result in approximately 6,500 metric tons of carbon dioxide equivalent ("CO_{2e}"). The operation of the Project, after the imposition of all feasible mitigation measures, will produce approximately 81,800 metric tons of CO_{2e} per year. In the absence of any quantitative or qualitative threshold of significance for the emissions of CO_{2e}, it must be assumed that the amount of the emissions of CO_{2e}, both during the grading and construction associated with the Project and the operation of the Project will, individually and cumulatively, be a significant and unavoidable impact. There are no feasible mitigation measures which will reduce the impacts to less than significant.

Factual Basis for the Finding: As discussed in Section 5.16 and pages 6-40-41 of the Draft EIR and in the Climate Change Analysis, Appendix N to the Draft EIR, the grading and construction associated with the Project and the operation of the Project will generate substantial amounts of CO_{2e} emissions. There is, currently, neither a quantitative nor a qualitative threshold to be used to determine whether the amount of CO_{2e} emissions is significant. Various thresholds, ranging from no new contributions to over 40,000 metric tons per year, have been proposed. The staff of the South Coast Air Quality Management District has suggested a possible threshold of 10,000 tons of CO_{2e} per year for industrial projects but has not suggested a numerical threshold for non-industrial projects; the District has not yet acted on the proposal. However, the California Air Resources Board and the Office of Planning and Research are considering the adoption of a threshold of significance for CO_{2e} emissions but have not yet decided on that threshold. AB32 requires a reduction of approximately 30% in CO_{2e} emissions over business as usual by 2020 in order to reach the levels emitted in California in 1990. Irrespective of

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when or what standards will be adopted by the California Air Resources Board all feasible measures have been implemented in this project in compliance with AB-32.

Incorporating water conservation requirements, properly maintaining construction equipment, turning off construction equipment when not in use and prohibiting construction equipment from idling for more than five minutes, controlling traffic around the Project Site, encouraging construction workers to carpool, prohibiting truck idling for more than three minutes per day per truck, providing electricity in the loading area for transportation refrigeration units, designing the Project to meet 2008 Title 24 energy efficiency requirements, using "cool roofs" and "cool paints," installing renewable energy generation on-site to meet the Project's Phase 1 office electricity needs, using ENERGY STAR-qualified energy efficient appliances, providing bicycle storage parking and showers for employees, installing Light Emitting Diodes in any traffic lights which are a part of the Project, providing pedestrian and bicycle connections to surrounding areas, establishing a Transportation Management Association to encourage and coordinate carpooling by occupants of the Project, providing preferential parking for carpools, vanpools and alternatively fueled vehicles, obtaining LEED certification or, if not available, a similar program to achieve the same level of environmental benefit, designing loading docks which will accommodate trucks utilizing "SmartWay Truck Efficiency" emission reduction features, and prohibiting access to trucks over 10,000 pounds which do not have an Engine Certification Label will ensure reduction in the amount of emissions of CO₂e. Accordingly, Mitigation Measures AQ-1, AQ-3, AQ-4, AQ-5, AQ-7, AQ-11, AQ-12 and GCC-1 through 10, set forth on pages 5.16-9-13 of the Draft EIR, as modified on pages 4-2-6 and -18-21 of the Final EIR, and GCC-11, set forth on page 4-21 of the Final EIR, have been imposed as conditions of approval of the Project. However, there

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are no additional feasible mitigation measures which would reduce the impact to less than significant.

b. Significant Unavoidable Impact: Impacts of climate change on the Project (Impact GCC-2)

Finding: Potential impacts of climate change include the exacerbation of air quality problems, reduction in the quality and supply of water from the Sierra snow pack, damage to the natural environment, reduction of in-state electricity production, and an increase in wildfires, all of which could adversely affect the Project. The imposition of Mitigation Measures W-1, which requires the preparation of a planting and irrigation plan for the City's review and approval, GCC-1 through GCC-4, which require increased energy efficiency, the use of "cool" roofs and paints, the production of energy on-site through the use of alternate, renewable energy sources and the use of energy efficient appliances and systems, and GCC-9, which requires LEED credit in a number of areas, will reduce the Project's need for energy and water slightly but the impact of global climate change on the Project will continue to be significant and unavoidable. There are no mitigation measures which will reduce the impacts to less than significant.

Factual Basis for the Finding: As discussed on pages 5.16-16-18 of the Draft EIR and the Climate Change Analysis, Appendix N to the Draft EIR, global climate change will affect the Project in various ways. Imposing the mitigation measures discussed in subsection IV.C.5 above will decrease the amounts of water and energy required by the Project after it is in operation but it, like all other projects in California, will be subject to the deleterious impacts of climate change.

V. PROJECT ALTERNATIVES

A. ALTERNATIVE SITES

Finding: There exists no reasonably feasible and available alternative site for the Project which would avoid or substantially lessen the significant impacts of the Project or to allow it to feasibly attain most of the Project's basic objectives.

Factual Basis for the Finding: As discussed on pages 9-2-3 and -33-34 of the Draft EIR and in the letters from Darla Longo dated January 18, 2008, and October 7, 2008, Appendices O to the Draft and Final EIRs, an extensive search for

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reasonably feasible and available alternative sites was conducted. While eight potential sites were considered, six of the eight were found to be infeasible for failure to meet, at the initial threshold, one or more of Skechers's requirements for its business and logistics models, including, but not limited to, the ability to host a 1,800,000 sf facility together with the possibility of expansion later on a site immediately adjacent to a major freeway and within the geographic service area needed. One other potential site, in San Bernardino, met the threshold and was studied for feasibility, but it was concluded after study that the site could not be built in an efficient configuration for Skechers's operations. Therefore, no reasonably feasible and available alternative site in the Inland Empire could be found. Moreover, even if an alternative site could be found, the significant and unavoidable impacts, individually and cumulatively, on, at least, air quality and global climate change would not be reduced. Significant and unavoidable noise impacts, individually and cumulatively, are also unlikely to be reduced for any otherwise feasible site that would satisfy Skechers's needs.

B. NO PROJECT — NO DEVELOPMENT ALTERNATIVE

Finding: The No Project — No Development Alternative is environmentally superior to the Project but would not attain any of the objectives for the Project.

Factual Basis for the Finding: As discussed on pages 9-3-9 and -36 of the Draft EIR, leaving the Project Site in its current condition would result in no impacts to the environment with the exception that the existing General Plan's designation of the Project Site for development with commercial and industrial uses would not be satisfied. None of the "Project's objectives would be met.

C. EXISTING GENERAL PLAN ALTERNATIVE

Finding: Developing the Project Site under the existing General Plan designation and zoning would allow for the development of 1,715,000 sf of business park and 410,000 sf of community commercial uses. The impacts on the environment of development pursuant to the existing General Plan designation and zoning would be roughly comparable to those which would result from the

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development of the Project. However, it would not meet any of Skechers's needs nor would it allow Skechers to have the logistics facility available in the very near future at any other reasonably feasible and available site. In addition, due to market conditions, development under the existing General Plan designation and zoning would not currently be feasible and therefore would delay any benefits that development of the Project Site would bring to the City, such as jobs and revenues. Likewise, it would not provide the Project applicant with an adequate rate of return on its investment because there is no market available for development of the Project Site consistent with the existing General Plan designation and zoning.

Factual Basis for the Finding: As discussed on pages 9-9-19 and -36 of the Draft EIR and in the letter from Darla Longo dated February 12, 2008, Appendix O to the Final EIR, there is currently no market for the development of the Project Site consistent with the existing General Plan designation and zoning. The environmental impacts of development of the Project Site consistent with the existing General Plan designation and zoning are roughly comparable to those of the Project with the impacts on aesthetics, noise, public services and utilities being slightly less and those on air quality, geology and soils, hazards and hazardous materials and global climate change being slightly more. Developing the Project Site consistent with the existing General Plan designation and zoning would not allow the Project applicant to achieve its objectives because it would not be able to provide logistics facilities to Skechers, resulting in delay or denial of providing the City with new jobs and revenues from the development of the Project Site and precluding an adequate rate of return on its investment because there is simply no existing market for development of the Project Site consistent with the General Plan designation and zoning.

D. REDUCED DENSITY ALTERNATIVE

Finding: Developing the Project Site with 1,000,000 sf of logistics use and 200,000 sf of community commercial uses would result in environmental impacts which would be slightly less than those which would result from the development of the Project. However, a reduced density alternative would not allow the Project to attain a number of its basic objectives and would not reduce any

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significant unavoidable, environmental impact of the Project to a level of insignificance or to a level capable of mitigation to a level of insignificance and is therefore not significantly environmentally superior to the Project.

Factual Basis for the Finding: As discussed on pages 9-19-26 and -36 of the Draft EIR, the environmental impacts of the reduced project would be marginally less than, or equal to, those of the Project. In particular, impacts on Agricultural Resources, Biological Resources, Cultural Resources Hydrology and Water Quality, Mineral Resources, and Population, Housing and Employment would be the same for the Reduced Density Alternative as for the Project, except that employment opportunities would be reduced. Reductions in most other impacts would be marginal to modest. Only reductions in impacts on Air Quality would be likely to be substantial. However, no significant unavoidable impact of the Project would be reduced to or made capable of mitigation to a level of insignificance. Also, the reduced density alternative would prevent achieving some of the Project's basic objectives. In particular, Skechers would not be provided the size and expandability required by its business objectives. Current market conditions would render the Reduced Density Alternative not reasonably feasible and therefore preclude the Project applicant from obtaining an adequate rate of return on its investment.

E. NORMAL CONSTRUCTION SCHEDULE ALTERNATIVE

Finding: The normal construction alternative would have moderately fewer environmental impacts than the Project. However, it would not allow the Project to attain a number of its basic objectives and would not reduce any significant unavoidable environmental impact of the Project to a level of insignificance or to a level capable of mitigation to a level of insignificance and is therefore not significantly environmentally superior to the Project.

Factual Basis for the Finding: As discussed on pages 9-27-33 and -36 of the Draft EIR, the normal construction schedule would have a moderately lesser environmental impact on aesthetics, air quality and noise during the construction phase but would otherwise be comparable to the impacts which would result from the development of the Project and make no difference in any impacts during the

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operation of the Project. However, Skechers would be delayed in consolidating its operations in a single logistics facility and the City would also be delayed in obtaining the jobs and revenues which the construction and operation of the Project will generate. Therefore, development of the Project Site with a normal construction schedule would delay achievement of most of the basic objectives of the Project and would not be significantly environmentally superior to the Project.

F. ADEQUACY OF THE RANGE OF ALTERNATIVES

Finding: Alternatives consisting of development consistent with the existing General Plan designation and zoning, reduced density and a normal construction schedule represent a reasonable range of alternatives.

Factual Basis for the Finding: As discussed on pages 9-2-3 and -33-34 of the Draft EIR and in the letters from Darla Longo dated January 18, 2008, and October 7, 2008, Appendices O to the Draft and Final EIRs, an extensive search for reasonably feasible and available alternative sites was conducted. While eight potential sites were considered, six of the eight were found to be infeasible for failure to meet, at the initial threshold, one or more of Skechers requirements for its business and logistics models, including, but not limited to, the ability to host a 1,800,000 sf facility together with the possibility of expansion later on a site immediately adjacent to a major freeway and within the geographic service area needed. One other potential site, in San Bernardino, met the threshold and was studied for feasibility, but it was concluded after study that the site could not be built in an efficient configuration for Skechers's operations. Therefore, no reasonably feasible and available alternative site in the Inland Empire could be found. Moreover, even if an alternative site could be found, the significant and unavoidable impacts, individually and cumulatively, on, at least, air quality and global climate change would not be reduced. Significant and unavoidable noise impacts, individually and cumulatively, are also likely to not be

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reduced for any site truly feasible for Skechers's objectives.

Because, there are no reasonably feasible and available alternative sites, development consistent with the existing General Plan designation and zoning, reduced density and a normal construction schedule represent a reasonable range of alternatives. The purpose of the Guidelines requirements of studying a reasonable range of alternatives would not be met by constructing additional alternatives that would not meet the basic objectives of the Project. Because Skechers needs are specific as to size, expandability, location and transport accessibility, and without alternative sites as an option, no other alternatives appear feasible which would not defeat at least one basic Project objective.

VI. LOGISTIC MODIFIED GENERAL PLAN CONCEPT

Section 8.3 of the Draft EIR discusses a modification of the Moreno Highlands Specific Plan which would substantially decrease the residential, commercial and business park/light industrial uses of the Specific Plan area and allow the development of substantial logistic facilities, a use not contemplated in the existing Specific Plan. No application for any modification of the Specific Plan has been submitted to the City and there is no guarantee that any application will be submitted. Any modification of the Specific Plan is independent of the development of the Project. Its only connection is that the Project applicant owns both the Project Site and the land which would be affected by a modification of the Specific Plan.

This information was provided solely because the project applicant, the owner of a substantial portion of the land subject to the Specific Plan, is considering the possibility of seeking an amendment of the Specific Plan so that, consistent with CEQA's purpose of providing full information to decision makers and the public, the discussion was included in the Draft EIR.

Specifically, any such amendment to the Specific Plan would require compliance with all of the City's approval process including, but not limited to, a development application, environmental review and new and separate Planning Commission and City Council public hearing. Nothing in the Draft or Final EIR nor in this set of Findings constitutes approval of, or any commitment to approve, any such future application.

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VII. STATEMENT OF OVERRIDING CONSIDERATIONS

As set forth in Section IV. above, most of the Project's impacts on the environment will either be insignificant or, through the imposition of mitigation measures as conditions of approval of the Project, can be reduced to less than significant. However, as set forth in subsection VI.C. above, impacts to aesthetics, agricultural resources, air quality, noise and climate change and greenhouse gases will remain significant and unavoidable even after the imposition of all feasible mitigation measures. Further, as set forth in Section V. above, there are no feasible alternatives to the Project which would mitigate or avoid those environmental impacts. Nevertheless, as set forth below, the Council has determined that the benefits which will accrue from the development of the Project outweigh the significant and unavoidable impacts which the Project will produce.

A. AESTHETICS

Finding: Notwithstanding the significant unavoidable impacts to aesthetics discussed in subsection IV.C.1 above, the development of otherwise unusable land, the creation of jobs by the Project, the multiplier effect which will create secondary jobs to support the Project and those who work in it, the demonstration that the City is eager to attract new business opportunities and the fact that the Project will be LEED certified or, if LEED certification is not available, a similar program to achieve the same level of environmental benefit, will also demonstrate the City's commitment to green technology constitutes benefits which outweigh the unavoidable adverse environmental impacts to aesthetics. Each of the benefits, individually, constitutes a sufficient basis for approving the Project notwithstanding the significant and unavoidable impact on aesthetics which will result.

Factual Basis for the Finding: As set forth in the Project Objectives on pages 3-2 and 5.12-2 of the Draft EIR the letter from Darla Longo dated February 12, 2008, Appendix O to the Final EIR, the Fiscal Impact Study dated October 23, 2008, and the Economic Impact Study dated October 24, 2008, the approval of the Project will allow the conversion of vacant, marginally productive agricultural land, into a job and revenues producing facility. It will allow Skechers to consolidate its operations from five existing buildings in Ontario into one building in the City which will, in the short run, generate approximately 600 construction jobs and over 1,050 new jobs in the City in Phase 1 operation of the project and, in the long run, the development of the Project will generate approximately 2,000 new jobs in the City associated with the Project, all of which will help

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adjust the unfavorable jobs/housing balance which currently exists. Further, the construction of Phase 1 of the Project will generate approximately 250 secondary jobs in the City while the operation of the Project will, generate approximately 530 secondary jobs in the City and over additional 1,000 secondary jobs in the County providing goods and services to the Project and to those who work on the Project Site. Once in operation, the Project will generate over \$900,000 annually in net revenues to the City.

B. AGRICULTURAL RESOURCES

Finding: Notwithstanding the significant unavoidable impacts to agricultural resources discussed in subsection IV.C.2. above, the development of otherwise unusable land, the creation of jobs by the Project, the multiplier effect which will create secondary jobs to support the Project and those who work in it, the demonstration that the City is eager to attract new business opportunities and the fact that the Project will be LEED certified or, if LEED certification is not available, a similar program to achieve the same level of environmental benefit, will also demonstrate the City's commitment to green technology constitutes benefits which outweigh the unavoidable adverse environmental impacts to agricultural resources. Each of the benefits, individually, constitutes a sufficient basis for approving the Project notwithstanding the significant and unavoidable impact on agricultural resources which will result.

Factual Basis for the Finding: As set forth in the Project objectives on pages 3-2 and 5.12-2 of the Draft EIR the letter from Darla Longo dated February 12, 2008, Appendix O to the Final EIR, the Fiscal Impact Study dated October 23, 2008, and the Economic Impact Study dated October 24, 2008, the approval of the Project will allow the conversion of vacant, marginally productive agricultural land, into a job and revenues producing facility. It will allow Skechers to consolidate its operations from five existing buildings in Ontario into one building in the City which will, in the short run, generate approximately 600 construction jobs and over 1,050 new jobs in the City in Phase 1 operation of the project and, in the long run, the development of the Project will generate approximately 2,000 new jobs in the City associated with the Project, all of which will help

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adjust the unfavorable jobs/housing balance which currently exists. Further, the construction of Phase 1 of the Project will generate approximately 250 secondary jobs in the City while the operation of the Project will, generate approximately 530 secondary jobs in the City and over additional 1,000 secondary jobs in the County providing goods and services to the Project and to those who work on the Project Site. Once in operation, the Project will generate over \$900,000 annually in net revenues to the City.

C. AIR QUALITY

Finding: Notwithstanding the significant unavoidable impacts to air quality discussed in subsection IV.C.3. above, the development of otherwise unusable land, the creation of jobs by the Project, the multiplier effect which will create secondary jobs to support the Project and those who work in it, the demonstration that the City is eager to attract new business opportunities and the fact that the Project will be LEED certified or, if LEED certification is not available, a similar program to achieve the same level of environmental benefit, will also demonstrate the City's commitment to green technology constitutes benefits which outweigh the unavoidable adverse environmental impacts to air quality. Each of the benefits, individually, constitutes a sufficient basis for approving the Project notwithstanding the significant and unavoidable impact on air quality which will result.

Factual Basis for the Finding: As set forth in the Project objectives on pages 3-2 and 5.12-2 of the Draft EIR the letter from Darla Longo dated February 12, 2008, Appendix O to the Final EIR, the Fiscal Impact Study dated October 23, 2008, and the Economic Impact Study dated October 24, 2008, the approval of the Project will allow the conversion of vacant, marginally productive agricultural land, into a job and revenues producing facility. It will allow Skechers to consolidate its operations from five existing buildings in Ontario into one building in the City which will, in the short run, generate approximately 600 construction jobs and over 1,050 new jobs in the City in Phase 1 operation of the project and, in the long run, the development of the Project will generate approximately 2,000 new jobs in the City associated with the Project, all of which will help

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adjust the unfavorable jobs/housing balance which currently exists. Further, the construction of Phase 1 of the Project will generate approximately 250 secondary jobs in the City while the operation of the Project will, generate approximately 530 secondary jobs in the City and over additional 1,000 secondary jobs in the County providing goods and services to the Project and to those who work on the Project Site. Once in operation, the Project will generate over \$900,000 annually in net revenues to the City.

D. NOISE

Finding: Notwithstanding the significant unavoidable noise impacts discussed in subsection IV.C.4. above, the development of otherwise unusable land, the creation of jobs by the Project, the multiplier effect which will create secondary jobs to support the Project and those who work in it, the demonstration that the City is eager to attract new business opportunities and the fact that the Project will be LEED certified or, if LEED certification is not available, a similar program to achieve the same level of environmental benefit, will also demonstrate the City's commitment to green technology constitutes benefits which outweigh the unavoidable adverse noise impacts. Each of the benefits, individually, constitutes a sufficient basis for approving the Project notwithstanding the significant and unavoidable impact on noise which will result.

Factual Basis for the Finding: As set forth in the Project objectives on pages 3-2 and 5.12-2 of the Draft EIR the letter from Darla Longo dated February 12, 2008, Appendix O to the Final EIR, the Fiscal Impact Study dated October 23, 2008, and the Economic Impact Study dated October 24, 2008, the approval of the Project will allow the conversion of vacant, marginally productive agricultural land, into a job and revenues producing facility. It will allow Skechers to consolidate its operations from five existing buildings in Ontario into one building in the City which will, in the short run, generate approximately 600 construction jobs and over 1,050 new jobs in the City in Phase 1 operation of the project and, in the long run, the development of the Project will generate approximately 2,000 new jobs in the City associated with the Project, all of which will help adjust the unfavorable jobs/housing balance which

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currently exists. Further, the construction of Phase 1 of the Project will generate approximately 250 secondary jobs in the City while the operation of the Project will, generate approximately 530 secondary jobs in the City and over additional 1,000 secondary jobs in the County providing goods and services to the Project and to those who work on the Project Site. Once in operation, the Project will generate over \$900,000 annually in net revenues to the City.

E. CLIMATE CHANGE AND GREENHOUSE GASES

Finding: Notwithstanding the significant unavoidable climate change and greenhouse gases impacts discussed in subsection IV.C.5. above, the development of otherwise unusable land, the creation of jobs by the Project, the multiplier effect which will create secondary jobs to support the-Project and those who work in it, the demonstration that the City is eager to attract new business opportunities and the fact that the Project will be LEED certified or, if LEED certification is not available, a similar program to achieve the same level of environmental benefit, will also demonstrate the City's commitment to green technology constitutes benefits which outweigh the unavoidable adverse impact on global climate change. Each of the benefits, individually, constitutes a sufficient basis for approving the Project notwithstanding the significant and unavoidable impact on climate change and greenhouse gases which will result.

Factual Basis for the Finding: As set forth in the Project objectives on pages 3-2 and 5.12-2 of the Draft EIR the letter from Darla Longo dated February 12, 2008, Appendix O to the Final EIR, the Fiscal Impact Study dated October 23, 2008, and the Economic Impact Study dated October 24, 2008, the approval of the Project will allow the conversion of vacant, marginally productive agricultural land, into a job and revenues producing facility. It will allow Skechers to consolidate its operations from five existing buildings in Ontario into one building in the City which will, in the short run, generate approximately 600 construction jobs and over 1,050 new jobs in the City in Phase 1 operation of the project and, in the long run, the development of the Project will generate approximately 2,000 new jobs in the City associated with the Project, all of which will help adjust the unfavorable jobs/housing balance which

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currently exists. Further, the construction of Phase 1 of the Project will generate approximately 250 secondary jobs in the City while the operation of the Project will, generate approximately 530 secondary jobs in the City and over additional 1,000 secondary jobs in the County providing goods and services to the Project and to those who work on the Project Site. Once in operation, the Project will generate over \$900,000 annually in net revenues to the City.

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Mitigation Monitoring Program
Highland Fairview Corporate Park Project
State Clearinghouse No. 2007101132

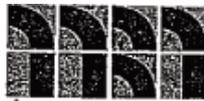
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December 23, 2008

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INTRODUCTION

CEQA Requirements

The California Environmental Quality Act (CEQA) requires that when a public agency completes an environmental document that includes measures to mitigate or avoid significant environmental effects, the public agency must adopt a Mitigation Monitoring Program (MMP) for the changes to the project that it has adopted or made a condition of project approval in order to mitigate or avoid significant effects on the environment. The appropriate reporting or monitoring plan must be designed to ensure compliance during project implementation (Public Resources Code Section 21081.6).

The Planning Division would coordinate the project monitoring of the mitigation measures with each applicable department or division, while various City departments/divisions would be responsible for monitoring and verifying compliance of specific mitigation measures. (See Mitigation Monitoring and Reporting Summary Chart beginning on page 5.) The City of Moreno Valley Public Works Department (City) would coordinate monitoring of the implementation of all mitigation measures for the project. Monitoring will include: 1) verification that each mitigation measure has been implemented; 2) recordation of the actions taken to implement each mitigation measure; and 3) retention of records in the project file.

Program Objectives

The objectives of the MMP for the Proposed Project include the following:

- To provide assurance and documentation that mitigation measures are implemented as planned;
- To collect analytical data to assist City administration in its determination of the effectiveness of the adopted mitigation measures;
- To report periodically regarding project compliance with mitigation measures, performance standards and/or other conditions; and
- To make available to the public, upon request, the City record of compliance with project mitigation measures.

Overview of the Project

The project site and relevant off-site areas encompass a total of approximately 265.3 acres, development of the site includes approximately 2,420,000 square feet devoted to light industrial logistics uses, and 200,000 square feet of commercial uses. The proposed project includes a Tentative Parcel Map (TPM), a Change of Zone (CZ), a Plot Plan (PP), and a General Plan Amendment (GPA). The Parcel Map would create parcels for two logistics buildings, two commercial projects, and future SR-60 right-of-way. The parcel map would also establish the dedications for required improvements. The Change of Zone would change 6.7 acres of Community Commercial to Light Industrial. The Plot Plan would provide the site plan for the logistics building. The GPA widens the commercial area on the west, reduces the commercial area on the east, and

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eliminates a segment of a proposed trail alignment that was contingent upon its feasibility and replaces it with a connection to a planned trail to the east.

Organization of the Mitigation Monitoring Program

The following describes the various sections of the MMP:

- **Introduction** — Provides an overview of CEQA’s monitoring and reporting requirements, program objectives, the project for which the program has been prepared, and the manner in which the mitigation monitoring program has been organized.
- **MMP** — Describes the City entities responsible for implementation of the mitigation monitoring plan, the plan scope, procedures for monitoring and reporting, public availability of documents, the process for making changes to the program, types of mitigation measures, and the manner in which monitoring will be coordinated to ensure implementation of mitigation measures.
- **Mitigation Monitoring and Reporting Summary** — Outlines the impacts and mitigation measures, responsible entities, and the timing for monitoring and reporting for each mitigation measure included in the plan.

DESCRIPTION OF PLAN

Mitigation Monitoring Procedures

This MMP delegates responsibilities for monitoring the project, and allows responsible City entities flexibility and discretion in determining how best to monitor implementation. Monitoring procedures will vary according to the type of mitigation measure. The timing for monitoring and reporting is described in the monitoring and reporting summary table included as part of this program. Adequate monitoring consists of demonstrating that monitoring procedures took place and that mitigation measures were implemented.

In order to enhance the effectiveness of the monitoring program, the City will utilize existing systems where appropriate. For instance, with any major construction project, the administration generally has at least one inspector assigned to monitor project construction. These inspectors are familiar with a broad range of regulatory issues and will provide first line oversight for much of the monitoring program.

Responsibilities of City include identification of typical mitigation measure-related issues such as noisy equipment, dust, safety problems, etc. Any problems are generally corrected through directions to the contractors, or through other appropriate, established mechanisms. Internal reporting procedures are already in place to document any problems and to address broader implementation issues.

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Reporting Procedures

The City would be responsible for monitoring and implementing the mitigation measures included in this monitoring plan.

Reporting consists of establishing a record that a mitigation measure is being implemented, and generally involves the following steps:

- The City distributes reporting forms to the appropriate City Department (as indicated on the Mitigation Monitoring and Reporting forms) or employs the office’s existing reporting process for verification of compliance.
- Responsible entities verify compliance by signing the monitoring and reporting form and/or documenting compliance using their own internal procedures when monitoring is triggered.
- Responsible entities provide the City with verification that monitoring has been conducted and ensure, as applicable, that mitigation measures have been implemented.

The reporting forms prepared by the City would document the implementation status of mitigation measures of the project. The progress reports describe the monitoring status of all project mitigation measures. Project reporting forms and periodic status reports will be available at the City.

The City would also be responsible for assisting their contractor with reporting responsibilities to ensure that they understand their charge and complete their reporting procedures accurately and on schedule.

Public Availability

All monitoring reporting forms, summaries, data sheets, and correction instructions related to the Mitigation Monitoring Program for Highland Fairview Corporate Park would be available for public review upon request at the City of Moreno Valley Department of Public Works offices during normal business hours.

Program Changes

If minor changes are required to the MMP, they would be made in accordance with CEQA and would be permitted after further review by the City. Such changes could include reassignment of monitoring and reporting responsibilities and/or redesign to make any appropriate improvements. No change would be permitted unless the Mitigation Monitoring Program continues to satisfy the requirements of Public Resources Code Section 21081.6.

Types of Mitigation Measures Being Monitored

The Final Environmental Impact Report for the Highland Fairview Corporate Park Project is a “project specific” and “cumulative” evaluation as defined in the CEQA Guidelines.

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The Final Environmental Impact Report recommends 63 project specific and cumulative mitigation measures to reduce impacts related to aesthetics, air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, land use and planning, noise, transportation and traffic, utilities and service systems, and global climate change and greenhouse gases. Compliance with these mitigation measures will be accomplished through administrative controls over project planning and implementation, in this case, through incorporation of specific construction methods, and verification of construction in accordance with these special provisions. Monitoring would be accomplished as described previously under “Reporting Procedures” through verification and certification by personnel.

In general, implementation of the MMP will require the following actions:

- Appropriate mitigation measures would be included in construction documents.
- Departments with reporting responsibilities would review the Final Environmental Impact Report, which provides general background information on the reasons for including specified mitigation measures.
- Problems or exceptions to compliance would be addressed by the City as appropriate.
- Periodic meetings may be held during project implementation to report on compliance with mitigation measures.

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Mitigation Monitoring and Reporting Summary

<u>Mitigation Measure</u>	<u>Responsible Party</u>	<u>Verification of Compliance</u>	<u>Timing</u>	<u>Start Date</u>	<u>Finish Date</u>	<u>Monitoring Date</u> <u>Monitor</u>
Aesthetics						
MM A-1. During project construction, the construction site manager or supervisor shall ensure that construction lighting shall be limited to lighting within the work area and light trespass shall be avoided through directional lighting, shielding, and other similar control measures.	Construction Supervisor	City of Moreno Valley Planning Division	During Construction			
MM A-2. Enhanced architectural and landscaping treatment shall be utilized along the building frontage with State Route (SR) 60 to minimize or soften views of long expanses of the upper elevations of buildings. Examples of alternative treatment measures may include, but not be limited to the following:	Applicant	City of Moreno Valley, Planning Division	Plot Plan Review/Approval			
<ul style="list-style-type: none"> • Use of color; or • Texture variation; or • Roof line variation. 						
Air Quality						
Construction						
MM AQ-1. Prior to construction of the project, the project applicant shall comply with SCAQMD Rule 403 by providing a Fugitive Dust Control Plan that describes the application of best management practices to control fugitive dust during construction. Best management practices shall include:	Applicant	City of Moreno Valley Public Works, Land Development Division, and the South Coast Air Quality Management District	Prior to Issuance of Grading Permit			
<ul style="list-style-type: none"> • Application of water on disturbed soils a minimum of three times per day; • Covering haul vehicles; • Replanting disturbed areas as soon as practical; • Restricting vehicle speeds on unpaved roads to 15 mph; • Suspension of all grading activities during high wind 						

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<u>Mitigation Measure</u>	<u>Responsible Party</u>	<u>Verification of Compliance</u>	<u>Timing</u>	<u>Start Date</u>	<u>Finish Date</u>	<u>Monitoring Date</u> <u>Monitor</u>
<p>speeds in excess of 25 mph.</p> <ul style="list-style-type: none"> • A Large Operation notification shall be submitted to the SCAQMD prior to construction. • Project applicant to designate a to designate a person(s) to monitor the dust control program and to order increased watering, as necessary. • Post a sign with the telephone number and person to contact regarding dust complaints. The person shall take corrective action within 24 hours. • Complete all roadways, driveways, sidewalks, etc. as soon as possible; building pads should be developed as soon as possible after grading unless seeding, polymer, water, landscaping, soil binders, or similar means are applied within five working days after grading completion to minimize fugitive dust. • Street sweeping shall be accomplished as needed to remove soil transport to adjacent areas; sweeping shall require use of equipment certified under SCAQMD Rule 1186.1. 						
<p>MM AQ-2. The project applicant shall meet CARB standards by assuring use of lowest emission construction equipment reasonably available for use on this project. The construction fleet average shall meet or exceed Tier II level and the applicant shall provide incentives in the bidding process in selecting construction contractors that propose the lowest- emission construction equipment(i.e., high pressure injectors; smaller engine sizes; electric equipment; gasoline powered equipment with catalytic converters; and alternatively fueled construction equipment).</p> <p>The applicant shall also provide incentives in the bidding process in selecting</p>	Applicant, Construction Supervisor	City of Moreno Valley, Public Works, Land Development Division	<p>Prior to Construction</p> <p>During Onsite/Offsite Construction (Provide evidence that this has been certified at occupancy)</p>			

grading and construction
contractors that propose the
use of equipment using Level
III diesel particulate filters.

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<u>Mitigation Measure</u>	<u>Responsible Party</u>	<u>Verification of Compliance</u>	<u>Timing</u>	<u>Start Date</u>	<u>Finish Date</u>	<u>Monitoring Date</u> <u>Monitor</u>
<p>MM AQ-3. During project construction, construction equipment shall be properly maintained in accordance with manufacturer’s specifications; maintenance shall include proper tuning and timing of engines. During maintenance, precautions shall be taken to ensure that fuel is not leaked onto the ground. Equipment maintenance records and equipment design specification data sheets shall be kept onsite during construction and subject to inspection by the SCAQMD.</p>	Construction Supervisor	City of Moreno Valley Planning Division, Public Works. Land Development Division, and the South Coast Air Quality Management District	Onsite/Offsite Construction			
<p>MM AQ-4. During project construction, the project applicant shall require all contractors to turn off all construction equipment and delivery vehicles when not in use or prohibit idling in excess of five (5) minutes.</p>	Construction Supervisor	City of Moreno Valley, Building and Safety Division	Onsite/Offsite Construction			
<p>MM AQ-5. Prior to issuance of a grading permit, the project applicant shall provide a traffic control plan to the City of Moreno Valley that will describe in detail safe detours around the project construction site with temporary traffic control (e.g., flag person) during construction-related truck hauling activities, as required by the City. Construction activities that affect traffic flow on the arterial system shall be minimized by scheduling such activities to off-peak hours. Construction truck travel shall be routed to minimize travel on congested streets and near to sensitive receptor areas. Construction traffic shall gain access to the project site via Theodore Street and Eucalyptus Avenue to the greatest extent possible to minimize traffic and dust along Redlands Boulevard. The traffic control plan is primarily intended as a safety measure but also can minimize traffic congestion and delays that increase idling and acceleration emissions. The traffic control plan shall be prepared in accordance with U.S. Department of Transportation Federal Highways Administration</p>	Applicant	City of Moreno Valley, Transportation Engineering Division	Prior to issuance of a grading permit			

Rule on Work Zone Safety 23
CFR 630 Subpart J,
Developing and Implementing

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<u>Mitigation Measure</u>	<u>Responsible Party</u>	<u>Verification of Compliance</u>	<u>Timing</u>	<u>Start Date</u>	<u>Finish Date</u>	<u>Monitoring Date</u>	<u>Monitor</u>
Traffic Management Plans for Work Zones.							
MM AQ-6. All paints shall be low VOC paints and applied using either high volume low-pressure (HVLV) spray equipment or by hand application. For a list of low VOC paints, refer to the website www.aqmd.gov/prdas/brochures/paintguide.html .	Applicant, Construction Supervisor	City of Moreno Valley, Building and Safety Division	Construction				
MM AQ-7A. Construction Phases. Prior to the issuance of grading permits, the developer shall provide documentation to the City of Moreno Valley indicating that construction workers will be encouraged to carpool to the greatest extent practical, including providing information on park and ride programs available to workers. The project shall also provide for lunch services onsite during construction to minimize the need for offsite vehicle trips. Workers shall be informed in writing and a letter placed on file at the City of Moreno Valley documenting the efforts to encourage carpooling.	Applicant	City of Moreno Valley, Planning Division,	Prior to issuance of grading permits Construction				
MM AQ-7B. Occupancy. Prior to the issuance of occupancy permits, the project applicant shall provide documentation to the City of Moreno Valley indicating that tenant workers will be encouraged to carpool to the greatest extent practical including providing information on park and ride programs available to employees. Employees shall be informed in writing and a letter placed on file at the City of Moreno Valley documenting the efforts to encourage carpooling.	Applicant	City of Moreno Valley, Planning Division	Prior to issuance of Certificate of Occupancy				
MM AQ-8. During project construction, onsite electrical hook-ups shall be provided for electric construction tools including saws, drills and compressors, to minimize the need for diesel powered electric generators.	Applicant, Construction Supervisor	City of Moreno Valley, Building and Safety Division	Construction				

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<u>Mitigation Measure</u>	<u>Responsible Party</u>	<u>Verification of Compliance</u>	<u>Timing</u>	<u>Start Date</u>	<u>Finish Date</u>	<u>Monitoring Date Monitor</u>
MM AQ-9. During construction, rumble or bumper strips or similar best management practices shall be provided where vehicles enter and exit the construction site onto paved roads, or wash off trucks or any equipment leaving the site with each trip.	Applicant, Construction Supervision	City of Moreno Valley, Public Works Land Development Division	Construction			
MM-AQ-10. Offsite construction improvements shall be limited to an 8-hour day during daylight hours.	Construction Supervisor	City of Moreno Valley Public Works Land Development Division	Offsite Construction			
Operations	Applicant, Tenants	City of Moreno Valley, Planning Division and Building and Safety Division	Prior to issuance of occupancy permits/Operation			
MM AQ-11. All project entrances shall be posted with signs which state: a) Diesel trucks servicing the project shall not idle for more than 3 minutes; and b) Telephone numbers of the building facilities manager and the California Air Resources Board to report violations.						
MM AQ-12. Electricity shall be provided in the loading dock areas for transportation refrigeration units visiting the site, if any.	Applicant, Tenants	City of Moreno Valley, Planning Division and Building and Safety Division	Prior to Issuance of Certificate of Occupancy/ Operation			

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<p>MM AQ-13. A deed restricted area to the south of the project property line, precluding the establishment of sensitive receptors, is required. The documents necessary to execute the deed restriction shall be submitted to the City of Moreno Valley prior to the issuance of a building permit. Prior to the issuance of a Certificate of Occupancy, the area depicted on Exhibit 5.3-1 'Proposed Buffer Area' from the southern property line of the project between Redlands Boulevard and Theodore Street shall be deed-restricted in a manner acceptable to the City of Moreno Valley to preclude the establishment of sensitive receptors including residences, hospitals, convalescent homes, day-care centers, and schools within this area.</p>	Applicant	City of Moreno Valley, Planning Division	<p>Submittal of Deed Restriction Documents Prior to Issuance of Building Permits</p> <p>Execution of Deed Restrictions. Prior to Issuance of Certificate of Occupancy</p>			
<p>MM AQ-14. Electrical hookups shall be provided for transport refrigeration units within the Commercial component (Phases II and III) to eliminate the need for idling of diesel-powered transport refrigeration units.</p>	Applicant, Tenants	City of Moreno Valley, Planning Division and Building and Safety Division	Plot Plan Approval/Prior to Occupancy Permits			
<p>MM AQ-15. The project applicant shall include in all new lease documents the requirement that the tenants shall utilize only trucks using refrigeration units capable of utilizing electrical hook-ups for deliveries to the tenant.</p>	Applicant	City of Moreno Valley, Planning Division	Operation (Written Documentation shall be provided)			
<p>MM AQ-16. The project applicant shall encourage its tenants to do the following: have a compressed workweek schedule for its employees; include electric powered and/or compressed natural gas fueled trucks and/or vehicles in fleets; require or provide incentives to use California Air Resources Board certified particulate filters that meet level III requirements; use "clean" trucks, such as 2007 or newer model year or 2010 compliant; use electric yard trucks; use trucks with a SmartWay 1.25 rating; and electrify auxiliary power units. The applicant shall provide</p>	Applicant, Tenants	City of Moreno Valley, Planning Division	Operation			

documentation of its efforts to
the satisfaction of the City.
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MM AQ-17. The project shall be designed such that the check-in point for trucks is inside the facility property to ensure that there are no trucks queuing outside the facility.	Applicant	City of Moreno Valley, Planning Division, and Transportation Engineering Division	Plot Plan Review/ Approval			
MM AQ-18. Food services shall be provided onsite.	Applicant, Tenants	City of Moreno Valley, Planning Division	Onsite Construction, Operation			
MM AQ-19. Prior to the Issuance of Occupancy Permits, written evidence shall be provided to the Planning and Transportation Engineering Divisions that the project applicant shall include in all new lease documents the requirement that the tenant shall provide employees with incentives for carpooling or impose a parking fee.	Applicant, Tenant	City of Moreno Valley, Planning Division and Transportation Engineering Division	Written Evidence of Compliance Shall Be Provided at Occupancy/Operation			
MM AQ-20. The property owners association shall maximize use of electrical equipment for landscape maintenance.	Applicant, Tenants	City of Moreno Valley, Planning Division	Operation			
MM AQ-21. Prior to the issuance of a certificate of occupancy for Phase 3, traffic signals, including interconnect hardware installed, or paid for, in whole or in part, by the project applicant shall be synchronized by the applicant, to the satisfaction of the City Engineer.	City of Moreno Valley	City of Moreno Valley, Transportation Engineering Division	Prior to Certificate of Occupancy For Phase III.			

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Biological Resources						
<p>MM BR-1. To avoid impacts to nesting birds covered under the MBTA, vegetation removal activities involving established perennial vegetation located in the urban/developed plant community shall be avoided during avian nesting season (February 15 through August 31). If the nesting season cannot be avoided, a nesting bird survey shall be provided no more than thirty (30) days prior to vegetation removal activities. If no active nests are observed, construction activity may proceed with no further monitoring. If active nests are observed, a biological monitor shall be present during any construction activity within the vicinity of the nest. Construction activity may encroach within the vicinity of the nesting birds at the discretion of the biological monitor. Construction activity may proceed once the nestlings have fledged the nest.</p>	Applicant, Consulting Biologist	City of Moreno Valley Planning Division	Prior to Issuance of Grading Permits			
<p>MM BR-2. Prior to issuance of a grading permit, the applicant shall pay the mandatory mitigation fee for the SKRHCP. The mitigation fee is a per/acre fee based on the entire property footprint and is used to purchase land that contains occupied Stephens' kangaroo rat habitat for the purpose of conserving a large core population.</p>	Applicant	City of Moreno Valley Planning Division	Prior to Issuance of a Grading Permit			

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						<u>Date</u>	<u>Monitor</u>
<p>MM BR-3. A pre-construction clearance survey for burrowing owl shall be provided. The pre-construction survey shall be conducted by a qualified biologist no more than thirty (30) days prior to any grading or ground disturbing activities.</p> <p>If construction is to be initiated during the breeding season (February 1 through August 31) and burrowing owl is determined to occupy any portion of the study area during the 30-day pre-construction survey, consultation with the CDFG and USFWS shall take place and no construction activity shall take place within 500 feet of an active nest/burrow until it has been determined that the nest/burrow is no longer active, and all juveniles have fledged the nest/burrow. No disturbance to active burrows shall occur without appropriate permitting through the MBTA and/or CDFG.</p> <p>If active burrowing owl burrows are detected outside the breeding season (September through January), or within the breeding season but owls are not nesting or in the process of nesting, passive relocation may be conducted following consultation with the CDFG and USFWS. Construction activity may occur within 500 feet of the active nests at the discretion of the biological monitor.</p>	Applicant, Consulting Biologist	City of Moreno Valley Planning Division	Prior to Issuance of Grading Permits				
<p>MM BR-4. Prior to issuance of a building permit, the applicant shall pay the mandatory mitigation fee for the MSHCP. The mitigation fee is a per unit fee based on the residential development and a per square feet fee based on commercial or industrial development. This will satisfy mitigation required for Impact 5.4-5 and 5.4-6.</p>	Applicant	City of Moreno Valley Planning Division	Prior to the Issuance of a Building Permit				

<u>Mitigation Measure</u>	<u>Responsible Party</u>	<u>Verification of Compliance</u>	<u>Timing</u>	<u>Start Date</u>	<u>Finish Date</u>	<u>Monitoring Date</u>	<u>Monitor</u>
<p>Cultural Resources</p> <p>MMCR-1. Prior to the issuance of a grading permit, a City-approved Project Archaeologist shall be retained to initiate and supervise cultural resource mitigation- monitoring during project-related earthmoving in all areas of the project, subject to certain constraints found in MM CR-2.</p>	<p>Applicant, Construction Supervisor, Consulting Archaeologist</p>	<p>City of Moreno Valley, Planning Division</p>	<p>Prior to Issuance of a Grading Permit (Provide document for review prior to issuance of a Grading Permit)</p>				
<p>MM CR-2. Project-related archaeological monitoring shall include the following constraints:</p> <ol style="list-style-type: none"> 1. All construction-related earthmoving shall be monitored to a depth of ten (10) feet below grade by the Project Archaeologist or his/her designated representative; 2. Once 50 percent of the earth to be moved has been examined by the Project Archaeologist, the Project Archaeologist may, at his or her discretion, terminate monitoring if and only if no buried cultural resources have been detected; 3. If buried cultural resources are detected during monitoring, monitoring must continue until 100 percent of virgin earth within the study area has been disturbed and inspected by the Project Archaeologist or his/her designated representative. 4. Grading shall cease in the area of a cultural artifact or potential cultural artifact as delineated by the Project Archaeologist or his/her designated representative. Grading should continue in other areas of the site while particular find are investigated; and 5. If cultural artifacts are 	<p>Applicant, Consulting Archaeologist, Construction Supervisor</p>	<p>City of Moreno Valley Planning Division</p>	<p>During Grading</p>				

uncovered during
grading, they shall be
examined by a
professional
archaeologist subject to
MM CR-3, and decisions
shall be made as to
mitigation, treatment
and/or

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						Date	Monitor
disposition in consultation with the culturally affiliated Tribe(s), as determined by the City. A mitigation-monitoring report must accompany the artifacts.							
MM CR-3. Should buried prehistoric cultural resources be encountered during monitoring, the resources shall be evaluated for significance in consultation with the culturally affiliated Tribe(s), as determined by the City, following CEQA Guidelines prior to continuance of grading in the area.	Applicant, Construction Supervisor, Consulting Archaeologist	City of Moreno Valley Planning Division	During Grading				
MMCR-4. The City of Moreno Valley shall designate culturally affiliated Tribe(s) to monitor the project. Qualified representatives of the Tribal Group(s) shall be granted access to the project site to monitor all activities monitored by the Project Archaeologist.	City of Moreno Valley, Construction Supervisor	City of Moreno Valley Planning Division	Prior to Issuance of Grading Permits				
MM CR-5. Prior to the issuance of a grading permit, a City-approved Project Paleontologist shall be retained to initiate and supervise paleontological mitigation-monitoring in all areas of the project, subject to certain constraints found below:	Applicant, Construction Supervisor, Consulting Paleontologist	City of Moreno Valley Planning Division, and Land Development Division of the Public Works Department	Prior to Issuance of Grading Permits, During Grading				
1. Once excavations reach ten (10) feet in depth, monitoring of excavation in areas identified as likely to contain paleontologic resources by a qualified paleontologic monitor or his/her representative must take place.							
2. Paleontological monitors shall be equipped to salvage fossils as they are unearthed to avoid construction delays and to remove samples of sediments that are likely to contain the remains of small fossil invertebrates and vertebrates.							
3. Monitors shall be empowered to temporarily halt or divert equipment to allow removal of abundant or large specimens, and,							
4. Monitoring may be reduced if the potentially							

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Mitigation Measure	Responsible Party	Verification of Compliance	Timing	Start Date	Finish Date	Monitoring Date	Monitor
<p>fossiliferous units described herein are not present, or, if present, are determined upon exposure and examination by qualified paleontologic personnel to have low potential to contain fossil resources.</p>							
<p>MM CR-6. Although considered unlikely, there is always the possibility that ground-disturbing activities may uncover previously unknown human remains. Should this occur, Section 7050.5 of the California Health and Safety Code applies, and the following procedures shall be followed.</p>	<p>Applicant/Construction Supervisor</p>	<p>City of Moreno Valley, Planning Division</p>	<p>During Grading</p>				
<p>In the event of an accidental discovery or recognition of any human remains, California Health & Safety Code 7050.5 and California Public Resource Code (PRC) Section 5097.98 must be followed. In this instance, once project-related earthmoving begins and if there is accidental discovery or recognition of any human remains, the following steps shall be taken:</p>							
<p>1. There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until a determination as to disposition and treatment is made. The Riverside County Coroner shall be contacted to determine if the remains are Native American and if an investigation of the cause of death is required. If the coroner determines the remains to be Native American, the coroner shall contact the NAHC within 24 hours to allow the NAHC to identify the person or persons it believes to be the “most likely descendant” (MLD) of the deceased Native American. The MLD may make recommendations and enter into consultation with the landowner, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in PRC Section 5097.98.</p>							

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Geology and Soils							
<p>The project will be subject to the City’s Grading Ordinance and all applicable California Building Codes.</p> <p>MM GEO-1. During excavation and grading activities a qualified engineering geologist shall observe the in-grading excavation to confirm the absence of any fault features within the building site. If any currently unknown fault features are observed, such features shall be evaluated by the geologist and, if determined necessary, remediation measures or other measures as appropriate shall be implemented to address such features in accordance with applicable City and State requirements. The geologist’s record of observations shall be summarized in a final report to be submitted to the City at the conclusion of excavation/grading activities.</p>	Applicant, Consulting Geologist	City of Moreno Valley, Planning Division, Building and Safety Division, and Public Works Land Development Division	Onsite Construction During Grading				
Hazards and Hazardous Materials							
<p>MM HH-1. The fire protection system shall be designed per National Fire Protection Agency (NFPA) 13 to provide an Early Suppression Fast Response (ESFR) sprinkler system protection. Temperature rating of sprinkler heads to be per the Fire Department’s requirements.</p>	Applicant, Tenant	City of Moreno Valley Fire Department, Building and Safety Division	Plan Check Review/Approval				
<p>MM HH-2. A complete on-site fire protection underground system shall be provided per NFPA 24 and specific requirements of the local authorities. This system shall include hydrants, sectional valves, backflow prevention, and Fire Department connections.</p>	Applicant, Tenant	City of Moreno Valley Fire Department, Building and Safety Division	Plan Check Review/Approval				

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MM HH-3. Riser assemblies shall include mechanical alarm valves. System control valves shall either be riser mounted with wall post extensions or exterior post indicator valves as required by the local authority. All required devices for central station alarm system interface shall be provided.	Applicant, Tenant	City of Moreno Valley Fire Department, Building and Safety Division	Plan Check Review/Approval				
MM HH-4. System design, material, and installation shall comply with NFPA 13 and the other previous NFPA standards. It shall also comply with CBC and UFC standards. Approvals will also be obtained from the owner’s insurance authority.	Applicant, Tenant	City of Moreno Valley Fire Department, Building and Safety Division	Plan Check Review/Approval				

Land Use and Planning

MM LU-1. A deed restricted area to the south of the project property line, precluding the establishment of sensitive receptors, is required. The documents necessary to execute the deed restriction shall be submitted to the City of Moreno Valley prior to the issuance of a building permit. Prior to the issuance of a Certificate of Occupancy, the area depicted on Exhibit 5.3-1 ‘Proposed Buffer Area’ from the southern property line of the project between Redlands Boulevard and Theodore Street shall be deed-restricted in a manner acceptable to the City of Moreno Valley to preclude the establishment of sensitive receptors including residences, hospitals, convalescent homes, day-care centers, and schools within this area. (MM AQ-13)	Applicant	City of Moreno Valley Planning Division	Submittal of Deed Restriction Documents Prior to Issuance of Building Permits Execution of Deed Restrictions Prior to Issuance of Certificate of Occupancy				
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Noise						
Temporary Impacts Due to Construction Noise	Applicant, Construction Supervisor	City of Moreno Valley, Public Works, Land Development Division	Construction			
<p>MM N-1. No Construction Vehicles on Redlands Boulevard south of Future Eucalyptus Avenue, Other than construction vehicles necessary for identified offsite improvements within Redlands Boulevard, no construction vehicles shall be allowed in the vicinity of any residences on Redlands Boulevard south of existing Fir/future Eucalyptus Avenue. The prohibition for construction traffic shall apply to all phases of the proposed project.</p>						
<p>MM N-2. No Nighttime Grading within 1,200 Feet of Residences south of Future Eucalyptus Avenue. City grading hours are from 7 a.m. to 6 p.m., Monday through Friday. No grading activities shall occur at night (8 p.m. to 7 a.m.) within 1,200 feet from any noise-sensitive land uses (i.e. occupied residences including yard areas, schools, etc.) located south of SR-60 (Exhibit 5.11-6 shows the current location of occupied residences). Prior to the issuance of a grading permit, the project applicant shall submit a Noise Reduction Compliance Plan (NRCP) to the City as part of the grading permit submittal showing the limits of nighttime construction based on the location of occupied residential dwellings and their associated parcels, and other noise sensitive uses. The limits of nighttime grading shall be shown on the NRCP and grading plan submitted to the City.</p> <p>The limits of construction allowed at night shall be staked or posted on site, and contractors will be provided with a copy of the plan showing the limits of nighttime construction.</p> <p>In the event any new</p>	Applicant, Construction Supervisor	City of Moreno Valley, Planning Division and Public Works Land Development Division	Prior to Issuance of a Grading Permit, Pre-Construction and During Construction			

residential units or other noise
sensitive land uses are built
and occupied in the

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<p>vicinity of the project site prior to completion of Phase 1 construction, nighttime construction and grading activities shall be prohibited within 1,200 feet of such residences. Compliance shall be demonstrated through a modification of the NRCP.</p> <p>With the implementation of this mitigation measure, the loudest noise level that would be experienced at any developed residential parcel would be less than 55 dBA (Leq) during the nighttime, and this level would be consistent with the limits established in the City’s Noise Ordinance. Compliance with these standards during Phase 1 construction of the project should be assured through the Noise Reduction Compliance Plan (NRCP) and periodic monitoring of noise levels at developed residential parcels within 1,200 feet of the project site.</p>							

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MM N-3. Daytime Construction Noise. City grading hours are from 7 a.m. to 6 p.m., Monday through Friday. If project site grading activities must occur within 560 feet of noise-sensitive land uses during the daytime (7 a.m. to 8 p.m.), then temporary sound barriers of sufficient height and density to reduce daytime noise levels to 60 dBA (Leq) or less shall be placed between the grading activities and the noise-sensitive land uses. Prior to the issuance of a grading permit, the developer shall submit a NRCP to the City as part of the grading permit submittal showing the limits of daytime construction based on the 560 foot setback in relation to the location of occupied residential dwellings and their associated parcels and other noises sensitive uses.	Applicant, Construction Supervisor	City of Moreno Valley, Planning Division and Public Works Land Development Division	Prior to Issuance of a Grading Permit, Pre-Construction and Construction			

In the event any new residential units or other noise sensitive land uses are built and occupied in the vicinity of the project site prior to completion of Phase 1 construction, the NRCP shall be modified to show a the revised new 560 foot setback for day time construction and grading activities in relation to the new residences.

With the implementation of this mitigation measure the loudest noise level that would be experienced at any developed residential parcel would be less than 60 dBA (Leq) during the daytime, and these levels would be consistent with the limits established in the City’s Noise Ordinance. Compliance with these standards during Phase 1 construction of the project should be assured through the NRCP and periodic monitoring of noise levels at developed residential parcels within 560 feet of the project site. This mitigation measure does not apply to off-site construction.

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MM N-4. Require Equipment Maintenance. All construction equipment shall be maintained in good working order and fitted with the appropriate silencers, mufflers or acoustic covers where applicable.	Applicant, Construction Supervisor	City of Moreno Valley, Planning Division, Building and Safety Division	During Construction			
MM N-5. Locate Material Stockpiles 1,200 Feet from Residences south of the Freeway. Material stockpiles shall be located at least 1,200 feet from residences south of future Eucalyptus Avenue along Theodore Street and Redlands Boulevard. Remotely locating the stockpiles reduces the noise at the residences from equipment traveling to and from the stockpiles and the noise that is sometimes associated with handling of material.	Applicant, Construction Supervisor	City of Moreno Valley, Public Works, Land Development Division, and the Building and Safety Division	Pre-Construction and Construction			
Transportation and Traffic						
MM TT-1. Prior to issuance of Certificate of Occupancy for Phase 1, turn lanes shall be improved along Theodore Street at SR-60 and at Eucalyptus Avenue: In addition, minor pavement shall be added to the Eastbound and West bound State Route 60 Freeway ramp intersections with Theodore Street to accommodate truck turning movements. These proposed improvements should enhance safety and improve mobility between the freeway and Eucalyptus Avenue.	Applicant	City of Moreno Valley, Public Works, Transportation Engineering Division	Prior to Issuance of Certificate of Occupancy for Phase 1			
MM TT-2. Concurrent with the submittal of the plot plan for Phase 3 of the proposed project, the project applicant shall submit a supplemental traffic study assessing the project's contribution to the traffic impacts at the Redlands Boulevard intersection with SR-60 ramps, as well as Theodore Street at SR-60. Approval of the supplemental traffic study must occur prior to the approval of entitlements for the Phase 3 Plot Plan. The project applicant shall contribute to the costs of the interim intersection improvements required to	Applicant	City of Moreno Valley, Public Works, Transportation Engineering Division	Phase 3 Plot Plan Review, Prior to Issuance of Building Permits for Phase 3			

provide adequate capacity for
all phases of the

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project. Said contribution shall be on a fair-share basis considering the buildout of adjacent areas. Payment of such costs shall be provided prior to the issuance of a building permit for Phase 3. If the timing of Phase 3 of the project precedes the planned interim improvements, the project shall be required to construct interim improvements needed to provide-adequate capacity to serve the project.						
MM TT-3. The project applicant shall construct the easterly leg of the intersection located at Redlands Boulevard and Eucalyptus Avenue at the ultimate design required to provide adequate capacity for all phases of the project and buildout of the adjacent areas. The design tentatively consists of a dedicated westbound left turn lane, two westbound through lanes and a dedicated westbound right turn lane. Final geometrics shall be determined after receiving the supplemental traffic study identified in MM TT 2 . Construction of required improvements shall be completed prior to the issuance of occupancy permits for Phase 3 of the project.	Applicant	City of Moreno Valley, Public Works, Transportation Engineering Division	Phase 3, Prior to Issuance of Occupancy Permits			
MM TT(C)-1. Prior to issuance of certificate of occupancy for Phase 1 of the project, turn lanes shall be provided along Theodore Street at SR-60 and at Eucalyptus Avenue. In addition, minor pavement shall be added to the Eastbound and West bound State Route 60 Freeway ramp intersections with Theodore Street to accommodate truck turning movements These proposed improvements should enhance safety and improve mobility between the freeway and Eucalyptus Avenue.	Applicant, City of Moreno Valley	City of Moreno Valley, Public Works, Transportation Engineering Division, Riverside County Transportation Department	Prior to Issuance of Certificate of Occupancy for Phase 1			
MM TT(C)-2. The short-range analysis shows project impacts at the Redlands Boulevard interchange and at the Redlands Boulevard/Eucalyptus Avenue	Applicant, City of Moreno Valley	City of Moreno Valley, Public Works, Transportation Engineering	Phase 3 Plot Plan Review (or As Determined By MM TT-2)			

intersection. At the interchange, improvements are planned and the project shall participate on a fair share

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<p>basis if private funding is needed. If the timing of Phase 3 of the project precedes the planned interchange improvements, the project shall contribute to interim improvement to provide adequate capacity until the ultimate improvements are completed. These interim improvements include additions of left and right turn lanes at Redlands Boulevard, SR 60 Ramps, and Eucalyptus Avenue. The interim improvements would be the shared responsibility of the proposed project and cumulative projects. Fair share participation and/or contribution to interim improvements, as applicable, shall be required prior to the issuance of a building permit for Phase 3 of the project.</p>		<p>Division, Riverside County Transportation Department</p>				
<p>MM TT(C)-3. At the time of the submittal of the plot plan for Phase 3 of the proposed project, the applicant shall submit a supplemental traffic study assessing the project’s contribution to the impacts at the Redlands Boulevard intersection with SR-60 ramps, as well as Theodore Street at SR-60. The developer shall contribute to the costs on a fair share basis of the intersection improvements required to provide adequate capacity for all phases of the project and buildout of the adjacent areas. If the timing of Phase 3 of the project precedes the planned improvements, the project shall be required to construct interim improvements to provide adequate capacity until the ultimate improvements are completed.</p>	<p>Applicant, City of Moreno Valley</p>	<p>City of Moreno Valley, Public Works, Transportation Engineering Division, Riverside County Transportation Department</p>	<p>Phase 3 Plot Plan Review (or As Determined By MM TT-2)</p>			

Utilities and Service Systems

<p>MM W-1. Prior to issuance of a Precise Grading Permit, Planting and Irrigation Plans shall be submitted for review and prior to the issuance of a building permit, approved by the City. Such plans shall contain the following components:</p>	<p>Applicant</p>	<p>City of Moreno Valley Planning Division</p>	<p>Plan Check Review/Prior to Issuance of Building Permit</p>			
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- The plans shall incorporate water conservation principles as detailed in the Moreno Valley

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<p>Municipal Code § 9.17.030 Landscape and irrigation design standards.</p> <ul style="list-style-type: none"> • Plant types shall be grouped together according to their water, soil, sun and shade requirements and in relationship to the buildings. Plants with different water needs shall be irrigated separately. • Plans shall be designed in accordance with soil tests to determine appropriate specifications of soil amendments and to facilitate selection of water- efficient plant species suitable for the site. Soil amendments such as compost-shall be provided to improve water-holding capacity of soil, where soil conditions warrant. • All exposed surfaces of non-turf areas within the developed landscape area shall be mulched with a minimum three inch (3”) layer of material, except in areas with groundcover planted from flats where mulch depth shall be one and one half inches (1.5”). • Turf areas shall be limited to public gathering areas and used in compliance with City approved water budget formula(s) and specifications. • All irrigation systems shall be designed to prevent runoff, over-spray, low head drainage (occurs where sprinkler systems are installed in sloped areas) and other similar conditions where water flows offsite on to adjacent property, non-irrigated areas, walk, roadways, or structures. Irrigation systems shall be designed, constructed, managed, and maintained to achieve as high an overall efficiency as possible. 						

- Landscaped areas shall be provided with a) smart irrigation controllers which automatically adjusts the frequency and/or duration of irrigation events in response to changing weather conditions; b) rain- sensing devices to prevent irrigation during rainy weather; c) anti-drain check valves installed at strategic points to minimize or prevent low-head drainage; and d) pressure regulators when the static water pressure exceeds the maximum recommended

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<u>Mitigation Measure</u>	<u>Responsible Party</u>	<u>Verification of Compliance</u>	<u>Timing</u>	<u>Start Date</u>	<u>Finish Date</u>	<u>Monitoring Date</u> <u>Monitor</u>
operating pressure of the irrigation system.						
<ul style="list-style-type: none"> The planting areas shall be grouped in relation to moisture control zones based on similarity of water requirements (i.e., turf separate from shrub and groundcover, full sun exposure areas separate from shade areas; top of slope separate from toe of slope). 						
Global Climate Change and Greenhouse Gases						
MM GCC-1. The project shall be designed to meet applicable 2008 Title 24 energy efficiency requirements, or any more stringent requirements that may be adopted prior to the issuance of building permits for the project.	Applicant	City of Moreno Valley, Planning Division, Building and Safety Division	Plan Check Review/Prior to Issuance of Building Permits			
MM GCC-2. All buildings shall be designed with “cool roofs” using products certified by the Cool Roof Rating Council, and exposed roof surfaces shall use “cool paints.”	Applicant	City of Moreno Valley, Planning Division, Building and Safety Division	Plan Check Review/Prior to Issuance of Building Permits			
MM GCC-3. The project shall install a photovoltaic array (solar panels) or other source of renewable energy generation on-site, or otherwise acquire energy from the local utility that has been generated by renewable sources, to meet the project’s Phase 1 office electricity needs.	Applicant	City of Moreno Valley, Planning Division, Building and Safety Division	Prior to Certificate of Occupancy/Phase 1 Office Occupancy			
MM GCC-4. The design and operation of the project shall use ENERGY STAR-qualified energy efficient products for heating and cooling systems, and for built-in appliances and lighting.	Applicant	City of Moreno Valley, Planning Division, Building and Safety Division	Plan Check Review/Prior to Issuance of Building Permits			
MM GCC-5. To reduce vehicle miles traveled and emissions associated with trucks and vehicles, the following measures shall be implemented to the satisfaction of the Community Development	Applicant	City of Moreno Valley Planning Division, Building and Safety Division, Public Works, Transportation Engineering	Prior to Certificate of Occupancy, Operation			

Director, Public Works
Director, Building Official
and Transportation Division
Manager:

Division

a) Onsite secure, weather-
protected bicycle storage

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Mitigation Measure	Responsible Party	Verification of Compliance	Timing	Start Date	Finish Date	Monitoring Date Monitor
<p>parking shall be provided. Onsite showers (one for males and one for females) and lockers for employees shall be provided in each building. Onsite convenient bicycle parking shall be provided for retail customers.</p>						
<p>b) Any traffic lights installed as part of this project shall use Light Emitting Diodes.</p>						
<p>c) Pedestrian and bicycle connections shall be provided to surrounding areas consistent with the Existing General Plan.</p>						
<p>d) A Transportation Management Association (TMA) shall be established for the project by the applicant. The TMA shall coordinate its efforts with other TMAs in the City and encourage and coordinate carpooling by occupants of the project. The TMA shall advertise its services to the building occupants. The TMA shall offer transit or other incentives to the employees to reduce greenhouse gas emissions. A shuttle shall be provided during any one hour period where the number of employees using public transit exceeds 20 during the period. The TMA shall distribute public transportation information to its employees. The TMA shall provide electronic message board space for coordinating rides. Within two months after project completion, the TMA shall submit a plan to the City that outlines the measures the TMA has implemented and contact information.</p>						
<p>e) There shall be preferential parking for carpools; vanpools, and alternatively fueled vehicles.</p>						
<p>MM GCC-6. The project shall provide a minimum of two electric vehicle-charging</p>	<p>Applicant</p>	<p>City of Moreno Valley Planning Division and</p>	<p>Prior to Certificate of Occupancy</p>			

stations.

Building and
Safety Division

Michael Brandman Associates

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<u>Mitigation Measure</u>	<u>Responsible Party</u>	<u>Verification of Compliance</u>	<u>Timing</u>	<u>Start Date</u>	<u>Finish Date</u>	<u>Monitoring Date</u> <u>Monitor</u>
<p>MM GCC-7. During onsite construction phases of mass grading, fine grading, and building (excluding asphalt paving, trenching, and offsite improvements), off-road construction equipment shall use biodiesel fuel (a minimum of B20, or 20 percent of biodiesel). Construction equipment exempt from this measure include those with warranties that would be voided if B20 biodiesel fuel is used. Prior to issuance of grading permits, the applicant shall provide documentation to the City that verifies that certain equipment are exempt; that a biodiesel supply has been secured; and that the construction contractor is aware that the use of biodiesel is required.</p>	Applicant, Construction Supervisor	City of Moreno Valley Public Works, Land Development Division	<p>Prior to Issuance of Grading Permits</p> <p>During Construction</p>			
<p>MM GCC-8. Prior to issuance of a grading permit, the project shall have in place a City-approved Solid Waste Diversion and Recycling Plan that demonstrates the diversion and recycling of all salvageable and re-useable wood, metal, plastic and paper products used during project construction. A similar Plan shall be in place prior to occupancy that demonstrates the diversion and recycling of all wood, metal, plastic and paper products during on-going operation of the warehouse and office portions of the project. The Plans shall include the name of the waste hauler, their assumed destination for all waste and recycled materials, and the procedures that will be followed to ensure implementation of this measure.</p>	Applicant	City of Moreno Valley Planning Division and Public Works and Development Division	<p>Prior to Issuance of Grading Permit</p> <p>Prior to Certificate of Occupancy</p>			

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<u>Mitigation Measure</u>	<u>Responsible Party</u>	<u>Verification of Compliance</u>	<u>Timing</u>	<u>Start Date</u>	<u>Finish Date</u>	<u>Monitoring Date</u> <u>Monitor</u>
MM GCC-9. The project shall be certifiable under Leadership in Energy and Environmental Design (LEED). The project shall obtain the following credits from the LEED for New Construction & Major Renovations, version 2.2 (or equivalent): Sustainable Sites Credit 7.1: Heat Island Effect, Non-Roof; LEED Energy & Atmosphere Credit 1, Optimize Energy Performance, in part through installing skylights and utilizing energy efficient lighting. Demonstration of certifiability shall be provided to the satisfaction of the City, prior to the issuance of building permits.	Applicant	City of Moreno Valley Planning Division and Building and Safety Division	Submit Prior to Building Permits			
MM GCC-10. The project shall be designed to accommodate trucks utilizing “SmartWay Truck Efficiency” emission reduction-features. Trailer tails (extenders) are incompatible with loading docks and are exempt from this measure.	Applicant	City of Moreno Valley Planning Division	Prior to Issuance of Building Permits/Prior to Construction (Provide Documentation)			
MM GCC-11. Every truck that enters the site with a gross vehicle weight rating over 10,000 pounds shall have an Engine Certification Label. If it does not have the label, it shall be prohibited from entering the project site.	Applicant, Tenant	City of Moreno Valley, Planning Division	Operation			

Michael Brandman Associates

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RESOLUTION NO. 2009-10

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA RECOMMENDING APPROVAL OF PA07-0090 (TENTATIVE PARCEL MAP NO. 35629) FOR FOUR SEPARATE BUILDABLE PARCELS AND TWO PRIMARY PARCELS DEDICATED FOR FREEWAY AND IMPROVEMENT PURPOSES (THIRTEEN PARCELS OVERALL TO INCLUDE LETTERED LOTS FOR PUBLIC ACCESS AND DEDICATION PURPOSES) AND A PHASED SUBDIVISION OF LAND (P08-057) CONSISTING OF A PROPOSED INDUSTRIAL AND COMMERCIAL DEVELOPMENT (2,620,000 SQUARE FEET) TO INCLUDE TWO PARCELS FOR INDUSTRIAL WAREHOUSE USES, TWO PARCELS FOR COMMERCIAL/RETAIL USES AND TWO PARCELS THAT WILL BE DEDICATED FOR FUTURE FREEWAY IMPROVEMENTS ON A 158 ACRE SITE (WITH ADDITIONAL OFF-SITE IMPROVEMENTS AND DRAINAGE) LOCATED ADJACENT TO AND SOUTH OF HIGHWAY 60 ALONG FUTURE EUCALYPTUS AVENUE (FIR AVENUE) BETWEEN REDLANDS BOULEVARD AND THEODORE STREET

WHEREAS, the applicant, the Highland Fairview has filed an application for Tentative Parcel Map No. 35629 consisting of three building phases and the subdivision of a 158 acre site (265.3 acres including offsite improvements and drainage) with a first phase (Parcel 1) of 1,820,000 square foot warehouse industrial building, a second phase (Parcels 2 and 4) to include a 600,000 square foot warehouse industrial building (Parcel 2) and an 80,000 square foot commercial/retail component (Parcel 4), and a third phase to include a 120,000 square foot retail/commercial component (Parcel 3). The project will include four (4) separate buildable parcels and two primary parcels dedicated for freeway improvement purposes (and thirteen parcels overall to include lettered lots for public access and dedication purposes) The project site is located adjacent to and south of Highway 60 along future. Eucalyptus Avenue (Fir Avenue), between Redlands Boulevard and Theodore Street;

The project also includes applications for an Environmental Impact Report (EIR) under P07-157, a Change of Zone (PA07-0088), General Plan Amendment (PA07-0089) and a plot plan (PA07-0091). All are related but will be included in separate resolutions with individual findings;

WHEREAS, on January 8, 2009, the Planning Commission of the City of Moreno Valley held a meeting to consider and provide a recommendation on the

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application. At the conclusion of said meeting and public hearing, the item was continued to January 15, 2009;

WHEREAS, on January 15, 2009, the Planning Commission conducted a continued public meeting and recommended that the project be forwarded to the City Council for consideration;

WHEREAS, on February 3, 2009 and February 10, 2009, the City Council held a meeting to consider the application;

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred;

WHEREAS, there is hereby imposed on the subject development project certain fees, dedications, reservations and other exactions pursuant to state law and City ordinances; and

WHEREAS, pursuant to Government Code Section 66020(d)(1), **NOTICE IS HEREBY GIVEN** that this project is subject to Certain fees, dedications, reservations and other exactions as provided herein.

NOW, THEREFORE, BE IT FOUND, DETERMINED AND RESOLVED by the City Council of the City of Moreno Valley as follows:

- A. This City Council hereby specifically finds that all of the facts set forth above in this Resolution are true and correct.
- B. Based upon substantial evidence presented to this City Council during the above-referenced meetings on February 3, 2009 and February 10, 2009, including written and oral staff reports, and the record from the public hearing, this City Council hereby specifically finds as follows:
 1. Conformance with General Plan Policies — The proposed use is consistent with the General Plan, and its goals, objectives, policies and programs.

FACT: The applicant has proposed Tentative Parcel Map No. 35629 to subdivide a 158-acre site into four (4) separate buildable parcels and two primary parcels dedicated for freeway improvement purposes (thirteen parcels overall to include lettered lots for public access and dedication purposes.) for industrial and commercial/retail development. The map would be consistent with a proposed General Pan amendment to eliminate a General Plan designated multi-use trail (Sinclair extension) through the center of the property.

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move and extend the proposed General Plan trail along future Eucalyptus Avenue (Fir Avenue) from the south side of the street to the north side of the street from Quincy Street to Theodore Street, modify the General Plan circulation plan to change the designation of future Eucalyptus Avenue (Fir), from an arterial to a divided arterial, and the adjustment of small portions of the land between proposed Parcels 2 and 3 (an enlargement of 93 feet in width in the CC land use district and decrease of the BP or Business Park land use designation) and Parcels 1 and 4 (a reduction of 126 feet in width of the CC land use district to BP or Business Park). The change in land use designation for these small portions of land will not cause an inconsistency of land use.

2. The site of the proposed land division is physically suitable for the type of development and proposed density of development.

FACT: The proposed subdivision has been designed in accordance with the City Zoning Ordinance and the State Subdivision Map Act. The proposed subdivision of-vacant land complies with the Specific Plan and Map Act in that all lots meet the minimum buildable size, all lots upon which development will take place will provide access to and from dedicated public streets and all lots conform to development standards within the Municipal Code.

3. Health, Safety and Welfare — The proposed use will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity.

FACT: An Environmental Impact report (EIR) has been prepared for the overall project, including the proposed Change of Zone and General Plan amendment. Findings and a Statement of Overriding Considerations has been prepared for said project to deal with impacts related to aesthetics, agriculture, air quality, and noise as well as climate change and greenhouse gas emissions. Said EIR is required to be certified and approved as a part of the proposed project. Said EIR will also be accompanied by a Mitigation Monitoring Program, which will ensure the completion of required mitigation measures for the project. The project site is surrounded by Highway 60 to the north, and primarily vacant residential property to the south east and west.

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Specific mitigation measures have been Provided to lessen the impacts (but not all below significant levels) for public health, safety and the welfare of surrounding properties and improvements in the vicinity of the project. This includes, but is not limited to the limitation of project lighting and glare, and enhanced architectural and landscaping treatment to soften views and reduce visual character as well as light and glare to less than significant levels for aesthetics. Air quality mitigation measures include a fugitive dust control plan with application of best management practices to control fugitive dust during construction, emission control equipment with a minimum of Tier II diesel particulate filter emission controls resulting in a minimum reduction in 50 percent in particulate matter, proper maintenance of construction equipment, a traffic control plan to minimize operational truck traffic and dust during construction, as well as low VOC paints, and other best management practices. Noise mitigation measures include the restriction of construction vehicles on Redlands Boulevard, south of future Eucalyptus Avenue, the restriction of nighttime grading within 1,200 feet of residences south of future Eucalyptus Avenue, specific sound barriers in place to limit daytime construction noise, equipment maintenance to include silencers, mufflers and acoustic covers, and the restriction of material stockpiles within 1,200 feet of all residences south of Highway 60. It is also important to note that an approximate 440 foot land use buffer is included as a land use mitigation measure to buffer or minimize environmental impacts of the project from future sensitive receptors which could be Constructed south of the site. Other mitigation throughout the EIR document reduces the remaining environmental impacts noted in the document to less than significant levels.

With the above mitigation measures imposed for items including noise, air quality, climate change/greenhouse gases, aesthetics and agricultural impacts, any environmental impacts from the proposed project and use will be significantly reduced but are still considered as significant and unavoidable, thereby requiring a statement of overriding considerations. Said mitigation measures included with the Project will lessen environmental impacts on any existing or future properties within the general vicinity of the proposed development and project and reduce impacts to public health, safety and welfare.

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4. The design of the proposed land division or type of improvements will not conflict with easements, acquired by the public at large, for access through, or use of, property within the proposed land division.

FACT: There are no conflicts with easements on the subject site. The City Engineer has appropriately placed conditions of approval for Tentative Parcel Map No. 35629 regarding various project improvements.

5. The design of the proposed land division or the type of improvements is not likely to cause substantial environmental damage or substantially and unavoidably injure fish or wildlife or their habitat or cause serious health problems.

FACT: Pursuant to the California Environmental Quality Act (CEQA) guidelines, An Environmental Impact Report (EIR) has been prepared for the overall project, including the proposed Change of Zone and General Plan amendment. Findings and a Statement of Overriding Considerations has been prepared for said project to deal with impacts related to aesthetics, agriculture, air quality, noise as well as climate change and greenhouse gas emissions. Said EIR is required to be certified and approved as a part of the proposed project. Said document will also be accompanied by a Mitigation Monitoring Program, which will ensure the completion of required mitigation measures for the project. The project site is surrounded by Highway 60 to the north, and primarily vacant residential property to the south east and west.

With mitigation measures imposed for noise, air quality, climate, aesthetics and agricultural and traffic impacts, impacts from the proposed project and use will be significantly reduced but still considered as significant and unavoidable, thereby requiring a statement of overriding considerations and not mitigated to less than significant Levels. Said mitigation measures included with the project will lessen environmental impacts on any existing or future properties within the general vicinity of the proposed development and project *and* reduce impacts to public health, safety and welfare.

6. The effect of the proposed housing needs of the region were considered and balanced against the public service needs of the residents of Moreno Valley and available fiscal and environmental resources.

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FACT: The proposed map meets the intent of the General Plan if the proposed general plan amendment (PA08-0089) is approved. The map will provide for a variety of industrial and commercial/retail land uses, supporting the economic base of the City. Proximity to existing residential and commercial land use allows for contiguous development and infrastructure. The project does not exceed the planned density or the associated public service demand as envisioned by the Moreno Valley General Plan. The Project does not exceed a threshold, which would create potential significant impacts to fiscal resources. The project will supplement the City's fiscal resources by paying applicable impact fees for public facilities. Additionally, future development within the four buildable parcels will pay Community Services District fees, property tax, sales tax, utility tax and other taxes and fees that will be used to provide landscape maintenance as well as police, fire and other public services.

7. The design of the land division provides, to the extent feasible, for future passive or natural heating and cooling opportunities in the subdivision.

FACT: The size, configuration and orientation of the lots in this land division allow solar access for passive heating and opportunities for placement of shade trees and other vegetation for Cooling.

8. The project conforms with any applicable provisions of the City's redevelopment plan.

FACT: The proposed project site is not located in a redevelopment area.

C. FEES, DEDICATIONS, RESERVATIONS, AND OTHER EXACTIONS

1. **FEES**

Impact, mitigation and other fees are due and payable under currently applicable ordinances and resolutions. These fees may include but are not limited to: Development impact fee, Stephens Kangaroo Habitat Conservation fee, Underground Utilities in lieu Fee, Area Drainage Plan fee, Bridge and Thoroughfare Mitigation fee (Future) and Traffic Signal Mitigation fee. The final amount of fees payable is dependent upon information provided by the

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applicant and will be determined at the time the fees become due and payable.

Unless otherwise provided for by this resolution, all impact fees shall be calculated and collected at the time and in the manner provided in Chapter 3.32 of the City of Moreno Valley Municipal Code or as so provided in the applicable ordinances and resolutions. The City expressly reserves the right to amend the fees and the fee calculations consistent with applicable law.

2. DEDICATIONS, RESERVATIONS, AND OTHER EXACTIONS

The adopted Conditions of Approval for PA07-0090, and the phasing implementation mechanism (P08-057) incorporated herein by reference, may include dedications, reservations, and exactions pursuant to Government Code Section 66020 (d)(1).

- 3. The City expressly reserves the right to establish, modify or adjust any fee, dedication, reservation or other exaction to the extent permitted and as authorized by law.

Pursuant to Government Code Section 66020(d)(1), NOTICE IS FURTHER GIVEN that the 90 day Period to protest the imposition of any impact fee, dedication, reservation, or other exaction described in this resolution begins on the effective date of this resolution and any such protest must be in a manner that complies with Section 66020(a) and failure to timely follow this procedure will bar any subsequent legal action to attack, review, set aside, void or annul imposition.

Your right to protest the fees, dedications, reservations, or other exactions does not apply to planning, zoning, grading, or other similar application processing fees or service fees in connection with this project and it does not apply to any fees, dedication, reservations, or other exactions of which you have been given a notice similar to this nor does it revive challenges to any fees for which the Statute of Limitations has previously expired.

BE IT FURTHER RESOLVED that the City Council **HEREBY APPROVES** Resolution No. 2009-10, **APPROVING** PA07-0090 (Tentative Tract Map No. 35629) for a phased subdivision (P08-057) of a 158 acre site into four (4) separate buildable parcels and two primary parcels dedicated for freeway improvement purposes (thirteen parcels overall to include lettered lots for public access and dedication purposes.) for warehouse industrial, retail, and freeway dedication purposes based on the affirmative recommendation of the Adoption

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RESOLUTION JURAT

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF MORENO VALLEY)

I, Jane Halstead, City Clerk of the City of Moreno Valley, California, do hereby certify that Resolution No. 2009-10 was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the 10th day of February, 2009 by the following vote:

AYES: Council Members Batey, Hastings, Molina, Mayor Pro Tem Flickinger and Mayor Stewart
NOES: None
ABSENT: None
ABSTAIN: None

 /s/ [ILLEGIBLE]
CITY CLERK

(SEAL)

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**CITY OF MORENO VALLEY
FINAL CONDITIONS OF APPROVAL
FOR
TENTATIVE PARCEL MAP No. 35629
Case No: PA07-0090 - To include P08-057 (Phasing Plan)
A.P.N.: 488-350-001 through 002 and 488-360-001 through 012.**

Approval Date:
Expiration Date:

February 10, 2009
February 10, 2112

The following conditions are attached for the following departments:

- Planning (P), including School District (S), Post Office (PO), Building (B)**
- Fire Prevention Bureau (F)**
- Public Works, Land Development (LD)**
- Public Works, Special Districts (SD)**
- Public Works — Transportation (TE)**
- Parks & Community Services (PCS)**
- Police (PD)**
- Moreno Valley Utilities**
- Other (Specify or Delete)**

Note: All Special conditions are in bold lettering. All other conditions are standard to all or most development projects. (Include only those that apply). All conditions identified as Advisory restate existing codes, ordinances, regulations or policies that apply to the project.

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division

GENERAL CONDITIONS

P1. This approval shall comply with all applicable requirements of the City of Moreno Valley Municipal Code. (Advisory)

Timing Mechanisms for Conditions (see abbreviation at beginning of affected condition):

R — Map Recordation	GP — Grading Permits	CO — Certificate of Occupancy or building final
WP — Water Improvement Plans	BP — Building Permits	P— Any permit

Governing Document (see abbreviation at the end of the affected condition):

GP — General Plan	MC — Municipal Code	CEQA — California Environmental Quality Act
Ord — Ordinance	DG — Design Guidelines	Ldscp — Landscape Development Guidelines and Specs
Res — Resolution	UFC — Uniform Fire Code	UBC — Uniform Building Code
	SBM — Subdivision Map Act	

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**PLANNING DIVISION
CONDITIONS OF APPROVAL
PAGE 11**

- P2. This tentative map shall expire three years after the approval date of this tentative map unless extended as provided by the City of Moreno Valley Municipal Code; otherwise it shall become null and void and of no effect whatsoever in the event the applicant or any successor in interest fails to properly file a final map before the date of expiration. (MC 9.02.230, 9.14.050, 080) (Advisory)
- P3. The site shall be developed in accordance with the approved tentative map on file in the Community Development Department - Planning Division, the Municipal Code regulations, General Plan, and the conditions contained herein. (MC 9.14.020) (Advisory)
- P4. A drought tolerant, low water using landscape palette shall be utilized throughout the site.
- P5. All undeveloped portions of the site shall be maintained in a manner that provides for the control of weeds, erosion and dust. (MC 9.02.030) (Advisory)
- P6. All landscaped areas shall be maintained in a healthy and thriving condition, free from weeds, trash and debris. (MC 9.02.030) (Advisory)
- P7. All site plans, grading plans, landscape and irrigation plans, and street improvement plans shall be coordinated for consistency with this approval. (Advisory)

PRIOR TO GRADING

- P8. (GP) Prior to approval of any grading permit, the developer shall submit a tree plan to the Planning Division for review and approval. The plan shall identify all mature trees (4 inch trunk diameter or larger) on the subject property and City right-of-way. Using the grading plan as a base, the plan shall indicate trees to be relocated, retained, and removed. Replacement trees shall be: shown on the landscape/irrigation plan; be a minimum size of 24 inch box; and meet a ratio of three replacement trees for each mature tree removed or as approved by the Community Development Director or designee. (GP Objective 4.4, 4.5, DG)
- P9. (GP) Prior to issuance of grading permits, the developer shall pay the applicable Stephen's' Kangaroo Rat (SKR) Habitat Conservation Plan mitigation fee. (Ord) (Advisory)

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**PLANNING DIVISION
CONDITIONS OF APPROVAL
PAGE 12**

- P10. (GP) Prior to the issuance of grading permits, final erosion control landscape and irrigation plans for all cut or fill slopes over 3 feet in height shall be submitted to the Planning Division for review and approval for the phase in process. The plans shall be designed in accordance with the slope erosion plan as required by the City Engineer for that phase. Man-made slopes greater than 10 feet in height shall be "land formed" to conform to the natural terrain and shall be landscaped and stabilized to minimize visual scarring. (GP Objective 1.5, MC 9.08.080, DG) (Advisory)
- P11. Prior to approval of a precise grading plan, landscape and irrigation plans shall be submitted to the Planning Division for review. The plans shall be prepared in accordance with the City's Municipal Code and landscape specifications, and include required street trees. (Advisory)
- P12. ((GP) If potential historic, archaeological, or paleontological resources are uncovered during excavation or construction activities at the project site, work in the affected area will cease immediately and a qualified person (meeting the Secretary of the Interior's standards (36CFR61)) shall be consulted by the applicant to evaluate the find, and as appropriate recommend alternative measures to avoid, minimize or mitigate negative effects on the historic, prehistoric, or paleontological resource. Determinations and recommendations by the consultant shall be implemented as deemed appropriate by the Community Development Director, in consultation with the State Historic Preservation Officer (SHPO) and any and all affected Native American Tribes before any further work commences in the affected area. (Advisory)

If human remains are discovered, work in the affected area shall cease immediately and the County Coroner shall be notified. If it is determined that the remains are potentially Native American, the California Native American Heritage Commission and any and all affected Native American Indians tribes such as the Morongo Band of Mission Indians or the Pechanga Band of Luiseno Indians shall be notified and appropriate measures provided by State law shall be implemented. (GP Objective 23.3, DG, CEOA).

- P13. (GP) Prior to the issuance of grading permits, a pre-construction Burrowing Owl survey shall be completed with written documentation provided to the Planning Division. The survey shall be completed in accordance with the Burrowing Owl Survey Instructions for the Western Riverside Multiple Species Habitat Conservation Area.

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- P14. **(GP) Prior to issuance of grading permits, the developer shall submit final landscape and irrigation plans within the State Highway 60 right-of-way adjacent to the project site consistent with the State Highway 60 Corridor Design Manual. The plans shall be submitted to the Planning Division for review and approval. (MC 9.14.100)**
- P15. **A qualified archaeologist and or tribal monitors from any affected Native American Indian tribes shall be present during grading to evaluate and recommend appropriate actions for any archaeological deposits exposed by construction activity. The monitoring archaeologist shall be empowered to halt grading in the vicinity of an exposed archaeological deposit until that deposit can be fully evaluated. The consultant (i.e. archaeologist) shall consult with any and all affected Native American Indian tribes in the area on any Treatment Plan prepared for the project.**
- P16. **(GP) Prior to the issuance of precise grading permits, mitigation measures contained in the Mitigation Monitoring Program approved with this project shall be implemented as provided therein.**
- P17. **(GP) Prior to issuance of grading permits, the developer shall submit wall/fence plans to the Planning Division for review and approval for all fences and walls required or proposed on site, included, but not limited to the 11 foot screening wall along the perimeter of the site including pilasters and caps, or alternative design as approved by the Community Development Director. (MC 9.08.070)**
- P18. **(GP) Prior to issuance of grading permits, landscape plans (trees, shrubs and groundcover) for basins maintained by an Property Owners Association (POA) or other private entity shall be submitted to the Planning Division for review and approval for the sides and/or slopes. A hydroseed mix w/irrigation is acceptable for the bottom of all the basin areas. All detention basins shall include trees, shrubs and groundcover up to the concreted portion of the basin. A solid decorative wall with pilasters, tubular steel fence with pilasters or other fence or wall approved by the Community Development Director is required to secure all water quality and detention basins more than 18 inches in depth.**

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PRIOR TO RECORDATION OF FINAL MAP

- P19. (R) Prior to final map recordation, subdivision phasing (including any proposed common open space or improvement phasing, if applicable), shall be subject to the Planning Division approval. Any proposed phasing shall provide for adequate vehicular access to all lots in each phase as determined by the City Transportation Engineer or designee and shall substantially conform to all intent and purpose of the subdivision approval. (MC 9.14.080) (Advisory)
- P20. (R) Prior to recordation of the final map, final median enhancement/landscape/irrigation plans shall be reviewed and approved by the Planning Division, and Public Works Department - Special Districts Administration for review and approval by each division. (GP — Circulation Master Plan)
- P21. (R) Prior to final map recordation any required trail easements shall be provided. (Advisory)
- P22. (R) Prior to recordation of the final subdivision map, the developer shall submit for review and approval the following documents to the Planning Division which shall demonstrate that the project will be developed and maintained in accordance with the intent and purpose of the approval:
- a. The document to convey title
 - b. Deed restrictions, easements, or Covenants, Conditions and Restrictions to be recorded

The approved documents shall be recorded at the same time that the subdivision map is recorded. The documents shall contain provisions for general maintenance of the site, joint access to proposed parcels, open space use restrictions, conservation easements, guest parking, feeder trails, water quality basins, lighting, landscaping and common area use. The approved documents shall also contain a provision, which provides that they may not be terminated and/or substantially amended without the consent of the City and the developer's successor-in-interest. (MC 9.14.090)

In addition, the following deed restrictions and disclosures shall be included within the document and grant deed of the properties:

- The developer shall promote the use of native plants and trees and drought tolerant species to the extent feasible.

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- **(R) All lots designated for open space and or detention basins, shall be included as an easement to or transfer title to; and maintained by a Property Owners Association (POA) or other private maintenance entity. All reverse frontage landscape areas shall also be maintained by the onsite POA. Language to this effect shall be included and reviewed within the required Covenant Conditions and Restrictions (CC&Rs) prior to the approval of the final map.**
- **Maintenance of any and all common facilities.**

PRIOR TO BUILDING PERMIT

- P23. (BP) Prior to issuance of building permits, the developer or developer's successor-in-interest shall pay all applicable impact fees, including but not limited to Transportation Uniform Mitigation fees (TUMF), Multi-species Habitat Conservation Plan (MSHCP) mitigation fees, and the City's adopted Development Impact Fees. (Ord)
- P24. **(BP) Prior to issuance of building permits for applicable lettered lots, landscape plans (trees, shrubs and groundcover) for basins maintained by an POA, or other private entity, shall be approved for the sides and or slopes of all water quality basins and drainage areas. A solid decorative wall with pilasters, tubular steel fence with pilasters or other fence or wall approved by the Community Development Director is required to secure all water quality and detention basins more than 18 inches in depth.**

OTHER CONDITIONS NOT TIED TO GRADING, BUILDING OR OCCUPANCY

- P25. **Three building phases are included under Tentative Parcel Map No. 35629, while a plot plan (PA07-0091) has been included for Phase 1. All development under Phases 2 and 3 (Parcels 2, 3 and 4) would require additional plot plan review and approval from the Planning Commission.**

Building and Safety Division

- B-1 The above project shall comply with the current California Codes (CBC, CEC, CMC and the CPC) as well as all other city ordinances. All new projects shall provide a soils report. Plans shall be submitted to the Building Department as a separate submittal (Advisory)

markg/PA07-0088 through PA07-0091/MapCoa's

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CITY OF MORENO VALLEY

COMMENTS — MAP

Case No: PA07-0088 through PA07-0091 and P07-157

APN: 488-350-001 through 002 and 488-360-001 through 012

DATE: 12/19/08

FIRE PREVENTION BUREAU

1. The following Standard Conditions shall apply.

With respect to the conditions of approval, the following fire protection measures shall be provided in accordance with Moreno Valley City Ordinances and/or recognized fire protection standards:

- F1. Final fire and life safety conditions will be addressed when the Fire Prevention Bureau reviews building plans. These conditions will be based on occupancy, use, California Building Code (CBC), California Fire Code (CFC), and related codes, which are in force at the time of building plan submittal.
- F2. The Fire Prevention Bureau is required to set a minimum fire flow for the remodel or construction of all commercial buildings per CFC Appendix B and Table B105.1. The applicant/developer shall provide documentation to show there exists a water system capable of delivering 4000 GPM for 4 hour(s) duration at 20-PSI residual operating pressure. The required fire flow may be adjusted during the approval process to reflect changes in design, construction type, or automatic fire protection measures as approved by the Fire Prevention Bureau. Specific requirements for the project will be determined at time of building plan submittal. (CFC 508.3, Appendix B and MVMC 8.36.100 Section D). **The 50% reduction in fire flow was granted for the use of fire sprinklers throughout the facility. The reduction shall only apply to fire flow, hydrant spacing shall be per the fire flow requirements listed in CFC Appendix B and C.**
- F3. Industrial, Commercial, Multi-family, Apartment, Condominium, Townhouse or Mobile Home Parks. A combination of on-site and off-site super enhanced fire hydrants (6" x 4" x 4" x 2 1/2 ") shall not be closer than 40 feet and more than 150 feet from any portion of the building as measured along approved emergency vehicular travel ways. The required fire flow shall be available from any adjacent fire hydrant(s) in the system. Where new water mains are extended along streets where hydrants are not needed for protection of structures or similar fire problems, super or enhanced fire hydrants as determined by the fire code official shall be provided at spacing not to exceed 500 feet of frontage for transportation hazards. (CFC 508.5.7 & MVMC 8.36.050 Section O and 8.36.100 Section E)

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**CITY OF MORENO VALLEY
PUBLIC WORKS DEPARTMENT — LAND DEVELOPMENT DIVISION
CONDITIONS OF APPROVAL
PA07-0088 Change of Zone
PA07-0089 General Plan Amendment
PA07-0090 Tentative Parcel Map No. 35629
APN 488-350-001, 002 and APN 488360-001 thru -012**

Note: All Special Conditions are in **Bold** lettering and follow the standard conditions.

PUBLIC WORKS DEPARTMENT- LAND DEVELOPMENT DIVISION

The following are the Public Works Department — Land Development Division Conditions of Approval for this project and shall be completed at no cost to any government agency. All questions regarding the intent of the following conditions shall be referred to the Public Works Department — Land Development Division.

General Conditions

- LD1. (G) The developer shall comply with all applicable City ordinances and resolutions including the City's Municipal Code (MC) and if subdividing land, the Government Code (GC) of the State of California, specifically Sections 66410 through 66499.58, said sections also referred to as the Subdivision Map Act (SMA). (MC 9.14.010) (Advisory)
- LD2. (G) if the project involves the subdivision of land, maps may be developed in phases with the approval of the City Engineer. Financial security shall be provided for all improvements associated with each phase of the map. The boundaries of any multiple map increment shall be subject to the approval of the City Engineer. The City Engineer may require the dedication and construction of necessary utilities, streets or other improvements outside the area of any particular map, if the improvements are needed for circulation, parking, access, or for the welfare or safety of the public. (MC 9.14.080, GC 66412 and 66462.5) If the project does not involve the subdivision of land and it is necessary to dedicate right-of-way/easements, the developer shall make the appropriate offer of dedication by separate instrument. The City Engineer may require the construction of necessary utilities, streets or other improvements beyond the project boundary, if the improvements are needed for circulation, parking, access, or for the welfare or safety of the public. (Advisory)
- LD3. (G) It is understood that the tentative map correctly shows all existing easements, traveled ways, and drainage courses, and that their omission may require the map or plans associated with this application to be resubmitted for further consideration. (MC 9.14.040) (Advisory)
- LD4. (G) In the event right-of-way or offsite easements are required to construct offsite improvements necessary for the orderly development of the surrounding

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area to meet the public health and safety needs, the developer shall make a good faith effort to acquire the needed right-of-way in accordance with the Land Development Division's administrative policy. In the event that the developer is unsuccessful, he shall enter into an agreement with the City to acquire the necessary right-of-way or offsite easements and complete the improvements at such time the City acquires the right-of-way or offsite easements which will permit the improvements to be made. The developer shall be responsible for all costs associated with the right-of-way or easement acquisition per the Subdivision Map Act. (GC 66462.5) (Advisory)

- LD5. (G) If improvements associated with this project are not initiated within two years of the date of approval of the Public Improvement Agreement, the City Engineer may require that the improvement cost estimate associated with the project be modified to reflect current City construction costs in effect at the time of request for an extension of time for the Public Improvement Agreement or issuance of a permit. (Advisory)
- LD6. (G) The developer shall monitor, supervise and control all construction and construction supportive activities, so as to prevent these activities from causing a public nuisance, including but not limited to, insuring strict adherence to the following:
- a. Removal of dirt, debris, or other construction material deposited on any public street no later than the end of each working day.
 - b. Observance of working hours as stipulated on permits issued by the Public Works Department.
 - c. The construction site shall accommodate the parking of all motor vehicles used by persons working at or providing deliveries to the site.
 - d. All dust control measures per South Coast Air Quality Management District (SCAQMD) requirements shall be adhered to during the grading operations.

Violation of any condition or restriction or prohibition set forth in these conditions shall subject the owner, applicant, developer or contractor(s) to remedies as noted in the City Municipal Code 8.14.090. In addition, the City Engineer or Building Official may suspend all construction related activities for violation of any condition, restriction or prohibition set forth in these conditions until such time as it has been determined that all operations and activities are in conformance with these conditions. (Advisory)

- LD7. (G) The developer shall protect downstream properties from damage caused by alteration of drainage patterns, i.e., concentration or diversion of flow. Protection shall be provided by constructing adequate drainage facilities, including, but not limited to, modifying existing facilities or by securing a drainage easement. (MC 9.14.110) (Advisory)
- LD8. (G) Public drainage easements, when required, shall be a minimum of 25 feet wide and shall be shown on the map and plan, and noted as follows: "Drainage

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Easement — no structures, obstructions, or encroachments by land fills are allowed.” In addition, the grade within the easement area shall not exceed a 3:1 (H:V) slope, unless approved by the City Engineer. (Advisory)

- LD9. (G) A detailed drainage study shall be submitted to the City Engineer for review and approval at the time of any improvement or grading plan submittal. The study shall be prepared by a registered civil engineer and shall include existing and proposed hydrologic conditions. Hydraulic calculations are required for all drainage control devices and storm drain lines. (MC 9.14.110) (Advisory)
- LD10. (G) : The final conditions of approval issued by the Planning Division subsequent to Planning Commission approval shall be photographically or electronically placed on mylar sheets and included in the Grading and Street Improvement plan sets on twenty-four (24) inch by thirty-six (36) inch mylar and submitted with the plans for plan check. These conditions of approval shall become part of these plan sets and the approved plans shall be available in the field during grading and construction. (Advisory)
- LD11. (G) Upon approval of the tentative parcel map by the Planning Commission, the Developer shall submit the approved tentative parcel map on compact disk in (.dxf) digital format to the Land Development Division of the Public Works Department. (Advisory)

Prior to Grading Plan Approval or Grading Permit

- LD12. (GPA) The grading plans shall be drawn on twenty-four (24) inch by thirty-six (36) inch mylar and signed by a registered civil engineer and other registered/licensed professional as required. (Advisory)
- LD13. (GPA) Grading plans shall comply with the City Grading ordinance, these Conditions of Approval and the following criteria:
- a. The project street and lot grading shall be designed in a manner that perpetuates the existing natural drainage patterns with respect to tributary drainage area and outlet points. Unless otherwise approved by the City Engineer, lot lines shall be located at the top of slopes.
 - b. Any grading that creates cut or fill slopes adjacent to the street shall provide erosion control, sight distance control, and slope easements as approved by the City Engineer.
 - c. A grading permit shall be obtained from the Public Works Department Land Development Division prior to commencement of any grading outside of the City maintained road right-of-way.
 - d. All improvement plans are substantially complete and appropriate clearance and at-risk letters are provided to the City. (MC 9.14.030)

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- e. The developer shall submit a soils and geologic report to the Public Works Department — Land Development Division. The report shall address the soil's stability and geological conditions of the site.

(Advisory)

- LD14. (GPA) Prior to grading plan approval, the developer shall select treatment control best management practices (BMPs) that are medium to highly effective for treating Pollutants of Concern (POC) for the project. Projects where National Pollution Discharge Elimination System (NPDES) mandates water quality treatment control best management practices (BMPs) shall be designed per the City of Moreno Valley guidelines or as approved by the City Engineer. (Advisory)
- LD15. (GPA, IP) Prior to approval of the grading plans or improvement plans for project sites which are one acre or larger, the developer shall obtain the WQMP number from the City's Land Development Division, if a WQMP is required, and as a condition of the State Water Quality Control Board, a Notice of Intent (NOI) for an NPDES permit must be filed and a Waste Discharge Identification (W.D.I.D.) permit number obtained from the State Water Quality Control Board. (Clean Water Act) (Advisory)
- LD16. (GPA) Prior to the rough grading plan approval, or issuance of a building permit, if a grading permit is not required, the Developer shall:
 - a. Submit two (2) copies of the final project-specific Water Quality Management Plan (WQMP) for review by the City Engineer that:
 - i. Addresses Site Design Best Management Practices (BMPs) such as minimizing impervious areas, maximizing permeability, minimizes directly connected impervious areas to the City's street and storm drain systems, and conserves natural areas;
 - ii. Incorporates Source Control BMPs and provides a detailed description of their implementation;
 - iii. Incorporates Treatment Control BMPs and provides information regarding design considerations;
 - iv. Describes the long-term operation and maintenance requirements for BMPs requiring maintenance; and
 - v. Describes the mechanism for funding the long-term operation and maintenance of the BMPs.

A copy of the final WQMP template can be obtained on the City's Website or by contacting the Land Development Division of the Public Works Department.

- b. Record a "Stormwater Treatment Device and Control Measure Access and Maintenance Covenant," to provide public notice of the requirement to implement the approved final project-specific WQMP and the maintenance

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requirements associated with the WQMP. A boilerplate copy of the “Stormwater Treatment Device and Control Measure Access and Maintenance Covenant,” can be obtained by contacting the Land Development Division of the Public Works Department.

(Advisory)

- LD17. (GPA) Prior to rough grading plan approval, or issuance of a building permit, if a grading permit is not required, the Developer shall secure approval of the final project-specific WQMP from the City Engineer. (Advisory)
- LD18. (GPA) Prior to rough grading plan approval, or issuance of a building permit as determined by the City Engineer, the approved final project-specific WQMP shall be incorporated by reference or attached to the project’s Storm Water Pollution Prevention Plan as the Post-Construction Management Plan.
- LD19. (GPA) Prior to grading permit issuance, the developer shall prepare a Storm Water Pollution Prevention Plan (SWPPP) in conformance with the state’s Construction Activities Storm Water General Permit. A copy of the current SWPPP shall be kept at the project site and be available for review upon request. The SWPPP shall be submitted to the City’s Storm Water Program Manager on compact disk(s) in Microsoft Word format. The developer is required to bring the SWPPP to the grading pre-construction meeting. (Advisory)
- LD20. (GPA) Prior to the approval of the grading plans, the developer shall pay any applicable remaining grading plan check fee. (Advisory)
- LD21. (GPA/MA) Prior to the later of either grading plan or final map approval, resolution of all drainage issues shall be as approved by the City Engineer. (Advisory)
- LD22. (GP) Prior to the issuance of a grading permit, the developer shall submit a letter of permission to grade for a specific duration recorded against each offsite parcel and an easement for slope purposes at final map recordation. (Advisory)
- LD23. (GP) Prior to issuance of a grading permit, if the fee has not already been paid prior to map approval or prior to issuance of a building permit if a grading permit is not required, the developer shall pay Area Drainage Plan (ADP) fees. The developer shall provide a receipt to the City showing that ADP fees have been paid to Riverside County Flood Control and Water Conservation District. (MC 9.14.100)
- LD24. (GP) Prior to issuance of a grading permit, the following securities shall be submitted to the City:
- a. Security, in the form of a cash deposit (preferable), letter of credit, or performance bond shall be required to be submitted as a guarantee of the completion of the grading required as a condition of approval of the project (MC 8.21.070)

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- b. Erosion control security as a guarantee of the completion and maintenance of the erosion control systems required as a condition of approval of the project. The amount of the security shall be equal to one hundred (100) percent of the total estimated cost of the erosion control system(s). The permittee's estimate of such cost shall be based on the established unit costs available from the city and shall be subject to the review and approval of the city engineer. At least twenty-five (25) percent of the required security shall be in cash and shall be deposited with the city engineer. The remainder of the erosion control security shall be subject to the approval of the City Engineer and City Attorney, and consist of one or more of the following:
- i. Cash deposit;
 - ii. Bond
 - iii. Certificate of Deposit
 - iv. Letter of Credit, in City format, from one or more local financial institution(s) subject to regulation by the state or federal government. (MC 8.21.150)

(Advisory)

LD25. (GP) Prior to issuance of a grading permit, the developer shall pay the applicable grading inspection fees. (Advisory)

Prior to Map Approval or Recordation

LD26. (MA) Prior to approval of the final map, the developer shall submit a copy of the Covenants, Conditions and Restrictions (CC&Rs) to the Land Development Division for review and approval. The CC&Rs shall include, but not be limited to, access easements, reciprocal access, private and/or public utility easements as may be relevant to the project. (Advisory)

LD27. (MA) Prior to approval of the final map, all street dedications shall be irrevocably offered to the public and shall continue in force until the City accepts or abandons such offers, unless otherwise approved by the City Engineer. All dedications shall be free of all encumbrances as approved by the City Engineer. (Advisory)

LD28. (MA) Prior to approval of the final map, security shall be required to be submitted as a guarantee of the completion of the improvements required as a condition of approval of the project. A Public Improvement Agreement (PIA) will be required to be executed. (Advisory)

LD29. (MR) Prior to recordation of the final map, this project is subject to requirements under the current permit for storm water activities required as part of the National Pollutant Discharge Elimination System (**NPDES**) as mandated by the Federal Clean Water Act. In compliance with Proposition 218, the developer shall agree to approve the City of Moreno Valley NPDES Regulatory

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Rate Schedule that is in place at the time of recordation. Following are the requirements:

- a. Select one of the following options to meet the financial responsibility to provide storm water utilities services for the required operation and maintenance monitoring and system evaluations in accordance with Resolution No. 2002-46.
 - i. Participate in the mail ballot proceeding in compliance with Proposition 218, for the Common Interest, Commercial, Industrial and Quasi-Public Use NPDES Regulatory Rate Schedule and pay all associated costs with the ballot process; or
 - ii. Establish an endowment to cover future City costs as specified in the Common Interest, Commercial, Industrial and Quasi-Public Use NPDES Regulatory Rate Schedule.
- b. Notify the Special Districts Division of the intent to record the final map prior to City Council action authorizing recordation of the final map and the financial option selected. (California Government Code & Municipal Code)

(Advisory)

LD30. (MR) Prior to recordation of the map, the developer shall submit the map, on compact disks, in (.dxf) digital format to the Land Development Division of the Public works Department. (Advisory)

Prior to Improvement Plan Approval or Construction Permit

- LD31. (IPA) Improvement plans shall be drawn on twenty-four (24) inch by thirty-six (36) inch mylar and signed by a registered civil engineer and other registered/licensed professional as required. (Advisory)
- LD32. (IPA) Prior to approval of the improvement plans, the developer shall submit clearances from all applicable agencies, and pay all outstanding plan check fees. (MC 9.14.210) (Advisory)
- LD33. (IPA) All public improvement plans prepared and signed by a registered civil engineer in accordance with City standards, policies and requirements shall be approved by the City Engineer. Securities and a public improvement agreement shall be required to be submitted and executed as a guarantee of the completion of the improvements. (Advisory)
- LD34. (IPA) The street improvement plans shall comply with all applicable City standards and the following design standards throughout this project:
- a. Corner cutbacks in conformance with City Standard 208 shall be shown on the final map or, if no map is to be recorded, offered for dedication by separate instrument.

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- b. Lot access to major thoroughfares shall be restricted except at intersections and approved entrances and shall be so noted on the final map. (MC 9.14.100)
- c. The minimum centerline and flow line grades shall be one percent unless otherwise approved by the City Engineer. (MC 9.14.020)
- d. All street intersections shall be at ninety (90) degrees plus or minus five (5) degrees or as approved by the City Engineer per City Standard No. 706A. (MC 9.14.020)
- e. All reverse curves shall include a minimum tangent of one hundred (100) feet in length.

(Advisory)

- LD35. (IPA) Improvement plans, including design plan and profile information, shall be based upon a centerline profile, extending beyond the project boundaries approved by the City Engineer. Design plan and profile information shall include the minimum 300 feet beyond the project boundaries. (Advisory)
- LD36. (IPA) Improvement plans, shall reflect the City's moratorium on trench repair pavement cuts on any streets less than three years old or on slurry sealed streets less than one year old unless specifically approved by the City Engineer. Pavement cuts for trench repairs may be allowed for emergency repairs or as specifically approved by the City Engineer. (Advisory)
- LD37. (IPA) Drainage facilities with sump conditions shall be designed to convey the tributary 100-year storm flows. Secondary emergency escape shall also be provided. (MC 9.14.110) (Advisory)
- LD38. (IPA) If the project's hydrology study proposes to use any portion of a public street right-of-way to accommodate storm flows, said study shall show that the 10-year storm flow will be contained within the curb and the 100-year storm flow will be contained within the street right-of-way. On major streets (Minor Arterial or larger), at least one lane in each direction shall remain open and not be used to carry surface flows. When any of these criteria is exceeded, additional drainage facilities shall be installed as approved by the Public Works Department Land Development Division. (MC 9.14.110) (Advisory)
- LD39. (IPA) The project shall be designed to accept and properly convey all off-site drainage flowing onto or through the site. All storm drain design and improvements shall be subject to review and approval of the City Engineer. (Advisory)
- LD40. (CP) All work performed within the City right-of-way requires a construction permit. As determined by the City Engineer, security may be required for work within the right-of-way. Security shall be in the form of a cash deposit or other approved means. The City Engineer may require the execution of a public improvement agreement as a condition of the issuance of the construction

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permit. All inspection fees shall be paid prior to issuance of construction permit. (MC 9.14.100) (Advisory)

- LD41. (CP) Prior to issuance of a construction permit, all public improvement plans prepared and signed by a registered civil engineer in accordance with City standards, policies and requirements shall be approved by the City Engineer. (Advisory)
- LD42. (CP) Prior to issuance of construction permits, the developer shall submit all improvement plans on compact disks, in (.dxf) digital format to the Land Development Division of the Public Works Department. (Advisory)
- LD43. (CP) Prior to issuance of construction permits, the developer shall pay all applicable inspection fees. (Advisory)

Prior to Building Permit

- LD44. (BP) Prior to issuance of a building permit, the developer shall submit for review and approval, a Waste Management Plan (WMP) per City code and Land Development Division requirements. (AB939, MC 8.80) (Advisory)

Prior to Certificate of Occupancy

- LD45. (CO) Prior to issuance of the last certificate of occupancy or building final, the developer shall pay all outstanding fees. (Advisory)
- LD46. (CO) Prior to issuance of a certificate of occupancy or building final, the developer shall construct all public improvements in conformance with applicable City standards, unless otherwise approved by the City Engineer, including but not limited to the following applicable improvements:
 - a. Street improvements including, but not limited to: pavement, base, curb and/or gutter, cross gutters, spandrel, sidewalks, drive approaches, pedestrian ramps, street lights, signing, striping, under sidewalk drains, landscaping and irrigation, medians, redwood header boards, pavement tapers/transitions and traffic control devices as appropriate.
 - b. Storm drain facilities including, but not limited to: storm drain pipe, storm drain laterals, open channels, catch basins and local depressions.
 - c. City-owned utilities.
 - d. Sewer and water systems including, but not limited to: sanitary sewer, potable water and recycled water.
 - e. Under grounding of existing and proposed utility lines less than 115,000 volts.

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- f. Relocation of overhead electrical utility lines including, but not limited to: electrical, cable and telephone.

(Advisory)

LD47. (CO) Prior to issuance of a certificate of occupancy or building final, all existing and new utilities adjacent to and on-site shall be placed underground in accordance with City of Moreno Valley ordinances. (MC 9.14.130) (Advisory)

LD48. (CO) Prior to issuance of a certificate of occupancy or building final, the Developer must comply with the following:

- a. Any required water quality basins, associated treatment control BMPs, and associated hardware per the approved civil drawing must be constructed, certified and approved by the City Engineer including, but not limited to, piping, forebay, aftbay, trash rack.
- b. An Engineer's Line and Grade Certification shall be provided to the City.
- c. Said facilities shall pass a flow test per City test procedures.

(Advisory)

LD49. (CO) Prior to issuance of a certificate of occupancy or building final for any Commercial/Industrial facility, whichever occurs first, the owner may have to secure coverage under the State's General Industrial Activities Storm Water Permit as issued by the State Water Resources Control Board. (Advisory)

Prior to Acceptance of Streets into the City Maintained Road System

LD50. (AOS) Aggregate slurry, per Section 203-5 of Standard Specifications for Public Works Construction, may be required just prior to acceptance of street(s) into the City maintained road system at the discretion of the City Engineer. (Advisory)

SPECIAL CONDITIONS

Phase 1 — Development Associated with Parcel 1 of PM 35629

LD51. (RGPA) Prior to rough grading plan approval, the developer shall obtain written concurrence from Riverside County Flood Control and Water Conservation District (RCFC&WCD) for any proposed modifications to the Moreno Area Drainage Plan as well as for the acceptance of a small new additional tributary area resulting from the project's proposed grading.

LD52. (RGPA) Prior to rough grading plan approval, it shall be clearly demonstrated on the final drainage study that the potential increased rate of runoff resulting from the development of this site is mitigated. During identified storm events peak flow rates and velocity leaving the site in the

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developed condition shall be no larger than that of the pre-developed condition. The following shall be analyzed in the final drainage study: 1, 3, 6 and 24-hour storm duration for the 2, 5, 10 and 100-year storm events. The applicant understands that additional detention measures or other mitigation, beyond those shown on the tentative parcel map and preliminary drainage study, may be required and shall include those into the design and construction of appropriate drainage facilities.

- LD53. (RGPA) Prior to rough grading plan approval, emergency overflow areas shall be shown at all applicable drainage improvement locations in the event that the drainage improvement fails or exceeds full capacity. Emergency overflow area elevations shall be a minimum of 1' below the proposed building pad elevation in close proximity. This may include, but not be limited to, an emergency spillway in the basin and an emergency overflow at any sump catch basin location. The developer is responsible for securing any necessary on-site or off-site drainage easements as required for emergency overflow.**
- LD54. (RGPA) Prior to rough grading plan approval, all easements, existing, proposed, temporary, and those to be quitclaimed shall be shown on the plan complete with type of easement, easement width, as applicable, instrument number and date of recordation. Copies of the existing easement documents shall be submitted to the City (upon request) for review and approval. Those easements to be quitclaimed shall be coordinated with the appropriate easement holder, including but not limited to, those associated with the electrical utility lines traversing Parcel 1 and the water line running along the entire map's north boundary adjacent to SR-60 and its on-/off-ramps, as shown and labeled on the tentative parcel map. The above referenced water line shall be relocated outside the existing and ultimate SR-60 right-of-way and preferably within Eucalyptus Avenue.**
- LD55. (RGPA) Notwithstanding what is shown on the tentative parcel map and grading plan, no grading on Caltrans property shall be permitted without an encroachment permit.**
- LD56. (RGPA) Prior to rough grading plan approval, the plan shall show a minimum 15-foot wide maintenance access road from a public street to Parcels G, 5, and 6 (Parcels 5 and 6 to be designated as lettered parcels on the final parcel map) to provide maintenance access to these parcels until such time that the City accepts the dedication. Surrounding grading shall not prohibit runoff from leaving these parcels.**
- LD57. (PGPA) Prior to precise grading plan approval, the precise grading plan shall be consistent with the rough grading plan and approved plot plan, in terms of, but not limited to, pad and grade elevations, proposed water quality treatment control best management practices and locations including detention and infiltration basins, proposed building, parking lot, landscape area, slope, and project entrance locations. (Advisory)**

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- LD58. (PGPA)** Prior to precise grading plan or improvement plan approval, as applicable, the plans shall show any driveway approach up to 40' in width to be constructed per City Standard Plan 118C, Option 2, modified. The driveways shall have a minimum radius of 50' if the entrance is to accommodate truck traffic, 35' otherwise, and transition from an 8" curb height to a 0" curb height at the conventional right-of-way 12' behind the curb line, or as approved by the City Engineer. There shall be a 4-foot wide pedestrian sidewalk area at 2% maximum cross slope behind the conventional right-of-way. A 4-foot pedestrian right-of-way dedication shall be made on PM 35629. Any entrance greater than 40' in width shall be designed as a street intersection. (Advisory)
- LD59. (IPA)** If it is necessary to adjust the boundary of Parcel G, 5, and 6 (Parcels 5 and 6 to be designated as lettered parcels on the final parcel map) resulting in the need for additional right-of-way for highway and road purposes, it shall be dedicated to the City at no cost to the City. If it is necessary to adjust the boundary resulting in excess right-of-way not needed for highway and road purposes, the City and the developer shall pursue the appropriate mechanism to transfer or convey public property back to the developer.
- LD60. (IPA)** Prior to improvement plan approval, the plans shall show redwood headers, or other pavement edge treatment as approved by the City Engineer, at all edge-of-pavement locations in the public right-of-way. If redwood header board is approved, the redwood header shall be installed per the City Standard, using a nominal minimum of 2" wide by 6" deep board. This shall include, but not be limited to, the following locations:
- a. Along the frontage of Parcels 1, 2 and 4 of PM 35629, south side of Eucalyptus Avenue, south edge of the east bound travel lane to be constructed in Phase 1.
 - b. Along the frontage of Parcel 4 of PM 35629, east side of Theodore Street, east edge of the northbound travel lane to be constructed in Phase 2.
 - c. Along the frontage of Parcel 3 of PM 35629, west side of Redlands Boulevard, west edge of the southbound travel lane to be constructed in Phase 3.
 - d. Along the frontage of Parcel 3 of PM 35629, south side of Eucalyptus Avenue, south edge of the eastbound travel lane to be constructed in Phase 3.
 - e. At proposed pavement transitions at edge of pavement.
 - f. As required by the City Public Works Inspector(s).
- LD61. (IPA)** Storm drain improvement plans shall show the connection of the proposed private storm drain system to the proposed public storm drain

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system at the public street right-of-way. A storm drain manhole shall be placed at the right-of-way to mark the beginning of the publicly maintained portion of this storm drain.

- LD62. (IPA)** Prior to commencing any work within Caltrans right-of-way, the developer shall obtain an encroachment permit from Caltrans. Work within Caltrans right-of-way may include that work associated with storm drain connections to existing freeway culverts, water line removal, water line extension from north of the freeway including jack and bore operation, power pole relocation and/or undergrounding, and any grading.
- LD63. (IPA)** Prior to approval of improvement plans, the developer shall secure any off-site easements from the off-site property owner(s). This includes but is not limited to the drainage easement for the proposed spreading basin south of the project, the slope easement along the south side of Eucalyptus Avenue, the drainage easement for the culvert outlet across Eucalyptus Avenue near Theodore Street, the utility easement for the temporary overhead electrical lines, and any others that may be necessary for the construction and maintenance of offsite utility and infrastructure improvements.
- LD64. (IPA)** Prior to approval of improvement plans for any master drainage plan facilities, a right-of-entry agreement shall be executed with Riverside County Flood Control and Water Conservation District (RCFC&WCD) for said facilities.
- LD65. (MA)** Prior to parcel map approval, the map shall show a varying width lettered parcel along the project's north boundary and adjacent to SR-60, shown as Parcel G on the tentative parcel map, to be irrevocably offered for dedication to the City for highway and road purposes. Until such time the City accepts the irrevocable offer of dedication for the lettered parcel, the developer shall keep the parcel clear of permanent and/or temporary improvements, features, and obstructions, including but not limited to, those resulting from grading or water quality treatment. Minimal level of landscaping sufficient to achieve adequate erosion and sediment control consisting of native plants or other plant material as approved by the Planning Division shall be planted and maintained by the developer. Existing utilities shall be relocated outside of the dedicated parcel as conditioned hereon. New utilities shall not be placed within the dedicated parcel without City Engineer approval except for extension of existing storm drain culverts and proposed water line from north of the SR-60 in the Sinclair Street alignment. If permanent or temporary improvements, features, plant material, hardscape, or obstructions are placed within the dedicated parcel, without prior City approval, the developer shall pay any and all costs associated with the removal and restoration to conform to the approved grading plans.
- LD66. (MA)** Prior to parcel map approval, the map shall show an irrevocable offer of dedication to the City for highway and road purposes, identified as Parcel 5 and Parcel 6 on the tentative parcel map (Parcels 5 and 6 to be

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shown as lettered parcels on the final parcel map) for an eastbound on-ramp at the Redlands Boulevard interchange and an eastbound off-ramp at the Theodore Street interchange, respectively. The map shall reflect Parcels 5 and 6 as lettered parcels prior to map approval. Until such time the City accepts the irrevocable offer of dedication for the lettered parcel, the parcel shall be kept clear of permanent and temporary improvements, features, and obstructions, including but not limited to, those resulting from grading or water quality treatment, other than those needed to conform to the grades and improvements shown on the approved tentative parcel map. Minimal level of landscaping sufficient to achieve adequate erosion and sediment control consisting of native plants or other plant material as approved by the Planning Division shall be planted and maintained by the developer as conditioned hereon. Existing utilities shall be relocated outside of the dedicated parcel. New utilities shall not be placed within the dedicated parcel without prior City Engineer approval. If permanent or temporary improvements, features, plant material, hardscape, or obstructions are placed within the dedicated parcel, the developer shall pay any and all costs associated with the removal and restoration to conform to the approved grading plan.

- LD67. (MA) Prior to parcel map approval, if the developer proposes to grade the site such that a slope is created for future freeway on- and/or off-ramp improvements within Parcels G, 5 and/or 6 (Parcels 5 and 6 to be shown as lettered parcels on the final parcel map), the developer shall obtain City approval such that the slope will coordinate closely with the future ramp improvements. It may be required that the developer grant a construction easement to the City, ultimately to Caltrans, at no cost to the City or Caltrans, in the future to facilitate the interchange improvements in order to make any necessary adjustments to the slope, drainage, and related features located within and/or outside of Parcels G, 5 and/or 6. In no event shall the exercise of this easement disrupt any existing development or damage any site improvements.
- LD68. (MA) Prior to parcel map approval, the map shall show the appropriate right-of-way to be dedicated as well as all existing and proposed easements.
- a. The map shall show a right-of-way dedication on Eucalyptus Avenue to secure a full width right-of-way distance of 110' for a Divided Arterial, City Standard 103A, modified to accommodate enhanced 12-foot wide landscape areas within the street parkway. Additional right-of-way shall be dedicated at the intersection of Eucalyptus Avenue and Redlands Boulevard to accommodate southbound dual left turn lanes and a dedicated northbound right-turn lane as well as at the intersection of Eucalyptus Avenue and Theodore Street to accommodate dual left turn lanes.
 - b. The map shall show a minimum 20-foot wide multi-use trail and pedestrian access easement along the north side of Eucalyptus Avenue directly behind and adjacent to the proposed right-of-way.

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- c. The map shall show 37-foot wide open space parcels, Parcels A through E as shown on the tentative parcel map, along the north side of Eucalyptus Avenue directly behind and adjacent to the proposed right-of-way. The proposed multi-use trail and pedestrian access easement is to be located within the 37-foot wide open space parcels. The City will not maintain landscaping located within said 37-foot wide open space parcels.
- d. The map shall show an additional 10-foot street right-of-way dedication on the east side of Redlands Boulevard along the map west boundary to secure a centerline to east right-of-way distance of 70 feet for a Divided Arterial, City Standard 103A, modified to accommodate curb-separated sidewalk as well as additional lanes required at the Eucalyptus Avenue intersection.
- e. The map shall show an 18-foot wide bike trail and pedestrian access easement directly behind and adjacent to the proposed Redlands Boulevard east right-of-way.
- f. The map shall show an additional 31-foot street right-of-way dedication on the west side of Theodore Street along the map east boundary to secure a centerline to west right-of-way distance of 61 feet for a Minor Arterial, City Standard 105A, modified to accommodate curb-separated sidewalk as well as additional lanes required at the Eucalyptus Avenue intersection.
- g. The map shall show a minimum 18-foot wide bike trail and pedestrian access easement directly behind and adjacent to the proposed Theodore Street west right-of-way.
- h. The map shall show a varying width lettered parcel, shown as Parcel G on the tentative parcel map, for highway and road purposes.
- i. The map shall show a 4-foot pedestrian right-of-way dedication behind the driveway approach at any project entrance with a width up to 40 feet to be constructed per City Standard 118C.
- j. The map shall show additional right-of-way at intersections to accommodate additional turning movements required by the Transportation Division, in conformance with the final traffic report.
- k. The map shall demonstrate, to the satisfaction of the City Engineer, adequate right-of-way is being dedicated at the eastbound off-ramp at Theodore Street and the eastbound on-ramp at Redlands Boulevard to cover its ultimate alignment, consistent with the final traffic report and Caltrans standards.
- I. The map shall show additional right-of-way at corner cutbacks per City Standard 208.

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- LD69. (MA) Prior to parcel map approval, a reciprocal access agreement between adjacent development parcels shall be submitted to the City for review and approval processing for concurrent recording with the final parcel map. Alternatively, the reciprocal access among parcels can be established in the covenants, conditions, and restrictions (CCRs) if any, and recorded concurrent with the map.**
- LD70. (MA) Prior to parcel map approval, the Developer shall guarantee the construction of all improvements for all phases of development by entering into a public improvement agreement and posting security. The improvements required during each phase of development are described under that phase heading. The developer is required to complete those improvements listed under each phase by the occupancy of the first building of each phase, or as otherwise determined by the City Engineer. The improvements for Phase 1 are described below and shall be completed prior to occupancy of the building for Phase 1, or as otherwise determined by the City Engineer.**
- a. Eucalyptus Avenue, Divided Arterial, City Standard 103A (110' RW / 86' CC) modified to accommodate enhanced 12-foot wide landscape areas within the street parkway. The full 110-foot right-of-way dedication shall occur as part of Phase 1. The following shall be constructed with the development of Phase 1.**
 - i. Street improvements to half-width, including the full-width median, plus an additional 18 feet south of the street median curb from the proposed interim cul-de-sac to Theodore Street. Improvements shall consist of, but not be limited to, pavement, base, redwood header, raised landscape median, curb, gutter, sidewalk, driveway approaches, drainage structures, any necessary offsite improvement transition/joins to existing, streetlights, pedestrian ramps, removal/relocation and/or undergrounding of any power poles with overhead utility lines less than 115,000 volts, and dry and wet utilities, including sewer and water main line construction, reclaimed water line construction, and electrical utility lines.**
 - ii. A minimum 24-foot wide emergency access, paved to City Standard 108E, or better, from Redlands Boulevard to just west of the west property line of Parcel 2 of PM 35629. The emergency access road shall be constructed on the north side of Eucalyptus Avenue with a cross fall to one side at 2%.**
 - iii. An interim cul-de-sac, if needed, to allow for truck turn-around movements located just west of the west property line of Parcel 2 of PM 35629. Full 86-foot curb-to-curb paved**

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width in lieu of a cul-de-sac may suffice, as approved by the City Engineer.

- iv. **Intersection improvements at Eucalyptus Avenue and Theodore Street to allow for truck turning movements required in the Traffic Study for Phase 1 of the project.**
 - v. **Relocation of an existing water line that runs along the north map boundary adjacent to the SR-60 existing right-of-way to within Eucalyptus Avenue.**
 - vi. **A 6-foot wide curb-separated sidewalk to be located directly behind the 12-foot wide parkway landscape area adjacent to and outside of the street right-of-way.**
 - vii. **A 4-foot wide landscape area adjacent to and behind the curb-separated sidewalk.**
 - viii. **A 10-foot wide multi-use trail adjacent to and behind the 4-foot wide landscape area mentioned above.**
 - ix. **A 17-foot wide landscape area adjacent to and behind the 10-foot trail. All improvements and landscaping beyond the street right-of-way shall be located within a 37-foot wide open space area designated as lettered Parcels A through E, as shown on the tentative parcel map, along the north side of Eucalyptus Avenue. The 6-foot wide sidewalk, the 10-foot trail, and the 4-foot landscape area between the sidewalk and trail, shall be within a proposed minimum 20-foot wide multi-use trail and pedestrian access easement. The easement may be dedicated over the entire open space parcel width (37 feet) of Parcels A through E, as approved by the City Engineer. The City will not maintain landscaping located within said 37-foot wide open space parcels.**
- b. **Theodore Street, Minor Arterial, City Standard 105A (131' RW /107' CC Modified) to accommodate additional lanes required for vehicular turning movements per the project's approved Traffic Study. An additional 31-foot right-of-way dedication on the west side of the street, along the map's east property line, shall be shown on the parcel map. Phase 1 limits of improvements consist of the following improvements:**
- i. **Intersection improvements at Eucalyptus Avenue to allow for truck turning movements required in the project's approved Traffic Study for Phase 1 of the project.**
 - ii. **30-foot wide paved access which meets current City standards or as otherwise approved by the City Engineer, from Eucalyptus Avenue to the SR-60 overpass.**

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Improvements shall consist of, but not be limited to, pavement, base, asphalt concrete berm, any necessary offsite improvement transition/joins to existing.

- c. Additional pavement for Theodore Street interchange on-and off- ramps as may be required to accommodate truck traffic turning movements in accordance with the Final Traffic Report and Transportation Division approval.
- d. Project entrances up to 40-foot wide shall be constructed per City Standard No. 118C. The parcel map shall show an additional 4-foot right-of-way dedication behind driveway approaches. No decorative pavers shall be placed within the public right-of-way. Any entrance greater than 40 feet in width shall be designed as a street intersection.
- e. Restoration of pavement per City trench standards resulting from bringing water line and sewer service lines to the project.
- f. Pavement core samples of existing pavement on Theodore Street may be taken and findings submitted to the City for review and consideration of using an existing structural section of a lesser thickness of pavement improvements. The City will determine the adequacy of the existing pavement structural section. If the existing pavement section is found to be adequate, then a lesser thickness than that specified above for street pavement improvements may be allowed, as approved by the City Engineer. If the existing pavement section is found to be inadequate, the Developer shall construct the streets to the limits as listed above.

LD71. (BP) The developer shall coordinate with Land Development staff to facilitate partial pad certification in conjunction with construction sequencing as approved by the City Engineer.

LD72. (BP) Prior to issuance of a building permit, final line and grade certification shall be provided by the licensed engineer of record stating the building pad is in substantial conformance with the approved grading plan. For Parcel 1, the developer shall coordinate with Land Development staff to facilitate partial pad certification in conjunction with construction sequencing as approved by the City Engineer. The relocation and/or abandonment of existing utilities and quitclaim of existing easements shall be coordinated with the sequencing of the Parcel 1 development such that these do not interfere or encumber the particular building area being developed at any given time.

LD73. (BP) Prior to building permit issuance this project shall cause the quitclaim of all existing easements, especially those easements underneath proposed building footprints shall be quitclaimed. This shall include, but not be limited to, the water line easement and power line easement. All utilities shall be relocated, as necessary, prior to

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quitclaiming the easements. All new easements shall be granted prior to utility relocations and quitclaims of existing easements.

- LD74. (BP)** Prior to building permit issuance, the developer shall remove, or cause the removal, of any sign or other structure, as applicable, on the project site, including that portion within Parcels G, 5 and 6, as shown on the tentative parcel map (Parcels 5 and 6 to be dedicated as lettered parcels on the final parcel map), to be dedicated to the City for the future freeway expansion, unless other arrangements are made with and approved by the City Engineer. The developer shall record easements for, provide access to, etc. any sign or structure that might remain, as approved by the City Engineer.
- LD75. (BP)** Prior to building permit issuance, the developer shall submit to the City a recorded agreement pertaining to the maintenance of and access to the temporary spreading basin to be constructed on the land south and adjacent to this project map, identified as APN# 488-350-002.
- LD76. (BP)** Prior to building permit issuance of the proposed building in Phase 1, the developer shall submit to the City for review and approval all required off-site (outside of the map boundary) easements, including but not limited to, a roadway slope easement along the south side of Eucalyptus Avenue, drainage easements at low points along the south side of Eucalyptus Avenue where rip rap and other drainage improvements are proposed, a drainage easement for the culvert headwall, rip rap and grading on the south side of Eucalyptus Avenue, just west of Theodore Street, an easement for any work outside of the Sinclair Street right-of-way north of SR-60 for work associated with the construction of the water line. These easements shall record prior to occupancy, after the City has reviewed and approved them prior to building permit issuance.
- LD77. (CO)** Prior to occupancy for the proposed building in Phase 1, the developer shall obtain an encroachment permit from Caltrans and complete the following jack and bore operation for the installation of a proposed water line underneath SR-60 to be located within Sinclair Street right-of-way north of the freeway. The developer shall apply Caltrans crossing requirements to the portion of the water line that will lie within Parcel G of the tentative parcel map.
- LD78. (CO)** Prior to occupancy of the proposed building in Phase 1, the parcel map shall record along with all the offers of dedication for right-of-way and easements made on the map.
- LD79. (CO)** Prior to occupancy of the proposed building in Phase 1, all overhead utility lines less than 115,000 volts fronting or within the entire map boundary shall be placed underground per Section 9.14.030C of the City Municipal Code except those along the west side of Theodore Street, the terminus of the facility over SR-60 at Sinclair Street, and the interim

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service from Redlands Boulevard and Dracaea Avenue northerly to the project site.

- LD80. (CO)** Prior to occupancy of the proposed building in Phase 1, existing utilities shall be relocated outside of Parcels G, 5, and 6, as identified on the tentative parcel map (Parcels 5 and 6 to be dedicated as lettered lots on the final parcel map), being offered for dedication for highway and road purposes.
- LD81. (CO)** Prior to occupancy of the proposed building in Phase 1, the developer shall bring overhead electrical service to the building from the nearest source identified by the developer to be located on the west side of Redlands Boulevard near Dracaea Avenue. This will require the developer to bore under Redlands Boulevard to the east side of Redlands Boulevard.
- LD82. (CO)** Prior to occupancy of any buildings, a cooperative (tri-party) agreement among the developer, the City and RCFC&WCD regarding the operation and maintenance of said facilities shall be executed.
- LD83. (RGPA)** In accordance with the City of Moreno Valley standards, the Double Ring Infiltrometer field testing method per ASTM D3385 shall be utilized to perform in-situ percolation testing in the location of proposed infiltration area treatment control Best Management Practice (BMP) and the results included as an amendment to the Final WQMP prior to issuance of the first occupancy. (Advisory)
- LD84. (RGPA)** The Applicant shall prepare and submit for approval a Project Specific Final Water Quality Management Plan (F-WQMP) for PA07-0090 - Highlands - Parcel 1 of TPM 35629 Logistics Building. The F-WQMP shall be consistent with the approved P-WQMP and in full conformance with the document; "Riverside County Water Quality Management Plan for Urban Runoff" dated July 24, 2006. The F-WQMP shall be submitted and approved prior to rough grading plan approval. At a minimum, the F-WQMP shall include the following: Site Design BMPs; Source Control BMPs; Treatment Control BMPs; Operation and Maintenance requirements for BMPs; and sources of funding for BMP implementation. (Advisory)
- LD85. (RGPA)** The Applicant shall select and implement treatment control BMPs that are medium to highly effective for treating Pollutants of Concern (POC) for the project. POC include project pollutants associated with a 303(d) listing or a Total Maximum Daily Load (TMDL) for receiving waters. Project pollutants of concern include: sediment/turbidity, nutrients, organic compounds, oxygen demanding substances, and pathogens. Exhibit C of the document, "Riverside County Water Quality Management Plan for Urban Runoff" dated July 24, 2006 shall be consulted for determining the effectiveness of proposed treatment BMPs. (Advisory)

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LD86. (RGPA) Overall, the proposed treatment control concept is accepted as the conceptual treatment control BMP for the proposed site. The Applicant has proposed to incorporate the use of combined detention and infiltration basins with underdrain systems. Final design details of these detention and infiltration systems must be provided in the first submittal of the F-WQMP. The size of the treatment control BMP is to be determined using the procedures set forth in Exhibit C of the Riverside County Guidance Document. The Applicant acknowledges that more area than currently shown on the plans may be required to treat site runoff as required by the WQMP Guidance Document. (Advisory)

LD87. (RGPA) The Applicant shall substantiate the applicable Hydrologic Condition of Concern (HCOC) (WQMP Section IV) in the F-WQMP. The HCOC designates that the project will comply with Condition C; therefore, the condition must be addressed in the F-WQMP.

LD88. (GP) The Applicant shall, prior to building or grading permit closeout or the issuance of a certificate of occupancy, demonstrate:

- a. That all structural BMPs have been constructed and installed in conformance with the approved plans and specifications;
- b. That all structural BMPs described in the F-WQMP have been implemented in accordance with approved plans and specifications;
- c. That the Applicant is prepared to implement all non-structural BMPs included in the F-WQMP, conditions of approval, and building/grading permit conditions; and
- d. That an adequate number of copies of the approved F-WQMP are available for the future owners/occupants of the project.

(Advisory)

Phase 2 — Development Associated with Parcels 2 and 4 of PM 35629

In the future, when planning applications for development of Parcels 2 and 4 are submitted to the City, additional conditions of approval for on-site development of those parcels will be added to these special conditions of approval associated with off-site and perimeter infrastructure improvements that apply to the development of Parcels 2 and 4.

LD89. (PPA) Prior to approval of a plot plan for any project on Parcel 4 of PM 35629, proposed pad and site elevations shall be coordinated with the most current design available for the Theodore Street interchange improvement plans. The plot plan shall show the proposed relocation corridor within the future right-of-way of Theodore Street for the overhead electrical power poles along Theodore Street for overhead utility lines larger than 115,000 volts.

LD90. (CO) Theodore Street improvements shall be coordinated with the City's Capital Project Theodore/SR60 Interchange Project. Interim improvements shall be at the discretion of the City Engineer and shall be constructed prior to the occupancy of any building in Phase 2. The

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project design shall accommodate the future ultimate improvements on Theodore Street which include half-width plus an additional 30 feet east of the centerline, along Parcel 4 of PM 35629 east frontage. Future ultimate improvements shall consist of, but not be limited to, pavement, base, curb, gutter, sidewalk, driveway approaches, drainage structures, any necessary offsite improvement transition/joins to existing, streetlights, pedestrian ramps, dry and wet utilities. In addition, the following improvements shall be provided within the 20-foot wide open space Parcel F shown on the tentative parcel map: a 2-foot wide portion of sidewalk located outside of the proposed sidewalk, a 4-foot wide landscaped area behind sidewalk, a 10-foot wide bike trail behind the 4-foot wide landscaped area, and a 2-foot wide flat landscape area. Ultimate improvements shall be coordinated with the City's Capital Project Theodore Street/SR-60 Interchange Project and/or interim improvements shall be at the discretion of the City Engineer.

- LD91. (CO) Prior to occupancy of any building in Phase 2, ultimate street improvements shall be constructed on Eucalyptus Avenue along project frontage, connecting to those improvements constructed in Phase 1. Improvements shall consist of, but not be limited to, pavement, base, raised landscape median, trail, curb, gutter, sidewalk, driveway approaches, drainage structures, any necessary offsite improvement transition/joins to existing, streetlights, pedestrian ramps, dry and wet utilities. In addition, the following improvements shall be constructed within a minimum 20-foot wide multi-use trail and pedestrian access easement: a 6-foot wide sidewalk directly behind the proposed right-of-way, followed by a 4-foot wide landscaped area behind sidewalk, and then a 10-foot wide multi-use trail.

Phase 3 — Development Associated with Parcel 3 of PM 35629

In the future, when a planning application for development of Parcel 3 is submitted to the City, additional conditions of approval for on-site development of that parcel will be added to these special conditions of approval associated with off-site and perimeter infrastructure improvements that apply to the development of Parcel 3.

- LD92. (PPA) Prior to approval of a plot plan for any project on Parcel 3 of PM 35629, proposed pad and site elevations shall be coordinated with the most current available Redlands Boulevard interchange improvement plans.
- LD93. (CO) Redlands Boulevard improvements shall be coordinated with the City's Capital Project Redlands Boulevard/SR60 Interchange Project. Interim improvements shall be at the discretion of the City Engineer and shall be constructed prior to the occupancy of any building in Phase 3. The project design shall accommodate the future ultimate improvements on Redlands Boulevard Divided Arterial, City Standard 103A (131' RW / 107' CC Modified) to half-width plus an additional 21 feet west of the centerline, along the entire project's east frontage. Future ultimate

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improvements shall consist of, but not be limited to, pavement, base, redwood header, curb, gutter, sidewalk, driveway approaches, drainage structures, any necessary offsite improvement transition/joins to existing, streetlights, pedestrian ramps, removal/relocation and/or undergrounding of any power poles with overhead utility lines less than 115,000 volts, and dry and wet utilities. In addition, the following improvements shall be provided within an 18-foot wide bike trail and pedestrian access easement: a 2-foot wide portion of sidewalk located outside of the proposed sidewalk, a 4-foot wide landscaped area behind sidewalk, a 10-foot wide bike trail behind the 4-foot wide landscaped area, and a 2-foot wide flat landscape area. In addition, intersection improvements at Eucalyptus Avenue shall be made to allow for truck turning movements required in the project's approved Traffic Study for Phase 1 of the project. Additional improvements will be identified within the supplemental traffic study required for Phases 2 and 3 planning application development plans. Ultimate improvements shall be coordinated with the City's Capital Project Theodore Street/SR-60 Interchange Project and/or interim improvements shall be at the discretion of the City Engineer.

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**CITY OF MORENO VALLEY
CONDITIONS OF APPROVAL
Case No: PA07-0090 (TPM 35629)
APNs: 488-350-001, 488-350-002, and 488-360-001 through 488-360-012
12.12.08 Revised**

PUBLIC WORKS DEPARTMENT

Special Districts Division

Note: All Special Conditions, Modified Conditions, or Clarification of Conditions are in bold lettering. All other conditions are standard to all or most development projects.

Acknowledgement of Conditions

The following items are Special Districts' Conditions of Approval for project **PA07-0090**; this project shall be completed at no cost to any Government Agency. All questions regarding Special Districts' Conditions including but not limited to, intent, requests for change/modification, variance and/or request for extension of time shall be sought from the Special Districts Division of the Public Works Department 951.413.3480. The applicant is fully responsible for communicating with each designated Special Districts staff member regarding their conditions.

General Conditions

- SD-1 The parcel(s) associated with this project have been incorporated into the Moreno Valley Community Services Districts Zones A (Parks & Community Services) and C (Arterial Street Lighting). All assessable parcels therein shall be subject to annual Zone A and Zone C charges for operations and capital improvements.
- SD-2 Plans for parkway, median, slope, and/or open space landscape areas designated on the tentative map or in these Conditions of Approval for incorporation into Moreno Valley Community Services District **Zone M**, shall be prepared and submitted in accordance with the *City of Moreno Valley Public Works Department Landscape Design Guidelines*. Contact the Special Districts Division of the Public Works Department to obtain copies of this document.
- SD-3 The Developer, or the Developer's successors or assignees shall be responsible for all parkway and/ or median landscaping maintenance until such time as the District accepts maintenance duties.

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SD-4 Any damage to existing landscape easement areas due to project construction shall be repaired/replaced by the Developer, or Developer's successors in interest, at no cost to the Moreno Valley Community Services District.

Prior to Recordation of Final Map

SD-5 (R) This project has been identified to be included in the formation of a Community Facilities District (Mello-Roos) for **Public Safety** services, including but not limited to Police, Fire Protection, Paramedic Services, Park Rangers, and Animal Control services. The property owner(s) shall not protest the formation; however, they retain the right to object to the rate and method of maximum special tax. In compliance with Proposition 218, the Developer shall agree to approve the mail ballot proceeding (special election) for either formation of the CFD or annexation into an existing district that may already be established. The Developer must notify Special Districts of intent to record final map prior to City Council action authorizing recordation of the map. (California Government Code) **This condition would no longer apply if the final map is recorded prior to the formation of the Public Safety Community Facilities District.**

SD-6 (R) This project is conditioned to provide a funding source for the capital improvements and/or maintenance for the **Eucalyptus Ave.** median landscape. In order for the Developer to meet the financial responsibility to maintain the defined service, one of the following options shall be selected:

- a. Participate in the mail ballot proceeding in compliance with Proposition 218, for Moreno Valley Community Services District **Zone M** (Commercial, Industrial and Multifamily Improved Median Maintenance), and pay all associated costs with the ballot process; or
- b. Establish an endowment to cover the future maintenance costs of the landscaped area.

The Developer must notify Special Districts of intent to record final map prior to City Council action authorizing recordation of the map and the financial option selected to fund the continued maintenance.

SD-7 *Commercial* (R) Land Development, a Division of the Public Works Department, requires this project to supply a funding source necessary to provide, but not limited to, stormwater utilities services for the monitoring

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of on site facilities and performing annual inspections of the affected areas to ensure compliance with state mandated stormwater regulations, the Developer must notify Special Districts of intent to record final map prior to City Council action authorizing recordation of the map and the financial option selected to fund the continued maintenance. (California Government Code)

- SD-8 (R) Prior to recordation of the final map, the Developer, or the Developer's successors or assignees, shall record with the County Recorder's Office a **Declaration of Covenant and Acknowledgement of Assessments** for each assessable parcel therein, whereby the Developer covenants and acknowledges the existence of the Moreno Valley Community Services District, its established benefit zones, and that said parcel(s) is (are) liable for payment of annual benefit zone charges and the appropriate National Pollutant Discharge Elimination System (NPDES) maximum regulatory rate schedule when due. A copy of the recorded Declaration of Covenant and Acknowledgement of Assessments shall be submitted to the Special Districts Division.

** For a copy of the Declaration of Covenant and Acknowledgement of the Assessments form, please contact Special Districts, phone 951.413.3480.

Prior to Building Permit Issuance

- SD-9 (BP) This project has been identified to be included in the formation of a Map Act Area of Benefit Special District for the construction of **major thoroughfares and/or freeway** improvements. The property owner(s) shall participate in such District, and pay any special tax, assessment, or fee levied upon the project property for such District. At the time of the public hearing to consider formation of the district, the property owner(s) will not protest the formation, but the property owners(s) will retain the right to object if any eventual assessment is not equitable, that is, if the financial burden of the assessment is not reasonably proportionate to the benefit which the affected property obtains from the improvements which are to be installed. (Street & Highway Code, GP Objective 2.14.2, MC 9.14.100) **Once the Transportation Uniform Mitigation Fee (TUMF) is paid, the requirement to annex into the Special District would no longer be applicable.**
- SD-10 (BP) Final median, parkway, slope, and/or open space landscape/irrigation plans for those areas designated on the tentative map or in these Conditions of Approval for inclusion into Community Services District shall be reviewed and approved by the Community Development

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Department — Planning Division, and the Public Works Department — Special Districts and Transportation Divisions prior to the issuance of the first Building Permit.

Prior to Certificate of Occupancy

SD-11 (CO) Prior to issuance of a Certificate of Occupancy or building final, the Developer shall submit a letter to Special Districts from the Utility service responsible for providing final electrical energy connections and energization of the streetlights for the development project. The letter must identify, by pole number, each streetlight in the development and state the corresponding date of its electrical energization.

SD-12 (CO) All median landscaping specified in the tentative map or in these Conditions of Approval shall be constructed pursuant to the project phasing plan dated December 10, 2008.

SD-13 (CO) Prior to issuance of a Certificate of Occupancy or building final, the Developer shall submit, in a form acceptable to Special Districts, the current list of all Assessor's Parcel Numbers assigned to the recorded map. Please forward to:

City of Moreno Valley
Special Districts
14325 Frederick Street— Suite 9
P. O. Box 88005
Moreno Valley, CA 92552-0805

SD-14 (CO) Prior to the issuance of the first Certificate of Occupancy or building final for this project, the Developer shall pay Advanced Energy fees for all applicable Zone B (Residential Street Lighting) and/or Zone C (Arterial Street Lighting and Intersection Lighting) streetlights required for this development. The Developer shall provide a receipt to the Special Districts Division showing that the Advanced Energy fees have been paid in full for the number of streetlights to be accepted into the CSD Zone B and/or Zone C program. Payment shall be made to the City of Moreno Valley, as collected by the Land Development Division, based upon the Advanced Energy fee rate at the time of payment and as set forth in the current Listing of City Fees, Charges and Rates, as adopted by City Council. Any change in the project which may increase the number of streetlights to be installed will require payment of additional Advanced Energy fees at the then current fee.

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**CITY OF MORENO VALLEY
CONDITIONS OF APPROVAL
PA07-0090**

Tentative Parcel Map for four parcels located on the north side of future Eucalyptus Avenue, east of Redlands Boulevard.

Note: All Special conditions are in bold lettering. All other conditions are standard to all or most development projects.

Transportation Engineering Division — Conditions of Approval

Based on the information contained in our standard review process we recommend the following conditions of approval be placed on this project:

GENERAL CONDITIONS

- TE1. Install Citywide Communication System (Traffic Signal Interconnect) per City Standards along Eucalyptus Avenue and Theodore Street.**
- TE2. A Class I Bikeway is planned for the east side of Redlands Boulevard that shall require additional right-of-way and/or easements.**
- TE3. The project applicant shall submit supplemental traffic studies at the time of entitlement of Phase 2 (Parcels 2 and 3) and again at Phase 3 (Parcel 4). The supplemental traffic studies shall address improvements necessary for the two phases that could include but not be limited to traffic signals, additional turn lanes, traffic signal synchronization/timing, interchange improvements, fair share contributions, median construction, and traffic control at project driveways. Conditions of approval for Phase 2 and Phase 3 plot plans shall be based upon the findings of the supplemental traffic studies, and conditioned improvements shall be required prior to issuance of a certificate of occupancy for the respective phases.**

PRIOR TO GRADING PERMIT

- TE4. (GP) Prior to issuance of a grading permit for Phase 1, the project applicant shall submit conceptual striping plans for street improvements along Eucalyptus Avenue as well as Theodore Street.**

PRIOR TO IMPROVEMENT PLAN APPROVAL OR CONSTRUCTION PERMIT

- TE5. The driveways less than 40 feet in width shall conform to Section 9.16.250, and Table 9.16.250A of the City's Development Code — Design Guidelines, and City**

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Standard Plan No. 118C. Driveways wider than 40' shall be designed as intersections with pedestrian access ramps per City standards (Advisory).

- TE6. Prior to the final approval of the street improvement plans, a signing and striping plan shall be prepared per City of Moreno Valley Standard Plans — Section 4 for all streets with a cross section of 66'/44' and wider (Advisory).
- TE7. Prior to final approval of the street improvement plans, the developer shall submit to the City a contract between the developer and a street sweeping company for sweeping the streets during the warranty period, for the day shown on the posted street sweeping signage. The contract shall include a contact person and phone number for said contact person (Advisory).
- TE8. Prior to issuance of a construction permit, construction traffic control plans prepared by a qualified, Registered Civil or Traffic engineer shall be required (Advisory).
- TE9. Sight distance at driveways and on streets shall conform to City Standard Plan No. 125 A, B, and C at the time of preparation of final grading, landscape, and street improvements (Advisory).
- TE10. Prior to final approval of the street improvement plans, interim and ultimate alignment studies shall be approved by the City Traffic Engineer.
- TE11. Prior to the final approval of the street improvement plans for Phase 1, the project applicant shall design the intersection of Theodore Street and Eucalyptus Avenue to provide the following geometrics:**

- Northbound: One left turn lane, one through lane**
- Southbound: One through lane, one right turn lane**
- Eastbound: One left turn lane, one right turn lane**
- Westbound: N/A**

NOTE: All curb return radii shall be 50 feet.

- TE12. Prior to the final approval of the street improvement plans for Phase 1, the project applicant shall design the intersection of Theodore Street and SR-60 Eastbound Ramp to provide the following geometrics:**

- Northbound: One left turn lane, one through lane**
- Southbound: One shared through/right turn lane**
- Eastbound: One left turn lane, one right turn lane**
- Westbound: N/A**

NOTE: All curb return radii shall be 50 feet.

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TE13. Prior to final approval of the street improvement plans for Phase 1, the project applicant shall design the intersection of Theodore Street and SR-60 Westbound Ramp to provide the following geometrics:

Northbound: One through lane, pavement widening to accommodate turning trucks

Southbound: One shared left turn/through lane

Eastbound: N/A

Westbound: One shared left turn/right turn lane

TE14. Prior to final approval of the street improvement plans for Phase 3, the project applicant shall design the intersection of Redlands Boulevard and Eucalyptus Avenue for its ultimate cross-section to include the following:

Northbound: Two left turn lanes, two through lanes, one right turn lane

Southbound: Two left turn lanes, two through lanes, one right turn lane

Eastbound: Two left turn lanes, two through lanes, one right turn lane

Westbound: Two left turn lanes, two through lanes, one right turn lane

NOTE: All curb return radii shall be 50 feet.

TE15. Prior to final approval of the street improvement plans, the project applicant shall design bus bays per City Standard Plan No. 121 at the following locations:

- **Northbound Redlands Boulevard, north of Eucalyptus Avenue (Phase 3)**
- **Eastbound Eucalyptus Avenue, east of Redlands Boulevard (Phase 3)**
- **Westbound Eucalyptus Avenue, west of Theodore Street (Phase 2)**
- **Westbound Eucalyptus Avenue, west of project driveway aligned with Sinclair Street (Phase 2)**

PRIOR TO CERTIFICATE OF OCCUPANCY OR BUILDING FINAL

TE16. (CO) Prior to issuance of a certificate of occupancy, all approved signing and striping shall be installed per current City Standards and the approved plans (Advisory).

TE17. (CO) Prior to issuance of a certificate of occupancy for Phase 1, the project applicant shall construct the intersection/roadway improvements identified in TE11, TE12, and TE13 per the approved plans.

TE18. (CO) Prior to issuance of a certificate of occupancy for Phase 3, the project applicant shall construct the east leg of the Redlands Boulevard/Eucalyptus

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Avenue intersection per TE14. Necessary improvements to the other legs of the intersection shall be identified in the supplemental traffic study per TE3.

TE19. (CO) Prior to the issuance of a certificate of occupancy for the project, driveway access at the following locations will be installed as follows:

- **The easternmost driveway: full access.**
- **The second driveway from the east: right-in, right-out access by means of a raised median.**
- **The third driveway from the east (employee parking lot): full access.**
- **The second driveway from the west: right-in, right-out by means of a raised median.**
- **The westernmost driveway: full access.**
- **Additional driveways for Phases 2 and 3 shall be reviewed at the time of their entitlement, and conditions of approval shall be prepared as necessary regarding access.**

NOTE: All truck driveways shall have curb return radii of 50 feet.

PRIOR TO ACCEPTANCE OF STREETS INTO THE CITY-MAINTAINED ROAD SYSTEM

TE20. Prior to the acceptance of streets into the City-maintained road system, all approved traffic control and signing and striping shall be installed per current City Standards and the approved plans (Advisory).

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**CITY OF MORENO VALLEY
CONDITIONS OF APPROVAL FOR
Case No. PA07-0091 Plot Plan**

PARKS AND COMMUNITY SERVICES DEPARTMENT

Note: All Special Conditions, Modified Conditions, or Clarification of Conditions are in bold lettering. All other conditions are standard to all or most development projects.

Acknowledgement of Conditions

The following items are Parks and Community Services Department Conditions of Approval for project **PA07-0091 Plot Plan** this project shall be completed at no cost to any Government Agency. All questions regarding Parks and Community Services Department Conditions including but not limited to, intent, requests for change/modification, variance and/or request for extension of time shall be sought from the Parks and Community Services Department 951.413.3280. The applicant is fully responsible for communicating with the Parks and Community Services Department project manager regarding the conditions.

A multi-use trail and Class-I bikeway shall be designated for TPM 35629.

As approved on TPM 35629, a multi-use trail within an approximate 10' —11' wide easement to the Community Services district (CSD) shall be located along the west side of Theodore Street. The construction of the multi-use trail on Theodore Street along the frontage of the property shall be completed with the future widening of said Street. The developer shall make financial arrangements with the City to fund the multi-use trail construction prior to the issuance of any Certificate of Occupancy on Parcel 1. Should the multi-use trail be subsequently eliminated from the City's General Plan, the developer shall have no further obligation to construct the multi-use trail and the security issued will be returned to the developer.

As approved on TPM 35629, a multi-use trail within an approximate 10' —11' wide easement to the CSD shall be located along the north side of Eucalyptus Street (currently Fir Avenue), within the development. Development of multi-use trail segments shall occur when Eucalyptus Street is constructed connecting Redlands Boulevard and Theodore Street or at the discretion of the Parks and Community Services Director, an in-lieu fee or acceptable financial arrangement will be provided to the City in an amount equal to the cost of constructing the improvements. Should the multi-use trail be subsequently eliminated from the City's General Plan, the developer shall have no further obligation to construct the multi-use trail and the security issued or fee imposed will be returned to the developer. The Final Map and Grading Plans shall show each segment as well as the overall multi-use trail plan. The developer shall make financial arrangements with the City to fund the multi-use trail construction for the segment along the frontage of Parcel 1 prior to the issuance of any Certificate of Occupancy on Parcel 1. Each multi-use trail segment will follow the same requirement for the remaining parcels.

As approved on TPM 35629, a Class-I bikeway shall be provided on the east side of Redlands Boulevard. The bikeway shall be constructed with the future reconstruction of the Redlands Boulevard/State Route 60 Interchange. Prior to recordation of the Final Map, the developer shall make financial arrangements with the City to fund the bikeway construction.

Per endorsement of the Trails Board on July 23, 2008, the trail was eliminated from Sinclair Street (north of Eucalyptus Ave. to S.R. 60), and the trail along Eucalyptus Ave. (previously Fir Ave.) was relocated to the north side of the street. With the elimination of the Sinclair Street trail, additional trail was located along the north side of Eucalyptus Ave., between Sinclair Street and Theodore Street. Therefore, the trail on the north side of Eucalyptus Ave. shall now be

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located from Redlands Blvd. to Theodore Street. A General Plan Amendment (GPA) and modification of the Master Plan of Trails will be required to show modified trail alignments. The Eucalyptus Ave trail shall be dedicated as an easement to the CSD from the industrial project. The Eucalyptus Ave. trail easement segment shall be approximately 11' in width. The planter behind the trail may exceed 3' in width.

PA07-0091

**Parks and Community Services Department
Standard Trail Conditions:**

- a. Trail and bikeway construction shall adhere to: The City's Standard Plans, 'The Greenbook Standard Specifications for Public Works Construction', 'California Code of Regulations Title 24' (where applicable), and the Park and Community Services Specification Guide. (Advisory Condition)
- b. The General Contractor shall be a State of California Class 'A' General Engineering Contractor, per the Business and Professions Code Section 7056, or a combination of State of California Class 'C' licenses for which the work is being performed. Licenses must be current and in good standing, for the duration of the project. (Advisory Condition)
- c. Trails and bikeways shall not be shared with any above ground utilities, blocking total width access. (Advisory)
- d. The following plans require Parks and Community Services written approval: Tentative tract/parcel maps; rough grading plans (including all Delta changes); Final Map; precise grading plans; street improvement plans; traffic signal plans; fence and wall plans; landscape plans for areas adjacent to trails; trail improvement plans. (Advisory)
- e. (GP) A detailed rough grading plan with profile for the trail shall be submitted and approved by the Parks and Community Services Director or his/her designee prior to the issuance of grading permits. (Advisory)
- f. Grading certification and compaction tests for trails and bikeways are required, prior to any trail or bikeway improvements being installed. (Advisory)
- g. A minimum two-foot graded bench is required where trails adjoin landscaped or open space areas. (Advisory)
- h. (BP) Prior to the issuance of the first Building Permit, final improvement plans (mylars and AutoCAD & PDF file on a CD-ROM) shall be reviewed and approved by the Community Development Department — Planning Division; the Public Works Department — Land Development and Transportation Division; Fire Prevention; and Parks and Community Services Department. Landscaped areas adjacent to the trail or bikeway shall be designed to prevent water on the trail or bikeway. (Advisory)
- i. Two sets of complete trail and bikeway improvement plans shall be submitted to Parks and Community Services for routing. Adjacent landscaping and walls shall be shown on the plans. Final construction plans and details require wet stamped and signed Mylars, eight sets of bond copies and one Mylar copy from the City signed mylars, the AutoCAD file on CD, and a PDF file on CD. As-builts for the trails and bikeways have the same requirements as final plan submittals. (Advisory)
- j. All street crossings shall be signed with approved 'STOP' signs, trail signs, and posts. All improved equestrian trail crossings at signalized intersections that are constructed at their ultimate locations shall have 6' high mounted push buttons. These shall be coordinated through the Transportation Division. (Advisory)
- k. CSD Zone 'A' plan check fees shall be paid prior to the second plan check. (Advisory)
- i. CSD Zone 'A' inspection fees shall be paid prior to signing of Mylars. (Advisory)

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- m. The trail and bikeway shall be surveyed and staked by the developer. The trail shall be inspected and approved by the Parks and Community Services Director or his/her designee prior to the commencement of related work. (Advisory)
- n. Any damage to bikeways, trails, or fencing during construction shall be repaired by the developer and inspected by the Parks and Community Services Director or his/her designee; prior to Certificate of Occupancy. (Advisory)
- o. Concrete access areas to trails with decomposed granite surfaces shall be rough finished concrete (typically tine finish). The access shall extend to the main trail flat surface. (Advisory)
- p. In order to prevent the delay of building permit issuance, any deviation from trail fencing materials or trail surface materials shall be submitted to Parks and Community Services Director or his/her designee and approved in writing 60-days prior to the commencement of trail construction. (Advisory)
- q. Any unauthorized deviation from the approved plan, specifications, City Standard Plans, or Conditions of Approval may result in the delay of building permit issuance and/or building Finals/ Certificate of Occupancy of the project conditioned for improvements. (Advisory)
- r. *Where required*, decorative solid-grouted block wall (no precision block, stucco, veneer finishes, PVC, or wood fencing) with a minimum height of 72" on the trailside shall be installed along lots that adjoin the trail. Block walls shall be located solely on private property. If landscaping is to be utilized between the block wall and the trail, a PVC fence shall be installed along the trail separating the landscaping from the trail (where required). All block walls that have public view shall have an anti-graffiti coating per Parks and Community Services specifications. Combination block/tubular steel fences shall only be utilized where approved by Parks and Community Services. Tubular steel shall comply with Parks and Community Services standards. Coating for tubular steel shall be anti-graffiti coating for metal per Parks and Community Services specifications. If alternate products are requested, the requested material(s) shall be presented to, the Director of Parks and Community Services or his/her designee for review and approval. Under no circumstances can alternate products be utilized without prior written authorization from the Parks and Community Services Director or his/her designee. (Advisory)
- s. Any damage to existing landscape or hardscape areas due to project construction shall be repaired/replaced by the developer, or developer's successors in interest, at no cost to the City or Community Services District. (Advisory)
- t. All inspections shall be requested two (2) working days in advance from the Parks and Community Services Department at the time of rough and precise grading; fence and gate installation; curb and drainage; flatwork; D.G. installation; graffiti coating; and final inspection. (Advisory)

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**POLICE DEPARTMENT
CONDITIONS OF APPROVAL
PA07-0090 (Map)**

APN: 488-350-001 through 002 and 488-360-001 through 012.

Note: All Special conditions are in bold lettering. All other conditions are standard to all or most development projects

Standard Conditions

- PD1. Prior to the start of any construction, temporary security fencing shall be erected. The fencing shall be a minimum of six (6) feet high with locking, gated access and shall remain through the duration of construction. Security fencing is required if there is: construction, unsecured structures, unenclosed storage of materials and/or equipment, and/or the condition of the site constitutes a public hazard as determined by the Public Works Department. If security fencing is required, it shall remain in place until the project is completed or the above conditions no longer exist. (DC 9.08.080) (Advisory)
- PD2. (GP) Prior to the issuance of grading permits, a temporary project identification sign shall be erected on the site in a secure and visible manner. The sign shall be conspicuously posted at the site and remain in place until occupancy of the project. The sign shall include the following:
- a. The name (if applicable) and address of the development.
 - b. The developer's name, address, and a 24-hour emergency telephone number. (DC 9.08.080) (Advisory)

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MVU Map Conditions of Approval Highland Fairview 12-18-08

MVU-1 (R) If the project is a multi-family development, townhome, condominium, apartment, commercial or industrial project, and it requires the installation of electric distribution facilities within common areas, a non-exclusive easement shall be provided to Moreno Valley Utility to include all such common areas. All easements shall include the rights of ingress and egress for the purpose of operation, maintenance, facility repair, and meter reading.

MVU-2 (BP) **City of Moreno Valley Municipal Utility Service — Electrical Distribution:** Prior to issuance of building permit, the developer shall submit a detailed engineering plan showing design, location and schematics for the utility system to be approved by the City Engineer. In accordance with Government Code Section 66462, the Developer **shall** execute an agreement with the City providing for the installation, construction, improvement and dedication of the utility system following recordation of final map and concurrent with trenching operations and other subdivision improvements so long as said agreement incorporates the approved engineering plan and provides financial security to guarantee completion and dedication of the utility system.

The Developer **shall** coordinate and receive approval from the City Engineer to install, construct, improve, and dedicate to the City, or the City's designee, all utility infrastructure (including but not limited to conduit, equipment, vaults, ducts, wires, switches, conductors, transformers, resistors, amplifiers, and "bring-up" facilities including electrical capacity to serve the identified development and other adjoining/abutting/ or benefiting projects as determined by Moreno Valley Utility) - collectively referred to as "utility system" (to and through the development), along with any appurtenant real property easements, as determined by the City Engineer to be necessary for the distribution and /or delivery of any and all "utility services" to each lot and unit within the Tentative Map. For purposes of this condition, "utility services" shall mean electric service and utility-related telecommunication only "Utility services" shall not include sewer, water, and natural gas services, which are addressed by other conditions of approval. Properties within development will be subject to an electrical system capacity charge and that contribution will be collected prior to issuance of building permits.

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MVU-2A The City, or the City's designee, shall utilize dedicated utility facilities to ensure safe, reliable, sustainable and cost effective delivery of utility services and maintain the integrity of streets and other public infrastructure. Developer shall, at developer's sole expense, install or cause the installation of such interconnection facilities as may be necessary to connect the electrical distribution infrastructure within the project to the Moreno Valley Utility owned and controlled electric distribution system. Alternatively, developer may cause the project to be included in or annexed to a community facilities district established or to be established by the City for the purpose of financing the installation of such interconnection and distribution facilities. The project shall be deemed to have been included in or annexed to such a community facilities district upon the expiration of the statute of limitations to any legal challenges to the levy of special taxes by such community facilities district within the property. The statute of limitations referred to above will expire 30 days after the date of the election by the qualified electors within the project to authorize the levy of special taxes and the issuance of bonds.

The installation of any proposed temporary overhead electric distribution lines to be constructed to serve the subject project will be installed/executed pursuant to a temporary utility service agreement. The service agreement will address such things as the necessary electrical circuit protection, as well as the requirement to permanently relocate any temporary overhead to a permanent underground system in a timely manner (not greater than 36 months) consistent with the requirements of the service agreement and pursuant to applicable state law.

An electrical protection coordination study shall be performed and stamped by a registered professional electrical engineer in the State of California and submitted to the utility for review and approval prior to construction of the temporary overhead line consistent with the service agreement.

Once the protection settings are approved and test reports performed, a certified apparatus technician shall be submitted to the utility for review. Any protection studies shall be stamped by the applicant's registered professional electrical engineer.

A specific easement will be required for the entire overhead line extension constructed outside of the public right-of-way consistent with the service agreement.

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MVU-3 This project may be subject to a Reimbursement Agreement. The project may be responsible for a proportionate share of costs associated with electrical distribution infrastructure previously installed that directly benefits the project. The project may be subject to a system wide capacity charge in addition to the referenced reimbursement agreement; Payment(s) shall be required prior to issuance of building permit(s).

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RESOLUTION NO. 2009-11

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA APPROVING PA07-0091 (PLOT PLAN) FOR AN APPROXIMATE 1,820,000 SQUARE FOOT INDUSTRIAL WAREHOUSE BUILDING WITH ANCILLARY COMMERCIAL/RETAIL AND OFFICE USES ON AN APPROXIMATELY 83 ACRE PARCEL GENERALLY LOCATED ADJACENT TO AND SOUTH OF HIGHWAY 60 ALONG FUTURE EUCALYPTUS AVENUE (FIR AVENUE) BETWEEN REDLANDS BOULEVARD AND THEODORE STREET

WHEREAS, the applicant, Highland Fairview, has filed an application for the approval of PA07-0091 (Plot Plan) consisting of an approximately 1,820,000 square foot warehouse industrial building, with ancillary commercial/retail and office uses, on an approximately 83 acre parcel located adjacent to and south of Highway 60 between Redlands Boulevard and Theodore Street, and along future Eucalyptus Avenue (Fir Avenue);

WHEREAS, the project also includes applications for an Environmental Impact Report (EIR) under P07-157, a Change of Zone (PA07-088), General Plan Amendment (PA07-0089) and a tentative parcel map (PA07-0090). All of the discretionary applications are related but will be included in separate resolutions with individual findings;

WHEREAS, on January 8, 2009, the Planning Commission of the City of Moreno Valley held a meeting to consider and provide a recommendation on the application. At the conclusion of said meeting and public hearing, the item was continued to January 15, 2009;

WHEREAS, on January 15, 2009, the Planning Commission conducted a continued public meeting and forwarded the project to the City Council for consideration;

WHEREAS, on February 3, 2009 and February 10, 2009, the City Council held a meeting to consider the application;

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred;

WHEREAS, there is hereby imposed on the subject development project certain fees, dedications, reservations and other exactions pursuant to state law and City ordinances; and

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WHEREAS, pursuant to Government Code Section 66020(d)(1), **NOTICE IS HEREBY GIVEN** that this project is subject to certain fees, dedications, reservations and other exactions as provided herein.

NOW, THEREFORE, BE IT HEREBY FOUND, DETERMINED AND RESOLVED by the City Council of the City of Moreno Valley as follows:

- A. This City Council hereby specifically finds that all of the facts set forth above in this Resolution are true and correct.
- B. Based upon substantial evidence presented to the City Council during the meetings on February 3, 2009 and February 10, 2009, including written and oral staff reports, and the record from the public hearing, this Planning Commission hereby specifically finds as follows:

- 1. **Conformance with General Plan Policies** — The proposed use is consistent with the General Plan, and its goals, objectives, policies and programs.

FACT: The project proposes an approximately 1,820,000 square foot warehouse industrial building on Parcel 1 (Phase 1) with related commercial/retail and office uses. The proposal conforms, with the Business Park or BP General Plan designation, which allows for a variety of industrial related land uses from office and business park uses to heavier industrial land uses.

Greater compatibility of the proposed land use with surrounding land uses in the general vicinity of the project will be achieved by project design, mitigation and conditions of approval. For example, dense landscape and proposed 11 foot screen walls used for screening purposes will allow for necessary compatibility of the intended industrial warehouse use with any surrounding commercial, business park or residential properties in the general vicinity that would be developed in the future.

- 2. **Conformance with Zoning Regulations** — The proposed use complies with all applicable zoning and other regulations.

FACT: The proposed project does not currently conform with zoning regulations of Business Park (BP), which would only allow for industrial buildings of 50,000 square feet or less from being developed. With a proposed 1,820,000 square foot warehouse industrial building, the applicant is requesting a change of zone to Light Industrial or LI. A 1,820,000 square foot warehouse building is

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a permitted use within the LI land use designation. Various conditions of approval have also been included to address specific requirements, including but not limited to site improvements and aesthetic enhancements.

3. **Health, Safety and Welfare** — The proposed use will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity.

FACT: An Environmental Impact report (EIR) has been prepared for the overall project, including the proposed Change of Zone and General Plan amendment. Findings and a Statement of Overriding Considerations has been prepared for said project to deal with impacts related to aesthetics, agriculture, air quality, noise, as well as climate change and greenhouse gas emissions. Said EIR is required to be certified and approved as a part of the proposed project. Said document will also be accompanied by a Mitigation Monitoring Program, which will ensure the completion of required mitigation measures for the project. The project site is surrounded by Highway 60 to the north, and primarily vacant residential property to the south east and west.

Specific mitigation measures have been provided to lessen the impacts (but not all below significant levels) for public health, safety and the welfare of surrounding properties and improvements in the vicinity of the project. This includes, but is not limited to the limitation of project lighting and glare, and enhanced architectural and landscaping treatment to soften views and reduce visual character as well as light and glare to less than significant levels for aesthetics. Air quality mitigation measures include a fugitive dust control plan with application of best management practices to control fugitive dust during construction, emission control equipment with a minimum of Tier II diesel particulate filter emission controls resulting in a minimum 50 percent particulate matter control, proper maintenance of construction equipment, a traffic control plan to minimize operational truck traffic and dust during construction, as well as low VOC paints, and other best management practices. Noise mitigation measures include the restriction of construction vehicles on Redlands Boulevard, south of future Eucalyptus Avenue, the restriction of nighttime grading within 1,200 feet of residences south of future Eucalyptus Avenue, specific sound barriers in place to limit daytime construction noise, equipment maintenance to include silencers, mufflers and acoustic covers, and the restriction of material stockpiles within 1,200 feet of all residences south of Highway 60. It is also important to note that

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an approximate 440 foot land use buffer is included as a land use mitigation measure to buffer the proposed project from future sensitive receptors which could be built south of the site. Other mitigation measures throughout the EIR reduce the remaining environmental impacts rioted in the EIR to less than significant levels.

With the above mitigation measures imposed for noise, air quality, climate change and greenhouse gas emissions, aesthetics and agricultural and traffic impacts, any environmental impacts from the proposed project and use will be significantly reduced but are still considered as significant and unavoidable, thereby requiring a statement of overriding considerations. Said mitigation measures included with the project will lessen environmental impacts on any existing or future properties within the general vicinity on the proposed development, and project and reduce impacts to public health, safety and welfare.

4. **Location, Design and Operation** — The location, design and operation of the proposed project will be compatible with existing and planned land uses in the vicinity.

FACT: Surrounding land uses include Highway 60 to the north, vacant commercial land uses to the west, vacant business park uses to the east and vacant R-3 (Residential 3) single-family residential properties to the south of the site. The location, design and operation of the proposed project will be compatible with existing and planned land uses in the general vicinity with proposed mitigation measures, conditions of approval and design of the plot plan and architecture of the buildings. For example, dense landscape and proposed 11 foot screen walls provided for screening purposes will allow for necessary compatibility of the use with any surrounding properties in the general vicinity that would be developed in the future.

With the mitigation measures imposed for noise, air quality, climate change and greenhouse gas emissions, aesthetics and agricultural and traffic impacts, including an approximate 440 foot buffer from the property line of the proposed property preventing development to occur on any of the land planned and zoned for residential development immediately to the south of the subject site, any environmental impacts from the proposed, project and use will be significantly reduced. Said mitigation measures included with the project will lessen environmental impacts on any existing or future properties within the general vicinity of the proposed development

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and project, reduce impacts to public health; safety and welfare, and provide greater compatibility of land uses between the proposed project and surrounding properties in the general vicinity.

5. The project conforms with any applicable provisions of the City's redevelopment plan.

FACT: The project site does not reside in a redevelopment area or within the plan.

C. FEES, DEDICATIONS, RESERVATIONS, AND OTHER EXACTIONS

1. Impact, mitigation and other fees are due and payable under currently applicable ordinances and resolutions. These fees may include but are not limited to: Development impact fee; Stephens Kangaroo Habitat Conservation fee, Underground Utilities in lieu Fee, Area Drainage Plan fee, Bridge and Thoroughfare Mitigation fee (Future) and Traffic Signal Mitigation fee. The final amount of fees payable is dependent upon information provided by the applicant and will be determined at the time the fees become due and payable.

Unless otherwise provided for by this resolution, all impact fees shall be calculated and collected at the time and in the manner provided in Chapter 3.32 of the City of Moreno Valley Municipal Code or as so provided in the applicable ordinances and resolutions. The City expressly reserves the right to amend the fees and the fee calculations consistent with applicable law.

2. DEDICATIONS, RESERVATIONS; AND OTHER EXACTIONS

The adopted Conditions, of Approval for PA07-0091 (Master Plot Plan) incorporated herein by reference, may include dedications, reservations, and exactions pursuant to Government Code Section 66020(d)(1).

3. The City expressly reserves the right to establish, modify or adjust any fee, dedication, reservation or other exaction to the extent permitted and as authorized by law.

Pursuant to Government Code Section 66020(d)(1), NOTICE IS FURTHER GIVEN that the 90 day period to protest the imposition of any impact fee, dedication, reservation, or other exaction described in this: resolution begins on the effective date of this resolution and any such protest must be in a manner that complies with. Section 66020(a) and

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failure to timely follow this procedure will bar any subsequent legal action to attack, review, set aside, void or annul imposition.

Your right to protest the fees, dedications, reservations, or other exactions does, not apply to planning, zoning, grading, or other similar application processing fees or service fees in connection with this project, and it does not apply to any fees, dedication, reservations, or other exactions of which you have been given a notice similar to this nor does it revive challenges to any fees for which the Statute of Limitations has previously expired.

BE IT FURTHER RESOLVED that the City Council **HEREBY APPROVES** Resolution No. 2009-11, **APPROVING** PA07-0091 (Plot Plan) for a 1,820,000 square foot industrial warehouse building with minor interior ancillary commercial/retail and office uses based on the affirmative recommendation of the Adoption and Certification of the Environmental Impact Report Mitigation Monitoring Program and Statement of Overriding Considerations, subject to the attached conditions of approval included as Exhibit A.

APPROVED AND ADOPTED this 10th day of February, 2009

/s/ ILLEGIBLE

Mayor

ATTEST:

/s/ JANE HALSTEAD

City Clerk

APPROVED AS TO FORM:

/s/ ILLEGIBLE

City Attorney

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RESOLUTION JURAT

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF MORENO VALLEY)

I, Jane Halstead, City Clerk of the City of Moreno Valley, California, do hereby certify that Resolution No. 2009-11 was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the 10th day of February, 2009 by the following vote:

AYES: Council Members Batey, Hastings, Molina, Mayor Pro Tem Flickinger and Mayor Stewart

NOES: None

ABSENT: None

ABSTAIN: None

 /s/ JANE HALSTEAD

CITY CLERK

(SEAL)

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**CITY OF MORENO VALLEY
FINAL CONDITIONS OF APPROVAL
PLOT PLAN (PA07-0091)
APN: 488-350-001 through 002 and 488-360-001 through 012.**

APPROVAL DATE:
EXPIRATION DATE:

**February 10, 2009
February 10, 2012**

- Planning (P), including School District (S), Post Office (PO), Building (B)**
- Fire Prevention Bureau (F)**
- Public Works, Land Development (LD)**
- Public Works, Special Districts (SD)**
- Public Works — Transportation Engineering (TE)**
- Parks & Community Services (PCS)**
- Police (PD)**
- Moreno Valley Utilities**
- Other (Specify or Delete)**

Note: All Special conditions are in bold lettering. All other conditions are standard to all or most development projects. All conditions identified as Advisory restate existing codes, ordinances, regulations or policies that apply to the project.

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division

GENERAL CONDITIONS

P1. This approval shall expire three years after the approval date of this project unless used or extended as provided for by the City of Moreno Valley Municipal Code;

Timing Mechanisms for Conditions (see abbreviation at beginning of affected condition):

R — Map Recordation	GP — Grading Permits	CO — Certificate of Occupancy or building final
WP — Water Improvement Plans	BP — Building Permits	P — Any permit

Governing Document (see abbreviation at the end of the affected condition):

GP — General Plan	MC — Municipal Code	CEQA — California Environmental Quality Act
Ord — Ordinance	DG — Design Guidelines	Ldscp — Landscape Development Guidelines and Specs
Res — Resolution	UFC — Uniform Fire Code	UBC — Uniform Building Code
	SBM — Subdivision Map Act	

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otherwise it shall become null and void and of no effect whatsoever. Use means the beginning of substantial construction contemplated by this approval within the three-year period, which is thereafter pursued to completion, or the beginning of substantial utilization contemplated by this approval. (MC 9.02.230) (Advisory)

- P2. The site shall be developed in accordance with the approved plans on file in the Community Development Department — Planning Division, the Municipal Code regulations, General Plan, and the conditions contained herein. Prior to any use of the project site or business activity being commenced thereon, all Conditions of Approval shall be completed to the satisfaction of the City Planning Official. (MC 9.14.020) (Advisory)
- P3. The developer, or the developer's successor-in-interest, shall be responsible for maintaining any undeveloped portion of the site in a manner that provides for the control of weeds, erosion and dust. (MC 9.02.030) (Advisory)
- P4. **A drought tolerant, low water using landscape palette shall be utilized throughout the project.**
- P5. All landscaped areas shall be maintained in a healthy and thriving condition, free from weeds, trash and debris. (MC 9.02.030) (Advisory)
- P6. **Any signs indicated on the submitted plans are not included with this approval. Any signs proposed for this development shall be designed in conformance with the sign provisions of the Development Code or approved sign program, if applicable, and shall require separate application and approval by the Community Development Department — Planning Division. (MC 9.12.020)**
- P7. (GP) All site plans, grading plans, landscape and irrigation plans, fence/wall plans, lighting plans and street improvement plans shall be consistent with this approval. (Advisory)

Prior to Issuance of Grading Permits

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- P8. (GP) Prior to issuance of any grading permit, the developer shall submit for review and approval of a tree plan to the Planning Division. The plan shall identify all mature trees (4 inch trunk diameter or larger) on the subject property and City right-of-way. Using the grading plan as a base, the plan shall indicate trees to be relocated, retained, and removed. Replacement trees shall be: shown on the landscape/irrigation plan; be a minimum size of 24 inch box; and meet a ratio of three replacement trees for each mature tree removed or as approved by the Community Development Director. (GP Objective 4.4, 4.5, DG)
- P9. (GP) Prior to approval of any precise grading permits, plans for any security gate system shall be submitted to the Community Development Department — Planning Division for review and approval.
- P10. (GP) Prior to approval of any grading permits, the developer shall submit final landscape and irrigation plans within the State Highway 60 right-of-way adjacent to the project site consistent with the State Highway 60 Corridor Design Manual. The plans shall be submitted to the Community Development Department — Planning Division for review and approval. (MC 9.14.100)
- P11. (GP) Prior to the issuance of any grading permits and prior to any physical disturbance of any natural drainage course, for any area determined to contain riparian vegetation, the applicant shall obtain a stream bed alteration agreement or permit, or a written waiver of the requirement for such an agreement or permit, from both the California Department of Fish and Game and the U.S. Army Corps of Engineers. Written verification of such a permit or waiver shall be provided to the Community Development Department — Planning Division and the Public Works Department — Land Development Division. (CEQA, State and Federal codes)
- P12. (GP) Prior to issuance of any grading permits, mitigation measures contained in the Mitigation Monitoring Program approved with this project shall be implemented as provided therein. (CEQA) (Advisory)
- P13. (GP) Decorative pedestrian pathways shall be shown on the precise grading plan. (Advisory) (GP Objective 46.8, DG)

- P14. (GP) Prior to issuance of grading permits, the developer shall submit wall/fence plans to the Planning Division for review and approval for all fences and walls required or proposed on site, included, but not limited to the 11 foot screening wall along the perimeter of the site including pilasters and caps or alternative design as approved by the Community Development Director. (MC 9.08.070)**
- P15. (GP) Prior to approval of a precise grading plan, final landscaping and irrigation plans shall be submitted to the Community Development Department — Planning Division for review. All landscape plans shall be approved prior to the release of any building permits for the site. After the third plan check review for landscape plans, an additional plan check fee shall apply. The plans shall be prepared in accordance with the City's Landscape Standards and Specifications and shall include:
- A. A landscape berm, hedge or a maximum 3 foot decorative wall is required adjacent to parking areas along all public rights-of-way.
 - B. All finger and end planters shall be included at an interval of one per 12 parking stalls, be a minimum 5' x 16', and include additional 12" concrete step-outs and 6" curbing. (MC9.08.230, City's Landscape Standards)
 - C. All diamond planters shall be included at an interval of one per 3 parking stalls.
 - D. Drought tolerant landscape shall be provided.
 - E. Trees shall be planted at an equivalent of one (1) tree per thirty (30) linear feet of building dimension. Trees may be massed for pleasing aesthetic effects.
 - F. **Enhanced landscaping shall be included at all driveway and corner locations as well as along Highway 60 to provide proper screening of trucks.**
 - G. All site perimeter and parking lot landscape and irrigation shall be installed prior to the release of certificate of any occupancy permits for the site or pad in question (master plot plan).
 - H. The review of all utility boxes, transformers etc. shall be coordinated to provide adequate screening from public view. (Landscape Guidelines)
 - I. Landscaping on three sides of all trash enclosures shall be provided.
 - J. **Dense landscape (spacing of one tree per 20 feet) shall be placed in front of the wall along all designated yard areas and vines shall be planted at the base of the wall and be directed along said wall.**
 - K. **A minimum size of 36" box mature trees shall be placed along the freeway or northern elevations of the building.**
 - L. **Minimum 24 inch box Eucalyptus Nicholii shall be used for the street**

trees along the Eucalyptus Avenue frontage. Spacing of trees shall be limited to 80 foot on center for parkways and medians in sight line distance areas noted on the plans; however trees to the equivalency of 40 foot on center shall be planted in the parkway for the entire site. Additional denser parkway tree placement (between 25 to 30 feet on center) would be required for areas outside of the line of sight A preferred alternative to placing trees only on the designated parkway landscape areas would be to widen the four foot landscape separation between the sidewalk and trail to 8 feet and reduce the parkway landscape to 8 feet in site line distance areas to provide additional trees within the designated line of sight areas alternating at 80 foot spacing to achieve the overall 40 foot spacing requirement.

M. Focal entries of the site on Eucalyptus Avenue are void of trees and or shrubs on the preliminary landscape plan and they shall be shown on the plans, or alternatively document on the landscape and tree plans that the equivalency of one tree per 30 linear feet of building dimension visible from the parking lot and all public rights of away in addition to on tree per 30 linear feet of parking lot adjacent to the interior property is being met.

PRIOR TO BUILDING PERMITS

- P16. (BP) Prior to issuance of building permits, the Community Development Department — Planning Division shall review and approve the location and method of enclosure or screening of transformer cabinets, commercial gas meters and back flow preventers as shown on the final working drawings. Location and screening shall comply with the following criteria: transformer cabinets and commercial gas meters shall not be located within required setbacks and shall be screened from public view either by architectural treatment or with landscaping; multiple electrical meters shall be fully enclosed and incorporated into the overall architectural design of the building(s); back-flow preventers shall be screened by landscaping that will provide complete screening upon maturity. (GP Objective 43.30, DG) (Advisory)
- P17. (BP) Prior to issuance of building permits, screening details shall be addressed on plans for roof top equipment and trash enclosures submitted for Community Development Department — Planning Division review and approval. All equipment shall be completely screened so as not to be visible from public view, and the screening shall be an integral part of the building. For trash enclosures, landscaping shall be included on at least three sides. The trash enclosure, including any roofing, shall be compatible with the architecture for the building(s).

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(GP Objective 43.6, DG) (Advisory)

- P18. (BP) Prior to issuance of building permits, two copies of a detailed, on-site, computer generated, point-by-point comparison lighting plan, including exterior building, parking lot, and landscaping lighting, shall be submitted to the Community Development Department — Planning Division for review and approval. The lighting plan shall be generated on the plot plan and shall be integrated with the final landscape plan. The plan shall indicate the manufacturer's specifications for light fixtures used and shall include style, illumination, location, height and method of shielding. The lighting shall be designed in such a manner so that it does not exceed 0.5 foot candles illumination beyond at the property line. The lighting level for all parking lots or structures shall be a minimum coverage of one foot-candle of light with a maximum of eight foot-candles. After the third plan check review for lighting plans, an additional plan check fee will apply. (MC 9.08.100, DG) (Advisory)
- P19. (BP) Prior to issuance of building permits, the developer or developer's successor-in-interest shall pay all applicable impact fees, including but not limited to Transportation Uniform Mitigation fees (TUMF), Multi-species Habitat Conservation Plan (MSHCP) mitigation fees, and the City's adopted Development Impact Fees. (Ord) (Advisory)
- P20. (P) Prior to issuance of building permits, final landscaping and irrigation plans shall be approved by the Planning Division prior to the release of any building permits for the site. After the third plan check review for landscape plans, an additional plan check fee shall apply. The plans shall be prepared in accordance with the City's Landscape Standards and Specifications and shall include:
- A. A landscape berm, hedge or a maximum 3 foot decorative wall is required adjacent to parking areas along all public rights-of-way.
 - B. All finger and end planters shall be included at an interval of one per 12 parking stalls, be a minimum 5' x 16', and include additional 12" concrete step-outs and 6" curbing. (MC9.08.230, City's Landscape Standards)
 - C. All diamond planters shall be included at an interval of one per 3 parking stalls.
 - D. Drought tolerant landscape shall be provided.
 - E. Trees shall be planted at an equivalent of one (1) tree per thirty (30) linear feet of building dimension. Trees may be massed for pleasing aesthetic effects.
 - F. **Enhanced landscaping shall be included at all driveway and corner locations as well as along Highway 60 to provide proper screening of trucks.**

G. All site perimeter and parking lot landscape and irrigation shall be installed prior to the release of certificate of any occupancy permits for the site or pad in question (master plot plan).

H. The review of all utility boxes, transformers etc. shall be coordinated to provide adequate screening from public view.
(Landscape Guidelines)

I. Landscaping on three sides of all trash enclosures shall be provided.

J. Dense landscape (spacing of one tree per 20 feet) shall be placed in front of the wall along all designated yard areas and vines shall be planted at the base of the wall and be directed along said wall.

K. A minimum size of 36" box mature trees shall be placed along the freeway or northern elevations of the building.

L. Minimum 24 inch box Eucalyptus Nicholii shall be used for the street trees along the Eucalyptus Avenue frontage. Spacing of trees shall be limited to 80 foot on center for parkways and medians in sight line distance areas noted on the plans; however trees to the equivalency of 40 foot on center shall be planted in the parkway for the entire site. Additional denser parkway tree placement (between 25 to 30 feet on center) would be possible for areas outside of the line of sight. An alternative to placing trees only on the designated parkway landscape areas would be to widen the four foot landscape separation between the sidewalk and trail to 8 feet and reduce the parkway landscape to 8 feet in site line distance areas to provide additional trees within the designated line of sight areas.

M. Focal entries of the site on Eucalyptus Avenue are void of trees and or shrubs on the preliminary landscape plan and they shall be shown on the plans, or alternatively document on the landscape and tree plans that the equivalency of one tree per 30 linear feet of building dimension visible from the parking lot and all public rights of away in addition to on tree per 30 linear feet of parking lot adjacent to the interior property is being met.

P21. Prior to the issuance of building permits, landscape and irrigation plans for common areas maintained by the Property Owner's Association shall be submitted to the Community Development Department — Planning Division. All landscape plans shall be approved prior to the release of any building permits for the site. The plans shall be prepared in accordance with the City's Landscape Development Guidelines. Landscaping is required for the sides and or slopes of all water quality basin and drainage areas, while a hydroseed mix w/irrigation is acceptable for the bottom of the basin areas. All detention basins shall include trees, shrubs and groundcover up to the concreted portion of the basin. A solid decorative wall with pilasters, tubular steel fence

with pilasters or other fence or wall approved by the Community Development Director is required to secure all water quality and detention basins.

- P22. (BP) Prior to the issuance of building permits, the landscape plans shall include landscape treatment for trash enclosures to include landscape on three sides, and trash enclosures shall include decorative enhancements such as an enclosed roof and other decorative features that are consistent with the architecture of the proposed commercial buildings on the site, subject to the approval of the Community Development Director.**
- P23. (BP) Prior to the issuance of building permits, all fences and walls required or proposed on site, shall be approved by the Community Development Director. (MC 9.08.070)**
- P24. (BP) Prior to issuance of a building permit for Phase 1, proof of a driveway reciprocal access easement between Parcels 1 and 4 shall be provided to the Public Works and Community Development Department.**
- P25. (BP) Downspouts will be interior to the building, or if exterior, integrated into the architecture of the building to include compatible colors and materials to the satisfaction of the Community Development Director. This item shall be noted on the final plot plan drawings.
- P26. (BP) Prior to the issuance of building permits, evidence of a reciprocal access easement agreement for Parcel 4, including the maintenance of trees and other landscape materials would be required.**
- P27. (BP) Prior to the issuance of building permits, a full elevation set, including the northeast focal point of the building adjacent to Highway 60 and Theodore Street, shall be submitted. Said elevations shall be reviewed and approved by the Planning Commission prior to the release of any building permits.**
- P28. (BP) Prior to the issuance of building permits, the precise grade or final landscape plans shall include decorative paving at all driveway locations.**

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PRIOR TO CERTIFICATE OF OCCUPANCY

- P29. (CO) Prior to issuance of Certificates of Occupancy or building final, all required landscaping, buildings, lighting, parking lot improvements including, but limited to paving and striping, and irrigation shall be installed for the required phase. (DC 9.03.040) (Advisory)
- P30. (CO) Prior to the issuance of Certificates of Occupancy or building final, all required and proposed fences and walls shall be constructed and installed for the required phase according to the approved plans on file in the Community Development Department — Planning Division. (MC 9.080.070) (Advisory).
- P31. (BP/CO) Prior to issuance of Certificate of Occupancy or building final, all required landscaping and irrigation, including basins, shall be reviewed by the Community Development Department — Planning Division. The landscaping shall be installed for the required phase in accordance with the City's Landscape Standards the approved landscape plans, and conditions of approval included in the grading and building sections above. (Advisory)
- P32. (CO) All rooftop equipment shall be appropriately screened and not visible from the Highway 60 right of way.**

OTHER CONDITIONS NOT TIED TO GRADING BUILDING OR OCCUPANCY

- P33. Loading or unloading activities shall be conducted from the truck bays or designated loading areas only. (MC 9.10.140, CEQA) (Advisory)**
- P34. Three building phases are included under Tentative Parcel Map No. 35629, while a plot plan (PA07-0091) has been included for Phase 1. All development under Phases 2 and 3 (Parcels 2, 3 and 4) would require submittal of separate plot plans and review and approval from the Planning Commission.**

MITIGATION MEASURES

- P35. MM A-1 — During project construction, the construction site manager or supervisor shall ensure that construction lighting shall be limited to lighting within the work area and light trespass shall be avoided through directional lighting, shielding, and other similar control measures.**

P36. MM A-2. Enhanced architectural and landscaping treatment shall be utilized along the building frontage with State Route (SR) 60 to minimize or soften views of long expanses of the upper elevations of buildings. Examples of alternative treatment measures may include, but not be limited to the following:

- Use of color; or
- Texture variation; or
- Roof line variation.

P37. MM AQ-1. Prior to construction of the project, the project applicant shall comply with SCAQMD Rule 403 by providing a Fugitive Dust Control Plan that describes the application of best management practices to control fugitive dust during construction. Best management practices shall include:

- Application of water on disturbed soils a minimum of three times per day;
- Covering haul vehicles;
- Replanting disturbed areas as soon as practical;
- Restricting vehicle speeds on unpaved roads to 15 mph;
- Suspension of all grading activities during high wind speeds in excess of 25 mph.
- A Large Operation notification shall be submitted to the SCAQMD prior to construction.
- Project applicant to designate a person(s) to monitor the dust control program and to order increased watering, as necessary.
- Post a sign with the telephone number and person to contact regarding dust complaints. The person shall take corrective action within 24 hours.
- Complete all roadways, driveways, sidewalks, etc. as soon as possible; building pads should be developed as soon as possible after grading unless seeding, polymer, water, landscaping, soil binders, or similar means are applied within five working days after grading completion to minimize fugitive dust.
- Street sweeping shall be accomplished as needed to remove soil transport to adjacent areas; sweeping shall require use of equipment certified under SCAQMD Rule 1186.1.

P38. MM AQ-2. The project applicant shall meet CARB standards by assuring use of lowest emission construction equipment reasonably available for use on

this project. The construction fleet average shall meet or exceed Tier II level and the applicant shall provide incentives in the bidding process in selecting construction contractors that propose the lowest-emission construction equipment (i.e., high pressure injectors; smaller engine sizes; electric equipment; gasoline powered equipment with catalytic converters; and alternatively fueled construction equipment).

The applicant shall also provide incentives in the bidding process in selecting grading and construction contractors that propose the use of equipment using Level III diesel particulate filters.

- P39. MM AQ-3. During project construction, construction equipment shall be properly maintained in accordance with manufacturer's specifications; maintenance shall include proper tuning and timing of engines. During maintenance, precautions shall be taken to ensure that fuel is not leaked onto the ground. Equipment maintenance records and equipment design specification data sheets shall be kept onsite during construction and subject to inspection by the SCAQMD.**
- P40. MM AQ-4. During project construction, the project applicant shall require all contractors to turn off all construction equipment and delivery vehicles when not in use or prohibit idling in excess of five (5) minutes.**
- P41. MM AQ-5. Prior to issuance of a grading permit, the project applicant shall provide a traffic control plan to the City of Moreno Valley that will describe in detail safe detours around the project construction site with temporary traffic control (e.g., flag person) during construction-related truck hauling activities, as required by the City. Construction activities that affect traffic flow on the arterial system shall be minimized by scheduling such activities to off-peak hours. Construction truck travel shall be routed to minimize travel on congested streets and near to sensitive receptor areas. Construction traffic shall gain access to the project site via Theodore Street and Eucalyptus Avenue to the greatest extent possible to minimize traffic and dust along Redlands Boulevard. The traffic control plan is primarily intended as a safety measure but also can minimize traffic congestion and delays that increase idling and acceleration emissions. The traffic control plan shall be prepared in accordance with U.S. Department of Transportation Federal Highways Administration Rule on Work Zone Safety 23 CFR 630 Subpart J, Developing and Implementing Traffic Management Plans for Work Zones.**

- P42. MM AQ-6. All paints shall be low VOC paints and applied using either high volume low-pressure (HVLP) spray equipment or by hand application. For a list of low VOC paints, refer to the website www.aqmd.gov/prdas/brochures/paintguide.html.
- P43. MMAQ-7A. Construction Phases. Prior to the issuance of grading permits, the developer shall provide documentation to the City of Moreno Valley indicating that construction workers will be encouraged to carpool to the greatest extent practical, including providing information on park and ride programs available to workers. The project shall also provide for lunch services onsite during construction to minimize the need for offsite vehicle trips. Workers shall be informed in writing and a letter placed on file at the City of Moreno Valley documenting the efforts to encourage carpooling.
- P44. MM AQ-7B. Occupancy. Prior to the issuance of occupancy permits, the project applicant shall provide documentation to the City of Moreno Valley indicating that tenant workers will be encouraged to carpool to the greatest extent practical including providing information on park and ride programs available to employees. Employees shall be informed in writing and a letter placed on file at the City of Moreno Valley documenting the efforts to encourage carpooling.
- P45. MM AQ-8. During project construction, onsite electrical hook-ups shall be provided for electric construction tools including saws, drills and compressors, to minimize the need for diesel powered electric generators.
- P46. MM AQ-9. During construction, rumble or bumper strips or similar best management practices shall be provided where vehicles enter and exit the construction site onto paved roads, or wash off trucks or any equipment leaving the site with each trip.
- P47. MM-AQ-10. Offsite construction improvements shall be limited to an 8-hour day during daylight hours.
- P48. Operations- MM AQ-11. All project entrances shall be posted with signs which state:

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- a) Diesel trucks servicing the project shall not idle for more than 3 minutes; and
 - b) Telephone numbers of the building facilities manager and the California Air Resources Board to report violations.
- P49. MM AQ-12. Electricity shall be provided in the loading dock areas for transportation refrigeration units visiting the site, if any.
- P50. MM AQ-13. A deed restricted area to the south of the project property line, precluding the establishment of sensitive receptors, is required. The documents necessary to execute the deed restriction shall be submitted to the City of Moreno Valley prior to the issuance of a building permit. Prior to the issuance of a Certificate of Occupancy, the area depicted on Exhibit 5.3-1 'Proposed Buffer Area' from the southern property line of the project between Redlands Boulevard and Theodore Street shall be deed-restricted in a manner acceptable to the City of Moreno Valley to preclude the establishment of sensitive receptors including residences, hospitals, convalescent homes, day-care centers, and schools within this area.
- P51. MM AQ-14. Electrical hookups shall be provided for transport refrigeration units within the Commercial component (Phases II and III) to eliminate the need for idling of diesel-powered transport refrigeration units.
- P52. MM AQ-15. The project applicant shall include in all new lease documents the requirement that the tenants shall utilize only trucks using refrigeration units capable of utilizing electrical hook-ups for deliveries to the tenant.
- P53. MM AQ-16. The project applicant shall encourage its tenants to do the following: have a compressed workweek schedule for its employees; include electric powered and/or compressed natural gas fueled trucks and/or vehicles in fleets; require or provide incentives to use California Air Resources Board certified particulate filters that meet level III requirements; use "clean" trucks, such as 2007 or newer model year or 2010 compliant; use electric yard trucks; use trucks with a SmartWay 1.25 rating; and electrify auxiliary power units. The applicant shall provide documentation of its efforts to the satisfaction of the City.
- P54. MM AQ-17. The project shall be designed such that the check-in point for trucks is inside the facility property to ensure that there are no trucks queuing

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outside the facility.

- P55. MM AQ-18, Food services shall be provided onsite.**
- P56. MM AQ-19. Prior to the Issuance of Occupancy Permits, written evidence shall be provided to the Planning and Transportation Engineering Divisions that the project applicant shall include in all new lease documents the requirement that the tenant shall provide employees with incentives for carpooling or impose a parking fee.**
- P57. MM AQ-20. The property owners association shall maximize use of electrical equipment for landscape maintenance.**
- P58. MM AQ-21. Prior to the issuance of a certificate of occupancy for Phase 3, traffic signals, including interconnect hardware installed, or paid for, in whole or in part, by the project applicant shall be synchronized by the applicant, to the satisfaction of the City Engineer.**
- P59. MM BR-1. To avoid impacts to nesting birds covered under the MBTA, vegetation removal activities involving established perennial vegetation located in the urban/developed plant community shall be avoided during avian nesting season (February 15 through August 31). If the nesting season cannot be avoided, a nesting bird survey shall be provided no more than thirty (30) days prior to vegetation removal activities. If no active nests are observed, construction activity may proceed with no further monitoring. If active nests are observed, a biological monitor shall be present during any construction activity within the vicinity of the nest. Construction activity may encroach within the vicinity of the nesting birds at the discretion of the biological monitor. Construction activity may proceed once the nestlings have fledged the nest.**
- P60. MM BR-2. (GP) Prior to issuance of a grading permit, the applicant shall pay the mandatory mitigation fee for the SKRHCP, The mitigation fee is a per/acre fee based on the entire property footprint and is used to purchase land that contains occupied Stephens' kangaroo rat habitat for the purpose of conserving a large core population.**

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- P61. MM BR-3. (GP) A pre-construction clearance survey for burrowing owl shall be provided. The pre-construction survey shall be conducted by a qualified biologist no more than thirty (30) days prior to any grading or ground disturbing activities.**

If construction is to be initiated during the breeding season (February 1 through August 31) and burrowing owl is determined to occupy any portion of the study area during the 30-day pre-construction survey, consultation with the CDFG and USFWS shall take place and no construction activity shall take place within 500 feet of an active nest/burrow until it has been determined that the nest/burrow is no longer active, and all juveniles have fledged the nest/burrow. No disturbance to active burrows shall occur without appropriate permitting through the MBTA and/or CDFG.

If active burrowing owl burrows are detected outside the breeding season (September through January), or within the breeding season but owls are not nesting or in the process of nesting, passive relocation may be conducted following consultation with the CDFG and USFWS. Construction activity may occur within 500 feet of the active nests at the discretion of the biological monitor,

- P62. MM BR-4. (GP) Prior to issuance of a building permit, the applicant shall pay the mandatory mitigation fee for the MSHCP. The mitigation fee is a per unit fee based on the residential development and a per square feet fee based on commercial or industrial development. This will satisfy mitigation required for Impact 5.4-5 and 5.4-6.**
- P63. MM CR-1. (GP) Prior to the issuance of a grading permit, a City-approved Project Archaeologist shall be retained to initiate and supervise cultural resource mitigation-monitoring during project-related earth moving in all areas of the project, subject to certain constraints found in MM CR-2.**
- P64. MM CR-2. Project-related archaeological monitoring shall include the following constraints:**
- 1. All construction-related earth moving shall be monitored to a depth of ten (10) feet below grade by the Project Archaeologist or his/her designated representative;**

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2. Once 50 percent of the earth to be moved has been examined by the Project Archaeologist, the Project Archaeologist may, at his or her discretion, terminate monitoring if and only if no buried cultural resources have been detected;
 3. If buried cultural resources are detected during monitoring, monitoring must continue until 100 percent of virgin earth within the study area has been disturbed and inspected by the Project Archaeologist or his/her designated representative.
 4. Grading shall cease in the area of a cultural artifact or potential cultural artifact as delineated by the Project Archaeologist or his/her designated representative. Grading should continue in other areas of the site while particular find are investigated; and
 5. If cultural artifacts are uncovered during grading, they shall be examined by a professional archaeologist subject to MM CR-3, and decisions shall be made as to mitigation, treatment and/or disposition in consultation with the culturally affiliated Tribe(s), as determined by the City. A mitigation-monitoring report must accompany the artifacts.
- P65. MM CR-3. Should buried prehistoric cultural resources be encountered during monitoring, the resources shall be evaluated for significance in consultation with the culturally affiliated Tribe(s), as determined by the City, following CEQA Guidelines prior to continuance of grading in the area.
- P66. MM CR-4. The City of Moreno Valley shall designate culturally affiliated Tribe(s) to monitor the project. Qualified representatives of the Tribal Group(s) shall be granted access to the project site to monitor all activities monitored by the Project Archaeologist.
- P67. MM CR-5. (GP) Prior to the issuance of a grading permit, a City-approved Project Paleontologist shall be retained to initiate and supervise paleontological mitigation-monitoring in all areas of the project, subject to certain constraints found below:
1. Once excavations reach ten (10) feet in depth, monitoring of excavation in areas identified as likely to contain paleontologic resources by a

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qualified paleontologic monitor or his/her representative must take place.

2. Paleontological monitors shall be equipped to salvage fossils as they are unearthed to avoid construction delays and to remove samples of sediments that are likely to contain the remains of small fossil invertebrates and vertebrates.
3. Monitors shall be empowered to temporarily halt or divert equipment to allow removal of abundant or large specimens, and,
4. Monitoring may be reduced if the potentially fossiliferous units described herein are not present, or, if present, are determined upon exposure and examination by qualified paleontologic personnel to have low potential to contain fossil resources.

P68. MM CR-6. Although considered unlikely, there is always the possibility that ground-disturbing activities may uncover previously unknown human remains. Should this occur, Section 7050.5 of the California Health and Safety Code applies, and the following procedures shall be followed.

In the event of an accidental discovery or recognition of any human remains, California Health & Safety Code 7050.5 and California Public Resource Code (PRC) Section 5097.98 must be followed. In this instance, once project-related earthmoving begins and if there is accidental discovery or recognition of any human remains, the following steps shall be taken:

1. There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until a determination as to disposition and treatment is made. The Riverside County Coroner shall be contacted to determine if the remains are Native American and if an investigation of the cause of death is required. If the coroner determines the remains to be Native American, the coroner shall contact the NAHC within 24 hours to allow the NAHC to identify the person or persons it believes to be the “most likely descendant” (MLD) of the deceased Native American. The MLD may make recommendations and enter into consultation with the landowner, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in PRC Section 5097.98.

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- P69. The project will be subject to the City's Grading Ordinance and all applicable California Building Codes. MM GEO-1. During excavation and grading activities a qualified engineering geologist shall observe the in-grading excavation to confirm the absence of any fault features within the building site. If any currently unknown fault features are observed, such features shall be evaluated by the geologist and, if determined necessary, remediation measures or other measures as appropriate shall be implemented to address such features in accordance with applicable City and State requirements. The geologist's record of observations shall be summarized in a final report to be submitted to the City at the conclusion of excavation/grading activities.
- P70. MM HH-1. The fire protection system shall be designed per National Fire Protection Agency (NFPA) 13 to provide an Early Suppression Fast Response (ESFR) sprinkler system protection. Temperature rating of sprinkler heads to be per the Fire Department's requirements.
- P71. MM HH-2. A complete on-site fire protection underground system shall be provided per NFPA 24 and specific requirements of the local authorities. This system shall include hydrants, sectional valves, backflow prevention, and Fire Department connections.
- P72. MM HH-3. Riser assemblies shall include mechanical alarm valves. System control valves shall either be riser mounted with wall post extensions or exterior post indicator valves as required by the local authority. All required devices for central station alarm system interface shall be provided.
- P73. MM HH-4. System design, material, and installation shall comply with NFPA 13 and the other previous NFPA standards. It shall also comply with CBC and UFC standards. Approvals will also be obtained from the owner's insurance authority.
- P74. MM LU-1. A deed restricted area to the south of the project property line, precluding the establishment of sensitive receptors, is required. The documents necessary to execute the deed restriction shall be submitted to the City of Moreno Valley prior to the issuance of a building permit. Prior to the issuance of a Certificate of Occupancy, the area depicted on Exhibit 5.3-1 'Proposed Buffer Area' from the southern property line of the project between Redlands Boulevard and Theodore Street shall be deed-restricted in a manner

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acceptable to the City of Moreno Valley to preclude the establishment of sensitive receptors including residences, hospitals, convalescent homes, day-care centers, and schools within this area. (MM AQ-13)

- P75. **MM N-1. No Construction Vehicles on Redlands Boulevard south of Future Eucalyptus Avenue. Other than construction vehicles necessary for identified offsite improvements within Redlands Boulevard, no construction vehicles shall be allowed in the vicinity of any residences on Redlands Boulevard south of existing Fir/future Eucalyptus Avenue. The prohibition for construction traffic shall apply to all phases of the proposed project.**
- *P76. **MM N-2. No nighttime grading or construction within 1,200 Feet of Residences south of Future Eucalyptus Avenue. City grading hours are from 7 a.m. to 8 p.m., Monday through Friday. No grading or construction activities shall occur at night (8 p.m. to 7 a.m.) within 1,200 feet from any noise-sensitive land uses (i.e. occupied residences including yard areas, schools, etc.) located south of SR-60 (Exhibit 5.11-6 shows the current location of occupied residences). Prior to the issuance of a grading permit, the project applicant shall submit a Noise Reduction Compliance Plan (NRCP) to the City as part of the grading permit submittal showing the limits of nighttime construction based on the location of occupied residential dwellings and their associated parcels, and other noise sensitive uses. The limits of nighttime grading or construction shall be shown on the NRCP and grading plan submitted to the City.**

The limits of construction allowed at night shall be staked or posted on site, and contractors will be provided with a copy of the plan showing the limits of nighttime construction.

In the event any new residential units or other noise sensitive land uses are built and occupied in the vicinity of the project site prior to completion of Phase 1 construction, nighttime construction and grading activities shall be prohibited within 1,200 feet of such residences. Compliance shall be demonstrated through a modification of the NRCP.

With the implementation of this mitigation measure, the loudest noise level that would be experienced at any developed residential parcel would be less than 55 dBA (Leq) during the nighttime, and this level would be consistent with the limits established in the City's Noise Ordinance. Compliance with these standards during Phase 1 construction of the project should be assured

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through the Noise Reduction Compliance Plan (NRCP) and periodic monitoring of noise levels at developed residential parcels within 1,200 feet of the project site.

- P77. **MM N-3. Daytime Construction Noise.** City grading hours are from 7 a.m. to 8 p.m., Monday through Friday. If project site grading activities must occur within 560 feet of noise-sensitive land uses during the daytime (7 a.m. to 8 p.m.), then temporary sound barriers of sufficient height and density to reduce daytime noise levels to 60 dBA (Leq) or less shall be placed between the grading activities and the noise-sensitive land uses. Prior to the issuance of a grading permit, the developer shall submit a NRCP to the City as part of the grading permit submittal showing the limits of daytime construction based on the 560 foot setback in relation to the location of occupied residential dwellings and their associated parcels and other noises sensitive uses.

In the event any new residential units or other noise sensitive land uses are built and occupied in the vicinity of the project site prior to completion of Phase 1 construction, the NRCP shall be modified to show a the revised new 560 foot setback for day time construction and grading activities in relation to the new residences.

With the implementation of this mitigation measure the loudest noise level that would be experienced at any developed residential parcel would be less than 60 dBA (Leq) during the daytime, and these levels would be consistent with the limits established in the City's Noise Ordinance. Compliance with these standards during Phase 1 construction of the project should be assured through the NRCP and periodic monitoring of noise levels at developed residential parcels within 560 feet of the project site. This mitigation measure does not apply to off-site construction.

- P78. **MM N-4. Require Equipment Maintenance.** All construction equipment shall be maintained in good working order and fitted with the appropriate silencers, mufflers or acoustic covers where applicable.
- P79. **MM N-5. Locate Material Stockpiles 1,200 Feet from Residences south of the Freeway.** Material stockpiles shall be located at least 1,200 feet from residences south of future Eucalyptus Avenue along Theodore Street and Redlands Boulevard. Remotely locating the stockpiles reduces the noise at the residences from equipment traveling to and from the stockpiles and the

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noise that is sometimes associated with handling of material.

- P80. MM TT-1. (CO)** Prior to issuance of Certificate of Occupancy for Phase 1, turn lanes shall be improved along Theodore Street at SR-60 and at Eucalyptus Avenue. In addition, minor pavement shall be added to the Eastbound and West bound State Route 60 Freeway ramp intersections with Theodore Street to accommodate truck turning movements. These proposed improvements should enhance safety and improve mobility between the freeway and Eucalyptus Avenue.
- P81. MM TT-2.** Concurrent with the submittal of the plot plan for Phase 3 of the proposed project, the project applicant shall submit a supplemental traffic study assessing the project's contribution to the traffic impacts at the Redlands Boulevard intersection with SR-60 ramps, as well as Theodore Street at SR-60. Approval of the supplemental traffic study must occur prior to the approval of entitlements for the Phase 3 Plot Plan. The project applicant shall contribute to the costs of the interim intersection improvements required to provide adequate capacity for all phases of the project. Said contribution shall be on a fair-share basis considering the buildout of adjacent areas. Payment of such costs shall be provided prior to the issuance of a building permit for Phase 3. If the timing of Phase 3 of the project precedes the planned interim improvements, the project shall be required to construct interim improvements needed to provide adequate capacity to serve the project.
- P82. MM TT-3.** The project applicant shall construct the easterly leg of the intersection located at Redlands Boulevard and Eucalyptus Avenue at the ultimate design required to provide adequate capacity for all phases of the project and buildout of the adjacent areas. The design tentatively consists of a dedicated westbound left turn lane, two westbound through lanes and a dedicated westbound right turn lane. Final geometries shall be determined after receiving the supplemental traffic study identified in MM TT 2. Construction of required improvements shall be completed prior to the issuance of occupancy permits for Phase 3 of the project.
- P83. MM TT(C)-1. (CO)** Prior to issuance of certificate of occupancy for Phase 1 of the project, turn lanes shall be provided along Theodore Street at SR-60 and at Eucalyptus Avenue. In addition, minor pavement shall be added to the

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Eastbound and West bound State Route 60 Freeway ramp intersections with Theodore Street to accommodate truck turning movements These proposed improvements should enhance safety and improve mobility between the freeway and Eucalyptus Avenue.

- P84. MM TT(C)-2. The short-range analysis shows project impacts at the Redlands Boulevard interchange and at the Redlands Boulevard/Eucalyptus Avenue intersection. At the interchange, improvements are planned and the project shall participate on a fair share basis if private funding is needed. If the timing of Phase 3 of the project precedes the planned interchange improvements, the project shall contribute to interim improvement to provide adequate capacity until the ultimate improvements are completed. These interim improvements include additions of left and right turn lanes at Redlands Boulevard, SR 60 Ramps, and Eucalyptus Avenue. The interim improvements would be the shared responsibility of the proposed project and cumulative projects. Fair share participation and/or contribution to interim improvements, as applicable, shall be required prior to the issuance of a building permit for Phase 3 of the project
- P85. MM TT(C)-3. At the time of the submittal of the plot plan for Phase 3 of the proposed project, the applicant shall submit a supplemental traffic study assessing the project's contribution to the impacts at the Redlands Boulevard intersection with SR-60 ramps, as well as Theodore Street at SR-60. The developer shall contribute to the costs on a fair share basis of the intersection improvements required to provide adequate capacity for all phases of the project and buildout of the adjacent areas. If the timing of Phase 3 of the project precedes the planned improvements, the project shall be required to construct interim improvements to provide adequate capacity until the ultimate improvements are completed.
- P86. MM W-1. Prior to issuance of a Precise Grading Permit, Planting and Irrigation Plans shall be submitted for review and prior to the issuance of a building permit, approved by the City. Such plans shall contain the following components:
- The plans shall incorporate water conservation principles as detailed in the Moreno Valley Municipal Code § 9.17.030 Landscape and irrigation design standards.

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- Plant types shall be grouped together according to their water, soil, sun and shade requirements and in relationship to the buildings. Plants with different water needs shall be irrigated separately.
- Plans shall be designed in accordance with soil tests to determine appropriate specifications of soil amendments and to facilitate selection of water-efficient plant species suitable for the site. Soil amendments such as compost shall be provided to improve water-holding capacity of soil, where soil conditions warrant.
- All exposed surfaces of non-turf areas within the developed landscape area shall be mulched with a minimum three inch (3") layer of material, except in areas with groundcover planted from flats where mulch depth shall be one and one half inches (1.5").
- Turf areas shall be limited to public gathering areas and used in compliance with City approved water budget formula(s) and specifications.
- All irrigation systems shall be designed to prevent runoff, over-spray, low head drainage (occurs where sprinkler systems are installed in sloped areas) and other similar conditions where water flows offsite on to adjacent property, non-irrigated areas, walk, roadways, or structures. Irrigation systems shall be designed, constructed, managed, and maintained to achieve as high an overall efficiency as possible.
- Landscaped areas shall be provided with a) smart irrigation controllers which automatically adjusts the frequency and/or duration of irrigation events in response to changing weather conditions; b) rain-sensing devices to prevent irrigation during rainy weather; c) anti-drain check valves installed at strategic points to minimize or prevent low-head drainage; and d) pressure regulators when the static water pressure exceeds the maximum recommended operating pressure of the irrigation system.
- The planting areas shall be grouped in relation to moisture control zones based on similarity of water requirements (i.e., turf separate from shrub and groundcover, full sun exposure areas separate from shade areas; top of slope separate from toe of slope).

P87. MM GCC-1. The project shall be designed to meet applicable 2008 Title 24 energy efficiency requirements, or any more stringent requirements that may be adopted prior to the issuance of building permits for the project.

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- P88. MM GCC-2. All buildings shall be designed with “cool roofs” using products certified by the Cool Roof Rating Council, and exposed roof surfaces shall use “cool paints.”
- P89. MM GCC-3. The project shall install a photovoltaic array (solar panels) or other source of renewable energy generation on-site, or otherwise acquire energy from the local utility that has been generated by renewable sources, to meet the project’s Phase 1 office electricity needs.
- P90. MM GCC-4. The design and operation of the project shall use ENERGY STAR-qualified energy efficient products for heating and cooling systems, and for built-in appliances and lighting.
- P91. MM GCC-5. To reduce vehicle miles traveled and emissions associated with trucks and vehicles, the following measures shall be implemented to the satisfaction of the Community Development Director, Public Works Director, Building Official and Transportation Division Manager:
- a) Onsite secure, weather-protected bicycle storage parking shall be provided. Onsite showers (one for males and one for females) and lockers for employees shall be provided in each building. Onsite convenient bicycle parking shall be provided for retail customers.
 - b) Any traffic lights installed as part of this project shall use Light Emitting Diodes.
 - c) Pedestrian and bicycle connections shall be provided to surrounding areas consistent with the Existing General Plan.
 - d) A Transportation Management Association (TMA) shall be established for the project by the applicant. The TMA shall coordinate its efforts with other TMAs in the City and encourage and coordinate carpooling by occupants of the project. The TMA shall advertise its services to the building occupants. The TMA shall offer transit or other incentives to the employees to reduce greenhouse gas emissions. A shuttle shall be provided during any one hour period where the number of employees using public transit exceeds 20 during the period. The TMA shall distribute public transportation information to its employees. The TMA shall provide electronic message board space for coordinating rides.

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Within two months after project completion, the TMA shall submit a plan to the City that outlines the measures the TMA has implemented and contact information.

- e) There shall be preferential parking for carpools, vanpools, and alternatively fueled vehicles.

P92. MM GCC-6. The project shall provide a minimum of two electric vehicle-charging stations.

P93. MM GCC-7. During onsite construction phases of mass grading, fine grading, and building (excluding asphalt paving, trenching, and offsite improvements), off-road construction equipment shall use biodiesel fuel (a minimum of B20, or 20 percent of biodiesel). Construction equipment exempt from this measure include those with warranties that would be voided if B20 biodiesel fuel is used. Prior to issuance of grading permits, the applicant shall provide documentation to the City that verifies that certain equipment are exempt; that a biodiesel supply has been secured; and that the construction contractor is aware that the use of biodiesel is required.

P94. MM GCC-8. Prior to issuance of a grading permit, the project shall have in place a City-approved Solid Waste Diversion and Recycling Plan that demonstrates the diversion and recycling of all salvageable and re-useable wood, metal, plastic and paper products used during project construction. A similar Plan shall be in place prior to occupancy that demonstrates the diversion and recycling of all wood, metal, plastic and paper products during on-going operation of the warehouse and office portions of the project. The Plans shall include the name of the waste hauler, their assumed destination for all waste and recycled materials, and the procedures that will be followed to ensure implementation of this measure.

P95. MM GCC-9. The project shall be certifiable under Leadership in Energy and Environmental Design (LEED). The project shall obtain the following credits from the LEED for New Construction & Major Renovations, version 2.2 (or equivalent): Sustainable Sites Credit 7.1: Heat Island Effect, Non-Roof; LEED Energy & Atmosphere Credit 1, Optimize Energy Performance, in part through installing skylights and utilizing energy efficient lighting. Demonstration of

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certifiability shall be provided to the satisfaction of the City, prior to the issuance of building permits.

- P96. MM GCC-10. The project shall be designed to accommodate trucks utilizing “SmartWay Truck Efficiency” emission reduction features. Trailer tails (extenders) are incompatible with loading docks and are exempt from this measure.
- P97. MM GCC-11. Every truck that enters the site with a gross vehicle weight rating over 10,000 pounds shall have an Engine Certification Label. If it does not have the label, it shall be prohibited from entering the project site.

Building and Safety Division

- B1. The above project shall comply with the current California Codes (CBC, CEC, CMC and the CPC) as well as all other city ordinances. All new projects shall provide a soils report. Plans shall be submitted to the Building Department as a separate submittal.

COMMERCIAL, INDUSTRIAL, MULTI-FAMILY PROJECTS INCLUDING CONDOMINIUMS, TOWNHOMES, DUPLEXES AND TRIPLEX BUILDINGS REQUIRE THE FOLLOWING.

Prior to final inspection, all plans will be placed on a CD Rom for reference and verification. Plans will include “as built” plans, revisions and changes. The CD will also include Title 24 energy calculations, structural calculations and all other pertinent information. It will be the responsibility of the developer and or the building or property owner(s) to bear all costs required for this process. The CD will be presented to the Building Department for review prior to final inspection and building occupancy. The CD will become the property of the Moreno Valley Building Department at that time. In addition, a site plan showing the path of travel from public right of way and building to building access with elevations will be required. (Advisory)

- B2. (BP) Prior to the issuance of a building permit, the applicant shall submit a properly completed “Waste Management Plan” (WMP), as required, to the Compliance Official (Building Official) as a portion of the building or demolition permit process. (Advisory)

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**PLANNING DIVISION
CONDITIONS OF APPROVAL
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SCHOOL DISTRICT

- S1. (BP) Prior to issuance of building permits, the developer shall provide to the Community Development Director a written certification by the affected school district that either: (1) the project has complied with the fee or other exaction levied on the project by the governing board of the district, pursuant to Government Code Section 65996; or (2) the fee or other requirement does not apply to the project. (Advisory)

UNITED STATES POSTAL SERVICE

- PO1. (BP) Prior to the issuance of building permits, the developer shall contact the U.S. Postal Service to determine the appropriate type and location of mailboxes. (Advisory)

*** Modified by the City Council at their meeting on 2/10/09**

Markg/2007/PA07-0088 thorough PA07-0091

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CITY OF MORENO VALLEY

COMMENTS — PLOT PLAN

Case No: PA07-0088 through PA07-0091 and P07-157

APN: 488-350-001 through 002 and 488-360-001 through 012

DATE: 12/19/08

FIRE PREVENTION BUREAU

1. The following Standard Conditions shall apply.

With respect to the conditions of approval, the following fire protection measures shall be provided in accordance with Moreno Valley City Ordinances and/or recognized fire protection standards:

- F4. During phased construction, dead end roadways and streets which have not been completed shall have a turn-around capable of accommodating fire apparatus. (CFC 503.1 and 503.2.5) (ADVISORY)
- F5. Prior to issuance of Building Permits, the applicant/developer shall provide the Fire Prevention Bureau with an approved site plan for Fire Lanes and signage. (MVMC 8.36.050 and CFC 501.3) (ADVISORY)
- F6. Prior to building construction, all locations where structures are to be built shall have an approved Fire Department emergency vehicular access road (all weather surface) capable of sustaining an imposed load of 80,000 lbs. GVW, based on street standards approved by the Public Works Director and the Fire Prevention Bureau. (CFC 501.4 and MVMC 8.36.050 Section A) (ADVISORY)
- F7. Prior to building construction, fire lanes and fire apparatus access roads shall have an unobstructed width of not less the twenty-four (24) or thirty (30) feet as approved by the Fire Prevention Bureau and an unobstructed vertical clearance of not less the thirteen (13) feet six (6) inches. (CFC 503.2.1.1 and MVMC 8.36.050) (ADVISORY)
- F8. All roads, driveways and private roads shall not exceed 12 percent grade. (CFC 503.2.7 and MVMC 8.36.050) (ADVISORY)
- F9. If construction is phased, each phase shall provide an approved emergency vehicular access way for fire protection prior to any building construction. (CFC 501.4 and MVMC 8.36.050 Section A) (ADVISORY)
- F10. Prior to construction, all locations where structures are to be built shall have an approved Fire Department access based on street standards approved by the Public Works Director and the Fire Prevention Bureau. (CFC 501.3 and MVMC 8.36.050) (ADVISORY)

- F11. Prior to building construction, dead end roadways and streets which have not been completed shall have a turnaround capable of accommodating fire apparatus. (CFC 503.2.5. and MVMC 8.36.050) (ADVISORY)
- F12. Prior to issuance of Building Permits, the applicant/developer shall participate in the Fire Impact Mitigation Program. (Fee Resolution as adopted by City Council)
- F13. Prior to issuance of Building Permits, the applicant/developer shall furnish one copy of the water system plans to the Fire Prevention Bureau for review. Plans shall:
- a) Be signed by a registered civil engineer or a certified fire protection engineer;
 - b) Contain a Fire Prevention Bureau approval signature block; and
 - c) Conform to hydrant type, location, spacing of new and existing hydrants and minimum fire flow required as determined by the Fire Prevention Bureau.

After the local water company signs the plans, the originals shall be presented to the Fire Prevention Bureau for signatures. The required water system, including fire hydrants, shall be installed, made serviceable, and be accepted by the Moreno Valley Fire Department prior to Certificate of occupancy. They shall be maintained accessible. The interim Fire Master Plan (invasion line) will provide temporary fire protection during construction.

Existing fire hydrants on public streets are allowed to be considered available. Existing fire hydrants on adjacent properties shall not be considered available unless fire apparatus access roads extend between properties and easements are established to prevent obstruction of such roads. (CFC 508.1 and MVMC 8.36.100) (ADVISORY)

- F14. Prior to issuance of Certificate of Occupancy or Building Final, "Blue Reflective Markers" shall be installed to identify fire hydrant locations in accordance with City specifications. (CFC 510.1) (ADVISORY)
- F15. Prior to issuance of Certificate of Occupancy or Building Final, all commercial buildings shall display street numbers in a prominent location on the street side and rear access locations. The numerals shall be a minimum of twelve (12) inches in height for buildings and six (6) inches in height for suite identification on a contrasting background. Unobstructed lighting of the address(s) shall be by means approved by the Fire Prevention Bureau and Police Department. In multiple suite centers (strip malls), businesses shall post the name of the business on the rear door(s). (CFC 505.1) (ADVISORY)
- F16. Prior to issuance of Certificate of Occupancy or Building Final, the applicant/developer shall install a fire sprinkler system based on square footage and type of construction, occupancy or use. Fire sprinkler plans shall be submitted to the Fire Prevention Bureau for approval prior to installation. (CFC Chapter 9) (ADVISORY)

- F17. Prior to issuance of Certificate of Occupancy or Building Final, the applicant/developer shall install a fire alarm system monitored by an approved Underwriters Laboratory listed central station based on a requirement for monitoring the sprinkler system, occupancy or use. Fire alarm panel shall be accessible from exterior of building in an approved location. Plans shall be submitted to the Fire Prevention Bureau for approval prior to installation. (CFC Chapter 9 and MVMC 8.36.070) (ADVISORY)
- F18. Prior to issuance of a Certificate of Occupancy or Building Final, a “Knox Box Rapid Entry System” shall be provided. The Knox-Box shall be installed in an accessible location approved by the Fire Chief. The Knox-Box shall be supervised by the alarm system and all exterior security emergency access gates shall be electronically operated and be provided with Knox key switches for access by emergency personnel. (CFC 506.1) (ADVISORY)
- F19. Prior to issuance of Certificate of Occupancy or Building Final, the applicant/developer shall be responsible for obtaining underground and/or above ground tank permits for the storage of combustible liquids, flammable liquids, or any other hazardous materials from both the County of Riverside Community Health Agency Department of Environmental Health and the Fire Prevention Bureau. (CFC 3401.4 and 2701.5) (ADVISORY)
- F20. Prior to issuance of Certificate of Occupancy, approval shall be required from the County of Riverside Community Health Agency (Department of Environmental Health) and Moreno Valley Fire Prevention Bureau to maintain, store, use, handle materials, or conduct processes which produce conditions hazardous to life or property, and to install equipment used in connection with such activities. (CFC 2701.5) (ADVISORY)
- F21. Prior to issuance of Certificate of Occupancy or Building Final, the applicant/developer must submit a simple plot plan, a simple floor plan, and other plans as requested, each as an electronic file in .dwg format, to the Fire Prevention Bureau. Alternate file formats may be acceptable with approval by the Fire Chief.
- F22. The angle of approach and departure for any means of Fire Department access shall not exceed 1 ft drop in 20 ft (0.3 m drop in 6 m), and the design limitations of the fire apparatus of the Fire Department shall be subject to approval by the AHJ. (CFC 503.2.7 and MVMC 8.36.050 Section I) (ADVISORY)
- F23. Prior to issuance of the building permit for development, independent paved access to the nearest paved road, maintained by the City shall be designed and constructed by the developer within the public right of way in accordance with City Standards. (MVMC 8.36.050) (ADVISORY)
- F24. Complete plans and specifications for fire alarm systems, fire-extinguishing systems (including automatic sprinklers or standpipe systems), clean agent systems (or other special types of automatic fire-extinguishing systems), as well as other fire-protection systems and appurtenances thereto shall be submitted to the Moreno Valley Fire Prevention Bureau for review and approval prior to

system installation. Submittals shall be in accordance with CFC Chapter 9 and associated accepted national standards. (ADVISORY)

- F25. A permit is required to maintain, store, use or handle materials, or to conduct processes which, produce conditions hazardous to life or property, or to install equipment used in connection with such activities. Such permits shall not be construed as authority to violate, cancel or set aside any of the provisions of this code. Such permit shall not take the place of any license required by law. Applications for permits shall be made to the Fire Prevention Bureau in such form and detail as prescribed by the Bureau. Applications for permits shall be accompanied by such plans as required by the Bureau. Permits shall be kept on the premises designated therein at all times and shall be posted in a conspicuous location on the premises or shall be kept on the premises in a location designated by the Fire Chief. Permits shall be subject to inspection at all times by an officer of the fire department or other persons authorized by the Fire Chief in accordance with Appendix Chapter 1 and MVMC 8.36.100. (ADVISORY)
- F26. Approval of the safety precautions required for buildings being constructed, altered or demolished shall be required by the Fire Chief in addition to other approvals required for specific operations or processes associated with such construction, alteration or demolition. (CFC Chapter 14) (ADVISORY)
- F27. Prior to issuance of Certificate of Occupancy, permits are required to store, dispense, use or handle hazardous material. Each application for a permit shall include a hazardous materials management plan (HMMP). The location of the HMMP shall be posted adjacent to (other) permits when an HMMP is provided. The HMMP shall include a facility site plan designating the following:
- a) Storage and use areas;
 - b) Maximum amount of each material stored or used in each area;
 - c) Range of container sizes;
 - d) Locations of emergency isolation and mitigation valves and devices;
 - e) Product conveying piping containing liquids or gases, other than utility-owned fuel gas lines and low-pressure fuel gas lines;
 - f) On and off positions of valves for valves which are of the self-indicating type;
 - g) Storage plan showing the intended storage arrangement, including the location and dimensions of aisles. The plans shall be legible and approximately to scale. Separate distribution systems are allowed to be shown on separate pages; and h) Site plan showing all adjacent/neighbor structures and use.
 - h) Site plan showing all adjacent/neighbor structures and use.

NOTE: Each application for a permit shall include a hazardous materials inventory statement (HMIS). (ADVISORY)

- F28. Before a Hazardous Materials permit is issued, the Fire Chief shall inspect and approve the receptacles, vehicles, buildings, devices, premises, storage spaces or areas to be used. In instances where laws or regulations are enforceable by departments other than the Fire Prevention Bureau, joint approval shall be obtained from all departments concerned. (CFC Appendix H) (ADVISORY)

- F29. Construction or work for which the Fire Prevention Bureau's approval is required shall be subject to inspection by the Fire Chief and such construction or work shall remain accessible and exposed for inspection purposes until approved. (CFC Section 106) (ADVISORY)
- F30. The Fire Prevention Bureau shall maintain the authority to inspect, as often as necessary, buildings and premises, including such other hazards or appliances designated by the Fire Chief for the purpose of ascertaining and causing to be corrected any conditions which would reasonably tend to cause fire or contribute to its spread, or any violation of the purpose or provisions of this code and of any other law or standard affecting fire safety. (CFC Section 106) (ADVISORY)
- F31. Permit requirements issued, which designate specific occupancy requirements for a particular dwelling, occupancy, or use, shall remain in effect until such time as amended by the Fire Chief. (CFC Section 104) (ADVISORY)
- F32. In accordance with the California Fire Code Appendix Chapter 1, where no applicable standards or requirements are set forth in this code, or contained within other laws, codes, regulations, ordinances or bylaws adopted by the jurisdiction, compliance with applicable standards of the National Fire Protection Association or other nationally recognized fire safety standards as are approved shall be deemed as prima facie evidence of compliance with the intent of this code as approved by the Fire Chief. (CFC Section 102.7) (ADVISORY)
- F33. Any alterations, demolitions, or change in design, occupancy and use of buildings or site will require plan submittal to the Fire Prevention Bureau with review and approval prior to installation. (CFC Appendix Chapter 1) (ADVISORY)
- F34. Prior to installation, Emergency and Fire Protection Plans shall be provided when required by the Fire Prevention Bureau. (CFC Section 105) (ADVISORY)
- F35. Prior to Certificate of Occupancy all locations where medians are constructed and prohibit vehicular ingress/egress into or away from the site, provisions must be made to construct a median-crossover at all locations determined by the Fire Marshal and the City Engineer. Prior to the construction, design plans will be submitted for review and approval by the City Engineer and all applicable inspections conducted by Land Development Division.
- F36. Prior to construction, all traffic calming designs/devices must be approved by the Fire Marshal and City Engineer.

**CITY OF MORENO VALLEY
PUBLIC WORKS DEPARTMENT — LAND DEVELOPMENT DIVISION
CONDITIONS OF APPROVAL
PA07-0088 Change of Zone
PA07-0089 General Plan Amendment
PA07-0091 Plot Plan
APN 488-350-001, 002 and APN 488360-001 thru -012**

Note: All Special Conditions are in **Bold** lettering and follow the standard conditions.

PUBLIC WORKS DEPARTMENT — LAND DEVELOPMENT DIVISION

The following are the Public Works Department — Land Development Division Conditions of Approval for this project and shall be completed at no cost to any government agency. All questions regarding the intent of the following conditions shall be referred to the Public Works Department — Land Development Division.

General Conditions

- LD1. (G) The developer shall comply with all applicable City ordinances and resolutions including the City's Municipal Code (MC) and if subdividing land, the Government Code (GC) of the State of California, specifically Sections 66410 through 66499.58, said sections also referred to as the Subdivision Map Act (SMA). (MC 9.14.010) (Advisory)
- LD2. (G) If the project involves the subdivision of land, maps may be developed in phases with the approval of the City Engineer. Financial security shall be provided for all improvements associated with each phase of the map. The boundaries of any multiple map increment shall be subject to the approval of the City Engineer. The City Engineer may require the dedication and construction of necessary utilities, streets or other improvements outside the area of any particular map, if the improvements are needed for circulation, parking, access, or for the welfare or safety of the public. (MC 9.14.080, GC 66412 and 66462.5) if the project does not involve the subdivision of land and it is necessary to dedicate right-of-way/easements, the developer shall make the appropriate offer of dedication by separate instrument. The City Engineer may require the construction of necessary utilities, streets or other improvements beyond the project boundary, if the improvements are needed for circulation, parking, access, or for the welfare or safety of the public. (Advisory)
- LD3. (G) It is understood that the plot plan correctly shows all existing easements, traveled ways, and drainage courses, and that their omission may require the map or plans associated with this application to be resubmitted for further consideration. (MC 9.14.040) (Advisory)
- LD4. (G) In the event right-of-way or offsite easements are required to construct offsite improvements necessary for the orderly development of the surrounding

area to meet the public health and safety needs, the developer shall make a good faith effort to acquire the needed right-of-way in accordance with the Land Development Division's administrative policy. In the event that the developer is unsuccessful, he shall enter into an agreement with the City to acquire the necessary right-of-way or offsite easements and complete the improvements at such time the City acquires the right-of-way or offsite easements which will permit the improvements to be made. The developer shall be responsible for all costs associated with the right-of-way or easement acquisition per the Subdivision Map Act. (GC 66462.5) (Advisory)

- LD5. (G) If improvements associated with this project are not initiated within two years of the date of approval of the Public Improvement Agreement, the City Engineer may require that the improvement cost estimate associated with the project be modified to reflect current City construction costs in effect at the time of request for an extension of time for the Public Improvement Agreement or issuance of a permit. (Advisory)
- LD6. (G) The developer shall monitor, supervise and control all construction and construction supportive activities, so as to prevent these activities from causing a public nuisance, including but not limited to, insuring strict adherence to the following:
- a. Removal of dirt, debris, or other construction material deposited on any public street no later than the end of each working day.
 - b. Observance of working hours as stipulated on permits issued by the Public Works Department.
 - c. The construction site shall accommodate the parking of all motor vehicles used by persons working at or providing deliveries to the site.
 - d. All dust control measures per South Coast Air Quality Management District (SCAQMD) requirements shall be adhered to during the grading operations.

Violation of any condition or restriction or prohibition set forth in these conditions shall subject the owner, applicant, developer or contractor(s) to remedies as noted in the City Municipal Code 8.14.090. In addition, the City Engineer or Building Official may suspend all construction related activities for violation of any condition, restriction or prohibition set forth in these conditions until such time as it has been determined that all operations and activities are in conformance with these conditions. (Advisory)

- LD7. (G) The developer shall protect downstream properties from damage caused by alteration of drainage patterns, i.e., concentration or diversion of flow. Protection shall be provided by constructing adequate drainage facilities, including, but not limited to, modifying existing facilities or by securing a drainage easement. (MC 9.14.110) (Advisory)

- LD8. (G) Public drainage easements, when required, shall be a minimum of 25 feet wide and shall be shown on the map and plan, and noted as follows: "Drainage Easement — no structures, obstructions, or encroachments by land fills are allowed." In addition, the grade within the easement area shall not exceed a 3:1 (H:V) slope, unless approved by the City Engineer. (Advisory)
- LD9. (G) A detailed drainage study shall be submitted to the City Engineer for review and approval at the time of any improvement or grading plan submittal. The study shall be prepared by a registered civil engineer and shall include existing and proposed hydrologic conditions. Hydraulic calculations are required for all drainage control devices and storm drain lines. (MC 9.14.110) (Advisory)
- LD10. (G) The final conditions of approval issued by the Planning Division subsequent to Planning Commission approval shall be photographically or electronically placed on mylar sheets and included in the Grading and Street Improvement plan sets on twenty-four (24) inch by thirty-six (36) inch mylar and submitted with the plans for plan check. These conditions of approval shall become part of these plan sets and the approved plans shall be available in the field during grading and construction. (Advisory)
- LD11. (G) Upon approval of the plot plan by the Planning Commission, the Developer shall submit the approved plot plan on compact disk in (.dxf) digital format to the Land Development Division of the Public Works Department. (Advisory)

Prior to Grading Plan Approval or Grading Permit

- LD12. (GPA) The grading plans, plans shall be drawn on twenty-four (24) inch by thirty-six (36) inch mylar and signed by a registered civil engineer and other registered/licensed professional as required. (Advisory)
- LD13. (GPA) Grading plans shall comply with the City Grading ordinance, these Conditions of Approval and the following criteria:
- a. The project street and lot grading shall be designed in a manner that perpetuates the existing natural drainage patterns with respect to tributary drainage area and outlet points. Unless otherwise approved by the City Engineer, lot lines shall be located at the top of slopes.
 - b. Any grading that creates cut or fill slopes adjacent to the street shall provide erosion control, sight distance control, and slope easements as approved by the City Engineer.
 - c. A grading permit shall be obtained from the Public Works Department Land Development Division prior to commencement of any grading outside of the City maintained road right-of-way.
 - d. All improvement plans are substantially complete and appropriate clearance and at-risk letters are provided to the City, (MC 9.14.030)

- e. The developer shall submit a soils and geologic report to the Public Works Department — Land Development Division. The report shall address the soil's stability and geological conditions of the site. (Advisory)

LD14. (GPA) Prior to grading plan approval, the developer shall select treatment control best management practices (BMPs) that are medium to highly effective for treating Pollutants of Concern (POC) for the project. Projects where National Pollution Discharge Elimination System (NPDES) mandates water quality treatment control best management practices (BMPs) shall be designed per the City of Moreno Valley guidelines or as approved by the City Engineer. (Advisory)

LD15. (GPA, IP) Prior to approval of the grading plans or improvement plans for project sites which are one acre or larger, the developer shall obtain the WQMP number from the City's Land Development Division, if a WQMP is required, and as a condition of the State Water Quality Control Board, a Notice of Intent (NOI) for an NPDES permit must be filed and a Waste Discharge Identification (W.D.I.D.) permit number obtained from the State Water Quality Control Board. (Clean Water Act) (Advisory)

LD16. (GPA) Prior to the rough grading plan approval, or issuance of a building permit, if a grading permit is not required, the Developer shall:

- a. Submit two (2) copies of the final project-specific Water Quality Management Plan (WQMP) for review by the City Engineer that:
 - i. Addresses Site Design Best Management Practices (BMPs) such as minimizing impervious areas, maximizing permeability, minimizes directly connected impervious areas to the City's street and storm drain systems, and conserves natural areas;
 - ii. Incorporates Source Control BMPs and provides a detailed description of their implementation;
 - iii. Incorporates Treatment Control BMPs and provides information regarding design considerations;
 - iv. Describes the long-term operation and maintenance requirements for BMPs requiring maintenance; and
 - v. Describes the mechanism for funding the long-term operation and maintenance of the BMPs.

A copy of the final WQMP template can be obtained on the City's Website or by contacting the Land Development Division of the Public Works Department.

- b. Record a "Stormwater Treatment Device and Control Measure Access and Maintenance Covenant," to provide public notice of the requirement to implement the approved final project-specific WQMP and the

maintenance requirements associated with the WQMP. A boilerplate copy of the “Stormwater Treatment Device and Control Measure Access and Maintenance Covenant,” can be obtained by contacting the Land Development Division of the Public Works Department. (Advisory)

- LD17. (GPA) Prior to rough grading plan approval, or issuance of a building permit, if a grading permit is not required, the Developer shall secure approval of the final project-specific WQMP from the City Engineer. (Advisory)
- LD18. (GPA) Prior to rough grading plan approval, or issuance of a building permit as determined by the City Engineer, the approved final project-specific WQMP shall be incorporated by reference or attached to the project’s Storm Water Pollution Prevention Plan as the Post-Construction Management Plan. (Advisory)
- LD19. (GPA) Prior to grading permit issuance, the developer shall prepare a Storm Water Pollution Prevention Plan (SWPPP) in conformance with the state’s Construction Activities Storm Water General Permit. A copy of the current SWPPP shall be kept at the project site and be available for review upon request. The SWPPP shall be submitted to the City’s Storm Water Program Manager on compact disk(s) in Microsoft Word format. The developer is required to bring the SWPPP to the grading pre-construction meeting. (Advisory)
- LD20. (GPA) Prior to the approval of the grading plans, the developer shall pay any applicable remaining grading plan check fee. (Advisory)
- LD21. (GPA/MA) Prior to the later of either grading plan or final map approval, resolution of all drainage issues shall be as approved by the City Engineer. (Advisory)
- LD22. (GP) Prior to the issuance of a grading permit, the developer shall submit a letter of permission to grade for a specific duration recorded against each offsite parcel and an easement for slope purposes at final map recordation. (Advisory)
- LD23. (GP) Prior to issuance of a grading permit, if the fee has not already been paid prior to map approval or prior to issuance of a building permit if a grading permit is not required, the developer shall pay Area Drainage Plan (ADP) fees. The developer shall provide a receipt to the City showing that ADP fees have been paid to Riverside County Flood Control and Water Conservation District. (MC 9.14.100)
- LD24. (GP) Prior to issuance of a grading permit, the following securities shall be submitted to the City:
 - a. Security, in the form of a cash deposit (preferable), letter of credit, or performance bond shall be required to be submitted as a guarantee

of the completion of the grading required as a condition of approval of the project (MC 8.21.070)

- b. Erosion control security as a guarantee of the completion and maintenance of the erosion control systems required as a condition of approval of the project. The amount of the security shall be equal to one hundred (100) percent of the total estimated cost of the erosion control system(s). The permittee's estimate of such cost shall be based on the established unit costs available from the city and shall be subject to the review and approval of the city engineer. At least twenty-five (25) percent of the required security shall be in cash and shall be deposited with the city engineer. The remainder of the erosion control security shall be subject to the approval of the City Engineer and City Attorney, and consist of one or more of the following:
 - i. Cash deposit;
 - ii. Bond
 - iii. Certificate of Deposit
 - iv. Letter of Credit, in City format, from one or more local financial institution(s) subject to regulation by the state or federal government. (MC 8.21.150) (Advisory)

LD25. (GP) Prior to issuance of a grading permit, the developer shall pay the applicable grading inspection fees. (Advisory)

Prior to Improvement Plan Approval or Construction Permit

LD26. (IPA) Improvement plans shall be drawn on twenty-four (24) inch by thirty-six (36) inch mylar and signed by a registered civil engineer and other registered/licensed professional as required. (Advisory)

LD27. (IPA) Prior to approval of the improvement plans, the developer shall submit clearances from all applicable agencies, and pay all outstanding plan check fees. (MC 9.14.210) (Advisory)

LD28. (IPA) All public improvement plans prepared and signed by a registered civil engineer in accordance with City standards, policies and requirements shall be approved by the City Engineer. Securities and a public improvement agreement shall be required to be submitted and executed as a guarantee of the completion of the improvements. (Advisory)

LD29. (IPA) The street improvement plans shall comply with all applicable City standards and the following design standards throughout this project:

- a. Corner cutbacks in conformance with City Standard 208 shall be shown on the final map or, if no map is to be recorded, offered for dedication by separate instrument.

- b. Lot access to major thoroughfares shall be restricted except at intersections and approved entrances and shall be so noted on the final map. (MC 9.14.100)
- c. The minimum centerline and flow line grades shall be one percent unless otherwise approved by the City Engineer. (MC 9.14.020)
- d. All street intersections shall be at ninety (90) degrees plus or minus five (5) degrees or as approved by the City Engineer per City Standard No. 706A. (MC 9.14.020)
- e. All reverse curves shall include a minimum tangent of one hundred (100) feet in length. (Advisory)

- LD30. (IPA) Improvement plans, including design plan and profile information, shall be based upon a centerline profile, extending beyond the project boundaries approved by the City Engineer. Design plan and profile information shall include the minimum 300 feet beyond the project boundaries. (Advisory)
- LD31. (IPA) Improvement plans, shall reflect the City's moratorium on trench repair pavement cuts on any streets less than three years old or on slurry sealed streets less than one year old unless specifically approved by the City Engineer. Pavement cuts for trench repairs may be allowed for emergency repairs or as specifically approved by the City Engineer. (Advisory)
- LD32. (IPA) Drainage facilities with sump conditions shall be designed to convey the tributary 100-year storm flows. Secondary emergency escape shall also be provided. (MC 9.14.110) (Advisory)
- LD33. (IPA) If the project's hydrology study proposes to use any portion of a public street right-of-way to accommodate storm flows, said study shall show that the 10-year storm flow will be contained within the curb and the 100-year storm flow will be contained within the street right-of-way. On major streets (Minor Arterial or larger), at least one lane in each direction shall remain open and not be used to carry surface flows. When any of these criteria is exceeded, additional drainage facilities shall be installed as approved by the Public Works Department Land Development Division. (MC 9.14.110) (Advisory)
- LD34. (IPA) The project shall be designed to accept and properly convey all off-site drainage flowing onto or through the site. All storm drain design and improvements shall be subject to review and approval of the City Engineer. (Advisory)
- LD35. (CP) All work performed within the City right-of-way requires a construction permit. As determined by the City Engineer, security may be required for work within the right-of-way. Security shall be in the form of a cash deposit or other approved means. The City Engineer may require the execution of a public improvement agreement as a condition of the issuance of the construction

permit. All inspection fees shall be paid prior to issuance of construction permit. (MC 9.14.100) (Advisory)

LD36. (CP) Prior to issuance of a construction permit, all public improvement plans prepared and signed by a registered civil engineer in accordance with City standards, policies and requirements shall be approved by the City Engineer. (Advisory)

LD37. (CP) Prior to issuance of construction permits, the developer shall submit all improvement plans on compact disks, in (.dxf) digital format to the Land Development Division of the Public Works Department. (Advisory)

LD38. (CP) Prior to issuance of construction permits, the developer shall pay all applicable inspection fees. (Advisory)

Prior to Building Permit

LD39. (BP) The developer shall coordinate with Land Development staff to facilitate partial pad certification in conjunction with construction sequencing as approved by the City Engineer. (Advisory)

LD40. (BP) Prior to issuance of a building permit, the developer shall submit for review and approval, a Waste Management Plan (WMP) per City code and Land Development Division requirements. (AB939, MC 8.80) (Advisory)

LD41. (BP) Prior to issuance of a building permit, Parcel Map 35629 shall record.

Prior to Certificate of Occupancy

LD42. (CO) Prior to issuance of a certificate of occupancy or building final, the developer shall pay all outstanding fees.

LD43. (CO) Prior to issuance of a certificate of occupancy or building final, the developer shall construct all public improvements in conformance with applicable City standards, unless otherwise approved by the City Engineer, including but not limited to the following applicable improvements:

- a. Street improvements including, but not limited to: pavement, base, curb and/or gutter, cross gutters, spandrel, sidewalks, drive approaches, pedestrian ramps, street lights, signing, striping, under sidewalk drains, landscaping and irrigation, medians, redwood header boards, pavement tapers/transitions and traffic control devices as appropriate.
- b. Storm drain facilities including, but not limited to: storm drain pipe, storm drain laterals, open channels, catch basins and local depressions.
- c. City-owned utilities.

- d. Sewer and water systems including, but not limited to: sanitary sewer, potable water and recycled water.
- e. Under grounding of existing and proposed utility lines less than 115,000 volts.
- f. Relocation of overhead electrical utility lines including, but not limited to: electrical, cable and telephone.
(Advisory)

LD44. (CO) Prior to issuance of a certificate of occupancy or building final, all existing and new utilities adjacent to and on-site shall be placed underground in accordance with City of Moreno Valley ordinances. (MC 9.14.130) (Advisory)

LD45. (CO) Prior to issuance of a certificate of occupancy or building final, the Developer must comply with the following:

- a. Any required water quality basins, associated treatment control BMPs, and associated hardware per the approved civil drawing must be constructed, certified and approved by the City Engineer including, but not limited to, piping, forebay, aftbay, trash rack.
- b. An Engineer's Line and Grade Certification shall be provided to the City.
- c. Said facilities shall pass a flow test per City test procedures.
(Advisory)

LD46. (CO) Prior to issuance of a certificate of occupancy or building final for any Commercial/Industrial facility, whichever occurs first, the owner may have to secure coverage under the State's General Industrial Activities Storm Water Permit as issued by the State Water Resources Control Board. (Advisory)

Prior to Acceptance of Streets into the City Maintained Road System

LD47. (AOS) Aggregate slurry, per Section 203-5 of Standard Specifications for Public Works Construction, may be required just prior to acceptance street(s) into the City maintained road system at the discretion of the City Engineer. (Advisory)

SPECIAL CONDITIONS

Phase 1 — Development Associated with Parcel 1 of PM 35629

LD48. (RGPA) Prior to rough grading plan approval, the developer shall obtain written concurrence from Riverside County Flood Control and Water Conservation District (RCFC&WCD) for any proposed modifications to the

Moreno Area Drainage Plan as well as for the acceptance of a small new additional tributary area resulting from the project's proposed grading.

- LD49.** (RGPA) Prior to rough grading plan approval, it shall be clearly demonstrated on the final drainage study that the potential increased rate of runoff resulting from the development of this site is mitigated. During identified storm events peak flow rates and velocity leaving the site in the developed condition shall be no larger than that of the pre-developed condition. The following shall be analyzed in the final drainage study: 1, 3, 6 and 24-hour storm duration for the 2, 5, 10 and 100-year storm events. The applicant understands that additional detention measures or other mitigation, beyond those shown on the tentative parcel map and preliminary drainage study, may be required and shall include those into the design and construction of appropriate drainage facilities.
- LD50.** (RGPA) Prior to rough grading plan approval, emergency overflow areas shall be shown at all applicable drainage improvement locations in the event that the drainage improvement fails or exceeds full capacity. Emergency overflow area elevations shall be a minimum of 1' below the proposed building pad elevation in close proximity. This may include, but not be limited to, an emergency spillway in the basin and an emergency overflow at any sump catch basin location. The developer is responsible for securing any necessary on-site or off-site drainage easements as required for emergency overflow.
- LD51.** (RGPA) Prior to rough grading plan approval, all easements, existing, proposed, temporary, and those to be quitclaimed shall be shown on the plan complete with type of easement, easement width, as applicable, instrument number and date of recordation. Copies of the existing easement documents shall be submitted to the City (upon request) for review. Those easements to be quitclaimed shall be coordinated with the appropriate easement holder, including but not limited to, those associated with the electrical utility lines traversing Parcel 1 and the water line running along the entire map's north boundary adjacent to SR-60 and its on-/off-ramps, as shown and labeled on the tentative parcel map. The above referenced water line shall be relocated outside the existing and ultimate SR-60 right-of-way and preferably within Eucalyptus Avenue.
- LD52.** (RGPA) Notwithstanding what is shown on the tentative parcel map and grading plan, no grading on Caltrans property shall be permitted without an encroachment permit.
- LD53.** (RGPA) Prior to rough grading plan approval, the plan shall show a minimum 15-foot wide maintenance access road from a public street to all graded areas resulting from the grading associated with the project.
- LD54.** (PGPA) Prior to precise grading plan approval, the precise grading plan shall be consistent with the rough grading plan and approved plot plan, in terms of, but not limited to, pad and grade elevations, proposed water quality treatment control best management practices and locations

including detention and infiltration basins, proposed building, parking lot, landscape area, slope, and project entrance locations. (Advisory)

- LD55.** (PGPA) Prior to precise grading plan or improvement plan approval, as applicable, the plans shall show any driveway approach up to 40' in width to be constructed per City Standard Plan 118C, Option 2, modified. The driveways shall have a minimum radius of 50' if the entrance is to accommodate truck traffic, 35' otherwise, and transition from an 8" curb height to a 0" curb height at the conventional right-of-way 12' behind the curb line, or as approved by the City Engineer. There shall be a 4-foot wide pedestrian sidewalk area at 2% maximum cross slope behind the conventional right-of-way. A 4-foot pedestrian right-of-way dedication shall be made on PM 35629. Any entrance greater than 40' in width shall be designed as a street intersection. (Advisory)
- LD56.** (IPA) If it is necessary to adjust the boundary of Parcel G, 5, and 6 (Parcels 5 and 6 to be designated as lettered parcels on the final parcel map) resulting in the need for additional right-of-way for highway and road purposes, it shall be dedicated to the City at no cost to the City. If it is necessary to adjust the boundary resulting in excess right-of-way not needed for highway and road purposes, the City and the developer shall pursue the appropriate mechanism to transfer or convey public property back to the developer.
- LD57.** (IPA) Prior to improvement plan approval, the plans shall show redwood headers, or other pavement edge treatment as approved by the City Engineer, at all edge-of-pavement locations in the public right-of-way. If redwood header board is approved, the redwood header shall be installed per the City Standard, using a nominal minimum of 2" wide by 6" deep board. This shall include, but not be limited to, the following locations:
- a. Along the frontage of Parcels 1, 2 and 4 of PM 35629, south side of Eucalyptus Avenue, south edge of the east bound travel lane to be constructed in Phase 1.
- LD58.** (IPA) Storm drain improvement plans shall show the connection of the proposed private storm drain system to the proposed public storm drain system at the public street right-of-way. A storm drain manhole shall be placed at the right-of-way to mark the beginning of the publicly maintained portion of this storm drain.
- LD59.** (IP) Prior to commencing any work within Caltrans right-of-way, the developer shall obtain an encroachment permit from Caltrans. Work within Caltrans right-of-way may include that work associated with storm drain connections to existing freeway culverts, water line removal, water line extension from north of the freeway including jack and bore operation, power pole relocation and/or undergrounding, and any grading.
- LD60.** (IP) Prior to approval of improvement plans, the developer shall secure any off-site easements from the off-site property owner(s). This includes

but is not limited to the drainage easement for the proposed spreading basin south of the project, the slope easement along the south side of Eucalyptus Avenue, the drainage easement for the culvert outlet across Eucalyptus Avenue near Theodore Street, the utility easement for the temporary overhead electrical lines, and any others that may be necessary for the construction and maintenance of off site utility and infrastructure improvements.

- LD61. (BP) Prior to issuance of a building permit, final line and grade certification shall be provided by the licensed engineer of record stating the building pad is in substantial conformance with the approved grading plan. For Parcel 1, the developer shall coordinate with Land Development staff to facilitate partial pad certification in conjunction with construction sequencing as approved by the City Engineer. The relocation and/or abandonment of existing utilities and quitclaim of existing easements shall be coordinated with the sequencing of the Parcel 1 development such that these do not interfere or encumber the particular building area being developed at any given time.
- LD62. (BP) Prior to building permit issuance this project shall cause the quitclaim of all existing easements, especially those easements underneath proposed building footprints shall be quitclaimed. This shall include, but not be limited to, the water line easement and power line easement. All utilities shall be relocated, as necessary, prior to quitclaiming the easements. All new easements shall be granted prior to utility relocations and quitclaims of existing easements.
- LD63. (BP) Prior to building permit issuance, the developer shall remove, or cause the removal, of any sign or other structure, as applicable, on the project site, including that portion within Parcels G, 5 and 6, as shown on the tentative parcel map (Parcels 5 and 6 to be dedicated as lettered parcels on the final parcel map), to be dedicated to the City for the future freeway expansion, unless other arrangements are made with and approved by the City Engineer. The developer shall record easements for, provide access to, etc. any sign or structure that might remain, as approved by the City Engineer.
- LD64. (BP) Prior to building permit issuance, the developer shall submit to the City a recorded agreement pertaining to the maintenance of and access to the temporary spreading basin to be constructed on the land south and adjacent to this project map, identified as APN# 488-350-002.
- LD65. (BP) Prior to building permit issuance of the proposed building in Phase 1, the developer shall submit to the City for review and approval all required off-site (outside of the map boundary) easements, including but not limited to, a roadway slope easement along the south side of Eucalyptus Avenue, drainage easements at low points along the south side of Eucalyptus Avenue where rip rap and other drainage improvements are proposed, a drainage easement for the culvert headwall, rip rap and grading on the south side of Eucalyptus Avenue,

just west of Theodore Street, an easement for any work outside of the Sinclair Street right-of-way north of SR-60 for work associated with the construction of the water line. These easements shall record prior to occupancy, after the City has reviewed and approved them prior to building permit issuance.

- LD66. (BP) Prior to issuance of a building permit, PM 35629 shall record along with all the offers of dedication for right-of-way and easements made on the map. Alternatively, offers of dedication for right-of-way and easements may record by separate instrument.
- LD67. (CO) Prior to occupancy for the proposed building in Phase 1, the developer shall obtain an encroachment permit from Caltrans and complete the following jack and bore operation for the installation of a proposed water line underneath SR-60 to be located within Sinclair Street right-of-way north of the freeway. The developer shall apply Caltrans crossing requirements to the portion of the water line that will lie within Parcel G of the tentative parcel map.
- LD68. (CO) Prior to occupancy of the proposed building in Phase 1, all overhead utility lines less than 115,000 volts fronting or within the entire map boundary shall be placed underground per Section 9.14.030C of the City Municipal Code except those along the west side of Theodore Street, the terminus of the facility over SR-60 at Sinclair Street, and the interim service from Redlands Boulevard and Dracaea Avenue northerly to the project site.
- LD69. (CO) Prior to occupancy of the proposed building in Phase 1, existing utilities shall be relocated outside of Parcels G, 5, and 6, as identified on the tentative parcel map (Parcels 5 and 6 to be dedicated as lettered lots on the final parcel map), being offered for dedication for highway and road purposes.
- LD70. (CO) Prior to occupancy of the proposed building in Phase 1, the developer shall bring overhead electrical service to the building from the nearest source identified by the developer to be located on the west side of Redlands Boulevard near Dracaea Avenue. This will require the developer to bore under Redlands Boulevard to the east side of Redlands Boulevard.
- LD71. (RGPA) In accordance with the City of Moreno Valley standards, the Double Ring Infiltrometer field testing method per ASTM D3385 shall be utilized to perform in-situ percolation testing in the location of proposed infiltration area treatment control Best Management Practice (BMP) and the results included as an amendment to the Final WQMP prior to issuance of the first occupancy. (Advisory)
- LD72. (RGPA) The Applicant shall prepare and submit for approval a Project Specific Final Water Quality Management Plan (F-WQMP) for PA07-0090 —

Highlands — Parcel 1 of TPM 35629 Logistics Building. The F-WQMP shall be consistent with the approved P-WQMP and in full conformance with the document; “Riverside County Water Quality Management Plan for Urban Runoff” dated July 24, 2006. The F-WQMP shall be submitted and approved prior to rough grading plan approval. At a minimum, the F-WQMP shall include the following: Site Design BMPs; Source Control BMPs; Treatment Control BMPs; Operation and Maintenance requirements for BMPs; and sources of funding for BMP implementation. (Advisory)

- LD73. (RGPA) The Applicant shall select and implement treatment control BMPs that are medium to highly effective for treating Pollutants of Concern (POC) for the project. POC include project pollutants associated with a 303(d) listing or a Total Maximum Daily Load (TMDL) for receiving waters. Project pollutants of concern include: sediment/turbidity, nutrients, organic compounds, oxygen demanding substances, and pathogens. Exhibit C of the document, “Riverside County Water Quality Management Plan for Urban Runoff” dated July 24, 2006 shall be consulted for determining the effectiveness of proposed treatment BMPs. (Advisory)
- LD74. (RGPA) Overall, the proposed treatment control concept is accepted as the conceptual treatment control BMP for the proposed site. The Applicant has proposed to incorporate the use of combined detention and infiltration basins with underdrain systems. Final design details of these detention and infiltration systems must be provided in the first submittal of the F-WQMP. The size of the treatment control BMP is to be determined using the procedures set forth in Exhibit C of the Riverside County Guidance Document. The Applicant acknowledges that more area than currently shown on the plans may be required to treat site runoff as required by the WQMP Guidance Document. (Advisory)
- LD75. (RGPA) The Applicant shall substantiate the applicable Hydrologic Condition of Concern (HCOC) (WQMP Section IV) in the F-WQMP. The HCOC designates that the project will comply with Condition C; therefore, the condition must be addressed in the F-WQMP.
- LD76. (GP) The Applicant shall, prior to building or grading permit closeout or the issuance of a certificate of occupancy, demonstrate:
- a. That all structural BMPs have been constructed and installed in conformance with the approved plans and specifications;
 - b. That all structural BMPs described in the F-WQMP have been implemented in accordance with approved plans and specifications;
 - c. That the Applicant is prepared to implement all non-structural BMPs included in the F-WQMP, conditions of approval, and building/grading permit conditions; and
 - d. That an adequate number of copies of the approved F-WQMP are available for the future owners/occupants of the project.
- (Advisory)

**CITY OF MORENO VALLEY
CONDITIONS OF APPROVAL
Case No: PA07-0091 (PP for a Warehouse Building),
PA07-0089 (GPA), and PA07-0088 (Zone Change)
APNs: 488-350-001, 488-350-002, and 488-360-001 through 488-360-012
12.12.08 Revised**

PUBLIC WORKS DEPARTMENT

Special Districts Division

Note: All Special Conditions, Modified Conditions, or Clarification of Conditions are in bold lettering. All other conditions are standard to all or most development projects.

Acknowledgement of Conditions

The following items are Special Districts' Conditions of Approval for project **PA07-0091**; this project shall be completed at no cost to any Government Agency. All questions regarding Special Districts' Conditions including but not limited to, intent, requests for change/modification, variance and/or request for extension of time shall be sought from the Special Districts Division of the Public Works Department 951.413.3480. The applicant is fully responsible for communicating with each designated Special Districts staff member regarding their conditions.

General Conditions

- SD-1 The parcel(s) associated with this project have been incorporated into the Moreno Valley Community Services Districts Zones A (Parks & Community Services) and C (Arterial Street Lighting). All assessable parcels therein shall be subject to annual Zone A and Zone C charges for operations and capital improvements.

- SD-2 Plans for parkway, median, slope, and/or open space landscape areas designated on the tentative map or in these Conditions of Approval for incorporation into Moreno Valley Community Services District **Zone M**, shall be prepared and submitted in accordance with the *City of Moreno Valley Public Works Department Landscape Design Guidelines*. Contact the Special Districts Division of the Public Works Department to obtain copies of this document.

- SD-3 The Developer, or the Developer's successors or assignees shall be responsible for all parkway and/ or median landscaping maintenance until such time as the District accepts maintenance duties.

SD-4 Any damage to existing landscape easement areas due to project construction shall be repaired/replaced by the Developer, or Developer's successors in interest, at no cost to the Moreno Valley Community Services District.

Prior to Building Permit Issuance

- SD-5 (BP) This project has been identified to be included in the formation of a Map Act Area of Benefit Special District for the construction of **major thoroughfares and/or freeway** improvements. The property owner(s) shall participate in such District, and pay any special tax, assessment, or fee levied upon the project property for such District. At the time of the public hearing to consider formation of the district, the property owner(s) will not protest the formation, but the property owners(s) will retain the right to object if any eventual assessment is not equitable, that is, if the financial burden of the assessment is not reasonably proportionate to the benefit which the affected property obtains from the improvements which are to be installed. (Street & Highway Code, GP Objective 2.14.2, MC 9.14.100) **Once the Transportation Uniform Mitigation Fee (TUMF) is paid, the requirement to annex into the Special District would no longer be applicable.**
- SD-6 (BP) This project has been identified to be included in the formation of a Community Facilities District (Mello-Roos) for **Public Safety** services, including but not limited to Police, Fire Protection, Paramedic Services, Park Rangers, and Animal Control services: The property owner(s) shall not protest the formation; however, they retain the right to object to the rate and method of maximum special tax. In compliance with Proposition 218, the Developer shall agree to approve the mail ballot proceeding (special election) for either formation of the CFD or annexation into an existing district that may already be established. The Developer must notify Special Districts prior to the City's issuance of a building permit. (California Government Code) **This condition would no longer apply if the building permit is issued prior to the formation of the Public Safety Community Facilities District.**
- SD-7 (BP) This project is conditioned to provide a funding source for the capital improvements and/or maintenance for the **Eucalyptus Ave.** median landscape. In order for the Developer to meet the financial responsibility to maintain the defined service, one of the following options shall be selected:

Special Districts Division

Conditions of Approval

Case No: PA07-0091 (PP for a Warehouse Building),

PA07-0089 (GPA), and PA07-0088 (Zone Change)

APNs: 488-350-001, 488-350-002, and 488-360-001 through 488-360-012

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- a. Participate in the mail ballot proceeding in compliance with Proposition 218, for Moreno Valley Community Services District **Zone M** (Commercial, Industrial and Multifamily Improved Median Maintenance), and pay all associated costs with the ballot process; or
- b. Establish an endowment to cover the future maintenance costs of the landscaped area.

The Developer must notify Special Districts prior to the City's issuance of a building permit and the financial option selected to fund the continued maintenance.

SD-8 *Commercial* (BP) Land Development, a Division of the Public Works Department, requires this project to supply a funding source necessary to provide, but not limited to, stormwater utilities services for the monitoring of on site facilities and performing annual inspections of the affected areas to ensure compliance with state mandated stormwater regulations, the Developer must notify Special Districts prior to the City's issuance of a building permit and the financial option selected to fund the continued maintenance. (California Government Code)

SD-9 (BP) Prior to release of building permit, the Developer, or the Developer's successors or assignees, shall record with the County Recorder's Office a **Declaration of Covenant and Acknowledgement of Assessments** for each assessable parcel therein, whereby the Developer covenants and acknowledges the existence of the Moreno Valley Community Services District, its established benefit zones, and that said parcel(s) is (are) liable for payment of annual benefit zone charges and the appropriate National Pollutant Discharge Elimination System (NPDES) maximum regulatory rate schedule when due. A copy of the recorded Declaration of Covenant and Acknowledgement of Assessments shall be submitted to the Special Districts Division.

**For a copy of the Declaration of Covenant and Acknowledgement of the Assessments form, please contact Special Districts, phone 951.413.3480.

SD-10 (BP) Final median, parkway, slope, and/or open space landscape/irrigation plans for those areas designated on the tentative map or in these Conditions of Approval for inclusion into Community Services District shall be reviewed and approved by the Community Development Department — Planning Division, and the Public Works Department —

Special Districts and Transportation Divisions prior to the issuance of the first Building Permit.

Prior to Certificate of Occupancy

- SD-11 (CO) Prior to issuance of a Certificate of Occupancy or building final, the Developer shall submit a letter to Special Districts from the Utility service responsible for providing final electrical energy connections and energization of the streetlights for the development project. The letter must identify, by pole number, each streetlight in the development and state the corresponding date of its electrical energization.
- SD-12 (CO) All median landscaping specified in the tentative map or in these Conditions of Approval shall be constructed pursuant to the project phasing plan dated December 10, 2008.
- SD-13 (CO) Prior to the issuance of the first Certificate of Occupancy or building final for this project, the Developer shall pay Advanced Energy fees for all applicable Zone B (Residential Street Lighting) and/or Zone C (Arterial Street Lighting and Intersection Lighting) streetlights required for this development. The Developer shall provide a receipt to the Special Districts Division showing that the Advanced Energy fees have been paid in full for the number of streetlights to be accepted into the CSD Zone B and/or Zone C program. Payment shall be made to the City of Moreno Valley, as collected by the Land Development Division, based upon the Advanced Energy fee rate at the time of payment and as set forth in the current Listing of City Fees, Charges and Rates, as adopted by City Council. Any change in the project which may increase the number of streetlights to be installed will require payment of additional Advanced Energy fees at the then current fee.

CITY OF MORENO VALLEY
CONDITIONS OF APPROVAL
PA07-0091

Plot Plan for approximately 1.8 million square feet of warehousing uses located on the north side of future Eucalyptus Avenue, east of Redlands Boulevard.

Note: AU Special conditions are in bold lettering. All other conditions are standard to all or most development projects.

Transportation Engineering Division — Conditions of Approval

Based on the information contained in our standard review process we recommend the following conditions of approval be placed on this project:

GENERAL CONDITIONS

- TE1. **Install Citywide Communication System (Traffic Signal Interconnect) per City Standards along Eucalyptus Avenue and Theodore Street.**
- TE2. **A Class I Bikeway is planned for the east side of Redlands Boulevard that shall require additional right-of-way and/or easements.**
- TE3. **The project applicant shall submit supplemental traffic studies at the time of entitlement of Phase 2 (Parcels 2 and 3) and again at Phase 3 (Parcel 4). The supplemental traffic studies shall address improvements necessary for the two phases that could include but not be limited to traffic signals, additional turn lanes, traffic signal synchronization/timing, interchange improvements, fair share contributions, median construction, and traffic control at project driveways. Conditions of approval for Phase 2 and Phase 3 plot plans shall be based upon the findings of the supplemental traffic studies, and conditioned improvements shall be required prior to issuance of a certificate of occupancy for the respective phases.**

PRIOR TO GRADING PERMIT

- TE4. **(GP) Prior to issuance of a grading permit for Phase 1, the project applicant shall submit conceptual striping plans for street improvements along Eucalyptus Avenue as well as Theodore Street.**

PRIOR TO IMPROVEMENT PLAN APPROVAL OR CONSTRUCTION PERMIT

- TE5. The driveways less than 40 feet in width shall conform to Section 9.16.250, and Table 9.16.250A of the City's Development Code — Design Guidelines, and City

Standard Plan No. 118C. Driveways wider than 40' shall be designed as intersections with pedestrian access ramps per City standards (Advisory).

- TE6. Prior to the final approval of the street improvement plans, a signing and striping plan shall be prepared per City of Moreno Valley Standard Plans — Section 4 for all streets with a cross section of 66'/44' and wider (Advisory).
- TE7. Prior to final approval of the street improvement plans, the developer shall submit to the City a contract between the developer and a street sweeping company for sweeping the streets during the warranty period, for the day shown on the posted street sweeping signage. The contract shall include a contact person and phone number for said contact person (Advisory).
- TE8. Prior to issuance of a construction permit, construction traffic control plans prepared by a qualified, Registered Civil or Traffic engineer shall be required (Advisory).
- TE9. Sight distance at driveways and on streets shall conform to City Standard Plan No. 125 A, B, and C at the time of preparation of final grading, landscape, and street improvements (Advisory).
- TE10. Prior to final approval of the street improvement plans, interim and ultimate alignment studies shall be approved by the City Traffic Engineer.
- TE11. Prior to the final approval of the street improvement plans for Phase 1, the project applicant shall design the intersection of Theodore Street and Eucalyptus Avenue to provide the following geometrics:**

Northbound: One left turn lane, one through lane
Southbound: One through lane, one right turn lane
Eastbound: One left turn lane, one right turn lane.
Westbound: N/A

NOTE: All curb return radii shall be 50 feet.

- TE12. Prior to the final approval of the street improvement plans for Phase 1, the project applicant shall design the intersection of Theodore Street and SR-60 Eastbound Ramp to provide the following geometrics:**

Northbound: One left turn lane, one through lane
Southbound: One shared through/right turn lane
Eastbound: One left turn lane, one right turn lane
Westbound: N/A

NOTE: All curb return radii shall be 50 feet.

TE13. Prior to final approval of the street improvement plans for Phase 1, the project applicant shall design the intersection of Theodore Street and SR-60 Westbound Ramp to provide the following geometrics:

Northbound: One through lane, pavement widening to accommodate turning trucks

Southbound: One shared left turn/through lane

Eastbound: N/A

Westbound: One shared left turn/right turn lane

TE14. Prior to final approval of the street improvement plans for Phase 3, the project applicant shall design the intersection of Redlands Boulevard and Eucalyptus Avenue for its ultimate cross-section to include the following:

Northbound: Two left turn lanes, two through lanes, one right turn lane

Southbound: Two left turn lanes, two through lanes, one right turn lane

Eastbound: Two left turn lanes, two through lanes, one right turn lane

Westbound: Two left turn lanes, two through lanes, one right turn lane

NOTE: All curb return radii shall be 50 feet.

TE15. Prior to final approval of the street improvement plans, the project applicant shall design bus bays per City Standard Plan No. 121 at the following locations:

- **Northbound Redlands Boulevard, north of Eucalyptus Avenue (Phase 3)**
- **Eastbound Eucalyptus Avenue, east of Redlands Boulevard (Phase 3)**
- **Westbound Eucalyptus Avenue, west of Theodore Street (Phase 2)**
- **Westbound Eucalyptus Avenue, west of project driveway aligned with Sinclair Street (Phase 2)**

PRIOR TO CERTIFICATE OF OCCUPANCY OR BUILDING FINAL

TE16. (CO) Prior to issuance of a certificate of occupancy, all approved signing and striping shall be installed per current City Standards and the approved plans (Advisory).

TE17. (CO) Each gated entrance shall be provided with the following, or as approved by the City Traffic Engineer:

- a) A storage lane with a minimum of 75 feet queuing length for entering traffic.**
- b) Appropriate signing and striping.**

hour c) The employee gated entrance along Eucalyptus Avenue shall remain open for a half hour prior to and a half hour after a shift change.

All of these features must be kept in working order.

- TE18. (CO) Prior to issuance of a certificate of occupancy for Phase 1, the project applicant shall construct the intersection/roadway improvements identified in TE11, TE12, and TE13 per the approved plans.
- TE19. (CO) Prior to issuance of a certificate of occupancy for Phase 3, the project applicant shall construct the east leg of the Redlands Boulevard/Eucalyptus Avenue intersection per TE14. Necessary improvements to the other legs of the intersection shall be identified in the supplemental traffic study per TE3.
- TE20. (CO) Prior to the issuance of a certificate of occupancy for the project, driveway access at the following locations will be installed as follows:
- The easternmost driveway: full access.
 - The second driveway from the east: right-in, right-out access by means of a raised median.
 - The third driveway from the east (employee parking lot): full access.
 - The second driveway from the west: right-in, right-out by means of a raised median.
 - The westernmost driveway: full access.
 - Additional driveways for Phases 2 and 3 shall be reviewed at the time of their entitlement, and conditions of approval shall be prepared as necessary regarding access.

NOTE: All truck driveways shall have curb return radii of 50 feet.

PRIOR TO ACCEPTANCE OF STREETS INTO THE CITY-MAINTAINED ROAD SYSTEM

- TE21. Prior to the acceptance of streets into the City-maintained road system, all approved traffic control and signing and striping shall be installed per current City Standards and the approved plans (Advisory).

**CITY OF MORENO VALLEY
CONDITIONS OF APPROVAL FOR
Case No. PA07-0091 Plot Plan**

PARKS AND COMMUNITY SERVICES DEPARTMENT

Note: All Special Conditions, Modified Conditions, or Clarification of Conditions are in bold lettering. All other conditions are standard to all or most development projects.

Acknowledgement of Conditions

The following items are Parks and Community Services Department Conditions of Approval for project **PA07-0091 Plot Plan** this project shall be completed at no cost to any Government Agency. All questions regarding Parks and Community Services Department Conditions including but not limited to, intent, requests for change/modification, variance and/or request for extension of time shall be sought from the Parks and Community Services Department 951.413.3280. The applicant is fully responsible for communicating with the Parks and Community Services Department project manager regarding the conditions.

A multi-use trail and Class-I bikeway shall be designated for TPM 35629.

As approved on TPM 35629, a multi-use trail within an approximate 10'-11' wide easement to the Community Services district (CSD) shall be located along the west side of Theodore Street. The construction of the multi-use trail on Theodore Street along the frontage of the property shall be completed with the future widening of said Street. The developer shall make financial arrangements with the City to fund the multi-use trail construction prior to the issuance of any Certificate of Occupancy on Parcel 1. Should the multi-use trail be subsequently eliminated from the City's General Plan, the developer shall have no further obligation to construct the multi-use trail and the security issued will be returned to the developer.

As approved on TPM 35629, a multi-use trail within an approximate 10'-11' wide easement to the CSD shall be located along the north side of Eucalyptus Street (currently Fir Avenue), within the development. Development of multi-use trail segments shall occur when Eucalyptus Street is constructed connecting Redlands Boulevard and Theodore Street or at the discretion of the Parks and Community Services Director, an in-lieu fee or acceptable financial arrangement will be provided to the City in an amount equal to the cost of constructing the improvements. Should the multi-use trail be subsequently eliminated from the City's General Plan, the developer shall have no further obligation to construct the multi-use trail and the security issued or fee imposed will be returned to the developer. The Final Map and Grading Plans shall show each segment as well as the overall multi-use trail plan. The developer shall make financial arrangements with the City to fund the multi-use trail construction for the segment along the frontage of Parcel 1 prior to the issuance of any Certificate of Occupancy on Parcel 1. Each multi-use trail segment will follow the same requirement for the remaining parcels.

As approved on TPM 35629, a Class-I bikeway shall be provided on the east side of Redlands Boulevard. The bikeway shall be constructed with the future reconstruction of the Redlands Boulevard/State Route 60 Interchange. Prior to recordation of the Final Map, the developer shall make financial arrangements with the City to fund the bikeway construction.

Per endorsement of the Trails Board on July 23, 2008, the trail was eliminated from Sinclair Street (north of Eucalyptus Ave. to S.R. 60), and the trail along Eucalyptus Ave. (previously Fir Ave.) was relocated to the north side of the street. With the elimination of the Sinclair Street trail, additional trail was located along the north side of Eucalyptus Ave., between Sinclair Street and Theodore Street. Therefore, the trail on the north side of Eucalyptus Ave. shall now be

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located from Redlands Blvd. to Theodore Street. A General Plan Amendment (GPA) and modification of the Master Plan of Trails will be required to show modified trail alignments. The Eucalyptus Ave trail shall be dedicated as an easement to the CSD from the industrial project. The Eucalyptus Ave. trail easement segment shall be approximately 11' in width. The planter behind the trail may exceed 3' in width.

PA07-0091

**Parks and Community Services Department
Standard Trail Conditions:**

- a. Trail and bikeway construction shall adhere to: The City's Standard Plans, 'The Greenbook Standard Specifications for Public Works Construction', 'California Code of Regulations Title 24' (where applicable), and the Park and Community Services Specification Guide. (Advisory Condition)
- b. The General Contractor shall be a State of California Class 'A' General Engineering Contractor, per the Business and Professions Code Section 7056, or a combination of State of California Class 'C' licenses for which the work is being performed. Licenses must be current and in good standing, for the duration of the project. (Advisory Condition)
- c. Trails and bikeways shall not be shared with any above ground utilities, blocking total width access. (Advisory)
- d. The following plans require Parks and Community Services written approval: Tentative tract/parcel maps; rough grading plans (including all Delta changes); Final Map; precise grading plans; street improvement plans; traffic signal plans; fence and wall plans; landscape plans for areas adjacent to trails; trail improvement plans. (Advisory)
- e. (GP) A detailed rough grading plan with profile for the trail shall be submitted and approved by the Parks and Community Services Director or his/her designee prior to the issuance of grading permits. (Advisory)
- f. Grading certification and compaction tests for trails and bikeways are required, prior to any trail or bikeway improvements being installed. (Advisory)
- g. A minimum two-foot graded bench is required where trails adjoin landscaped or open space areas. (Advisory)
- h. (BP) Prior to the issuance of the first Building Permit, final improvement plans (mylars and AutoCAD & PDF file on a CD-ROM) shall be reviewed and approved by the Community Development Department — Planning Division; the Public Works Department — Land Development and Transportation Division; Fire Prevention; and Parks and Community Services Department. Landscaped areas adjacent to the trail or bikeway shall be designed to prevent water on the trail or bikeway. (Advisory)
- i. Two sets of complete trail and bikeway improvement plans shall be submitted to Parks and Community Services for routing. Adjacent landscaping and walls shall be shown on the plans. Final construction plans and details require wet stamped and signed Mylars, eight sets of bond copies and one Mylar copy from the City signed mylars, the AutoCAD file on CD, and a PDF file on CD. As-builts for the trails and bikeways have the same requirements as final plan submittals. (Advisory)
- j. All street crossings shall be signed with approved 'STOP' signs, trail signs, and posts. All improved equestrian trail crossings at signalized intersections that are constructed at their ultimate locations shall have 6' high mounted push buttons. These shall be coordinated through the Transportation Division. (Advisory)
- k. CSD Zone 'A' plan check fees shall be paid prior to the second plan check. (Advisory)
- l. CSD Zone 'A' inspection fees shall be paid prior to signing of Mylars. (Advisory)

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- m. The trail and bikeway shall be surveyed and staked by the developer. The trail shall be inspected and approved by the Parks and Community Services Director or his/her designee prior to the commencement of related work. (Advisory)
- n. Any damage to bikeways, trails, or fencing during construction shall be repaired by the developer and inspected by the Parks and Community Services Director or his/her designee; prior to Certificate of Occupancy. (Advisory)
- o. Concrete access areas to trails with decomposed granite surfaces shall be rough finished concrete (typically tine finish). The access shall extend to the main trail flat surface. (Advisory)
- p. In order to prevent the delay of building permit issuance, any deviation from trail fencing materials or trail surface materials shall be submitted to Parks and Community Services Director or his/her designee and approved in writing 60-days prior to the commencement of trail construction. (Advisory)
- q. Any unauthorized deviation from the approved plan, specifications, City Standard Plans, or Conditions of Approval may result in the delay of building permit issuance and/or building Finals/ Certificate of Occupancy of the project conditioned for improvements. (Advisory)
- r. Where required, decorative solid-grouted block wall (no precision block, stucco, veneer finishes, PVC, or wood fencing) with a minimum height of 72" on the trailside shall be installed along lots that adjoin the trail. Block walls shall be located solely on private property. If landscaping is to be utilized between the block wall and the trail, a PVC fence shall be installed along the trail separating the landscaping from the trail (where required). All block walls that have public view shall have an anti-graffiti coating per Parks and Community Services specifications. Combination block/tubular steel fences shall only be utilized where approved by Parks and Community Services. Tubular steel shall comply with Parks and Community Services standards. Coating for tubular steel shall be anti-graffiti coating for metal per Parks Community Services specifications. If alternate products are requested, the requested material(s) shall be presented to the Director of Parks and Community Services or his/her designee for review and approval. Under no circumstances can alternate products be utilized without prior written authorization from the Parks and Community Services Director or his/her designee. (Advisory)
- s. Any damage to existing landscape or hardscape areas due to project construction shall be repaired/replaced by the developer, or developer's successors in interest, at no cost to the City or Community Services District. (Advisory)
- t. All inspections shall be requested two (2) working days in advance from the Parks and Community Services Department at the time of rough and precise grading; fence and gate installation; curb and drainage; flatwork; D.G. installation; graffiti coating; and final inspection. (Advisory)

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**POLICE DEPARTMENT
CONDITIONS OF APPROVAL
PA07-0091 (Plot Plan)**

APN: 488-350-001 through 002 and 488-360-001 through 012.

Note: All Special conditions are in bold lettering. All other conditions are standard to all or most development projects

Standard Conditions

- PD1. Prior to the start of any construction, temporary security fencing shall be erected. The fencing shall be a minimum of six (6) feet high with locking, gated access and shall remain through the duration of construction. Security fencing is required if there is: construction, unsecured structures, unenclosed storage of materials and/or equipment, and/or the condition of the site constitutes a public hazard as determined by the Public Works Department. If security fencing is required, it shall remain in place until the project is completed or the above conditions no longer exist. (DC 9.08.080) (Advisory)
- PD2. (GP) Prior to the issuance of grading permits, a temporary project identification sign shall be erected on the site in a secure and visible manner. The sign shall be conspicuously posted at the site and remain in place until occupancy of the project. The sign shall include the following:
- a. The name (if applicable) and address of the development.
 - b. The developer's name, address, and a 24-hour emergency telephone number. (DC 9.08.080) (Advisory)
- PD3. (CO) Prior to the issuance of a Certificate of Occupancy, an Emergency Contact information Form for the project shall be completed at the permit counter of the Community and Economic Development Department — Building Division for routing to the Police Department. (DC 9.08.080) (Advisory)
- PD4. Addresses needs to be in plain view visible from the street and visible at night. It needs to have a backlight, so the address will reflect at night or a lighted address will be sufficient. (Advisory)
- PD5. All exterior doors in the rear and the front of the buildings need an address or suite number on them. (Advisory)

- PD6. All rear exterior doors should have an overhead low sodium light or a light comparable to the same. (Advisory)
- PD7. The exterior of the building should have high-pressure sodium lights and or Metal halide lights installed and strategically placed throughout the exterior of the building. The parking lots should have adequate lighting to insure a safe environment for customers and or employees. (Advisory)
- PD8. All landscape cover should not exceed over 3' from the ground in the parking lot.
- PD9. Bushes that are near the exterior of the building should not exceed 4' and should not be planted directly in front of the buildings or walkways.
- PD10. Trees, which exceed 20', should have a 7' visibility from the ground to the bottom half of the tree. This is so that patrons or employees can view the whole parking lot while parking their vehicles in the parking lot.
- PD11. Cash registers shall be placed near the front entrance of any retail portion of the establishment or as approved by the Police Chief.
- PD12. Window coverings shall comply with the city ordinance.
- PD13. No loitering signs shall be posted in plain view throughout the building, or as approved by the Police Chief.

MVU Plot Plan Conditions of Approval Highland Fairview 12-18-08

MVU-1 (R) If the project is a multi-family development, townhome, condominium, apartment, commercial or industrial project, and it requires the installation of electric distribution facilities within common areas, a non-exclusive easement shall be provided to Moreno Valley Utility to include all such common areas. All easements shall include the rights of ingress and egress for the purpose of operation, maintenance, facility repair, and meter reading.

MVU-2 (BP) **City of Moreno Valley Municipal Utility Service — Electrical Distribution:** Prior to issuance of building permit, the developer shall submit a detailed engineering plan showing design, location and schematics for the utility system to be approved by the City Engineer. In accordance with Government Code Section 66462, the Developer **shall** execute an agreement with the City providing for the installation, construction, improvement and dedication of the utility system following recordation of final map and concurrent with trenching operations and other subdivision improvements so long as said agreement incorporates the approved engineering plan and provides financial security to guarantee completion and dedication of the utility system.

The Developer **shall** coordinate and receive approval from the City Engineer to install, construct, improve, and dedicate to the City, or the City's designee, all utility infrastructure (including but not limited to conduit, equipment, vaults, ducts, wires, switches, conductors, transformers, resistors, amplifiers, and "bring-up" facilities including electrical capacity to serve the identified development and other adjoining/abutting/ or benefiting projects as determined by Moreno Valley Utility) — collectively referred to as "utility system" (to and through the development), along with any appurtenant real property easements, as determined by the City Engineer to be necessary for the distribution and /or delivery of any and all "utility services" to each lot and unit within the Tentative Map. For purposes of this condition, "utility services" shall mean electric service and utility-related telecommunication only "Utility services" shall not include sewer, water, and natural gas services, which are addressed by other conditions of approval. Properties within development will be subject to an electrical system capacity charge and that contribution will be collected prior to issuance of building permits.

MVU-2A The City, or the City's designee, shall utilize dedicated utility facilities to ensure safe, reliable, sustainable and cost effective delivery of utility services and maintain the integrity of streets and other public infrastructure. Developer shall, at developer's sole expense, install or cause the installation of such interconnection facilities as may be necessary to connect the electrical distribution infrastructure within the project to the Moreno Valley Utility owned and controlled electric distribution system. Alternatively, developer may cause the project to be included in or annexed to a community facilities district established or to be established by the City for the purpose of financing the installation of such interconnection and distribution facilities. The project shall be deemed to have been included in or annexed to such a community facilities district upon the expiration of the statute of limitations to any legal challenges to the levy of special taxes by such community facilities district within the property. The statute of limitations referred to above will expire 30 days after the date of the election by the qualified electors within the project to authorize the levy of special taxes and the issuance of bonds.

The installation of any proposed temporary overhead electric distribution lines to be constructed to serve the subject project will be installed/executed pursuant to a temporary utility service agreement. The service agreement will address such things as the necessary electrical circuit protection, as well as the requirement to permanently relocate any temporary overhead to a permanent underground system in a timely manner (not greater than 36 months) consistent with the requirements of the service agreement and pursuant to applicable state law.

An electrical protection coordination study shall be performed and stamped by a registered professional electrical engineer in the State of California and submitted to the utility for review and approval prior to construction of the temporary overhead line consistent with the service agreement.

Once the protection settings are approved and test reports performed, a certified apparatus technician shall be submitted to the utility for review. Any protection studies shall be stamped by the applicant's registered professional electrical engineer.

A specific easement will be required for the entire overhead line extension constructed outside of the public right-of-way consistent with the service agreement.

MVU-3 This project may be subject to a Reimbursement Agreement. The project may be responsible for a proportionate share of costs associated with electrical distribution infrastructure previously installed that directly benefits the project. The project may be subject to a system wide capacity charge in addition to the referenced reimbursement agreement. Payment(s) shall be required prior to issuance of building permit(s).



EXECUTED IN FOUR COUNTERPARTS

AIA Document A312
Performance Bond

Safeco Insurance Companies
Safeco Plaza
Seattle, WA 98185
BOND #6592411
PREMIUM: \$352,418

Conforms with the American Institute of Architects, AIA Document A312.
Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address): J.D. DIFFENBAUGH, INC.
6865 AIRPORT DRIVE
RIVERSIDE, CA 92504

SURETY (Name and Principal Place of Business): Safeco Insurance Company of America
Safeco Plaza, Seattle, WA 98185

OWNER (Name and Address): HF LOGISTICS-SKX T1, LLC
14225 CORPORATE WAY
MORENO VALLEY, CA 92553

CONSTRUCTION CONTRACT

Date: 04/23/2010
Amount: \$ 58,888,374.00

Description (Name and Location): HIGHLAND FAIRVIEW CORPORATE PARK, SKECHERS DISTRIBUTION CENTER
29800 EUCALYPTUS AVENUE, RANCHO BELAGO, CA 92555

BOND

Date (Not earlier than Construction Contract Date): 04/23/2010
Amount: \$58,888,374.00

Modifications to this Bond: None See Page 2

CONTRACTOR AS PRINCIPAL
Company: J.D. DIFFENBAUGH, INC. (Corporate Seal)

SURETY
Company: Safeco Insurance Company of America



Signature: /s/ Joel Alexander
Name and Title: Joel Alexander, VP/CFO
(Any additional signatures appear on page 2.)
(FOR INFORMATION ONLY — Name, Address and Telephone)
AGENT or BROKER:
CULBERTSON INSURANCE SERVICES, INC. (714) 921-0530
5500 E. SANTA ANA CANYON RD. #201, ANAHEIM, CA 92807

Signature: /s/ Lexie Sherwood
Name and Title: LEXIE SHERWOOD / ATTORNEY-IN-FACT
OWNER'S REPRESENTATIVE (Architect, Engineer or other party):
HPA, INC.
18831 BARDEEN AVE., SUITE 100
IRVINE, CA 92612

1 The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

2 If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except to participate in conferences as provided in Subparagraph 3.1.

3 If there is no Owner Default, the Surety's obligation under this Bond shall arise after:

3.1 The Owner has notified the Contractor and the Surety at its address described in Paragraph 10 below that the Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than five business days after receipt of such notice to discuss methods of performing the Construction Contract. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default; and

3.2 The Owner has declared a Contractor Default and formally terminated the Contractor's right to complete the contract, Such Contractor Default shall not be declared earlier than seven business days after the Contractor and the Surety have received notice as provided in Subparagraph 3.1; and

3.3 The Owner has agreed to pay the Balance of the Contract Price to the Surety in accordance with the terms of the Construction Contract or to a contractor selected to perform the Construction Contract in accordance with the terms of the contract with the Owner.

4 When the Owner has satisfied the conditions of Paragraph 3, the Surety shall within 30 business days and at the Surety's expense take one of the following actions:

4.1 Arrange for the Contractor, with consent of the Owner, to perform and complete the Construction Contract; or

4.2 Undertake to perform and complete the Construction Contract itself, through its agents or through independent contractors; or

4.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and the contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 6 in excess of the Balance of the Contract Price incurred by the Owner resulting from the Contractor's default; or

4.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

- 1** After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, tender payment therefor to the Owner, or
- 2** Deny liability in whole or in part and notify the Owner citing reasons therefor.

5 If the Surety does not proceed as provided in Paragraph 4 within 30 business days the Surety shall be deemed to be in default on this Bond fifteen days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Subparagraph 4.4, and the Owner refuses the payment tendered or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

6 After the Owner has terminated the Contractor's right to complete the Construction Contract, and if the Surety elects to act under Subparagraph 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. To the limit of the amount of this Bond, but subject to commitment by the Owner of the Balance of the Contract Price to mitigation of costs and damages on the Construction Contract, the Surety is obligated without duplication for:

- 6.1** The responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
- 6.2** Additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 4; and
- 6.3** Liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

7 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators or successors and as identified in the dual obligee rider attached hereto and incorporated by this reference.

8 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

9 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

10 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page.

11 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

12 DEFINITIONS

12.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

12.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.

12.3 Contractor Default Failure of the Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Construction Contract.

12.4 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

MODIFICATIONS TO THIS BOND ARE AS FOLLOWS:

1. Notwithstanding anything in the contract to the contrary, Surety is only obligated to warranty work for one (1) year from the date of Substantial Completion.

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

Company:

Company: Safeco Insurance Company of America (Corporate Seal)

Signature: _____

Signature: _____

Name and Title:

Name and Title:

Address:

Address: Safeco Plaza, Seattle, WA 98185

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of Orange }

On 4-23-10 before me, Jan C. Moran, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Lexie Sherwood
Name(s) of Signer(s)



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 /s/ Jan C. Moran
Signature of Notary Public
Jan C. Moran

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 Individual
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Attorney in Fact
 Trustee
 Guardian or Conservator
 Other: _____

Signer's Name: _____
 Individual
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Attorney in Fact
 Trustee
 Guardian or Conservator
 Other: _____

Signer Is Representing: _____

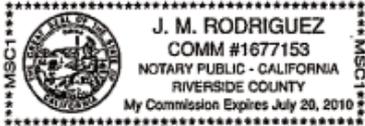
Signer Is Representing: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of RIVERSIDE }
}

On 4-23-10 before me, JM RODRIGUEZ, NOTARY PUBLIC
Date Here Insert Name and Title of the Officer

personally appeared JOEL ALEXANDER
Name(s) of Signer(s)



who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity upon behalf of which the person 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 JM Rodriguez
Signature of Notary Public
Notary Public

Place Notary Seal Above

OPTIONAL



POWER OF ATTORNEY

Safeco Insurance Company of America
General Insurance Company of America
1001 4th Avenue
Suite 1700
Seattle, WA 98154

KNOW ALL BY THESE PRESENTS:

No. 13294

That SAFECO INSURANCE COMPANY OF AMERICA and GENERAL INSURANCE COMPANY OF AMERICA, each a Washington corporation, does each hereby appoint

*****RICHARD A. COON; DAVID L. CULBERTSON; CHARLES L. FLAKE; JAN C. MORAN; LEXIE SHERWOOD; Anaheim, California*****

Its true and lawful attorney(s)-in-fact, with full authority to execute on its behalf fidelity and surety bonds or undertakings and other documents of a similar character issued in the course of its business, and to bind the respective company thereby.

IN WITNESS WHEREOF, SAFECO INSURANCE COMPANY OF AMERICA and GENERAL INSURANCE COMPANY OF AMERICA have each executed and attested these presents

this 14th day of January, 2009.

[Handwritten signature of Dexter R. Legg]

Dexter R. Legg, Secretary

[Handwritten signature of Timothy A. Mikolajewski]

Timothy A. Mikolajewski, Vice President

CERTIFICATE

Extract from the By-Laws of SAFECO INSURANCE COMPANY OF AMERICA and of GENERAL INSURANCE COMPANY OF AMERICA:

“Article V, Section 13. — FIDELITY AND SURETY BONDS ... the President, any Vice President, the Secretary, and any Assistant Vice President appointed for that purpose by the officer in charge of surety operations, shall each have authority to appoint individuals as attorneys-in-fact or under other appropriate titles with authority to execute on behalf of the company fidelity and surety bonds and other documents of similar character issued by the company in the course of its business... On any instrument making or evidencing such appointment, the signatures may be affixed by facsimile. On any instrument conferring such authority or on any bond or undertaking of the company, the seal, or a facsimile thereof, may be impressed or affixed or in any other manner reproduced; provided, however, that the seal shall not be necessary to the validity of any such instrument or undertaking.”

Extract from a Resolution of the Board of Directors of SAFECO INSURANCE COMPANY OF AMERICA and of GENERAL INSURANCE COMPANY OF AMERICA adopted July 28, 1970.

“On any certificate executed by the Secretary or an assistant secretary of the Company setting out,

- (i) The provisions of Article V, Section 13 of the By-Laws, and
(ii) A copy of the power-of-attorney appointment, executed pursuant thereto, and
(iii) Certifying that said power-of-attorney appointment is in full force and effect,

the signature of the certifying officer may be by facsimile, and the seal of the Company may be a facsimile thereof.”

I, Dexter R. Legg, Secretary of SAFECO INSURANCE COMPANY OF AMERICA and of GENERAL INSURANCE COMPANY OF AMERICA, do hereby certify that the foregoing extracts of the By-Laws and of a Resolution of the Board of Directors of these corporations, and of a Power of Attorney issued pursuant thereto, are true and correct, and that both the By-Laws, the Resolution and the Power of Attorney are still in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the facsimile seal of said corporation

this 23rd day of April, 2010.



[Handwritten signature of Dexter R. Legg]

Dexter R. Legg, Secretary



Safeco Insurance Companies
Safeco Plaza
Seattle, WA 98185

EXECUTED IN FOUR COUNTERPARTS

DUAL OBLIGEE RIDER TO PERFORMANCE BOND **Bond #6592411**

WHEREAS, Heretofore, on or about the 23RD day of APRIL, 2010, J.D. DIFFENBAUGH, INC., hereinafter referred to as Principal, entered into a written agreement with HF LOGISTICS-SKX T1, LLC, hereinafter referred to as Original Oblige, for the construction of HIGHLAND FAIRVIEW CORPORATE PARK SKECHERS DISTRIBUTION CENTER 29800 EUCALYPTUS AVENUE, RANCHO BELAGO, CA 92555, and

WHEREAS, the Principal and the Safeco Insurance Company of America, a Washington Corporation, as Surety, executed and delivered to the Original Oblige their joint and several Performance Bond, and

WHEREAS, BANK OF AMERICA NA AS ADMINISTRATIVE AGENT FOR ITSELF AND THE LENDERS, hereinafter referred to as Additional Oblige, has requested the Principal and Surety to join with the Original Oblige in the execution and delivery of this Rider, and the Principal and Surety have agreed so to do upon the conditions herein stated.

NOW THEREFORE, in consideration of one dollar and other good and valuable consideration, receipt of which is acknowledged, the undersigned agree that the said Performance Bond shall be, and is, amended as follows:

1. The name of BANK OF AMERICA NA AS ADMINISTRATIVE AGENT FOR ITSELF AND THE LENDERS, as Additional Oblige, shall be added to said bond as a named Oblige.
2. The rights of Additional Oblige as a named Oblige shall be subject to the condition precedent that the Original Oblige's obligations under the contract be performed.
3. The aggregate liability of the Surety under said bond to the Original Oblige and Additional Oblige, as their interests may appear, is limited to the penal sum of the said bond.
4. The Surety, as its option, may make any payment under said bond by check issued jointly to the Original Oblige and Additional Oblige.
5. The purpose of this Rider is to add an Additional Oblige only and is not intended to affect or alter the terms and conditions of this bond.

Signed, sealed and dated this 23RD day of APRIL, 2010.

(Seal if corporation)
Attest

HF LOGISTICS-SKX T1, LLC
Original Oblige

(Seal if corporation)
Attest

By /s/ Iddo Benzeevi
BANK OF AMERICA NA AS ADMINISTRATIVE AGENT FOR ITSELF AND THE LENDERS
Additional Oblige

SAFECO INSURANCE COMPANY OF AMERICA



By _____
J.D. DIFFENBAUGH, INC.
Principal

By /s/ LEXIE SHERWOOD
LEXIE SHERWOOD
Attorney-in-Fact

By /s/ JOEL ALEXANDER

S-2062/SA 10/99

Safeco and the Safeco logo are registered trademarks of Safeco Corporation.
XDP

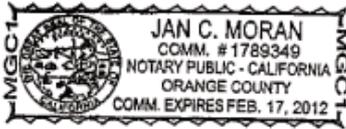
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of Orange



On 4-23-10 before me, Jan C. Moran, Notary Public,
Date Here Insert Name and Title of the Officer

personally appeared Lexie Sherwood
Name(s) of Signer(s)



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 /s/ Jan C. Moran
Signature of Notary Public
Jan C. Moran

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____
Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 Individual
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Attorney in Fact
 Trustee
 Guardian or Conservator
 Other: _____

Signer's Name: _____
 Individual
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Attorney in Fact
 Trustee
 Guardian or Conservator
 Other: _____

Signer Is Representing: _____

Signer Is Representing: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

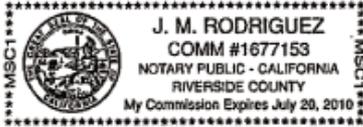
State of California

County of RIVERSIDE



On 4-23-10 before me, JM RODRIGUEZ, NOTARY PUBLIC,
Date Here Insert Name and Title of the Officer

personally appeared JOEL ALEXANDER
Name(s) of Signer(s)



who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity upon behalf of which the person 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.

Place Notary Seal Above

Signature /s/ JM RODRIGUER, NORTY PUBLIC
Signature of Notary Public

OPTIONAL



POWER
OF ATTORNEY

Safeco Insurance Company of America
General Insurance Company of America
1001 4th Avenue
Suite 1700
Seattle, WA 98154

KNOW ALL BY THESE PRESENTS:

No. 13294

That **SAFECO INSURANCE COMPANY OF AMERICA and GENERAL INSURANCE COMPANY OF AMERICA**, each a Washington corporation, does each hereby appoint

*****RICHARD A. COON; DAVID L. CULBERTSON; CHARLES L. FLAKE; JAN C. MORAN; LEXIE SHERWOOD; Anaheim, California*****

Its true and lawful attorney(s)-in-fact, with full authority to execute on its behalf fidelity and surety bonds or undertakings and other documents of a similar character issued in the course of its business, and to bind the respective company thereby.

IN WITNESS WHEREOF, SAFECO INSURANCE COMPANY OF AMERICA and GENERAL INSURANCE COMPANY OF AMERICA have each executed and attested these presents

this 14th day of January, 2009.

Dexter R. Legg, Secretary

Timothy A. Mikolajewski, Vice President

CERTIFICATE

Extract from the By-Laws of **SAFECO INSURANCE COMPANY OF AMERICA**
and of **GENERAL INSURANCE COMPANY OF AMERICA:**

“Article V, Section 13. — FIDELITY AND SURETY BONDS ... the President, any Vice President, the Secretary, and any Assistant Vice President appointed for that purpose by the officer in charge of surety operations, shall each have authority to appoint individuals as attorneys-in-fact or under other appropriate titles with authority to execute on behalf of the company fidelity and surety bonds and other documents of similar character issued by the company in the course of its business... On any instrument making or evidencing such appointment, the signatures may be affixed by facsimile. On any instrument conferring such authority or on any bond or undertaking of the company, the seal, or a facsimile thereof, may be impressed or affixed or in any other manner reproduced; provided, however, that the seal shall not be necessary to the validity of any such instrument or undertaking.”

Extract from a Resolution of the Board of Directors of **SAFECO INSURANCE COMPANY OF AMERICA**
and of **GENERAL INSURANCE COMPANY OF AMERICA** adopted July 28, 1970.

“On any certificate executed by the Secretary or an assistant secretary of the Company setting out,

- (i) The provisions of Article V, Section 13 of the By-Laws, and
- (ii) A copy of the power-of-attorney appointment, executed pursuant thereto, and
- (iii) Certifying that said power-of-attorney appointment is in full force and effect,

the signature of the certifying officer may be by facsimile, and the seal of the Company may be a facsimile thereof.”

I, Dexter R. Legg, Secretary of **SAFECO INSURANCE COMPANY OF AMERICA** and of **GENERAL INSURANCE COMPANY OF AMERICA**, do hereby certify that the foregoing extracts of the By-Laws and of a Resolution of the Board of Directors of these corporations, and of a Power of Attorney issued pursuant thereto, are true and correct, and that both the By-Laws, the Resolution and the Power of Attorney are still in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the facsimile seal of said corporation

this 23rd day of April, 2010.



Dexter R. Legg, Secretary

EXECUTED IN FOUR COUNTERPARTS

PAYMENT BOND

Bond #6592411
PREMIUM: INCLUDED IN
PERFORMANCE BOND

Conforms with The American Institute of Architects

AIA Document A312

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):
J.D. DIFFENBAUGH, INC.
6865 AIRPORT DRIVE
RIVERSIDE, CA 92504

SURETY:
Safeco Insurance Company of America

Safeco Plaza, Seattle, WA 98185

OWNER (Name and Address): HF LOGISTICS-SKX T1, LLC
14225 CORPORATE WAY
MORENO VALLEY, CA 92553

CONSTRUCTION CONTRACT

Date: 04/23/2010
Amount: \$58,888,374.00

Description (Name and Location): HIGHLAND FAIRVIEW CORPORATE PARK, SKECHERS DISTRIBUTION CENTER 29800
EUCALYPTUS AVENUE, RANCHO BELAGO, CA 92555

BOND

Date (Not earlier than Construction Contract Date): 04/23/2010
Amount: \$58,888,374.00
Modifications to this Bond:

None

See Page 3

CONTRACTOR AS PRINCIPAL
Company: J.D. DIFFENBAUGH, INC.

SURETY Safeco Insurance Company of America



Signature: /s/ Joel Alexander
Name and Title: JOEL ALEXANDER VP/CFO

Signature: /s/ Lexie Sherwood
Name and Title: LEXIE SHERWOOD /ATTORNEY-IN-FACT

(FOR INFORMATION ONLY-Name, Address and Telephone)
AGENT or BROKER:
CULBERTSON INSURANCE SERVICES, INC. (714) 921-0530
5500 E. SANTA ANA CANYON RD. #201, ANAHEIM, CA 92807

OWNER'S REPRESENTATIVE (Architect, Engineer or other party): HPA, INC.
18831 BARDEEN AVE., SUITE 100
IRVINE, CA 92612

1 The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference.

2 With respect to the Owner, this obligation shall be null and void if the Contractor:

2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and

2.2 Defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity whose claim, demand, lien or suit is for the payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, provided the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 12) of any claims, demands, liens or suits and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety, and provided there is no Owner Default.

3 With respect to Claimants, this obligation shall be null

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and void if the Contractor promptly makes payment, directly or indirectly, for all sums due.

4 The Surety shall have no obligation to Claimants under this Bond until:

- 4.1** Claimants who are employed by or have a direct contract with the Contractor have given notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.
- 4.2** Claimants who do not have a direct contract with the Contractor:
 - .1** Have furnished written notice to the Contractor and sent a copy, or notice thereof, to the Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials were furnished or supplied or for whom the labor was done or performed; and
 - .2** Have either received a rejection in whole or in part from the Contractor, or not received within 30 days of furnishing the above notice any communication from the Contractor by which the Contractor has indicated the claim will be paid directly or indirectly; and
 - .3** Not having been paid within the above 30 days, have sent a written notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to the Contractor.

5 If a notice required by Paragraph 4 is given by the Owner to the Contractor or to the Surety, that is sufficient compliance.

6 When the Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at the Surety's expense take the following actions:

- 6.1** Send an answer to the Claimant, with a copy to the Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.
- 6.2** Pay or arrange for payment of any undisputed amounts.

7 The Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

8 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any Construction Performance Bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction contract are dedicated to satisfy obligations of the Contractor and the Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

9 The Surety shall not be liable to the Owner, Claimants or others for obligations of the contractor that are unrelated to the Construction Contract. The Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.

10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

11 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the work or part of the work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Subparagraph 4.1 or Clause 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page. Actual receipt of notice by Surety, the Owner or the Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.

13 When this bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

14 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

15 DEFINITIONS

15.1 Claimant: An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

15.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.

15.3 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

MODIFICATIONS TO THIS BOND ARE AS FOLLOWS:

Sub paragraph 4.3 is added as follows:

4.3 Claimant has furnished to Surety proof of claim duly sworn to by Claimant, along with adequate supporting documentation which proves the amount claimed is due and payable.

Paragraph 5 is amended as follows:

5 If a notice required by paragraph 4 is given by Owner to the Contractor and to the Surety, that is sufficient compliance.

Paragraph 6 is deleted in its entirety and the following is substituted in its place:

6 When the Claimant has satisfied the conditions of Paragraph 4, and has submitted all supporting documentation and any proof of claim requested by the Surety, the Surety shall, within a reasonable period of time, notify the Claimant of the amounts that are undisputed and the basis for challenging any amounts that are disputed, including, but not limited to, the lack of substantiating documentation to support the claim as to entitlement or amount, and the Surety shall, within a reasonable period of time, pay or make arrangements for payment of any undisputed amount; provided, however, that the failure of the Surety to timely discharge its obligations under this paragraph or to dispute or identify any specific defense to all or any part of a claim shall not be deemed to be an admission of liability by the Surety as to such claim or otherwise constitute a waiver of the Contractor's or Surety defenses to, or right to dispute such claim. Rather, the Claimant shall have the immediate right, without further notice, to bring suit against the Surety to enforce any remedy available to it under this Bond.

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL (Corporate Seal)

SURETY

Company:

Company:

Signature: _____

Signature: _____

Name and Title:

Name and Title:

Address:

Address:

S-2149/SA 1/08

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of Orange



On 4-23-10 before me, Jan C. Moran, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Lexie Sherwood
Name(s) of Signer(s)



Place Notary Seal Above

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 /s/ Jan C. Moran
Signature of Notary Public
Jan C. Moran

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 Individual
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Attorney in Fact
 Trustee
 Guardian or Conservator
 Other: _____

Signer Is Representing: _____

Signer's Name: _____
 Individual
 Corporate Officer—Title(s): _____
 Partner — Limited General
 Attorney in Fact
 Trustee
 Guardian or Conservator
 Other: _____

Signer Is Representing: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

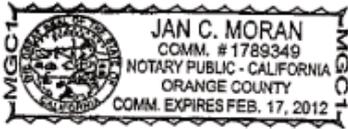
State of California

County of RIVERSIDE



On 4-23-10 before me, JM RODRIGUEZ, NOTARY PUBLIC,
Date Here Insert Name and Title of the Officer

personally appeared JOEL ALEXANDER
Name(s) of Signer(s)



Place Notary Seal Above

who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person 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 /s/ J.M. Rodriguez
Signature of Notary Public
Notary Public

OPTIONAL



POWER OF ATTORNEY

Safeco Insurance Company of America
General Insurance Company of America
1001 4th Avenue
Suite 1700
Seattle, WA 98154

KNOW ALL BY THESE PRESENTS:

No. 13294

That SAFECO INSURANCE COMPANY OF AMERICA and GENERAL INSURANCE COMPANY OF AMERICA, each a Washington corporation, does each hereby appoint

*****RICHARD A. COON; DAVID L CULBERTSON; CHARLES L. FLAKE; JAN C. MORAN; LEXIE SHERWOOD; Anaheim, California*****

its true and lawful attorney(s)-in-fact, with full authority to execute on its behalf fidelity and surety bonds or undertakings and other documents of a similar character issued in the course of its business, and to bind the respective company thereby.

IN WITNESS WHEREOF, SAFECO INSURANCE COMPANY OF AMERICA and GENERAL INSURANCE COMPANY OF AMERICA have each executed and attested these presents

this 14th day of January, 2009.

[Handwritten signature of Dexter R. Legg]

Dexter R. Legg, Secretary

[Handwritten signature of Timothy A. Mikolajewski]

Timothy A. Mikolajewski, Vice President

CERTIFICATE

Extract from the By-Laws of SAFECO INSURANCE COMPANY OF AMERICA and of GENERAL INSURANCE COMPANY OF AMERICA:

"Article V, Section 13. — FIDELITY AND SURETY BONDS ... the President, any Vice President, the Secretary, and any Assistant Vice President appointed for that purpose by the officer in charge of surety operations, shall each have authority to appoint individuals as attorneys-in-fact or under other appropriate titles with authority to execute on behalf of the company fidelity and surety bonds and other documents of similar character issued by the company in the course of its business... On any instrument making or evidencing such appointment, the signatures may be affixed by facsimile. On any instrument conferring such authority or on any bond or undertaking of the company, the seal, or a facsimile thereof, may be impressed or affixed or in any other manner reproduced; provided, however, that the seal shall not be necessary to the validity of any such instrument or undertaking."

Extract from a Resolution of the Board of Directors of SAFECO INSURANCE COMPANY OF AMERICA and of GENERAL INSURANCE COMPANY OF AMERICA adopted July 28, 1970.

"On any certificate executed by the Secretary or an assistant secretary of the Company setting out,

- (i) The provisions of Article V, Section 13 of the By-Laws, and
(ii) A copy of the power-of-attorney appointment, executed pursuant thereto, and
(iii) Certifying that said power-of-attorney appointment is in full force and effect,

the signature of the certifying officer may be by facsimile, and the seal of the Company may be a facsimile thereof."

I, Dexter R. Legg, Secretary of SAFECO INSURANCE COMPANY OF AMERICA and of GENERAL INSURANCE COMPANY OF AMERICA, do hereby certify that the foregoing extracts of the By-Laws and of a Resolution of the Board of Directors of these corporations, and of a Power of Attorney issued pursuant thereto, are true and correct, and that both the By-Laws, the Resolution and the Power of Attorney are still in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the facsimile seal of said corporation

this 23rd day of April, 2010.



[Handwritten signature of Dexter R. Legg]

Dexter R. Legg, Secretary

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**LENDER'S DUAL
OBLIGEE RIDER TO
PAYMENT BOND**

Liberty Mutual Surety
1001 4th Avenue, Suite 1700
Seattle, WA 98154

EXECUTED IN FOUR COUNTERPARTS

Bond #6592411

WHEREAS, Heretofore, on or about the 23rd day of April 2010, J.D. Diffenbaugh, Inc., as Contractor entered into a written agreement with HF Logistics-SKX T1, LLC as Owner for the construction of Highland Fairview Corporate Park 29800 Eucalyptus Avenue, Rancho Belago, CA 92555, and

WHEREAS, the Contractor and the Safeco Insurance Company of America, a Washington corporation, as Surety, executed and delivered to the Owner a Payment Bond, and

WHEREAS, the Owner has arranged for a loan for the exclusive purpose of payment for the performance of said Contract and has requested the Contractor and Surety to join with the Owner in the execution and delivery of this Rider, and the Contractor and Surety have agreed so to do upon the conditions herein stated.

NOW, THEREFORE, in consideration of one dollar and other good and valuable consideration, receipt of which is acknowledged, the undersigned agree that the said Payment Bond shall be, and is amended as follows:

1. The name of BANK OF AMERICA NA AS ADMINISTRATIVE AGENT FOR ITSELF AND THE LENDERS as Lender shall be added to said bond as a named Obligee.
2. The rights of the Lender as a named Obligee shall be subject to the condition precedent that the Owner's obligations to the Contractor be performed.
3. The total aggregate liability of the Surety under said bond to Owner, Lender, and third party beneficiaries, as their interests may appear, is limited to the penal sum of the said bond.
4. The rights of the Lender as a named Obligee shall be co-extensive with the rights of the Owner and the execution of this rider shall not be construed as conferring any different or greater right to Lender. The intent of this rider is to permit Lender a direct right of action against Principal and Surety under the Payment Bond to enforce their obligation to pay labor and materialmen claimants who are protected and who have perfected their right under said bond and for no other purpose.
5. This rider shall not be construed to broaden or change the terms, conditions, or obligations of said Payment Bond insofar as any claimants, as the term claimant is defined therein, are concerned, nor shall this rider inure to the benefit of any person, firm or business organization who does not qualify as claimant under said Payment Bond.
6. Except as herein modified, said Payment Bond shall be and remain in full force and effect.

Signed, sealed and dated this 23rd day of April, 2010.

(Seal if corporation)
Attest

HF Logistics-SKX T1, LLC
Owner

By /s/ Iddo Benzeevi

J.D. Diffenbaugh, Inc.
Contractor

(Seal if corporation)
Attest

By /s/ Joel Alexander

Safeco Insurance Company of America

By /s/ Lexie Sherwood
Lexie Sherwood Attorney-in-Fact



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California



County of Orange

On 4-23-10 before Jan C. Moran, Notary Public, personally appeared
Date me, Here Insert Name and Title of the Officer

Lexie Sherwood
Name(s) of Signer(s)



Place Notary Seal Above

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 /s/ Jan C. Moran
Signature of Notary Public
Jan C. Moran

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer is Representing: _____



POWER
OF ATTORNEY

Safeco Insurance Company of America
General Insurance Company of America
1001 4th Avenue
Suite 1700
Seattle, WA 98154

KNOW ALL BY THESE PRESENTS:

No. 13294

That **SAFECO INSURANCE COMPANY OF AMERICA** and **GENERAL INSURANCE COMPANY OF AMERICA**, each a Washington corporation, does each hereby appoint

******RICHARD A. COON; DAVID L. CULBERTSON; CHARLES L. FLAKE; JAN C. MORAN; LEXIE SHERWOOD;** Anaheim, California*****

its true and lawful attorney(s)-in-fact, with full authority to execute on its behalf fidelity and surety bonds or undertakings and other documents of a similar character issued in the course of its business, and to bind the respective company thereby.

IN WITNESS WHEREOF, SAFECO INSURANCE COMPANY OF AMERICA and GENERAL INSURANCE COMPANY OF AMERICA have each executed and attested these presents

this 14th day of January, 2009.

Dexter R. Legg, Secretary

Timothy A. Mikolajewski, Vice President

CERTIFICATE

Extract from the By-Laws of **SAFECO INSURANCE COMPANY OF AMERICA**
and of **GENERAL INSURANCE COMPANY OF AMERICA:**

“Article V, Section 13. — **FIDELITY AND SURETY BONDS** ... the President, any Vice President, the Secretary, and any Assistant Vice President appointed for that purpose by the officer in charge of surety operations, shall each have authority to appoint individuals as attorneys-in-fact or under other appropriate titles with authority to execute on behalf of the company fidelity and surety bonds and other documents of similar character issued by the company in the course of its business... On any instrument making or evidencing such appointment, the signatures may be affixed by facsimile. On any Instrument conferring such authority or on any bond or undertaking of the company, the seal, or a facsimile thereof, may be impressed or affixed or in any other manner reproduced; provided, however, that the seal shall not be necessary to the validity of any such instrument or undertaking.”

Extract from a Resolution of the Board of Directors of **SAFECO INSURANCE COMPANY OF AMERICA**
and of **GENERAL INSURANCE COMPANY OF AMERICA** adopted July 28, 1970.

“On any certificate executed by the Secretary or an assistant secretary of the Company setting out,

- (i) The provisions of Article V, Section 13 of the By-Laws, and
- (ii) A copy of the power-of-attorney appointment, executed pursuant thereto, and
- (iii) Certifying that said power-of-attorney appointment is in full force and effect,

the signature of the certifying officer may be by facsimile, and the seal of the Company may be a facsimile thereof.”

I, Dexter R. Legg, Secretary of **SAFECO INSURANCE COMPANY OF AMERICA** and of **GENERAL INSURANCE COMPANY OF AMERICA**, do hereby certify that the foregoing extracts of the By-Laws and of a Resolution of the Board of Directors of these corporations, and of a Power of Attorney issued pursuant thereto, are true and correct, and that both the By-Laws, the Resolution and the Power of Attorney are still in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the facsimile seal of said corporation

this 23rd day of April, 2010.



Dexter R. Legg, Secretary

Safeco® and the Safeco logo are registered trademarks of Safeco Corporation.

EXHIBIT "J"

DIVISION	SECTION	DESCRIPTION	DURATION	UNIT	NOTES
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01 General Requirements

Contract Article 3.5.2

Besides warranties required elsewhere, Contractor shall, and hereby does warrant all work for a period of one year after the date of substantial completion and shall repair or replace any or all such work, together with any other work, which may be displaced in so doing, that may prove defective in workmanship and/or materials within a one-year period from date of substantial completion without expense whatsoever to Owner, ordinary wear and tear, unusual abuse or neglect excepted.

Owner will give notice of observed defects with reasonable promptness.

Contractor shall notify Owner upon completion of repairs.

Contract Article 3.5.5

This article does not in any way limit the warranty on any items for which a longer warranty is specified or on any items for which a manufacturer gives a warranty for a longer period. Contractor shall furnish Owner all appropriate warranty certificates upon the date of substantial completion.

Attached: Section 01740 — Warranties, Guarantees and Bonds

DIVISION	SECTION	DESCRIPTION	DURATION	UNIT	NOTES
		Site Work			
	09-9113	Paint - Site	1	Year	
	10-7516	Flag Poles & flags	1	Year	
	12-9313	Bike Racks, Benches, Pots, Urns, Trash	1	Year	
	13-1213	Fountain Entry Feature	1	Year	
	31-1316	Stamped Concrete Paving	1	Year	
	32-3213	Site Electrical & Generator	1	Year	
	32-1313	Concrete Paving	1	Year	
	32-1219	Asphalt Concrete Paving	1	Year	
	32-1613.13	Cast-In-Place Concrete Gutters	1	Year	
	32-1613.16	Cast-In-Place Concrete Curbs	1	Year	
	32-3119	Structural Steel (Trash Gates & Lids)	1	Year	
	33-1116	Water System	1	Year	
	33-3113	Sanitary Sewage Systems	1	Year	
	33-4113	Storm Drain System	1	Year	
	33-4216	Concrete Storm Drainage Box Culvert	1	Year	
	32-1723	Pavement Marking	1	Year	
	32-3113	Chain Link Fencing & Gates	1	Year	
	32-3119	Decorative Metal Fences & Gates	1	Year	
	32-3213	Cast-In-Place Screen Walls	1	Year	
	02837	Slide Gate Operator	5	Year	
	02890	Post Mounted Signs	1	Year	
	32-8413	Landscape & Irrigation	1	Year	
	32-9113.26	Landscape Planting	1	Year	
	33-7119.13	Site Electrical transformers & Vaults	1	Year	

DIVISION	SECTION	DESCRIPTION	DURATION	UNIT	NOTES
		Site Work Continued			
	33-8113	Low-Voltage — Dry Utilities			
	33-7993	Street Lighting & Bases			
03-000	33-7139.23	Site Underground Electrical	1	Year	
		Concrete			
	03-2100	Reinforcing Steel	1	Year	
	03-3100	Cast-In-Place Concrete	1	Year	
	03-4713	Tilt-Up Concrete Construction	1	Year	
04-000	03-5113	Cementitious Underlayment	1	Year	
		Masonry			
05-000	32-3119	Unit Masonry Walls	1	Year	
		Metals			
	05-1223	Structural Steel Framing	1	Year	
	05-2119	Steel Joists	1	Year	
	05-3113	Steel Deck	1	Year	
	05-5963	Metal Pipe Bollards	1	Year	
	05-5113	Metal Stairs	1	Year	
	05-5213	Pipe & Tube Railings	1	Year	
06-000	05-7313	Glass Raining Systems		Year	
		Wood & Plastics			
	06-1113	Rough Carpentry	1	Year	
	06-1516	Panelized Roofing System	1	Year	
	06-2033	Finish Carpentry & Millwork	1	Year	
	06-8200	Glass Fiber Reinforced Plastic	1	Year	
		Door, Frame & Hardware Installation	1	Year	
	06-4116	Architectural Wood Casework	1	Year	
	06-2513	Wood Paneling	1	Year	
	06-6116	Plastic Fabrications	1	Year	
		Solid Polymer Fabrications	1	Year	
07-000		Thermal & Moisture Control			
	07-1113	Bituminous Dampproofing	1	Year	
	07-2616	Vapor retarders	1	Year	
	07-2116	Thermal Insulation	1	Year	
	07-2113.19	Reflective Foil Sheet Insulation	1	Year	
	07-2123	Sound Attenuation Insulation	1	Year	
	07-8413	Firestopping	1	Year	
	07-9216	Composite Panels	1	Year	
	07-5423	Single Ply Roofing	20	Years	NDL
	07-4213	Sheet Metal Soffits	20	Years	
	07-6200	Sheet Metal Flashing & trim	1	Years	
	07-7236	Smoke Ventilating Skylights	10	Years	
		Vertical Joint Sealant	5	Years	
	07-7223	Roof hatches	5	Years	
	07-9216	Joint Sealers	5	Years	

<u>DIVISION</u>	<u>SECTION</u>	<u>DESCRIPTION</u>	<u>DURATION</u>	<u>UNIT</u>	<u>NOTES</u>
08-000		Doors & Windows			
	08-1213.13	Hollow Metal Frames	1	Year	
	08-1313.13	Hollow Metal Doors	1	Year	
	08-1213.53	Refinished Steel Door Frames	1	Year	
	08-1429	Wood Doors	Full Life		
	08-3116	Access Panels	1	Year	
	08-3323	Sectional Overhead Doors	5	Years	
	08-4113	Aluminum Entrances & Storefronts	1	Year	
	08-4226	All-Glass Entrances	5	Years	
	08-7100	Finish Hardware			
	Aug-13	Closers	10	Years	
	08-7153	Exit Devices	3	Years	
	08-7100	Hinges	Life of Building		
	08-7100	Other Hardware	2	Years	
	08-8113	Glazing	1	Year	
	08-8853	Fire Rated Glass	1	Year	
09-000		Finishes			
	09-2116	Non-Structural Metal Stud Framing	1	Year	
	09-2613	Polished Plaster	10	Year	
	09-2116	Gypsum Board	1	Year	
	09-3013	Tiling	1	Year	
	09-5113	Acoustical Panel Ceiling	1	Year	
	09-5113	Acoustical Panel	1	Year	
	09-5113	Cortega Second Look 2765 Panels	10	Years	
	09-5323	Grid	10	Years	
		Fiberglas Reinforced Plastic Panels	1	Year	
	09-6223	Bamboo Flooring	1	Year	
	09-6519	Resilient Tile Flooring	5	Years	
	09-6536	Static-Control Resilient Flooring	5	Years	
	09-6515	Resilient Sheet Flooring	5	Years	
	09-6513	Top-Set Resilient Base	1	Year	
	09-6813	Carpet Tiles	10	Years	
	09-6816	Sheet Carpet	10	Years	
	09-9123	Painting	1	Year	
	09-9723	Concrete Coating Floor Sealer	1	Year	
	09-7216	Wall Covering	1	Year	
10-000		Specialties			
	10-2813.13	Metal Toilet Compartments	1	Year	
	10-1433	Building Accessibility Signage	1	Year	
	10-1400	Plastic Signs — Restroom	1	Year	
	10-4116	Emergency Key Cabinets (Knox Box)	1	Year	
		Miscellaneous Specialties	1	Year	
	10-4116	Fire Extinguishers & cabinets	1	Year	
	10-5113	Lockers (Solid Plastic)	1	Year	

<u>DIVISION</u>	<u>SECTION</u>	<u>DESCRIPTION</u>	<u>DURATION</u>	<u>UNIT</u>	<u>NOTES</u>
10-000		Specialties Continued			
	10-8213	Airfoil Louvers & Wire Screening	1	Year	
	10-2813.13	Commercial Toilet Accessories	1	Year	
11-000		Equipment			
	11-1313	Loading Dock Bumpers	2	Years	
			1	Year	
12-000		Furnishings			
	12-2413	Roller Window Shades	1	Year	
13-000		Special Construction			
	N/A				
14-000		Conveying Systems			
	14-2423	Hydraulic Elevator	1	Year	
21-000		Fire Suppression System			
	21-1116	Fire Hydrants / Fire-Dept. Connections	1	Year	
	21-1313	Wet-Pipe Fire Sprinkler System	1	Year	
	21-3116	Diesel-Drive, Fire Pump	1	Year	
	21-2213	Clean Agent Fire Extinguishing	1	Year	
22-000		Plumbing			
	22-4213	Commercial Water Closet	1	Year	
	22-4213	Commercial Urinals	1	Year	
	22-3320.23	Solar Water Heaters	1	Year	
	22-4523	Personal Eyewash Equipment			
	22-4239	Plumbing Fixtures	1	Year	
23-000		Heating, Ventilating & Air Conditioning			
	23-3113	HVAC Ducts & Casings	1	Year	
	23-3423	HVAC Ower Ventilators	1	Year	
	23-6213	Refrigerant Compressors	1	Year	
	23-7413	Outdoor, Central-Station Air-Handling	1	Year	
	25-1313	Automation Control & Monitoring	1	Year	
26-0000		Electrical			
	26-0100	Electrical	1	Year	
	26-0923	Lighinting Control Devises	1	Year	
	26-5113	Lighting	1	Year	
	26-2100	Low-Voltage Power Systems			
	26-5623	Site Lighting	1	Year	
	26-0100	Electrical Distribution	1	Year	
27-000		Communications			
	27-1313	Communications	1	Year	
28-000		Fire Detection & Alarm			
	28-3100	Fie Alarm	1	Year	

SECTION 01740 (01 78 36)
WARRANTIES, GUARANTEES AND BONDS

PART 1 — GENERAL**1.01 SUMMARY**

- A. Section Includes:
1. Preparation and submittal, general administrative and procedural requirements.
 2. Time and schedule of submittals.
 3. Certifications and other commitments and agreements for continuing services to Owner are specified elsewhere in the Contract Documents.

1.02 DEFINITIONS

- A. Warranty: Assurance to Owner by the Contractor, installer, supplier, manufacturer or other party responsible as warrantor, for the quantity, quality, performance and other representations of a product, system, service of the Work, in whole or in part, for the duration of the specified period of time.
- B. Guarantee: Assurance to Owner by Contractor or product manufacturer or other specified party, as guarantor, that the specified Warranty will be fulfilled by the guarantor in the event of default by the warrantor.
- C. Standard Product Warranty: Preprinted, written Warranty published by product manufacturer for particular products and specifically endorsed by the manufacturer to the Owner
- D. Special Project Warranty: Written Warranty required by or incorporated into Contract Documents, to extend time limits provided by standard Warranty or to provide greater rights for Owner.
- E. Extended Warranty: Warranty which entails a longer period of time than the one year standard.
- F. Correction Period: As defined in the Conditions of the Contract, as applicable. Unless otherwise specified, Correction Period shall be synonymous with Warranty Period, Guarantee Period or any similar terms as they appear in the technical Sections of the Specifications.

1.03 WARRANTIES AND GUARANTEES

- A. General: Provide all Warranties and Guarantees with Owner named as beneficiary. For equipment and products, or components thereof, bearing a manufacturer's Warranty or Guarantee that extends for a period of time beyond the Contractor's Warranty and Guarantee, as required by the conditions for Extended Warranty, so state in the Warranty or Guarantee.
- B. General Warranty and Guarantee Requirements: Warranty shall be an agreement to repair or replace, without cost or undue hardship to the Owner, work performed under the Contract which is found to be defective during the Correction Period (Warranty or Guarantee) period. Repairs and replacements due to improper maintenance or operation or due to normal wear, usage and weathering are excluded from Warranty requirements unless otherwise specified.

WARRANTIES, GUARANTEES AND BONDS

- C. Specific Warranty and Guarantee Requirements: Specific requirements are included in product Specifications named in any Section of the technical specifications, including content and limitations.
- D. Disclaimers and Limitations: Manufacturer's disclaimers and limitations on product Warranties and Guarantees shall not relieve Contractor of responsibility for Warranty and Guarantee requirements for the Work that incorporates such products, nor shall they relieve suppliers, manufacturers and installers required to countersign special Warranties with Contractor.
- E. Related Damages and Losses: When correcting warranted Work that has been found defective, remove and replace other Work that has been damaged as a result of such defect or that must be removed and replaced to provide access for correction of warranted Work.
- F. Reinstatement of Warranty: When Work covered by a Warranty has been found defective and has been corrected by replacement or rebuilding, reinstate the Warranty by written endorsement. The reinstated Warranty shall be equal to the original Warranty with an equitable adjustment for depreciation.
- G. Replacement Cost: Upon determination that Work covered by as Warranty has been found to be defective, replace or reconstruct the Work to a condition acceptable to Owner, complying with applicable requirements of the Contract Documents. Contractor shall be responsible for all costs for replacing or reconstructing defective Work regardless of whether Owner has benefited from use of the Work through a portion of its anticipated useful service life.
- H. Owner's Recourse: Written Warranties made to the Owner shall be in addition to implied Warranties, and shall not limit the duties, obligations, rights and remedies otherwise available under law, nor shall Warranty periods be interpreted as limitations on time in which the Owner can enforce such other duties, obligations, rights or remedies.
- I. Rejection of Warranties: The Owner reserves the right to reject Warranties and to limit selections to products with Warranties not in conflict with requirements of the Contract Documents.
- J. Warranties as Condition of Approval: Owner reserves the right to refuse to approve Work for the project where a special Warranty, certification or similar commitment shall be required on such Work or part of the Work, until evidence is presented that entities required to countersign such commitments are willing to do so.

1.04 FORM OF SUBMITTALS

- A. Bind in commercial quality, 8-1/2 by 11 inch three-ring side binders.
- B. Label cover of each binder with typed or printed title WARRANTIES AND BONDS, with title of project; name, address and telephone number of Contractor and equipment supplier; and name of responsible principal.
- C. Provide full information, using separate typed sheets as necessary. List Subcontractor, supplier, and manufacturer, with name, address, and telephone number of responsible principal.

WARRANTIES, GUARANTEES AND BONDS

- D. Prepare standard Warranties and Guarantees, excepting manufacturers' standard printed Warranties and Guarantees, on Contractor's subcontractor's, material supplier's or manufacturer's own letterhead, addressed to Owner.
- E. Warranty and Guarantee letters shall be signed by all responsible parties and by Contractor in every case, with modifications only as approved in advance by Owner to suit the conditions pertaining to the Warranty or Guarantee.
- F. Manufacturer's Standard Forms: Manufacturer's Warranty or Guarantee forms may be used. Manufacturer's forms shall contain appropriate terms and identification, ready for execution by the required parties.
- G. If proposed terms and conditions restrict Guarantee coverage or require actions by Owner beyond those specified, submit draft of Guarantee to Owner for review and acceptance before performance of the Work.
- H. Signatures: Signatures shall be by the person authorized to sign Warranties, Guarantees and bonds on behalf of entity providing such Warranty, Guarantee or bond.

1.05 PREPARATION OF SUBMITTALS

- A. Obtain Warranties and bonds, executed in duplicate by responsible Subcontractors, suppliers, and manufacturers, within ten days after completion of the applicable item or work. Except for items put into use with Owner's permission, leave date of beginning of time of Warranty until the Date of Substantial Completion is determined.
- B. Verify that documents are in proper form, and contain full information.
- C. Retain Warranties and bonds until time specified for submittal.

1.06 TIME OF SUBMITTALS

- A. For equipment or component parts of equipment put into service during construction with Owner's permission, submit documents within ten days after certification of beneficial occupancy and Substantial Completion for the item placed into service.
- B. Make other submittals within ten days after Date of Substantial Completion, prior to final Application for Payment.
- C. For items of Work when acceptance is delayed beyond Date of Substantial Completion, submit within ten days after removal of the items from the punch list, listing the date of approval as the beginning of the Warranty period.

1.07 DURATION OF WARRANTIES

- A. Unless otherwise specified or prescribed by law, Warranty periods shall be not less than the Correction Period required by the Conditions of the Contract, but in no case less than one year from the date established for completion of the Project at Substantial Completion.
- B. Refer to Technical Sections of the Specifications for extended Warranty periods designated beyond the minimum one year duration.

HPA 7086

HIGHLAND FAIRVIEW CORPORATE PARK
Moreno Valley, California

PART 2 — PRODUCTS

Not Used.

PART 3 — EXECUTION

Not Used.

END OF SECTION

WARRANTIES, GUARANTEES AND BONDS

Exhibit "K"

CONTRACTOR'S CONSENT AND CERTIFICATE

The undersigned ("Contractor") has entered into that certain Construction Agreement (the "Agreement") dated April __, 2010 with **HF LOGISTICS-SKX T1, LLC, a Delaware limited liability company** ("Owner"), for the construction of certain improvements (the "Improvements") to be located on the land (the "Land") more particularly described on Exhibit A attached hereto and made a part hereof. Contractor acknowledges that Owner will assign to Bank of America, N.A., a national banking association, (the "Agent") as Agent for itself and for the other lenders identified in the Loan Agreement as defined herein (collectively, the "Lenders"), all of Owner's rights (but not Owner's obligations) in and to the Agreement as security for the obligations of Owner under a Syndicated Construction Loan Agreement (the "Loan Agreement") to be entered into between Owner, Agent and Lenders. Contractor consents to and agrees to be bound by that assignment. Contractor further certifies to and agrees with Agent as follows:

1. The Agreement is in full force and effect, and neither Owner nor Contractor is in default under the Agreement.
2. All permits required for the construction of the Improvements (including, without limitation, grading permits, driveway entrance permits and building permits) have been issued except N/A ja (if none, so state), and all insurance coverage that Contractor is required to carry under the Agreement has been obtained.
3. If Owner defaults in making any payment or in performing any other obligation under the Agreement, or if the Agreement is terminated for any reason, Contractor will give Agent written notice of the default or termination. Prior to exercising any remedy available to Contractor under the Agreement as a result of a default, Contractor will afford to Agent a period of thirty (30) days within which to cure the default (it being acknowledged by Contractor that Agent shall have no obligation to cure any default by Owner). If the Agreement is terminated, Contractor, at the request of Agent, will enter into a new agreement with Agent upon substantially the same terms and conditions as set forth in the Agreement. Any notice of default or termination will be delivered by personal delivery or by a nationally recognized overnight courier service or will be mailed by certified mail, return receipt requested, to the following address:

Bank of America, N.A.
1 Alhambra Plaza, Penthouse
Coral Gables, Florida 33134
Attention: Commercial Loan Administration

4. In the event that Agent or any other party ("Owner's Successor") shall acquire title to the Property through foreclosure or deed in lieu of foreclosure, Contractor, if requested by Owner's Successor, will continue to perform its obligations under the Agreement provided that any past due amounts owed to Contractor under the Agreement, other than any such amounts for which Agent has previously made an advance under the Loan Agreement, are paid to Contractor promptly following the request by Owner's Successor and provided that Contractor is thereafter

compensated for its services as provided in the Agreement. If Contractor is not requested by Owner's Successor to continue to perform its obligations under the Agreement, Contractor will discontinue such performance and will not assert any claim against Agent or Owner's Successor for any amounts owed to Contractor under the Agreement. However, nothing contained herein shall be deemed to waive, diminish or relinquish Contractor's right to serve a bonded Stop Note on the Agent and/or Lenders.

5. Contractor acknowledges that Agent will rely on this Consent and Certificate in making the loan to Owner that is contemplated by the Loan Agreement.

Contractor has executed and delivered this Consent and Certificate on the 7th day of April, 2010.

Contractor:

J.D. DIFFENBAUGH, INC.

By: /s/ Joel Alexander

Name: Joel Alexander

Title: V.P./CFO

EXHIBIT "L"

Project Progress Report
Highland Fairview Corporate Park
Skechers Distribution Center
29800 Eucalyptus Avenue
Rancho Belago, California 92555

Project Progress Report Date: Monday, April 12, 2010

Project Agreement Date:

Notice to Proceed Date:

Calendar Days to Complete Project:

Current projected completion Date:

Current percent complete on Project:

Billing Status:

Progress Payments through # _____ in the amount of \$ _____.

Progress Payments paid by HF thru _____ in the amount of \$ _____.

Permit Status:

Permits Pulled as of this Project Progress Report Date:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.

Pending permits not received that could affect schedule, with milestone dates required.

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.

RFI Status Report:

Issues Status Report:



SECTION 1. ENTIRE CONTRACT

The phrase "Contract Documents" is defined to mean the plans, specifications and other contract documents attached to or incorporated into the prime contract, and also includes:

All exhibits listed in Section 1, and Addendum AGCC-3 dated Rev. 9/99, all of which are included herein and of which are made a part of this Subcontract. Subcontractor acknowledges he has reviewed these documents prior to entering into this Agreement.

1. Exhibit "A" — Contract Document Log
2. Exhibit "B" — Scope of Work
3. Exhibit "C" — Schedule of Values (If Applicable)
4. Exhibit "D" — Construction Schedule
5. Exhibit "E" — Insurance Requirements
6. Exhibit "F" — Progress Billing Requirements & W-9 Form
7. Exhibit "G" — Training Verification
8. Exhibit "H" — Responsible, Authorized, Designated Person for Safety Form
9. Exhibit "I" — Pre-Construction Meeting/Safety Agenda
10. Exhibit "J" — Storm Water Pollution Prevention Plan (SWPPP) Notification
11. Exhibit "K" — Project Specific Requirements

for the project known as: **PROJECT NAME**

Subcontractor certifies that he is fully familiar with all of the terms of the Contract Documents, the location of the job site, and the conditions under which the work is to be performed and that he enters into this Agreement based upon its investigation of all such matters and is not relying on any opinions or representations of Contractor. This Agreement represents the entire agreement between Contractor and Subcontractor, and supersedes any prior oral or written agreements or representations. The Contract Documents are incorporated in this Agreement by reference, and Subcontractor and its subcontractors, suppliers and/or materialmen will be and are bound by the Contract Documents insofar as they relate in any way, directly or indirectly, to the work covered by this Agreement. Subcontractor agrees to be bound to Contractor in the same manner and to the same extent as Contractor is bound to Owner under the Contract Documents, including, but not limited to, all applicable terms and provisions thereof. Where, in the Contract Documents reference is made to Contractor, and the work or specifications therein pertains to Subcontractor's trade, craft, or type of work, then such work or specification shall be interpreted to apply to Subcontractor instead of Contractor.

SECTION 2. SCOPE

Subcontractor agrees to furnish all labor, materials, equipment and other facilities required to perform the work to complete:

SCOPE OF WORK

for the project in accordance with the Contract Documents and as more particularly specified in: The portion of the plans and specifications set forth in Section 1 that covers the work of improvements to be performed by subcontractor and made a part of this subcontract.

In the event of any dispute between Contractor and Subcontractor over the scope of Subcontractor's work under the Contract Documents, Subcontractor will not stop work but will prosecute the work diligently to completion, the dispute to be submitted for resolution in accordance with Section 17 below.

SECTION 3. CONTRACT PRICE

Contractor agrees to pay Subcontractor for the strict performance of his work, the sum of : **Dollars and no/100 (\$0,0.00)** as set out in Section 26 below, subject to additions and deductions for changes in the work as may be directed in writing by Contractor, and to make payment in accordance with the Payment Schedule, Section 4.

SECTION 4. PAYMENT SCHEDULE

Contractor agrees to pay to Subcontractor in monthly progress payments of Ninety percent (90%) of labor and materials which have been placed in position, with funds received by Contractor from Owner for work performed by Subcontractor as reflected in Contractor's applications for payment. Such monthly progress payments shall be made ten (10) days after receipt of payment from the Owner by Contractor. Final payment to Subcontractor shall be made ten (10) days after the entire work required by the prime contract has been fully completed in conformity with the Contract Documents and has been delivered to and accepted by Owner, Architect, and Contractor, with

funds received by Contractor from Owner in final payment for work under the prime contract. It is the intent of the parties that receipt by the Contractor from the Owner of funds for work performed by Subcontractor shall be a condition precedent to each payment to be made to the Subcontractor pursuant to the provisions of this section, and no recourse to the Contractor or its sureties may be made except as otherwise stated herein. Subcontractor agrees to furnish, if and when required by Contractor, payroll affidavits, receipts, vouchers, releases of claims for labor, material, and from his subcontractors, suppliers and/or materialmen performing work or furnishing materials under this Agreement, all in form satisfactory to Contractor, and it is agreed that no payment hereunder shall be made, except at Contractor's option, until and unless such documents have been furnished. Contractor, at its option, may make any payment due hereunder by check made payable jointly to Subcontractor and any of his subcontractors, suppliers and materialmen who have performed work or furnished materials under this Agreement. Any payment made hereunder prior to completion and acceptance of the work, as referred to above, shall not be construed as evidence of acceptance or acknowledgment of completion of any part of any Subcontractor's work.

SECTION 5. TIME

Time is of the essence of this Agreement. Subcontractor shall provide Contractor with scheduling information and a proposed schedule for performance of his work in a form acceptable to Contractor. Subcontractor shall conform to Contractor's progress schedule and all revisions or changes made thereto. Subcontractor shall prosecute his work in a prompt and diligent manner in accordance with Contractor's progress schedule without delaying or hindering Contractor's work or the work of other contractors or subcontractors. Subcontractor shall coordinate the work covered by this Agreement with that of all other contractors, subcontractors, suppliers and/or materialmen and of the Contractor, in a manner that will facilitate the efficient completion of the entire work. In the event Subcontractor falls to maintain his part of the Contractor's schedule, he shall, without additional compensation, accelerate the work as Contractor may direct until Subcontractor's work is in accordance with such schedule. Contractor shall have complete control of the premises on which the work is to be performed and shall have the right to decide the time and order in which various portions of the work shall be installed and the relative priority of the work of Subcontractor and other subcontractors, and, in general, all other matters pertaining to the timely and orderly conduct of the work of Subcontractor on the premises. Should Subcontractor be delayed in the prosecution or completion of the work by act, neglect or default of Owner, Architect or Contractor, or should Subcontractor be delayed waiting for materials, if required by this Contract to be furnished by Owner or Contractor, or by damage



caused by fire or other casualty for which subcontractor is not responsible, or by the combined action of the workmen, in no way caused by or resulting from fault or collusion on the part of Subcontractor, or in the event of a lock-out by Contractor, then the time herein fixed for the completion of the work shall be extended the number of days that Subcontractor has thus been delayed, but no allowance or extension shall be made unless a claim therefor is presented in writing to Contractor within 48 hours of the commencement of such delay, and under no circumstances shall the time of completion be extended to a date which will prevent Contractor from completing the entire project within the time allowed Contractor by Owner for such completion.

No claims for additional compensation or damages for delays, whether caused in whole or in part by any conduct on the part of Contractor, including, but not limited to, conduct amounting to a breach of this Agreement, or delays by other subcontractors or Owner, shall be recoverable from Contractor, and the above-mentioned extension of time for completion shall be the sole remedy of Subcontractor; provided, however, that in the event Contractor obtains additional compensation from Owner on account of such delays, Subcontractor shall be entitled to such portion of the additional compensation so received by Contractor from Owner as is equitable under all of the circumstances. In the event that Contractor prosecutes a claim against Owner for additional compensation for any delay, Subcontractor shall cooperate fully with Contractor in the prosecution thereof and shall pay costs and expenses incurred in connection therewith, including actual attorney's fees, to the extent that said claim is made by Contractor at the request of Subcontractor.

Subcontractor shall prepare and obtain approval as required by the Contract Documents for all shop drawings, details, samples, and do all other things necessary and incidental to the prosecution of his work in conformance with Contractor's progress schedule.

SECTION 6. CHANGES IN THE WORK

Subcontractor shall make any and all changes in the work described in the Contract Documents and this Agreement as directed by Contractor in writing. Such change or written direction shall not invalidate this Agreement.

If necessary, the contract price stated in Section 3 and the time for Subcontractor's performance shall be adjusted by appropriate additions or deductions mutually agreed upon before Subcontractor performs the changed work. Subcontractor shall supply Contractor with all documentation necessary to substantiate the amount of the addition to or deduction from the price or time. If Contractor and Subcontractor cannot agree on the amount of the addition or deletion, Subcontractor shall nonetheless timely perform the work as changed by Contractor's written direction. Once Subcontractor receives Contractor's written direction, Subcontractor is solely responsible for timely performance of the work as changed by the written direction.

Payment for changed work shall be made in accordance with Section 4.

Subcontractor shall not make any changes in the work described in Section 2 or in any way cause or allow that work to deviate from the Contract Documents without written direction from Contractor. If Subcontractor makes any changes in the work described in Section 2 without written direction from Contractor, such change constitutes an agreement by Subcontractor that he will not be paid for that changed work, even if he received verbal direction from Contractor or any form of direction, written or otherwise, from Owner or any other person or entity. In addition, Subcontractor shall be liable for any and all losses, costs, expenses, damages, and liability of any nature whatsoever associated with or in any way arising out of any such change he makes without written direction from Contractor. If a dispute arises between Contractor and Subcontractor about whether particular work is a change in the work described in Section 2, Subcontractor shall timely perform the disputed work. If Subcontractor intends to submit a claim for the disputed work, it shall give prompt written notice to Contractor before proceeding with the work. In addition, Subcontractor shall submit its written claim for additional compensation for that work within ten (10) days after such work is performed in sufficient detail for Contractor to make an evaluation of the merits of the claim. Subcontractor's failure to give written notice within the ten (10) days constitutes an agreement by him that he will not be paid for disputed work.

No change, alteration or modification to or deviation from this Agreement, the Contract Documents, prime contract, plans, or specifications, whether made in the manner provided in this provision or not, shall release or exonerate, in whole or in part, any bond or any surety on any bond given in connection with this Agreement, and no notice is required to be given to such surety of any such change, alteration, modification, or deviation.

SECTION 7. DAMAGES CAUSED BY DELAYS

If Subcontractor should default in performance of the work described in Section 2 or should otherwise commit any act which causes delay to the prime contract work, Subcontractor shall be liable for all losses, costs, expenses, liabilities and damages, including consequential damages and liquidated damages, sustained by Contractor, or for which Contractor may be liable to Owner or any other party because of Subcontractor's default.

SECTION 8. BONDING OF SUBCONTRACTOR

Concurrently with the execution of this Agreement, Subcontractor shall, if required by Contractor, execute a labor and material bond and performance bond, in an amount equal to one hundred percent (100%) of the Contract Price. Said bonds shall be executed by a corporate surety acceptable to Contractor and shall be in a form satisfactory to Contractor. Contractor shall pay the premium on said bonds unless otherwise provided herein or in the Contract Documents.

SECTION 9. LIENS

In case suit is brought on any claim or liens for labor performed or materials used on or furnished to the project, Subcontractor shall pay and satisfy any such lien or judgment as may be established by the decision of the court in said suit. Subcontractor agrees within ten (10) days after written demand to cause the effect of any such suit or lien to be removed from the premises, and in the event Subcontractor shall fail so to do, Contractor is authorized to use whatever means in its discretion it may deem appropriate to cause said lien or suit to be removed or dismissed and the cost thereof, together with actual attorney's fees, shall be immediately due and payable to Contractor by Subcontractor. Subcontractor may litigate any such lien or suit provided it causes the effect thereof to be removed, promptly in advance,

from the premises, and shall further do such things as may be necessary to cause Owner not to withhold any monies due to Contractor from Owner by reason of such liens or suits.

It is understood and agreed that the full and faithful performance of this Agreement on the part of Subcontractor (including the payment of any obligations due from Subcontractor to Contractor, and any amounts due to labor or materialmen furnishing labor or material for said work) is a condition precedent to Subcontractor's right to receive payment for the work performed, and any monies paid by Contractor to Subcontractor under the terms of this Agreement



shall be impressed with a trust in favor of labor and materialmen furnishing labor and material to Subcontractor on the work herein subcontracted.

SECTION 10. PROVISIONS FOR INSPECTION

Subcontractor shall at all times furnish to Contractor and its representatives safe and ample facilities for inspecting materials at the site of construction, shops, factories or any place of business of Subcontractor and his subcontractors and materialmen where materials under this Agreement may be in course of preparation, process, manufacture or treatment. Subcontractor shall furnish to Contractor as often as required by Contractor, full reports of the progress of the work at any place where materials under this Agreement may be in the course of preparation or manufacture. Such reports shall show the progress of such preparation and manufacture in such details as may be required by Contractor, including, but not limited to, any plans, drawings or diagrams in the course of preparation.

SECTION 11. MATERIALS AND WORK FURNISHED BY OTHERS

In the event the scope of work includes installation of materials or equipment furnished by others or work to be performed in areas to be constructed or prepared by others, it shall be the responsibility of Subcontractor to examine and accept, at the time of delivery or first access, the items so provided and thereupon handle, store and install the items with such skill and care as to insure a satisfactory completion of the work. Use of such items or commencement of work by Subcontractor in such areas shall be deemed to constitute acceptance thereof by Subcontractor. Loss or damage due to acts of Subcontractor shall be charged to the account of Subcontractor and deducted from monies otherwise due under this Agreement.

SECTION 12. PROTECTION OF WORK

Subcontractor shall effectually secure and protect the work done hereunder and assume full responsibility for the condition thereof until final acceptance by Architect, Owner and Contractor. Subcontractor further agrees to provide such protection as is necessary to protect the work and the workmen of Contractor, Owner and other subcontractors from his operations.

Subcontractor shall be liable for any loss or damage to any work in place or to any equipment and materials on the job site caused by him or his agents, employees or guests.

SECTION 13. LABOR RELATIONS

13.1 Subcontractor shall keep a representative at the job site during all times when Subcontractor's work is in progress, and such representative shall be authorized to represent and bind Subcontractor as to all phases of the work. Prior to commencement of the work, Subcontractor shall notify Contractor who Subcontractor's representative is to be, and in the event of any change of representative Subcontractor shall notify Contractor who the new representative is to be prior to such change becoming effective.

Subcontractor acknowledges that Contractor has entered into labor agreements covering work at his construction job sites with the labor unions listed in Section 25 below and incorporated herein by reference.

Subcontractor specifically acknowledges that contractor has entered into the Southern California Laborers Master Agreement, effective July 1, 2009 to June 30, 2012 ("Master Labor Agreement") covering work at the construction jobsite with the Southern California District Council of Laborers and its affiliated Local Unions.

Subcontractor agrees that it is bound to and shall comply with all the terms and conditions of the Master Labor Agreement including wages, trust fund contributions, working rules, the grievance/arbitration procedure and any other mechanism for the resolution of dispute contained in the Master Labor Agreement, on all covered work performed in the geographic area of the Master Labor Agreement, whether or not the work is performed for the contractor.

Subcontractor further agrees to bind all its subcontractors performing job site work of the type covered by the Master Labor Agreement referenced above and to become bound and comply with all of the terms and conditions of the Master Labor Agreement.

Subcontractor acknowledges that the Southern California District Council of Laborers and its affiliated Local Unions, and the Construction Laborers Trust Funds for Southern California, are the intended third party beneficiaries of this contractual provision and may enforce the provision directly against Subcontractor.

Subcontractor acknowledges that terms and conditions of the labor agreements with the unions listed herein may require that Subcontractor comply with additional labor agreements with unions affiliated with the AFL-CIO but not listed. When the terms and conditions of the referenced labor agreements so require, Subcontractor shall perform its job site work pursuant to all terms and conditions of an appropriate labor agreement with a union affiliated with the AFL-CIO.

Should there be picketing on Contractor's job site, and Contractor establishes a reserved gate for Subcontractor's purpose, it shall be the obligation of Subcontractor to continue the proper performance of its work without interruption or delay.

Subcontractor further promises and agrees that it will bind and require all of its subcontractors and their subcontractors performing job site work of the type covered by any of the labor agreements specified herein to agree to all of the foregoing promises and undertakings, to the same effect as herein provided with respect to subcontractor.

13.2 Subcontractor hereby acknowledges that it is thoroughly familiar with all DBE/MBE/WBE requirements pertaining to the project. If the Subcontractor claims status as a DBE/MBE/WBE, the Subcontractor shall take all steps necessary and shall make all necessary records available to the Contractor and the Owner to assure that Subcontractor is in compliance with such requirements. In the event that any sub-contractor or supplier of the Subcontractor is designated as or is required to be a DBE/MBE/WBE, Subcontractor agrees to be responsible for insuring that said sub-subcontractor or supplier meets all applicable requirements. Subcontractor acknowledges that Contractor is relying upon Subcontractor's representations regarding the validity of Subcontractor's status, if any, as a DBE/MBE/WBE, and that misrepresentation of the status of Subcontractor or any of its sub-subcontractors or material suppliers is a material breach of this

Agreement and grounds for immediate termination. In the event of termination as the result of material misrepresentation of the status of the Subcontractor as a DBE/MBE/WBE, Subcontractor shall not be entitled to any compensation not already paid.

13.3 Subcontractor shall comply with and agrees to be bound by all applicable Federal, State and Local laws and regulations, including, but not limited to, all provisions of the Fair Labor Standards Act, the Americans With Disabilities Act, the Federal Family and Medical Leave Act, the California Labor Code, the



California Fair Employment and Housing Act, and the California Family Rights Act. Upon request, Subcontractor shall submit certified payroll records to Contractor no later than three (3) working days after labor has been paid.

SECTION 14. RECOURSE BY CONTRACTOR

14.1 Failure of Performance

14.1.1 Right to Adequate Assurance. When reasonable grounds for insecurity arise with respect to Subcontractor's performance, Contractor may in writing demand adequate assurance of due performance. Subcontractor's failure to provide within fifteen (15) days of the demand such assurance of due performance as is adequate under the circumstances of the particular case is a default under Section 14.1.2 of this Agreement.

14.1.2 Notice to Cure. If Subcontractor at any time refuses or neglects to supply enough properly skilled workers and proper materials, or fails to properly and diligently prosecute the work covered by this Agreement, or fails to make prompt payment to its workers, sub-subcontractors or suppliers, or becomes delinquent with respect to contributions or payments required to be made to any health and welfare, pension, vacation, apprenticeship or other employee benefit program or trust, or fails to provide adequate assurance pursuant to Section 14.1.1, or is otherwise guilty of a material breach of a provision of this Agreement, and fails within forty-eight (48) hours after receipt of written notice to commence and continue satisfactory correction of such default with diligence and promptness, then Contractor, without prejudice to any rights or remedies, shall have the right to any or all of the following remedies:

- (a) supply such number of workers and quantity of materials, equipment and other facilities as Contractor deems necessary for the completion of Subcontractor's work, or any part thereof which Subcontractor has failed to complete or perform, and charge the cost thereof to Subcontractor, who shall be liable for the payment of same including reasonable overhead, profit, and actual attorney's fees incurred as a result of Subcontractor's failure of performance;
- (b) contract with one or more additional contractors to perform such part of Subcontractor's work as Contractor shall determine will provide the most expeditious completion of the total work and charge the cost thereof to Subcontractor; and
- (c) withhold payment of any monies due Subcontractor pending corrective action to the extent required by and to the satisfaction of Contractor.

In the event of an emergency affecting the safety of persons or property, Contractor may proceed as above without notice.

14.1.3 Termination for Default. If Subcontractor fails to commence and satisfactorily continue correction of a default within forty-eight (48) hours after receipt by Subcontractor of the notice issued under Section 14.1.2., then Contractor may terminate Subcontractor's right to perform under this Agreement and use any materials, implements, equipment, appliances or tools furnished by or belonging to Subcontractor to complete Subcontractor's work without any further compensation to Subcontractor for such use. Contractor also may furnish those materials and equipment, and/or employ such workers or subcontractors as Contractor deems necessary to maintain the orderly progress of the work.

In such case, Subcontractor shall be entitled to no further payment until the balance of Subcontractor's work has been completed. At that time, all of the costs incurred by Contractor in performing Subcontractor's work, including a markup of fifteen percent (15%) for overhead and profit on such expenses, plus actual attorney's fees as provided above, shall be deducted from any monies due or to become due Subcontractor. Subcontractor shall be liable for the payment of any amount by which such expenses may exceed the unpaid balance of the Contract Price.

14.1.4 Termination for Convenience. Contractor may at any time and for any reason terminate Subcontractor's services and work at Contractor's convenience. Cancellation shall be by service of written notice to Subcontractor's place of business.

Upon receipt of such notice, Subcontractor shall, unless the notice directs otherwise, immediately discontinue the work and placing of orders for materials, facilities and supplies in connection with the performance of this Agreement, and shall, if requested, make every reasonable effort to procure cancellation of all existing orders or contracts upon terms satisfactory to Contractor, or at the option of Contractor, give Contractor the right to assume those obligations directly, including all benefits to be derived therefrom. Subcontractor shall thereafter do only such work as may be necessary to preserve and protect the work already in progress and to protect material and equipment on the job site or in transit thereto.

Upon such termination, Subcontractor shall be entitled to payment in accordance with Section 4 only as follows: (1) the actual cost of the work completed in conformity with this Agreement; plus, (2) such other costs actually incurred by subcontractor as are permitted by the prime contract and approved by Owner; plus (3) fifteen percent (15%) of the cost of the work referred to in item (1) above for overhead and profit. There shall be deducted from such sums as provided in this subparagraph the amount of any payments made to Subcontractor prior to the date of the termination of this Agreement. In no event shall payment due hereunder exceed the amount due for approved units of work or percentage of completion. Subcontractor shall not be entitled to any claim or claim of lien against Contractor or Owner for any additional compensation or damages in the event of such termination and payment.

14.1.5 Grounds for Withholding Payment. Contractor may withhold, or on account of subsequently discovered evidence, nullify the whole or part of any payment to the extent necessary to protect Contractor from loss, including costs and actual attorney's fees, on account of (1) defective work not remedied; (2) claims filed or reasonable evidence indicating probable filing of claim; (3) failure of Subcontractor to make payments properly to his subcontractors or for material, labor or fringe benefits; (4) a reasonable doubt that this Agreement can be completed for the balance then unpaid; (5) damage to another subcontractor; (6) penalties assessed against Contractor or Subcontractor for failure of Subcontractor to comply with State, Federal or local laws and regulations; or (7) any other ground for withholding payment allowed by State or Federal law, or as otherwise provided in this Agreement. When the above matters are rectified, such amounts as then due and owing shall be paid or credited to Subcontractor.

14.2 Bankruptcy

14.2.1 Termination Absent Cure. Upon the appointment of a receiver for Subcontractor or upon Subcontractor making an assignment for the benefit of creditors or if Subcontractor seeks protection under the Bankruptcy Code or commits any other act of insolvency, Contractor may, absent any applicable legal limitation, terminate this Agreement upon giving forty-eight (48) hours written notice, by certified mail, to Subcontractor and its surety, if any. If



an order for relief is entered under the Bankruptcy Code with respect to Subcontractor, Contractor may terminate this Agreement by giving forty-eight (48) hours written notice, by certified mail, to Subcontractor, its trustee, and its surety, if any, unless Subcontractor, the surety, or the trustee:

- (a) promptly cures all defaults;
- (b) provides adequate assurance of future performance;
- (c) compensates Contractor for actual pecuniary loss resulting from such defaults; and
- (d) assumes the obligations of Subcontractor within the statutory time limits.

14.2.2 Interim Remedies. If Subcontractor is not performing in accordance with the schedule of work at the time of entering an order for relief, or at any subsequent time, Contractor, while awaiting the decision of Subcontractor or its trustee to reject or to accept this Agreement and provide adequate assurance of its ability to perform hereunder, may avail itself of such remedies under this Section as are reasonably necessary to maintain the schedule of work.

Contractor may offset against any sums due or to become due Subcontractor all costs incurred in pursuing any of the remedies provided hereunder, including, but not limited to, reasonable overhead, profit and actual attorney's fees incurred as a result of Subcontractor's non-performance.

Subcontractor shall be liable for the payment of any amount by which such expense may exceed the unpaid balance of the Contract Price.

SECTION 15. INDEMNIFICATION

15.1.1 Subcontractor's Performance. With the exception that this Section 15 shall in no event be construed to require indemnification by Subcontractor to a greater extent than permitted under the public policy of the State of California, Subcontractor shall indemnify and save harmless Owner and Contractor, including their officers, agents, employees, affiliates, parents and subsidiaries, and each of them, of and from any and all claims, demands, causes of action, damages, costs, expenses, actual attorney's fees, losses or liability, in law or in equity, of every kind and nature whatsoever ("Claims") arising out of or in connection with Subcontractor's operations to be performed under this Agreement for, but not limited to:

(a) Personal injury, including, but not limited to, bodily injury, emotional injury, sickness or disease, or death to persons, including, but not limited to, any employees or agents of Subcontractor, Owner, Contractor, or any other subcontractor and/or damage to property of anyone (including loss of use thereof), caused or alleged to be caused in whole or in part by any negligent act or omission of Subcontractor or anyone directly or indirectly employed by Subcontractor or anyone for whose acts Subcontractor may be liable regardless of whether such personal injury or damage is caused by a party indemnified hereunder.

(b) Penalties imposed on account of the violation of any law, order, citation, rule, regulation, standard, ordinance or statute, caused by the action or inaction of Subcontractor.

(c) Infringement of any patent rights which may be brought against the Contractor or Owner arising out of Subcontractor's work.

(d) Claims and liens (see Section 9) for labor performed or materials used or furnished to be used on the job, including all incidental or consequential damages resulting to Contractor or Owner from such claims or liens.

(e) Subcontractor's failure to fulfill the covenants set forth in each subpart of Section 13, Labor Relations.

(f) Failure of Subcontractor to comply with the provisions of Section 16.1, Casualty Insurance.

(g) Any violation or infraction by Subcontractor of any law, order, citation, rule, regulation, standard, ordinance or statute in any way relating to the occupational health or safety of employees, including, but not limited to, the use of Contractor's or other's equipment, hoist, elevators, or scaffolds (See Section 16 and 20).

The indemnification provisions of (a) through (g) above shall extend to Claims occurring after this Agreement is terminated as well as while it is in force. Such indemnity provisions apply regardless of any active and/or passive negligent act or omission of Owner or Contractor or their agents or employees. Subcontractor, however, shall not be obligated under this Agreement to indemnify Owner or Contractor for Claims arising from the sole negligence or willful misconduct of Owner or Contractor or their agents, employees or independent contractors who are directly responsible to Owner or Contractor, or for defects in design furnished by such persons.

15.1.2 Subcontractor shall:

(a) At Subcontractor's own cost, expense and risk, defend all Claims as defined in Section 15.1.1 that may be brought or instituted by third persons, including, but not limited to, governmental agencies or employees of Subcontractor, against Contractor or Owner or their agents or employees or any of them;

(b) Pay and satisfy any judgment or decree that may be rendered against Contractor or Owner or their agents or employees, or any of them, arising out of any such Claim; and/or

(c) Reimburse Contractor or Owner or their agents or employees for any and all legal expense incurred by any of them in connection herewith or in enforcing the indemnity granted in this Section 15.

15.2 Risk of Loss.

All work covered by this Agreement done at the site or in preparing or delivering materials or equipment, or any or all of them, to the site shall be at the risk of Subcontractor exclusively until the completed work is accepted by Contractor.

15.3 No Limitation of Liability.

The indemnities set forth in this Section 15 shall not be limited by the insurance requirements set forth in Section 16.

SECTION 16. INSURANCE

16.1 Casualty Insurance.

Subcontractor shall, at its expense, procure and maintain insurance on all of its operations, with companies acceptable to Contractor, as follows:

16.1.1 Worker's Compensation and Employer's Liability Insurance. Workers Compensation insurance shall be provided as required by any applicable law or regulation. Employer's Liability insurance shall be provided in amounts not less than:

\$1,000,000 each accident for bodily injury by accident

\$1,000,000 policy limit for bodily injury by disease



\$1,000,000 each employee for bodily injury by disease

If there is an exposure of injury to Subcontractor's employees under the U.S. Longshoremen's and Harbor Worker's Compensation Act, the Jones Act or under laws, regulations or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.

16.1.2 General Liability Insurance. Subcontractor shall carry Comprehensive General Liability or Commercial General Liability insurance covering all operations by or on behalf of Subcontractor providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below and including coverage for:

- (1) premises and operations
- (2) products and completed operations
- (3) contractual liability insuring the obligations assumed by Subcontractor in this Agreement
- (4) broad form property damage (including completed operations)
- (5) explosion, collapse and underground hazards
- (6) personal injury liability

The limits of liability shall be not less than the amounts required of Subcontractor under the Contract Documents, but in no event less than:

- \$1,000,000 each occurrence (combined single limit for bodily injury and property damage)
- \$1,000,000 for personal injury liability
- ~~\$1,000,000~~ aggregate for products-completed operations (Refer to Exhibit "E" attached hereto and made a part hereof for required limits.)
- \$2,000,000 general aggregate

The general aggregate limit shall apply separately to Subcontractor's work under this Agreement.

Contractor, its officers, directors and employees and Owner shall be named as additional insureds under the Comprehensive General Liability or Commercial General Liability policy for any liability arising out of the performance of the work. The policy shall stipulate that the insurance afforded the additional insureds shall apply as primary insurance and that any other insurance maintained by Contractor or Owner will be excess only and shall not be called upon to contribute with this insurance. Coverage for the Contractor, its officers, directors and employees and the Owner as additional insureds shall be provided by a policy provision or by an endorsement providing coverage at least as broad as Additional Insured (Form B) endorsement form CG 2010 11/85 as published by the Insurance Services Offices (ISO).

16.1.3 Claims Made Policy Form Provisions. Subcontractor shall not provide general liability insurance under any Claims Made Commercial General Liability form without the express prior written consent of Contractor.

16.1.4 Automobile Liability Insurance. Subcontractor shall carry automobile liability insurance, including coverage for all owned, hired and non-owned automobiles. The limits of liability shall be not less than \$1,000,000 combined single limit each accident for bodily injury and property damage.

16.1.5 Certificates of insurance, as evidence of the insurance required by this Agreement and including the required "additional insured" and "primary insurance" endorsements, shall be furnished by Subcontractor to Contractor before any work hereunder is commenced by Subcontractor. The certificates of insurance shall provide that there will be no cancellation or reduction of coverage without thirty (30) days prior written notice to Contractor.

16.1.6 Contractor may take such steps as are necessary to assure Subcontractor's compliance with his obligations under this Section 16. In the event Subcontractor fails to maintain any insurance coverage required under this Agreement, Contractor may maintain such coverage and charge the expense to Subcontractor, or terminate this Agreement.

16.1.7 The required insurance shall be subject to the approval of Contractor, but any acceptance of insurance certificates by Contractor shall in no way limit or relieve Subcontractor of the duties and responsibilities by it in this Agreement. If higher limits or other forms of insurance are required in the Contract Documents, Subcontractor will comply with such requirements.

16.2 Property Insurance. Contractor and Subcontractor waive all rights against each other and against all other subcontractors and Owner for loss or damage to the extent reimbursed by Builder's Risk or any other property or equipment insurance applicable to the work, except such rights as they may have to the proceeds of such insurance. If the policies of insurance referred to in this Section require an endorsement or consent of the insurance company to provide for continued coverage where there is a waiver of subrogation, the owners of such policies will cause them to be so endorsed or obtain such consent.

Upon written request of Subcontractor, Contractor shall provide Subcontractor with a copy of the Builder's Risk policy of insurance or any other property or equipment insurance in force for the project and procured by Contractor. Subcontractor shall satisfy itself as to the existence and extent of such insurance prior to commencement of Subcontractor's work.

If Builder's Risk insurance purchased by Owner or Contractor provides coverage for Subcontractor for loss or damage to Subcontractor's

work, Subcontractor shall be responsible for the insurance policy deductible amount applicable to damage to Subcontractor's work and/or damage to other work caused by Subcontractor.

If not covered under the Builder's Risk policy of insurance or any other property or equipment insurance required by the Contract Documents, Subcontractor shall procure and maintain at its own expense property and equipment insurance for portions of Subcontractor's work stored off the site or in transit.

If Owner or Contractor has not purchased Builder's Risk or equivalent insurance including the full insurable value of Subcontractor's work, then Subcontractor may procure such insurance at its own expense as will protect the interests of Subcontractor, and its subcontractors in the work. Such insurance shall also apply to any of Owner's or Contractor's property in the care, custody or control of Subcontractor.

16.3 Failure of Contractor to enforce in a timely manner any of the provisions of this Section 16 shall not act as a waiver to enforcement of any of these provisions at a later date in the performance of this Agreement. Any exceptions to the provisions of this Section 16 must be delineated in the Contract Documents.



SECTION 17. DISPUTE RESOLUTION PROCEDURE

17.1 Preliminary Dispute Resolution Procedure and Agreement to Arbitrate

17.1.1 Disputes under Prime Contract. Any dispute resolution procedure in the prime contract shall be deemed incorporated in this Agreement, and shall apply to any disputes arising hereunder, except disputes not involving the acts, omissions or otherwise the responsibility of the Owner under the prime contract, those which have been waived by the making or acceptance of final payment, and questions regarding the licensure of the Subcontractor. Subject to compliance with all applicable laws, including but not limited to those relating to false claims, dispute and claim certifications, and cost and pricing data requirements, Contractor's sole obligation is to present any timely-filed claims by Subcontractor to Owner under such procedure and, subject to the other provisions of this Agreement, to pay to Subcontractor the proportionate part of any sums paid by the Owner to which Subcontractor is entitled.

17.1.2 Settlement Negotiations. Subject to prime contract disputes under Section 17.1.1, and as for disputes not involving the acts, omissions or otherwise the responsibility of the Owner under the prime contract, promptly upon notification by the Subcontractor of a dispute, the Contractor and Subcontractor shall meet to informally resolve such dispute. In the event that no resolution is achieved, the parties, prior to the initiation of any action or proceeding under this section, shall make a good faith effort to resolve the dispute by negotiation between representatives with decision-making power, who, to the extent possible, shall not have had substantive involvement in the matters of the dispute, unless the parties otherwise agree. To facilitate the negotiation, the parties agree either to fashion a procedure themselves or seek the assistance of a person or organization experienced in alternative dispute resolution procedures such as mediation, minitrial or other similar procedures.

17.2 Arbitration Procedures.

In the event the prime contract contains an arbitration provisions or for disputes not involving the acts, omissions or otherwise the responsibility of the Owner under the prime contract, the following shall apply:

17.2.1 Notice of Demand. For arbitration under the prime contract, notice of the demand for arbitration shall be filed in writing with other party to this Agreement and shall conform to the requirements of the arbitration provision set forth in the prime contract. For claims not involving the acts, omissions or otherwise the responsibility of the Owner under the prime contract, the parties hereto shall submit any and all disputes arising under or relating to the terms and conditions of the Subcontract to arbitration in accordance with the Construction Industry Rules of the American Arbitration Association. In either case, the demand for arbitration shall be made within a reasonable time after written notice of the claim, dispute or other matter in question has been given, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such claim dispute or other matter in question would be barred by the applicable statute of limitations.

17.2.2 Award. The award rendered by the arbitrator(s) shall be final and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.

17.2.3 Work Continuation and Payment. Unless otherwise agreed in writing, Subcontractor shall carry on the work and maintain the schedule of work pending arbitration, and, if so, Contractor shall continue to make payments in accordance with this Agreement.

17.2.4 Consolidated Arbitration Proceedings. To the extent not prohibited by their contracts with others, the claims and disputes of Owner, Contractor, Subcontractor and other subcontractors, suppliers and/or materialmen involving a common question of fact or law shall be heard by the same arbitrator(s) in a single proceeding. In this event, it shall be the responsibility of Subcontractor to prepare and present Contractor's case, to the extent the proceedings are related to this Agreement. Should Contractor enter into arbitration with the Owner or others regarding matters relating to this Agreement, Subcontractor shall be bound by the result of the arbitration to the same degree as the Contractor.

17.2.5 No Limitation of Rights or Remedies. This Section shall not be deemed a limitation of any rights or remedies which Subcontractor may have under any Federal or State mechanics' lien laws or under any applicable labor and material payment bonds unless such rights or remedies are expressly waived by it.

SECTION 18. COMPLIANCE WITH ALL LAWS AND SAFETY PRACTICES

Subcontractor shall comply fully with all laws, orders, citations, rules, regulations, standards and statutes affecting or relating to this Agreement or its performance, including but not limited to those with respect to occupational health and safety, the handling and storage of hazardous materials, accident prevention, safety equipment and practices including the accident prevention and safety program of Owner and Contractor.

Subcontractor shall conduct inspections to determine that safe working conditions and equipment exist and accepts sole responsibility for providing a safe place to work for its employees and for employees of its subcontractors and suppliers of material and equipment, for adequacy of an required use of all safety equipment and for full compliance with the aforesaid laws, orders, citations, rules, regulations, standards and statutes.

SECTION 19. WARRANTY

Subcontractor warrants to Owner, Architect and Contractor that all materials and equipment furnished shall be new unless otherwise specified and that all work under this Agreement shall be performed in a good and workmanlike manner, shall be of good quality, free from faults and defects and in conformance with the Contract Documents. All work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The warranty provided in this Section 19 shall be in addition to and not in limitation of any other warranty or remedy required by law or by the Contract Documents.

SECTION 20. USE OF CONTRACTOR'S EQUIPMENT

In the event Subcontractor shall use Contractor's equipment, materials, labor, supplies or facilities, Subcontractor shall reimburse Contractor at a predetermined rate, except as provided in Section 14.1.2 or as otherwise stated herein. Further, Subcontractor assumes all responsibility for physical damage to such equipment, materials, labor, supplies, or facilities used by Subcontractor or his agents, employees, or permittees. In the event that Contractor's employees are used by Subcontractor, Subcontractor shall have full responsibility for all acts or omissions of Contractor's employees with regard to Subcontractor's use or employment of them. Subcontractor accepts any and all of Contractor's equipment, materials, labor, supplies or facilities as furnished.

SECTION 21. ASSIGNMENT OF CONTRACT

Subcontractor shall not, without written consent of Contractor, assign, transfer, or sublet any portion or part of the work required by this Agreement, nor assign any payment hereunder to others.



SECTION 22. INDEPENDENT CONTRACTOR

Subcontractor is an independent contractor and shall, at its sole cost and expense, and without increase in the Contract Price, comply with all laws, rules, ordinances and regulations of all governing bodies having jurisdiction over the work; obtain all necessary permits and licenses therefor, pay all manufacturers' taxes, sales taxes, use taxes, processing taxes, and all federal and state taxes, insurance and contributions for social security and unemployment which are measured by wages, salaries, or other remuneration's paid to Subcontractor's employees, whether levied under existing or subsequently enacted laws, rules or regulations. Subcontractor, upon request, shall furnish evidence satisfactory to Contractor that any or all of the foregoing obligations have been fulfilled.

SECTION 23. CLEAN-UP At all times during the course of construction, Subcontractor shall perform his work so as to maintain the site in a clean, safe and orderly condition. Upon completion of the work under this Agreement, Subcontractor shall remove from the site all hazardous materials, temporary structures, debris and waste incident to his operation and clean all surfaces, fixtures, equipment, etc., relative to the performance of this Agreement.

SECTION 24. ATTORNEYS' FEES

In the event the parties become involved in litigation or arbitration with each other arising out of this Agreement or other performance thereof in which the services of an attorney or other expert are reasonably required, the prevailing party shall be fully compensated for the cost of its participation in such proceedings, including the cost incurred for attorneys' fees and experts' fees. Unless judgment goes by default, the attorneys' fee award shall not be computed in accordance with any court schedule, but shall be such as to fully reimburse all attorneys' fees actually incurred in good faith, regardless of the size of a judgment, it being the intention of the parties to fully compensate for all attorneys' fees and experts' fees paid or incurred in good faith. In the case of a dispute under the prime contract dispute resolution provisions, Subcontractor shall be entitled to such attorneys' fees and other costs as may be provided for under the prime contract.

SECTION 25. LABOR AGREEMENTS The Contractor is signatory to the following labor agreements covering work on this project:

Laborers

SECTION 26. SPECIAL PROVISIONS (Including unit pricing, if applicable):

There are no Special Provisions to this Agreement

CONTRACTORS ARE REQUIRED BY LAW TO BE LICENSED AND REGULATED BY THE CONTRACTORS STATE LICENSE BOARD WHICH HAS JURISDICTION TO INVESTIGATE COMPLAINTS AGAINST CONTRACTORS IF A COMPLAINT IS FILED WITHIN THREE (3) YEARS OF THE DATE OF THE ALLEGED VIOLATION. ANY QUESTIONS CONCERNING A CONTRACTOR MAY BE REFERRED TO THE REGISTRAR OF THE BOARD, P.O. BOX 26000, SACRAMENTO, CALIFORNIA 95826.

Dated: _____

CONTRACTOR: J. D. DIFFENBAUGH, INC.

By _____
Tarek El-Maissi, Director of Operations

6865 Airport Drive
(ADDRESS)

Riverside, CA 92504

181805
(CONTRACTOR'S LICENSE NO.)

Dated: _____

SUBCONTRACTOR: SUBCONTRACTOR

By: _____
(Signature)

(Address)

(CONTRACTOR'S LICENSE NO.)

Addenda follows this paragraph.

ADDENDUM TO AGCC-3

A. Add to Section 1: "The Contract Documents include this Agreement, this Addendum and any and all documents incorporated or referred to herein, including all schedules, plans and specifications; all applicable laws, ordinances, statutes and codes; and the prime contract and any and all documents incorporated or referred to therein, including all schedules, plans and specifications. Subcontractor has had the opportunity to review and has reviewed all Contract Documents before signing this Agreement. The Contract Documents applicable to the General Contract between Contractor and Owner shall take precedence in the event of a conflict between them and this Agreement."

B. Add to the end of Section 4: "It is intended that all payments due Subcontractor shall be made solely out of funds actually received from the Owner. Subcontractor shares in the risk that the Owner may for any reason including, but not limited to, insolvency or an alleged dispute fail to make one or more payments for all or a portion of Subcontractor's work. Subcontractor agrees that if Owner fails to make payment(s) for Subcontractor's work, Contractor shall have sixty (60) days to make such payment to Subcontractor after Contractor has exhausted all reasonable efforts through legal proceedings and/or otherwise to collect from Owner or others responsible on Owner's behalf, such amounts due Subcontractor, and that Contractor shall deduct the prorata portion of the Contractor's expenses, costs and attorneys' fees for such collections efforts from the amount then due Subcontractor. Subcontractor agrees that in no event shall Contractor be responsible for payment if Subcontractor's failure to perform its obligations under this Subcontract have been asserted as a reason for Owner's and/or Contractor's failure to make such payments."

C. Add to the end of the fourth paragraph of Section 6: "Payment for changes made without written direction from Contractor shall not be a waiver or amendment of this section."

D. Add to the end of Section 8: "Contractor may require bonding at any time."

E. Add to the end of Section 10: "Subcontractor shall make the work accessible at all reasonable times for inspection by Contractor. All bonds shall require the surety to pay Contractor all amounts incurred as a result of Subcontractor's default and in enforcing its rights, including attorneys' fees and costs. Any replacement bond shall be furnished at subcontractor's expense."

F. Add to the end of Section 13: "If Subcontractor has or may have any Labor Relations obligations as described in Section 13, Subcontractor shall defend and indemnify Contractor regarding them, whether or not the language in Section 13 is altered or deleted in any way."

G. Add as paragraph 14.1.6: "Progress Payments: Trust Fund. All progress payments which have been or became due to be paid to Subcontractor, but which Subcontractor has not disbursed to its subcontractors, suppliers and laborers shall be held in trust by Contractor and/or Subcontractor, its agents, successors or assignees, for the benefit of Subcontractor's subcontractors, suppliers and laborers."

H. Add as paragraph 14.2.3: "Assumption or Rejection of Contract in Bankruptcy; Waiver of Notice Period. The Parties agree that time is of the essence in performance of this contract. In the event Subcontractor files a Chapter 7, 11, or 13 Bankruptcy, the Parties agree that any delay attendant to the assumption or rejection of this contract by a trustee or a debtor-in-possession will be prejudicial to Contractor. Consequently, Subcontractor hereby stipulates, in order to minimize delay to the Project and to avoid potential damages or other prejudice to Contractor, to a notice period of ten calendar days for Contractor's motion to require Subcontractor to elect to assume or reject his contract."

I. Add to the end of paragraph 15.2: "Acceptance by Contractor shall be upon its payment of all amounts due under this Agreement. Partial payments by Contractor and payments under protest by Contractor are not Acceptance."

J. Add to the end of paragraph 16.1.2: "Subcontractor shall also supply errors and omissions coverage (in the amounts set forth in this paragraph 16.1.2) for all design professionals working for Subcontractor and for design work performed by Subcontractor."

K. Add to the end of paragraph 17.2.3: "In the event that no other agreement is reached pursuant to this paragraph, either party may compel mediation by application to the Riverside County Bar Association Dispute Resolution Service. The failure to any party to participate in such mediation shall entitle the other party to an award of its expenses, costs and attorneys' fees in any arbitration and/or litigation and/or other proceeding and the party who failed to participate in mediation shall not be entitled to its expenses, costs and/or attorneys' fees in any arbitration and/or litigation and/or other proceedings. If any party commences arbitration and/or litigation before resorting to mediation, other than to preserve any rights that might be lost by failure to do so, that party shall be deemed to have failed to participate in mediation. If mediation is unsuccessful, either party may commence binding arbitration with the Riverside County Bar Association Dispute Resolution Service. The parties hereby waive their right to a court and/or jury trial regarding matters between them."

L. Add to the end of paragraph 17.2.3: "However, subcontractor may commence and pursue enforcement of its rights to preserve them and/or to the extent that such will not result in loss or liability to Contractor. Subcontractor agrees to defend and indemnify Contractor regarding any claim by anyone for relief based upon contractor's non-payment to Subcontractor of funds not received by Contractor."

M. Add to the end of Section 18: "Subcontractor represents and warrants that all of Subcontractor's agents and employees have been trained in safe performance and safety procedures applicable to the project. Subcontractor further represents and warrants that subcontractor has designated a responsible, authorized safety officer for the project and that Subcontractor has a safety program in effect which complies with all laws, etc., specified above, including all OSHA requirements. Subcontractor acknowledges that Contractor has no obligation to train Subcontractor's agents or employees in any way (including regarding the accident prevention and safety program of Owner and Contractor) and that Contractor has no obligation to develop, implement or publish an accident prevention and safety program for Owner. Contractor may issue written notice(s) of safety violation(s) to Subcontractor and/or its employees. Upon issuance of written notice of a second and/or subsequent safety violation, Contractor shall deduct \$500 per violation from any sums due Subcontractor and may compel removal of any Subcontractor employee from the project."

N. Add to the end of Section 18: "In the event that Subcontractor encounters on the site material reasonably believed to be asbestos, polychlorinated biphenyl (PCB) or other hazardous materials which have not been rendered harmless, Subcontractor shall immediately stop work in the area affected and report the condition to the Owner and Contractor in writing. To the fullest extent permitted by law, Subcontractor shall indemnify and hold harmless the Contractor from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of work in the affected area if in fact asbestos, PCB or other

hazardous material that has not been rendered harmless is encountered, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease, death, or to injury to or destruction of tangible property, including the Work itself, including loss of use resulting therefrom, but only to the extent caused in whole

(Contractor's Initials)

(Subcontractor's Initial's)

ADDENDUM TO AGCC-3

or in part by the acts or omissions of Subcontractor, anyone directly or indirectly employed by Subcontractor or anyone for whose act Subcontractor may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder.”

O. Add to the end of Section 21: “In the event of any assignment, Subcontractor’s assignee’s rights shall coincide with and be no greater than Subcontractor’s. Endorsement of joint checks and/or execution of a joint check agreement, an assignment, a subcontract, a sub-subcontract or similar act shall be deemed an assignment.”

P. Add to end of Section 22: “Subcontractor is responsible for compliance with the Americans with Disability Act of 1990 and all similar laws.

Q. Add to the end of Section 23: “Contractor may order Subcontractor to clean-up his areas at any time Contractor deems such action necessary. If Subcontractor fails to perform a clean-up within two days after notification from Contractor to do so, Contractor may proceed with that function as it judges necessary and in the manner it may deem appropriate, then the cost thereof shall be charged to Subcontractor and deducted from any monies due under this Agreement or recovered in a separate proceeding. In the event contractor is unable to determine which Subcontractor is responsible for any particular clean-up, Contractor may apportion the cost of such clean-up in such manner as Contractor may deem to be appropriate.”

R. Delete section 24.

S. Add to Section 26: “Notwithstanding anything in this agreement to the contrary, this agreement is amended as follows:Claims: (a) Subcontractor shall give written notice of any and all claims or facts that may give rise to a claim within five (5) business days after such facts or claims arise. Failure to give such written notice within (5) business days waives any such claims or potential claims. (b) Subcontractor shall have no claim for damages for delay. (c) Subcontractor shall defend and indemnify Contractor from any and all claims arising out of this Agreement except those that are the result of Contractor’s sole negligence or willful misconduct. (d) Any and all claims by Subcontractor of any nature whatsoever arising out of or connected in any way with the performance of work under this Agreement, and/or by any person or entity providing any part of the performance called for under this Agreement, are limited (in the aggregate) to the amount of this Agreement. (e) Subcontractor shall serve a copy of any and all preliminary notices on Contractor. Subcontractor shall have its suppliers and subcontractors serve copies of any and all preliminary notices on Contractor. All such preliminary notices shall contain an amount. (f) Subcontractor must serve Contractor with a copy of any and all mechanic’s liens, stop notices and/or other claims immediately upon making such claims.” (g) All releases given by Subcontractor shall be relied upon by Contractor and Subcontractor warrants that they will be accurate.”

T. Add to Section 26: “Notwithstanding anything in this agreement to the contrary, this agreement is amended as follows:Disclaimer: Contractor makes no representations and/or warranties concerning the schedules, designs, laws, ordinances, plans and specifications.”

U. Add to Section 26: “Notwithstanding anything in this agreement to the contrary, this agreement is amended as follows:Subcontractor’s Duties: Subcontractor has the obligation to review the Contract Documents, schedules, designs, laws, ordinances, plans and specifications, and to report errors, conflicts, inconsistencies, comments, or questions concerning such to Contractor for resolution in the absolute discretion of Contractor.”

V. Add to Section 26: “Any attachments by Subcontractor to the Subcontract and/or any changes in this Subcontract’s text by Subcontractor are void unless initialed by Contractor.”

W. The attached MINIMUM REQUIREMENTS FOR SUBCONTRACTORS is incorporated herein.

X. NOTE: Subcontractor’s commencement of work shall be deemed execution and acceptance of the subcontract sent to Subcontractor by Contractor. The subcontract may be changed only by a writing signed by Contractor’s Vice President for Construction/Engineering.

Revision 04/2007
Revision 01/2008
Revision 09/2008

(Contractor’s Initials)

(Subcontractor’s Initial’s)

EXHIBIT "M"
PROJECT SPECIFIC REQUIREMENTS
Highland Fairview Corporate Park
Skechers Distribution Center
29800 Eucalyptus Avenue
Rancho Belago, California 92555

1. Time is of the essence with regard to this fast track project. Subcontractor agrees to provide the optimum crews and equipment in accordance with the Construction Schedule to insure Subcontractor does not delay the project. The subcontractor agrees to have optimum crew size onsite for the duration of the project, inclusive of 6 days/week throughout the duration of his work. If this subcontractor is performing work in multiple areas of this project that need to be constructed simultaneously, the subcontractor has agreed to provide all necessary manpower, multiple crews, extended work hours, and 6 day work week to ensure the schedule dates are met. It is imperative the subcontractor manages the work force in a manner to avoid any delays what-so-ever, as non- performance, inadequate crew sizes & manpower may result in financial damages which will be the sole responsibility of the Subcontractor which is found to be in default.
2. Per the terms of the Subcontract Agreement and the Addendum to AGCC-3, this Subcontractor is to be bound to the prime contract between Diffenbaugh and the Owner of this project. The following listing is a brief overview of items that are incorporated by reference, but is in no way intended to limit the liability of the Subcontractor with regard to specific items contained therein. The entire prime contract is readily available for perusal by this Subcontractor:
3. The Long Form Standard Subcontract AGC California Subcontract agreement for this project shall be amended as follows:
 - a. Section 13.3: Add the language that certain aspects of this work, including but not limited to work on Eucalyptus street will fall under the prevailing wage requirements. Subcontractor performing work in these areas will be required to abide by the prevailing wage requirements.
 - b. Section 16 Insurance: Strike 16.1 to 16.1.5 and insert "See Addendum "A" to the Prime Contract for requirements relative to Subcontractor Insurance Requirements.
 - c. In the Addendum to the AGC Subcontract agreement, Paragraph O: Add, "This Subcontract is assignable to Owner and its construction lender and may be assumed by Owner or its construction lender in the event of any termination of the Prime Contract, all at the option of Owner and / or its construction lender. This Subcontract is terminable by Owner and/or its construction lender in the event that the Prime Contract is terminated without additional costs beyond that actually incurred to the date of termination. The Owner is an intended third party beneficiary of all warranty/guarantees regarding the Work or materials/equipment furnished and owner may bring claim directly against Subcontractor for breach of contract, warranty rights, quality of workmanship, merchantability of equipment, feasibility and fitness for the particular purpose of materials and equipment and workmanship.

Subcontractor, Contract No.—
Project Title, Number

Exhibit "M"

(subcontractor's Initials)

EXHIBIT "N"

Purchase Order Log
Highland Fairview Corporate Park
Skechers Distribution Center
29800 Eucalyptus Avenue
Rancho Belago, California 92555

J.D. Diffenbaugh, Inc.

Purchase Order Log

Job No: 09-231
Project No: 09-231

Date: 4/12/2010
Page: 1 of 1

PO No.	To	From	Date	Description	Spec Section	Total Cost	Apprvd Changes	Pending Changes	Revised Contract Sum
09-231-01740	L&LCLEA	JDD	2/3/2010	Final Clean	01740		\$ 0.00	\$ 0.00	
09-231-10520	MOBIFIR	JDD	9/22/2009	Fire Extinguishers	10520		\$ 0.00	\$ 0.00	
09-231-15900	AMERCOMM	JDD	10/13/2009	Controls and Instrumentation	15900		\$ 0.00	\$ 0.00	
Totals:							\$ 0.00	\$ 0.00	

EXHIBIT "O"

Form of Job Cost Report or Commitment to Estimate Variance Report

Highland Fairview Corporate Park
Skechers Distribution Center
29800 Eucalyptus Avenue
Rancho Belago, California 92555

Highland Fairview Corporate Park
Skechers Distribution Center
Job No. 09-213
Project Name:

Skechers Distribution Center

Initial Buy-out

Date:

Usable Square Footage 1,800,000 SF

CSI #	Description	Original GMP	CO #	COR thru 1	Revised GMP	Committed	Uncommitted/	Total Project	Sav / Overrun	Original		Revised
							Other JDD			Cost	Contract	SCO
01-516	Temp. Water (Allow.)	0		0	0	0	0	0	0	TBD	0	0
01-565	Dust Control (Allow.)	0		0	0	0	0	0	0	TBD	0	0
01-722	Restaking (Allow.)	0		0	0	0	0	0	0	TBD	0	0
01-742	General Job Labor (Allow.)	0		0	0	0	0	0	0	TBD	0	0
01-744	Daily Clean Up (Allow.)	0		0	0	0	0	0	0	TBD	0	0
01-748	Street Sweeping (Allow.)	0		0	0	0	0	0	0	TBD	0	0
02-375	SWPPP (Allow.)	0		0	0	0	0	0	0	TBD	0	0
02-376	Retention Basin (Allow.)	0		0	0	0	0	0	0	TBD	0	0
02-580	Site Electrical Services (Allow.)	0		0	0	0	0	0	0	TBD	0	0
02-745	Asphalt Paving (Allow.)	0		0	0	0	0	0	0	TBD	0	0
19-920	Reproductions (Allow.)	0		0	0	0	0	0	0	TBD	0	0
										TBD		
01-720	Survey and Staking	0		0	0	0	0	0	0	TBD	0	0
01-740	Final Cleaning & Park Sweep	0		0	0	0	0	0	0	TBD	0	0
02-310	Grading and Excavation	0		0	0	0	0	0	0	TBD	0	0
02-370	Secondary Erosion Control	0		0	0	0	0	0	0	TBD	0	0
02-510	Site Domestic	0		0	0	0	0	0	0	TBD	0	0
02-515	Site Fire Water	0		0	0	0	0	0	0	TBD	0	0
02-530	Sanitary Sewer	0		0	0	0	0	0	0	TBD	0	0
02-630	Storm Drain	0		0	0	0	0	0	0	TBD	0	0
02-762	Payement Markings	0		0	0	0	0	0	0	TBD	0	0
02-770	Curb and Gutter	0		0	0	0	0	0	0	TBD	0	0
02-775	Sidewalks	0		0	0	0	0	0	0	TBD	0	0
02-810	Landscape and Imagation	0		0	0	0	0	0	0	TBD	0	0
02-820	Fencing	0		0	0	0	0	0	0	TBD	0	0
02-870	Site Furnishinga	0		0	0	0	0	0	0	TBD	0	0
03-200	Retnforcing Steel — Bldg	0		0	0	0	0	0	0	TBD	0	0
03-300	Building Cancrera — Bldg	0		0	0	0	0	0	0	TBD	0	0
03-356	Floor Sealer	0		0	0	0	0	0	0	TBD	0	0
05-120	Structural Steel	0		0	0	0	0	0	0	TBD	0	0
06-100	Rough Carpentry	0		0	0	0	0	0	0	TBD	0	0
06-150	Panalized Roof	0		0	0	0	0	0	0	TBD	0	0
07-100	Waterproofing	0		0	0	0	0	0	0	TBD	0	0
07-210	Insufaction	0		0	0	0	0	0	0	TBD	0	0
07-500	Marnbrano Roofing	0		0	0	0	0	0	0	TBD	0	0
07-600	Flashing and Sheet Metal	0		0	0	0	0	0	0	TBD	0	0
07-900	Caulking and Sealants	0		0	0	0	0	0	0	TBD	0	0
08-100	Doora Frames Hardware	0		0	0	0	0	0	0	TBD	0	0
08-350	Overhead Doors	0		0	0	0	0	0	0	TBD	0	0
08-400	Glass And Glazing	0		0	0	0	0	0	0	TBD	0	0
08-600	Skyfights	0		0	0	0	0	0	0	TBD	0	0
08-785	Knax Box	0		0	0	0	0	0	0	TBD	0	0
09-250	Drywall and Metal Studs	0		0	0	0	0	0	0	TBD	0	0
09-650	Rubber Base	0		0	0	0	0	0	0	TBD	0	0
09-900	Painting	0		0	0	0	0	0	0	TBD	0	0
10-430	Exterior Slgnago	0		0	0	0	0	0	0	TBD	0	0
11-150	Dock Equipment	0		0	0	0	0	0	0	TBD	0	0
13-900	Fire Sprinklars	0		0	0	0	0	0	0	TBD	0	0
15-400	Plumbing	0		0	0	0	0	0	0	TBD	0	0
15-700	HVAC	0		0	0	0	0	0	0	TBD	0	0
16-050	Electrical	0		0	0	0	0	0	0	TBD	0	0
Subtotal Hard Cost		0		0	0	0	0	0	0		0	0
19-000	General Conditions	0		0	0	0	0	0	0	JDD	0	0
19-517	Fire Access Roads	0		0	0	0	0	0	0	JDD	0	0
Subtotal		0		0	0	0	0	0	0		0	0
22-100	General Liability Insur.	0		0	0	0	0	0	0	JDD	0	0
99-000	Contractor's Fee	0		0	0	0	0	0	0	JDD	0	0
22-300	Contractor's Contingancy	0		0	0	0	0	0	0	JDD	0	0
Total		0		0	0	0	0	0	0		0	0

**Exhibit P
Form of Payment G702**

**APPLICATION AND CERTIFICATION FOR PAYMENT
TO OWNER:**

AIA DOCUMENT G702
PROJECT: APPLICATION NO:

PAGE ONE OF
Distribution to:
___ OWNER
___ ARCHITECT
___ CONTRACTOR

PAGES

FROM CONTRACTOR:
J.D. DIFFENBAUGH, INC.
RIVERSIDE, CA 92506

VIA ARCHITECT:

PERIOD TO:

PROJECT #

CONTRACT FOR:

CONTRACT
DATE:

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract. Continuation Sheet, AIA Document G703, is attached.

1. ORIGINAL CONTRACT SUM	\$ 0.00
2. Net change by Change Orders	\$ —
3. CONTRACT SUM TO DATE (Line 1 ± 2)	\$ —
4. TOTAL COMPLETED & STORED TO DATE (Column F on G703)	\$ 0.00
5. RETAINAGE:	
a. 10% of Completed Work (Column D + E on G703)	\$ 0.00
b. 10% of Stored Material (Column F on G703)	\$ 0.00
Total Retainage (Lines 5a + 5b or Total in Column I of G703)	\$ —
6. TOTAL EARNED LESS RETAINAGE (Line 4 Less Line 5 Total)	\$ —
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate)	\$ —
8. CURRENT PAYMENT DUE	\$ —
9. BALANCE TO FINISH, INCLUDING RETAINAGE (Line 3 less Line 6)	\$ —

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner		—
Total approved this Month	0.00	—
TOTALS	0.00	—
NET CHANGES by Change Order		—

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR:

By: Date:

State of:
Subscribed and sworn to before me this
Notary Public:
My Commission expires:

California

County of:
day of

Riverside

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED \$ \$0

(Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)

ARCHITECT:

By: Date:

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

AIA DOCUMENT G702 — APPLICATION AND CERTIFICATION FOR PAYMENT — 1992 EDITION — AIA® — © 1992

THE AMERICAN INSTITUTE OF ARCHITECTS, 1735 NEW YORK AVE., N.W., WASHINGTON, DC 20006-5292

Users may obtain validation of this document by requesting a completed AIA Document D401 — Certification of Document's Authenticity from the Licensee.

Contract #: MHOO-121-226
Project: Highland Fairview Corporate Park
Trade: General Contractor

Danette Fenstermacher
Highland Fairview
COO/Executive VP

EXHIBIT "Q"

April 15, 2010

VIA E-MAIL

Joel Alexander
Vice President/CFO
JD Diffenbaugh, Inc.
6865 Airport Drive
Riverside, CA 92504

Re: Highlands Logistics SKX T1, LLC — Highland Fairview Corporate Park Skechers Distribution Center,
29800 Eucalyptus Avenue, Rancho Belago, CA 92555

Dear Mr. Alexander:

The following financial information is provided in satisfaction of the requirements of Section 2.2.1 of the General Conditions of the Contract Documents for the Highland Fairview Corporate Park Skechers Distribution Center, located at 29800 Eucalyptus Avenue, Rancho Belago, CA 92555 (the "Project"):

1. Bank of America, N.A., as Lender and Administrative Agent, anticipates to close a loan the week April 26, 2010 of \$55 million for use on the Project per the terms of the Commitment Letter between Bank of America, N.A. and Borrower; and,
2. Skechers RB, LLC will deposit \$30 million into a Bank of America Escrow Account # 1499708217, entitled in the name of "Bank of America, N.A. for the benefit of HF Logistics-SKX T1, LLC" for use on the Project upon loan closing.

Bank of America representative Kim Abreu has executed this document to confirm the above representations are true and correct. Your signature confirms that once the above is accomplished, it satisfies JD Diffenbaugh, Inc.'s requirements for Section 2.2.1 of the General Conditions of the Contract Documents for the Owner to furnish to the Contractor reasonable evidence that financial arrangements have been made to fulfill the Owner's obligations under the Contract for the Project.

Upon closing of the loan, satisfactory evidence of the above will be forwarded to JD Diffenbaugh, Inc. within 24 hours.

Joel Alexander
April 15, 2010
Page 2

Thank you and we look forward to a successful Project.

Sincerely,

/s/ DANETTE FENSTERMACHER

Danette Fenstermacher
Highland Fairview
for
HF Logistics-SKX T1, LLC

Bank of America, N.A.

/s/ KIM ABREU

Kim Abreu
Senior Vice President
Bank of America N.A.

JD Diffenbaugh, Inc.

/s/ JOEL ALEXANDER

Joel Alexander
Vice President/CFO
JD Diffenbaugh, Inc.

(Confidential Portions Omitted)

Contract #: **MHOO-121-226-A**
Project: **HIGHLAND CORPORATE PARK**
SKECHERS DISTRIBUTION CENTER
Trade: **GENERAL CONTRACTOR**

AIA Document A201 – 1997
General Conditions of the Contract for Construction

Page 1 of 50

for the following PROJECT:
(Name and location or address):

**Highland Fairview Corporate Park
Skechers Distribution Center
29800 Eucalyptus Avenue
Rancho Belago, California 92555**

THE OWNER:
(Name and address):

**HF Logistics-SKX T1, LLC
14225 Corporate Way
Moreno Valley, California 92553**

THE ARCHITECT:
(Name and address):

**“Vertical Architect”:
HPA, Inc.
18831 Bardeen Avenue, Suite 100
Irvine, California 92612
“Civil Engineer”:**

**RBF Consulting
14725 Alton Parkway
Irvine, Ca 92618
(949) 855-5716**

“Landscape Architect”:

**Mission Landscape Architecture
16361 Scientific Way
Irvine, CA 92618
(949) 224-0044**

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 BASIC DEFINITIONS

§ 1.1.1 THE CONTRACT DOCUMENTS

The Contract Documents consist of the Agreement between Owner and Contractor (hereinafter the Agreement), Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, including Addendum A, Exhibits, including the Conditions of Approval from City of Moreno Valley (“Conditions of Approval”) and the January 7, 2010 Settlement Agreement with the Sierra Club (“Settlement Agreement”) further set out in Exhibit “G” except to the extent indicated in the Contract Documents to be the responsibility of others, other documents listed in this Agreement and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Owner. Unless specifically enumerated in the Agreement, the Contract Documents do not include other documents such as bidding requirements (advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor’s bid or portions of Addenda relating to bidding requirements).

§ 1.1.2 THE CONTRACT

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Architect and Contractor, (2) between the Owner and a Subcontractor or Sub-subcontractor, (3) between the Owner and Architect or (4) between any persons or entities other than the Owner and Contractor.

§ 1.1.3 THE WORK

The term “Work” means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor’s obligations. The Work may constitute the whole or a part of the Project. The Work shall include all labor, services, supervision, materials, supplies, fixtures, tools, equipment, transportation, parking, material lay down area, jobsite security, preconstruction services (including without limitation: estimating, budgeting, scheduling, and consultation on materials, constructability, reliability and maintenance and value engineering) and all other items necessary to construct and complete the Project pursuant to the Contract Documents, including all items, construction and services inferable from the Contract Documents in order to complete the Work in full compliance with the Contract Documents, including but not limited to The Conditions of Approval and terms of the Settlement Agreement as detailed in Ex. G, and all applicable laws, regulations, ordinances and codes pertaining to the Work.

§ 1.1.4 THE PROJECT

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner or by separate contractors.

§ 1.1.5 THE DRAWINGS

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.

§ 1.1.6 THE SPECIFICATIONS

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 THE PROJECT MANUAL

The Project Manual is a volume assembled for the Work which may include the bidding requirements, sample forms, Conditions of the Contract and Specifications.

§ 1.1.8 (Not Used)

§ 1.1.9 The term “Final Completion” means that all Work has been completed in accordance with the Contract Documents to the satisfaction of Owner, Architect and all applicable governmental agencies (including Punch List items).

§ 1.2 CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results. The Contract Documents shall be interpreted together and in harmony with one another. The Contractor must call any known conflict or discrepancy to the Owner’s attention, in writing, prior to executing this Agreement. In the case of any conflict between the Contract Documents regarding the obligations or responsibilities of Contractor, whichever document imposes the greater obligation on the Contractor shall be controlling.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words which have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.2.4 The Drawings shall be accurately followed, preference being given to figured dimensions over scaled, and to large scale details over small scale drawings. In the case of an inconsistency between Drawings and Specifications or within either Document not clarified by addendum, the better quality or greater quantity of work shall be provided in accordance with the Owner’s direction. If there is any difference, conflict or discrepancy between two or more of the Contract Documents or between the Contract Documents whichever document imposes the greater obligation on the Contractor shall be controlling.

In general, Drawings compliment Specifications as to the scope, quality and workmanship of the Work. Anything mentioned in the Specifications and not shown on the Drawings, or shown in the Drawings and not mentioned in the Specifications, shall be of like effect as if shown or mentioned or both. In case of a conflict or discrepancy on the Drawings or Specifications, the matter may, at Owner’s election, be promptly submitted by Owner to the Architect for resolution to the extent provided in Subsection 4.2.11. Any inconsistency or question of intent in any of the Contract Documents prepared by the Architect that cannot be resolved with reference to this Section shall be referred to Owner for interpretation before proceeding.

§ 1.3 CAPITALIZATION

§ 1.3.1 Terms capitalized in these General Conditions include those which are (1) specifically defined, (2) the titles of numbered articles or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 INTERPRETATION

§ 1.4.1 In the interest of brevity the Contract Documents frequently omit modifying words such as “all” and “any” and articles such as “the” and “an,” but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 EXECUTION OF CONTRACT DOCUMENTS

§ 1.5.1 The Contract Documents shall be signed by the Owner and Contractor. If either the Owner or Contractor or both do not sign all the Contract Documents, the Architect shall identify such unsigned, Documents upon request.

§ 1.5.2 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, including The Conditions of Approval and terms of the Settlement Agreement as detailed in Ex. G, and correlated personal observations with requirements of the Contract Documents.

§ 1.6 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE

§ 1.6.1 The Drawings, Specifications Shop Drawings, and other documents pertaining to the Work, including those in electronic form, prepared by the Architect and the Architect’s consultants and/or the Contractor or any Subcontractor, Sub-subcontractor or material or equipment supplier are and shall remain the property of Owner. The Contractor may retain one record set. Neither the Contractor nor any Subcontractor, Sub-subcontractor or material or equipment supplier shall own or claim a copyright in the Drawings, Specifications and other documents prepared by the Architect or the Architect’s consultants, and Owner will retain all common law, statutory and other reserved rights, in addition to the copyrights. All copies of Instruments of Service, except the Contractor’s record set, shall be returned or suitably accounted for to the Owner, on request, upon completion of the Work. The Drawings, Specifications, Shop Drawings, and other documents pertaining to the Work, including those in electronic form, prepared by the Architect and the Architect’s consultants and/or the Contractor or any Subcontractor, Sub-subcontractor or material or equipment supplier, and copies thereof furnished to the Contractor, are for use solely with respect to this Project. They are not to be used by the Contractor or any Subcontractor, Sub-subcontractor or material or equipment supplier on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner. The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are authorized to use and reproduce applicable portions of the Drawings, Specifications, Shop Drawings, and other documents pertaining to the Work, including those in electronic form, prepared by the Architect and the Architect’s consultants and/or the Contractor or any Subcontractor, Sub-subcontractor or material or equipment supplier appropriate to and for use in the execution of their Work under the Contract Documents. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Owner’s or the Architect’s copyrights or other reserved rights. The Owner may, at any time, request Drawings, Specifications Shop Drawings, and other documents pertaining to the Work, including those in electronic form, prepared by the Architect and the Architect’s consultants and/or the Contractor or any Subcontractor, Sub-subcontractor or material or equipment supplier to be provided in their original native format and each party is obligated to take whatever steps are necessary to effectuate the useful transfer of same immediately upon request.

ARTICLE 2 OWNER

§ 2.1 GENERAL

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner’s approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term “Owner” means the Owner or the Owner’s authorized representative. Owner’s representative will be responsible for communication and coordination with any and all professional service consultants engaged by Owner, including, but not limited to, architects, engineers, planners, designers and

any other specialized consultant. Contractor will direct questions regarding communication, coordination or contract management functions to Owner's representative.

§ 2.1.2 The Owner shall furnish to the Contractor within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

§ 2.2.1 The Owner shall, at the written request of the Contractor, prior to the commencement of the Work and thereafter as requested, furnish to the Contractor reasonable evidence that financial arrangements have been made to fulfill the Owner's obligations under the Contract including, but not limited to, 1) documentation from any and all lenders regarding the amount of loan proceeds authorized for the Contractor's work, 2) confirmation of any Owner-supplied funds to be used to fund the Contractor's work, as well as the source(s) of those funds (from members, investors, etc.), and 3) confirmation of the overall funds available and segregated for the Contractor's work including an Owner's contingency of not less than a total of \$2.1 Million, including the \$500,000 in Schedule D, when work on the Project commences. Furnishing such evidence shall be a condition precedent to commencement of continuation of the Work. After such evidence has been furnished, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.2 Except for permits and fees, including those required under Section 3.7.1, which are the responsibility of the Contractor under the Contract Documents, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.2.3 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.2.4 Information or services required of the Owner by the Contract Documents shall be furnished by the Owner with reasonable promptness. Any other information or services relevant to the Contractor's performance of the Work under the Owner's control shall be furnished by the Owner after receipt from the Contractor of a written request for such information or services.

§ 2.2.5 Unless otherwise provided in the Contract Documents, the Contractor will be furnished, free of charge, such copies of Drawings and Project Manuals as are reasonably necessary for execution of the Work.

§ 2.3 OWNER'S RIGHT TO STOP THE WORK

§ 2.3.1 If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or persistently fails to carry out Work in accordance with the Contract Documents, in addition to all other rights and remedies available to Owner, Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.4 OWNER'S RIGHT TO CARRY OUT THE WORK

§ 2.4.1 If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents, including but not limited to delaying the Project and/or failing to meet the Construction

and continue correction of such default or neglect with diligence and promptness, the Owner may after such seven-day period give the Contractor a second written notice to correct such deficiencies within a three day period. If the Contractor within such three day period after receipt of such second notice fails to commence and diligently continue to correct any deficiencies, the Owner may (provided that such notices shall not be applicable to Punch List Items (as defined below)) without prejudice to other remedies the Owner may have, correct such deficiencies and/or supplement Contractor's labor forces with its own, if applicable. Such additional forces shall be directed and coordinated by Owner. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, and/or supplemental labor forces, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect or failure. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

ARTICLE 3 CONTRACTOR

§ 3.1 GENERAL

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall expeditiously and diligently perform the Work in accordance with the Contract Documents in a sound and workmanlike manner and using new materials that are equal in quality to the best of their kind or as is specified in the Contract Documents and in sufficient quantities to ensure the proper and rapid execution of the Work.

§ 3.1.3 The Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Owner or the Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons other than the Contractor.

§ 3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

§ 3.2.1 Since the Contract Documents are complementary, before starting each portion of the Work, the Contractor shall carefully study and compare the various Drawings and other Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.2.3, shall take field measurements of any existing conditions related to that portion of the Work and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, any errors, inconsistencies or omissions discovered by the Contractor shall be reported promptly to the Architect as a request for information in such form as the Architect may require.

§ 3.2.2 Any design errors or omissions noted by the Contractor during this review shall be reported promptly to the Owner, but it is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional unless otherwise specifically provided in the Contract Documents. The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations, but any nonconformity discovered by or made known to the Contractor shall be reported promptly to the Architect.

§ 3.2.3 If the Contractor believes that additional cost or time is involved because of clarifications or instructions issued by the Architect in response to the Contractor's notices or requests for information pursuant to Sections 3.2.1 and 3.2.2, the Contractor shall make Claims as provided in Sections 4.3.6 and 4.3.7. If the Contractor fails to perform the obligations of Sections 3.2.1 and 3.2.2, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations. The Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents or for differences between field measurements or

conditions and the Contract Documents unless the Contractor recognized such error, inconsistency, omission or difference and knowingly failed to report it to the Architect.

§ 3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely written notice to the Owner and shall not proceed with that portion of the Work without further written instructions from the Owner. If the Contractor is then instructed in writing by Owner to proceed with the required means, methods, techniques, sequences or procedures without acceptance of changes proposed by the Contractor, the Owner shall be solely responsible for any resulting loss or damage.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for or on behalf of the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.3.4 Contractor will supervise, administer and protect the Work against loss or damage from any cause and will be responsible for all parts of the Work, temporary or permanent, finished or not, until Final Completion. Contractor will take reasonable precautions and maintain reasonable safeguards to protect against loss or damage to persons or property owing to weather conditions and arising out of its activities at or about the site including, without limitation, bracing and reinforcing where necessary and providing for guards with such guards at Owner's discretion and cost, locks, fences, signs, barricades, lights and such other warning and security devices where appropriate. Except to the extent covered by property insurance required to be carried under Article 11, Contractor will bear and be liable for and Owner will not be responsible for any loss or damage to the Work and any material, equipment or other thing used in the Work or placed at the site including, but not limited to, loss or damage due to theft, trespass or vandalism before Final Completion of the Work.

§ 3.3.5 Contractor shall provide a Project office at the Project Site adequate for the personnel and office facilities of the Project staff and the Contractor, exclusive of Owner's trailer.

§ 3.3.6 The Contractor shall conduct regularly scheduled (in no event less than weekly) job meetings, and special meetings as required, to be attended by the Architect, the Subcontractors and the Owner to discuss, among other things, such matters as procedures, progress, problems, coordination and scheduling.

§ 3.3.7 Contractor shall establish and maintain quality control procedures for all parts of the Work, and shall take measures to prevent the installation of any Work not in conformity with the Contract Documents, including, but not limited to, material or equipment not properly approved, suspend operations upon the installation thereof, and report promptly to the Owner that the particular Work or material fails to conform to the Contract Documents. Contractor shall ascertain that all tests of soils, cement, concrete, structural or reinforcing steel, or any other material or equipment required to be tested under the terms of the Contract Documents are performed by qualified consultants. Contractor shall employ a quality assurance and quality control program satisfactory to Owner.

§ 3.4 LABOR AND MATERIALS

§ 3.4.1 Unless otherwise expressly provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 The Contractor may make substitutions only with the prior written consent of the Owner, and in accordance with a Change Order.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

§ 3.5 WARRANTY

§ 3.5.1 The Contractor warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform to the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. In addition, Contractor is fully responsible for obtaining for the Owner the warranties detailed in Exhibit J. If required by the Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. The Contractor's warranty will be consistent with any manufacturer's warranty or Subcontractor's warranty. Contractor agrees that it will not cause, or allow any Subcontractor to install any product or use any procedure which voids any warranty. The Contractor is responsible for Subcontractors' installation and/or non-performance on warranty work. The refusal of a Subcontractor or supplier to correct defective work for which it is responsible will not excuse the Contractor from performing under the Warranty. City of Moreno Valley shall have one (1) year warranty from time of final punch sign-off for Work performed on Redlands and Theodore.

In addition, the Contractor shall, within five (5) working days of written notice from Owner, proceed to commence and diligently proceed to complete the correction of any Work that fails to conform to the requirements of the Contract Documents and unconditionally guarantees and warrants that it shall correct any defects due to faulty materials, equipment, and/or workmanship and warranties of fitness of all of the materials for the particular purpose for a period of one (1) year, or such longer period as may be required by the warranties described in Exhibit "J" to be provided by Contractor, subcontractors and or Manufacturers, from Final Completion of the Work, or within such longer period of time as specified in the Contract Documents or as required by California law, if applicable, whichever time period is longest. The provisions of this Article apply to Work done by subcontractors as well as to Work done by the Contractor. Those items described in Exhibit "J" shall in no way be deemed to limit Contractor's responsibility to do all things necessary to obtain and keep all warranties in full force and effect. Moreover, those warranties identified in Exhibit "J" shall in no way limit the Contractor's obligations herein and are in addition to and not in lieu of such obligations. Similarly, these warranties are not in lieu of any other warranties, express or implied, which may be provided by law. This limited warranty shall not apply to latent defects in the Work and/or defective Work not reasonably discovered by the Owner which may be the subject of a claim by Owner against Contractor within the time limits set by California Code of Civil Procedure section 337.15, if applicable.

§ 3.5.2 The Contractor shall bear all costs of correcting defective Work or Work not in conformance with the Contract Documents. This obligation shall survive termination of this Agreement.

§ 3.5.3 Nothing contained in this Article shall be construed to establish a period of limitation with respect to any other obligation which the Contractor might have under the Contract Documents or law. The

establishment of the time periods set forth in paragraph 13.7 herein relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which its obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to his obligations and any damages caused by the Contractor, including but not limited to any action commenced by the Owner for negligence, strict liability, breach of contract or warranties.

§ 3.6 TAXES

§ 3.6.1 The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor which are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect. Contractor will be solely responsible for the payment of all local, state and federal income taxes, withholding requirements, self employment taxes, social security taxes and other taxes on the payments made to Contractor and payments made by Contractor to its employees and suppliers.

§ 3.7 PERMITS, FEES AND NOTICES

§ 3.7.1 Unless otherwise provided in the Contract Documents, Contractor shall secure and pay for the building permit and other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work which are customarily secured after execution of the Contract and which are legally required when bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations, and lawful orders of public authorities as the same may be amended or supplemented from time to time (hereinafter collectively called "Law") applicable to performance of the Work. The Owner shall be responsible for ensuring that the Project as designed complies the Americans with Disabilities Act.

§ 3.7.3 It is not the Contractor's responsibility to ascertain that the Contract Documents are in accordance with applicable Laws. However, if the Contractor observes in the exercise of reasonable care that portions of the Contract Documents are at variance therewith, the Contractor shall immediately notify the Architect and Owner in writing, and necessary changes shall be accomplished by appropriate Modification.

§ 3.7.4 If the Contractor performs Work knowing it to be contrary to Laws without such notice to the Architect and Owner, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.8 ALLOWANCES

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents:

- .1** allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2** Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances;
- .3** whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2. In the event of a Change Order executed for the purpose of adjusting an allowance, the Contractor's fee shall be 1.75%.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner in sufficient time to avoid delay in the Work.

§ 3.9 SUPERINTENDENT

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. Other communications shall be similarly confirmed on written request in each case.

§ 3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

§ 3.10.2 The Contractor shall prepare and keep current, for the Owner's approval, a schedule of submittals which is coordinated with the Contractor's construction schedule and allows the Owner reasonable time to review submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 DOCUMENTS AND SAMPLES AT THE SITE

§ 3.11.1 The Contractor shall maintain at the site for the Owner one record copy of the Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to record field changes and selections made during construction, and one record copy of approved Shop Drawings, Product Data, Samples and similar required submittals. These shall be available to the Architect, Owner and its representatives and shall be delivered to the Owner upon completion of the Work. Contractor will deliver to Owner a complete set of as-built plans upon Substantial Completion.

§ 3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples which illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required by the Contract Documents the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals which are not required by the Contract Documents may be reviewed and returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve and submit to the Architect Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors. Submittals which are not marked as reviewed for compliance with the Contract Documents and approved by the Contractor may be returned by the Architect without action.

§ 3.12.6 By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents that the Contractor has determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved in writing by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Architect in writing of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such written notice the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services which constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. The Contractor shall not be required to provide professional services in violation of applicable law. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by a properly licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided the Owner and Architect have specified to the Contractor all performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review, approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Contractor shall not be responsible for the adequacy of the performance or design criteria required by the Contract Documents, unless the Contractor is responsible for the design.

§ 3.13 USE OF SITE

§ 3.13.1 The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 CUTTING AND PATCHING

§ 3.14.1 The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or separate contractors by cutting, patching or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter such construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the Owner or a separate contractor the Contractor's consent to cutting or otherwise altering the Work.

§ 3.15 CLEANING UP

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. A clean and safe site is a continuous obligation that must be performed by the Contractor to the satisfaction of Owner. At completion of the Work and each portion thereof, the Contractor shall remove from and about the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the cost thereof shall be charged to the Contractor.

§ 3.16 ACCESS TO WORK

§ 3.16.1 The Contractor shall provide the Owner, Architect and all applicable governmental authorities access to the Work in preparation and progress wherever located. Contractor agrees to cooperate with any consultants engaged by Owner to provide peer review services. Owner shall have, at all reasonable times, the right to enter the Project for conducting its marketing activities, inspecting the Work, and all other reasonable purposes.

§ 3.17 ROYALTIES, PATENTS AND COPYRIGHTS

§ 3.17.1 The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents or where the copyright violations are contained in Drawings, Specifications or other documents prepared by the Owner or Architect. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Architect.

§ 3.18 INDEMNIFICATION

§ 3.18.1 To the fullest extent permitted by law and to the extent claims, damages, losses or expenses are not covered by Project Management Protective Liability insurance purchased by the Contractor in accordance with Section 11.3, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, injury to or destruction of tangible property (other than the Work itself), any direct damages of economic loss defined as fines and/or penalties assessed by a governmental agency, increased material costs, and increased subcontractor costs (individually and collectively, a "Loss"), but only to the extent attributable to the negligent acts or omissions or failure to fulfill a specific responsibility of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

§ 3.18.3 Payments by Contractor on behalf of the Indemnitees shall be in addition to any and all other legal remedies available to the Indemnitees and shall not be considered such Indemnitee's exclusive remedy. Contractor and the other Contractor Parties shall be solely responsible for their respective tools and equipment, and hereby waive any right of recovery against the Indemnitees regarding any loss involving tools or equipment in any way occurring incident to, arising out of or in connection with the Work. Contractor's obligations under this Section 3.18 shall survive both final payment for the Work and the expiration or any termination of this Contract.

§ 3.18.4 Owner understands that Contractor bid and intends to perform this Project based on a GMP without the payment of prevailing wages and employment of apprentices given that Owner has represented that the Project is not a public works project within the meaning of Labor Code Section 1720 or under the Federal Davis Bacon Act (collectively, the "Prevailing Wage Laws"). To the fullest extent permitted by law, Owner hereby agrees to defend, indemnify and hold harmless both Contractor and its Surety that provided the payment bond for the Project from any and all claims or costs, including wages, interest, penalties and attorney's fees, that the Department of Industrial Relations, U.S. Department of Labor or a court of law may determine, or any third party may assert, are applicable to the Work performed on the Project based on Contractor's alleged non-compliance with the Prevailing Wage Laws. Contractor agrees to cooperate with Owner in defending any claims relating to the foregoing indemnity obligation, at no expense to Owner, including without limitation (1) promptly providing Owner with all notices received by Contractor relating to any alleged violation of applicable prevailing wage laws, (2) promptly providing Owner upon request with all documents in Contractor's possession or under Contractor's control relating to any such claim, (3) communicating and consulting with Owner upon request with regard to any such claim, and (4) making available Contractor employees upon reasonable prior notice from Owner for administrative hearings, depositions, court appearances, or other administrative and judicial proceedings relating thereto.

ARTICLE 4 ADMINISTRATION OF THE CONTRACT

§ 4.1 ARCHITECT

§ 4.1.1 The Architect is the person lawfully licensed to practice architecture or an entity lawfully practicing architecture identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Architect" means the Architect or the Architect's authorized representative.

§ 4.1.2 Duties, responsibilities and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner and Architect. Consent shall not be unreasonably withheld. Owner reserves the right to perform certain administrative duties herein listed as responsibilities of the Architect.

§ 4.1.3 If the employment of the Architect is terminated, the Owner may employ a new Architect against whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the former Architect.

§ 4.2 ARCHITECT'S ADMINISTRATION OF THE CONTRACT

§ 4.2.1 The Architect may assist Owner in the administration of the Contract as described in the Contract Documents. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

§ 4.2.2 The Architect, as a representative of the Owner, and/or Owner may visit the site at Owner's request at intervals appropriate to the stage of the Contractor's operations (1) to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the Owner against defects and deficiencies in the Work, and (3) to determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, neither the Owner nor the Architect will be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Owner and the Architect will neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, except as provided in Section 3.3.1.

§ 4.2.3 The Owner and the Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Owner and the Architect will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications Facilitating Contract Administration. Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized by Owner, the Architect and Contractor shall endeavor to communicate with each other through the Owner about matters arising out of or relating to the Contract. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, if requested by Owner, the Architect will promptly review and certify the completion of the portion of the Work described in the Application for Payment and will issue Certificates for Payment for such portion of the Work, provided that the amount due to Contractor will be determined by Owner in accordance with the Contract Documents.

§ 4.2.6 The Owner will have authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to make recommendations to Owner regarding inspection or testing of the Work in accordance with Sections 13.5.2 and 13.5.3, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect may, at Owner's request, review and make recommendations to Owner regarding the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5 and 3.12. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's review of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 Intentionally Omitted.

§ 4.2.9 If requested by Owner, the Architect will conduct inspections to make recommendations to Owner regarding the date or dates of Substantial Completion and the date of Final Completion, will receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor, and will make recommendations to Owner regarding a final Certificate for Payment upon compliance with the requirements of the Contract Documents.

§ 4.2.10 [Intentionally Omitted]

§ 4.2.11 The Architect may interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of the Owner. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Section 4.2, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until 15 days after written request is made for them.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and initial decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions so rendered in good faith.

§ 4.3 CLAIMS AND DISPUTES

§ 4.3.1 Definition. A Claim is a demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of Contract terms, payment of money, extension of time or other relief with respect to the terms of the Contract. For purposes of this Section and Section 4.4 the term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. Claims must be initiated by written notice. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ 4.3.2 Time Limits on Claims. Claims by either party must be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Claims must be initiated by written notice to the Architect and the other party.

§ 4.3.3 Continuing Contract Performance. Pending final resolution of a Claim except as otherwise agreed in writing or as provided in Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 4.3.4 Claims for Concealed or Unknown Conditions. If conditions are encountered at the site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, then notice by the observing party shall be given to the other party promptly before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Owner will promptly investigate such conditions and, if they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Owner determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Owner shall so notify Contractor in writing, stating the reasons. Claims by Contractor in opposition to such

determination must be made within 21 days after the Owner has given notice of the decision. If the conditions encountered are materially different, the Contract Sum and Contract Time shall be equitably adjusted, but if the Owner and Contractor cannot agree on an adjustment in the Contract Sum or Contract Time, the adjustment shall be, at Owner's option, referred to the Architect for initial determination, subject to further proceedings pursuant to Section 4.4.

§ 4.3.5 Claims for Additional Cost. If the Contractor wishes to make Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.6; provided, however, in such cases notice shall be given as soon as possible thereafter.

§ 4.3.6 If the Contractor believes additional cost is involved for reasons including but not limited to (1) a written interpretation from the Architect, (2) an order by the Owner to stop the Work where the Contractor was not at fault, (3) a written order for a minor change in the Work issued by the Owner, (4) failure of payment by the Owner, (5) termination of the Contract by the Owner, (6) Owner's suspension or (7) other reasonable grounds, Claim shall be filed in accordance with this Section 4.3.

§ 4.3.7 Claims for Additional Time

§ 4.3.7.1 If the Contractor wishes to make Claim for an increase in the Contract Time, written notice as provided herein shall be given to Owner, Lender and Architect within 10 calendar days of the event giving rise to allow Owner, Lender and Architect to properly and adequately investigate the claim. If the Contractor is delayed at any time in the progress of the Work by changes ordered in the Work, by labor disputes, fire, unusual delay in transportation, unavoidable casualties, causes beyond the Contractor's control, or by any cause which Owner and/or Architect may determine justifies the delay, then the Contract Time shall be extended by written change order for such reasonable time as the Owner and/or Architect may determine. All requests for extensions in time other than those associated with changes in the Work must be submitted in writing to both Owner and Lender within 10 calendar days of the event giving rise to the delay. Failure to so request an extension will constitute a waiver of any right for an extension of time.

§ 4.3.7.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated and had an adverse effect on the scheduled construction. The schedule for the Work currently includes a total of ten (10) days for adverse weather conditions that could be the basis for a Claim for additional time. Therefore, there shall be no impact to the schedule and no Claim for additional time due to adverse weather conditions unless and until these ten (10) days have been previously documented and approved.

§ 4.3.8 Injury or Damage to Person or Property. If either party to the Contract suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 4.3.9 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Construction Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 4.3.10 Claims for Consequential Damages. The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes but is not limited to:

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 4.3.10 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 4.3.11 If Contractor does not make a Claim for an increase in the Contract Time or the Contract Sum within the time periods set forth in Paragraph 4.3.2, then Contractor shall have waived such Claim.

§ 4.4 RESOLUTION OF CLAIMS AND DISPUTES

§ 4.4.1 Decision of Architect. Claims, including those alleging an error or omission by the Architect but excluding those arising under Sections 10.3 and 10.4, may be referred by Owner initially to the Architect for recommendation. If Owner so refers a Claim to Architect, an initial decision by the Architect shall be required as a condition precedent to mediation, arbitration or litigation of such Claim between the Contractor and Owner, unless 30 days have passed after the Claim has been referred to the Architect with no decision having been rendered by the Architect. The Architect will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 4.4.2 The Architect will review Claims and within ten days of the receipt of the Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the Contractor that it is unable to resolve the Claim because it lacks sufficient information to evaluate the merits of the Claim.

§ 4.4.3 If the Architect is involved in evaluating Claims at the Owner's direction, the Architect may, with Owner's prior written approval, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Architect in rendering a decision.

§ 4.4.4 If the Architect is involved in evaluating Claims at the Owner's direction, it may request a party to provide a response to a Claim or to furnish additional supporting data. Such party shall respond, within 10 days after receipt of such request, and shall either provide a response on the requested supporting data, advise the Architect when the response or supporting data will be furnished or advise the Architect that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Architect will either reject or approve the Claim in whole or in part.

§ 4.4.5 If the Architect is involved in evaluating Claims at the Owner's direction, the Architect will approve or reject Claims by written decision, which shall state the reasons therefor and which shall notify the parties of any recommended change in the Contract Sum or Contract Time or both.

§ 4.4.6 [Intentionally Omitted]

§ 4.4.7 Upon receipt of a Claim against the Contractor or at any time thereafter, the Architect or the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Architect or the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 4.4.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the Claim by the Architect, by mediation or by arbitration.

§ 4.5 MEDIATION

§ 4.5.1 Any Claim arising out of or related to the Contract, except those waived as provided for in Sections 4.3.10, 9.10.4 and 9.10.5 shall, after initial decision by the Architect or 30 days after submission of the Claim to the Architect, or if Owner does not submit the Claim to the Architect, be subject to mediation as a condition precedent to arbitration or the institution of legal or equitable proceedings by either party.

§ 4.5.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing with the other party to the Contract and with the American Arbitration Association. The request may be made concurrently with the filing of a demand for arbitration but, in such event, mediation shall proceed in advance of arbitration or legal or equitable proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

§ 4.5.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 4.6 ARBITRATION

§ 4.6.1 Any Claim arising out of or related to the Contract, except those waived as provided for in Sections 4.3.10, 9.10.4 and 9.10.5, shall, after decision by the Architect or 30 days after submission of the Claim to the Architect or if Owner does not submit the Claim to the Architect, be subject to arbitration. Prior to arbitration, the parties shall endeavor to resolve disputes by mediation in accordance with the provisions of Section 4.5.

§ 4.6.2 Claims not resolved by mediation shall be decided by arbitration which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect. The demand for arbitration shall be filed in writing with the other party to the Contract and with the American Arbitration Association.

§ 4.6.3 A demand for arbitration shall be made within the time limits specified in Section 4.6.1 as applicable, and in other cases within a reasonable time after the Claim has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitations.

§ 4.6.4 Intentionally Omitted.

§ 4.6.5 Claims and Timely Assertion of Claims. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 4.6.6 Judgment on Final Award. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 DEFINITIONS

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents

as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

§ 5.2.1 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Owner will promptly reply to the Contractor in writing stating whether or not the Owner has reasonable objection to any such proposed person or entity.

Each subcontract shall contain (i) insurance provisions substantially the same as those set forth in Addendum "A", (ii) The Conditions of Approval and terms of the Settlement Agreement as detailed in Ex. G, (iii) indemnity provision substantially the same as those set forth in section 3.18 herein, (iv) a provision stating that Contractor shall assign its interest in the subcontract to Owner, which assignment shall become effective upon Contractor's default under the Contract Documents or upon termination of the Agreement and the Subcontractor's receipt of notification from Owner that Owner has chosen to have the assignment become effective, and (v) such other provisions as Owner may request, each of which shall be in form and substance satisfactory to Owner.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not terminate or change a Subcontractor, person or entity previously selected without Owner's prior written consent.

§ 5.3 SUBCONTRACTUAL RELATIONS

§ 5.3.1 All work performed for the Contractor by a Subcontractor shall be pursuant to a written agreement between the Contractor and the Subcontractor (and, as applicable, between Subcontractors and Sub-subcontractors). The subcontracts shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including but not limited compliance with The Conditions of Approval and terms of the Settlement Agreement as detailed in Ex. G and the responsibility for safety of the Subcontractor's Work, which the Contractor, by these Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the

execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement which may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner provided that:

- .1** assignment is effective only after termination of the Contract by the Owner with or without cause pursuant to Article 14 and only for those subcontract agreements which the Owner accepts by notifying the Subcontractor and Contractor in writing (Owner will be responsible for any payments due for Work performed after termination of the Contract under any subcontract agreements that are so accepted by Owner); and
- .2** assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

§ 6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Section 4.3.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each separate contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with other separate contractors and the Owner in reviewing their construction schedules when directed to do so. The Contractor shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, separate contractors and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights which apply to the Contractor under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6 and Articles 10, 11 and 12.

§ 6.2 MUTUAL RESPONSIBILITY

§ 6.2.1 The Contractor shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a separate contractor, the Contractor shall, prior to proceeding with that portion

of the Work, promptly report to the Owner apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acknowledgment that the Owner's or separate contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.

§ 6.2.3 The Owner shall be reimbursed by the Contractor for costs incurred by the Owner which are payable to a separate contractor because of delays, improperly timed activities or defective construction of the Contractor. The Owner shall be responsible to the Contractor for costs incurred by the Contractor because of delays, improperly timed activities, damage to the Work or defective construction of a separate contractor.

§ 6.2.4 The Contractor shall promptly remedy damage wrongfully caused by the Contractor to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

§ 6.2.5 The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 OWNER'S RIGHT TO CLEAN UP

§ 6.3.1 If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Owner will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 GENERAL

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner and Contractor; a Construction Change Directive may or may not be agreed to by the Contractor; an order for a minor change in the Work may be issued by the Owner alone. Notwithstanding anything in Sections 7.1.2, 7.2.1 and 7.3.1 to the contrary, except for Permitted Changes (as defined below), a Change Order and a Construction Change Directive shall require the written approval of Lender. Lender shall not be obligated to review a proposed change unless it has received all documents necessary to review such change, including the change order, cost estimates, plans and specifications, and evidence that all required approvals other than that of Lender have been obtained. "Permitted Changes" means changes to the Work, including so-called "Field changes", provided that the cost of any single change or extra does not exceed FIFTY THOUSAND DOLLARS (\$50,000.00) and the aggregate amount of all such changes and extras (whether positive or negative) does not exceed FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00).

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive or order for a minor change in the Work.

§ 7.2 CHANGE ORDERS

§ 7.2.1 A Change Order is a written instrument signed by the Owner and Contractor, stating their agreement upon all of the following:

- .1 change in the Work;
- .2 the amount of the adjustment, if any, in the Contract Sum; and
- .3 the extent of the adjustment, if any, in the Contract Time.

The Contract Sum and the Contract Time may only be changed by Change Order or by Construction Change Directive. No change in the Work, whether by way of alterations or additions to the Work, shall be the basis of any addition to or change in the Contract Sum and/or the Contract Time unless and until such alteration or addition has been authorized by a written Change Order or Construction Change Directive executed and issued in strict compliance with the requirements of the Contract Documents. No course of conduct or dealing between the parties, or express or implied acceptance of alterations or additions to the Work, and no claim that Owner has been unjustly enriched by any alteration or addition to the Work, whether or not there is in fact any unjust enrichment, shall be the basis for any claim to increase the Contract Sum and/or the Contract Time.

§ 7.2.2 Methods used in determining adjustments to the Contract Sum may include those listed in Section 7.3.3.

§ 7.3 CONSTRUCTION CHANGE DIRECTIVES

§ 7.3.1 A Construction Change Directive is a written order prepared by the Owner and signed by the Owner, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive may be used by Owner in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 as provided in Section 7.3.6.

§ 7.3.4 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Owner of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.5 A Construction Change Directive signed by the Contractor indicates the agreement of the Contractor therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.6 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the method and the adjustment shall be determined on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, a reasonable allowance for overhead and profit in accordance with Subparagraph 7.3.10. In such case, and also under Section 7.3.3, the Contractor shall keep and present, in such form as the Owner may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.6 shall be limited to the following:

- .1 costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;

- .2 costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
- .3 rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and
- .5 additional costs of supervision and field office personnel directly attributable to the change.

§ 7.3.7 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change which results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Owner. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit, if any, shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.8 Pending final determination of the total cost of a Construction Change Directive to the Owner, amounts not in dispute for such changes in the Work shall be included in Applications for Payment accompanied by a Change Order indicating the parties' agreement with part or all of such costs. For any portion of such cost that remains in dispute, the Owner will make an interim determination for purposes of monthly certification for payment for those costs. That determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 4.

§ 7.3.9 When the Owner and Contractor agree with the determination made by the Owner concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and shall be recorded by preparation and execution of an appropriate Change Order.

§ 7.3.10 The allowable fees for Change Orders included in the total cost to the Owner shall be Fifteen percent (15%) apportioned as follows: **Contractors Change Order Fee shall be Five percent (5.0%) of the Cost of Work reflected in the change and the Subcontractors fee shall be Ten percent (10%) each inclusive of overhead and profit.**

§ 7.4 MINOR CHANGES IN THE WORK

§ 7.4.1 The Owner will have authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order and shall be binding on the Owner and Contractor. The Contractor shall carry out such written orders promptly.

ARTICLE 8 TIME

§ 8.1 DEFINITIONS

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date determined by the Owner in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 PROGRESS AND COMPLETION

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor and Owner. The date of commencement of the Work shall not be changed by the effective date of such insurance. Unless the date of commencement is established by the Contract Documents or a notice to proceed given by the Owner, the Contractor shall notify the Owner in writing not less than five days or other agreed period before commencing the Work to permit the timely filing of mortgages, mechanic's liens and other security interests.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 DELAYS AND EXTENSIONS OF TIME

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or Architect, or of an employee of either, or of a separate contractor employed by the Owner, or by changes ordered in the Work, or by labor disputes, fire within the Project, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control, or by delay authorized in writing by the Owner pending mediation and arbitration, then the Contract Time shall be extended by Change Order. Notwithstanding anything to the contrary in this Contract, in no event shall Contractor be entitled to any extension in the Contract Time in excess of sixty (60) days for any event other than pursuant to a Change Order or Construction Change Directive.

§ 8.3.2 Claims relating to time extensions shall be made in accordance with applicable provisions of Section 4.3.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 CONTRACT SUM

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.2 SCHEDULE OF VALUES

§ 9.2.1 Exhibit "D" to this Contract is a schedule of values allocating to various portions of the Work and aggregating the total Contract Sum ("Schedule of Values"). Contractor shall furnish similar information from each Subcontractor prior to any payment request involving funds payable to such Subcontractor. The Schedule of Values shall be used as a basis for Contractor's Applications for Payment. The Schedule of Values lists as separate line items the actual subcontract amounts or purchase order amounts for all executed subcontracts and purchase orders, and lists as separate line items the Contractor's estimated amounts as used to establish the price for all subcontract amounts or purchase order amounts for unexecuted subcontracts and purchase orders. The Schedule of Values shall be updated monthly or otherwise as the Owner may reasonably require, and shall indicate the status of all aspects of the cost of the project as well as the costs related to changes in the Work which have been approved by Change Orders. Such change amounts shall be distributed within the line items for each subcontractor or purchase order, and shall be broken down into the smallest level of detail that is included in the Schedule of Values.

§ 9.3 APPLICATIONS FOR PAYMENT

§ 9.3.1 The procedures for application and certification of monthly Applications for Payment are as described herein and in Article 5 of the Agreement. Contractor shall submit to Owner and, at Owner's direction the Architect, an itemized, notarized Application for Payment for operations completed in accordance with the Schedule of Values. Each Application for Payment shall be accompanied by a contract summary report which shall set forth the percentage complete of each line item included in the Schedule of

Values. The exact format of the progress report shall be determined by Owner prior to submission of the initial Application for Payment; however, the progress reports shall at a minimum describe those aspects of the Work which have been commenced and the status thereof, enumerate the trades and Subcontractors then involved in the Work and Contractor's appraisal of the progress of the Work. Such Application shall be supported by such data substantiating the Contractor's right to payment as Owner may require, such as copies of invoices and/or requisitions from Subcontractors and material suppliers, and reflecting retainage provided for in the Contract Documents. Each Application for Payment shall be accompanied by (i) certifications from Contractor and from Subcontractors that as-built plans are complete and current, (ii) conditional lien waivers in form and substance consistent with the applicable statutes and acceptable to Owner executed by Contractor and all Subcontractors, materialmen and others who may have lien rights whose Work is the subject of such Application for Payment (iii) unconditional lien waivers in form and substance consistent with the applicable statutes and acceptable to Owner executed by Contractor and by all Subcontractors, materialmen and others who may have lien rights whose Work is the subject of the prior month's Application for Payment (iv) evidence that all inspections necessary to issue Warranties required pursuant to the Contract Documents have been made. All Applications for Payment shall be made on AIA form G702 and G703, if applicable.

§ 9.3.1.1 As provided in Section 7.3.8, such applications may include requests for payment on account of changes in the Work which have been properly authorized by Construction Change Directives, but not yet included in Change Orders.

§ 9.3.1.2 Such applications may not include requests for payment for portions of the Work for which the Contractor does not intend to pay to a Subcontractor or material supplier, unless such Work has been performed by others whom the Contractor intends to pay. Contractor shall not submit for Owner's review and approval any Application for Payment which is incomplete, inaccurate or lacks the detail, specificity or supporting documentation required herein. Contractor acknowledges and agrees that any Application for Payment which is deficient in any such manner shall not constitute a valid and proper Application for Payment, and the Contractor shall be required to resubmit such Application for Payment in proper form prior to the Owner incurring any obligation to make a payment on account thereof.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site. The Owner will not make payment for stored materials for items of a commodity nature which are readily available through distribution channels unless specifically approved by Owner in writing.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

§ 9.3.4 Owner reserves the right to make payments by joint checks payable to Contractor and any Subcontractor or materials supplier.

§ 9.4 CERTIFICATES FOR PAYMENT

§ 9.4.1 The Owner or, at the Owner's direction, the Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue a Certificate for Payment, with a copy to the Contractor, for such amount as it determines is properly due, or notify the Contractor in writing of the reasons for withholding certification in whole or in part as provided in Section 9.5.1. At Owner's direction, the Architect may certify to Owner that the Work has progressed to the point indicated in the Application for Payment. Approval of an Application for Payment by Owner shall not in any way release Contractor from its obligation to perform the Work in accordance with the Contract Documents.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data comprising the Application for Payment, that the Work has progressed to the point indicated and that, to the best of the Architect's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to specific qualifications expressed by the Architect. However, Architect's issuance of a Certificate for Payment will not be a representation that the Architect or the Owner has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 DECISIONS TO WITHHOLD APPROVAL

§ 9.5.1 The Architect or Owner may withhold approval of an Application for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, and/or because the Work has not progressed to the point indicated or is not in accordance with the Contract Documents. If the Contractor and Owner and/or Architect cannot agree on a revised amount, the Owner will promptly pay the amount that is not disputed by the Owner. The Owner may also withhold a payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Owner's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of:

- .1** Work not in accordance with the Contract Documents;
- .2** third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;
- .3** failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment or to provide invoices, signed releases and lien waivers;
- .4** reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5** damage to the Owner or another contractor;
- .6** reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
- .7** failure to carry out the Work in accordance with the Contract Documents; or
- .8** Contractor has failed to perform any of its material obligations under the Contract Documents.
- .9** Failure of the Contractor to submit with each application for payment evidence that all inspections necessary to issue Warranties required pursuant to the Contract Documents have been made.
- .10** Failure of the Contractor to comply in any way with the requirements set forth herein for any Application for Payment.

§ 9.5.2 When the above reasons for withholding payment are removed, approval will be made for amounts previously withheld.

§ 9.6 PROGRESS PAYMENTS

§ 9.6.1 After receipt of the Certificate of Payment from Architect, Owner shall review it and all other considerations regarding whether Contractor is entitled to payment, including the matters described in Sections 9.4.2 and 9.5.1. If Owner disapproves of payment, it shall notify Contractor in writing of such disapproval, which notice will state the specific reasons for the disapproval. Owner will use reasonable efforts to provide such notices within seven (7) days after receipt of a Certificate of Payment. Notwithstanding such disapproval, Owner will pay any undisputed portion of the Certificate of Payment to Contractor. If Owner approves of payment, Owner shall make payment in the manner and within the time provided in the Contract Documents. In accordance with Article 5 of the Agreement, Owner shall pay the amount requested in each Application for Payment within each line item of the Schedule of Values. Except as otherwise provided herein, all retention amounts authorized pursuant to the Agreement shall be held until Substantial Completion. The provisions of this Article 9 shall not lessen or diminish, but shall be in addition to, the right or duty of Owner to withhold any payments under applicable provisions of law respecting the withholding of sums due to contractors.

§ 9.6.2 The Contractor shall promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Contractor on account of such Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of such Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. If all Subcontractor and purchase order lien waivers of any tier are not included and correct, then the applicable portion of the payment may be withheld by the Owner until such waivers are correctly submitted.

§ 9.6.3 The Architect will, on request of Owner, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 Neither the Owner nor Architect shall have an obligation to pay or to see to the payment of money to a Subcontractor except as may otherwise be required by law.

§ 9.6.5 Payment to material suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors and suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, shall create any fiduciary liability or tort liability on the part of the Contractor for breach of trust or shall entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.7 Neither approval of any progress payment or final payment nor any payment by Owner to Contractor under the Contract Documents nor any use or occupancy of the Project or any part thereof by Owner or any other party, nor any act of acceptance by Owner, nor any failure to do so, nor any correction of any defective Work by Owner, shall constitute an acceptance of Work not in accordance with the Contract Documents.

§ 9.6.8 In taking action on Contractor's Applications for Payment, whether the Progress Payments or the Final Payment, Owner and the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by Contractor.

§ 9.7 FAILURE OF PAYMENT

§ 9.7.1 If the Owner does not pay the Contractor within seven days after the date established in the Contract Documents the amount due to Contractor (excluding any amount disputed by Owner), then the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 SUBSTANTIAL COMPLETION

§ 9.8.1 "Substantial Completion" or "Substantially Complete" is the stage in the progress of the Work (or the applicable phase thereof) when (a) the Work (or the applicable phase thereof) is completed in a substantially finished condition consistent with the Plans and Specifications and other applicable Contract Documents sufficient for the Owner to be able to occupy and utilize the Project for its intended purpose subject only to completion of "punch list" items that do not materially interfere with the utilization of the Work; (b) no occupancy or other necessary permits and approvals related to the Work (or the applicable phase thereof) are being withheld due to any failure to complete any portion of the Work; (c) Contractor is in compliance with the payment and lien provisions of this Agreement at the time of such Substantial Completion; (d) all temporary utilities are disconnected if requested by the Owner; (e) Contractor has complied with all reasonable requirements of the Owner's construction lender regarding Substantial Completion; (f) all remaining "punch list" items can reasonably be completed by Contractor within forty-five (45) days thereafter, subject, however, to long lead time items that must be ordered and to seasonal requirements for any landscaping and exterior work; and (g) all systems for which Contractor is responsible are operable and the Work is habitable.

§ 9.8.1.1 Contractor acknowledges that the Project is being constructed for the use and operations of Skecher USA, Inc. Notwithstanding the progress of the rest of the Work, Contractor will achieve access completion of such portion of the Work that is necessary to allow the pre-ordered materials to be delivered to the Project site. Contractor shall coordinate such delivery and storage with the advice and consent of Owner. The date such portion of the Work is substantially complete in order to allow such delivery, storage and installation may be referred to herein as the "Administrative Access Approval for Equipment Readiness." The Administrative Access Approval for Equipment Readiness Date may be satisfied without having achieved Substantial Completion of any other particular portion of the Work in accordance with the requirements of Section 9.8.1 above. Contractor will deliver to Owner all maintenance manuals, manufacturer and subcontractor warranties, and warranties applicable to each portion of Work described in gridlines 1 to 16, 17 to 32, or 33 to 48.8 as identified in Exhibit B, which such documentation shall only have to be delivered by Contractor once.

§ 9.8.2 Contractor shall notify Owner regarding Contractor's estimated date of Substantial Completion approximately 65 days before such estimated date of Substantial Completion. When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is Substantially Complete, the Contractor shall prepare and submit to the Owner and the Architect (i) a written Certification that the Work is Substantially Complete and (ii) a comprehensive list of items in a format reasonably acceptable to Owner to be completed or corrected prior to Final Payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. As a condition to final payment contractor must deliver to Owner all fully executed warranties from the Contractor, subcontractors and material/equipment providers as provided in the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Owner and the Architect will make an inspection to determine whether the Work or designated portion thereof is Substantially Complete. If the Owner's and/or

Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not complete, the Owner and/or Architect shall prepare a list of all such items. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Owner and the Architect to the extent the completion of such item is necessary for Owner to be able to occupy and utilize the Project for its intended purpose. In such case, the Contractor shall then submit a request for another inspection by the Owner and the Architect to determine Substantial Completion. The procedures set forth in Sections 9.8.2 and this 9.8.3 shall be repeated until the Architect determines that the entire Work is Substantially Complete. When the Work is determined by Owner to be Substantially Complete, the Owner and the Architect shall prepare a final list of all items that remain to be completed ("Punch List") and the Contractor's written acceptance of the Punch List shall constitute its unconditional promise to complete the Punch List items within forty-five (45) days thereafter, subject, however, to long lead time items that must be ordered and to seasonal requirements for any landscaping and exterior work. Failure of the Contractor to timely complete the Punch List items will constitute sufficient cause for the Owner to cause the completion of the Punch List items to be performed by others. Further, the cost of such Work will be charged to the Contractor to the extent such costs exceed the portion of the retainage held by Owner for such Punch List items. If the Owner's agreement with the Architect provides for a limit on the number of inspections for any portion of the Work to determine whether such portion of Work is Substantially Complete, as part of the Architect's Basic Services, then the Contractor shall be responsible and pay for any additional payments or amounts the Owner is required to pay to the Architect for any additional inspections (i.e., beyond one [1] inspection) to determine if a portion of the Work is Substantially Complete.

§ 9.8.4 When the Work or designated portion thereof is Substantially Complete, and the documents to be delivered by Contractor pursuant to Section 9.8.5 have been received by Owner, the Architect will prepare a Certificate for Payment upon Substantial Completion. Notwithstanding anything to the contrary contained in this Subsection, all notices to Architect shall also be delivered to Owner and all matters to be certified or approved by Architect shall be subject to Owner's reasonable and good faith determination that Substantial Completion has occurred according to the Contract Documents. The Architect's Certificate for Payment upon Substantial Completion shall only constitute a recommendation to Owner regarding the matters set forth therein, and shall be subject to Owner's independent approval based upon its reasonable and good faith determination of whether Substantial Completion has occurred. Substantial Completion shall not be deemed to have occurred, and payment on account thereof shall not be required, unless and until Owner approves the Project as being Substantially Complete. The payment upon Substantial Completion shall include the retention, and shall exclude such amounts as the Owner shall reasonably determine for incomplete Work and unsettled claims, to the extent authorized under Section 12.1.9 of the Agreement and to the extent consented to by the surety. Amounts withheld for incomplete Work or unsettled claims will be paid prior to Final Payment as such Work is completed or claims settled, in accordance with the regular monthly payment procedures.

§ 9.8.5 Architect shall not issue the Certificate for Payment upon Substantial Completion and no retentions shall be released to Contractor until the Contractor submits to the Architect and Owner, in form and substance satisfactory to Owner, only to the extent applicable to the portion of the Work that is Substantially Complete: (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) if required by the Owner, other data satisfactory to Owner establishing payment or satisfaction of all obligations relating to the Work that is Substantially Complete, such as receipts, releases and waivers of liens (including conditional final lien releases from Contractor and all Subcontractors), claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner, (3) all releases, waivers, affidavits, certificates, approvals, maintenance and operating instructions, schedules and guarantees, certificates of inspection and other documents required by the Contract Documents, (4) all operation and warranty manuals relating to the Work, (5) marked-up plans for the Work certified by the Contractor and all applicable Subcontractors to be complete and accurate, to the best of

their knowledge, to be prepared at Contractor's sole cost and expense and (6) consent of any surety to payment for Substantial Completion. The marked-up plans shall show the field changes and selections affecting the general construction, mechanical, electrical, plumbing, and other work, and indicating the Work as actually installed. These shall consist of carefully drawn markings on one (1) set of reproducible prints of the Architect's drawings, obtained and paid for by Contractor.

§ 9.9 PARTIAL OCCUPANCY OR USE

§ 9.9.1 The Owner may occupy or use any Substantially Completed phase of the Work as designated in Exhibit "E", provided such occupancy or use is authorized by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is substantially complete. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Owner as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. Contractor must use commercially reasonable efforts to perform the Work in a manner that will minimize the interference with the use and enjoyment of any phase after such partial use or occupancy commences.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner and the Contractor shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 FINAL COMPLETION AND FINAL PAYMENT

§ 9.10.1 When Contractor has completed the Punch List items, Contractor shall notify Owner and Architect that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Owner and the Architect will promptly make such inspection and, when the Owner and the Architect determine that the Work has been completed in accordance with the Contract Documents and the Contract fully performed (including all Punch List items), the Architect will certify to Owner that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.8.5 as precedent to the Contractor's being entitled to final payment have been fulfilled. If Owner or the Architect determines that the Work inspected is not final and complete, Contractor shall reimburse Owner for any additional fees and costs incurred to provide any inspections in addition to the initial inspection, one punch list inspection and one follow-up re-inspection. If any of the items listed in Section 9.8.5 have been changed since Substantial Completion, Contractor shall provide updated documents to the Owner prior to receiving final payment. Such final certificate will constitute a recommendation only and shall be subject to the independent review and approval of Owner. Final Completion shall not be deemed to have occurred, and no payment shall be required on account thereof, unless and until Owner has reasonably and in good faith determined that Final Completion has occurred in accordance with the Contract Documents. Should the Owner or the Architect reasonably and in good faith determine that the Work has not been completed in accordance with the Contract Documents and the Contract not fully performed, costs associated with the reinspection under this Subsection will be reimbursed to the Owner by the Contractor. The approval of a Final Application for Payment shall not in any way release Contractor from its obligation to complete the Work in accordance with the Contract Documents nor constitute an acceptance of the Work.

If Owner and the Architect are not satisfied that the Work has been properly completed, Owner shall return the Application to Contractor, indicating in writing the reasons for refusing to approval final payment, and Contractor shall make the necessary corrections and resubmit the Application.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Owner, only to the extent not previously provided to Owner pursuant to Section 9.8.5 above:

(1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts for the Costs of the Work, claims, security interests or encumbrances arising out of the Contract, other reasonable data establishing payment or satisfaction of all obligations under the Contract Documents, to the extent and in such form as may be reasonably designated by Owner; (6) (a) unconditional waivers of lien from the Contractor and each Subcontractor, Sub-subcontractor and material supplier for the portions of the Contract Sum that have been previously paid; and (b) conditional releases of lien upon final payment from Contractor and each Subcontractor, Sub-subcontractor or materialmen; (7) final inspection and approval by the applicable building department with respect to the Work to the extent within Contractor's control or responsibility under this Contract; (8) if applicable, submission by Contractor to Owner of two (2) copies of "as built" sepias completely posted, signed by the Contractor and the applicable Subcontractors; (9) the submission by the Contractor to Owner of operating instructions, parts lists and maintenance manuals for equipment installed Contractor has delivered to Owner all maintenance manuals, operating instructions, parts lists manufacturer and subcontractor guaranties, and warranties applicable thereto, to the extent not provided previously during Substantial Completion of a portion of the Work; and (10) a valid Notice of Completion by the Owner has been recorded and the statutorily prescribed period has expired for the filing of mechanics' or materialmen's liens without such liens having been filed (or discharged), or if liens have been filed, lien bonds have been provided to the extent required by Section 9.11 below.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Owner and Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

§ 9.10.4 The making of final payment shall constitute a waiver of claims except those arising from:

- .1 liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents, including latent defects;
- .3 terms of warranties required by the Contract Documents; or
- .4 all of Contractor's indemnity and defense obligations and all other obligations that survive completion of the Work.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment. As a condition precedent to final payment, Contractor shall furnish Owner with a release of any and all claims, disputes, indebtedness, liens, interests, encumbrances and other matters in controversy in connection with or in relation to the Project in form and substance satisfy to Owner, and duly executed by Contractor and its Subcontractors.

§ 9.11 Mechanic's Liens and Stop Notices. Contractor shall prevent (i) the recording of any mechanic's liens against the Project by its Subcontractors or any other persons or parties directly or indirectly employed by Contractor or its Subcontractors, including without limitation, all laborers, materialmen and

others entitled to assert mechanic's liens; (ii) legal actions involving title to the Project or any portion thereof as a result of any mechanic's liens described in clause (i) above, and any attachments or executions of judgments pursuant thereto; and (iii) the filing of any stop notices with Owner or any lender by its Subcontractors or any such other persons or parties. If any such lien is recorded, or any such legal action is commenced, or any such stop notice is filed, Contractor shall, within ten (10) days, cause the effect of any such lien or legal action to be removed from the Project and the effect of any such stop notice to be negated by means of an appropriate bond or other action satisfactory to Owner. Contractor may litigate or otherwise object to or dispute any matter leading to the recording of such a lien, or the commencement of such a legal action, or the filing of such a stop notice, provided that Contractor shall first cause the effect of the same to be removed or negated as provided in this Section. If Contractor fails to do so within such ten (10) day period, Owner may employ whatever means it may, in its sole discretion, deem best to cause said lien, attachment, or suit, together with its effect upon title to the Project, to be removed, discharged, compromised, or dismissed, and the effect of any such stop notices or other notices to be negated. In addition, Owner and its agents and employees shall have the right at any and all times during regular business hours to examine and inspect all financial and other records of Contractor pertinent or relating to the Project, including, without limitation, records of other jobs of Contractor to which Project funds may have been diverted. Contractor shall, upon demand, reimburse Owner for all costs incurred in connection with any such action by Owner, including, without limitation, reasonable attorneys' fees and costs incurred in connection therewith. Notwithstanding the foregoing provisions, Contractor shall not be liable for removing or bonding around any mechanic's liens and/or stop notices that result from non-payment or untimely payments by the Owner, unless such non-payment or untimely payment is the result of a good faith dispute.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 SAFETY PRECAUTIONS AND PROGRAMS

§ 10.1.1 The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 SAFETY OF PERSONS AND PROPERTY

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

- .1** employees on the Work and other persons who may be affected thereby;
- .2** the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and
- .3** other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

§ 10.2.2 The Contractor shall give notices and comply with applicable Laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

§ 10.2.3 The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including installing fencing, posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall give Owner written notice at least ten (10) days in advance of such use or storage and shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3, except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner. If Owner, Architect, or any governmental agency notifies Contractor of any claimed dangerous condition at the site that has been caused by Contractor, Contractor shall take immediate action to rectify the condition at no additional cost to Owner.

§ 10.2.7 The Contractor shall not load or permit any part of the construction or site to be loaded so as to endanger its safety.

§ 10.2.8 Contractor shall prohibit its employees, agents, subcontractors or suppliers from using illegal drugs or alcohol within 100 feet of or on the site. Contractor's employees, agents, subcontractors or suppliers in possession of illegal drugs or alcohol on the site will be subject to immediate termination. Individuals on the Site whose performance, coordination or ability to Work is impaired, in the opinion of Owner's representatives, will be subject to immediate removal from the site.

§ 10.2.9 Contractor will be responsible for implementing dust control procedures adequate to ensure at all times that dust caused by the Work does not migrate to neighboring properties.

§ 10.2.10 No children, dogs, loud radios or other devices that may endanger workers or subcontractors will be permitted at the site.

§ 10.3 HAZARDOUS MATERIALS

§ 10.3.1 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Architect in writing.

§ 10.3.2 The Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor the names of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner. The Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Contractor's reasonable additional costs of shut-down, delay and start-up, which adjustments shall be accomplished as provided in Article 7.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered

harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) and provided that such damage, loss or expense is not due to the sole negligence of a party seeking indemnity.

§ **10.4** The Owner shall not be responsible under Section 10.3 for materials and substances brought to the site by the Contractor. Contractor shall not permit any Hazardous Substances to be brought onto or stored at or used in the construction of the Work, except for commonly used construction materials, provided, however, that all such material shall be handled in full compliance with all applicable current or future Laws, and all notices required to be given with respect to such products shall be given by Contractor. "Hazardous Substance" means any substance or material which has been determined by any state, federal or local governmental authority to be capable of posing a risk of injury to health, safety, property or the environment.

§ **10.5** If, without negligence or other fault on the part of the Contractor, the Contractor is held liable for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall indemnify the Contractor for all cost and expense thereby incurred.

§ **10.5 EMERGENCIES**

§ **10.5.1** In an emergency affecting safety of persons or property, the Contractor shall act to prevent threatened damage, injury or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Section 4.3 and Article 7, provided such emergency is not proximately caused by the negligent act or negligent omission of Contractor or its agents.

§ **10.6** SWPPP. Contractor shall comply with (i) all applicable water quality Laws, including those enforced by the California State Water Resources Control Board (the "SWRCB") and the Regional Water Quality Control Board (Region 8); (ii) the National Pollutant Discharge Elimination System and the Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity (SWRCB Order No. 99-08-DWQ) (July 1, 2010 2009-0009-DWQ) and all amendments and modifications thereto; (iii) any Storm Water Pollution Prevention Plan applicable to the Project (as modified by Owner from time to time, the "SWPPP") and all associated Best Management Practices; and (iv) City and/or County of Riverside ordinances, guidelines, and manuals applicable to storm water discharges from construction sites. If Contractor observes any violation of any Laws, it shall immediately correct such violation. Any Work performed by Contractor that is not in compliance with applicable Laws shall be redone in compliance with applicable Laws at Contractor's sole expense. The SWPPP will be part of the Contract Documents. Any costs of complying with (SWRCB Order No. 99-08-DWQ) (July 1, 2010 2009-0009-DWQ) are not currently included in the GMP.

§ **10.7** PREVENTION OF MOLD. Contractor will conform with all Laws pertaining to the Work and the Standard of Care in order to keep the Project free from mold, moisture and other conditions that may cause mold to be present. Without limiting the foregoing, Contractor will use reasonable precautions to avoid the presence of mold or moisture in any construction materials. Contractor will also comply with all Laws relating to the remediation of any mold that may be present within the Project at any time as a result of the Work.

ARTICLE 11 INSURANCE AND BONDS

SEE ADDENDUM "A" ATTACHED HERETO AND INCORPORATED HEREIN.

§ **11.1 CONTRACTOR'S LIABILITY INSURANCE** See Addendum "A" attached hereto and incorporated herein.

§ **11.2 OWNER'S LIABILITY INSURANCE**

§ **11.2.1** Owner has liability insurance. Owner's policy is available for inspection and contractor has accepted such policy by execution of this Agreement.

§ 11.3 PROJECT MANAGEMENT PROTECTIVE LIABILITY INSURANCE

§11.3.1 Intentionally Omitted.

§ 11.3.2 To the extent damages are covered by Project Management Protective Liability insurance, the Owner, Contractor and Architect waive all rights against each other for damages, except such rights as they may have to the proceeds of such insurance. The policy shall provide for such waivers of subrogation by endorsement or otherwise.

§ 11.4 PROPERTY INSURANCE

§ 11.4.1 Owner has purchased property insurance. Owner's policy is available for inspection and contractor has accepted such policy by execution of this Agreement.

§ 11.5 PERFORMANCE BOND AND PAYMENT BOND

§11.5.1 See A111

§11.5.2 See A111

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§12.1 UNCOVERING OF WORK

§ 12.1.1 If a portion of the Work is covered contrary to the Owner's request or to requirements specifically expressed in the Contract Documents, it must, if required in writing by the Owner, be uncovered for the Owner's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered which the Owner has not specifically requested to examine prior to it's being covered, the Owner may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be at the Owner's expense. If such Work is not in accordance with the Contract Documents, correction shall be at the Contractor's expense unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

§ 12.2 CORRECTION OF WORK

§ 12.2.1 BEFORE OR AFTER SUBSTANTIAL COMPLETION

§ 12.2.1.1 The Contractor shall promptly correct Work rejected by the Owner or failing to conform to the requirements of the Contract Documents, for any reason, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections and compensation for the Architect's or other consultant's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 AFTER SUBSTANTIAL COMPLETION

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work ("Warranty Period") or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the Warranty Period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.4. The Warranty Period for all corrective work shall be twelve (12) months from the completion of such corrective work. This obligation shall survive both final payment for

the Work and termination of the Contract. All guarantees and warranties will inure to the benefit of Owner, its successors and assigns. Contractor shall also insert the terms of this provision in all subcontracts and/or agreements executed in connection with the services to be performed under the Contract Documents and shall pass such provision to its Subcontractors.

§ **12.2.3** The Contractor shall remove from the site portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ **12.2.4** The Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

§ **12.2.5** Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations which the Contractor might have under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor Subcontractors, Sub-subcontractors and material suppliers to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ **12.2.6 CALL BACK RESPONSIBILITY.** During the Warranty Period set forth above, in connection with the performance of the Work by the Contractor, Contractor hereby agrees that:

(a) It will within 5 working days from written notice thereof (unless an emergency exists) start to correct any and all deficiencies in the Work (and thereafter diligently pursue to completion) at Contractor's sole cost and expense;

(b) The determination as to what constitutes a deficiency will be within the sole discretion of the Owner, whose judgment will be reasonably exercised;

(c) Failure of the Contractor to make timely performance hereunder will constitute sufficient cause for the Owner to cause the correction of such deficiencies to be performed by others. Further, the cost of such Work will be charged to the Contractor and such cost plus a sum equal to 15% thereof (which additional sum will represent an allowance for the administration by the Owner of such Work) will be charged against the account of the Contractor. If the amount owing the Contractor under this Agreement at the time such Work is performed by others is less than the sum charged against its account, the Contractor will remit the difference to the Owner within five (5) days following Owner's request therefore.

§ **12.3 ACCEPTANCE OF NONCONFORMING WORK**

§ **12.3.1** If the Owner prefers to accept Work which is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ **13.1 GOVERNING LAW**

§ **13.1.1** The Contract shall be governed by the law of the place where the Project is located without regard to conflict of law rules.

§ 13.2 SUCCESSORS AND ASSIGNS

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns and legal representatives to the other party hereto and to partners, successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to an institutional lender providing construction financing for the Project. In such event, the lender shall assume the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate such assignment as long as such consents contain language acceptable to Contractor.

§ 13.3 WRITTEN NOTICE Any notice provided for herein will be in writing and deemed delivered to the other party when delivered to the address shown for such party in the first Section of this Agreement, or to such other address as may be designated by either party by written notice in accordance with this Agreement, (a) in person, (b) by facsimile transmission (with the original and a copy of the facsimile confirmation following in the United States mail), (c) by overnight delivery service, or (d) by certified mail, return receipt requested. If such notice is given in person or via facsimile transmission, such notice will be deemed to have been given when delivered or transmitted. If such notice is given by overnight delivery service, such notice is deemed received two (2) business days after delivery to the overnight delivery service. If such notice is given by certified mail, such notice will be deemed received two (2) business days after a certified letter containing such notice, properly addressed with postage prepaid, is deposited in the United States mail.

§13.4 RIGHTS AND REMEDIES

§ 13.4.1 Except as otherwise provided herein, duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

§ 13.4.2 No action or failure to act by the Owner, Architect or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

§ 13.5 TESTS AND INSPECTIONS

§ 13.5.1 Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority. The Contractor shall facilitate all such inspections give the Owner timely notice (at least 48 hours) of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections or approvals which do not become requirements until after bids are received or negotiations concluded. Lender and its agents may enter upon the site of the Project to inspect the Project and any materials at any reasonable time, upon reasonable advance notice, unless Lender such inspection is of an emergency nature, in which event Contractor shall provide Lender with immediate access to the Project site. Owner will accompany Lender in any such inspection, who shall comply with Project site safety requirements. Contractor will make available to Lender and its agents, for inspection and copying, all Plans and Specifications, shop drawings, books and records, and other documents and information that Lender may request from time to time.

§ 13.5.2 If the Owner or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection or approval not included under Section 13.5.1, Owner will instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable

to the Owner, and the Contractor shall give timely notice to the Owner (not less than 48 hours) of when and where tests and inspections are to be made so that the Owner may be present for such procedures. Such costs, except as provided in Section 13.5.3, shall be at the Owner's expense.

§ 13.5.3 If such procedures for testing, inspection or approval under Sections 13.5.1 and 13.5.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure including those of repeated procedures and compensation for the Architect's and other consultants' services and expenses shall be at the Contractor's expense.

§ 13.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Owner.

§ 13.5.5 If the Owner is to observe tests, inspections or approvals required by the Contract Documents, the Owner will do so promptly and, where practicable, at the normal place of testing. Neither the observations nor other duties, if any, of the Owner, Lender or the Architect in the administration of the Contract Documents, nor inspections, tests or approvals by the Owner, Lender or any other persons other than Contractor shall relieve Contractor from its obligations to perform the Work in accordance with the Contract Documents.

§ 13.5.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.6 INTEREST

§ 13.6.1 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the Prime Rate plus 2% in effect at the beginning of each month as published in the Wall Street Journal.

§ 13.7 COMMENCEMENT OF STATUTORY LIMITATION PERIOD As between the Owner and Contractor:

- .1 Before Substantial Completion. As to acts or failures to act occurring prior to the relevant date of Substantial Completion, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than such date of Substantial Completion;
- .2 Between Substantial Completion and Final Certificate for Payment. As to acts or failures to act occurring subsequent to the relevant date of Substantial Completion and prior to issuance of the final Certificate for Payment, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than the date of issuance of the final Certificate for Payment; and
- .3 After Final Certificate for Payment. As to acts or failures to act occurring after the relevant date of issuance of the final Certificate for Payment, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than the date of any act or failure to act by the Contractor pursuant to any Warranty provided under Section 3.5, the date of any correction of the Work or failure to correct the Work by the Contractor under Section 12.2, or the date of actual commission of any other act or failure to perform any duty or obligation by the Contractor or Owner, whichever occurs last.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 TERMINATION BY THE CONTRACTOR

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, for any of the following reasons:

- .1 issuance of an order of a court or other public authority having jurisdiction which requires all Work to be stopped;

- .2 an act of government, such as a declaration of national emergency which requires all Work to be stopped; or
- .3 because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; provided, however, if Owner is disputing the payment in good faith, Contractor shall not have the right to terminate the Contract for nonpayment. If such a dispute is resolved and Owner fails to make the payment in the manner agreed to by the parties in the resolution, Contractor shall have the right to terminate the Contract for nonpayment as set forth herein.
- .4 the Owner has failed to furnish to the Contractor promptly, upon the Contractor's request, reasonable evidence as required by Section 2.2.1.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 14.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed and for proven loss with respect to materials, equipment, tools, and construction equipment and machinery, including reasonable overhead, profit and damages. Upon written notice, the Owner shall have 7 days to cure the reason described in Section 14.1.1 or 14.1.2 as the basis for the Contractor's notice.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor because the Owner has persistently failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' written notice to the Owner, terminate the Contract and recover from the Owner as provided in Section 14.1.3. However, if there is a dispute about whether the Work stoppage described in Sections 14.1.1 or 14.1.2 or 14.1.4 is due to the act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, then the Contractor shall not have the right to terminate the Contract.

§ 14.2 TERMINATION BY THE OWNER FOR CAUSE

§ 14.2.1 The Owner may terminate the Contract if the Contractor:

- .1 refuses or fails to supply enough properly skilled workers or proper materials except in cases where an extension of time is provided under the Contract Documents;
- .2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- .3 disregards any material laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction;
- .4 otherwise fails to comply with a material provision of the Contract Documents;
- .5 if Contractor should be adjudged bankrupt, file or suffer to be filed a petition for relief under the Bankruptcy Act, or make a general assignment for the benefit of creditors; or
- .6 if a receiver should be appointed on account of Contractor's insolvency.

§ 14.2.2 When any of the above reasons exist, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, three days' written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;

- .2 accept assignment of subcontracts pursuant to Article 5 herein; and
- .3 finish the Work by whatever reasonable method the Owner may deem expedient including requiring that Contractor's surety within 30 days of the written notice described herein, immediately proceed with completion of the Work. Upon request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Architect, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 SUSPENSION BY THE OWNER FOR CONVENIENCE

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 14.3.1 in accordance with the change order provisions of the Contract. Adjustment of the Contract Sum shall, if applicable, adjust the Contractor's Fee and Exhibit D's line item for General Conditions. No adjustment shall be made to the extent:

- .1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 TERMINATION BY THE OWNER FOR CONVENIENCE

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Contractor shall:

- .1 cease operations as directed by the Owner in the notice vacate the site and remove all of Contractor's equipment and materials;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, and except for subcontracts to be assigned to Owner pursuant to Article 5 herein, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

In no event shall Contractor have a claim for other damages, lost profits, savings, or otherwise on account of the termination of the Agreement pursuant to this provision except as stated herein.

In the event of any termination, the Owner may deduct from any sums due and owing to Contractor according to the provisions of Article 14, the cost to repair and/or correct any defective work.

All Warranties, Indemnity obligations, and any and all claims by the Owner for defective work and/or warranty items, survive any termination of this Agreement.

§14.4.4 CHANGE IN CONTROL

Upon a Change of Control, all of Contractor's rights hereunder shall, at the Owner's option and sole discretion, terminate. "Change of Control" means (i) the acquisition of the Contractor by another entity by means of any transaction or series of related transactions (including, without limitation, any merger, consolidation or other form of reorganization in which outstanding shares of the Contractor are exchanged for securities or other consideration issued, or caused to be issued, by the acquiring entity or its subsidiary, but excluding any transaction effected primarily for the purpose of changing the Contractor's state of incorporation), unless the Contractor's stockholders of record as constituted immediately prior to such transaction or series of related transactions will, immediately after such transaction or series of related transactions hold at least a majority of the voting power of the surviving or acquiring entity, or (ii) a sale of all or substantially all of the assets of the Contractor.

In case of such termination for a Change in Control, the Contractor, as its sole and exclusive remedy, shall be entitled to receive payment as follows:

Take the Cost of the Work incurred by the Contractor to the date of termination;

Add the Contractor's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 5.1.2 of AIA111-1997 or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and

Subtract the aggregate of previous payments made by the Owner.

In no event shall Contractor have a claim for other damages, lost profits, savings, or otherwise on account of the termination of the Agreement pursuant to this provision.

Construction Loan Agreement

among

HF Logistics-SKX TI, LLC, a Delaware limited liability company,
as Borrower

and

Bank of America, N.A.,
a national banking association
as Administrative Agent and as a Lender

and

Raymond James Bank FSB,
a federal savings bank, as a Lender

Dated as of April 30, 2010

Banc of America Securities LLC,
as
Sole Lead Arranger and Sole Book Manager



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EXHIBITS:

EXHIBIT “A”	—	Legal Description of Land
EXHIBIT “B”	—	Definitions and Financial Statements
EXHIBIT “C”	—	Conditions Precedent to the Initial Advance
EXHIBIT “D”	—	Budget
EXHIBIT “E”	—	Plans
EXHIBIT “F”	—	Advances
EXHIBIT “F-1”	—	Draw Request
EXHIBIT “G”	—	Survey Requirements
EXHIBIT “H”	—	Intentionally Omitted
EXHIBIT “I”	—	Leasing and Tenant Matters
EXHIBIT “J”	—	List of Required Bonds
EXHIBIT “K”	—	Letters of Credit
EXHIBIT “L”	—	Assignment and Assumption
EXHIBIT “M”	—	Promissory Note
EXHIBIT “N”	—	Schedule of Lenders and Other Parties

CONSTRUCTION LOAN AGREEMENT

(Syndication)

THIS CONSTRUCTION LOAN AGREEMENT ("Agreement") is made by and among each lender from time to time a party hereto (individually, a "Lender" and collectively, the "Lenders"), and Bank of America, N.A., a national banking association as Administrative Agent and HF Logistics-SKX TI, LLC, a Delaware limited liability company ("Borrower"), who agree as follows:

ARTICLE 1 — THE LOAN

1.1. General Information and Exhibits. This Agreement includes the Exhibits listed below which are marked by an "X," all of which Exhibits are attached hereto and made a part hereof for all purposes. Borrower and Lenders agree that if any Exhibit to be attached to this Agreement contains blanks, the same shall be completed correctly and in accordance with this Agreement prior to or at the time of the execution and delivery thereof.

<u>X</u>	Exhibit "A"	—	Legal Description of the Land
<u>X</u>	Exhibit "B"	—	Definitions and Financial Statements
<u>X</u>	Exhibit "C"	—	Conditions Precedent to the Initial Advance
<u>X</u>	Exhibit "D"	—	Budget
<u>X</u>	Exhibit "E"	—	Plans
<u>X</u>	Exhibit "F"	—	Advances
<u>X</u>	Exhibit "F-1"	—	Draw Request
<u>X</u>	Exhibit "G"	—	Survey Requirements
	Exhibit "H"	—	Intentionally Omitted
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<u>X</u>	Exhibit "J"	—	List of Required Bonds
<u>X</u>	Exhibit "K"	—	Letters of Credit
<u>X</u>	Exhibit "L"	—	Assignment and Assumption
<u>X</u>	Exhibit "M"	—	Promissory Note
<u>X</u>	Exhibit "N"	—	Schedule of Lenders

The Exhibits contain other terms, provisions and conditions applicable to the Loan. Capitalized terms used in this Agreement shall have the meanings assigned to them in Exhibit "B". This Agreement and the other Loan Documents, which must be in form, detail and substance satisfactory to Lenders, evidence the agreements of Borrower and Lenders with respect to the Loan. Borrower shall comply with all of the Loan Documents, but to the extent that the provisions of this Agreement conflict or are inconsistent with the provisions in any of the other Loan Documents, the provisions of this Agreement shall control.

1.2. Purpose. The proceeds of the Loan shall be used by Borrower to pay (i) the cost of the construction of the Improvements on the Land and (ii) other fees, costs and expenses relating to the Property if and to the extent that such costs are specifically provided for in the Budget.

1.3. Commitment to Lend. Borrower agrees to borrow from each Lender, and each Lender severally agrees to make advances of its Pro Rata Share of the proceeds of the Loan to Borrower in amounts at any one time outstanding not to exceed such Lender's Pro Rata Share of the Loan and (except for Administrative Agent with respect to Administrative Agent Advances), on the terms and subject to the conditions set forth in this Agreement and Exhibit "C" and Exhibit "F" attached to this Agreement. Lender's commitment to lend shall expire and terminate automatically if the Loan is prepaid in full. The Loan is not revolving. Any amount repaid may not be reborrowed.

1.4. Budget. The Budget is attached to this Agreement as Exhibit "D". The amounts listed in the Budget as the (a) "Total Costs" is the maximum cost anticipated by Borrower for each item specified; (b) "Total Budget" is the maximum cost anticipated by Borrower for the Project; (c) "Loan Proceeds" is the maximum amount to be advanced under the Loan, and as used herein, such term shall mean Loan funds to be advanced by the Lenders subject to the terms and conditions of this Agreement; and (d) "Up-Front Equity" is FIFTY SEVEN MILLION FIVE HUNDRED SIXTY ONE THOUSAND TWO HUNDRED THIRTY SEVEN AND NO/100 DOLLARS

(\$57,561,237.00), the amount which is to be paid by Borrower toward the Total Costs, and advanced prior to the first Advance of any Loan Proceeds. Up-Front Equity Cash and Loan Proceeds shall be advanced subject to the terms, covenants, conditions and provisions of this Agreement. Borrower shall not amend the Budget, or otherwise reallocate Loan funds from one Budget line item to another, without the prior written approval of Administrative Agent in its sole discretion or except as expressly provided for herein. The Budget has been prepared by Borrower, and Borrower represents to Administrative Agent and Lenders that to the best of Borrower's knowledge, the Budget includes all costs incident to the Loan and the Project through the maturity date of the Loan (collectively, the "Aggregate Cost") after taking into account the requirements of this Agreement, including "hard" and "soft" costs, fees and expenses. Unless approved by Administrative Agent in its sole discretion, no advance shall be made (a) for any cost not set forth in the Budget, (b) from any line item in the Budget that, when added to all prior advances from that line item, would exceed the lesser of (i) the actual cost incurred by Borrower for such line item, or (ii) the sum shown in the Budget for such line item, (c) from any contingency line item, or (d) to pay interest on the Loan after commencement of operations in the Improvements if and to the extent that, subject to the provisions of Exhibit "I", there is sufficient net operating income from the Property to pay such interest. Advances from any line item in the Budget for purposes other than those for which amounts are initially allocated to such line item, or changes in the relative amounts allocated to particular line items in the Budget may only be made as Administrative Agent in its sole discretion deems necessary or advisable.

In the event the general contractor produces a cost savings on a particular line item under a construction contract with such general contractor, the general contractor will deduct the savings on that line item and increase the general contractor fee line item by twenty-five percent of the savings. The balance of the savings will be re-allocated to interest reserve, contingency or hard cost line items after consent of the Administrative Agent pursuant to the requirements of this Agreement.

1.5. Borrower's Deposit. If at any time Administrative Agent determines that the sum of: (i) any unadvanced portion of the Loan to which Borrower is entitled, plus (ii) the portions of the Aggregate Cost that are to be paid by Borrower from other funds that, to Administrative Agent's satisfaction, are available, set aside and committed, is or will be insufficient to pay the actual unpaid Aggregate Cost, Borrower shall, within ten (10) days after written notice from Administrative Agent, deposit with Administrative Agent the amount of the deficiency ("Borrower's Deposit") in an interest-bearing account of Administrative Agent's selection with interest earned thereon to be part of Borrower's Deposit. Such Borrower's Deposit is hereby pledged to Administrative Agent and Lenders as additional security for the Loan, and Borrower hereby grants and conveys to Administrative Agent for the ratable benefit of Administrative Agent and Lenders a security interest in all funds so deposited with Administrative Agent, as additional security for the Loan. Administrative Agent may advance all or a portion of the Borrower's Deposit prior to the Loan Proceeds. Upon the occurrence of any Default by Borrower, Administrative Agent may (but shall have no obligation to) apply all or any part of Borrower's Deposit against the unpaid Indebtedness in such order as Administrative Agent determines. Absent the existence of any Default or the occurrence of any event which, upon the giving of notice or the passage of time would become a Default, Borrower's Deposit shall be used to pay amounts of any insufficiencies in the Aggregate Cost.

1.6. Evidence of Debt. Amounts of the Loan made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and by the Administrative Agent in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender shall be conclusive absent manifest error of the amount of the Loan made by the Lenders to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Indebtedness. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of the Administrative Agent in respect of such matters, the accounts and records of Administrative Agent shall control in the absence of manifest error.

1.7. Interest Rate.

(a) The unpaid principal balance of this Loan from day to day outstanding which is not past due, shall bear interest at a fluctuating rate of interest equal to the sum of (i) the greater of (x) the BBA LIBOR Daily Floating Rate or (y) ONE HUNDRED AND FIFTY (150) basis points per annum and (ii) FOUR HUNDRED AND FIFTY (450) basis points, until default (the "Applicable Rate"). The "BBA LIBOR Daily Floating Rate" shall

mean a fluctuating rate of interest equal to the British Bankers Association LIBOR Rate (“BBA LIBOR”), as published by Reuters (or other commercially available source providing quotations of BBA LIBOR as selected by Administrative Agent from time to time) as determined for each Business Day at approximately 11:00 a.m. London time two (2) London Banking Days prior to the date in question, for U.S. Dollar deposits (for delivery on the first day of such interest period) with a one month term, as adjusted from time to time in Administrative Agent’s sole discretion for reserve requirements, deposit insurance assessment rates and other regulatory costs. If such rate is not available at such time for any reason, then the rate will be determined by such alternative method as reasonably selected by Administrative Agent. A “London Banking Day” is a day on which banks in London are open for business and dealing in offshore dollars. Interest shall be computed for the actual number of days which have elapsed, on the basis of a 360-day year. Interest shall accrue from the date that funds are actually deposited into the Borrower’s account described in Section 1.15 below or disbursed to a third party on behalf of the Borrower or in connection with the construction and development of the Project.

(b) If Administrative Agent determines that no adequate basis exists for determining the BBA LIBOR Daily Floating Rate or that the BBA LIBOR Daily Floating Rate will not adequately and fairly reflect the cost to Lenders of funding the Loan, or that any applicable law or regulation or compliance therewith by any Lender prohibits or restricts or makes impossible the charging of interest based on the BBA LIBOR Daily Floating Rate and such Lender so notifies Administrative Agent and Borrower, then until Administrative Agent notifies Borrower that the circumstances giving rise to such suspension no longer exist, interest shall accrue and be payable on the unpaid principal balance of this Loan from the date Administrative Agent so notifies Borrower until the Maturity Date of this Loan (whether by acceleration, declaration, extension or otherwise) at a fluctuating and per annum rate of interest equal to the sum of 1.75% plus the greater of (1) the Prime Rate of Administrative Agent; and (2) 4.25%. Each Lender agrees to designate a different Lending Office if such designation will avoid the need for such notice and will not, in the good faith judgment of such Lender, otherwise be materially disadvantageous to such Lender. Each time the Prime Rate changes, the per annum rate of interest on this Loan shall change immediately and contemporaneously with such change in the Prime Rate. If Administrative Agent (including any subsequent Administrative Agent) ceases to exist or to establish or publish a prime rate from which the Prime Rate is then determined, the applicable variable rate from which the Prime Rate is determined thereafter shall be instead the prime rate reported in The Wall Street Journal (or the average prime rate if a high and a low prime rate are therein reported), and the Prime Rate shall change without notice with each change in such prime rate as of the date such change is reported.

1.8. Past Due Rate. If any amount payable by Borrower under any Loan Document is not paid when due (without regard to any applicable grace periods), such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Past Due Rate (as defined herein) to the fullest extent permitted by applicable law. Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable on demand, at a rate per annum equal to the Applicable Rate plus FOUR HUNDRED (400) basis points (the “Past Due Rate”).

1.9. Prepayment. Borrower may prepay the principal balance of this Loan, in full at any time or in part from time to time, without fee, premium or penalty, provided that: (a) Administrative Agent shall have actually received from Borrower prior written notice of (i) Borrower’s intent to prepay, (ii) the amount of principal which will be prepaid (the “Prepaid Principal”), and (iii) the date on which the prepayment will be made; (b) each prepayment shall be in an amount of One Thousand and No/100 Dollars (\$1,000.00) or a larger integral multiple of One Thousand and No/100 Dollars (\$1,000.00) (unless the prepayment retires the outstanding balance of this Loan in full); and (c) each prepayment shall be in the amount of 100% of the Prepaid Principal, plus accrued unpaid interest thereon to the date of prepayment, plus any other sums which have become due to Administrative Agent and Lenders under the Loan Documents on or before the date of prepayment but have not been paid. If this Loan is prepaid in full, any commitment of Lenders for further advances shall automatically terminate.

1.10. Consequential Loss. Within fifteen (15) days after request by any Lender (or at the time of any prepayment), Borrower shall pay to such Lender such amount or amounts as will compensate such Lender for any reasonable loss, cost, expense, penalty, claim or liability, including any loss incurred in obtaining, prepaying, liquidating or employing deposits or other funds from third parties and any loss of revenue, profit or yield, as determined by such Lender in its judgment reasonably exercised (together, “Consequential Loss”) incurred by such Lender with respect to any LIBOR Rate as a result of: (a) the failure of Borrower to make payments on the date

specified under this Agreement or in any notice from Borrower to Administrative Agent; (b) the failure of Borrower to borrow, continue or convert into LIBOR Rate Principal on the date or in the amount specified in a notice given by Borrower to Administrative Agent pursuant to this Agreement; (c) the early termination of any Interest Period for any reason; or (d) the payment or prepayment of any amount on a date other than the date such amount is required or permitted to be paid or prepaid, whether voluntarily or by reason of acceleration, including, but not limited to, acceleration upon any transfer or conveyance of any right, title or interest in the Property giving Administrative Agent on behalf of Lenders the right to accelerate the maturity of the Loan as provided in the Mortgage. The foregoing notwithstanding, the amounts of the Consequential Loss shall never be less than zero or greater than what is permitted by applicable Law. If any Consequential Loss will be due, the Lender shall deliver to Borrower a notice as to the amount of the Consequential Loss, which notice shall be conclusive in the absence of manifest error. Neither Administrative Agent nor the Lenders shall have any obligation to purchase, sell and/or match funds in connection with the funding or maintaining of the Loan or any portion thereof. The obligations of Borrower under this Section shall survive any termination of the Loan Documents and payment of the Loan and shall not be waived by any delay by Administrative Agent or Lenders in seeking such compensation.

1.11. Late Charge. If Borrower shall fail to make any payment due hereunder or under the terms of any Note within fifteen (15) days after the date such payment is due, Borrower shall pay to the applicable Lender or Lenders on demand a late charge equal to four percent (4%) of such payment. Such fifteen (15) day period shall not be construed as in any way extending the due date of any payment. The “late charge” is imposed for the purpose of defraying the expenses of a Lender incident to handling such defaulting payment. This charge shall be in addition to, and not in lieu of, any other remedy Lenders may have and is in addition to any fees and charges of any agents or attorneys which Administrative Agent or Lenders may employ upon the occurrence of a Default, whether authorized herein or by Law.

1.12. Taxes.

(a) Any and all payments by Borrower to or for the account of Administrative Agent or any Lender under any Loan Document shall be made free and clear of and without deduction for any and all present or future taxes, duties, levies, imposts, deductions, assessments, fees, withholdings or similar charges, and all liabilities with respect thereto, excluding, in the case of Administrative Agent and any Lender, taxes imposed on or measured by its net income, and franchise taxes imposed on it (in lieu of net income taxes), by the jurisdiction (or any political subdivision thereof) under the Laws of which Administrative Agent or such Lender, as the case may be, is organized or maintains a Lending Office (all such non-excluded taxes, duties, levies, imposts, deductions, assessments, fees, withholdings or similar charges, and liabilities being hereinafter referred to as “Taxes”). If Borrower shall be required by any Laws to deduct any Taxes from or in respect of any sum payable under any Loan Document to Administrative Agent or any Lender, (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section), Administrative Agent and such Lender receives an amount equal to the sum it would have received had no such deductions been made, (ii) Borrower shall make such deductions, (iii) Borrower shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable Laws, and (iv) within 30 days after the date of such payment, Borrower shall furnish to Administrative Agent (which shall forward the same to such Lender) the original or a certified copy of a receipt evidencing payment thereof.

(b) In addition, Borrower agrees to pay any and all present or future stamp, court or documentary taxes and any other excise or property taxes or charges or similar levies which arise from any payment made under any Loan Document or from the execution, delivery, performance, enforcement or registration of, or otherwise with respect to, any Loan Document (hereinafter referred to as “Other Taxes”).

(c) If Borrower shall be required by the Laws of any jurisdiction outside the United States to deduct any Taxes or Other Taxes from or in respect of any sum payable under any Loan Document to Administrative Agent or any Lender, Borrower shall also pay to Administrative Agent (for the account of such Lender) or to such Lender, at the time interest is paid, such additional amount that such Lender specifies is necessary to preserve the after-tax yield (after factoring in United States (federal and state) taxes imposed on or measured by net income) the Lender would have received if such deductions (including deductions applicable to additional sums payable under this Section) had not been made.

(d) Borrower agrees to indemnify Administrative Agent and each Lender for the full amount of Taxes and Other Taxes (including any Taxes or Other Taxes imposed or asserted by any jurisdiction on amounts payable under this Section) paid by Administrative Agent and such Lender and any liability (including penalties, interest and expenses) arising therefrom or with respect thereto, in each case whether or not such Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Tribunal. Payment under this subsection (d) shall be made within 30 days after the date the Lender or the Administrative Agent makes a demand therefor.

(e) Without prejudice to the survival of any other agreement of Borrower hereunder, the agreements and obligations of Borrower contained in this Section shall survive the termination of the Commitments and the payment in full of all the other Indebtedness.

1.13. Payment Schedule and Maturity Date.

1.13.1 Accrued and unpaid interest shall be due and payable commencing on May 15, 2010 and on the 15th day of each succeeding month thereafter until all principal and accrued interest owing on the Loan shall have been fully paid and satisfied.

1.13.2 Commencing on the 15th day of the first calendar month following the first payment of rent by Skechers pursuant to the Lease and continuing on the 15th day of each and every calendar month thereafter until the Loan has been repaid in full, Borrower shall make principal payments in an amount derived assuming a thirty (30) year amortization and interest at the rate of the greater of eight percent (8%) per annum or the rate then paid on ten (10) year Treasury Notes, plus TWO HUNDRED AND FIFTY (250) basis points; provided, that on the Maturity Date the entire principal balance of the Loan then unpaid and all accrued interest then unpaid shall be finally due and payable. It is acknowledged and agreed that the interest rate set forth in this Section 1.13.2 shall not be the interest rate under the Loan (which interest rate is set forth in Section 1.7 above), but rather shall be used solely for the determination of the amount of each principal payment to be made pursuant to this Section 1.13.2.

1.13.3 Administrative Agent shall grant a request by Borrower to extend the Maturity Date of the Loan to October 30, 2012 (the "Extended Maturity Date"), upon and subject to the following terms and conditions:

(a) Basic Conditions. Unless otherwise agreed by Administrative Agent with the consent of all Lenders in writing:

(i) Borrower shall request the extension, if at all, by written notice to Administrative Agent not more than one hundred twenty (120) days, and not less than sixty (60) days, prior to the Maturity Date.

(ii) At the time of the request, the construction of the Improvements shall have been completed in accordance with the requirements of the Loan Documents, an unconditional certificate of occupancy (or local equivalent) shall have been issued for the Improvements by the applicable governmental authority with jurisdiction over the Property, and all conditions to the final disbursement shall have been satisfied.

(iii) At the time of the request, and at the time of the extension, there shall not exist any default, nor any condition or state of facts which after notice and/or lapse of time would constitute a Default under any Loan Document.

(iv) Current Financial Statements regarding Borrower and TG Development (dated not earlier than thirty (30) days prior to the request for extension) and all other financial statements and other information as may be required under the Loan Documents regarding Borrower, TG Development and the Property, shall have been submitted promptly to Administrative Agent, and there shall not have occurred, in the opinion of Administrative Agent, any material adverse change in the business or financial condition of Borrower or any Guarantor or Skechers, or in the Property or in any other state of facts submitted to Administrative Agent in connection with the Loan Documents, from that which existed on the date of this Agreement.

(v) Whether or not the extension becomes effective, Borrower shall pay all out-of-pocket costs and expenses incurred by Administrative Agent and Lenders in connection with the proposed extension (pre- and post-closing), including, without limitation, appraisal fees, environmental audit and reasonable legal fees; all such costs and expenses incurred up to the time of Lenders' written agreement to the extension shall be due and payable prior to Lenders' execution of that agreement (or if the proposed extension does not become effective, then upon demand by Administrative Agent), and any future failure to pay such amounts shall constitute a default under the Loan Documents.

(vi) All applicable regulatory requirements, including appraisal requirements, shall have been satisfied with respect to the extension.

(vii) Not later than the Maturity Date, (A) the extension shall have been consented to and documented to Administrative Agent and Lenders' satisfaction by Borrower, each Guarantor, Lenders, and all other parties deemed necessary by Administrative Agent (such as any permitted subordinate lienholders); (B) Administrative Agent shall have been provided with an updated title report and judgment and lien searches, and appropriate title insurance endorsements shall have been issued as required by Administrative Agent; and (C) Borrower shall have paid to Administrative Agent for the pro rata benefit of Lenders a non-refundable extension fee in the amount of Twenty Five Thousand and No/100 Dollars (\$25,000.00).

(viii) At the time of such extension, the Property shall have a Loan to Value Ratio (as hereinafter defined) of not greater than fifty-eight percent (58%), which Loan to Value Ratio shall be calculated as follows: the outstanding principal balance and accrued but unpaid interest on the Loan as of the date of the determination of the ratio shall be divided by the appraised "As-Is" value of the Property. The appraised "As-Is" value of the Property shall be based upon Administrative Agent's existing appraisal of the Property, or, at Administrative Agent's election (in its sole discretion), an updated appraisal, prepared by an appraiser acceptable to Administrative Agent at Borrower's expense, and satisfactory to Administrative Agent in all respects, as reviewed, adjusted and approved by Administrative Agent. In the event this Loan to Value Ratio is not met, Borrower may satisfy this Loan to Value Ratio prior to the extension date by either (A) making a principal curtailment on the Loan in an amount sufficient to bring this Loan to Value Ratio into compliance and/or (B) provide additional collateral acceptable to Administrative Agent, which shall have value (as determined by Administrative Agent) which when added to the Property value is sufficient to satisfy this Loan to Value Ratio.

(ix) At the time of such extension, Skechers shall have taken occupancy of the Improvements and commenced to pay rent under the Lease

(x) At the time of such extension, Borrower shall satisfy a Debt Service Coverage Ratio (as hereinafter defined) as determined by Administrative Agent for the preceding twelve (12) month period of at least 1.40 to 1.00, which Debt Service Coverage Ratio shall be calculated by dividing the cash flow for the preceding twelve (12) month period (the "Determination Period") by the amount of the debt service payments in the amount calculated assuming a thirty (30) year amortization and interest at the rate of the greater of eight percent (8%) per annum or the rate then paid on ten (10) year Treasury Notes, plus TWO HUNDRED AND FIFTY (250) basis points. For the purposes hereof, "cash flow" shall be defined as net income of Borrower after provision for approved operating expenses and state and federal income taxes, increased by the amount of depreciation, amortization and other non-cash charges, if any. In the event that Skechers has not been in possession of the Improvements and paying rent during the entirety of the Determination Period, then the following shall apply: (a) cash flow for that period of time during the Determination Period during which Skechers has been paying rent shall be annualized (e.g., if one month, then such cash flow shall be multiplied by 12, if three months, then such cash flow shall be multiplied by 4, etc.); and (b) any and all expenses which may not occur on a monthly basis (e.g., payment of real estate taxes and insurance premiums) shall also be annualized.

If all of the foregoing conditions are not satisfied strictly in accordance with their terms, the extension shall not be or become effective.

(b) No Changes in Loan Terms. All terms and conditions of the Loan Documents shall continue to apply to the extended term except that the Maturity Date shall mean the Extended Maturity Date.

1.14. Certain Provisions Regarding Payments. All payments made as scheduled on the Loan shall be applied, to the extent thereof, to late charges, to accrued but unpaid interest, unpaid principal, and any other sums due and unpaid to Administrative Agent under the Loan Documents, in such manner and order as Administrative Agent may elect in its sole discretion. All permitted prepayments on the Loan shall be applied, to the extent thereof, to accrued but unpaid interest on the amount prepaid, to the remaining principal installments, and any other sums due and unpaid to Administrative Agent under the Loan Documents, in such manner and order as Administrative Agent may elect in its sole discretion, including but not limited to application to principal installments in inverse order of maturity. Except to the extent that specific provisions are set forth in this Agreement or another Loan Document with respect to application of payments, all payments received by Administrative Agent shall be applied, to the extent thereof, to the indebtedness secured by the Mortgage in such manner and order as Administrative Agent may elect in its sole discretion, any instructions from Borrower or anyone else to the contrary notwithstanding. Remittances in payment of any part of the indebtedness other than in the required amount in immediately available U.S. funds shall not, regardless of any receipt or credit issued therefor, constitute payment until the required amount is actually received by Administrative Agent in immediately available U.S. funds and shall be made without offset, demand, counterclaim, deduction, or recoupment (each of which is hereby waived) and accepted subject to the condition that any check or draft may be handled for collection in accordance with the practice of the collecting bank or banks. Acceptance by the Administrative Agent of any payment in an amount less than the amount then due on any indebtedness shall be deemed an acceptance on account only, notwithstanding any notation on or accompanying such partial payment to the contrary, and shall not in any way excuse the existence of a Default. Payments received after 2:00 p.m. shall be deemed to be received on, and shall be posted as of, the following Business Day. Whenever any payment under this Agreement or any other Loan Document falls due on a day which is not a Business Day, such payment may be made on the next succeeding Business Day.

1.15. Advances and Payments.

(a) Following receipt of a Draw Request, Administrative Agent shall promptly provide each Lender with a copy of the Draw Request Form in the form of Exhibit "F-1", the related AIA Document G-702 and G-703, the related written certification by Borrower's Architect and if available the related written certification of the Construction Consultant. Administrative Agent shall notify each Lender telephonically (with confirmation by facsimile or electronic mail), by facsimile (with confirmation by telephone or electronic mail) or by electronic mail (with confirmation by telephone or facsimile) not later than 1:00 p.m. Administrative Agent's Time two (2) Business Days prior to the advance Funding Date for LIBOR Rate Principal advances, and one (1) Business Day prior to the advance Funding Date for all other advances, of its Pro Rata Share of the amount Administrative Agent has determined shall be advanced in connection therewith ("Advance Amount"). In the case of an advance of the Loan, each Lender shall make the funds for its Pro Rata Share of the Advance Amount available to Administrative Agent not later than 11:00 a.m. Administrative Agent's Time on the Funding Date thereof. After Administrative Agent's receipt of the Advance Amount from Lenders, Administrative Agent shall make proceeds of the Loan in an amount equal to the Advance Amount (or, if less, such portion of the Advance Amount that shall have been paid to Administrative Agent by Lenders in accordance with the terms hereof) available to Borrower on the applicable Funding Date by advancing such funds to Borrower in accordance with the provisions of Exhibit "F".

(b) All payments by Borrower shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by Borrower hereunder shall be made to Administrative Agent not later than 12:00 p.m. (Administrative Agent's Time) on the date specified herein. Administrative Agent shall distribute to each Lender such funds as such Lender may be entitled to receive hereunder (i) on or before 3:00 p.m. (Administrative Agent's Time) on the day Administrative Agent receives such funds, if Administrative Agent has received such funds on or before 12:00 p.m. (Administrative Agent's Time), or (ii) on or before 12:00 p.m. (Administrative Agent's Time) on the Business Day following the day Administrative Agent receives such funds, if Administrative Agent receives such funds after 12:00 p.m. (Administrative Agent's Time). If Administrative Agent fails to timely pay any amount to any Lender in accordance with this subsection, Administrative Agent shall pay to such Lender interest at the Federal Funds Rate on such amount, for each day from the day such amount was to be paid until it is paid to such Lender (any such interest paid shall not be chargeable to Borrower).

(c) Except as otherwise provided herein, all payments by Borrower or any Lender shall be made to Administrative Agent at Administrative Agent's Office not later than the time for such type of payment specified in this Agreement. All payments received after such time shall be deemed received on the next succeeding Business Day. All payments shall be made in immediately available funds in lawful money of the United States of America.

(d) Upon satisfaction of any applicable terms and conditions set forth herein, Administrative Agent shall promptly make any amounts received in accordance with the prior subsection available in like funds received as follows: (i) if payable to Borrower, in accordance with Exhibit "F", except as otherwise specified herein, and (ii) if payable to any Lender, by wire transfer to such Lender at the address specified in the Schedule of Lenders.

(e) Except as otherwise provided in Exhibit "K" with respect to Borrower reimbursing drawings under Letters of Credit, unless Borrower or any Lender has notified Administrative Agent, prior to the date any payment is required to be made by it to Administrative Agent, that Borrower or such Lender, as the case may be, will not make such payment, Administrative Agent may assume that Borrower or such Lender, as the case may be, has timely made such payment and may (but shall not be required to do so) in reliance thereon, make available a corresponding amount to the person or entity entitled thereto. If and to the extent that such payment was not in fact made to Administrative Agent in immediately available funds, then:

(i) if Borrower failed to make such payment, each Lender shall forthwith on demand repay to Administrative Agent the portion of such assumed payment that was made available to such Lender in immediately available funds, together with interest thereon in respect of each day from and including the date such amount was made available by Administrative Agent to such Lender to the date such amount is repaid to Administrative Agent in immediately available funds at the Federal Funds Rate from time to time in effect; and

(ii) if any Lender failed to make such payment, such Lender or, if applicable, Electing Lender or Lenders shall forthwith on demand pay to Administrative Agent the amount thereof in immediately available funds, together with interest thereon for the period from the date such amount was made available by Administrative Agent to Borrower to the date such amount is recovered by Administrative Agent (the "Compensation Period") at a rate per annum equal to the interest rate applicable to such amount under the Loan. If such Lender pays such amount to Administrative Agent, then such amount shall constitute such Lender's Pro Rata Share, included in the applicable Loan advance. If such Lender does not pay such amount forthwith upon Administrative Agent's demand therefor, Administrative Agent may make a demand therefor upon Borrower, and the Borrower shall pay such amount to Administrative Agent, together with interest thereon for the Compensation Period at a rate per annum equal to the non-default rate of interest applicable to such amount under the Loan. Nothing herein shall be deemed to relieve any Lender from its obligation to fulfill its Commitment or to prejudice any rights which Administrative Agent or Borrower may have against any Lender as a result of any default by such Lender hereunder.

A notice of the Administrative Agent to any Lender or to Borrower with respect to any amount owing under this subsection shall be conclusive, absent manifest error.

(f) If any Lender makes available to the Administrative Agent funds for any Loan advance to be made by such Lender as provided in the foregoing provisions of this Section, and the funds are not advanced to Borrower or otherwise used to satisfy any Obligations of such Lender hereunder, the Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(g) Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan advance in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan advance in any particular place or manner.

(h) Conditions to Initial Advance of Loan Proceeds. The following are conditions precedent to Administrative Agent and Lenders' obligation to make the Initial Advance of Loan Proceeds to Borrower

hereunder and are in addition to any other conditions for advances and for the Initial Advance of Loan Proceeds set forth in this Agreement, including, but not limited to, those contained in Exhibit F of this Agreement:

(i) Permits. Borrower, Administrative Agent and Lenders acknowledge that as of the date hereof, Borrower has not yet obtained from the applicable governmental authorities the permits that are required for the construction of the Improvements. Borrower agrees that Administrative Agent and Lenders shall have no obligation to make an Initial Advance of Loan Proceeds unless and until Borrower has obtained all permits required for the construction of the Improvements and has provided true and correct copies of such valid building permits for the Improvements, acceptable to the Administrative Agent in its sole discretion, together with all other consents, licenses, permits and approvals necessary for construction of the Improvements, all in assignable form (to the extent appropriate) and in full force and effect.

(ii) Relocation and/or Release of Utility Easements. Borrower, Administrative Agent and Lenders acknowledge that the Property is currently encumbered by certain utility easements (collectively, the "Utility Easements") in favor of each of Southern California Edison Company (as successor to Nevada-California Electric Corporation and California Electric Power Company) ("SCE") and the Eastern Municipal Water District (the "EMWD", and collectively with SCE, the "Grantees") as more specifically set forth in Preliminary Report NCS-413199A issued by the Title Company. Borrower, Administrative Agent and each Lender also acknowledge that the Improvements are intended to be constructed over portions of the Property that are subject to the Utility Easements and that Borrower intends either to cause the Grantees to release the Utility Easements or to relocate them so that once constructed the Improvements will not encroach upon those portions of the Property encumbered by the Utility Easements or violate the terms or conditions of the Utility Easements. Borrower agrees that Administrative Agent and Lenders shall have no obligation to make an Initial Advance of Loan Proceeds hereunder unless and until (i) the Utility Easements have been released by the Grantees or relocated by the Grantees in a manner approved of by Administrative Agent in its sole and absolute discretion; (ii) executed and recorded copies of all instruments effecting such release or relocation (as applicable) have been provided to Administrative Agent; (iii) Borrower has provided to Administrative Agent, at no cost to Administrative Agent, (a) an updated survey of the Property reflecting the release or relocation of the Utility Easements and (b) such endorsements to its policy of Title Insurance, required by, and acceptable to, Administrative Agent in its sole discretion, including, but not limited to an unmodified Form 103.3 endorsement and an endorsement reflecting the release of the Utility Easements or the relocation of same in the manner approved by Administrative Agent.

(iii) Recordation of Final Map. Borrower agrees that Administrative Agent and Lenders shall have no obligation to make the Initial Advance of Loan Proceeds unless and until (A) the Final Map, as such term is defined in the Section 6.24 of the Mortgage, is approved by the City and recorded in the Official Records of Riverside County, California and a copy of such recorded Final Map is provided to Administrative Agent; and (B) Administrative Agent and Lenders are provided with the items specifically set forth in Section 6.24 of the Mortgage.

1.16. Administrative Agent Advances.

(a) Administrative Agent is authorized, from time to time, in Administrative Agent's sole discretion to make, authorize or determine advances of the Loan, or otherwise expend funds, on behalf of Lenders ("Administrative Agent Advances"), (i) to pay any costs, fees and expenses as described in Section 6.10 herein, (ii) when the applicable conditions precedent set forth in Exhibit "C" and Exhibit "F" have been satisfied to the extent required by Administrative Agent, and (iii) when Administrative Agent deems necessary or desirable to preserve or protect the Loan collateral or any portion thereof (including those with respect to property taxes, insurance premiums, completion of construction, operation, management, improvements, maintenance, repair, sale and disposition) (A) subject to Section 5.5, after the occurrence of a Default, and (B) subject to Section 5.10, after acquisition of all or a portion of the Loan collateral by foreclosure or otherwise.

(b) Administrative Agent Advances shall constitute obligatory advances of Lenders under this Agreement, shall be repayable on demand and secured by the Loan collateral, and if unpaid by Lenders as set forth below shall bear interest at the rate applicable to such amount under the Loan or if no longer applicable, at the

Base Rate. Administrative Agent shall notify each Lender in writing of each Administrative Agent Advance. Upon receipt of notice from Administrative Agent of its making of an Administrative Agent Advance, each Lender shall make the amount of such Lender's Pro Rata Share of the outstanding principal amount of the Administrative Agent Advance available to Administrative Agent, in same day funds, to such account of Administrative Agent as Administrative Agent may designate, (i) on or before 3:00 p.m. (Administrative Agent's Time) on the day Administrative Agent provides Lenders with notice of the making of such Administrative Agent Advance if Administrative Agent provides such notice on or before 12:00 p.m. (Administrative Agent's Time), or (ii) on or before 12:00 p.m. on the Business Day immediately following the day Administrative Agent provides Lenders with notice of the making of such advance if Administrative Agent provides notice after 12:00 p.m. (Administrative Agent's Time).

1.17. Defaulting Lender.

1.17.1 Notice and Cure of Lender Default; Election Period; Electing Lenders. Administrative Agent shall notify (such notice being referred to as the "Default Notice") Borrower (for Loan advances) and each non-Defaulting Lender if any Lender is a Defaulting Lender. Each non-Defaulting Lender shall have the right, but in no event or under any circumstance the obligation, to fund such Defaulting Lender Amount, *provided* that within twenty (20) days after the date of the Default Notice (the "Election Period"), such non-Defaulting Lender or Lenders (each such Lender, an "Electing Lender") irrevocably commit(s) by notice in writing (an "Election Notice") to Administrative Agent, the other Lenders and Borrower to fund the Defaulting Lender Amount and to assume the Defaulting Lender's obligations with respect to the advancing of the entire undisbursed portion of the Defaulting Lender's principal obligations under this Agreement (such entire undisbursed portion of the Defaulting Lender's principal obligations under this Agreement, including its portion of the Payment Amount that is the subject of the default, is hereinafter referred to as the "Defaulting Lender Obligation"). If Administrative Agent receives more than one Election Notice within the Election Period, then the commitment to fund the Defaulting Lender Amount and the Defaulting Lender Obligation shall be apportioned pro rata among the Electing Lenders in the proportion that the amount of each such Electing Lender's Commitment bears to the total Commitments of all Electing Lenders. If the Defaulting Lender fails to pay the Defaulting Lender Payment Amount within the Election Period, the Electing Lender or Lenders, as applicable, shall be automatically obligated to fund the Defaulting Lender Amount and Defaulting Lender Obligation (and Defaulting Lender shall no longer be entitled to fund such Defaulting Lender Amount and Defaulting Lender Obligation) within three (3) Business Days following the expiration of the Election Period to reimburse Administrative Agent or make payment to Borrower, as applicable. Notwithstanding anything to the contrary contained herein, if Administrative Agent has funded the Defaulting Lender Amount, Administrative Agent shall be entitled to reimbursement for its portion of the Defaulting Lender Payment Amount pursuant to Section 5.11.

1.17.2 Removal of Rights; Indemnity. Administrative Agent shall not be obligated to transfer to a Defaulting Lender any payments made by or on behalf of Borrower to Administrative Agent for the Defaulting Lender's benefit; nor shall a Defaulting Lender be entitled to the sharing of any payments hereunder or under any Note until all Defaulting Lender Payment Amounts are paid in full. Amounts payable to a Defaulting Lender shall be paid by Administrative Agent to reimburse Administrative Agent and any Electing Lender pro rata for all Defaulting Lender Payment Amounts. Solely for the purposes of voting or consenting to matters with respect to the Loan Documents, a Defaulting Lender shall be deemed not to be a "Lender" and such Defaulting Lender's Commitment shall be deemed to be zero. A Defaulting Lender shall have no right to participate in any discussions among and/or decisions by Lenders hereunder and/or under the other Loan Documents. Further, any Defaulting Lender shall be bound by any amendment to, or waiver of, any provision of, or any action taken or omitted to be taken by Administrative Agent and/or the non-Defaulting Lenders under, any Loan Document which is made subsequent to the Defaulting Lender's becoming a Defaulting Lender. This Section shall remain effective with respect to a Defaulting Lender until such time as the Defaulting Lender shall no longer be in default of any of its obligations under this Agreement by curing such default by payment of all Defaulting Lender Payment Amounts (i) within the Election Period, or (ii) after the Election Period with the consent of the non-Defaulting Lenders. Such Defaulting Lender nonetheless shall be bound by any amendment to or waiver of any provision of, or any action taken or omitted to be taken by Administrative Agent and/or the non-Defaulting Lenders under any Loan Document which is made subsequent to that Lender's becoming a Defaulting Lender and prior to such cure or waiver. The operation of this subsection or the subsection above alone shall not be construed to increase or otherwise affect the Commitment of any non-Defaulting Lender, or relieve or excuse the performance by Borrower of their duties and

obligations hereunder or under any of the other Loan Documents. Furthermore, nothing contained in this Section shall release or in any way limit a Defaulting Lender's obligations as a Lender hereunder and/or under any other of the Loan Documents. Further, a Defaulting Lender shall indemnify and hold harmless Administrative Agent and each of the non-Defaulting Lenders from any claim, loss, or costs incurred by Administrative Agent and/or the non-Defaulting Lenders as a result of a Defaulting Lender's failure to comply with the requirements of this Agreement, including, without limitation, any and all additional losses, damages, costs and expenses (including, without limitation, attorneys' fees) incurred by Administrative Agent and any non-Defaulting Lender as a result of and/or in connection with (i) a non-Defaulting Lender's acting as an Electing Lender, (ii) any enforcement action brought by Administrative Agent against a Defaulting Lender, and (iii) any action brought against Administrative Agent and/or Lenders. The indemnification provided above shall survive any termination of this Agreement.

1.17.3 Commitment Adjustments. In connection with the adjustment of the amounts of the Loan Commitments of the Defaulting Lender and Electing Lender(s) upon the expiration of the Election Period as aforesaid, Borrower, Administrative Agent and Lenders shall execute such modifications to the Loan Documents as shall, in the reasonable judgment of Administrative Agent, be necessary or desirable in connection with the adjustment of the amounts of Commitments in accordance with the foregoing provisions of this Section. For the purpose of voting or consenting to matters with respect to the Loan Documents such modifications shall also reflect the removal of voting rights of the Defaulting Lender and increase in voting rights of Electing Lenders to the extent an Electing Lender has funded the Defaulting Lender Amount and assumed the Defaulting Lender Obligation. In connection with such adjustments, Defaulting Lenders shall execute and deliver an Assignment and Assumption covering that Lender's Commitment and otherwise comply with Section 6.5. If a Lender refuses to execute and deliver such Assignment and Assumption or otherwise comply with Section 6.5, such Lender hereby appoints Administrative Agent to do so on such Lender's behalf. Administrative Agent shall distribute an amended Schedule of Lenders, which shall thereafter be incorporated into this Agreement, to reflect such adjustments. However, all such Defaulting Lender Amounts and Defaulting Lender Obligation funded by Administrative Agent or Electing Lenders shall continue to be Defaulting Lender Amounts of the Defaulting Lender pursuant to its obligations under this Agreement.

1.17.4 No Election. In the event that no Lender elects to commit to fund the Defaulting Lender Amount and Defaulting Lender Obligations within the Election Period, Administrative Agent shall, upon the expiration of the Election Period, so notify Borrower and each Lender.

1.18. Several Obligations; No Liability, No Release. Notwithstanding that certain of the Loan Documents now or hereafter may have been or will be executed only by or in favor of Administrative Agent in its capacity as such, and not by or in favor of Lenders, any and all obligations on the part of Administrative Agent (if any) to make any advances of the Loan or reimbursements for other Payment Amounts shall constitute the several (and not joint) obligations of the respective Lenders on a ratable basis, according to their respective Pro Rata Shares. Except as may be specifically provided in this Agreement, no Lender shall have any liability for the acts of any other Lender. No Lender shall be responsible to Borrower or any other person for any failure by any other Lender to fulfill its obligations to make advances of the Loan or reimbursements for other Payment Amounts, nor to take any other action on its behalf hereunder or in connection with the financing contemplated herein. The failure of any Lender to pay to Administrative Agent its Pro Rata Share of a Payment Amount shall not relieve any other Lender of any obligation hereunder to pay to Administrative Agent its Pro Rata Share of such Payment Amounts as and when required herein, but no Lender shall be responsible for the failure of any other Lender to so fund its Pro Rata Share of the Payment Amount. In furtherance of the foregoing, Lenders shall comply with their obligation to pay Administrative Agent their Pro Rata Share of such Payment Amounts regardless of (i) the occurrence of any Default hereunder or under any Loan Document; (ii) any failure of consideration, absence of consideration, misrepresentation, fraud, or any other event, failure, deficiency, breach or irregularity of any nature whatsoever in the Loan Documents; or (iii) any bankruptcy, insolvency or other like event with regard to Borrower or any Guarantor. The obligation of Lenders to pay to such Payment Amounts are in all regards independent of any claims between Administrative Agent and any Lender.

1.19. Replacement of Lenders. If any Lender is a Defaulting Lender, Borrower may, upon notice to such Lender and the Administrative Agent, replace such Lender by causing such Lender to assign its Commitment with the payment of any assignment fee by the replaced Lender to one or more other lenders or Eligible Assignees

acceptable to Borrower, the Administrative Agent and the L/C Issuer. Borrower shall or shall cause the replacement lender to (subject to the provisions of Section 1.14 through 1.15 providing for payment of all Defaulting Lender Payment Amounts to Administrative Agent and/or Electing Lenders, as applicable, prior to payment of amounts due to a Defaulting Lender), (x) pay in full all principal, interest, fees and other amounts owing to such Lender through the date of replacement, (y) provide appropriate assurances and indemnities (which may include letters of credit) as such Lender may reasonably require with respect to such replaced Lender's obligation to fund its participation interest in any Letters of Credit then outstanding and (z) provide a release of such Lender from its obligations under the Loan Documents. Any Lender being replaced shall execute and deliver an Assignment and Assumption covering that Lender's Commitment and otherwise comply with Section 6.5. If a Lender being replaced refuses to execute and deliver such Assignment and Assumption or otherwise comply with Section 6.5, such Lender hereby appoints Administrative Agent to do so on such Lender's behalf. Administrative Agent shall distribute an amended Schedule of Lenders, which shall thereafter be incorporated into this Agreement, to reflect adjustments to Lenders and their Commitments.

ARTICLE 2 — ADDITIONAL COVENANTS AND AGREEMENTS

2.1. Construction of the Improvements. Borrower shall commence construction of the Improvements on or before the Construction Commencement Date, and shall prosecute the construction of the Improvements with diligence and continuity, in a good and workmanlike manner, and in accordance with sound building and engineering practices, all applicable Laws and governmental requirements, the Plans and the Loan Documents. Borrower shall not permit cessation of work for a period in excess of ten (10) consecutive days, except for Excusable Delays. Borrower shall complete construction of the Improvements free and clear of all liens (except liens created by the Loan Documents), and shall obtain a certificate of occupancy and all other permits, licenses and approvals from all applicable governmental authorities required for the occupancy, use and operation of the Improvements, in each case satisfactory to Administrative Agent, on or before the Completion Date. Borrower shall promptly after receiving knowledge of same, correct (a) any material defect in the Improvements, (b) any material departure from the Plans, Law or governmental requirements, or (c) any encroachment by any Improvements or structure on any building setback line, easement, property line or restricted area.

2.2. Plans and Changes. No construction shall be undertaken on the Land except as shown in the Plans. Borrower assumes full responsibility for the compliance of the Plans and the Property with all Laws, governmental requirements and sound building and engineering practices. No plans or specifications, or any changes thereto, shall be included as part of the Plans until approved by Administrative Agent, Construction Consultant, all applicable governmental authorities, and all other parties required under the Loan Documents. Without Administrative Agent's prior written consent, Borrower shall not change or modify the Plans, agree to any change order, or allow any extras to any contractor or any subcontractor, except that Borrower may make Permitted Changes without such consent if: (a) Borrower notifies Administrative Agent in writing of the change or extra with appropriate supporting documentation and information; (b) Borrower obtains the approval of the applicable contractor, Borrower's architect and all sureties; (c) the structural integrity, quality and standard of workmanship of the Improvements is not impaired by such change or extra; (d) no substantial change in architectural appearance is effected by such change or extra; (e) no default in any obligation to any person or violation of any Law or governmental requirement would result from such change or extra; (f) Borrower complies with Section 1.5 of this Agreement to cover any excess cost resulting from the change or extra; and (g) completion of the Improvements by the Completion Date will not be affected. Administrative Agent shall not be obligated to review a proposed change unless it has received all documents necessary to review such change, including the change order, cost estimates, plans and specifications, and evidence that all required approvals other than that of Administrative Agent have been obtained.

2.3. Contracts. Without Administrative Agent's prior written approval as to parties, terms, and all other matters, Borrower shall not (a) enter into any Material Contract for the performance of any work or the supplying of any labor, materials or services for the design or construction of the Improvements, (b) enter into any management, leasing, maintenance or other contract pertaining to the Property not described in clause (a) that is not unconditionally terminable by Borrower or any successor owner without penalty or payment on not more than thirty (30) days notice to the other party thereunder, or (c) modify, amend, or terminate any such contracts. Administrative Agent hereby approves of the Development Management Services Agreement dated January 30, 2010 entered into by HF Logistics-SKX, LLC, a Delaware limited liability company and HFC Holdings, LLC, a Delaware limited liability company [as assigned by HF Logistics-SKX, LLC to Borrower?]. All such contracts shall

provide that all rights and liens of the applicable contractor, architect, engineer, supplier, surveyor or other party and any right to remove removable Improvements are subordinate to Lender's rights and liens, shall require all subcontracts and purchase orders to contain a provision subordinating the subcontractors' and mechanics' and materialmen's liens and any right to remove removable Improvements to Lender's rights and liens, and shall provide that no change order shall be effective without the prior written consent of Administrative Agent, except for change orders which implement Permitted Changes. Borrower shall not default under any contract, Borrower shall not permit any contract to terminate by reason of any failure of Borrower to perform thereunder, and Borrower shall promptly notify Administrative Agent of any default thereunder. Borrower will deliver to Administrative Agent, upon request of Administrative Agent, the names and addresses of all persons or entities with whom each contractor has contracted for the construction of the Improvements or for the furnishing of labor or materials therefor.

2.4. Assignment of Contracts and Plans. As additional security for the Obligations, Borrower hereby transfers and assigns to Administrative Agent for the ratable benefit of Administrative Agent and Lenders and grants a security interest in all of Borrower's right, title and interest, but not its liability, in, under, and to all construction, architectural and design contracts, and the Plans, and agrees that all of the same are covered by the security agreement provisions of the Mortgage. Borrower agrees to deliver to Administrative Agent from time to time upon Administrative Agent's request such consents to the foregoing assignment from parties contracting with Borrower as Administrative Agent may require. Neither this assignment nor any action by Administrative Agent or Lenders shall constitute an assumption by Administrative Agent or Lenders of any obligation under any such contract or with respect to the Plans, Borrower hereby agrees to perform all of its obligations under any such contract, and Borrower shall continue to be liable for all obligations of Borrower with respect thereto. Administrative Agent shall have the right at any time (but shall have no obligation) to take in its name or in the name of Borrower such action as Administrative Agent may determine to be necessary to cure any default under any such contract or with respect to the Plans or to protect the rights of Borrower, Administrative Agent or Lenders with respect thereto. Borrower irrevocably constitutes and appoints Administrative Agent as Borrower's attorney-in-fact, which power of attorney is coupled with an interest and irrevocable, after a Default by Borrower under this Agreement to enforce in Borrower's name or in Administrative Agent's and Lender's name all rights of Borrower under any such contract or with respect to the Plans. Administrative Agent shall incur no liability if any action so taken by it or on its behalf shall prove to be inadequate or invalid. Borrower indemnifies and holds Administrative Agent and Lenders harmless against and from any loss, cost, liability or expense (including, but not limited to, consultants' fees and expenses and attorneys' fees and expenses) incurred in connection with Borrower's failure to perform such contracts or any action taken by Administrative Agent or Lenders. Administrative Agent may use the Plans for any purpose relating to the Improvements. Borrower represents and warrants to Administrative Agent and Lenders that the copy of any contract furnished or to be furnished to Administrative Agent is and shall be a true and complete copy thereof, that the copies of the Plans delivered to Administrative Agent are and shall be true and complete copies of the Plans, that there have been no modifications thereof which are not fully set forth in the copies delivered, and that Borrower's interest therein is not subject to any claim, setoff, or encumbrance.

2.5. Storage of Materials. Borrower shall cause all materials supplied for or intended to be utilized in the construction of the Improvements, but not yet affixed to or incorporated into the Improvements or the Land, to be stored on the Land or at such other site as Administrative Agent may approve, in each case with adequate safeguards to prevent loss, theft, damage or commingling with materials for other projects. Borrower shall not purchase or order materials for delivery more than sixty (60) days prior to the scheduled incorporation of such materials into the Improvements without the prior approval of Administrative Agent, which will not be unreasonably withheld (and in that regard, Administrative Agent shall give due consideration to expected "lead times" for any such orders and potential cost savings resulting from early ordering of materials).

2.6. Construction Consultant. Administrative Agent may retain the services of a Construction Consultant, whose duties may include, among others, reviewing the Plans and any proposed changes to the Plans, performing construction cost analyses, observing work in place and reviewing Draw Requests. The duties of Construction Consultant run solely to Administrative Agent for the ratable benefit of Lenders, and Construction Consultant shall have no obligations or responsibilities whatsoever to Borrower, Borrower's architect, engineer, contractor or any of their agents or employees. Unless prohibited by applicable Law, all fees, costs, and expenses of Construction Consultant shall be paid by Borrower. Borrower shall cooperate with Construction Consultant and will furnish to Construction Consultant such information and other material as Construction Consultant considers necessary or useful in performing its duties.

2.7. Inspection. Administrative Agent and its agents, including Construction Consultant, may enter upon the Property to inspect the Property, the Project and any materials at any reasonable time, upon reasonable advance notice, unless Administrative Agent deems such inspection is of an emergency nature, in which event Borrower shall provide Administrative Agent with immediate access to the Property. Borrower will furnish to Administrative Agent and its agents, including Construction Consultant, for inspection and copying, all Plans, shop drawings, specifications, books and records, and other documents and information that Administrative Agent may request from time to time.

2.8. Notice to Lenders. Borrower shall promptly within five (5) days after Borrower receives knowledge of the occurrence of any of the following events, notify each Lender in writing thereof, specifying in each case the action Borrower has taken or will take with respect thereto: (a) any violation of any Law or governmental requirement; (b) any litigation, arbitration or governmental investigation or proceeding instituted or threatened against Borrower or any Guarantor or the Property, and any material development therein; (c) any actual or threatened condemnation of any portion of the Property, any negotiations with respect to any such taking, or any loss of or substantial damage to the Property; (d) any labor controversy pending or threatened against Borrower or any contractor, and any material development in any labor controversy; (e) any notice received by Borrower with respect to the cancellation, alteration or non-renewal of any insurance coverage maintained with respect to the Property; (f) any failure by Borrower or any contractor, subcontractor or supplier to perform any material obligation under any construction contract, any event or condition which would permit termination of a construction contract or suspension of work thereunder, or any notice given by Borrower or any contractor with respect to any of the foregoing; (g) any lien filed against the Property or any stop notice served on Borrower in connection with construction of the Improvements; or (h) any required permit, license, certificate or approval with respect to the Property lapses or ceases to be in full force and effect.

2.9. Financial Statements. Borrower shall deliver to Administrative Agent with sufficient copies for each Lender the Financial Statements and other statements and information at the times and for the periods described in (a) Exhibit "B" and (b) any other Loan Document, and Borrower shall deliver to Administrative Agent with sufficient copies for each Lender from time to time such additional financial statements and information as Administrative Agent may at any time request. Borrower will make all of its books, records and accounts available to Administrative Agent and its representatives at the Property upon request and will permit them to review and copy the same. Borrower shall promptly notify Administrative Agent of any event or condition that could reasonably be expected to have a Material Adverse Effect in the financial condition of Borrower and, if known by Borrower, any Guarantor, or in the construction progress of the Improvements. Administrative Agent shall provide a copy of such Financial Statements to each Lender upon receipt.

2.10. Other Information. Borrower shall furnish to Administrative Agent from time to time upon Administrative Agent's request to the extent in Borrower's possession or under Borrower's control (i) copies of any or all subcontracts entered into by contractors or subcontractors and the names and addresses of all persons or entities with whom Borrower or any contractor has contracted for the construction of the Improvements or the furnishing of labor or materials in connection therewith; (ii) copies of any or all contracts, bills of sale, statements, receipts or other documents under which Borrower claims title to any materials, fixtures or articles of personal property incorporated or to be incorporated into the Improvements or subject to the lien of the Mortgage; (iii) a list of all unpaid bills for labor and materials with respect to construction of the Improvements and copies of all invoices therefor; (iv) budgets of Borrower and revisions thereof showing the estimated costs and expenses to be incurred in connection with the completion of construction of the Improvements; (v) current or updated detailed Project schedules or construction schedules; and (vi) such other information relating to Borrower, Guarantors, the Improvements, the Property, or any indemnitor or other person or party connected with Borrower, the Loan, the construction of the Improvements or any security for the Loan.

2.11. Reports and Testing. Borrower shall (a) promptly deliver to Administrative Agent copies of all reports, studies, inspections and tests made on the Land, the Improvements or any materials to be incorporated into the Improvements; and (b) make such additional tests on the Land, the Improvements or any materials to be incorporated into the Improvements as Administrative Agent reasonably requires. Borrower shall immediately notify Administrative Agent of any report, study, inspection or test that indicates any adverse condition relating to the Land, the Improvements or any such materials.

2.12. Advertising by Lenders. At Administrative Agent's request and at Borrower's expense, Borrower shall erect and maintain on the Property one or more advertising signs approved by Administrative Agent indicating that the construction financing for the Property has been provided by Lenders.

2.13. Appraisal. Administrative Agent may obtain from time to time, an appraisal of all or any part of the Property prepared in accordance with written instructions from Administrative Agent by a third-party appraiser engaged directly by Administrative Agent. Each such appraiser and appraisal shall be satisfactory to Administrative Agent (including satisfaction of applicable regulatory requirements). The cost of any such appraisal shall be borne by Borrower if such appraisal is the first appraisal in any calendar year and in all events if Administrative Agent obtains such appraisal after the occurrence of a Default, and such cost is due and payable by Borrower on demand and shall be secured by the Loan Documents. Administrative Agent shall provide a copy of such Appraisal to each Lender upon receipt, and to Borrower subject to Borrower's payment for such Appraisal and delivery to Administrative Agent of a release and indemnity as to the matters stated therein on Administrative Agent's standard form document.

2.14. Payment of Withholding Taxes. Borrower shall not use, or knowingly permit any contractor or subcontractor to use, any portion of the proceeds of any Loan advance to pay the wages of employees unless a portion of the proceeds or other funds are also used to make timely payment to or deposit with (a) the United States of all amounts of tax required to be deducted and withheld with respect to such wages under the Code, and (b) any state and/or local Tribunal or agency having jurisdiction of all amounts of tax required to be deducted and withheld with respect to such wages under any applicable state and/or local Laws.

2.15. ERISA and Prohibited Transaction Taxes. As of the date hereof and throughout the term of this Loan Agreement, (a) Borrower is not and will not be (i) an "employee benefit plan," as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"); or (ii) a "plan" within the meaning of Section 4975(e) of the Internal Revenue Code of 1986, as amended from time to time (the "Code"); (b) the assets of Borrower do not and will not constitute "plan assets" within the meaning of the United States Department of Labor Regulations set forth in 29 C.F.R. §2510.3-101; (c) Borrower is not and will not be a "governmental plan" within the meaning of Section 3(32) of ERISA; (d) transactions by or with Borrower are not and will not be subject to state statutes applicable to Borrower regulating investments of fiduciaries with respect to governmental plans; and (e) Borrower shall not engage in any transaction which would cause any obligation, or action taken or to be taken, hereunder (or the exercise by Administrative Agent of any of Lender's rights under this Agreement, any Note or the other Loan Documents) to be a non-exempt (under a statutory or administrative class exemption) prohibited transaction under ERISA or Section 4975 of the Code. Borrower further agrees to deliver to Administrative Agent such certifications or other evidence of compliance with the provisions of this Section 2.15 as Administrative Agent may from time to time request.

2.16. Certificate of Deposit. As additional security for the Obligations and a condition for the closing of the Loan, pursuant to the terms and provisions of a separate assignment agreement, Borrower has transferred and assigned to Administrative Agent for the ratable benefit of Administrative Agent and Lenders and grants a security interest in all of Borrower's right, title and interest, in and to a certificate of deposit (the "Certificate of Deposit") in the amount of FIVE MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$5,500,000.00) issued by Administrative Agent in the name of Borrower.

2.17. TG Development Net Worth Requirement. Until all of the Obligations are paid in full, Borrower shall cause TG Development to maintain a minimum book net worth, as determined by the generally accepted accounting principles, of ONE HUNDRED AND FIFTY MILLION AND NO/100 DOLLARS (\$150,000,000.00). It is acknowledged that a component of TG Development's book net worth is derived from its indirect ownership, through one or more subsidiaries, of certain unsold residential condominium inventory (the "Condominium Inventory"). In connection with its testing of TG Development's book net worth, Administrative Agent, in its sole discretion, shall have the right to obtain updated appraisals of the Condominium Inventory prepared by appraisers selected by Administrative Agent (at Borrower's expense with respect to one such appraisal each year, or for all such appraisals if a Default should occur). Further Borrower covenants and agrees that TG Development shall not (a) incur contingent liability in an aggregate amount exceeding TWENTY FIVE MILLION AND NO/100 DOLLARS (\$25,000,000.00) other than the Loan without the prior written consent of Lender which consent Lender may withhold in its sole and absolute discretion; provided, however, that any guaranties of liabilities of subsidiaries of

TG Development which are taken into account when computing the book net worth (by reductions to book net worth in amounts equal to the amount of such guaranteed liabilities), as provided above, shall be permitted and shall be excluded from the aforesaid limit on contingent liabilities; provided further that there shall be no restriction on contingent liability incurred by TG Development in connection with any loan made for the acquisition or development of income producing commercial real estate; and (b) transfer any of its assets without the prior written consent of Lender in its sole and absolute discretion, except (i) in the ordinary course of business for fair value; or (ii) to any unrelated third party for fair and reasonably equivalent value; or (iii) to an entity that is wholly owned (directly or indirectly) by TG Development.

ARTICLE 3 — REPRESENTATIONS AND WARRANTIES

To induce Lenders to make the Loan, Borrower hereby represents and warrants to Administrative Agent and Lenders that except as otherwise disclosed to Administrative Agent in writing (a) Borrower has complied with any and all Laws and regulations concerning its organization, existence and the transaction of its business, and has the right and power to own the Property and to develop the Improvements as contemplated in this Agreement and the other Loan Documents; (b) Borrower is authorized to execute, deliver and perform all of its obligations under the Loan Documents; (c) the Loan Documents are valid and binding obligations of Borrower; (d) Borrower is not in violation of any Law, regulation or ordinance, or any order of any court or Tribunal, and no provision of the Loan Documents violates any applicable Law, any covenants or restrictions affecting the Property, any order of any court or Tribunal or any contract or agreement binding on Borrower or the Property; (e) to the extent required by applicable Law, Borrower and Guarantors have filed all necessary tax returns and reports and have paid all taxes and governmental charges thereby shown to be owing; (f) the Plans are complete in all material respects, contain all necessary detail and are adequate for construction of the Improvements, are satisfactory to Borrower, have been approved by all applicable governmental authorities, have been accepted by each contractor which has entered into a contract relating to construction of the Improvements, and comply with the Loan Documents and all applicable Laws, restrictive covenants, and governmental requirements, rules, and regulations; (g) the Land is not included under any unity of title or similar covenant with other lands not encumbered by the Mortgage, and constitutes a separate tax lot or lots with a separate tax assessment or assessments for the Land and Improvements, independent of those for any other lands or improvements; (h) the Land and Improvements comply with all Laws and governmental requirements, including all subdivision and platting requirements, without reliance on any adjoining or neighboring property; (i) the Plans do, and the Improvements when constructed will, comply with all legal requirements regarding access and facilities for handicapped or disabled persons; (j) Borrower has not directly or indirectly conveyed, assigned or otherwise disposed of or transferred (or agreed to do so) any development rights, air rights or other similar rights, privileges or attributes with respect to the Property, including those arising under any zoning or land use ordinance or other Law or governmental requirement; (k) in Borrower's reasonable opinion, the construction schedule for the Project is realistic and the Completion Date is a reasonable estimate of the time required to complete the Project; (l) the Financial Statements delivered to Administrative Agent are true, correct, and complete in all material respects, and there has been no event or condition that could reasonably be expected to have a Material Adverse Effect on Borrower's or any of the Guarantors' financial condition from the financial condition of Borrower or Guarantors (as the case may be) indicated in such Financial Statements; (m) all utility services necessary for the development of the Land and the construction of the Improvements and the operation thereof for their intended purpose are available at the boundaries of the Land, including electric and natural gas facilities, telephone service, water supply, storm and sanitary sewer facilities; (n) except as otherwise provided for in the Loan Documents, the Borrower has made no contract or arrangement of any kind the performance of which by the other party thereto would give rise to a lien on the Property; (o) the current and anticipated use of the Property complies with all applicable zoning ordinances, regulations and restrictive covenants affecting the Land without the existence of any variance, non-complying use, nonconforming use or other special exception, all use restrictions of any Tribunal having jurisdiction have been satisfied, and no violation of any Law or regulation exists with respect thereto; (p) attached hereto as Exhibit "J" is a list of all bonds required in connection with completion of the Improvements, and to the best of Borrower's knowledge, no other bonds or other security are currently required or will be required prior to completion of the Improvements; and (q) prior to the recordation of the Mortgage, except as disclosed to Administrative Agent in writing, no work of any kind (including destruction or removal of any existing improvements, site work, clearing, grading, grubbing, draining or fencing of the Land) has been or will be commenced or performed on the Land, no equipment or material has been or will be delivered to or placed upon the Land for any purpose whatsoever, and no contract (or memorandum or affidavit thereof) for the supplying of labor, materials, or services for the design or construction of the Improvements, or the surveying of the Land or Improvements, nor any affidavit or notice of commencement of construction of the Improvements, has been or

will be executed or recorded, which could cause a mechanic's or materialman's lien or similar lien to achieve priority over the Mortgage or the rights of Administrative Agent and Lenders thereunder.

ARTICLE 4 — DEFAULT AND REMEDIES

4.1 Events of Default. The occurrence of any one of the following shall be a default under this Agreement (“Default”): (a) any of the Indebtedness is not paid when due, whether on the scheduled due date or upon acceleration, maturity or otherwise; (b) any covenant or agreement in this Agreement (other than covenants to pay the Indebtedness and other Defaults expressly listed in this Section with a different notice and cure period) is not fully and timely performed, observed or kept or any representation or warranty given by the Borrower was untrue when given and is not corrected within thirty (30) days after written notice thereof is given to the Borrower by the Administrative Agent or within sixty (60) days if such matter cannot reasonably be cured within thirty (30) days, so long as a cure is being diligently and continuously pursued; (c) the occurrence of a Default under any other Loan Document (taking into account any applicable notice and cure period set forth in such Loan Document); (d) the execution and/or filing of any affidavit of commencement stating construction on the Land actually commenced prior to the date on which the Mortgage was duly filed for record and any mechanics liens or other title defect resulting from the filing of any affidavit of commencement which is a lien senior in priority to the Mortgage is not cleared to the Administrative Agent's satisfaction within twenty (20) days after written notice thereof is given to the Borrower by the Administrative Agent; (e) construction of the Improvements ceases for more than ten (10) consecutive days except for Excusable Delays; (f) the construction of the Improvements, or any materials for which an advance has been requested, fails to comply with the Plans, the Loan Documents, any Laws or governmental requirements, or any applicable restrictive covenants and such noncompliance is not cured within a period of thirty (30) days after written notice thereof from Administrative Agent to Borrower or within sixty (60) days if such matter cannot reasonably be cured within thirty (30) days so long as a cure is being diligently and continuously pursued; (g) Borrower fails to satisfy any condition precedent to the obligation of Lenders to make an advance within thirty (30) days after written notice thereof is given to the Borrower by the Administrative Agent or within sixty (60) days if such matter cannot reasonably be cured within thirty (30) days so long as a cure is being diligently and continuously pursued; (h) construction of the Improvements is abandoned, Administrative Agent reasonably determines that construction of the Improvements in accordance with this Agreement will not be completed on or before the Completion Date, or Borrower fails to substantially complete construction of the Improvements and obtain all applicable permits, licenses, certificates and approvals including, but not limited to, a final and unconditional certificate of occupancy (or local equivalent) from the applicable governmental authority in accordance with this Agreement on or before the Completion Date; (i) any required permit, license, certificate or approval with respect to the Property lapses or ceases to be in full force and effect and is not replaced or renewed within thirty (30) days after such lapse or within sixty (60) days if such matter cannot reasonably be cured within thirty (30) days so long as a cure is being diligently and continuously pursued; (j) a Borrower's Deposit is not made with Administrative Agent within ten (10) days after Administrative Agent's request therefor in accordance with Section 1.5; (k) construction is enjoined or Borrower, Administrative Agent or any Lender is enjoined or prohibited from performing any of its respective obligations under any of the Loan Documents and such injunction is not released or lifted within ten (10) days of its imposition; (l) the owner of the Property enters into any lease of part or all of the Property which does not comply with the Loan Documents and such matter is not remedied within thirty (30) days after written notice thereof is given to the Borrower by the Administrative Agent or within sixty (60) days if such matter cannot reasonably be cured within thirty (30) days so long as cure is being diligently and continuously pursued; (m) a lien for the performance of work or the supply of materials which is established against the Property, or any stop notice served on Borrower, the general contractor, Administrative Agent or a Lender, remains unsatisfied or unbonded for a period of twenty (20) days after the date of filing or service; (n) the occurrence of any condition or situation which, in the sole determination of Administrative Agent, constitutes a danger to or impairment of the Property or the lien of the Mortgage, if such condition or situation is not remedied within fifteen (15) days after written notice to the Borrower thereof; (o) the entry of a final and non-appealable judgment against Borrower or any Guarantor of more than One Hundred Thousand Dollars (\$100,000.00) which is not paid in full or bonded within fifteen (15) days or the issuance of any attachment, sequestration, or similar writ levied upon any of its property which is not discharged within a period of fifteen (15) days; (p) Administrative Agent determines that an event or condition that could reasonably be expected to have a Material Adverse Effect has occurred in the financial condition of Borrower or any Guarantor or in the condition of the Property and such matter is not remedied within thirty (30) days after written notice thereof is given to the Borrower by the Administrative Agent or within sixty (60) days if such matter cannot reasonably be cured within thirty (30) days so long as a cure is being diligently and continuously pursued; (q) the Property is no

longer leased to Skechers under terms and conditions of the Lease; (r) the dissolution or insolvency of Borrower or any Guarantor and such matter is not remedied within thirty (30) days after written notice thereof is given to the Borrower by the Administrative Agent or within sixty (60) days if such matter cannot reasonably be cured within thirty (30) days so long as a cure is being diligently and continuously pursued; (s) a default occurs under any other Loan Document which is not cured within any applicable notice and cure period provided therein; (t) TG Development fails to comply with the net worth requirement set forth in Section 2.17 of this Agreement and such matter is not remedied within thirty (30) days after written notice thereof is given to the Borrower by the Administrative Agent or within sixty (60) days if such matter cannot reasonably be cured within thirty (30) days so long as a cure is being diligently and continuously pursued; (u) the failure of Borrower to have satisfied the conditions set forth in Section 1.15(h) of this Agreement within one hundred eighty (180) days from the date hereof; and (v) the transfer by Borrower, any Guarantor, or any Affiliate of Borrower or any Guarantor of any property or asset to TGD Holdings, LLC, a Delaware limited liability company.

4.2 Remedies. Upon a Default, Administrative Agent may with the consent of, and shall at the direction of the Required Lenders, without notice, exercise any and all rights and remedies afforded by this Agreement, the other Loan Documents, Law, equity or otherwise, including (a) declaring any and all Indebtedness immediately due and payable; (b) reducing any claim to judgment; or (c) obtaining appointment of a receiver (to which Borrower hereby consents) and/or judicial or nonjudicial foreclosure under the Mortgage; provided, however, that upon a Default, Administrative Agent at its election may (but shall not be obligated to) without the consent of and shall at the direction of the Required Lenders, without notice, do any one or more of the following: (a) terminate Lenders' Commitment to lend and any obligation to disburse any Borrower's Deposit hereunder; (b) in its own name on behalf of the Lenders or in the name of Borrower, enter into possession of the Property, perform all work necessary to complete construction of the Improvements substantially in accordance with the Plans (as modified as deemed necessary by Administrative Agent), the Loan Documents, and all applicable Laws, governmental requirements and restrictive covenants, and continue to employ Borrower's architect, engineer and any contractor pursuant to the applicable contracts or otherwise; or (c) set-off and apply, to the extent thereof and to the maximum extent permitted by Law, any and all deposits, funds, or assets at any time held and any and all other indebtedness at any time owing by Administrative Agent or any Lender to or for the credit or account of Borrower against any Indebtedness. Further, L/C Issuer may, with the approval of Administrative Agent on behalf of the Required Lenders, demand immediate payment by Borrower of an amount equal to the aggregate amount of all outstanding Letters of Credit to be held in a deposit account with Administrative Agent to secure amounts due from Borrower under Letters of Credit and when no Letters of Credit exist, the Loan.

Borrower hereby appoints Administrative Agent as Borrower's attorney-in-fact, which power of attorney is irrevocable and coupled with an interest, with full power of substitution if Administrative Agent so elects, to do any of the following in Borrower's name upon the occurrence of a Default: (i) use such sums as are necessary, including any proceeds of the Loan and any Borrower's Deposit, make such changes or corrections in the Plans, and employ such architects, engineers, and contractors as may be required, or as Lenders may otherwise consider desirable, for the purpose of completing construction of the Improvements substantially in accordance with the Plans (as modified as deemed necessary by Administrative Agent), the Loan Documents, and all applicable Laws, governmental requirements and restrictive covenants; (ii) execute all applications and certificates in the name of Borrower which may be required for completion of construction of the Improvements; (iii) endorse the name of Borrower on any checks or drafts representing proceeds of any insurance policies, or other checks or instruments payable to Borrower with respect to the Property; (iv) do every act with respect to the construction of the Improvements that Borrower may do; (v) prosecute or defend any action or proceeding incident to the Property, (vi) pay, settle, or compromise all bills and claims so as to clear title to the Property; and (vii) take over and use all or any part of the labor, materials, supplies and equipment contracted for, owned by, or under the control of Borrower, whether or not previously incorporated into the Improvements. Any amounts expended by Administrative Agent itself or on behalf of Lenders to construct or complete the Improvements or in connection with the exercise of its remedies herein shall be deemed to have been advanced to Borrower hereunder as a demand obligation owing by Borrower to Administrative Agent or Lenders as applicable and shall constitute a portion of the Indebtedness, regardless of whether such amounts exceed any limits for Indebtedness otherwise set forth herein. Neither Administrative Agent nor Lenders shall have any liability to Borrower for the sufficiency or adequacy of any such actions taken by Administrative Agent.

No delay or omission of Administrative Agent or Lenders to exercise any right, power or remedy accruing upon the happening of a Default shall impair any such right, power or remedy or shall be construed to be a waiver of

any such Default or any acquiescence therein. No delay or omission on the part of Administrative Agent or Lenders to exercise any option for acceleration of the maturity of the Indebtedness, or for foreclosure of the Mortgage following any Default as aforesaid, or any other option granted to Administrative Agent and Lenders hereunder in any one or more instances, or the acceptances by Administrative Agent or Lenders of any partial payment on account of the Indebtedness, shall constitute a waiver of any such Default, and each such option shall remain continuously in full force and effect. No remedy herein conferred upon or reserved to Administrative Agent and/or Lenders is intended to be exclusive of any other remedies provided for in any Note or any of the other Loan Documents, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder, or under any Note or any of the other Loan Documents, or now or hereafter existing at Law or in equity or by statute. Every right, power and remedy given to Administrative Agent and Lenders by this Agreement, any Note or any of the other Loan Documents shall be concurrent, and may be pursued separately, successively or together against Borrower, or the Property or any part thereof, or any personal property granted as security under the Loan Documents, and every right, power and remedy given by this Agreement, any Note or any of the other Loan Documents may be exercised from time to time as often as may be deemed expedient by the Required Lenders.

Regardless of how a Lender may treat payments received from the exercise of remedies under the Loan Documents for the purpose of its own accounting, for the purpose of computing the Indebtedness, payments shall be applied as elected by Lenders. No application of payments will cure any Event of Default, or prevent acceleration, or continued acceleration, of amounts payable under the Loan Documents, or prevent the exercise, or continued exercise, of rights or remedies of Administrative Agent and Lenders hereunder or thereunder or at Law or in equity.

ARTICLE 5 — ADMINISTRATIVE AGENT

5.1. Appointment and Authorization of Administrative Agent.

(a) Each Lender hereby irrevocably (subject to Section 5.9) appoints, designates and authorizes Administrative Agent to take such action on its behalf under the provisions of this Agreement and each other Loan Document and to exercise such powers and perform such duties as are expressly delegated to it by the terms of this Agreement or any other Loan Document, together with such powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary contained elsewhere herein or in any other Loan Document, Administrative Agent shall not have any duties or responsibilities, except those expressly set forth herein, nor shall Administrative Agent have or be deemed to have any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against Administrative Agent. Without limiting the generality of the foregoing sentence, the use of the term “agent” herein and in the other Loan Documents with reference to Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Law. Instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties.

(b) L/C Issuer shall act on behalf of Lenders with respect to any Letters of Credit issued by it and the documents associated therewith, and that L/C Issuer shall have all of the benefits and immunities (i) provided to Administrative Agent in this Article with respect to any acts taken or omissions suffered by L/C Issuer in connection with Letters of Credit issued by it or proposed to be issued by it and the applications and agreements for letters of credit pertaining to such Letters of Credit as fully as if the term “Administrative Agent” as used in this Article and in the definition of “Agent — Related Person” included L/C Issuer with respect to such acts or omissions, and (ii) as additionally provided in this Agreement with respect to L/C Issuer.

(c) No individual Lender or group of Lenders or L/C Issuer shall have any right to amend or waive, or consent to the departure of any party from any provision of any Loan Document, or secure or enforce the obligations of Borrower or any other party pursuant to the Loan Documents, or otherwise. All such rights, on behalf of Administrative Agent, L/C Issuer, or any Lender or Lenders, shall be held and exercised solely by and at the option of Administrative Agent for the pro rata benefit of the Lenders. Such rights, however, are subject to the rights of L/C Issuer, Lender or Lenders, as expressly set forth in this Agreement, to approve matters or direct Administrative Agent to take or refrain from taking action as set forth in this Agreement. Except as expressly otherwise provided in this Agreement or the other Loan Documents, Administrative Agent shall have and may use its sole discretion with respect to exercising or refraining from exercising any discretionary rights, or taking or

refraining from taking any actions which Administrative Agent is expressly entitled to exercise or take under this Agreement and the other Loan Documents, including, without limitation, (i) the determination if and to what extent matters or items subject to Administrative Agent's satisfaction are acceptable or otherwise within its discretion, (ii) the making of Administrative Agent Advances, and (iii) the exercise of remedies pursuant to, but subject to, Article 4 or pursuant to any other Loan Document, if applicable, and any action so taken or not taken shall be deemed consented to by Lenders.

(d) In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to Borrower or any Guarantor, no individual Lender or group of Lenders or L/C Issuer shall have the right, and the Administrative Agent (irrespective of whether the principal of the Loan or any L/C Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be exclusively entitled and empowered on behalf of itself, L/C Issuer, and the Lenders, by intervention in such proceeding or otherwise:

(i) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loan, any L/C Obligations and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders and the Administrative Agent under Section 6.10 and Exhibit "K" allowed in such judicial proceeding; and

(ii) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same; and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to Administrative Agent and, in the event that Administrative Agent shall consent to the making of such payments directly to Lenders, to pay to Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of Administrative Agent and its agents and counsel, and any other amounts due Administrative Agent under Section 6.10.

Nothing contained herein shall be deemed to authorize Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of the Lenders except as approved by Required Lenders or to authorize Administrative Agent to vote in respect of the claims of Lenders except as approved by Required Lenders in any such proceeding.

5.2. Delegation of Duties. Administrative Agent may execute any of its duties under this Agreement or any other Loan Document by or through agents, employees or attorneys-in-fact and shall be entitled to advice of counsel and other consultant experts concerning all matters pertaining to such duties. Administrative Agent shall not be responsible for the negligence or misconduct of any agent or attorney-in-fact that it selects with reasonable care.

5.3. Liability of Administrative Agent. No Agent-Related Persons shall (i) be liable for any action taken or omitted to be taken by any of them under or in connection with this Agreement or any other Loan Document or the transactions contemplated hereby (except for its own gross negligence or willful misconduct), or (ii) be responsible in any manner to any of Lenders for any recital, statement, representation or warranty made by Borrower or any subsidiary or Affiliate of Borrower, or any officer thereof, contained herein or in any other Loan Document, or in any certificate, report, statement or other document referred to or provided for in, or received by Administrative Agent under or in connection with, this Agreement or any other Loan Document, or the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document, or for any failure of Borrower or any other party to any Loan Document to perform its obligations hereunder or thereunder. No Agent-Related Person shall be under any obligation to any Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Loan Document, or to inspect the properties, books or records of Borrower, Guarantors, or any of their Affiliates.

5.4. Reliance by Administrative Agent. Administrative Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telegram, facsimile, telex or telephone message, statement or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper person or persons, and upon advice and statements of legal counsel (including counsel to any party to the Loan Documents), independent accountants and other experts selected by Administrative Agent. Administrative Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Loan Document unless it shall first receive such advice or concurrence of the Required Lenders or all Lenders if required hereunder as it deems appropriate and, if it so requests, it shall first be indemnified to its satisfaction by Lenders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. Administrative Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Loan Document in accordance with a request or consent of the Required Lenders or such greater number of Lenders as may be expressly required hereby in any instance, and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders. In the absence of written instructions from the Required Lenders or such greater number of Lenders, as expressly required hereunder, Administrative Agent may take or not take any action, at its discretion, unless this Agreement specifically requires the consent of the Required Lenders or such greater number of Lenders.

5.5. Notice of Default. Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of any Default, unless Administrative Agent shall have received written notice from a Lender or Borrower referring to this Agreement, describing such Default that Administrative Agent determines will have a Material Adverse Effect. Administrative Agent will notify Lenders of its receipt of any such notice. Administrative Agent shall take such action with respect to such Default as may be requested by the Required Lenders in accordance with Article 4; provided, however, that unless and until Administrative Agent has received any such request, Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default as it shall deem advisable or in the best interest of Lenders.

5.6. Credit Decision; Disclosure of Information by Administrative Agent.

(a) Each Lender acknowledges that none of Agent-Related Persons has made any representation or warranty to it, and that no act by Administrative Agent hereafter taken, including any consent to and acceptance of any assignment or review of the affairs of Borrower and Guarantors, shall be deemed to constitute any representation or warranty by any Agent-Related Person to any Lenders as to any matter, including whether Agent-Related Persons have disclosed material information in their possession. Each Lender represents to Administrative Agent that it has, independently and without reliance upon any Agent-Related Person and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, prospects, operations, property, financial and other condition and creditworthiness of Borrower and Guarantors, and all applicable bank or other regulatory Laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to Borrower and Guarantors hereunder. Each Lender also represents that it will, independently and without reliance upon any Agent-Related Person and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Loan Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of Borrower and Guarantors.

(b) Administrative Agent upon its receipt shall provide each Lender such notices, reports and other documents expressly required to be furnished to Lenders by Administrative Agent herein. To the extent not already available to a Lender, Administrative Agent shall also provide the Lender and/or make available for the Lender's inspection during reasonable business hours and at the Lender's expense, upon the Lender's written request therefor: (i) copies of the Loan Documents; (ii) such information as is then in Administrative Agent's possession in respect of the current status of principal and interest payments and accruals in respect of the Loan; (iii) copies of all current financial statements in respect of Borrower, any Guarantor or other person liable for payment or performance by Borrower of any obligations under the Loan Documents, then in Administrative Agent's possession with respect to the Loan; and (iv) other current factual information then in Administrative Agent's possession with respect to the Loan and bearing on the continuing creditworthiness of Borrower or any Guarantor, or any of their respective Affiliates; provided that nothing contained in this Section shall impose any liability upon Administrative Agent for its failure to provide a Lender any of such Loan Documents, information, or financial statements, unless such failure constitutes willful misconduct or gross

negligence on Administrative Agent's part; and *provided further* that Administrative Agent shall not be obligated to provide any Lender with any information in violation of Law or any contractual restrictions on the disclosure thereof (provided such contractual restrictions shall not apply to distributing to a Lender factual and financial information expressly required to be provided herein). Except as set forth above, Administrative Agent shall not have any duty or responsibility to provide any Lenders with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of Borrower or any Guarantor or any of their respective Affiliates which may come into the possession of any of Agent-Related Persons.

5.7. Indemnification of Administrative Agent. Whether or not the transactions contemplated hereby are consummated, Lenders shall indemnify upon demand each Agent-Related Person (to the extent not reimbursed by or on behalf of Borrower and without limiting the obligation of Borrower to do so), pro rata, and hold harmless each Agent-Related Person from and against any and all Indemnified Liabilities incurred by it; *provided, however*, that no Lender shall be liable for the payment to any Agent-Related Person of any portion of such Indemnified Liabilities to the extent determined in a final, non-appealable judgment by a court of competent jurisdiction to have resulted from such Agent-Related Person's own gross negligence or willful misconduct; *provided, however*, that no action taken in accordance with the directions of the Required Lenders shall be deemed to constitute gross negligence or willful misconduct for purposes of this Section. Without limitation of the foregoing, to the extent that Administrative Agent is not reimbursed by or on behalf of Borrower, each Lender shall reimburse Administrative Agent upon demand for its ratable share of any costs or out-of-pocket expenses (including attorney fees) incurred by Administrative Agent as described in Section 6.10. The undertaking in this Section shall survive the payment of all Indebtedness hereunder and the resignation or replacement of Administrative Agent.

5.8. Administrative Agent in Individual Capacity. Administrative Agent, in its individual capacity, and its Affiliates may make loans to, issue letters of credit for the account of, accept deposits from, acquire equity interests in and generally engage in any kind of banking, trust, financial advisory, underwriting or other business with any party to the Loan Documents and their respective Affiliates as though Administrative Agent were not Administrative Agent hereunder and without notice to or consent of Lenders. Lenders acknowledge that Bank of America, N.A. is the L/C Issuer and Borrower and Bank of America, N.A. or its Affiliate have entered or may enter into Swap Transactions. A portion of the Loan may be funded to honor Borrower's payment obligations under the terms of such Swap Transactions, and Lenders shall have no right to share in any portion of such payments. Lenders acknowledge that, pursuant to such activities, Bank of America, N.A. or its Affiliates may receive information regarding any party to the Loan Documents, or their respective Affiliates (including information that may be subject to confidentiality obligations in favor of such parties or such parties' Affiliates) and acknowledge that Administrative Agent shall be under no obligation to provide such information to them. With respect to its Pro Rata Share of the Loan, Bank of America, N.A. shall have the same rights and powers under this Agreement as any other Lenders and may exercise such rights and powers as though it were not Administrative Agent, or party to Swap Transactions, and the terms "Lender" and "Lenders" include Bank of America, N.A. in its individual capacity.

5.9. Successor Administrative Agent. Administrative Agent may, and at the request of the Required Lenders as a result of Administrative Agent's gross negligence or willful misconduct in performing its duties under this Agreement shall, resign as Administrative Agent upon 30 days' notice to Lenders, and any such resignation by Administrative Agent shall also constitute its resignation as L/C Issuer. If Administrative Agent resigns under this Agreement, the Required Lenders shall appoint from among Lenders a successor administrative agent for Lenders, which successor administrative agent shall be consented to by the Borrower at all times other than during the existence of a Default (which consent of the Borrower shall not be unreasonably withheld or delayed). If no successor administrative agent is appointed prior to the effective date of the resignation of Administrative Agent, Administrative Agent may appoint, after consulting with Lenders and Borrower, a successor administrative agent from among Lenders. Upon the acceptance of its appointment as successor administrative agent hereunder, such successor administrative agent shall succeed to all the rights, powers and duties of the retiring Administrative Agent and L/C Issuer and the respective terms "Administrative Agent" and "L/C Issuer" shall mean such successor administrative agent and L/C Issuer, and the retiring Administrative Agent's appointment, powers and duties as Administrative Agent shall be terminated and the retiring L/C Issuer's rights, powers and duties as such shall be terminated, without any other or further act or deed on the part of such retiring L/C Issuer or any other Lender, other than the obligation of the successor L/C Issuer to issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or to make other arrangements satisfactory to the retiring L/C Issuer to effectively assume the obligations of the retiring L/C Issuer with respect to such Letter of Credit. After any

retiring Administrative Agent's resignation hereunder as Administrative Agent, the provisions of this Article and other applicable Sections of this Agreement shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Administrative Agent and L/C Issuer under this Agreement. If no successor administrative agent has accepted appointment as Administrative Agent and L/C Issuer by the date which is 30 days following a retiring Administrative Agent's notice of resignation, the retiring Administrative Agent's resignation shall nevertheless thereupon become effective and Lenders shall perform all of the duties of Administrative Agent and L/C Issuer hereunder until such time, if any, as the Required Lenders appoint a successor agent as provided for above. Notwithstanding the foregoing, however, Bank of America, N.A. may not be removed as Administrative Agent at the request of the Required Lenders unless Bank of America shall also simultaneously be replaced and fully released as "L/C Issuer" hereunder pursuant to documentation in form and substance reasonably satisfactory to Bank of America, N.A.

5.10. Releases; Acquisition and Transfers of Collateral.

(a) Lenders hereby irrevocably authorize Administrative Agent to transfer or release any lien on, or after foreclosure or other acquisition of title by Administrative Agent on behalf of Lenders to transfer or sell, any Loan collateral (i) upon the termination of the Commitments and payment and satisfaction in full of all Indebtedness, (ii) constituting a release, transfer or sale of a lien or Loan collateral if Borrower will certify to Administrative Agent that the release, transfer or sale is permitted under this Agreement or the other Loan Documents (and Administrative Agent may rely conclusively on any such certificate, without further inquiry); or (iii) after foreclosure or other acquisition of title (1) for a purchase price of at least 90% of the value indicated in the most recent appraisal of the collateral obtained by Administrative Agent made in accordance with regulations governing Administrative Agent, less any reduction indicated in the appraisal estimated by experts in such areas; or (2) if approved by the Required Lenders.

(b) If all or any portion of the Loan collateral is acquired by foreclosure or by deed in lieu of foreclosure, Administrative Agent shall take title to the collateral in its name or by an Affiliate of Administrative Agent, but for the benefit of all Lenders in their Pro Rata Shares on the date of the foreclosure sale or recordation of the deed in lieu of foreclosure (the "Acquisition Date"). Administrative Agent and all Lenders hereby expressly waive and relinquish any right of partition with respect to any collateral so acquired. After any collateral is acquired, Administrative Agent shall appoint and retain one or more persons (individually and collectively, "Property Manager") experienced in the management, leasing, sale and/or dispositions of similar properties.

After consulting with the Property Manager, Administrative Agent shall prepare a written plan for completion of construction (if required), operation, management, improvement, maintenance, repair, sale and disposition of the Loan collateral and a budget for the aforesaid, which may include a reasonable management fee payable to Administrative Agent (the "Business Plan"). Administrative Agent will deliver the Business Plan not later than the sixtieth (60th) day after the Acquisition Date to each Lender with a written request for approval of the Business Plan. If the Business Plan is approved by the Required Lenders, Administrative Agent and the Property Manager shall adhere to the Business Plan until a different Business Plan is approved by the Required Lenders. Administrative Agent may propose an amendment to the Business Plan as it deems appropriate, which shall also be subject to Required Lender approval. If the Business Plan (as may be amended) proposed by Administrative Agent is not approved by the Required Lenders, (or if sixty (60) days have elapsed following the Acquisition Date without a Business Plan being proposed by Administrative Agent), any Lender may propose an alternative Business Plan, which Administrative Agent shall submit to all Lenders for their approval. If an alternative Business Plan is approved by the Required Lenders, Administrative Agent may appoint one of the approving Lenders to implement the alternative Business Plan. Notwithstanding any other provision of this Agreement, unless in violation of an approved Business Plan or otherwise in an emergency situation, Administrative Agent shall, subject to subsection (a) of this Section, have the right but not the obligation to take any action in connection with the Loan collateral (including those with respect to property taxes, insurance premiums, completion of construction, operation, management, improvement, maintenance, repair, sale and disposition), or any portion thereof.

(c) Upon request by Administrative Agent or Borrower at any time, Lenders will confirm in writing Administrative Agent's authority to sell, transfer or release any such liens of particular types or items of Loan collateral pursuant to this Section; provided, however, that (i) Administrative Agent shall not be required to execute any document necessary to evidence such release, transfer or sale on terms that, in Administrative Agent's

opinion, would expose Administrative Agent to liability or create any obligation or entail any consequence other than the transfer, release or sale without recourse, representation or warranty, and (ii) such transfer, release or sale shall not in any manner discharge, affect or impair the obligations of Borrower other than those expressly being released.

(d) If only two (2) Lenders (other than the L/C Issuer) exist at the time Administrative Agent receives a purchase offer for Loan collateral for which one of the Lenders does not consent within ten (10) Business Days after notification from Administrative Agent, the consenting Lender may offer (“Purchase Offer”) to purchase all of non-consenting Lender’s right, title and interest in the collateral for a purchase price equal to non-consenting Lender’s Pro Rata Share of the net proceeds anticipated from such sale of such collateral (as reasonably determined by Administrative Agent, including the undiscounted face principal amount of any purchase money obligation not payable at closing) (“Net Proceeds”). Within ten (10) Business Days thereafter the non-consenting Lender shall be deemed to have accepted such Purchase Offer unless the non-consenting Lender notifies Administrative Agent that it elects to purchase all of the consenting Lender’s right, title and interest in the collateral for a purchase price payable by the non-consenting Lender in an amount equal to the consenting Lender’s Pro Rata Share of the Net Proceeds. Any amount payable hereunder by a Lender shall be due on the earlier to occur of the closing of the sale of the collateral or 90 days after the Purchase Offer, regardless of whether the collateral has been sold.

5.11. Application of Payments. Except as otherwise provided below with respect to Defaulting Lenders, aggregate principal and interest payments, payments for Indemnified Liabilities, and/or foreclosure or sale of the collateral, and net operating income from the collateral during any period it is owned by Administrative Agent on behalf of the Lenders (“Payments”) shall be apportioned pro rata among Lenders and payments of any fees (other than fees designated for Administrative Agent’s separate account) shall, as applicable, be apportioned pro rata among Lenders. Notwithstanding anything to the contrary in this Agreement, all Payments due and payable to Defaulting Lenders shall be due and payable to and be apportioned pro rata among Administrative Agent and Electing Lenders. Such apportionment shall be in the proportion that the Defaulting Lender Payment Amounts paid by them bears to the total Defaulting Lender Payment Amounts of such Defaulting Lender. Such apportionment shall be made until the Administrative Agent and Lenders have been paid in full for the Defaulting Lender Payment Amounts. All pro rata Payments shall be remitted to Administrative Agent and all such payments not constituting payment of specific fees, and all proceeds of the Loan collateral received by Administrative Agent, shall be applied first, to pay any fees, indemnities, costs, expenses (including those in Section 5.7) and reimbursements then due to Administrative Agent from Borrower; second, to pay any fees, costs, expenses and reimbursements then due to Lenders from Borrower; third, to pay pro rata interest and late charges due in respect of the Indebtedness and Administrative Agent Advances; fourth, to pay or prepay pro rata principal of, and to secure any outstanding Letters of Credit for, the Indebtedness and Administrative Agent Advances; fifth, to pay any indebtedness of Borrower under Swap Transactions; and last, to Borrower, if required by law, or Lenders in Pro Rata Share percentages equal to their percentages at the termination of the Aggregate Commitments.

Notwithstanding the above, subject to Section 3 of Exhibit “K”, amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit above shall be applied to satisfy drawings under such Letters of Credit as they occur. If any amount remains on deposit as Cash Collateral after all Letters of Credit have either been fully drawn or expired, such remaining amount shall be applied to the other Indebtedness, if any, in the order set forth above.

5.12. Benefit. The terms and conditions of this Article are inserted for the sole benefit of Administrative Agent and Lenders; the same may be waived in whole or in part, with or without terms or conditions, without prejudicing Administrative Agent’s or Lenders’ rights to later assert them in whole or in part.

ARTICLE 6 — GENERAL TERMS AND CONDITIONS

6.1. Consents; Borrower’s Indemnity. Except where otherwise expressly provided in the Loan Documents, in any instance where the approval, consent or the exercise of Administrative Agent’s or Lenders’ judgment or discretion (or sole discretion) is required, the granting or denial of such approval or consent and the exercise of such judgment shall be (a) within the sole discretion of Administrative Agent or Lenders; (b) deemed to have been given only by a specific writing intended for the purpose given and executed by Administrative Agent or Lenders; and (c) free from any limitation or requirement of reasonableness. Notwithstanding any approvals or

consents by Administrative Agent or Lenders, neither Administrative Agent nor any Lender has any obligation or responsibility whatsoever for the adequacy, form or content of the Plans, the Budget, any appraisal, any contract, any change order, any lease, or any other matter incident to the Property or the construction of the Improvements. Administrative Agent's or Lenders' acceptance of an assignment of the Plans for the benefit of Administrative Agent and Lenders shall not constitute approval of the Plans. Any inspection, appraisal or audit of the Property or the books and records of Borrower, or the procuring of documents and financial and other information, by or on behalf of Administrative Agent shall be for Administrative Agent's and Lenders' protection only, and shall not constitute an assumption of responsibility to Borrower or anyone else with regard to the condition, value, construction, maintenance or operation of the Property, or relieve Borrower of any of Borrower's obligations. Borrower has selected all surveyors, architects, engineers, contractors, materialmen and all other persons or entities furnishing services or materials to the Project. Neither Administrative Agent nor any Lender has any duty to supervise or to inspect the Property or the construction of the Improvements nor any duty of care to Borrower or any other person to protect against, or inform Borrower or any other person of the existence of, negligent, faulty, inadequate or defective design or construction of the Improvements. Neither Administrative Agent nor any Lender shall be liable or responsible for, and Borrower shall indemnify each Agent-Related Person and each Lender and their respective Affiliates, directors, officers, agents, attorneys and employees (collectively, the "Indemnitees") from and against: (a) any claim, action, loss or cost (including reasonable attorney's fees and costs) arising from or relating to (i) any defect in the Property or the Improvements, (ii) the performance or default of Borrower, Borrower's surveyors, architects, engineers, contractors, the Construction Consultant, or any other person, (iii) any failure to construct, complete, protect or insure the Improvements, (iv) the payment of costs of labor, materials, or services supplied for the construction of the Improvements, (v) in connection with the protection and preservation of the Loan collateral (including those with respect to property taxes, insurance premiums, completion of construction, operation, management, improvements, maintenance, repair, sale and disposition), or (vi) the performance of any obligation of Borrower whatsoever; (b) any and all liabilities, obligations, losses, damages, penalties, claims, demands, actions, judgments, suits, costs, expenses and disbursements (including reasonable attorney fees and costs) of any kind or nature whatsoever which may at any time be imposed on, incurred by or asserted against any such Indemnitee in any way relating to or arising out of or in connection with (i) the execution, delivery, enforcement, performance or administration of any Loan Document or any other agreement, letter or instrument delivered in connection with the transactions contemplated thereby or the consummation of the transactions contemplated thereby, (ii) any Commitment or Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by the L/C Issuer to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), or (iii) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory (including any investigation of, preparation for, or defense of any pending or threatened claim, investigation, litigation or proceeding) and regardless of whether any Indemnitee is a party thereto; (c) any and all claims, demands, actions or causes of action arising out of or relating to the use of Information (as defined in Section 6.6) or other materials obtained through internet, Intralinks or other similar information transmission systems in connection with this Agreement; and (d) any and all liabilities, losses, costs or expenses (including attorney fees and costs) that any Indemnitee suffers or incurs as a result of the assertion of any foregoing claim, demand, action, cause of action or proceeding, or as a result of the preparation of any defense in connection with any foregoing claim, demand, action, cause of action or proceeding, in all cases, whether or not an Indemnitee is a party to such claim, demand, action, cause of action or proceeding and whether it is defeated, successful or withdrawn, (all the foregoing, collectively, the "Indemnified Liabilities"); *provided, however*, that such indemnity shall not, as to any Indemnitee, be available to the extent that such liabilities, obligations, losses, damages, penalties, claims, demands, actions, judgments, suits, costs, expenses or disbursements are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee. Further, Borrower shall not be obligated to indemnify any of the Indemnitees from matters which relate solely to disputes or disagreements among Lenders and/or Administrative Agent, or any default by any of the Lenders and/or Administrative Agent of any of their respective obligations under this Agreement to Borrower or to each other. Nothing, including any advance or acceptance of any document or instrument, shall be construed as a representation or warranty, express or implied, to any party by Administrative Agent or Lenders. Inspection shall not constitute an acknowledgment or representation by Administrative Agent, any Lender or the Construction Consultant that there has been or will be compliance with the Plans, the Loan Documents, or applicable Laws, governmental requirements and restrictive covenants, or that the construction is free from defective materials or workmanship. Inspection, whether or not followed by notice of Default, shall not constitute a waiver of any Default then existing, or a waiver of Administrative Agent's and Lenders' right thereafter to insist that the Improvements be

constructed in accordance with the Plans, the Loan Documents, and all applicable Laws, governmental requirements and restrictive covenants. Administrative Agent's failure to inspect shall not constitute a waiver of any of Administrative Agent's or Lenders' rights under the Loan Documents or at Law or in equity.

6.2. Miscellaneous. This Agreement may be executed in several counterparts, all of which are identical, and all of which counterparts together shall constitute one and the same instrument. The Loan Documents are for the sole benefit of Administrative Agent, Lenders and Borrower and are not for the benefit of any third party. A determination that any provision of this Agreement is unenforceable or invalid shall not affect the enforceability or validity of any other provision and the determination that the application of any provision of this Agreement to any person or circumstance is illegal or unenforceable shall not affect the enforceability or validity of such provision as it may apply to other persons, entities or circumstances. Time shall be of the essence with respect to Borrower's obligations under the Loan Documents. This Agreement, and its validity, enforcement and interpretation, shall be governed by Florida law (without regard to any conflict of Laws principles) and applicable United States federal Law.

6.3. Notices.

6.3.1 Modes of Delivery; Changes. Except as otherwise provided herein, all notices, demands, requests, and other communications required or which any party desires to give under this Agreement or any other Loan Document shall be in writing. Unless otherwise specifically provided in such other Loan Document, all such notices and other communications shall be deemed sufficiently given or furnished if (a) delivered by personal delivery; (b) by courier; (c) by registered or certified United States mail, postage prepaid; (d) by overnight delivery by a nationally recognized overnight delivery service; (e) by facsimile addressed to the party to whom directed with, subject to Subsection 6.3.2 below, a confirmatory original delivered by one of the methods set forth in (a) through (d); or (f) by electronic mail addressed to Borrower, at the addresses set forth at the end of this Agreement or to Administrative Agent, the L/C Issuer or Lenders at the addresses specified for notices on the Schedule of Lenders (unless changed by similar notice in writing given by the particular party whose address is to be changed) with a confirmatory original delivered by one of the methods set forth in (a) through (d). Any such notice or communication shall be deemed to have been given and received either at the time of personal delivery or, in the case of courier or mail, as of the date of first attempted delivery at the address and in the manner provided herein, or, in the case of facsimile or e-mail, upon receipt; *provided, however*, that service of a notice required by any applicable statute shall be considered complete when the requirements of that statute are met. Notwithstanding the foregoing, no notice of change of address shall be effective except upon actual receipt. This Section shall not be construed in any way to affect or impair any waiver of notice or demand provided in any Loan Document or to require giving of notice or demand to or upon any person in any situation or for any reason.

6.3.2 Effectiveness of Facsimile Documents and Signatures. Loan Documents may be transmitted and/or signed by facsimile. The effectiveness of any such documents and signatures shall, subject to applicable Law, have the same force and effect as manually-signed originals and shall be binding on all parties to the Loan Documents. The Administrative Agent may also require that any such documents and signatures be confirmed by a manually-signed original thereof; *provided, however*, that the failure to request or deliver the same shall not limit the effectiveness of any facsimile document or signature.

6.3.3 Intentionally Omitted.

6.3.4 Reliance by Administrative Agent and Lenders. Administrative Agent and Lenders shall be entitled to rely and act upon any notices (including telephonic Loan advance notices) purportedly given by or on behalf of Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. Borrower shall indemnify each Agent-Related Person and each Lender from all losses, costs, expenses and liabilities resulting from the reliance by such person on each notice purportedly given by or on behalf of Borrower. All telephonic notices to and other communications with Administrative Agent may be recorded by Administrative Agent, and each of the parties hereto hereby consents to such recording. If a Lender does not notify or inform Administrative Agent of whether or not it consents to, or approves of or agrees to any matter of any nature whatsoever with respect to which its consent, approval or agreement is required under the express provisions of this Agreement or with respect to which its consent, approval or agreement is otherwise

requested by Administrative Agent, in connection with the Loan or any matter pertaining to the Loan, within ten (10) Business Days (or such longer period as may be specified by Administrative Agent) after such consent, approval or agreement is requested by Administrative Agent, Lender shall be deemed to have given its consent, approval or agreement, as the case may be, with respect to the matter in question.

6.4. Payments Set Aside. To the extent that any payment by or on behalf of Borrower is made to Administrative Agent or any Lender, or the Administrative Agent or any Lender exercises its right of set-off, and such payment or the proceeds of such set-off or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by Administrative Agent or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law, to a depository (including Administrative Agent, any Lender or its or their Affiliates) for returned items or insufficient collected funds, or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such set-off had not occurred, and (b) each Lender severally agrees to pay to Administrative Agent upon demand its applicable share of any amount so recovered from or repaid by Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate from time to time in effect.

6.5. Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender, and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an Eligible Assignee in accordance with the provisions of subsection (b) of this Section, (ii) by way of participation in accordance with the provisions of subsection (d) of this Section, or (iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (f) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any person (other than the parties hereto, their respective successors and assigns permitted hereby and, to the extent expressly contemplated hereby, the Indemnitees) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Any Lender may assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and Pro Rata Share of the Loan (including for purposes of this subsection (b), participations in L/C Obligations) at the time owing to it); provided that:

(i) except in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and Pro Rata Share of the Loan at the time owing to it or in the case of an assignment to a Lender or an Affiliate of a Lender or an Approved Fund as defined in subsection (h) of this Section with respect to a Lender, the aggregate amount of the Commitment (which for this purpose includes its Pro Rata Share of the Loan outstanding) subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent, shall not be less than \$10,000,000 unless each of the Administrative Agent and, so long as no Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed);

(ii) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to its Pro Rata Share of the Loan and the Commitment assigned;

(iii) any assignment of a Commitment must be approved by Administrative Agent, and L/C Issuer unless the person that is the proposed assignee is itself a Lender (whether or not the proposed assignee would otherwise qualify as an Eligible Assignee); and

(iv) the parties to each assignment shall execute and deliver to Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of \$3,500 plus the cost of any applicable endorsement to the Title Insurance or new Title Insurance.

Subject to acceptance and recording thereof by Administrative Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of this Agreement with respect to Borrower's obligations surviving termination of this Agreement). Upon request, Administrative Agent shall prepare and Borrower shall execute and deliver a Note ("Replacement Note") to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with subsection (d) of this Section.

(c) Administrative Agent, acting solely for this purpose as an agent of Borrower, shall forward the Assignment and Assumption, and the Replacement Note to the Title Company for issuance of an applicable endorsement to the Title Insurance or new Title Insurance, and shall maintain at Administrative Agent's Office a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amount of each Lender's Pro Rata Share of the Loan owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, and Borrower, Administrative Agent and Lenders may treat each person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(d) Any Lender may, without the consent of, but with prior notice to Administrative Agent, sell participations to one or more banks or other entities (a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or its Pro Rata Share of the Loan (including such Lender's participations in L/C Obligations) owing to it); *provided* that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, (iii) Borrower, Administrative Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement, and (iv) except to the extent consented to by Administrative Agent in its sole discretion with respect to each participation, any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement.

(e) A Participant shall not be entitled to receive any greater payment under Sections 1.7, 1.8 or 1.9 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant.

(f) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; *provided* that no such pledge or assignment shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(g) If the consent of Borrower to an assignment or to an assignee is required hereunder (including a consent to an assignment which does not meet the minimum assignment threshold specified in clause (i) of the provision to the first sentence of subsection (b) above), Borrower shall be deemed to have given its consent five Business Days after the date notice thereof has been delivered by the assigning Lender (through Administrative Agent) unless such consent is expressly refused by Borrower prior to such fifth Business Day.

(h) As used herein, the following terms have the following meanings:

“Eligible Assignee” means (a) a Lender; (b) an Affiliate of a Lender; (c) an Approved Fund; and (d) any other person (other than a natural person) approved by the Administrative Agent, and, unless a Default has occurred and is continuing, the Borrower (each such approval not to be unreasonably withheld or delayed).

“Fund” means any person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial real estate loans and similar extensions of credit in the ordinary course of its business.

“Approved Fund” means any Fund that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

(i) Notwithstanding anything to the contrary contained herein, if at any time Bank of America, N.A. assigns all of its Commitment and interest in the Loan pursuant to subsection (b) above, Bank of America, N.A. may, upon 30 days’ notice to the Borrower and the Lenders, resign as L/C Issuer. In the event of any such resignation as L/C Issuer, the Borrower shall be entitled to appoint from among the Lenders a successor L/C Issuer hereunder; *provided, however*, that no failure by the Borrower to appoint any such successor shall affect the resignation of Bank of America, N.A. as L/C Issuer. If Bank of America, N.A. resigns as L/C Issuer it shall retain all the rights and obligations of the L/C Issuer hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as L/C Issuer and all L/C Obligations with respect thereto (including the right to require the Lenders to make an advance of Base Rate Principal or fund risk participations for L/C Borrowings pursuant to Exhibit “K”).

(j) Borrower shall not be responsible for any costs or expenses incurred by Administrative Agent or any of the Lenders in connection with or as a result of any assignment or transfer of a Lender’s rights and obligations under this Agreement (or any part thereof), or in connection with the sale of participations by any Lender.

6.6. Confidentiality. Each of the Administrative Agent and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its and its Affiliates’ directors, officers, employees and agents, including accountants, legal counsel and other advisors (it being understood that the persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential); (b) to the extent requested by any regulatory authority; (c) to the extent required by applicable Laws or regulations or by any subpoena or similar legal process; (d) to any other party to this Agreement; (e) in connection with the exercise of any remedies hereunder or any suit, action or proceeding relating to this Agreement or the enforcement of rights hereunder; (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or participant in, or any prospective assignee of or participant in, any of its rights or obligations under this Agreement or (ii) any direct or indirect contractual counterparty or prospective counterparty (or such contractual counterparty’s or prospective counterparty’s professional advisor) to any Swap Transaction or credit derivative transaction relating to obligations of the Borrower and Guarantors; (g) with the consent of the Borrower; (h) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section or (ii) becomes available to the Administrative Agent or any Lender on a nonconfidential basis from a source other than the Borrower. For the purposes of this Section, “Information” means all information received from the Borrower or any Guarantor relating to the Borrower or any of the Guarantors or their business, other than any such information that is available to the Administrative Agent or any Lender on a nonconfidential basis prior to disclosure by the Borrower or any Guarantor; *provided* that in the case of information received from the Borrower or any Guarantor after the date hereof, such information is clearly identified in writing at the time of delivery as confidential (*provided* that any financial statements received from Borrower or any Guarantor shall be deemed confidential regardless of whether so identified). Any person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such person has exercised the same degree of care to maintain the confidentiality of such Information as such person would accord to its own confidential information. The Administrative Agent and the Lenders may disclose the existence of this Agreement and information about this

Agreement to market data collectors, similar service providers to the lending industry, and service providers to the Administrative Agent and the Lenders in connection with the administration and management of this Agreement, the Loan and Loan Documents.

6.7. Set-off. In addition to any rights and remedies of Administrative Agent and Lenders provided by Law, upon the occurrence and during the continuance of any Event of Default, Administrative Agent and each Lender is authorized at any time and from time to time, without prior notice to Borrower or any other party to the Loan Documents, any such notice being waived by Borrower (on its own behalf and on behalf of each party to the Loan Documents to the fullest extent permitted by Law), to set-off and apply any and all deposits, general or special, time or demand, provisional or final, any time owing by Administrative Agent or such Lender hereunder or under any other Loan Document to or for the credit or the account of such parties to the Loan Documents against any and all Indebtedness, irrespective of whether or not the Administrative Agent or such Lender shall have made demand under this Agreement or any other Loan Document and although such Indebtedness may be contingent or unmatured or denominated in a currency different from that of the applicable depositor indebtedness. Each Lender hereby acknowledges that the exercise by any Lender of offset, set-off, Banker's lien, or similar rights against any deposit account or other property or asset of Borrower whether or not located in California or another state with certain laws restricting Lenders from pursuing multiple collection methods, could result under such laws in significant impairment of the ability of all Lenders to recover any further amounts in respect of the Loan. Therefore, each Lender agrees not to charge or offset any amount owed to it by Borrower against any of the accounts, property or assets of Borrower or any of its Affiliates held by such Lender, without the prior written approval of Administrative Agent and the Required Lenders. Notwithstanding the foregoing, neither Administrative Agent nor any Lender nor any assignee or Affiliate thereof (each a "Lender Party") shall proceed directly, by right of set-off, banker's lien, counterclaim or otherwise, against any assets of Borrower or any Guarantor (including any general or special, time or demand, provision or other deposits or other indebtedness owing by such Lender Party to or for the credit or the account of Borrower or any Guarantor) for purposes of applying such assets against the Indebtedness, without the prior written consent of all Lenders.

6.8. Sharing of Payments. If, other than as expressly provided elsewhere herein, any Lender shall obtain on account of the portions of the Loan advanced by it, or the participations in L/C Obligations held by it, any payment (whether voluntary, involuntary, through the exercise of any right of set-off, or otherwise) in excess of its ratable share (or other share contemplated hereunder) thereof, such Lender shall immediately (a) notify the Administrative Agent of such fact, and (b) purchase from the other Lenders such participations in the portions of the Loan made by them and/or such subparticipations in the participations in the L/C Obligations held by them, as the case may be, as shall be necessary to cause such purchasing Lender to share the excess payment in respect of such portions of the Loan or such participations, as the case may be, pro rata with each of them; *provided, however*, that if all or any portion of such excess payment is thereafter recovered from the purchasing Lender, such purchase shall to that extent be rescinded and each other Lender shall repay to the purchasing Lender the purchase price paid therefor, together with an amount equal to such paying Lender's ratable share (according to the proportion of (i) the amount of such paying Lender's required repayment to (ii) the total amount so recovered from the purchasing Lender) of any interest or other amount paid or payable by the purchasing Lender in respect of the total amount so recovered without further interest thereon. The Borrower agrees that any Lender so purchasing a participation from another Lender may, to the fullest extent permitted by Law, exercise all its rights of payment (including the right of set-off), but subject to Section 6.7 with respect to such participation as fully as if such Lender were the direct creditor of the Borrower in the amount of such participation. The Administrative Agent will keep records (which shall be conclusive and binding in the absence of manifest error) of participations purchased under this Section and will in each case notify the Lenders following any such purchases or repayments. Each Lender that purchases a participation pursuant to this Section shall from and after such purchase have the right to give all notices, requests, demands, directions and other communications under this Agreement with respect to the portion of the Obligations purchased to the same extent as though the purchasing Lender were the original owner of the Obligations purchased.

6.9. Amendments; Survival. Administrative Agent and Lenders shall be entitled to amend (whether pursuant to a separate intercreditor agreement or otherwise) any of the terms, conditions or agreements set forth in Article 5 or as to any other matter in the Loan Documents respecting payments to Administrative Agent or Lenders or the required number of the Lenders to approve or disapprove any matter or to take or refrain from taking any action, without the consent of Borrower or any other person or the execution by Borrower or any other person of any such amendment or intercreditor agreement provided that such matter does not affect Borrower's rights or

obligations. Subject to the foregoing, Administrative Agent may amend or waive any provision of this Agreement or any other Loan Document, or consent to any departure by any party to the Loan Documents therefrom which amendment, waiver or consent is intended to be within Administrative Agent's discretion or determination, or otherwise in Administrative Agent's reasonable determination shall not have a Material Adverse Effect; *provided, however*, that otherwise no such amendment, waiver or consent shall be effective unless in writing, signed by the Required Lenders and Borrower or the applicable party to the Loan Documents, as the case may be, and acknowledged by Administrative Agent, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; and *provided further* that no such amendment, waiver or consent shall:

(a) extend or increase the Commitment of any Lender (or reinstate any Commitment terminated pursuant to Section 4.2), without the written consent of such Lender (it being understood that a waiver of a Default shall not constitute an extension or increase in any Lender's Commitment);

(b) postpone any date fixed by this Agreement or any other Loan Document for any payment of principal, interest, fees or other amounts due to the Lenders (or any of them) hereunder or under any other Loan Document, without the written consent of each Lender directly affected thereby;

(c) reduce the principal of, or the rate of interest specified herein on, any portion of the Loan, or L/C Borrower, or any fees or other amounts payable hereunder or under any other Loan Document, without the written consent of each Lender directly affected thereby; *provided, however*, that the Administrative Agent may waive any obligation of the Borrower to pay interest at the Past Due Rate and/or late charges for periods of up to thirty days, and only the consent of the Required Lenders shall be necessary to waive any obligation of the Borrower to pay interest at the Past Due Rate or late charges thereafter, or to amend the definition of "Past Due Rate" or "late charges";

(d) change the percentage of the combined Commitments or of the aggregate unpaid principal amount of the Loan and L/C Obligations which is required for the Lenders or any of them to take any action hereunder, without the written consent of each Lender;

(e) change the definition of "Pro Rata Share" or "Required Lender" or any other provision hereof specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder, without the written consent of each Lender;

(f) amend this Section, or Section 6.8, without the written consent of each Lender;

(g) release the liability of Borrower or any existing Guarantor without the written consent of each Lender;

(h) permit the sale, transfer, pledge, mortgage or assignment of any Loan collateral or any direct or indirect interest in Borrower, except as expressly permitted under the Loan Documents, without the written consent of each Lender; or

(i) transfer or release any lien on, or after foreclosure or other acquisition of title by Administrative Agent on behalf of the Lenders transfer or sell, any Loan collateral except as permitted in Section 5.10, without the written consent of each Lender,

and *provided further* that (i) no amendment, waiver or consent shall, unless in writing and signed by the L/C Issuer in addition to the Lenders required above affect the rights or duties of the L/C Issuer under this Agreement or any Letter of Credit Application relating to any Letter of Credit issued or to be issued by it; and (ii) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, affect the rights or duties of the Administrative Agent under this Agreement or any other Loan Document. Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder, except that the Commitment of such Lender may not be increased without the consent of such Lender.

This Agreement shall continue in full force and effect until the Indebtedness is paid in full and all of Administrative Agent's and Lenders' obligations under this Agreement are terminated; and all representations and warranties and all provisions herein for indemnity of the Indemnitees, Administrative Agent and Lenders (and any other provisions herein specified to survive) shall survive payment in full, satisfaction or discharge of the Indebtedness, the resignation or removal of Administrative Agent or replacement of any Lender, and any release or termination of this Agreement or of any other Loan Documents.

6.10. Costs and Expenses. Without limiting any Loan Document and to the extent not prohibited by applicable Laws, Borrower shall pay when due, shall reimburse to Administrative Agent for the benefit of itself and Lenders on demand and shall indemnify Administrative Agent and Lenders from, all out-of-pocket fees, costs, and expenses paid or incurred by Administrative Agent in connection with the negotiation, preparation and execution of this Agreement and the other Loan Documents (and any amendments, approvals, consents, waivers and releases requested, required, proposed or done from time to time), or in connection with the disbursement, administration or collection of the Loan or the enforcement of the obligations of Borrower or the exercise of any right or remedy of Administrative Agent, including (a) all fees and expenses of Administrative Agent's counsel; (b) fees and charges of each Construction Consultant, inspector and engineer; (c) appraisal, re-appraisal and survey costs; (d) title insurance charges and premiums; (e) title search or examination costs, including abstracts, abstractors' certificates and uniform commercial code searches; (f) judgment and tax lien searches for Borrower and each Guarantor; (g) escrow fees; (h) fees and costs of environmental investigations, site assessments and remediations; (i) recordation taxes, documentary taxes, transfer taxes and mortgage taxes; (j) filing and recording fees; and (k) loan brokerage fees. Borrower shall pay all costs and expenses incurred by Administrative Agent, including reasonable attorneys' fees, if the obligations or any part thereof are sought to be collected by or through an attorney at law, whether or not involving probate, appellate, administrative or bankruptcy proceedings. Borrower shall pay all costs and expenses of complying with the Loan Documents, whether or not such costs and expenses are included in the Budget. Borrower's obligations under this Section shall survive the delivery of the Loan Documents, the making of advances, the payment in full of the Indebtedness, the release or reconveyance of any of the Loan Documents, the foreclosure of the Mortgage or conveyance in lieu of foreclosure, any bankruptcy or other debtor relief proceeding, and any other event whatsoever.

6.11. Tax Forms.

(a) (i) Each Lender, and each holder of a participation interest herein, that is not a "United States person" (a "Foreign Lender") within the meaning of Section 7701(a)(30) of the Code shall deliver to Administrative Agent, prior to receipt of any payment subject to withholding (or upon accepting an assignment or receiving a participation interest herein), two duly signed completed copies of either Form W-8BEN or any successor thereto (relating to such Foreign Lender and entitling it to a complete exemption from withholding on all payments to be made to such Foreign Lender by Borrower pursuant to this Agreement) or Form W-8ECI or any successor thereto (relating to all payments to be made to such Foreign Lender by Borrower pursuant to this Agreement) of the United States Internal Revenue Service or such other evidence satisfactory to Borrower and Administrative Agent that such Foreign Lender is entitled to an exemption from or reduction of, United States withholding tax, including any exemption pursuant to Section 881(c) of the Code. Thereafter and from time to time, each such Foreign Lender shall (A) promptly submit to Administrative Agent such additional duly completed and signed copies of one of such forms (or such successor forms as shall be adopted from time to time by the relevant United States taxing authorities) as may then be available under then current United States Laws and regulations to avoid, or such evidence as is satisfactory to Borrower and Administrative Agent of any available exemption from or reduction of, United States withholding taxes in respect of all payments to be made to such Foreign Lender by Borrower pursuant to the Loan Documents, (B) promptly notify Administrative Agent of any change in circumstances which would modify or render invalid any claimed exemption or reduction, and (C) take such steps as shall not be materially disadvantageous to it, in the reasonable judgment of such Lenders, and as may be reasonably necessary (including the re-designation of its Lending Office, if any) to avoid any requirement of applicable Laws that Borrower make any deduction or withholding for taxes from amounts payable to such Foreign Lender.

(ii) Each Foreign Lender, to the extent it does not act or ceases to act for its own account with respect to any portion of any sums paid or payable to such Lender under any of the Loan Documents (for example, in the case of a typical participation by such Lender), shall deliver to the Administrative Agent on the date when such Foreign Lender ceases to act for its own account with respect

to any portion of any such sums paid or payable, and at such other times as may be necessary in the determination of the Administrative Agent (in the reasonable exercise of its discretion), (A) two duly signed completed copies of the forms or statements required to be provided by such Lender as set forth above, to establish the portion of any such sums paid or payable with respect to which such Lender acts for its own account that is not subject to U.S. withholding tax, and (B) two duly signed completed copies of United States Internal Revenue Service Form W-8IMY (or any successor thereto), together with any information such Lender chooses to transmit with such form, and any other certificate or statement of exemption required under the Code, to establish that such Lender is not acting for its own account with respect to a portion of any such sums payable to such Lender.

(iii) The Borrower shall not be required to pay any additional amount to any Foreign Lender under Section 1.11 or pay or reimburse Administrative Agent or any of the Lenders, (A) with respect to any Taxes required to be deducted or withheld on the basis of the information, certificates or statements of exemption such Lender transmits with an United States Internal Revenue Service Form W-8IMY pursuant to this subsection (a) of this Section, or (B) if such Lender shall have failed to satisfy the foregoing provisions of this subsection (a); *provided* that if such Lender shall have satisfied the requirement of this subsection (a) on the date such Lender became a Lender or ceased to act for its own account with respect to any payment under any of the Loan Documents, nothing in this subsection (a) shall relieve the Borrower of its obligation to pay any amounts pursuant to Section 1.11 in the event that, as a result of any change in any applicable law, treaty or governmental rule, regulation or order, or any change in the interpretation, administration or application thereof, such Lender is no longer properly entitled to deliver forms, certificates or other evidence at a subsequent date establishing the fact that such Lender or other person for the account of which such Lender receives any sums payable under any of the Loan Documents is not subject to withholding or is subject to withholding at a reduced rate.

(iv) The Administrative Agent may, without reduction, withhold any Taxes required to be deducted and withheld from any payment under any of the Loan Documents with respect to which the Borrower is not required to pay additional amounts under this subsection (a).

(b) Upon the request of Administrative Agent, each Lender that is a "United States person" within the meaning of Section 7701(a)(30) of the Code shall deliver to Administrative Agent two duly signed completed copies of United States Internal Revenue Service Form W-9. If such Lender fails to deliver such forms, then Administrative Agent may withhold from any interest payment to such Lender an amount equivalent to the applicable back-up withholding tax imposed by the Code, without reduction.

(c) If any Tribunal asserts that Administrative Agent did not properly withhold or backup withhold, as the case may be, any tax or other amount from payments made to or for the account of any Lender, such Lender shall indemnify Administrative Agent therefor, including all penalties and interest and costs and expenses (including attorney fees) of Administrative Agent. The obligation of Lenders under this subsection shall survive the removal or replacement of a Lender, the payment of all Indebtedness and the resignation or replacement of Administrative Agent.

6.12. Further Assurances. Borrower will, upon Administrative Agent's request, (a) promptly correct any defect, error or omission in any Loan Document; (b) execute, acknowledge, deliver, procure, record or file such further instruments and do such further acts as Administrative Agent deems necessary, desirable or proper to carry out the purposes of the Loan Documents and to identify and subject to the liens and security interest of the Loan Documents any property intended to be covered thereby, including any renewals, additions, substitutions, replacements, or appurtenances to the Property; (c) execute, acknowledge, deliver, procure, file or record any document or instrument Administrative Agent deems necessary, desirable, or proper to protect the liens or the security interest under the Loan Documents against the rights or interests of third persons; and (d) provide such certificates, documents, reports, information, affidavits and other instruments and do such further acts deemed necessary, desirable or proper by Administrative Agent to comply with the requirements of any agency having jurisdiction over Administrative Agent. In addition, at any time, and from time to time, upon request by Administrative Agent or any Lender, Borrower will, at Borrower's expense, provide any and all further instruments, certificates and other documents as may, in the opinion of Administrative Agent or such Lender, be necessary or

desirable in order to verify the Borrower's identity and background in a manner satisfactory to Administrative Agent or such Lender.

6.13. Inducement to Lenders. The representations and warranties contained in this Agreement and the other Loan Documents (a) are made to induce Lenders to make the Loan and extend any other credit to or for the account of the Borrower pursuant hereto, and Administrative Agent and Lenders are relying thereon, and will continue to rely thereon, and (b) shall survive any bankruptcy proceedings involving Borrower, any Guarantor or the Property, foreclosure, or conveyance in lieu of foreclosure.

6.14. Forum. Each party to this Agreement hereby irrevocably submits generally and unconditionally for itself and in respect of its property to the jurisdiction of any state court, or any United States federal court, sitting in the State specified in Section 6.2 of this Agreement and to the jurisdiction of any state court or any United States federal court, sitting in the state in which any of the Property is located, over any suit, action or proceeding arising out of or relating to this Agreement or the Indebtedness. Each party to this Agreement hereby irrevocably waives, to the fullest extent permitted by Law, any objection that they may now or hereafter have to the laying of venue in any such court and any claim that any such court is an inconvenient forum. Each party to this Agreement hereby agrees and consents that, in addition to any methods of service of process provided for under applicable Law, all service of process in any such suit, action or proceeding in any state court, or any United States federal court, sitting in the state specified in Section 6.2 may be made by certified or registered mail, return receipt requested, directed to such party at its address for notice stated in the Loan Documents, or at a subsequent address of which Administrative Agent received actual notice from such party in accordance with the Loan Documents, and service so made shall be complete on the date of delivery as shown on the return receipt. Nothing herein shall affect the right of Administrative Agent to serve process in any manner permitted by Law or limit the right of Administrative Agent to bring proceedings against any party in any other court or jurisdiction.

6.15. Interpretation. References to "Dollars," "\$," "money," "payments" or other similar financial or monetary terms are references to lawful money of the United States of America. References to Articles, Sections, and Exhibits are, unless specified otherwise, references to articles, sections and exhibits of this Agreement. Words of any gender shall include each other gender. Words in the singular shall include the plural and words in the plural shall include the singular. References to Borrower or Guarantor shall mean, each person comprising same, jointly and severally. References to "persons" shall include both natural persons and any legal entities, including public or governmental bodies, agencies or instrumentalities. The words "include" and "including" shall be interpreted as if followed by the words "without limitation". Captions and headings in the Loan Documents are for convenience only and shall not affect the construction of the Loan Documents.

6.16. No Partnership, etc. The relationship between Lenders (including Administrative Agent) and Borrower is solely that of lender and borrower. Neither Administrative Agent nor any Lender has any fiduciary or other special relationship with or duty to Borrower and none is created by the Loan Documents. Nothing contained in the Loan Documents, and no action taken or omitted pursuant to the Loan Documents, is intended or shall be construed to create any partnership, joint venture, association, or special relationship between Borrower and Administrative Agent or any Lender or in any way make Administrative Agent or any Lender a co-principal with Borrower with reference to the Project, the Property or otherwise. In no event shall Administrative Agent's or Lenders' rights and interests under the Loan Documents be construed to give Administrative Agent or any Lender the right to control, or be deemed to indicate that Administrative Agent or any Lender is in control of, the business, properties, management or operations of Borrower.

6.17. Records. The unpaid amount of the Loan and the amount of any other credit extended by Administrative Agent or Lenders to or for the account of Borrower set forth on the books and records of Administrative Agent shall be presumptive evidence of the amount thereof owing and unpaid, but failure to record any such amount on Administrative Agent's books and records shall not limit or affect the obligations of Borrower under the Loan Documents to make payments on the Loan when due.

6.18. Commercial Purpose. Borrower warrants that the Loan is being made solely to acquire or carry on a business or commercial enterprise, and/or Borrower is a business or commercial organization. Borrower further warrants that all of the proceeds of this Loan shall be used for commercial purposes and stipulates that the Loan

shall be construed for all purposes as a commercial loan, and is made for other than personal, family, household or agricultural purposes.

6.19. **WAIVER OF JURY TRIAL.** EACH PARTY TO THIS AGREEMENT WAIVES TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO WHICH THEY MAY BE A PARTY, ARISING OUT OF, IN CONNECTION WITH OR IN ANY WAY PERTAINING TO, ANY NOTE, THE LOAN AGREEMENT, THE MORTGAGE OR ANY OF THE OTHER LOAN DOCUMENTS. IT IS AGREED AND UNDERSTOOD THAT THIS WAIVER CONSTITUTES A WAIVER OF TRIAL BY JURY OF ALL CLAIMS AGAINST ALL PARTIES TO SUCH ACTION OR PROCEEDINGS, INCLUDING CLAIMS AGAINST PARTIES WHO ARE NOT PARTIES TO ANY NOTE. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY EACH PARTY TO THIS AGREEMENT, AND THEY HEREBY REPRESENT THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANY INDIVIDUAL TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT. EACH PARTY FURTHER REPRESENTS AND WARRANTS THAT IT HAS BEEN REPRESENTED IN THE EXECUTION OF THE LOAN DOCUMENTS AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, OR HAS HAD THE OPPORTUNITY TO BE REPRESENTED BY INDEPENDENT LEGAL COUNSEL SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL.

6.20. **Service of Process.** Borrower hereby consents to process being served in any suit, action, or proceeding instituted in connection with this Loan by (a) the mailing of a copy thereof by certified mail, postage prepaid, return receipt requested, to Borrower and (b) serving a copy thereof upon the agent designated and appointed by Borrower as Borrower's agent for service of process. Borrower irrevocably agrees that such service shall be deemed to be service of process upon Borrower in any such suit, action, or proceeding. Nothing in any Note shall affect the right of Administrative Agent to serve process in any manner otherwise permitted by Law and nothing in any Note will limit the right of Administrative Agent on behalf of the Lenders otherwise to bring proceedings against Borrower in the courts of any jurisdiction or jurisdictions.

6.21. **USA Patriot Act Notice.** Each Lender and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Borrower that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act"), it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Lender or the Administrative Agent, as applicable, to identify the Borrower in accordance with the Act.

6.22. **Entire Agreement.** The Loan Documents constitute the entire understanding and agreement between Borrower, Administrative Agent and Lenders with respect to the transactions arising in connection with the Loan, and supersede all prior written or oral understandings and agreements between Borrower, Administrative Agent and Lenders with respect to the matters addressed in the Loan Documents. In particular, and without limitation, the terms of any commitment letter, letter of intent or quote letter by Administrative Agent or any Lender to make the Loan are merged into the Loan Documents. Neither Administrative Agent nor any Lender has made any commitments to extend the term of the Loan past its stated maturity date or to provide Borrower with financing except as set forth in the Loan Documents. Except as incorporated in writing into the Loan Documents, there are not, and were not, and no persons are or were authorized by Administrative Agent or any Lender to make, any representations, understandings, stipulations, agreements or promises, oral or written, with respect to the matters addressed in the Loan Documents.

6.23. **Dispute Resolution.**

(a) **Arbitration.** Except to the extent expressly provided below, any Dispute shall, upon the request of any party, be determined by binding arbitration in accordance with the Federal Arbitration Act, Title 9, United States Code (or if not applicable, the applicable state law), the then-current rules for arbitration of financial services disputes of AAA and the "Special Rules" set forth below. In the event of any inconsistency, the Special Rules shall control. The filing of a court action is not intended to constitute a waiver of the right of Borrower, Administrative Agent or any Lender, including the suing party, thereafter to require submittal of the Dispute to

arbitration. Except to the extent expressly provided below, any party to this Agreement may bring an action, including a summary or expedited proceeding, to compel arbitration of any Dispute in any court having jurisdiction over such action. For the purposes of this Dispute Resolution Section only, the terms “party” and “parties” shall include any parent corporation, subsidiary or affiliate of Administrative Agent involved in the servicing, management or administration of any obligation described in or evidenced by this Agreement, together with the officers, employees, successors and assigns of each of the foregoing.

(b) Special Rules.

(i) The arbitration shall be conducted in any U.S. state where real or tangible personal property collateral is located, or if there is no such collateral, in the city and county where Administrative Agent is located pursuant to its address for notice purposes in this Agreement.

(ii) The arbitration shall be administered by AAA, who will appoint an arbitrator. If AAA is unwilling or unable to administer or legally precluded from administering the arbitration, or if AAA is unwilling or unable to enforce or legally precluded from enforcing any and all provisions of this Dispute Resolution Section, then any party to this Agreement may substitute, without the necessity of the agreement or consent of the other party or parties, another arbitration organization that has similar procedures to AAA but that will observe and enforce any and all provisions of this Dispute Resolution Section. All Disputes shall be determined by one arbitrator; however, if the amount in controversy in a Dispute exceeds Five Million Dollars (\$5,000,000), upon the request of any party, the Dispute shall be decided by three arbitrators (for purposes of this Agreement, referred to collectively as the “arbitrator”).

(iii) All arbitration hearings will be commenced within ninety (90) days of the demand for arbitration and completed within ninety (90) days from the date of commencement; provided, however, that upon a showing of good cause, the arbitrator shall be permitted to extend the commencement of such hearing for up to an additional sixty (60) days.

(iv) The judgment and the award, if any, of the arbitrator shall be issued within thirty (30) days of the close of the hearing. The arbitrator shall provide a concise written statement setting forth the reasons for the judgment and for the award, if any. The arbitration award, if any, may be submitted to any court having jurisdiction to be confirmed and enforced, and such confirmation and enforcement shall not be subject to arbitration.

(v) The arbitrator will give effect to statutes of limitations and any waivers thereof in determining the disposition of any Dispute and may dismiss one or more claims in the arbitration on the basis that such claim or claims is or are barred. For purposes of the application of the statute of limitations, the service on AAA under applicable AAA rules of a notice of Dispute is the equivalent of the filing of a lawsuit.

(vi) Any dispute concerning this Dispute Resolution Section, including any such dispute as to the validity or enforceability hereof or whether a Dispute is arbitrable, shall be determined by the arbitrator; provided, however, that the arbitrator shall not be permitted to vary the express provisions of these Special Rules or the Reservations of Rights in subsection (c) below.

(vii) The arbitrator shall have the power to award legal fees and costs pursuant to the terms of this Agreement.

(viii) The arbitration will take place on an individual basis without reference to, resort to, or consideration of any form of class or class action.

(ix) No arbitration arising out of or relating to this Agreement shall include, by consolidation, joinder or in any other manner, an additional person or entity not a party to this Agreement, except by written consent containing a specific reference to this Agreement signed by the undersigned and

any other person or entity sought to be joined. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent or with a person or entity not named or described therein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by the parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

(c) Reservations of Rights. Nothing in this Agreement shall be deemed to (i) limit the applicability of any otherwise applicable statutes of limitation and any waivers contained in this Agreement, or (ii) apply to or limit the right of Administrative Agent or any Lender (A) to exercise self help remedies such as (but not limited to) setoff, or (B) to foreclose judicially or nonjudicially against any real or personal property collateral, or to exercise judicial or nonjudicial power of sale rights, (C) to obtain from a court provisional or ancillary remedies such as (but not limited to) injunctive relief, writ of possession, prejudgment attachment, or the appointment of a receiver, or (D) to pursue rights against a party to this Agreement in a third-party proceeding in any action brought against Administrative Agent or any Lender in a state, federal or international court, tribunal or hearing body (including actions in specialty courts, such as bankruptcy and patent courts). Subject to the terms of this Agreement, Administrative Agent and any Lender may exercise the rights set forth in clauses (A) through (D), inclusive, before, during or after the pendency of any arbitration proceeding brought pursuant to this Agreement. Neither the exercise of self help remedies nor the institution or maintenance of an action for foreclosure or provisional or ancillary remedies shall constitute a waiver of the right of any party, including the claimant in any such action, to arbitrate the merits of the Dispute occasioning resort to such remedies. No provision in the Loan Documents regarding submission to jurisdiction and/or venue in any court is intended or shall be construed to be in derogation of the provisions in any Loan Document for arbitration of any Dispute.

(d) Conflicting Provisions for Dispute Resolution. If there is any conflict between the terms, conditions and provisions of this Section and those of any other provision or agreement for arbitration or dispute resolution, the terms, conditions and provisions of this Section shall prevail as to any Dispute arising out of or relating to (i) this Agreement, (ii) any other Loan Document, (iii) any related agreements or instruments, or (iv) the transaction contemplated herein or therein (including any claim based on or arising from an alleged personal injury or business tort). In any other situation, if the resolution of a given Dispute is specifically governed by another provision or agreement for arbitration or dispute resolution, the other provision or agreement shall prevail with respect to said Dispute.

(e) Jury Trial Waiver in Arbitration. By agreeing to this Section, the parties irrevocably and voluntarily waive any right they may have to a trial by jury in respect of any Dispute.

(f) The procedure described above will not apply if (1) the Claim, at the time of the proposed submission to arbitration, arises from or relates to an obligation to Administrative Agent and/or Lenders secured by real property; and (2) Administrative Agent and each Lender in their sole and absolute discretion have not consented to submission of the Claim to arbitration.

(g) To the extent any Claims are not arbitrated, to the extent permitted by law the Claims shall be resolved in court by a judge without a jury, except any Claims which are brought in a California state court may, at the election of Administrative Agent and each Lender, be determined by judicial reference as described below.

(h) Any Claim which is not arbitrated and which is brought in California state court may, at the joint election of Administrative Agent and each Lender, be resolved by general reference to a referee (or a panel of referees) as provided in California Code of Civil Procedure ("CCP") Section 638. The referee (or presiding referee of the panel) shall be a retired Judge or Justice. The referee (or panel of referees) shall be selected by mutual written agreement of the parties. If the parties do not agree, the referee shall be selected by the Presiding Judge of eth Court (or his or her representative) as provided in CCP Section 638 and the following related sections. The referee shall determine all issues in accordance with California rules of evidence and civil procedure and other applicable laws, rules and regulations. The referee shall be empowered to enter equitable as well as legal relief, provide all temporary or provisional remedies, enter equitable orders that will be binding on the parties and rule on any motion which would be authorized in a trial, including motions for summary judgment or summary

adjudication. The aware that results from the decisions of the referee(s) will be entered as a judgment in the court that appointed the referee, in accordance with the provisions of CCP Sections 644(a) and 645. The parties reserve the right to seek appellate review of any judgment or order, including orders pertaining to class certification, to the same extent permitted in a court of law.

THE WRITTEN LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO ORAL AGREEMENTS BETWEEN THE PARTIES.

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IN WITNESS WHEREOF, THIS CONSTRUCTION LOAN AGREEMENT is EXECUTED and DELIVERED UNDER SEAL as of the date first appearing above.

WITNESS/ATTEST:

/s/ Mary S. Fredenburg
Name: Mary S. Fredenburg

Borrower's Address for Notices:

HF Logistics-SKX T1, LLC
c/o Highland Fairview Properties
14225 Corporate Way
Moreno Valley CA 92553
Telephone: (951) 867-5301
Facsimile: (951) 867-5302
Electronic Mail: [ILLEGIBLE].com
FEIN: 27-1865350

With a copy to:

TG Services, Inc.
Stage Coach Run
East Brunswick, NJ 08816
Attn: James Licb, EVP

WITNESS/ATTEST:

/s/ Xavier Arcentales
Name: Xavier Arcentales

WITNESS/ATTEST:

/s/ [ILLEGIBLE]
Name: [ILLEGIBLE]

HF LOGISTICS-SKX T1, LLC,
a Delaware limited liability company

By: HF Logistics-SKX, LLC, a Delaware limited liability company, its sole member

By: HF Logistics I, LLC, a Delaware limited liability company, its managing member

By: /s/ Iddo Benzeevi
Iddo Benzeevi, President and Chief Executive Officer

BANK OF AMERICA, N.A.,
a national banking association, individually as Administrative Agent, L/C Issuer, and a Lender

By: /s/ [ILLEGIBLE]
Name: [ILLEGIBLE]
Title: Senior Vice President

RAYMOND JAMES BANK, FSB.
as a Lender

By: /s/ Jennifer Ehrhart
Name: Jennifer Ehrhart
Title: Senior Vice President

EXHIBIT "A"

LEGAL DESCRIPTION OF LAND

Real property in the City of Moreno Valley, County of Riverside, State of California, described as follows:

PARCEL 1:

THAT CERTAIN PARCEL SHOWN AND DESCRIBED AS "PROPOSED PARCEL C" BEING SET FORTH, DESCRIBED AND CREATED BY THAT CERTAIN LOT LINE ADJUSTMENT NO. 1005 / AND CERTIFICATE OF COMPLIANCE RECORDED MARCH 29, 2010 AS DOCUMENT NO. 2010-0140636 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF RIVERSIDE COUNTY, CALIFORNIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THOSE PORTIONS OF LOTS 2 AND 7, IN BLOCK 34 OF MAP NO. 1 OF BEAR VALLEY AND ALESSANDRO DEVELOPMENT COMPANY, IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 11 OF MAPS, PAGE 10, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN BERNARDINO COUNTY, CALIFORNIA, TOGETHER WITH THAT PORTION OF FIR AVENUE, VACATED BY RESOLUTION OF THE BOARD OF SUPERVISORS OF RIVERSIDE COUNTY RECORDED MARCH 27, 1962 AS FILE NO. 27882 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, LYING BETWEEN REDLANDS BOULEVARD AND SINCLAIR STREET, AS SAID STREETS ARE SHOWN ON THE MAP OF SAID TRACT, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWESTERLY CORNER OF SAID LOT 7, BEING ALSO THE CENTERLINE OF FIR AVENUE (VACATED); THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 7 AND THE CENTERLINE OF FIR AVENUE (VACATED) SOUTH 89 DEGREES 33"11' EAST 288.98 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 1280.03 FEET TO THE NORTHERLY LINE OF SAID LOT 2, BEING ALSO THE SOUTHERLY LINE OF GREVILLEA AVENUE (80 FEET WIDE) AS SHOWN ON SAID MAP NO. 1 OF BEAR VALLEY AND ALESSANDRO DEVELOPMENT COMPANY (NOW THE SOUTHERLY LINE OF STATE HIGHWAY 60); THENCE ALONG THE NORTHERLY LINE OF SAID LOT 2 AND THE SOUTHERLY LINE OF GREVILLEA AVENUE SOUTH 89 DEGREES 33"13' EAST 381.32 FEET TO THE NORTHEASTERLY CORNER OF SAID LOT 2; THENCE ALONG THE EASTERLY LINES OF SAID LOT 2 AND SAID LOT 7 SOUTH 00 DEGREES 27"17' WEST 1280.00 FEET TO SAID SOUTHERLY LINE OF LOT 7 AND SAID CENTERLINE OF FIR AVENUE (VACATED); THENCE ALONG SAID SOUTHERLY LINE OF LOT 7 AND SAID CENTERLINE OF FIR AVENUE (VACATED) NORTH 89 DEGREES 33"11' WEST 371.16 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING AN AREA OF 11.056 ACRES, MORE OR LESS.

PARCEL 2:

THAT CERTAIN PARCEL SHOWN AND DESCRIBED AS "PROPOSED PARCEL A" BEING SET FORTH, DESCRIBED AND CREATED BY THAT CERTAIN LOT LINE ADJUSTMENT NO. 1004 / AND CERTIFICATE OF COMPLIANCE RECORDED MARCH 29, 2010 AS DOCUMENT NO. 2010-0140637 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF RIVERSIDE COUNTY, CALIFORNIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THOSE PORTIONS OF LOTS 1, 2 AND 8 IN BLOCK 33 OF BEAR VALLEY AND ALESSANDRO DEVELOPMENT COMPANY, IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 11 OF MAPS, PAGE 10, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN BERNARDINO COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERLY CORNER OF SAID LOT 8; THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 8, BEING ALSO THE NORTHERLY LINE OF FIR AVENUE (80 FEET WIDE) SOUTH 89 DEGREES 33'11" EAST 130.38 FEET; THENCE LEAVING SAID SOUTHERLY LINE OF LOT 8 AND SAID NORTHERLY LINE OF FIR AVENUE, NORTH 854.59 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 497.00 FEET, A RADIAL LINE OF SAID CURVE FROM SAID POINT BEARS NORTH 15 DEGREES 41'23" EAST; THENCE ALONG SAID CURVE NORTHWESTERLY 103.15 FEET THROUGH A CENTRAL ANGLE OF 11 DEGREES 53'28"; THENCE TANGENT FROM SAID CURVE NORTH 62 DEGREES 25'09" WEST 49.57 FEET; THENCE NORTH 56 DEGREES 42'31" WEST 120.60 FEET; THENCE NORTH 62 DEGREES 25'09" WEST 222.69 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 800.00 FEET; THENCE ALONG SAID CURVE NORTHWESTERLY 310.88 FEET THROUGH A CENTRAL ANGLE OF 22 DEGREES 15'55"; THENCE TANGENT FROM SAID CURVE NORTH 84 DEGREES 41'04" WEST 47.33 FEET TO THE WESTERLY LINE OF SAID LOT 2; THENCE ALONG THE WESTERLY AND SOUTHERLY LINES OF SAID LOT 2, AND THE WESTERLY LINE OF LOT 8 THE FOLLOWING COURSES: SOUTH 00 DEGREES 27'24" WEST 550.52 FEET; THENCE SOUTH 89 DEGREES 33'12" EAST 660.21 FEET; THENCE SOUTH 00 DEGREES 27'19" WEST 620.01 FEET TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF 9.396 ACRES, MORE OR LESS.

PARCEL A:

LOTS 1 AND 8 OF BLOCK 34, MAP NO. 1, OF BEAR VALLEY AND ALESSANDRO DEVELOPMENT COMPANY, IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 11, PAGE 10 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN BERNARDINO COUNTY.

TOGETHER WITH THAT PORTION OF FIR AVENUE, VACATED BY RESOLUTION OF THE BOARD OF SUPERVISORS OF RIVERSIDE COUNTY RECORDED MARCH 27, 1962 AS FILE NO. 27882 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, LYING BETWEEN REDLANDS BOULEVARD, AND SINCLAIR STREET AS SAID STREETS ARE SHOWN ON THE MAP OF SAID TRACT.

ALSO TOGETHER WITH THAT PORTION OF SINCLAIR STREET ADJACENT ON THE EAST, AS REJECTED FOR DEDICATION BY THE CITY OF MORENO VALLEY PURSUANT TO THE TERMS AND PROVISIONS OF A DOCUMENT RECORDED MARCH 31, 2010 AS DOCUMENT NO. 2010-0144493 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF RIVERSIDE COUNTY, CALIFORNIA.

PARCEL B:

PARCELS 1 AND 2 OF PARCEL MAP 12975, IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 72, PAGE 47 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF RIVERSIDE COUNTY.

ALSO TOGETHER WITH THAT PORTION OF SINCLAIR STREET ADJACENT ON THE WEST, AS REJECTED FOR DEDICATION BY THE CITY OF MORENO VALLEY PURSUANT TO THE TERMS AND PROVISIONS OF A DOCUMENT RECORDED MARCH 31, 2010 AS DOCUMENT NO. 2010-0144493 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF RIVERSIDE COUNTY, CALIFORNIA.

PARCEL C:

LOT 4 IN BLOCK 33 OF MAP NO. 1 OF THE LANDS OF THE BEAR VALLEY AND ALESSANDRO DEVELOPMENT COMPANY, IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 11, PAGE 10 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN BERNARDINO COUNTY, CALIFORNIA.

EXCEPTING THEREFROM THAT PORTION DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 4;
THENCE EASTERLY ON THE NORTHERLY LINE OF SAID LOT 257.00 FEET;
THENCE AT RIGHT ANGLES SOUTHERLY 398.00 FEET;
THENCE AT RIGHT ANGLES WESTERLY 257.00 FEET, TO THE WESTERLY LINE OF SAID LOT;
THENCE NORTHERLY, ON THE WESTERLY LINE OF SAID LOT, 398.00 FEET, TO THE POINT OF BEGINNING.

ALSO TOGETHER WITH THAT PORTION OF SINCLAIR STREET ADJACENT ON THE WEST, AS REJECTED FOR DEDICATION BY THE CITY OF MORENO VALLEY PURSUANT TO THE TERMS AND PROVISIONS OF A DOCUMENT RECORDED MARCH 31, 2010 AS DOCUMENT NO. 2010-0144493 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF RIVERSIDE COUNTY, CALIFORNIA.

PARCEL D:

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

LOTS 3 AND 6 OF BLOCK 33 OF MAP NO. 1 OF BEAR VALLEY AND ALESSANDRO DEVELOPMENT COMPANY, IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 11, PAGE(S) 10, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN BERNARDINO COUNTY.

PARCEL E:

LOT 7 IN BLOCK 33, OF MAP NO. 1 OF BEAR VALLEY AND ALESSANDRO DEVELOPMENT COMPANY, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 11, PAGE 10 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN BERNARDINO COUNTY, CALIFORNIA.

PARCEL F:

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

LOT 5 OF BLOCK 33 OF MAP NO. 1 OF BEAR VALLEY AND ALESSANDRO DEVELOPMENT CO., IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 11, PAGE 10 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN BERNARDINO COUNTY.

ALSO TOGETHER WITH THAT PORTION OF SINCLAIR STREET ADJACENT ON THE WEST, AS REJECTED FOR DEDICATION BY THE CITY OF MORENO VALLEY PURSUANT TO THE TERMS AND PROVISIONS OF A DOCUMENT RECORDED MARCH 31, 2010 AS DOCUMENT NO. 2010-0144493 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF RIVERSIDE COUNTY, CALIFORNIA.

PARCEL G:

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

THE NORTHERLY 160.00 FEET OF THE WESTERLY 120.00 FEET OF LOT 4 IN BLOCK 33, AS PER MAP NO. 1 OF BEAR VALLEY AND ALESSANDRO DEVELOPMENT COMPANY, IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 11, PAGE 10 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN BERNARDINO COUNTY.

SAID NORTHERLY 160.00 FEET BEING MEASURED FROM THE SOUTHERLY LINE OF GREVILLEA AVENUE AS SHOWN ON SAID MAP AND THE WESTERLY 120.00 FEET BEING MEASURED FROM THE EAST LINE OF SINCLAIR STREET AS SHOWN ON SAID MAP.

ALSO TOGETHER WITH THAT PORTION OF SINCLAIR STREET ADJACENT ON THE WEST, AS REJECTED FOR DEDICATION BY THE CITY OF MORENO VALLEY PURSUANT TO THE TERMS AND PROVISIONS OF A DOCUMENT RECORDED MARCH 31, 2010 AS DOCUMENT NO. 2010-0144493 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF RIVERSIDE COUNTY, CALIFORNIA.

PARCEL AA:

TEMPORARY CONSTRUCTION EASEMENTS FOR GRADING PURPOSES, TOGETHER WITH THE RIGHT TO ENTER ON, ACROSS, AND WITHIN THE REAL PROPERTY AS SHOWN THEREIN, FOR THE PURPOSE OF CONSTRUCTING THE PLANNED IMPROVEMENTS AND ASSOCIATED SLOPE AND DRAINAGE AREA GRADING ADJACENT TO AND SOUTH OF EUCALYPTUS AVENUE AS SHOWN ON ROUGH GRADING PLANS FOR CITY PROJECT NO. PA07-0090, ON FILE WITH THE CITY OF MORENO VALLEY, AS IRREVOCABLY OFFERED TO HF LOGISTICS-SKX T1, LLC, BY THOSE CERTAIN TEMPORARY CONSTRUCTION EASEMENTS RECORDED MARCH 26, 2010 AS DOCUMENT NO.'S 2010-0138030, 2010-0138031 AND 2010-0138032, ALL OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF RIVERSIDE COUNTY, CALIFORNIA.

EXHIBIT "B"

DEFINITIONS AND FINANCIAL STATEMENTS

1. **DEFINITIONS:** As used in this Agreement and the attached exhibits, the following terms shall have the following meanings:

"**AAA**" means the American Arbitration Association, or any successor thereof.

"**Adjusted LIBOR Rate**" means the quotient obtained by dividing (i) the applicable London Interbank Offered Rate by (ii) 1.00 minus the LIBOR Reserve Percentage, where,

"**London Interbank Offered Rate**" means, with respect to any applicable Interest Period, the rate per annum equal to the British Bankers' Association LIBOR Rate ("**BBA LIBOR**"), as published by Reuters (or other commercially available source providing quotations of BBA LIBOR as selected by Administrative Agent from time to time) at approximately 11:00 a.m. London time two (2) London Banking Days before the commencement of the Interest Period, for deposits in U.S. Dollars (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period. If such rate is not available at such time for any reason, then the rate for that Interest Period will be determined by such alternate method as reasonably selected by Administrative Agent; and

"**LIBOR Reserve Percentage**" means, with respect to any applicable Interest Period, for any day that percentage (expressed as a decimal) which is in effect on such day, as prescribed by the Board of Governors of the Federal Reserve System (or any successor) for determining the maximum reserve requirement (including basic, supplemental, emergency, special and marginal reserves) generally applicable to financial institutions regulated by the Federal Reserve Board whether or not applicable to any Lender, in respect of "Eurocurrency liabilities" (or in respect of any other category of liabilities which includes deposits by reference to which the interest rate on LIBOR Rate Principal is determined), whether or not any Lender has any Eurocurrency liabilities. The LIBOR Rate shall be adjusted automatically as of the effective date of each change in the LIBOR Reserve Percentage.

"**Administrative Agent**" means Bank of America, N.A., in its capacity as administrative agent under any of the Loan Documents, or any successor administrative agent.

"**Administrative Agent Advances**" has the meaning set forth in Section 1.16 of this Agreement.

"**Administrative Agent's Office**" means Administrative Agent's address and, as appropriate, account as set forth on the Schedule of Lenders, or such other address or account as Administrative Agent hereafter may from time to time notify Borrower and Lenders.

"**Administrative Agent's Time**" means the time of day observed in the city where Administrative Agent's Office is located.

"**Advance Termination Date**" means that date which is thirty (30) days prior to the Maturity Date (or Extended Maturity Date, if applicable).

"**Affiliate**" means any person directly or indirectly through one or more intermediaries controlling, controlled by, or under direct or indirect common control with, such person. A person shall be deemed to be "controlled by" any other person if such other person possesses, directly or indirectly, power (a) to vote 10% or more of the securities (on a fully diluted basis) having ordinary voting power for the election of directors or managing general partners or the equivalent; or (b) to direct or cause the direction of the management and policies of such person whether by contract or otherwise.

"**Agent-Related Persons**" means Administrative Agent, together with its Affiliates (including Arranger), and the officers, directors, employees, agents and attorneys-in-fact of such persons and Affiliates.

“Aggregate Commitments” means the Commitments of all the Lenders.

“Aggregate Cost” has the meaning set forth in Section 1.4 of this Agreement.

“Agreement” has the meaning set forth in the introductory paragraph of this Agreement, and includes all exhibits attached hereto and referenced in Section 1.1.

“Appraised Value” means Ninety Five Million and No/100 Dollars (\$95,000,000.00).

“Arranger” means Banc of America Securities LLC, in its capacity as sole lead arranger and sole book manager.

“Assignment and Assumption” means an Assignment and Assumption substantially in the form of Exhibit “L”.

“Base Rate” means, on any day, a simple rate per annum equal to the sum of the Prime Rate for that day plus the Base Rate Margin. Without notice to Borrower or anyone else, the Base Rate shall automatically fluctuate upward and downward as and in the amount by which the Prime Rate fluctuates.

“Base Rate Margin” means two and three quarters percent (2.75%) per annum.

“Base Rate Principal” means, at any time, the Principal Debt minus the portion, if any, of such Principal Debt which is LIBOR Rate Principal and Letters of Credit which have not been drawn.

“Borrower” has the meaning set forth in the introductory paragraph of this Agreement.

“Borrower’s Deposit” has the meaning set forth in Section 1.5 of this Agreement.

“Budget” means the budget and cost itemization for the Project attached as Exhibit “D”.

“Business Day” means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, the state where Administrative Agent’s Office is located.

“Cash Collateralize” has the meaning set forth in Section 7 of Exhibit “K”.

“City” means the City of Moreno Valley, California.

“Closing Checklist” means that certain Closing Requirements and Checklist setting forth the conditions for closing the Loan and recording the Mortgage.

“Code” has the meaning set forth in Section 2.15 of this Agreement.

“Commitment” means, as to each Lender, its obligation to advance (a) its Pro Rata Share of the Loan and (b) purchase participations in L/C Obligations in an aggregate principal amount not exceeding the amount set forth opposite such Lender’s name on the Schedule of Lenders at any one time outstanding, as such amount may be adjusted from time to time in accordance with this Agreement.

“Completion Date” means the earlier of (a) the date of completion of tenant improvements pursuant to the terms and provisions of the Lease or (b) twenty (20) months after the date of this Agreement.

“Construction Commencement Date” means thirty (30) days after the date of this Agreement.

“Construction Consultant” means the construction consultant, if any, engaged by Administrative Agent with respect to the Project.

“Debtor Relief Laws” means the Bankruptcy Code of the United States of America, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

“Default” has the meaning set forth in Section 4.1 of this Agreement.

“Defaulting Lender” means a Lender that fails to pay its Pro Rata Share of a Payment Amount within five (5) Business Days after notice from Administrative Agent, until such Lender cures such failure as permitted in this Agreement.

“Defaulting Lender Amount” means the Defaulting Lender’s Pro Rata Share of a Payment Amount.

“Defaulting Lender Payment Amounts” means a Defaulting Lender Amount plus interest from the date such Defaulting Lender Amount was funded by Administrative Agent and/or an Electing Lender, as applicable, to the date such amount is repaid to Administrative Agent and/or such Electing Lender, as applicable, at the rate per annum applicable to such Defaulting Lender Amount under the Loan or otherwise at the Base Rate.

“Deferred Up-Front Equity Cash” means that portion of the Up-Front Equity consisting of the sum of NINE HUNDRED FORTY ONE THOUSAND TWO HUNDRED THIRTY SEVEN AND NO/100 DOLLARS (\$941,237.00) in cash which shall be deposited into the Up-Front Equity Account in accordance with the terms and conditions of this Agreement.

“Dispute” means any controversy, claim or dispute between or among the parties to this Agreement, including any such controversy, claim or dispute arising out of or relating to (a) this Agreement, (b) any other Loan Document, (c) any related agreements or instruments, or (d) the transaction contemplated herein or therein (including any claim based on or arising from an alleged personal injury or business tort).

“Draw Request” has the meaning set forth in Section 1 of Exhibit “F”.

“Eligible Assignee” has the meaning set forth in Section 6.5 of this Agreement.

“Environmental Agreement” means the Environmental Indemnification and Release Agreement of even date herewith by and among Borrower, Guarantors and Administrative Agent for the benefit of Lenders.

“Excusable Delay” means a delay, not to exceed a total of sixty (60) days, caused by unusually adverse weather conditions which have not been taken into account in the construction schedule, fire, earthquake or other acts of God, strikes, lockouts, acts of public enemy, riots or insurrections or any other unforeseen circumstances or events beyond the control of Borrower (except financial circumstances or events or matters which may be resolved by the payment of money), and as to which Borrower notifies Administrative Agent in writing within ten (10) days after such occurrence; *provided, however*, no Excusable Delay shall extend the Completion Date or suspend or abate any obligation of Borrower or any Guarantor or any other person to pay any money.

“Federal Funds Rate” means, for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank on the Business Day next succeeding such day; *provided* that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upwards to the next higher 1/100 of 1%) charged to Bank of America on such day on such transactions as determined by Administrative Agent.

“Financial Statements” means (i) for each reporting party other than an individual, a balance sheet, income statement, a reconciliation of changes in equity and liquidity verification, annual statements of cash flow and amounts and sources of contingent liabilities, and unless Administrative Agent otherwise consents, consolidated and consolidating statements if the reporting party is a holding company or a parent of a subsidiary entity; and (ii) for each

reporting party who is an individual, a balance sheet, statements of amount and sources of contingent liabilities, sources and uses of cash and liquidity verification and, unless Administrative Agent otherwise consents, Financial Statements for each entity owned or jointly owned by the reporting party. For purposes of this definition and any covenant requiring the delivery of Financial Statements, each party for whom Financial Statements are required is a “reporting party” and a specified period to which the required Financial Statements relate is a “reporting period”.

“Funding Date” means the date on which an advance of Loan Proceeds, Up-Front Equity Cash or Borrower’s Deposit shall occur.

“Guarantors” means collectively TG Development, Trans LP Holdings, LLC, a Delaware limited liability company, Boca Ocean Holdings, LLC, a Delaware limited liability company, T/CAL Holdings, LLC, a Delaware limited liability company, and Island Boulevard Holdings, LLC, a Delaware limited liability company, jointly and severally (and each of the foregoing is referred to herein as a “Guarantor”).

“Improvements” means all on-site and off-site improvements to the Land for industrial warehouse, office and retail use, to be constructed on the Land and expected to be Leadership in Energy and Environmental Design certified, together with all fixtures, tenant improvements, and appurtenances now or later to be located on the Land and/or in such improvements.

“Indebtedness” means any and all indebtedness to Administrative Agent, or Lenders evidenced, governed or secured by, or arising under, any of the Loan Documents, including the Loan.

“Indemnified Liabilities” has the meaning set forth in Section 6.1.

“Initial Advance” means the first advance of Up-Front Equity Cash in an amount requested by Borrower and approved by Administrative Agent in accordance with the terms and conditions of this Agreement.

“Initial Advance of Loan Proceeds” means the first advance of any of the Loan Proceeds which shall be made in accordance with the terms and conditions of this Agreement.

“Initial Up-Front Equity Cash” means that portion of the Up-Front Equity consisting of the sum of TWENTY FOUR MILLION FIVE HUNDRED THOUSAND DOLLARS (\$24,500,000.00) in cash which shall be deposited on the date hereof into the Up-Front Equity Account pursuant to the terms and conditions of this Agreement.

“L/C Borrowing” means an extension of credit resulting from a drawing under any Letter of Credit which has not been reimbursed on the date when made or refinanced as a Loan advance.

“L/C Credit Extension” means, with respect to any Letter of Credit, the issuance thereof or extension of the expiry date thereof, or the renewal or increase of the amount thereof.

“L/C Issuer” means Bank of America, N.A. in its capacity as issuer of Letters of Credit hereunder or any successor issuer of Letter of Credit hereunder.

“L/C Obligations” means, as at any date of determination, the aggregate undrawn face amount of all outstanding Letters of Credit plus the aggregate of all L/C Borrowings.

“Land” means the real property described in Exhibit “A”.

“Laws” means all constitutions, treaties, statutes, laws, ordinances, regulations, rules, orders, writs, injunctions, or decrees of the United States of America, any state or commonwealth, any municipality, any foreign country, any territory or possession, or any Tribunal.

“Lease” means, collectively, that certain Lease Agreement dated September 24, 2007 by and between HF Logistics I, LLC, a Delaware limited liability company (the “Original Landlord”), as landlord, and Skechers, as tenant, for the lease of the Improvements to be constructed by Borrower in accordance with the terms and provisions of this Agreement, as modified by that certain Amendment to Lease Agreement dated December 18, 2009 by and between

Original Landlord and Skechers, as assigned to Borrower pursuant to that certain Assignment of Lease (Skechers Lease) dated April 12, 2010 executed by and between Original Landlord and Borrower, and as further modified by that certain Second Amendment to Lease Agreement dated April 12, 2010 executed by and between Borrower and Skechers.

“Lender” means each lender from time to time party to this Agreement and L/C Issuer.

“Lending Office” means, as to any Lender, the office or offices of such Lender described as such on the Schedule of Lenders, or such other office or offices as such Lender may from time to time notify Borrower and Administrative Agent.

“Letter of Credit” means any letter of credit issued hereunder.

“Letter of Credit Application” means an application and agreement for the issuance or amendment of a letter of credit in the form from time to time in use by the L/C Issuer.

“Letter of Credit Expiration Date” means the day that is seven days prior to the Maturity Date (or, if such day is not a Business Day, the next preceding Business Day).

“Letter of Credit Sublimit” means an amount equal to NINETEEN MILLION DOLLARS (\$19,000,000.00). The Letter of Credit Sublimit is a part of, and not in addition to, the combined Commitments.

“LIBOR Business Day” means a Business Day which is also a London Banking Day.

“LIBOR Margin” means four and one half percent (4.5%) per annum.

“LIBOR Rate” means for any applicable Interest Period for any LIBOR Rate Principal, a simple rate per annum equal to the sum of the LIBOR Margin plus the Adjusted LIBOR Rate.

“LIBOR Rate Principal” means any portion of the Principal Debt which bears interest at an applicable LIBOR Rate at the time in question.

“Loan” means the loan and Letters of Credit by Lenders to Borrower, in the amount of lesser of (i) \$55,000,000.00; (ii) 58% of the Appraised Value; (iii) the payment of 55% of the costs incident to the Project as specified in the Budget; (iv) 1.40 times the coverage ratio using stress tests of 8% rate, 30-year amortization and first year NOI as per the approved appraisal. In the event the aggregate amount of the actual costs incident to the Project are less than the aggregate amount specified in the Budget, the maximum amount described above shall be reduced by the difference between the aggregate amount specified in the Budget and the aggregate amount of such actual costs.

“Loan Documents” means this Agreement (including all exhibits), the Mortgage, any Note, the Environmental Agreement, any guaranty, financing statements, the Budget, each Draw Request, any and all documents, instruments or agreements executed and delivered to evidence, secure or in connection with all Letters of Credit, and such other documents evidencing, securing or pertaining to the Loan as shall, from time to time, be executed and/or delivered by Borrower, each of the Guarantors, or any other party to Administrative Agent or any Lender pursuant to this Agreement, as they may be amended, modified, restated, replaced and supplemented from time to time.

“London Banking Day” means a day on which dealings in dollar deposits are conducted by and between banks in the London interbank eurodollar market.

“Material Adverse Effect” means (a) a material adverse change in, or a material adverse effect upon, the Project, or the operations, business, properties, liabilities (actual or contingent), condition (financial or otherwise) of the Borrower or the Borrower and its Subsidiaries taken as a whole; (b) a material impairment of the ability of any party to the Loan Documents to perform its obligations under any Loan Document to which it is a party; or (c) a material adverse effect upon the legality, validity, binding effect or enforceability against any party to the Loan Documents of any Loan Document to which it is a party.

“Material Contract” means any contract for the performance of any work or the supplying of any labor, materials or services which exceeds FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) in total price.

“Maturity Date” means twenty four (24) months from the date of this Agreement, as it may be earlier terminated or extended in accordance with the terms hereof.

“Mortgage” means the Construction Deed of Trust, Assignment of Rents and Security Agreement and Fixture Filing dated of even date herewith, from Borrower to Administrative Agent, securing repayment of the Indebtedness and Borrower’s performance of its other obligations to Administrative Agent and Lenders under the Loan Documents, as amended, modified, supplemented, restated and replaced from time to time.

“Notes” means the Promissory Notes each dated of even date herewith executed by Borrower and payable to the order of each Lender in the amount of each Lender’s Commitment and collectively in the maximum principal amount of the Loan, substantially in the form of Exhibit “M” as amended, modified, replaced, restated, extended or renewed from time to time.

“Obligations” means all liabilities, obligations, covenants and duties of, any party to a Loan Document arising under or otherwise with respect to any Loan Document, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any party to a Loan Document or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceedings.

“Payment Amount” means an advance of the Loan, an unreimbursed Administrative Agent Advance, an unreimbursed Indemnified Liability, a reimbursement to L/C Issuer for an unreimbursed drawing under a Letter of Credit or any other amount that a Lender is required to fund under this Agreement.

“Permitted Changes” means changes to the Plans or Improvements, including so-called “field changes”, *provided* that the cost of any single change or extra does not exceed FIFTY THOUSAND DOLLARS (\$50,000.00) and the aggregate amount of all such changes and extras (whether positive or negative) does not exceed FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00).

“Plans” means the plans and specifications listed in Exhibit “E” and all modifications thereof and additions thereto that are included as part of the Plans as the same shall be approved by Administrative Agent in the exercise of its sole discretion in accordance with the terms of this Agreement.

“Potential Default” means any condition or event which with the giving of notice or lapse of time or both would, unless cured or waived, become a Default.

“Prime Rate” means, on any day, the rate of interest per annum then most recently established by Administrative Agent as its “prime rate,” it being understood and agreed that such rate is set by Administrative Agent as a general reference rate of interest, taking into account such factors as Administrative Agent may deem appropriate, that it is not necessarily the lowest or best rate actually charged to any customer or a favored rate, that it may not correspond with future increases or decreases in interest rates charged by other lenders or market rates in general, and that Administrative Agent may make various business or other loans at rates of interest having no relationship to such rate. If Administrative Agent (including any subsequent Administrative Agent) ceases to exist or to establish or publish a prime rate from which the Prime Rate is then determined, the applicable variable rate from which the Prime Rate is determined thereafter shall be instead the prime rate reported in The Wall Street Journal (or the average prime rate if a high and a low prime rate are therein reported), and the Prime Rate shall change without notice with each change in such prime rate as of the date such change is reported.

“Principal Debt” means the aggregate unpaid principal balance of this Loan at the time in question.

“Pro Rata Share” means, with respect to each Lender at any time, a fraction expressed as a percentage, the numerator of which is the amount of the Commitment of such Lender at such time and the denominator of which is the amount of the Aggregate Commitments at such time or, if the Aggregate Commitments have been terminated, a

fraction (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the total outstanding amount of all Indebtedness held by such Lender at such time (taking into account funded participations in L/C Obligations) and the denominator of which is the total outstanding amount of all Indebtedness at such time. The initial Pro Rata Share of each Lender named on the signature pages hereto is set forth opposite the name of that Lender on the Schedule of Lenders.

“Project” means the acquisition of the Land, the construction of the Improvements, and if applicable, the leasing and operation of the Improvements.

“Property” means the Land, the Improvements and all other property constituting the “Mortgaged Property,” as described in the Mortgage, or subject to a right, lien or security interest to secure the Loan pursuant to any other Loan Document.

“Required Lenders” means as of any date of determination at least two Lenders having at least 66-2/3% of the Aggregate Commitments or, if the Aggregate Commitments have been terminated, at least two Lenders holding in the aggregate at least 66-2/3% of the total outstanding amount of all Indebtedness (taking into account funded participations in L/C Obligations); *provided* that the Commitment of, and the portion of the total outstanding amount of all Indebtedness (taking into account funded participations in L/C Obligations) held by, any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders.

“Schedule of Lenders” means the schedule of Lenders party to this Agreement as set forth on Exhibit “N”, as it may be modified from time to time in accordance with this Agreement.

“Skechers” means Skechers U.S.A., Inc., a Delaware corporation.

“Stored Materials Advance Limit” means THREE MILLION DOLLARS (\$3,000,000.00).

“Subsidiary” means a corporation, partnership, joint venture, limited liability company or other business entity of which a majority of the shares or securities or other interests having ordinary voting power for the election of directors or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time beneficially owned, or the management of which is otherwise controlled, directly, or indirectly through one or more intermediaries.

“Survey” means a survey prepared in accordance with Exhibit “G” or as otherwise approved by Administrative Agent in its sole discretion.

“Swap Contract” has the meaning set forth in the Mortgage.

“Swap Transaction” has the meaning set forth in the Mortgage.

“Taxes” has the meaning set forth in Section 1.11 of this Agreement.

“TG Development” means TG Development Corp., a Delaware corporation.

“Title Company” means First American Title Insurance Company.

“Title Insurance” means the loan policy or policies of title insurance issued to Administrative Agent for the benefit of Lenders by the Title Company, in an amount equal to the maximum principal amount of the Loan, insuring the validity and priority of the Mortgage encumbering the Land and Improvements for the benefit of Administrative Agent and Lenders.

“Tribunal” means any state, commonwealth, federal, foreign, territorial or other court or governmental department, commission, board, bureau, district, authority, agency, central bank, or instrumentality, or any arbitration authority.

“Up-Front Equity Account” means that certain deposit account number 1499708217 in the name of Borrower established with Administrative Agent and under the control of Administrative Agent into which the Up-Front Equity Cash has been deposited and which will be utilized by Borrower to fund the Total Costs through the advance procedures set forth in Exhibit “F”.

“Up-Front Equity Cash” means collectively, the Initial Up-Front Equity Cash and the Deferred Up-Front Equity Cash.

2. FINANCIAL STATEMENTS:

Borrower shall provide or cause to be provided to Administrative Agent with a copy for each Lender all of the following:

(a) Financial Statements of Borrower (i) for each fiscal year as soon as reasonably practicable and in any event within ninety (90) days after the close of each fiscal year. Financial Statements of Borrower shall be certified by the manager (or managing member as applicable) of the Borrower.

(b) Financial Statements of TG Development certified by the chief financial officer of TG Development (i) for each fiscal year as soon as reasonably practicable and in any event within ninety (90) days after the close of each fiscal year; (ii) for each calendar quarter as soon as reasonably practicable and in any event within forty-five (45) days after the end of each calendar quarter; provided that annual statements of cash flow and amounts and sources of contingent liabilities shall only be provided annually.

(c) Financial Statements of TG Development which are consolidated and consolidating and which include each of the other Guarantors certified by the chief financial officer of TG Development (i) for each fiscal year as soon as reasonably practicable and in any event within ninety (90) days after the close of each fiscal year; and (iv) for each calendar quarter as soon as reasonably practicable and in any event within forty-five (45) days after the end of each calendar quarter; provided that annual statements of cash flow and amounts and sources of contingent liabilities shall only be provided annually.

(d) Prior to commencement of operations of the Improvements, a capital and operating budget for the Property for its first fiscal year (or portion thereof) of operations; and after commencement of operations in the Improvements: (i) prior to the beginning of each fiscal year of Borrower, a capital and operating budget for the Property; and (ii) for each month (and for the fiscal year through the end of that month) (A) a statement of all income and expenses in connection with the Property, and (B) if requested by Administrative Agent, a current leasing status report (including tenants’ names, occupied tenant space, lease terms, rents, vacant space and proposed rents), including in each case a comparison to the budget, as soon as reasonably practicable but in any event within fifteen (15) days after the end of each such month, certified in writing as true and correct by a representative of Borrower satisfactory to Administrative Agent. Items provided under this paragraph shall be in form and detail satisfactory to Administrative Agent.

(e) Copies of filed federal and state income tax returns of Borrower and TG Development for each taxable year, within twenty (20) days after filing but in any event not later than one hundred twenty (120) days after the close of each such taxable year. Notwithstanding the foregoing, in the event Borrower or TG Development timely files for an extension for the filing of a federal or state income tax return and provides Administrative Agent with a copy of the extension filing within five (5) days of filing same, a copy of the return shall be provided to Administrative Agent five (5) days after the filing of such return but in any event not later than the expiration of the applicable extension period.

(f) From time to time promptly after Administrative Agent’s request, such additional information, reports and statements respecting the Property and the Improvements, or the business operations and financial condition of each reporting party, as Administrative Agent may reasonably request.

All Financial Statements shall be in form and detail satisfactory to Administrative Agent and shall contain or be attached to the signed and dated written certification as required above in form specified by Administrative Agent to

certify that the Financial Statements are furnished to Administrative Agent in connection with the extension of credit by Lenders and constitute a true and correct statement of the reporting party's financial position.

EXHIBIT B, PAGE 9

EXHIBIT "C"

CONDITIONS PRECEDENT TO THE INITIAL ADVANCE

As conditions precedent to the Initial Advance, if and to the extent required by Administrative Agent, Administrative Agent shall have received and approved the following:

1. Fees and Expenses. Any and all required commitment and other fees, and evidence satisfactory to Administrative Agent that Borrower has paid all other fees, costs and expenses (including the fees and costs of Administrative Agent's counsel) then required to be paid pursuant to this Agreement and all other Loan Documents, including, without limitation, all fees, costs and expenses that Borrower is required to pay pursuant to any loan application or commitment.

2. Financial Statements. The Financial Statements of Borrower and TG Development or any other party required by any loan application or commitment or otherwise required by Administrative Agent.

3. Appraisal. A market value appraisal of the Property made within one hundred eighty (180) days prior to the date of this Agreement, which appraises the Property on a "completed value" basis at not less than the Appraised Value. The appraiser and appraisal must be satisfactory to Administrative Agent (including satisfaction of applicable regulatory requirements) and the appraiser must be engaged directly by Administrative Agent.

4. Draw Schedule and Budget. Borrower's proposed cash flow, draw schedule, and construction schedule for the Project, and Administrative Agent shall be satisfied, in its sole discretion, that the Improvements may be completed in accordance with the construction schedule and for costs not exceeding those set forth in the Budget.

5. Authorization. Evidence Administrative Agent requires of the existence, good standing, authority and capacity of Borrower, Guarantors, and their respective constituent partners, members, managers and owners (however remote) to execute, deliver and perform their respective obligations to Administrative Agent and Lenders under the Loan Documents, including:

(a) For each partnership (including a joint venture or limited partnership): (i) a true and complete copy of an executed partnership agreement or limited partnership agreement, and all amendments thereto; (ii) for each limited partnership, a copy of the certificate of limited partnership and all amendments thereto accompanied by a certificate issued by the appropriate governmental official of the jurisdiction of formation that the copy is true and complete, and evidence Administrative Agent requires of registration or qualification to do business in the state where Borrower's principal place of business is located and the state where the Project is located, and (iii) a partnership affidavit certifying who will be authorized to execute or attest any of the Loan Documents, and a true and complete copy of the partnership resolutions approving the Loan Documents and authorizing the transactions contemplated in this Agreement and the other Loan Documents.

(b) For each corporation: (i) a true and complete copy of its articles of incorporation and by-laws, and all amendments thereto, a certificate of incumbency of all of its officers who are authorized to execute or attest to any of the Loan Documents, and a true and complete copy of resolutions approving the Loan Documents and authorizing the transactions contemplated in this Agreement and the other Loan Documents; and (ii) certificates of existence, good standing and qualification to do business issued by the appropriate governmental officials in the state of its formation and, if different, the state in which the Project is located.

(c) For each limited liability company or limited liability partnership: (i) a true and complete copy of the articles of organization and operating agreement, and all amendments thereto, a certificate of incumbency of all of its members who are authorized to execute or attest to any of the Loan Documents, and a true and complete copy of resolutions approving the Loan Documents and authorizing the transactions contemplated in this Agreement and the other Loan Documents; and (ii) certificates of existence, good standing and qualification to do business issued by appropriate governmental officials in the state of its formation and, if different, the state in which the Property is located.

(d) For each entity or organization that is not a corporation, partnership, limited partnership, joint venture, limited liability company or limited liability partnership, a copy of each document creating it or governing the existence, operation, power or authority of it or its representatives.

(e) All certificates, resolutions, and consents required by Administrative Agent applicable to the foregoing.

6. Loan Documents. From Borrower, Guarantors and each other person required by Administrative Agent, duly executed, acknowledged and/or sworn to as required, and delivered to Administrative Agent (with a copy for each Lender) all Loan Documents then required by Administrative Agent, dated the date of this Agreement, each in form and content satisfactory to Administrative Agent, and evidence Administrative Agent requires that the Mortgage has been recorded in the official records of the city or county in which the Property is located and UCC-1 financing statements have been filed in all filing offices that Administrative Agent may require.

7. Opinions. The written opinion of counsel satisfactory to Administrative Agent for the Borrower, Guarantors, and any other persons or entities addressed to Administrative Agent for the benefit of Lenders, dated the date of this Agreement.

8. Survey; No Special Flood Hazard. (a) two (2) prints of an original survey (with a copy for each Lender) of the Land and improvements thereon dated not more than sixty (60) days prior to the date of this Agreement (or dated such earlier date, if any, as is satisfactory to the Title Company, but in any event not more than one hundred eighty (180) days prior to the date of this Agreement) satisfactory to Administrative Agent and the Title Company and otherwise, to the extent required by Administrative Agent, complying with Exhibit "G", and (b) a flood insurance policy (with a copy for each Lender) in an amount equal to the lesser of the maximum Loan amount or the maximum amount of flood insurance available under the Flood Disaster Protection Act of 1973, as amended, and otherwise in compliance with the requirements of the Loan Documents, or evidence satisfactory to Administrative Agent that none of the Land is located in a flood hazard area.

9. Title Insurance. An ALTA title insurance policy (or a title insurance commitment marked through the Loan closing date with all Schedule B-1 requirements and standard exceptions deleted), issued by the Title Company (which shall be approved by the Administrative Agent) in the maximum amount of the Loan plus any other amount secured by the Mortgage, insuring that the Mortgage constitutes a valid lien covering the Land and all Improvements thereon, having the priority required by Administrative Agent and subject only to those exceptions and encumbrances (regardless of rank or priority) Administrative Agent approves, in a form acceptable to Administrative Agent, and with all "standard" exceptions which can be deleted, including the exception for matters which a current survey would show, deleted to the fullest extent authorized under applicable title insurance rules, and Borrower shall satisfy all requirements therefor permitted; containing no exception for standby fees or real estate taxes or assessments other than those for the year in which the closing occurs to the extent the same are not then due and payable and endorsed "not yet due and payable" and no exception for subsequent assessments for prior years (other than any lien of supplemental taxes assessed pursuant to California Revenue and Taxation Code Section 75, et sq.); providing full coverage against mechanics' and materialmen's liens to the extent authorized under applicable title insurance rules, and Borrower shall satisfy all requirements therefor; insuring that no restrictive covenants shown in the Title Insurance have been violated, and that no violation of the restrictions will result in a reversion or forfeiture of title; insuring all appurtenant easements; insuring that fee simple indefeasible or marketable (as coverage is available) fee simple title to the Land and Improvements is vested in Borrower; containing such affirmative coverage and endorsements as Administrative Agent may require and are available under applicable title insurance rules, and Borrower shall satisfy all requirements therefor; insuring any easements, leasehold estates or other matters appurtenant to or benefiting the Land and/or the Improvements as part of the insured estate; insuring the right of access to the Land to the extent authorized under applicable title insurance rules, and Borrower shall satisfy all requirements therefor; and containing provisions acceptable to Administrative Agent regarding advances and/or readvances of Loan funds after closing. Borrower and Borrower's counsel shall not have any interest, direct or indirect, in the Title Company (or its agent) or any portion of the premium paid for the Title Insurance.

10. Plans. Two (2) true and correct copies of all existing Plans (including the site plan), together with evidence satisfactory to Administrative Agent that all applicable governmental authorities, Borrower, Borrower's architect, engineer, and contractors and Construction Consultant have approved the same.

11. Contracts. If requested by Administrative Agent (a) a list containing the names and addresses of all existing material contractors, architects, engineers, and other suppliers of services and materials for the Project under any Material Contract, their respective contract amounts, and a copy of their contracts; and (b) duly executed, acknowledged and delivered originals from each contractor, architect, engineer, subcontractor, or supplier of services or materials as may be required by Administrative Agent under any Material Contract, of (i) consents or other agreements satisfactory to Administrative Agent and (ii) agreements satisfactory to Administrative Agent subordinating all rights, liens, claims and charges they may have or acquire against Borrower or the Property to the rights, liens and security interests of Lenders.

12. Insurance Policies. The insurance policies initially required by Administrative Agent, pursuant to the Loan Documents, together with evidence satisfactory to Administrative Agent that all premiums therefor have been paid for a period of not less than one (1) year from the date of this Agreement and that the policies are in full force and effect.

13. Leases. If Exhibit "I" is attached hereto, (i) true and correct copies of all leases and subleases, and guarantees thereof; (ii) estoppel certificates and subordination non-disturbance and attornment agreements, dated within thirty (30) days prior to this Agreement in form and content satisfactory to Administrative Agent, from the tenants and subtenants as Administrative Agent requires; (iii) evidence satisfactory to Administrative Agent of Borrower's compliance with the leases; and (iv) evidence satisfactory to Administrative Agent of the tenants' approval of all matters requiring their approval.

14. Environmental Compliance/Report. Evidence satisfactory to Administrative Agent that no portion of the Land is "wetlands" under any applicable Law and that the Land does not contain and is not within or near any area designated as a hazardous waste site by any Tribunal, that neither the Property nor any adjoining property contains or has ever contained any substance classified as hazardous or toxic (or otherwise regulated, such as, without limitation, asbestos, radon and/or petroleum products) under any Law or governmental requirement pertaining to health or the environment, and that neither the Property nor any use or activity thereon violates or is or could be subject to any response, remediation, clean-up or other obligation under any Law or governmental requirement pertaining to health or the environment including without limitation, a written report of an environmental assessment of the Property, made within twelve (12) months prior to the date of this Agreement, by an engineering firm, and of a scope and in form and content satisfactory to Administrative Agent, complying with Administrative Agent's established guidelines, showing that there is no evidence of any such substance which has been generated, treated, stored, released or disposed of in the Property, and such additional evidence as may be required by Administrative Agent. All reports, drafts of reports, and recommendations, whether written or oral, from such engineering firm shall be made available and communicated to Administrative Agent.

15. Soil Reports. A soil composition and test boring report and a foundation report satisfactory to Administrative Agent regarding the Land, made within three (3) years prior to the date of this Agreement, by a licensed professional engineer satisfactory to Lenders.

16. Access, Utilities, and Laws. (a) evidence satisfactory to Administrative Agent that the Property abuts and has fully adequate direct and free access to one or more public streets, dedicated to public use, fully installed and accepted by the appropriate Tribunal, that all fees, costs and expenses of the installation and acceptance thereof have been paid in full, and that there are no restrictions on the use and enjoyment of such streets which would adversely affect the Project; (b) letters from the applicable utility companies or governmental authorities confirming that all utilities necessary for the Improvements are available at the Land in sufficient capacity, together with evidence satisfactory to Administrative Agent of paid impact fees, utility reservation deposits, and connection fees required to assure the availability of such services; (c) evidence satisfactory to Administrative Agent that all applicable zoning ordinances, restrictive covenants and governmental requirements affecting the Property permit the use for which the Property is intended and have been or will be complied with without the existence of any variance, non-complying use, nonconforming use or other special exception; (d) evidence satisfactory to Administrative Agent that the Land and Improvements comply and will comply with all Laws and governmental requirements regarding subdivision and platting and would so comply if the Land and the Improvements thereon were conveyed as a separate parcel; (e) evidence satisfactory to Administrative Agent of compliance by Borrower and the Property, and the proposed construction, use and occupancy of the Improvements, with such other applicable Laws and governmental requirements

as Administrative Agent may request, including all Laws and governmental requirements regarding access and facilities for handicapped or disabled persons including, without limitation and to the extent applicable; any other applicable state of California requirements; The Federal Architectural Barriers Act (42 U.S.C. § 4151 et seq.); The Fair Housing Amendments Act of 1988 (42 U.S.C. § 3601 et seq.); The Americans With Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.); The Rehabilitation Act of 1973 (29 U.S.C. § 794) and any other state or local requirements; and (f) written evidence satisfactory to Administrative Agent that construction of the Improvements on the Land is permissible under all federal, state and local statutes, regulations and rulings protecting tidal and non-tidal wetlands and other environmentally protected areas.

17. Priority. (a) evidence satisfactory to Administrative Agent that prior to and as of the time the Mortgage was filed for record (i) no activity or circumstance was visible on or near the Land which would constitute inception of a mechanic's or materialman's lien against the Property; (ii) no contract, or memorandum thereof, for construction, design, surveying, or any other service relating to the Project has been filed for record in the county where the Property is located; and (iii) no mechanic's or materialman's lien claim or notice, lis pendens, judgment, or other claim or encumbrance against the Property has been filed for record in the county where the Property is located or in any other public record which by Law provides notice of claims or encumbrances regarding the Property; (b) a certificate or certificates of a reporting service acceptable to Administrative Agent, reflecting the results of searches made not earlier than ten (10) days prior to the date of this Agreement, (i) of the central and local Uniform Commercial Code records, showing no filings against any of the collateral for the Loan or against Borrower otherwise except as consented to by Administrative Agent; and (ii) if required by Administrative Agent, of the appropriate judgment and tax lien records, showing no outstanding judgment or tax lien against Borrower or any Guarantor.

18. Bonds. (a) a performance bond for the general contractor in amount, form and content satisfactory to Administrative Agent and (b) a payment bond for the general contractor, in form and content satisfactory to Administrative Agent, and if required by Administrative Agent duly recorded before any construction is commenced. Each bond shall be issued by a corporate surety acceptable to Administrative Agent and authorized and admitted to do business and to execute bonds in the state where the Project is located and contain a dual obligee rider with power of attorney in favor of Administrative Agent in form and content satisfactory to Administrative Agent.

19. Taxes and Impact Fees. Evidence satisfactory to Administrative Agent (a) of the identity of all taxing authorities and utility districts (or similar authorities) having jurisdiction over the Property or any portion thereof; (b) that to the extent they have been assessed, all taxes, impact fees, water and sewer connection charges and any other similar charges have been paid, including copies of receipts or statements marked "paid" by the appropriate authority; and (c) that the Land is a separate tax lot or lots with separate assessment or assessments of the Land and Improvements, independent of any other land or improvements and that the Land is a separate legally subdivided parcel.

20. Intentionally Omitted.

21. Other Documents. Such other documents and certificates as Administrative Agent may reasonably request from Borrower, any Guarantor, and any other person or entity, in form and content satisfactory to Administrative Agent.

22. Intentionally Omitted.

23. Intentionally Omitted.

24. Up-Front Equity. Evidence satisfactory to Administrative Agent that all components of the Up-Front Equity has been fully paid and funded except for the Deferred Up-Front Equity Cash (it being acknowledged and agreed to that prior to first Advance of Loan Proceeds, the Deferred Up-Front Equity Cash shall be deposited by Borrower into the Up-Front Equity Account).

25. Borrower Identification Due Diligence. Administrative Agent and each Lender shall have received all due diligence materials they deem necessary with respect to verifying the Borrower's identity and background information in a manner satisfactory to each of them.

EXHIBIT "D"

BUDGET

EXHIBIT D, PAGE 1

<i>LOAN PROCEEDS</i>	46.1%	30.21	0	55,000,000.00
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* Confidential Portions Omitted and Filed Separately with the Commission.

EXHIBIT "E"

PLANS

EXHIBIT E, PAGE 1

EXHIBIT "E"
DRAWING LOG

SKECHERS DISTRIBUTION CENTER

29800 Eucalyptus Avenue, Rancho Belago, California 92555

ARCHITECTURAL			
A0.1	Highland Fairview Corporate Park Title Sheet — ASI #2	11/11/2008	Delta 2
A0.2	Highland Fairview Corporate Park General Sheet	5/21/2008	
A0.3.1	Disability Access Notes	5/21/2008	
A0.3.2	Disability Access Notes	5/21/2008	
A0.3.3	Disability Access Notes	5/21/2008	
A1.1	Overall Site Plan	5/21/2008	
A1.2	Enlarged Site Plan	5/21/2008	
A1.3	Enlarged Site Plan	5/21/2008	
A1.4	Enlarged Site Plan	12/4/2008	Delta 4
A1.5	Enlarged Site Plan	12/4/2008	Delta 5
A1.6	Enlarged Site Plan	12/4/2008	Delta 6
A1.7	Pump House Plans	5/21/2008	
A1.8	Enlarged Site Plan	12/4/2008	Delta 4
A2.1	Overall Floor Plan	5/21/2008	
A2.2	Enlarged Floor Plan — ASI #4	1/28/2009	Delta 6
A2.3	Enlarged Mezzanine Plan — ASI #2	11/11/2008	Delta 2
A2.4	Enlarged Floor Plan	5/21/2008	
A2.5	Enlarged Floor Plan	5/21/2008	
A2.6	Enlarged Floor Plan	5/21/2008	
A2.7	Enlarged Floor Plan — ASI #2	11/11/2008	Delta 3
A2.8	Enlarged Restroom Plan	5/21/2008	
A2.9	Enlarged Restroom Plan — ASI #4	1/28/2009	Delta 6
A2.10	Enlarged Stair Plan	5/21/2008	
A2.11	Reflected Ceiling Plan — ASI #4	1/28/2009	Delta 6
A2.12	Reflected Ceiling Plan — ASI #2	11/11/2008	Delta 2
A2.13	Reflected Ceiling Plan — ASI #4	1/28/2009	Delta 6
A2.14	Floor Plan — ASI #2	11/11/2008	Delta 2
A2.15	Enlarged Floor Plan	5/21/2008	
A2.16	Enlarged Roof Plan	5/21/2008	
A3.1	Elevations	5/21/2008	
A3.2	Elevations	5/21/2008	
A3.3	Elevations	5/21/2008	
A3.4	Elevations	5/21/2008	
A3.5	Elevations — ASI #2	11/11/2008	Delta 2
A4.1	Wall Section	5/21/2008	
A4.2	Wall Section — ASI #2	11/11/2008	Delta 2
A4.3	Wall Section	5/21/2008	
A4.4	Wall Section	5/21/2008	
A4.5	Wall Section	5/21/2008	

ARCHITECTURAL CONTINUATION

A4.6	Wall Section	5/21/2008	
A4.7	Wall Section	5/21/2008	
A5.1	Room Finish Schedule — ASI #2	11/11/2008	Delta 3
A5.1A	Door Hardware Schedule	5/21/2008	
A5.2	Door Schedule	11/11/2008	Delta 2
A5.3	Room Finish Legend — ASI #2	11/11/2008	Delta 2
A5.4	First Floor Office Finish Plan — ASI #2	11/11/2008	Delta 2
A5.5	Mezzanine Finish Plan — ASI #2	11/11/2008	Delta 2
A5.6	Finish Plan @ Warehouse	5/21/2008	
A6.1	Interior Elevations — ASI #2	11/11/2008	Delta 2
A6.2	Interior Elevations — ASI #3	11/11/2008	Delta 3
A6.3	Interior Elevations — ASI #4	11/11/2008	Delta 4
A6.4	Interior Elevations	5/21/2008	
A6.5	Interior Elevations	5/21/2008	
A6.6	Interior Elevations — ASI #2	11/11/2008	Delta 2
A6.7	Not Used		
A6.8	Interior Elevations	5/21/2008	
A6.9	Interior Elevations	5/21/2008	
A6.10	Interior Elevations	5/21/2008	
AD.1	Details	5/21/2008	
AD.1A	Site Details for ADA Access	12/4/2009	Delta 4
AD.2	Details	5/21/2008	
AD.3	Details — ASI #1	9/15/2008	Delta 1
AD.3A	Details — ASI #3	12/30/2008	Delta 5
AD.4	Details	5/21/2008	
AD.5	Details	5/21/2008	
AD.6	Details	5/21/2008	
AD.7	Details	5/21/2008	
AD.8	Details	5/21/2008	
AD.9	Details	5/21/2008	
AD.10	Details — ASI #2	11/11/2008	Delta 2
AD.11	Details — ASI #2	11/11/2008	Delta 2

EGRESS PLAN

T01	Title Layout Egress Plan West Section	12/10/2008	Rev. 05
T02	Title Layout Egress Plan Center Section Mezzanine Level	12/10/2008	Rev. 05
T03	Title Layout Egress Plan Center Section Floor Level	12/10/2008	Rev. 05
T04	Title Layout Egress Plan East Section	12/10/2008	Rev. 05
	Floor Level Restrooms / Mezzanine Level Restrooms	12/10/2008	

STRUCTURAL

S1	Foundation Plan — ASI #4	1/28/2009	(Delta 6)
S2	Foundation Plan — ASI #4	1/28/2009	(Delta 6)
S3	Foundation Plan — ASI #4	1/28/2009	(Delta 6)
S4	Partial Enlarged Foundation Plan — ASI #4	1/28/2009	(Delta 6)
S5	Partial Enlarged Foundation Plan	7/25/2008	
S6	Partial Enlarged Foundation Plan	7/25/2008	

STRUCTURAL CONTINUATION

S7	Partial Enlarged Foundation Plan — ASI #2	11/11/2008	Delta 2
S8	Mezzanine Floor Framing Plan — ASI #2	11/11/2008	Delta 3
S9	Partial Roof Framing Plan — ASI #4	1/28/2009	Delta 6
S10	Partial Roof Framing Plan — ASI #4	1/28/2009	Delta 6
S11	Partial Roof Framing Plan — ASI #4	1/28/2009	Delta 6
S12	Roof Information	7/25/2008	
S13	Partial Enlarged Roof Framing Plan — ASI #4	1/28/2009	Delta 6
S14	Partial Enlarged Roof Framing Plan — ASI #1	9/15/2008	Delta 1
S15	Partial Enlarged Roof Framing Plan — ASI #4	1/28/2009	Delta 6
S15A	Curtain Wall Framing Plan	7/25/2008	
S16	Partial Enlarged Roof Framing Plan — ASI #2	11/11/2008	Delta 2
S17	Panel Elevation — ASI #1	9/15/2008	Delta 1
S18	Panel Elevation — ASI #1	9/16/2008	Delta 1
S19	Panel Elevation — ASI #1	9/17/2008	Delta 1
S20	Panel Elevation — ASI #2	11/11/2008	Delta 3
S21	Panel Elevation — ASI #1	9/15/2008	Delta 1
S22	Panel Elevation — ASI #1	9/15/2008	Delta 1
S23	Panel Elevation — ASI #1	9/15/2008	Delta 1
S24	Panel Elevation — ASI #1	9/15/2008	Delta 1
S25	Panel Elevation — ASI #1	9/15/2008	Delta 1
S26	Panel Elevation — ASI #1	9/15/2008	Delta 1
S27	Panel Elevation — ASI #2	11/11/2008	Delta 2
S28	Panel Elevation — ASI #2	11/11/2008	Delta 2
S29	Panel Elevation — ASI #1	9/15/2008	Delta 1
S30	Panel Elevation — ASI #1	9/15/2008	Delta 1
S31	Panel Elevation — ASI #1	9/15/2008	Delta 1
S32	Panel Elevation — ASI #1	9/15/2008	Delta 1
S33	Panel Elevation — ASI #1	9/15/2008	Delta 1
S34	Panel Elevation — ASI #1	9/15/2008	Delta 1
S35	Panel Elevation — ASI #1	9/15/2008	Delta 1
S36	Panel Elevation — ASI #1	9/15/2008	Delta 1
S37	Panel Elevation — ASI #1	9/15/2008	Delta 1
S38	Panel Elevation — ASI #1	9/15/2008	Delta 1
S39	Panel Elevation	7/25/2008	
S40	Panel Elevation — ASI #2	11/11/2008	Delta 2
S41	Panel Elevation — ASI #2	11/11/2008	Delta 2
SD1	General Notes	7/25/2008	
SD1A	Special Inspections	7/25/2008	
SD2	Construction Details — ASI #2	11/11/2008	Delta 2
SD3	Construction Details	7/25/2008	
SD4	Construction Details	7/25/2008	
SD5	Construction Details — ASI #1	9/15/2008	Delta 1
SD6	Construction Details	7/25/2008	
SD7	Construction Details — ASI #2	11/11/2008	Detail 2
SD8	Construction Details — ASI #4	1/28/2009	Detail 6

STRUCTURAL CONTINUATION			
SD9	Construction Details	7/25/2008	
SD10	Construction Details — ASI #1	9/15/2008	Delta 1
SD11	Construction Details — ASI #1	9/15/2008	Delta 1
SD12	Construction Details — ASI #2	11/11/2008	Detail 2
SD13	Construction Details — ASI #2	11/11/2008	Detail 2
SD14	Construction Details — ASI #2	11/11/2008	Detail 2
SD15	Construction Details — ASI #1	9/15/2008	Delta 1
SD16	Construction Details — ASI #1	9/15/2008	Delta 1
SD17	Construction Details — ASI #2	11/11/2008	Detail 2
SD18	Construction Details — ASI #2	11/11/2008	Detail 2
SD19	Construction Details	7/25/2008	
SD20	Construction Details — ASI #1	9/15/2008	Delta 1
SD21	Construction Details	7/25/2008	
SD22	Construction Details — ASI #1	9/15/2008	Delta 1
SD23	Construction Details — ASI #2	11/11/2008	Delta 2
SD24	Construction Details — ASI #3	12/30/2008	Delta 5
SPH1	Construction Details	7/25/2008	
SPH2	Construction Details	7/25/2008	
SPH3	General Notes	7/25/2008	
MECHANICAL			
M-0.0	Title Sheet	11/14/2008	
M-0.1	Title 24	11/14/2008	
M-1	Schedules & Notes	11/14/2008	Delta 2
M-1.1	Schedules — ASI #4	1/21/2009	Delta 6
M-2	Partial Roof Plan	11/14/2008	Delta 2
M-3	Partial Roof Plan	11/14/2008	Delta 2
M-4	Partial Floor Plan — ASI #4	1/21/2009	Delta 6
M-5	Mezzanine Floor Plan — ASI #2	11/13/2008	Delta 3
M-6	Partial Floor Plan — ASI #4	1/21/2009	Delta 6
M-7	Partial Roof Plan	11/14/2008	Delta 2
M-8	Partial Roof Plan — ASI #4	1/21/2009	Delta 6
M-9	Details	11/14/2008	Delta 2
M-10	Controls — ASI #4	1/21/2009	Delta 6
PLUMBING			
P-1	Specifications & Calculations — ASI #4	1/28/2009	Delta 6
P-2	Overall Site Plan ASI #4	1/28/2009	Delta 6
P-2.1	Partial Site Plan — ASI #4	1/28/2009	Delta 6
P-2.2	Partial Site Plan — ASI #4	1/28/2009	Delta 6
P-3	Partial Floor, Roof Plan — ASI #4	1/28/2009	Delta 6
P-4	Partial Floor, Roof Plan — ASI #4	1/28/2009	Delta 6
P-5	Partial Floor, Roof Plan	11/14/2008	Delta 2
P-6	Restroom Details ASI #4	1/28/2009	Delta 6
P-7	Restroom Details	11/11/2008	Delta 2
P-8	Restroom Details	11/11/2008	Delta 2
P-9	Restroom Details	11/11/2008	Delta 2

PLUMBING CONTINUATION

P-10	Restroom Details	11/11/2008	Delta 2
P-11	Restroom Details	11/11/2008	Delta 2
P-12	Restroom Details	11/11/2008	Delta 2
P-13	Restroom Details	11/11/2008	Delta 2
P-14	Restroom Details	11/11/2008	Delta 2
P-15	Waste & Vent Isometrics	11/11/2008	Delta 2
P-16	Hot & Cold Water Isometrics	11/11/2008	Delta 2
P-17	Plumbing Details — ASI #4	1/28/2009	Delta 6

ELECTRICAL

EO.1	Specifications, Symbols & Abbreviations	11/14/2008	
EO.2	Outdoor Title 24 — ASI #4	1/28/2009	Delta 6
EO.3	Indoor Title 24 — ASI #4	1/28/2009	Delta 6
E1.1A	Partial Site Electrical Plan — ASI #4	1/28/2009	Delta 6
E1.1B	Partial Site Electrical Plan — ASI #4	1/28/2009	Delta 6
E1.2A	Partial Site Lighting Plan	11/14/2008	
E1.2B	Partial Site Lighting Plan	11/14/2008	
E1.2C	Partial Site Photometric Plan	11/14/2008	
E1.2D	Partial Site Photometric Plan	11/14/2008	
E2.1	Single Line Diagram — ASI #2	11/11/2008	Delta 2
E2.2	Single Line Diagram — ASI #4	1/28/2009	Delta 6
E2.3	Single Line Diagram — ASI #4	1/28/2009	Delta 6
E2.4	Single Line Diagram — ASI #2	11/11/2008	Delta 2
E2.5	Single Line Diagram — ASI #4	1/28/2009	Delta 6
E2.6	Single Line Diagram — ASI #2	11/11/2008	Delta 2
E2.7	Single Line Diagram — ASI #4	1/28/2009	Delta 6
E3.1	Warehouse Electrical Plan — ASI #4	1/28/2009	Delta 6
E3.2	Warehouse Underground Conduit Plan	11/14/2008	
E3.3	Partial Warehouse Lighting Plan — ASI #2	11/11/2008	Delta 2
E3.4	Partial Warehouse Lighting Plan — ASI #2	11/11/2008	Delta 2
E3.5	Partial Warehouse Lighting Plan — ASI #2	11/11/2008	Delta 2
E3.6	Partial Warehouse Lighting Plan — ASI #2	11/11/2008	Delta 2
E3.7	Partial Warehouse Lighting Plan — ASI #2	11/11/2008	Delta 2
E3.8	Partial Warehouse Lighting Plan — ASI #2	11/11/2008	Delta 2
E4	Warehouse Electrical Roof Plan	11/14/2008	
E5.1	Enlarged Main Office Ground Floor Lighting Plan — ASI #4	1/28/2009	Delta 6
E5.2	Enlarged Main Office Second Floor Lighting Plan — ASI #2	11/11/2008	Delta 2
E5.3	Enlarged Warehouse Office Lighting Plan — ASI #4	1/28/2009	Delta 6
E6.1	Enlarged Main Office Ground Floor Plan — ASI #2	11/11/2008	Delta 2
E6.2	Enlarged Main Office Second Floor Plan — ASI #2	11/11/2008	Delta 2
E6.3	Enlarged Main Office Roof Plan — ASI #2	11/11/2008	Delta 2
E6.4	Enlarged Warehouse Office Power Plan — ASI #4	1/28/2009	Delta 6
E6.5	Enlarged Dock Door Power Plans — ASI #2	11/11/2008	Delta 2
E7	Details — ASI #2	11/11/2008	Delta 2
E8.1	Wiring Diagram — ASI #2	11/11/2008	Delta 2
E8.2	Wiring Diagram & Fixture Schedule — ASI #2	11/11/2008	Delta 2

ELECTRICAL CONTINUED

E8.3	Wiring Diagrams — ASI #2	11/11/2008	Delta 2
E8.4	Wiring Diagrams — ASI #2	11/11/2008	Delta 2
E9	Schedules — ASI #4	1/28/2009	Delta 6
E10	Schedules — ASI #4	1/28/2009	Delta 6
E11	Schedules — ASI #4	1/28/2009	Delta 6
E12	Schedules — ASI #4	1/28/2009	Delta 6
E13	Schedules — ASI #4	1/28/2009	Delta 6
E14	Schedules — ASI #4	1/28/2009	Delta 6
EFP1	Fire Pump House Plan	11/14/2008	

FIRE PROTECTION PARCEL 1 / SKECHERS

HFCP	Cover Page		
FP 1	Underground Fire Master Plan	7/29/2008	
FP 2	Enlarged Underground Fire Piping Part I	7/29/2008	
FP 3	Enlarged Underground Fire Piping Part II	7/29/2008	
FP 4	Underground Fire Notes / Details	7/29/2008	
FP 5	Diesel Fire Pump Plans & Details	7/29/2008	
FP 6	Overhead Master Plan Area "A" (reference only)	7/29/2008	
FP 7	Overhead Master Plan Area "B" (reference only)	7/29/2008	
FP 8	Overhead Master Plan Area "C" (reference only)	7/29/2008	
FP 9	System 1 — 4 Overhead Piping Plan	2/12/2009	
FP 10	System 5 — 9 Overhead Piping Plan	2/12/2009	
FP 11	System 10 — 14 Overhead Piping Plan	2/12/2009	
FP 12	System 15 — 19 Overhead Piping Plan	2/12/2009	
FP 13	System 20 — 24 Overhead Piping Plan	2/12/2009	
FP 14	System 25 — 29 Overhead Piping Plan	2/12/2009	
FP 15	System 30 — 34 Overhead Piping Plan	2/12/2009	
FP 16	System 35 — 39 Overhead Piping Plan	2/12/2009	
FP 17	System 40 — 44 Overhead Piping Plan	2/12/2009	
FP 18	System 45 — 48 Overhead Piping Plan	2/12/2009	
FP 19	Building Section & Maximum Storage Heights	2/12/2009	
FP 20	Overhead Sprinkler Layout Notes	2/12/2009	
FP 21	1st Floor Room Coverage Plan	2/12/2009	
FP 22	Mezzanine Piping Plan & Details	2/12/2009	
FP 23	2 Second Floor Room Coverage Plan	2/12/2009	
FP 24	2 Second Floor Piping Enlarged	2/12/2009	
FP 25	Warehouse Office Room Coverage Plans & Piping Enlargements	2/12/2009	

SR 60 CONSTRUCTION STAGING PLAN

SC 1	Stage Construction	4/9/2010	
TH 01	Traffic Handling / Construction area Sign Plan	4/9/2010	
TH 02	Traffic Handling / Construction area Sign Plan	4/9/2010	
TH 03	Traffic Handling / Construction area Sign Plan	4/9/2010	

REDLANDS BLVD. TRAFFIC CONTROL PLAN

TCP 1	Traffic Control Plan — Title Sheet	2/18/2009
TCP 2	Traffic Control Plan — Phase I & II	2/18/2009
TCP 3	Traffic Control Plan — Phase I	2/18/2009
TCP 4	Traffic Control Plan — Phase II	2/18/2009
TCP 5	Traffic Control Plan — Phase I	2/18/2009
TCP 6	Traffic Control Plan — Phase II	2/18/2009

ROUGH GRADING

RGP 1	Rough Grading Plan — Title Sheet	4/9/2010
RGP 2	Rough Grading Plan — Detail Sheet	4/9/2010
RGP 3	Rough Grading Plan — Detail Sheet	4/9/2010
RGP 4	Rough Grading Plan — Detail Sheet	4/9/2010
RGP 5	Rough Grading Plan — Storm Drain Profiles	4/9/2010
RGP 6	Rough Grading Plan	4/9/2010
RGP 7	Rough Grading Plan	4/9/2010
RGP 8	Rough Grading Plan	4/9/2010
RGP 9	Rough Grading Plan	4/9/2010
RGP 10	Rough Grading Plan	4/9/2010
RGP 11	Rough Grading Plan	4/9/2010
RGP 12	Rough Grading Plan	4/9/2010
RGP 13	Rough Grading Plan	4/9/2010
RGP 14	Rough Grading Plan	4/9/2010
RGP 15	Rough Grading Plan — Erosion Control	4/9/2010
RGP 16	Rough Grading Plan — Erosion Control	4/9/2010
RGP 17	Rough Grading Plan — Noise Reduction Compliance Plan	4/9/2010
RGP 18	Rough Grading Plan — Conditions of Approval	4/9/2010
RGP 19	Rough Grading Plan — Conditions of Approval	4/9/2010

PRECISE GRADING

PG 1	Precise Grading — Title Sheet	4/12/2010
PG 2	Precise Grading — Detail Sheet	4/12/2010
PG 3	Precise Grading — Detail Sheet	4/12/2010
PG 4	Precise Grading Plan	4/12/2010
PG 5	Precise Grading Plan	4/12/2010
PG 6	Precise Grading Plan	4/12/2010
PG 7	Precise Grading Plan	4/12/2010
PG 8	Precise Grading Plan	4/12/2010
PG 9	Precise Grading Plan	4/12/2010
PG 10	Precise Grading Plan	4/12/2010
PG 11	Precise Grading Plan	4/12/2010
PG 12	Precise Grading Plan	4/12/2010
PG 13	Precise Grading Plan	4/12/2010
PG 14	Precise Grading Plan	4/12/2010
PG 15	Precise Grading Plan	4/12/2010
PG 16	Precise Grading Plan	4/12/2010
PG 17	Erosion Control Plan	4/12/2010
PG 18	Erosion Control Plan	4/12/2010

PRECISE GRADING CONTINUED

PG 19	Erosion Control Plan	4/12/2010
PG 20	Erosion Control Plan	4/12/2010
PG 21	Erosion Control Plan	4/12/2010
PG 22	Erosion Control Plan	4/12/2010
PG 23	Conditions of Approval	4/12/2010
PG 24	Conditions of Approval	4/12/2010

ENCROACHMENT PERMIT PLAN ROUGH GRADING

EPP 1	Encroachment Permit Plan — Title Sheet	4/9/2010
EPP 2	Encroachment Permit Plan — Rough Grading Sheet	4/9/2010
EPP 3	Encroachment Permit Plan — Rough Grading Sheet	4/9/2010
EPP 4	Encroachment Permit Plan — Rough Grading Sheet	4/9/2010
EPP 5	Encroachment Permit Plan — Rough Grading Sheet	4/9/2010

ROUGH GRADING — REDLANDS SEWER

RGP 1	Rough grading Plan — Redlands Sewer — Title Sheet	4/9/2010
RGP 2	Rough grading Plan — Redlands Sewer — Drainage	4/9/2010
RGP 3	Rough grading Plan — Redlands Sewer — Drainage	4/9/2010
RGP 4	Rough grading Plan — Redlands Sewer — Drainage	4/9/2010
RGP 5	Rough grading Plan — Redlands Sewer — Erosion Control	4/9/2010
RGP 6	Rough grading Plan — Redlands Sewer — Conditions of Aproval	4/9/2010
RGP 7	Rough grading Plan — Redlands Sewer — Conditions of Aproval	4/9/2010
RGP 8	Rough grading Plan — Redlands Sewer — Conditions of Aproval	4/9/2010
RGP 9	Rough grading Plan — Redlands Sewer — Conditions of Aproval	4/9/2010
RGP 10	Rough grading Plan — Redlands Sewer — Conditions of Aproval	4/9/2010
RGP 11	Rough grading Plan — Redlands Sewer — Conditions of Aproval	4/9/2010
RGP 12	Rough grading Plan — Redlands Sewer — Conditions of Aproval	4/9/2010
RGP 13	Rough grading Plan — Redlands Sewer — Conditions of Aproval	4/9/2010

CALTRANS EROSION CONTROL PLAN

EC 5	EROSION CONTROL WPCD	2/18/2009
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TEMPORARY STORM DRAIN SYSTEM PHASE 1

TDD 1	Phase 1 Temporary Drainage Ditch	2/18/2009
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GRADING CROSS SECTIONS

GCS 1	Grading Cross Sections	2/18/2009
GCS 2	Grading Cross Sections	2/18/2009

SITE FIRE ACCESS PLAN

FPS 1	Site Fire Access Plan (During Construction)	7/29/2008
FPS 2	Site Fire Access Plan (Job Completion)	7/29/2008

PARCEL 1 WALL & FENCE — TILT-UP WALL

LCS-0	HFCP — Parcel 1 — Wall & Fence — Cover Sheet	3/30/2010
LR-01	HFCP — Parcel 1 — Wall & Fence — Reference Plan	3/30/2010
LW-01	HFCP — Parcel 1 — Wall & Fence — Plan	3/30/2010
LW-02	HFCP — Parcel 1 — Wall & Fence — Plan	3/30/2010
LW-03	HFCP — Parcel 1 — Wall & Fence — Plan	3/30/2010
LW-04	HFCP — Parcel 1 — Wall & Fence — Plan	3/30/2010
LW-05	HFCP — Parcel 1 — Wall & Fence — Plan	3/30/2010
LW-06	HFCP — Parcel 1 — Wall & Fence — Plan	3/30/2010
LW-07	HFCP — Parcel 1 — Wall & Fence — Plan	3/30/2010

PARCEL 1 WALL & FENCE — TILT-UP WALL CONTINUED

LW-08	HFCP — Parcel 1 — Wall & Fence — Plan	3/30/2010
LW-09	HFCP — Parcel 1 — Wall & Fence — Plan	3/30/2010
LW-10	HFCP — Parcel 1 — Wall & Fence — Plan	3/30/2010
LW-11	HFCP — Parcel 1 — Wall & Fence — Plan	3/30/2010
LW-12	HFCP — Parcel 1 — Wall & Fence — Plan	3/30/2010
LWD-01	HFCP — Parcel 1 — Wall & Fence — Construction Notes	3/30/2010
LWD-02	HFCP — Parcel 1 — Wall & Fence — Tilt-Up Wall Elevations	3/30/2010
LWD-03	HFCP — Parcel 1 — Wall & Fence — Tilt-Up Wall Elevations	3/30/2010
LWD-04	HFCP — Parcel 1 — Wall & Fence — Tilt-Up Wall Elevations	3/30/2010
LWD-05	HFCP — Parcel 1 — Wall & Fence — Tilt-Up Wall Elevations	3/30/2010
LWD-06	HFCP — Parcel 1 — Wall & Fence — Tilt-Up Wall Elevations	3/30/2010
LWD-07	HFCP — Parcel 1 — Wall & Fence — Tilt-Up Wall Elevations	3/30/2010
LWD-08	HFCP — Parcel 1 — Wall & Fence — Tilt-Up Wall Elevations	3/30/2010
LWD-09	HFCP — Parcel 1 — Wall & Fence — Tilt-Up Wall Elevations	3/30/2010
LWD-10	HFCP — Parcel 1 — Wall & Fence — Tilt-Up Wall Elevations	3/30/2010
LWD-11	HFCP — Parcel 1 — Wall & Fence — Tilt-Up Wall Elevations	3/30/2010
LWD-12	HFCP — Parcel 1 — Wall & Fence — Tilt-Up Wall Elevations	3/30/2010
LWD-13	HFCP — Parcel 1 — Wall & Fence — Construction Details	2/18/2009
LWD-14	HFCP — Parcel 1 — Wall & Fence — Construction Details	3/30/2010
LWD-15	HFCP — Parcel 1 — Wall & Fence — Construction Details	3/30/2010
LWD-16	HFCP — Parcel 1 — Wall & Fence — Construction Details	3/30/2010
LWD-17	HFCP — Parcel 1 — Wall & Fence — Construction Details	3/30/2010
LWD-18	HFCP — Parcel 1 — Wall & Fence — Construction Details	3/30/2010
LWD-19	HFCP — Parcel 1 — Wall & Fence — Construction Details	3/30/2010
LWD-20	HFCP — Parcel 1 — Wall & Fence — Construction Details	3/30/2010
LWN-01	HFCP — Parcel 1 — Wall & Fence — Construction Specifications	3/30/2010

LINE "F" STORM DRAIN SYSTEM

SHT 1	Moreno MDP Line — F — Title Sheet	4/9/2010
SHT 2	Moreno MDP Line — F — Notes & Details	4/9/2010
SHT 3	Moreno MDP Line — F — Station 95+20 to 97+00	4/9/2010
SHT 4	Moreno MDP Line — F — Station 97+00 to 103+00	4/9/2010
SHT 5	Moreno MDP Line — F — Station 103+00 to 110+00	4/9/2010
SHT 6	Moreno MDP Line — F — Station 110+00 to 118+05	4/9/2010
SHT 7	Moreno MDP Line — F — Station 118+05 to 122+56.73	4/9/2010
SHT 8	Moreno MDP Line — F — Station 122+56.73 to 124+42.37	4/9/2010
SHT 9	Moreno MDP Line — F — Lat F-2 10+00 to 11+49.18	4/9/2010
SHT 10	Moreno MDP Line — F — Lat F-2-A 10+00 to 11+41.56	4/9/2010
SHT 11	Moreno MDP Line — F — Lat D-5 10+00 to 11+52.91	4/9/2010
SHT 12	Moreno MDP Line — F — Lat D-6 10+00 to 14+68.98	4/9/2010
SHT 13	Moreno MDP Line — F — Lat F-8 0+25.13 to 8+00	4/9/2010
SHT 14	Moreno MDP Line — F — Lat F-8 8+00 to 16+00	4/9/2010
SHT 15	Moreno MDP Line — F — Lat F-8 16+00 to 24+00	4/9/2010
SHT 16	Moreno MDP Line — F — Lat F-8 24+00 to 31+50	4/9/2010

LINE "F" STORM DRAIN SYSTEM CONTINUED		
SHT 17	Moreno MDP Line — F — Lat F-8 10+00 to 12+00.25	4/9/2010
SHT 18	Moreno MDP Line — F — Lat F-9 11+02.55 to 18+00	4/9/2010
SHT 19	Moreno MDP Line — F — Lat F-9 18+00 to 25+65.60	4/9/2010
SHT 20	Moreno MDP Line — F — Profiles	4/9/2010
SHT 21	Moreno MDP Line — F — Profiles	4/9/2010
SHT 22	Moreno MDP Line — F — Profiles	4/9/2010
SHT 23	Moreno MDP Line — F — Outlet, Access Raod & Basin	4/9/2010
SHT 24	Moreno MDP Line — F — General Notes & typ Details	4/9/2010
SHT 25	Moreno MDP Line — F — Typ Details	4/9/2010
SHT 26	Moreno MDP Line — F — Lateral & Sections	4/9/2010
SHT 27	Moreno MDP Line — F — Lateral	4/9/2010
SHT 28	Moreno MDP Line — F Access Opening Sections & typ Details	4/9/2010
SHT 29	Moreno MDP Line — F — typ Sections & Details	4/9/2010
REDLANDS SANITARY SEWER		
SWP 1	Redlands Blvd Sanitary Sewer Plan — Title Sheet	4/9/2010
SWP 2	Redlands Blvd Sanitary Sewer Plan — Index & Legends	4/9/2010
SWP 3	Redlands Blvd Sanitary Sewer Plan & Profile	4/9/2010
SWP 4	Redlands Blvd Sanitary Sewer Plan & Profile	4/9/2010
SWP 5	Redlands Blvd Sanitary Sewer Plan & Profile	4/9/2010
SWP 6	Redlands Blvd Sanitary Sewer Plan & Profile	4/9/2010
SWP 7	Redlands Blvd Sanitary Sewer Plan & Profile	4/9/2010
SWP 8	Redlands Blvd Sanitary Sewer Plan & Profile	4/9/2010
EUCALYPTUS SANITARY SEWER PLAN		
SSIP 1	Eucalyptus Avenue — Sanitary Sewer Plan — Title Sheet	4/9/2010
SSIP 2	Eucalyptus Avenue — Sanitary Sewer Plan — Index & Legend	4/9/2010
SSIP 3	Eucalyptus Avenue — Sanitary Sewer Plan — Plan Profile	4/9/2010
SSIP 4	Eucalyptus Avenue — Sanitary Sewer Plan — Plan Profile	4/9/2010
SSIP 5	Eucalyptus Avenue — Sanitary Sewer Plan — Plan Profile	4/9/2010
SSIP 6	Eucalyptus Avenue — Sanitary Sewer Plan — Plan Profile	4/9/2010
SSIP 7	Eucalyptus Avenue — Sanitary Sewer Plan — Plan Profile	4/9/2010
LOGISTIC BUILDING SEWER AND WATER		
SSIP 1	Logistics Bldg Sewer & Water Plan — Title Sheet	4/9/2010
SSIP 2	Logistics Bldg Sewer & Water Plan — Notes & Quantities	4/9/2010
SSIP 3	Logistics Bldg Sewer & Water Plan	4/9/2010
SSIP 4	Logistics Bldg Sewer & Water Plan	4/9/2010
SSIP 5	Logistics Bldg Sewer & Water Plan	4/9/2010
SSIP 6	Logistics Bldg Sewer & Water Plan	4/9/2010
SSIP 7	Logistics Bldg Sewer & Water Plan	4/9/2010
SSIP 8	Logistics Bldg Sewer & Water Plan	4/9/2010
EUCALPTUS RECYCLED WATER IMPROVEMENT PLAN		
RWIP 1	Title Sheet	4/9/2010
RWIP 2	Plan	4/9/2010
RWIP 3	Plan & Profile	4/9/2010
RWIP 4	Plan & Profile	4/9/2010
RWIP 5	Plan & Profile	4/9/2010
RWIP 6	Plan & Profile	4/9/2010
RWIP 7	Plan & Profile	4/9/2010

EUCALYPTUS WATER IMPROVEMENT PLAN		
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DW 2	Index Map & Legend	4/9/2010
DW 3	Plan Profile	4/9/2010
DW 4	Plan Profile	4/9/2010
DW 5	Plan Profile	4/9/2010
DW 6	Plan Profile	4/9/2010
DW 7	Plan Profile	4/9/2010
DW 8	Line 'A' thru 'D' profile	4/9/2010
Off-Site (Sinclair) DOMESTIC WATER IMPROVEMENT PLAN		
DWIP 1	Domestic Water Plans — title Sheet	4/9/2010
DWIP 2	Domestic Water Plans — Index Map & Legends	4/9/2010
DWIP 3	Domestic Water Plans & Profile	4/9/2010
DWIP 4	Domestic Water Plans & Profile	4/9/2010
DWIP 5	Domestic Water Plans & Profile	4/9/2010
DWIP 6	Domestic Water Plans & Profile	4/9/2010
DWIP 7	Domestic Water Plans & Profile	4/9/2010
DWIP 8	Domestic Water Plans & Profile	4/9/2010
DWIP 9	Domestic Water Plans & Profile	4/9/2010
DWIP 10	Domestic Water Plans & Profile	4/9/2010
REDLANDS WATER IMPROVEMENT PLAN		
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DWIP 2	Index Map	4/9/2010
DWIP 3	Plan & Profile	4/9/2010
DWIP 4	Plan & Profile	4/9/2010
EUCALYPTUS ELECTRICAL DISTRIBUTION PLAN		
SHT 1	Eucalyptus Avenue Utility Design — BUTSKO	3/4/2010
SHT 2	Eucalyptus Avenue Utility Design — BUTSKO	3/4/2010
SHT 3	Eucalyptus Avenue Utility Design — BUTSKO	3/4/2010
SHT 4	Eucalyptus Avenue Utility Design — BUTSKO	3/4/2010
REDLANDS ELECTRICAL DISTRIBUTION PLAN		
SHT 1	Electrical Distribution Plan — BUTSKO	3/4/2010
SHT 2	Electrical Distribution Plan — BUTSKO	3/4/2010
SHT 3	Electrical Distribution Plan — BUTSKO	3/4/2010
SHT 4	Electrical Distribution Plan — BUTSKO	3/4/2010
SHT 5	Electrical Distribution Plan — BUTSKO	3/4/2010
SKECHERS ONSITE ELECTRIC		
SWP 1	TPM 35629 Onsite Utilities — Butsko	3/4/2010
SWP 2	TPM 35629 Onsite Utilities — Butsko	3/4/2010
SWP 3	TPM 35629 Onsite Utilities — Butsko	3/4/2010
SWP 4	TPM 35629 Onsite Utilities — Butsko	3/4/2010
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STIP 3	Eucalyptus Avenue Street Improvement Plan — Details & Sections	4/9/2010
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STIP 5	Eucalyptus Avenue Street Improvement Plan	4/9/2010

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STIP 6	Eucalyptus Avenue Street Improvement Plan	4/9/2010
STIP 7	Eucalyptus Avenue Street Improvement Plan	4/9/2010
STIP 8	Eucalyptus Avenue Street Improvement Plan	4/9/2010
STIP 9	Eucalyptus Avenue Street Improvement Plan	4/9/2010
STIP 10	Eucalyptus Avenue Street Improvement Plan	4/9/2010
STIP 11	Eucalyptus Avenue — Signing & Striping Title Sheet	4/9/2010
STIP 12	Eucalyptus Avenue — Signing & Striping Title Sheet	4/9/2010
STIP 13	Eucalyptus Avenue — Conditions of Approval	4/9/2010
STIP 14	Eucalyptus Avenue — Conditions of Approval	4/9/2010

SCE EXHIBIT - JACK & BORE SCE CONDUIT

SCE-J&B	Jack & Bore Exhibit — SE Conduit Under SR60	8/25/2009
SCE-Pole	Cross Section B-B (SCE Pole No. 4001945E)	8/25/2009
SCE-Pole	Cross Section A-A (SCE Pole No. 214347/T2964)	8/25/2009

MEDIAN EXHIBIT

E-1	Exhibit — Sections Eucalyptus Street Median	7/22/2009
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TOLERANCE EXHIBIT

TE	Tolerance Exhibit	2/18/2009
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THEODORE STREET IMPROVEMENT PLAN (THEODORE RAMP IMPROVEMENT PLANS)

STIP 1	Theodore Street — Title Sheet	4/9/2010
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STIP 5	Theodore Street — Construction Details	4/9/2010
STIP 6	Theodore Street — Grading-Drainage-Utility Plan	4/9/2010
STIP 7	Theodore Street — W.P.C.P	4/9/2010
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STIP 9	Theodore Street — Traffic Handling Details	4/9/2010
STIP 10	Theodore Street — Traffic Handling	4/9/2010
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STIP 12	Theodore Street — Traffic Handling	4/9/2010
STIP 13	Theodore Street — Detour Plan	4/9/2010

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421	Traffic Signal Interconnect Detail	1/1/2008
EVTSI	Emergency Vehicle & Traffic Signal Interconnect	10/22/2009

THEODORE STREET IMPROVEMENT PLAN

STIP 1	Theodore Street Phase 1 — Title Sheet	4/9/2010
STIP 2	Theodore Street Phase 1 — Construction Notes	4/9/2010
STIP 3	Theodore Street Phase 1 Typical Street Sections	4/9/2010
STIP 4	Theodore Street Phase 1 — Plan & Profile	4/9/2010
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STIP 6	Theodore Street Phase 1 Signing and Striping	4/9/2010
STIP 7	Theodore Street Phase 1 Conditions of Approval	4/9/2010
STIP 8	Theodore Street Phase 1 — Conditions of Approval	4/9/2010
STIP 9	Theodore Street Phase 1 — Conditions of Approval	4/9/2010

EUCALYPTUS STREET LANDSCAPE & IRRIGATION

SHT 1	Eucalyptus Street — Cover Sheet	2/18/2009
SHT 2	Eucalyptus Street — Construction Plan	2/18/2009

EUCALYPTUS STREET LANDSCAPE & IRRIGATION CONTINUED

SHT 3	Eucalyptus Street — Construction Plan	2/18/2009
SHT 4	Eucalyptus Street — Construction Plan	2/18/2009
SHT 5	Eucalyptus Street — Construction Plan	2/18/2009
SHT 6	Eucalyptus Street — Construction Plan	2/18/2009
SHT 7	Eucalyptus Street — Construction Plan	2/18/2009
SHT 8	Eucalyptus Street — Construction Details	2/18/2009
SHT 9	Eucalyptus Street — Construction Details	2/18/2009
SHT 10	Eucalyptus Street — Construction Details	2/18/2009
SHT 11	Eucalyptus Street — Construction Specifications	2/18/2009
SHT 12	Eucalyptus Street — Irrigation Plan	2/18/2009
SHT 13	Eucalyptus Street — Irrigation Plan	2/18/2009
SHT 14	Eucalyptus Street — Irrigation Plan	2/18/2009
SHT 15	Eucalyptus Street — Irrigation Plan	2/18/2009
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SHT 17	Eucalyptus Street — Irrigation Plan	2/18/2009
SHT 18	Eucalyptus Street — Irrigation Details	2/18/2009
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SHT 20	Eucalyptus Street — Irrigation Notes	2/18/2009
SHT 21	Eucalyptus Street — Irrigation Specifications	2/18/2009
SHT 22	Eucalyptus Street — Irrigation Specifications	2/18/2009
SHT 23	Eucalyptus Street — Planting Plan	2/18/2009
SHT 24	Eucalyptus Street — Planting Plan	2/18/2009
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SHT 29	Eucalyptus Street — Planting Details	2/18/2009
SHT 30	Eucalyptus Street — Planting Details	2/18/2009
SHT 31	Eucalyptus Street — Planting Specifications	2/18/2009
SHT 32	Eucalyptus Street — Planting Specifications	2/18/2009

HFCP ASSOCIATION LANDSCAPE & IRRIGATION

LCS-0	HFCP Association — Cover Sheet	3/22/2010
LI-01	HFCP Association — Irrigation Plan	3/22/2010
LI-02	HFCP Association — Irrigation Plan	3/22/2010
LI-03	HFCP Association — Irrigation Plan	3/22/2010
LI-04	HFCP Association — Irrigation Plan	3/22/2010
LI-05	HFCP Association — Irrigation Plan	3/22/2010
LI-06	HFCP Association — Irrigation Plan	3/22/2010
LI-07	HFCP Association — Irrigation Plan	3/22/2010
LI-08	HFCP Association — Irrigation Plan	3/22/2010
LI-09	HFCP Association — Irrigation Plan	3/22/2010
LI-10	HFCP Association — Irrigation Plan	3/22/2010
LI-11	HFCP Association — Irrigation Plan	3/22/2010
LI-12	HFCP Association — Irrigation Plan	3/22/2010

HFCP ASSOCIATION LANDSCAPE & IRRIGATION CONTINUED

LI-13	HFCP Association — Irrigation Plan	3/22/2010
LI-14	HFCP Association — Irrigation Plan	3/22/2010
LI-15	HFCP Association — Irrigation Plan	3/22/2010
LI-16	HFCP Association — Irrigation Plan	3/22/2010
LI-17	HFCP Association — Irrigation Plan	3/22/2010
LID-1	HFCP Association — Irrigation Details	3/22/2010
LID-2	HFCP Association — Irrigation Details	3/22/2010
LIN-1	HFCP Association — Irrigation Notes	3/22/2010
LIN-2	HFCP Association — Irrigation Specifications	3/22/2010
LIN-3	HFCP Association — Irrigation Specifications	3/22/2010
LP-01	HFCP Association — Construction and Planting Plan	3/22/2010
LP-02	HFCP Association — Construction and Planting Plan	3/22/2010
LP-03	HFCP Association — Construction and Planting Plan	3/22/2010
LP-04	HFCP Association — Construction and Planting Plan	3/22/2010
LP-05	HFCP Association — Construction and Planting Plan	3/22/2010
LP-06	HFCP Association - Construction and Planting Plan	3/22/2010
LP-07	HFCP Association — Construction and Planting Plan	3/22/2010
LP-08	HFCP Association — Construction and Planting Plan	3/22/2010
LP-09	HFCP Association — Construction and Planting Plan	3/22/2010
LP-10	HFCP Association — Construction and Planting Plan	3/22/2010
LP-11	HFCP Association — Construction and Planting Plan	3/22/2010
LP-12	HFCP Association — Construction and Planting Plan	3/22/2010
LP-13	HFCP Association — Construction and Planting Plan	3/22/2010
LP-14	HFCP Association — Construction and Planting Plan	3/22/2010
LP-15	HFCP Association — Construction and Planting Plan	3/22/2010
LP-16	HFCP Association — Construction and Planting Plan	3/22/2010
LP-17	HFCP Association — Construction and Planting Plan	3/22/2010
LPD-01	HFCP Association — Planting Details	3/22/2010
LPD-02	HFCP Association — Planting Details	3/22/2010
LCD-01	HFCP Association — Construction Specification	3/22/2010
LCD-02	HFCP Association — Construction Details	3/22/2010

PARCEL 1 LANDSCAPE & IRRIGATION

LCS-0	HFCP — Parcel 1 — Cover Sheet	2/18/2009
LC-O1	HFCP — Parcel 1 — Construction Plan	2/18/2009
LC-O2	HFCP — Parcel 1 — Construction Plan	2/18/2009
LC-O3	HFCP — Parcel 1 — Construction Plan	2/18/2009
LC-O4	HFCP — Parcel 1 — Construction Plan	2/18/2009
LC-O5	HFCP — Parcel 1 — Construction Plan	2/18/2009
LC-O6	HFCP — Parcel 1 — Construction Plan	2/18/2009
LC-O7	HFCP — Parcel 1 — Construction Plan	2/18/2009
LC-O8	HFCP — Parcel 1 — Construction Plan	2/18/2009
LC-O9	HFCP — Parcel 1 — Construction Plan	2/18/2009
LC-O10	HFCP — Parcel 1 — Construction Plan	2/18/2009
LC-O11	HFCP — Parcel 1 — Construction Plan Enlargements	2/18/2009

PARCEL 1 LANDSCAPE & IRRIGATION CONTINUATION

LCD-01	HFCP — Parcel 1 — Construction Notes	2/18/2009	
LCD-02	HFCP — Parcel 1 — Construction Details	2/18/2009	
LCD-03	HFCP — Parcel 1 — Construction Details	2/18/2009	
LCD-04	HFCP — Parcel 1 — Construction Details	2/18/2009	
LCD-05	HFCP — Parcel 1 — Construction Details	2/18/2009	
LCD-06	HFCP — Parcel 1 — Construction Details	2/18/2009	
LCN-01	HFCP — Parcel 1 — Construction Specifications	2/18/2009	
LI-01	HFCP — Parcel 1 — Irrigation Plan	2/18/2009	
LI-02	HFCP — Parcel 1 — Irrigation Plan	2/18/2009	
LI-03	HFCP — Parcel 1 — Irrigation Plan	2/18/2009	
LI-04	HFCP — Parcel 1 — Irrigation Plan	2/18/2009	
LI-05	HFCP — Parcel 1 — Irrigation Plan	2/18/2009	
LI-06	HFCP — Parcel 1 — Irrigation Plan	2/18/2009	
LI-07	HFCP — Parcel 1 — Irrigation Plan	2/18/2009	
LI-08	HFCP — Parcel 1 — Irrigation Plan	2/18/2009	
LI-09	HFCP — Parcel 1 — Irrigation Plan	2/18/2009	
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LID-1	HFCP — Parcel 1 — Irrigation Details	2/18/2009	
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LIN-01	HFCP — Parcel 1 — Irrigation Notes	2/18/2009	
LIN-02	HFCP — Parcel 1 — Irrigation Notes	2/18/2009	
LIN-03	HFCP — Parcel 1 — Irrigation Notes	2/18/2009	
LP-01	HFCP — Parcel 1 — Planting Plan	2/18/2009	
LP-02	HFCP — Parcel 1 — Planting Plan	2/18/2009	
LP-03	HFCP — Parcel 1 — Planting Plan	2/18/2009	
LP-04	HFCP — Parcel 1 — Planting Plan	2/18/2009	
LP-05	HFCP — Parcel 1 — Planting Plan	2/18/2009	
LP-06	HFCP — Parcel 1 — Planting Plan	2/18/2009	
LP-07	HFCP — Parcel 1 — Planting Plan	2/18/2009	
LP-08	HFCP — Parcel 1 — Planting Plan	2/18/2009	
LP-09	HFCP — Parcel 1 — Planting Plan	2/18/2009	
LP-10	HFCP — Parcel 1 — Planting Plan	2/18/2009	
LPD-01	HFCP — Parcel 1 — Planting Details	2/18/2009	
LPD-02	HFCP — Parcel 1 — Planting Details	2/18/2009	
LPN-01	HFCP — Parcel 1 — Planting Notes	2/18/2009	
WEI WEST WAREHOUSE EQUIPMENT, INC.			
SA00	Structure Layout VAS Platform Overall Plan View	12/10/2008	Rev. 05
SA01	Structure Layout VAS Platform Enlarged Foundation Plan	12/10/2008	Rev. 05
SA02	Structure Layout	12/10/2008	Rev. 05
SA03	Structure Layout VAS Platform Enlarged Foundation Plan	12/10/2008	Rev. 05
SA04	Structure Layout VAS Platform Enlarged Foundation Plan	12/10/2008	Rev. 05
SA05	Structure Layout VAS Platform Enlarged Foundation Plan	12/10/2008	Rev. 05
SA06	Structure Layout VAS Platform Enlarged Foundation Plan	12/10/2008	Rev. 05
SA07	Structure Layout VAS Platform Enlarged Foundation Plan	12/10/2008	Rev. 05

WEI WEST WAREHOUSE EQUIPMENT, INC. CONTINUED

SA08	Structure Layout VAS Platform Enlarged Foundation Plan	12/10/2008	Rev. 05
SA09	Structure Layout VAS Platform Footing Details	12/10/2008	Rev. 05
SB00	Structure Layout Shipping Platform Overall Plan View	12/10/2008	Rev. 05
SB01	Structure Layout Shipping Platform Overall Enlarged Foundation Plan	12/10/2008	Rev. 05
SB02	Structure Layout Shipping Platform Overall Enlarged Foundation Plan	12/10/2008	Rev. 05
SB03	Structure Layout Shipping Platform Footing Detail	12/10/2008	Rev. 05
SG01	Structure Layout Extendable Conveyor Foundation Plans	12/10/2008	Rev. 05
SG02	Structure Layout Extendable Conveyor Foundation Plans	12/10/2008	Rev. 05
SG03	Structure Layout Extendable Footings Foundation Plans	12/10/2008	Rev. 05
SG04	Structure Layout Extendable Footings Foundation Plans	12/10/2008	Rev. 05
SG05	Structure Layout Extendable Footings Foundation Plans	12/10/2008	Rev. 05
SG06	Structure Layout Extendable Tracks Footing Cross Sections	12/10/2008	Rev. 05

HIGHLAND FAIRVIEW CORPORATE PARK PROJECT MANUAL

Div 00	Procurement and Contracting requirements	7/24/2008	
Div 01	General requirements	7/24/2008	
Div 02	Sitework	7/24/2008	
Div 03	Concrete	7/24/2008	
Div 04	Masonry	7/24/2008	
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Div 06	Wood and Plastics	7/24/2008	
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Div 12	Furnishings	7/24/2008	
Div 13	Special Construction	7/24/2008	
Div 14	Conveyor Systems	7/24/2008	
Div 15	Mechanical	7/24/2008	
Div 16	Electrical	7/24/2008	

PRELIMINARY GEOTECHNICAL REPORT LEIGHTON & ASSOC.

1.0	Introduction	6/15/2007	
2.0	Geotechnical Investigation & Lab	6/15/2007	
3.0	Summary	6/15/2007	
4.0	Faulting & Seismicity	6/15/2007	
5.0	Conclusions	6/15/2007	
6.0	Preliminary Recommendations	6/15/2007	
7.0	Geotechnical Review	6/15/2007	
8.0	Limitations	6/15/2007	
map	Geotechnical Map / Boring Log	6/15/2007	

UPDATED PRELIMINARY GEOTECHNICAL REPORT LEIGHTON & ASSOC.

1.0	Introduction	4/30/2008	
2.0	Geotechnical Investigation & Lab	4/30/2008	
3.0	Summary	4/30/2008	
4.0	Faulting & Seismicity	4/30/2008	

UPDATED PRELIMINARY GEOTECHNICAL REPORT LEIGHTON & ASSOC. CONTINUED		
5.0	Conclusions	4/30/2008
6.0	Preliminary Recommendations	4/30/2008
7.0	Geotechnical Review	4/30/2008
8.0	Limitations	4/30/2008
map	Geotechnical Map / Boring Log	4/30/2008
OTHER SOILS REPORTS		
	Update Seismic Design Parameters	11/30/2007
	Preliminary Geotechnical Evaluation, SR-60 Widening	7/30/2008
	Clarifications to Soils, Highland Fairview Corporate Park	8/15/2008
	response to City of M.V. Review Comments & Map	11/5/2008
	geotechnical Recommendations for Temporary Fire Access Road	1/5/2009
	Clarifications #2 to Soils Report, Highland Fairview Corporate Park	1/14/2009
	Response to City of M.V. Review Comments, Public Works Depart.	1/16/2009
	Geotechnical Review of Improvements & rough Grade for Sanitary Sewer	1/21/2009
	Clarifications #3 to Soils report, Highland Fairview Corporate Park	1/29/2009
	Rough Grading Anticipated Keyway Locations	1/29/2009
	recommended Sup drain Locations	2/6/2009
	Infiltration Characteristics of onsite soils	6/23/2008
	Supplemental Remedial Grading Rec. Skechers VAS Platform	2/6/2009
STRUCTURAL CALCULATIONS		
	Structural Calculations by David Kramer	2/2/2009
TITLE 24 REPORT		
	title 24 Report by Alan Poydock — Thermalair, Inc.	1/30/2009
CIVIL MISC EXHIBITS & REPORTS		
	Drainage Bypass for Redlands Sewer Work Area	2/18/2009
	Grading Balance Area	2/18/2009
	Highland SWPPP	2/18/2009
	Set Back for Restricted Hours of Work	2/18/2009
	Existing Stockpile Locations	2/18/2009
	Mitigation Monitoring Program by Michael Brandman Assoc.	12/23/2008
	Septic Exhibit	1/7/2009

EXHIBIT "E"
 DRAWING LOG -EUCALYPTUS STREET
SKECHERS DISTRIBUTION CENTER
 29800 Eucalyptus Avenue, Rancho Belago, California 92555

ARCHITECTURAL			
A0.1	Highland Fairview Corporate Park Title Sheet — ASI #2	11/11/2008	Delta 2
A0.2	Highland Fairview Corporate Park General Sheet	5/21/2008	
A0.3.1	Disability Access Notes	5/21/2008	
A0.3.2	Disability Access Notes	5/21/2008	
A0.3.3	Disability Access Notes	5/21/2008	
A1.1	Overall Site Plan	5/21/2008	
AD.1	Details	5/21/2008	
AD.1A	Site Details for ADA Access	12/4/2009	Delta 4
AD.2	Details	5/21/2008	
AD.3	Details — ASI #1	9/15/2008	Delta 1
AD.3A	Details — ASI #3	12/30/2008	(Delta 5)
AD.4	Details	5/21/2008	
AD.5	Details	5/21/2008	
AD.6	Details	5/21/2008	
AD.7	Details	5/21/2008	
AD.8	Details	5/21/2008	
AD.9	Details	5/21/2008	
AD.10	Details — ASI #2	11/11/2008	Delta 2
AD.11	Details — ASI #2	11/11/2008	Delta 2
FIRE PROTECTION PARCEL 1 / SKECHERS			
HFCP	Cover Page		
FP 1	Underground Fire Master Plan	7/29/2008	
FP 2	Enlarged Underground Fire Piping Part I	7/29/2008	
FP 3	Enlarged Underground Fire Piping Part II	7/29/2008	
FP 4	Underground Fire Notes / Details	7/29/2008	
CONSTRUCTION STAGING PLAN			
SC 1	Stage Construction	1/9/2009	
SC 2	Traffic Handling / Construction area Sign Plan	1/9/2009	
SC 3	Traffic Handling / Construction area Sign Plan	1/9/2009	
SC 4	Traffic Handling / Construction area Sign Plan	1/9/2009	
TRAFFIC CONTROL PLAN			
TCP 1	Traffic Control Plan — Title Sheet	2/18/2009	
TCP 2	Traffic Control Plan — Phase I & II	2/18/2009	
TCP 3	Traffic Control Plan — Phase I	2/18/2009	
TCP 4	Traffic Control Plan — Phase II	2/18/2009	
TCP 5	Traffic Control Plan — Phase I	2/18/2009	
TCP 6	Traffic Control Plan — Phase II	2/18/2009	

PRECISE GRADING

PG 1	Precise Grading — Title Sheet	2/18/2009
PG 2	Precise Grading — Detail Sheet	2/18/2009
PG 3	Precise Grading Plan	2/18/2009
PG 4	Precise Grading Plan	2/18/2009
PG 5	Precise Grading Plan	2/18/2009
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PG 7	Precise Grading Plan	2/18/2009
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PG 9	Precise Grading Plan	2/18/2009
PG 10	Precise Grading Plan	2/18/2009
PG 11	Precise Grading Plan	2/18/2009
PG 12	Precise Grading Plan	2/18/2009
PG 13	Precise Grading Plan	2/18/2009
PG 14	Precise Grading Plan	2/18/2009
PG 15	Precise Grading Plan	2/18/2009

LINE "F" STORM DRAIN SYSTEM

SHT 1	Moreno MDP Line — F — Title Sheet	1/9/2009
SHT 2	Moreno MDP Line — F — Notes & Details	1/9/2009
SHT 3	Moreno MDP Line — F — Station	1/9/2009
SHT 4	Moreno MDP Line — F — Station	1/9/2009
SHT 5	Moreno MDP Line — F — Station	1/9/2009
SHT 6	Moreno MDP Line — F — Station	1/9/2009
SHT 7	Moreno MDP Line — F — Station	1/9/2009
SHT 8	Moreno MDP Line — F — Station	1/9/2009
SHT 9	Moreno MDP Line — F — Lat F-2	1/9/2009
SHT 10	Moreno MDP Line — F — Lat F-2-A	1/9/2009
SHT 11	Moreno MDP Line — F — Lat D-5	1/9/2009
SHT 12	Moreno MDP Line — F — Lat D-6	1/9/2009
SHT 13	Moreno MDP Line — F — Lat F-8	1/9/2009
SHT 14	Moreno MDP Line — F — Lat F-8	1/9/2009
SHT 15	Moreno MDP Line — F — Lat F-8	1/9/2009
SHT 16	Moreno MDP Line — F — Lat F-8	1/9/2009
SHT 17	Moreno MDP Line — F — Lat F-8	1/9/2009
SHT 18	Moreno MDP Line — F — Lat F-9	1/9/2009
SHT 19	Moreno MDP Line — F — Lat F-9	1/9/2009
SHT 20	Moreno MDP Line — F — Profiles	1/9/2009
SHT 21	Moreno MDP Line — F — Profiles	1/9/2009
SHT 22	Moreno MDP Line — F — Profiles	1/9/2009
SHT 23	Moreno MDP Line — F — Gen Notes & Details	1/9/2009
SHT 24	Moreno MDP Line — F — Details	1/9/2009
SHT 25	Moreno MDP Line — F — Lateral Plan Sections	1/9/2009
SHT 26	Moreno MDP Line — F — Lateral	1/9/2009
SHT 27	Moreno MDP Line — F — Sections	1/9/2009
SHT 28	Moreno MDP Line — F — Access Openings & Details	1/9/2009

new spec and area of 6,00 psi concrete

EUCALYPTUS SANITARY SEWER PLAN		
SSIP 1	Eucalyptus Avenue — Sanitary Sewer Plan — Title Sheet	1/9/2009
SSIP 2	Eucalyptus Avenue — Sanitary Sewer Plan — Index & Legend	1/9/2009
SSIP 3	Eucalyptus Avenue — Sanitary Sewer Plan — Plan Profile	1/9/2009
SSIP 4	Eucalyptus Avenue — Sanitary Sewer Plan — Plan Profile	1/9/2009
SSIP 5	Eucalyptus Avenue — Sanitary Sewer Plan — Plan Profile	1/9/2009
SSIP 6	Eucalyptus Avenue — Sanitary Sewer Plan — Plan Profile	1/9/2009
SSIP 7	Eucalyptus Avenue — Sanitary Sewer Plan — Plan Profile	1/9/2009
RECYCLED WATER IMPROVEMENT PLAN		
RWIP 1	EUCALYPTUS	2/20/2009
RWIP 2	EUCALYPTUS	2/20/2009
RWIP 3	EUCALYPTUS	2/20/2009
RWIP 4	EUCALYPTUS	2/20/2009
RWIP 5	EUCALYPTUS	2/20/2009
RWIP 6	EUCALYPTUS	2/20/2009
WATER IMPROVEMENT PLAN		
RWIP 7	EUCALYPTUS	2/20/2009
WIP 1	EUCALYPTUS	2/20/2009
WIP 2	EUCALYPTUS	2/20/2009
WIP 3	EUCALYPTUS	2/20/2009
WIP 4	EUCALYPTUS	2/20/2009
WIP 5	EUCALYPTUS	2/20/2009
WIP 6	EUCALYPTUS	2/20/2009
WIP 7	EUCALYPTUS	2/20/2009
EUCALYPTUS SITE UTILITIES		
SHT 1	Eucalyptus Avenue Utility Design — BUTSKO	1/9/2009
SHT 2	Eucalyptus Avenue Utility Design — BUTSKO	1/9/2009
SHT 3	Eucalyptus Avenue Utility Design — BUTSKO	1/9/2009
SHT 4	Eucalyptus Avenue Utility Design — BUTSKO	1/9/2009
SHT 5	Eucalyptus Avenue Utility Design — BUTSKO	1/9/2009
SHT 1	Eucalyptus Avenue Temporary Transformer — BUTSKO	1/9/2009
ELECTRICAL DISTRIBUTION PLAN		
SHT 1	Electrical Distribution Plan	2/18/2009
SHT 2	Electrical Distribution Plan	2/18/2009
SHT 3	Electrical Distribution Plan	2/18/2009
SHT 4	Electrical Distribution Plan	2/18/2009
FIRE PROTECTION SITE		
FP 1 UG	Underground Fire Master Plan	11/12/2008
FP 2 UG	Enlarged Underground Fire Piping Part I	3/3/2009
FP 3 UG	Enlarged Underground Fire Piping Part II	3/3/2009
FP 1	Site Fire Access Plan (During Construction)	3/3/2009
FP 2	Site Fire Access Plan (Job Completion)	3/3/2009
EUCALYPTUS STREET IMPROVEMENT PLAN		
STIP 1	Eucalyptus Avenue Street Improvement Plan — Title Sheet	1/9/2009
STIP 2	Eucalyptus Avenue Street Improvement Plan — Notes & Index Map	1/9/2009
STIP 3	Eucalyptus Avenue Street Improvement Plan — Details & Sections	1/9/2009

EUCALYPTUS STREET IMPROVEMENT PLAN CONTINUATION		
STIP 4	Eucalyptus Avenue Street Improvement Plan — Phase 1	1/9/2009
STIP 5	Eucalyptus Avenue Street Improvement Plan — Phase 2	1/9/2009
STIP 6	Eucalyptus Avenue Street Improvement Plan — Phase 3	1/9/2009
STIP 7	Eucalyptus Avenue Street Improvement Plan — Phase 4	1/9/2009
STIP 8	Eucalyptus Avenue Street Improvement Plan — Phase 5	1/9/2009
STIP 9	Eucalyptus Avenue Street Improvement Plan — Phase 6	1/9/2009
STIP 10	Eucalyptus Avenue Street Improvement Plan — Phase 7	1/9/2009
STIP 11	Eucalyptus Avenue — Signing & Striping Title Sheet	1/9/2009
STIP 12	Eucalyptus Avenue — Signing & Striping	1/9/2009
STIP 13	Eucalyptus Avenue — Signing & Striping	1/9/2009
PAVING SECTION		
PS	PAVING SECTION EXHIBIT	2/18/2009
MEDIAN EXHIBIT		
E-1	Exhibit — Sections Eucalyptus Street Median	7/22/2009
110	Emergency Vehicle Median Access	1/1/2005
TOLERANCE EXHIBIT		
TE	Tolerance Exhibit	2/18/2009
THEODORE STREET IMPROVEMENT PLAN		
TSE	Theodore Street Exhibit	2/18/2009
TRAFFIC SIGNAL INTERCONNECT		
421	Traffic Signal Interconnect Detail	1/1/2008
EVTSI	Emergency Vehicle & Traffic Signal Interconnect	10/22/2009
THEODORE STREET IMPROVEMENT PLAN		
Theodore Street / HWY 60 Ramp Widening Exhibit		
EUCALYPTUS STREET LANDSCAPE & IRRIGATION		
SHT 1	Eucalyptus Street — Cover Sheet	2/18/2009
SHT 2	Eucalyptus Street — Construction Plan	2/18/2009
SHT 3	Eucalyptus Street — Construction Plan	2/18/2009
SHT 4	Eucalyptus Street — Construction Plan	2/18/2009
SHT 5	Eucalyptus Street — Construction Plan	2/18/2009
SHT 6	Eucalyptus Street — Construction Plan	2/18/2009
SHT 7	Eucalyptus Street — Construction Plan	2/18/2009
SHT 8	Eucalyptus Street — Construction Details	2/18/2009
SHT 9	Eucalyptus Street — Construction Details	2/18/2009
SHT 10	Eucalyptus Street — Construction Details	2/18/2009
SHT 11	Eucalyptus Street — Construction Specifications	2/18/2009
SHT 12	Eucalyptus Street — Irrigation Plan	2/18/2009
SHT 13	Eucalyptus Street — Irrigation Plan	2/18/2009
SHT 14	Eucalyptus Street — Irrigation Plan	2/18/2009
SHT 15	Eucalyptus Street — Irrigation Plan	2/18/2009
SHT 16	Eucalyptus Street — Irrigation Plan	2/18/2009
SHT 17	Eucalyptus Street — Irrigation Plan	2/18/2009
SHT 18	Eucalyptus Street — Irrigation Details	2/18/2009
SHT 19	Eucalyptus Street — Irrigation Details	2/18/2009
SHT 20	Eucalyptus Street — Irrigation Notes	2/18/2009
SHT 21	Eucalyptus Street — Irrigation Specifications	2/18/2009

EUCALYPTUS STREET LANDSCAPE & IRRIGATION CONTINUATION

SHT 22	Eucalyptus Street — Irrigation Specifications	2/18/2009
SHT 23	Eucalyptus Street — Planting Plan	2/18/2009
SHT 24	Eucalyptus Street — Planting Plan	2/18/2009
SHT 25	Eucalyptus Street — Planting Plan	2/18/2009
SHT 26	Eucalyptus Street — Planting Plan	2/18/2009
SHT 27	Eucalyptus Street — Planting Plan	2/18/2009
SHT 28	Eucalyptus Street — Planting Plan	2/18/2009
SHT 29	Eucalyptus Street — Planting Details	2/18/2009
SHT 30	Eucalyptus Street — Planting Details	2/18/2009
SHT 31	Eucalyptus Street — Planting Specifications	2/18/2009
SHT 32	Eucalyptus Street — Planting Specifications	2/18/2009

HIGHLAND FAIRVIEW CORPORATE PARK — PROJECT MANUAL

Div 00	Procurement and Contracting requirements	7/24/2008
Div 01	General requirements	7/24/2008
Div 02	Sitework	7/24/2008
Div 03	Concrete	7/24/2008
Div 04	Masonry	7/24/2008
Div 05	Metals	7/24/2008
Div 06	Wood and Plastics	7/24/2008
Div 07	Thermal and Moisture Control	7/24/2008
Div 08	Doors and Windows	7/24/2008
Div 09	Finishes	7/24/2008
Div 10	Specialties	7/24/2008
Div 11	Equipment	7/24/2008
Div 12	Furnishings	7/24/2008
Div 13	Special Construction	7/24/2008
Div 14	Conveyor Systems	7/24/2008
Div 15	Mechanical	7/24/2008
Div 16	Electrical	7/24/2008

PRELIMINARY GEOTECHNICAL REPORT LEIGHTON & ASSOC.

1.0	Introduction	6/15/2007
2.0	Geotechnical Investigation & Lab	6/15/2007
3.0	Summary	6/15/2007
4.0	Faulting & Seismicity	6/15/2007
5.0	Conclusions	6/15/2007
6.0	Preliminary Recommendations	6/15/2007
7.0	Geotechnical Review	6/15/2007
8.0	Limitations	6/15/2007
map	Geotechnical Map / Boring Log	6/15/2007
1.0	Introduction	4/30/2008
2.0	Geotechnical Investigation & Lab	4/30/2008
3.0	Summary	4/30/2008
4.0	Faulting & Seismicity	4/30/2008
5.0	Conclusions	4/30/2008
6.0	Preliminary Recommendations	4/30/2008

PRELIMINARY GEOTECHNICAL REPORT LEIGHTON & ASSOC. CONTINUATION

7.0	Geotechnical Review	4/30/2008
8.0	Limitations	4/30/2008
map	Geotechnical Map / Boring Log	4/30/2008
	Update Seismic Design Parameters	11/30/2007
	Update Geotechnical Report	4/30/2008
	Preliminary Geotechnical Evaluation, SR-60 Widening	7/30/2008
	Clarifications to Soils, Highland Fairview Corporate Park	8/15/2008
	response to City of M.V. Review Comments & Map	11/5/2008
	geotechnical Recommendations for Temporary Fire Access Road	1/5/2009
	Clarifications #2 to Soils Report, Highland Fairview Corporate Park	1/14/2009
	Response to City of M.V. Review Comments, Public Works Depart.	1/16/2009
	Geotechnical Review of Improvements & rough Grade for Sanitary Sewer	1/21/2009
	Clarifications #3 to Soils report, Highland Fairview Corporate Park	1/29/2009
	Rough Grading Anticipated Keyway Locations	1/29/2009
	recommended Sub drain Locations	2/6/2009
CIVIL MISC EXHIBITS & REPORTS		
	Drainage Bypass for Redlands Sewer Work Area	2/18/2009
	Grading Balance Area	2/18/2009
	Highland SWPPP	2/18/2009
	Offsite Rubble Disposal	2/18/2009
	Set Back for Restricted Hours of Work	2/18/2009
	Supplemental SWPPP	2/18/2009
	Water Pick-Up	2/18/2009
	Mitigation Monitoring Program by Michael Brandman Assoc.	12/23/2008

EXHIBIT "E"
PROJECT MANUALS & REPORT
SKECHERS DISTRIBUTION WAREHOUSE
29800 Eucalyptus Avenue, Moreno Valley, California 92555

GEOTECHNICAL

6/15/2007	Preliminary Geotechnical Report Leighton and Associates, Inc.	Section 1.0 — Introduction Section 2.0 — Geotechnical Investigation & Lab Section 3.0 — Summary Section 4.0 — Faulting & Seismicity Section 5.0 — Conclusions Section 6.0 — Preliminary Recommendations Section 7.0 — Geotechnical review Section 8.0 — Limitations Geotechnical Map / Boring Log
4/30/2008	Update Geotechnical report Leighton and Associates, Inc.	Section 1.0 — Introduction Section 2.0 — Geotechnical Investigation & Lab Section 3.0 — Summary Section 4.0 — Faulting & Seismicity Section 5.0 — Conclusions Section 6.0 — Preliminary Recommendations Section 7.0 — Geotechnical review Section 8.0 — Limitations Geotechnical Map / Boring Log
11/30/2007	Update Seismic Design Parameters	
4/30/2008	Update Geotechnical Report	
7/30/2008	Preliminary Geotechnical Evaluation, SR-60 Widening between Theodore & Redlands Blvd.	
8/15/2008	Clarifications to Soils Report, Highland Fairview Corporate Park	
11/5/2008	Response to City of Moreno Valley Review Comments & Map	
1/5/2009	Geotechnical recommendations for Temporary "All-Weather" Fire Access	
1/14/2009	Clarifications #2 to Soils Report, Highland Fairview Corporate Park	
1/16/2009	Response to City of Moreno Valley Review Comments, Public Works Department	
1/21/2009	Geotechnical review of Improvement & rough Grading Plans for Sanitary Sewer — Redlands Blvd.	
1/29/2009	Clarifications #3 to Soils Report, Highland Fairview Corporate Park	
1/29/2009	Rough Grading Anticipated Keyway Locations	
2/6/2009	Recommended Subdrain Locations	

PROJECT MANUAL

7/24/2008	Highland Corporate Park HPA, Inc. Architects	Project Requirements & Specifications Division 00 — Procurement & Contracting Division 01 — General Requirements Division 02 — Sitework Division 03 — Concrete Division 04 — Masonry Division 05 — Metals Division 06 — Wood & Plastics Division 07 — Thermal & Moisture Control Division 08 — Doors & Windows Division 09 — Finishes Division 10 — Specialties Division 11 — Equipment Division 12 — Furnishings Division 13 — Special Construction Division 14 — Conveying Systems Division 15 — Design build Division 16 — Design Build
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STRUCTURAL CALCULATIONS

2/2/2009	Structural Calculations by David Robert Kramer
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TITLE 24 REPORT

1/30/2009	title 24 Report by Alan Poydock — termalair, Inc.
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CIVIL MISC. EXHIBITS & REPORTS

2/18/2009	Drainage Bypass for Redlands Sewer Work Area Grading Balance Area Highland SWPPP
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Office Rubble Disposal Hours of Work

Existing Stockpile Locations

Supplemental SWPPP

Water Pick-Up

12/23/2008

Mitigation Monitoring Program by Michael Brandman Associates

1/7/2009

Septic Exhibit

Final Fire Access Plan

Temporary Fire Access Plan

EXHIBIT "F"

ADVANCES

1. **Draw Request.** A "**Draw Request**" means a properly completed and executed written application by Borrower to Administrative Agent in the form of **Exhibit "F-1"** (or in another form satisfactory to Administrative Agent) setting forth the amount of Up-Front Equity Cash and/or Loan Proceeds desired, together with the related AIA Document G-702 and G-703 and such schedules, affidavits, releases, waivers, statements, invoices, bills, and other documents, certificates and information satisfactory to Administrative Agent. At least ten (10) Business Days before the requested date of each advance made under the Budget from the Up-Front Equity Cash or the Loan, Borrower shall deliver a Draw Request to Administrative Agent. Borrower shall be entitled to an advance only in an amount approved by Administrative Agent in accordance with the terms of this Agreement and the Loan Documents. Except as expressly set forth below in this **Section 1**, Lenders shall not be required to make advances more frequently than once each calendar month. Lenders shall, only upon the satisfaction, as determined by Administrative Agent in its sole discretion, of all applicable conditions of this Agreement and the Loan Documents, be required to make the requested advance to Borrower on a Funding Date which is a Business Day within ten (10) Business Days after such satisfaction. Each Draw Request, and Borrower's acceptance of any advance, shall be deemed to ratify and confirm, as of the date of the Draw Request and the advance, respectively, that, except as specified in the Draw Request, (a) all representations and warranties in the Loan Documents remain true and correct, and all covenants and agreements in the Loan Documents remain satisfied, (b) there is no uncured Default or Event of Default existing under the Loan Documents, (c) all conditions to the advance, whether or not evidence thereof is required by Administrative Agent, are satisfied, (d) the AIA Document G-702 and G-703 forms executed by each contractor and approved by Borrower's architect, together with all schedules, affidavits, releases, waivers, statements, invoices, bills, and other documents, certificates and information submitted for the Draw Request are complete and correct, and in all respects what they purport and appear to be for the amount and period applicable to the Draw Request, (e) all advances previously made to Borrower were disbursed, and the proceeds of the advance requested in the Draw Request will immediately be disbursed, for payments of the costs and expenses specified in the Budget for which the advances were made, and for no other purpose, (f) after the advance, all obligations for work and other costs heretofore incurred by Borrower in connection with the Project and which are due and payable will be fully paid and satisfied and (g) any unadvanced portion of the Loan to which Borrower is entitled, plus the portions of the Aggregate Cost that are to be paid by Borrower from other funds that, to Administrative Agent's satisfaction, are available, set aside and committed, is or will be sufficient to pay the actual unpaid Aggregate Cost. Notwithstanding anything to the contrary contained in the foregoing: (1) in the event that during any calendar month in which Borrower has already requested and received an advance, Borrower submits to Administrative Agent a Draw Request for an additional advance (each an "**Additional Monthly Advance**") and such Additional Monthly Advance is solely for the payment of costs and expenses associated with the construction of the roof of the Improvements, Lenders shall make such Additional Monthly Advance provided that (i) Administrative Agent, in its sole and absolute discretion, has approved of such Additional Monthly Advance; and (ii) Borrower has satisfied all conditions in this Agreement for the making of an advance with respect to such Additional Monthly Advance; and (2) Lenders shall be required to make one Additional Monthly Advance within thirty (30) days of the making of the Initial Advance (it being acknowledged that the making of the Initial Advance shall occur on the date hereof) provided that Borrower has satisfied all conditions in this Agreement for the making of such Additional Monthly Advance.

2. **Advances.** Borrower shall disburse all advances made to Borrower, for payments of the costs and expenses specified in the Budget for which the advances were made, and for no other purpose. Following receipt and approval of a Draw Request, all supporting documentation and information required by Administrative Agent, and receipt and approval of a written report from Construction Consultant satisfactory to Administrative Agent, Administrative Agent will determine the amount of the advance Lenders shall make in accordance with this Agreement, the Loan Documents, the Budget, and if and to the extent required by the Administrative Agent, to Administrative Agent's satisfaction, the following standards:

- a. An initial advance in the amount of the Initial Advance in accordance with the Budget.
- b. For construction work other than tenant improvement work, advances on the basis of ninety percent (90%) of the costs shown on the application for payment from the contractor reviewed and approved by Administrative Agent of the work or material in place on the Improvements that comply with the terms of the Loan Documents, minus

all previous advances and all amounts required to be paid by Borrower, as described in the Budget. Following the completion of fifty percent (50%) of the Improvements as determined by the Construction Consultant, the ninety percent (90%) limitation set forth above shall be increased to ninety five percent (95%). Notwithstanding the foregoing, at the sole and absolute discretion of Administrative Agent, advances relating to certain line items in the Budget may be made without any retainage withheld or early release of retainage.

c. For tenant improvement work, advances on the basis of one hundred percent (100%) of the costs shown for each lease in the application for payment from the contractor reviewed and approved by Administrative Agent for the work or material in place that complies with the terms of the Loan Documents, *provided* that if required by Administrative Agent (i) an application for payment may be submitted only after all applicable tenant improvements have been completed, (ii) the amount of the requested advance does not exceed the per square foot allowance provided in the Budget, (iii) all provisions of the Loan Documents, including, without limitation, Sections 3, 4, and 5 of this Exhibit "F", have been satisfied, (iv) the term of the applicable lease has commenced, (v) Administrative Agent has received from the applicable tenant a tenant estoppel certificate, and a subordination and attornment agreement in the respective forms attached as exhibits to the Closing Checklist, or otherwise in form and content satisfactory to Administrative Agent, (vi) Administrative Agent has received two (2) sets of as-built plans for the applicable tenant improvements, and (vii) Administrative Agent has received evidence of satisfaction of all applicable legal requirements, including but not limited to applicable certificates of occupancy and evidence that the plans comply with all legal requirements regarding access and facilities for handicapped or disabled persons.

d. No advances for building materials or furnishings that are not yet incorporated into the Improvements ("stored materials") unless (i) Borrower has good title to the stored materials and the stored materials are components in a form ready for incorporation into the Improvements and will be so incorporated within a period of one hundred twenty (120) days, (ii) the stored materials are in Borrower's possession and satisfactorily stored on the Land or such materials are satisfactorily stored at such other site as Administrative Agent may approve, (iii) the stored materials are protected and insured against theft and damage in a manner and amount satisfactory to Administrative Agent, (iv) the stored materials have been paid for in full or will be paid for with the funds to be advanced and all lien rights and claims of the supplier have been released or will be released upon payment with the advanced funds, and (v) Administrative Agent for the benefit of Lenders has or will have upon payment with the advanced funds a perfected, first priority security interest in the stored materials. Notwithstanding the foregoing, the aggregate amount of advances for stored materials that have not yet been incorporated into the Improvements shall not exceed the Stored Materials Advance Limit. Any Draw Request which includes an advance for the cost of stored materials shall be accompanied by copies of invoices for such stored materials in form and content satisfactory to Administrative Agent. All advances for the cost of stored materials shall be on the basis of ninety percent (90%) of the invoiced amount.

e. Intentionally Omitted.

f. Borrower has advised Administrative Agent and Lenders that the City has been awarded grant money in the amount of ONE MILLION DOLLARS (\$1,000,000.00) (the "Grant Money") from the State of California under the State of California's Proposition 1B State Local Partnership Competitive Grant Program which Grant is for the "Eucalyptus Street Improvements Project". Borrower has advised Administrative Agent and Lenders that the construction of Phase 1 of Eucalyptus Street, which shall replace the right of way of Fir Avenue currently abutting the Property to the south, (the "Street Project") is a requirement imposed by the City in connection with the construction of the Improvements and that the Grant shall ultimately be available to the Borrower (via disbursement from the City to the Borrower) for reimbursement of costs incurred by the Borrower in constructing Phase 1 of Eucalyptus Street. Advances for the construction of the future Eucalyptus Street (each such advance a "Street Project Advance") shall be made in accordance with the following procedures:

- (1) In the event Borrower submits a Draw Request to Administrative Agent containing a Street Project Advance at any time from the date hereof until that date which is six (6) months from the date hereof (such period being referred to herein as the "Initial Six Months"), Borrower shall, within five (5) business days of receiving such Street Project Advance, (A) pay such Street Project Advance to Borrower's contractor; (B) submit a request to the City for a portion of the Grant Money in an amount equal to the amount of the Street Project Advance contained in its Draw Request and paid to Borrower's contractor; and (C) provide Administrative Agent

with written evidence acceptable to Administrative Agent of its satisfaction of the requirements set forth in (A) and (B) above;

- (2) Following Borrower's receipt from the City of a portion of the Grant Money in response to its request for same (a "Grant Advance"), Borrower shall provide written notice of its receipt of such Grant Advance to Administrative Agent and confirm, with evidence acceptable to Administrative Agent, the amount of such Grant Advance;
- (3) In its first Draw Request following the receipt of a Grant Advance, Borrower shall include a line item for the amount of such Grant Advance which amount shall be subtracted from (i) the total amount of such Draw Request; and (ii) the line item in the Budget used for Street Project Advances. For illustration purposes only, if Borrower submits a Draw Request for \$1,000,000 of Loan Proceeds which contains a Street Project Advance of \$250,000, Borrower shall simultaneously submit a request for Grant Money in the amount of \$250,000 to the City and provide Administrative Agent with copies of such request for Grant Money together with its Draw Request for \$1,000,000 of Loan Proceeds. Should Borrower receive Grant Money from the City in response to its request for same, Borrower shall provide Administrative Agent with written notice of same together with evidence thereof and in its next following Draw Request, Borrower will include the amount of such Grant Advance as an amount to be subtracted from the total amount of Loan Proceeds requested in such following Draw Request and from the line item in the Budget used for Street Project Advances.
- (4) In the event that Borrower does not receive the entire amount of Grant Money during the Initial Six Months, within two (2) business days of the expiration of the Initial Six Months, Borrower shall deposit into the Upfront Equity Account an amount equal to ONE MILLION DOLLARS (\$1,000,000.00) less the total sum of all Grant Advances which have been received by Borrower and deducted from subsequent Draw Requests pursuant to the procedure set forth in subsection (3) above.
- (5) Notwithstanding anything to the contrary contained in this Agreement, One Million Dollars (\$1,000,000.00) of Loan Proceeds will be held back and remain undisbursed within the line item in the Budget used for Street Project Advances until the earlier to occur of (i) the disbursement to Borrower of all of the Grant Money and confirmation by Administrative Agent that an amount equal to all of the Grant Money (i.e., \$1,000,000) has been deducted from Draw Requests in the manner described above in this Section f; and (ii) the expiration of the Initial Six Months but only provided that Borrower has complied with the requirements of subsection (4) above.
- (6) During the Initial Six Months, Borrower shall not request an advance of Grant Money from the City (or any other governmental authority) without first having submitted to Administrative Agent a Draw Request containing a Street Project Advance in the same amount as the amount of Grant Money requested as set forth in subsection (1) above. At any time following the expiration of the Initial Six Months, and provided that Borrower has complied with the requirements of subsection (4) above, Borrower may submit requests to the City (or any other governmental authority) for Grant Money and if received apply such funds in whatever manner Borrower elects.

g. Advances of "Hard Cost Contingency" (or any other similarly described item in the Budget) shall be made available to Borrower as construction progresses but only (i) for hard costs; (ii) in proportion to the percentage of completion of the Improvements at the time of advance as determined by the Construction Consultant; and (iii) if shown as expended with all supporting documentation and information and as shown in the report of the Construction Consultant submitted in connection with such advance.

h. Administrative Agent shall make periodic advances of soft costs, each in the amount requested in the applicable Draw Request, without retainage provided that such request shall be supported by a payables listing in

form and content satisfactory to Administrative Agent and for any soft cost greater than or equal to Twenty Five Thousand and No/100 Dollars (\$25,000.00), such request shall also be supported by an invoice and other back up materials in form and content satisfactory the Administrative Agent.

i. Advances of "Development Management Fee" (as set forth in the Budget) shall be made available to Borrower as construction progresses provided however that in no event shall the ratio of funded Development Management Fee to the total budgeted Development Management Fee expressed as a percentage exceed by more than ten (10) percentage points the ratio of funded hard costs to the total budgeted hard costs expressed as a percentage. By way of example only, if a Draw Request that includes a request for a portion of the Development Management Fee is made and at such time fifty percent (50%) of total hard costs have been funded, Borrower shall only be entitled to an Advance for Development Management Fee in an amount that, when added to the Advances of Development Management Fee already funded, does not exceed sixty percent (60%) of the total budgeted Development Management Fee.

j. Borrower has advised Administrative Agent and the Lenders that in connection with site grading to be performed on the Property, the City has required that Borrower place with the City cash security in the amount of ONE MILLION FIVE HUNDRED THIRTY FIVE THOUSAND SEVENTY SIX AND NO/100 DOLLARS (\$1,535,076.00) to secure Borrower's obligation to complete such site grading. Accordingly, the Budget contains a line item entitled "Site Grading and Other Cash Sureties" in that amount. In the event that the City returns to the Borrower the Site Grading and Other Cash Sureties or any portion thereof (such amount returned the "Returned Amount"), Borrower shall, within two (2) business days of receipt thereof, deposit the Returned Amount into the Up-Front Equity Account Once such funds are received into the Up-Front Equity Account, the Budget shall be amended by reallocating the line items for each of "Site Grading and Other Cash Sureties" (decrease) and "Development Management Fee" (increase) by an amount equal to the Returned Amount.

3. Conditions to the Initial Advance. As conditions precedent to the Initial Advance hereunder, if and to the extent required by Administrative Agent, to Administrative Agent's satisfaction, Borrower must have satisfied the conditions required under this Agreement, including all of those conditions set forth in Exhibit "C" and Section 4 below.

4. Conditions to All Advances. As conditions precedent to each advance made pursuant to a Draw Request, in addition to all other requirements contained in this Agreement, if and to the extent required by Administrative Agent:

a. the Advance Termination Date shall not have passed; and

b. Administrative Agent shall have received and approved the following:

i. Evidence satisfactory to Administrative Agent of the continued satisfaction of all conditions to the Initial Advance (except to the extent that any of such conditions were waived in writing by Administrative Agent).

ii. A Draw Request.

iii. Evidence satisfactory to Administrative Agent that no Default or any event which, with the giving of notice or the lapse of time, or both, could become a Default, exists.

iv. Evidence satisfactory to Administrative Agent that the representations and warranties made in the Loan Documents must be true and correct on and as of the date of each advance and no event shall have occurred or condition or circumstance shall exist which, if known to Borrower, would render any such representation or warranty incorrect or misleading.

v. Each subcontract or other contract for labor, materials, services and/or other work included in a Draw Request duly executed and delivered by all parties thereto and effective, and to the extent required under this Agreement, a true and complete copy of a fully executed copy of each such subcontract or other

contract as Administrative Agent may have requested, together with performance and payment bonds securing such contracts and subcontracts, to the extent required by Administrative Agent, in form and substance satisfactory to Administrative Agent.

- vi. Evidence satisfactory to Administrative Agent that no mechanic's or materialmen's lien or other encumbrance has been filed and remains in effect against the Property, including releases or waivers of mechanics' liens and receipted bills showing payment of all amounts due to all parties who have furnished materials or services or performed labor of any kind in connection with the Property.
- vii. Evidence satisfactory to Administrative Agent that the Title Insurance has been endorsed and brought to date in a manner satisfactory to Administrative Agent to increase the coverage by the amount of each advance through the date of each such advance with no additional title change or exception not approved by Administrative Agent.
- viii. Certification by Construction Consultant, and if required by Administrative Agent by Borrower's architect, that to the best of such party's knowledge, information, and belief, construction is in accordance with the Plans, the quality of the work for which the advance is requested is in accordance with the applicable contract, the amount of the advance requested represents work in place based on on-site observations and the data comprising the Draw Request, the work has progressed in accordance with the construction contract and schedule, and the applicable contractor is entitled to payment of the amount certified.
- ix. (1) a foundation survey made immediately after, but in no event later than ten (10) days after, the laying of the foundation of each building or structure of the Improvements satisfactory to Administrative Agent and to the extent required by Administrative Agent complying with Exhibit "G", (2) a certificate of Borrower's architect stating that based on personal inspection the foundations have been completed in accordance with the Plans and are satisfactory in all respects, and (3) a bearing capacity test report with respect to the excavated footings and foundations, reviewed and approved by the Construction Consultant and Borrower's architect.
- x. Within ten (10) days after the pouring of concrete for any Improvements, a report satisfactory to Construction Consultant of the results of concrete tests made at the time the concrete is poured.
- xi. Within ten (10) days after the compaction of any soil for construction, a report satisfactory to Construction Consultant of the results of soil tests.
- xii. Evidence satisfactory to Administrative Agent that as of the date of making such advance, no event shall have occurred, nor shall any condition exist, that could have a Material Adverse Effect on the enforceability of the Loan Documents, a Material Adverse Effect to the financial condition of Borrower or any Guarantor, impair the ability of Borrower or any Guarantor to fulfill its material obligations under the Loan Documents, or otherwise have a Material Adverse Effect whatsoever on the Property.
- xiii. Intentionally Omitted.
- xiv. Evidence satisfactory to Administrative Agent that the Improvements shall not have been damaged in any material respect and not repaired (or in the process of being repaired) and shall not be the subject of any pending or threatened condemnation or adverse zoning proceeding.
- xv. Evidence satisfactory to Administrative Agent that Borrower has paid all amounts then required to be paid by Borrower under the Budget.
- xvi. The Borrower's Deposit if required by Section 1.5 of this Agreement.
- xvii. With respect to any advance to pay a contractor, original applications for payments in form approved by Administrative Agent, containing a breakdown by trade and/or other categories acceptable to

Administrative Agent, executed and certified by each contractor and Borrower's architect, accompanied by invoices, and approved by Construction Consultant.

xviii. Copies of California statutory form lien waivers and advances executed by each contractor and each appropriate subcontractor, supplier and materialman, including, without limitation, from all parties sending statutory notices to contractors, notices to owners, or notices of nonpayment. Each Draw Request shall be accompanied by (a) California statutory form conditional lien waivers and releases for all contractors, subcontractors, suppliers and materialman rendering services or providing materials which are the subject of such Draw Request, and (b) California statutory form of final and unconditional lien waivers and releases from all contractors, subcontractors, suppliers and materialmen who were paid from the immediately preceding Draw Request with respect to the services or materials covered thereby.

xix. Such other information, documents and supplemental legal opinions as may be required by Administrative Agent.

5. Final Advance for Improvements. If and to the extent required by the Administrative Agent, to Administrative Agent's satisfaction, the final advance for the Improvements (including retainage) shall not be made until thirty (30) days after the later of (i) the date on which the Improvements have been "completed," as evidenced by the issuance of a final and unconditional certificate of occupancy (or the local equivalent thereof), and (ii) if required by Administrative Agent, the date on which a notice of completion has been recorded. In the case of each such Draw Request, if and to the extent required by Administrative Agent, Administrative Agent shall have received the following as additional conditions precedent to the requested advance:

a. Certificates from Borrower's architect, engineer, contractor and, if required by Administrative Agent, from the Construction Consultant, certifying that the Improvements (including any off-site improvements) have been completed in accordance with, and as completed comply with, the Plans and all Laws and governmental requirements; and Administrative Agent shall have received two (2) sets of detailed "as built" Plans approved in writing by Borrower, Borrower's architect, and each contractor.

b. Final affidavits (in a form approved by Administrative Agent) from Borrower's architect, engineer, and each contractor certifying that each of them and their subcontractors, laborers, and materialmen has been paid in full for all labor and materials for construction of the Improvements; and California statutory form unconditional final lien releases or waivers by Borrower's architect, engineer, contractor, and all subcontractors, materialmen, and other parties who have supplied labor, materials, or services for the construction of the Improvements, or who otherwise might be entitled to claim a contractual, statutory or constitutional lien against the Property.

c. The Title Insurance shall be endorsed to remove any exception for mechanics' or materialmen's liens or pending disbursements, with no additional title change or exception objectionable to Administrative Agent, and with such other endorsements required by Administrative Agent.

d. Evidence satisfactory to Administrative Agent that all Laws and governmental requirements have been satisfied, including receipt by Borrower of all necessary governmental licenses, certificates and permits (including certificates of occupancy) with respect to the completion, use, occupancy and operation of the Improvements, together with evidence satisfactory to Administrative Agent that all such licenses, certificates, and permits are in full force and effect and have not been revoked, canceled or modified.

e. Three (3) copies of a final as-built survey satisfactory to Administrative Agent and to the extent required by Administrative Agent complying with Exhibit "G".

f. Intentionally Omitted.

g. If applicable, an estoppel certificate and a subordination agreement, in the form approved by Administrative Agent, from Skechers, and written confirmation by Skechers that Skechers has approved the completed Improvements.

6. Direct Advances. Borrower hereby irrevocably authorizes Administrative Agent on behalf of Lenders (but Administrative Agent shall have no obligation unless otherwise noted) to (i) advance Loan funds directly to Lenders to pay interest due on the Loan, and (ii) advance and directly apply the proceeds of any advance to the satisfaction of any of Borrower's obligations under any of the Loan Documents, even though Borrower did not include that amount in a Draw Request and/or no Default exists. Each such direct advance (except for application of a Borrower's Deposit) shall be added to the outstanding principal balance of the Loan and shall be secured by the Loan Documents. Notwithstanding the foregoing, unless Borrower pays such interest from other resources, and provided further that no Default exists nor has any event occurred which with the passing of time or giving of notice would become a Default, Administrative Agent may advance Loan funds pursuant to this Section for interest payments as and when due to the extent of any interest reserve created for such purposes. Nothing contained in this Agreement shall be construed to permit Borrower to defer payment of interest on the Loan beyond the date(s) due. The allocation of Loan funds in the Budget for interest shall not affect Borrower's absolute obligation to pay the same in accordance with the Loan Documents. Administrative Agent may hold, use, disburse and apply the Loan and the Borrower's Deposit for payment of any obligation of Borrower under the Loan Documents. Borrower hereby assigns and pledges the Loan Proceeds and any Borrower's Deposit to Administrative Agent for itself and for the benefit of Lenders for such purposes. Administrative Agent on behalf of Lenders may advance and incur such expenses as Administrative Agent deems necessary for the completion of the Improvements and to preserve the Property, and any other security for the Loan, and such expenses, even though in excess of the amount of the Loan, shall be secured by the Loan Documents and shall be payable to Administrative Agent on behalf of Lenders on demand. Administrative Agent on behalf of Lenders may disburse any portion of any advance at any time, and from time to time, to persons other than Borrower for the purposes specified in this Section and the amount of advances to which Borrower shall thereafter be entitled shall be correspondingly reduced.

7. Conditions and Waivers. All conditions precedent to the obligation of Lenders to make any advance are imposed hereby solely for the benefit of Administrative Agent and Lenders, and no other party may require satisfaction of any such condition precedent or be entitled to assume that Lenders will refuse to make any advance in the absence of strict compliance with such conditions precedent. Administrative Agent shall have the right to approve and verify the periodic progress of, costs incurred by Borrower for, and the estimated costs remaining to be incurred for the construction of the Improvements, after consultation with the Construction Consultant. No advance shall constitute an approval or acceptance by Administrative Agent of any construction work, or a waiver of any condition precedent to any further advance, or preclude Administrative Agent from thereafter declaring the failure of Borrower to satisfy such condition precedent to be a Default. No waiver by Administrative Agent of any condition precedent or obligation shall preclude Administrative Agent from requiring such condition or obligation to be met prior to making any other advance or from thereafter declaring the failure to satisfy such condition or obligation to be a Default.

8. Funding. Borrower shall establish and maintain a special account with Administrative Agent into which advances funded directly to Borrower (but no other funds except as provided herein), and excluding direct disbursements made to or by Administrative Agent on behalf of Lenders pursuant to this Agreement, shall be deposited by Borrower, and against which checks shall be drawn only for the payment of costs specified in the Budget, but which special account shall not be used for any other purpose. Borrower hereby irrevocably authorizes Administrative Agent to deposit each advance requested by Borrower to the credit of Borrower in that account, by wire transfer or other deposit. Advances may also be made, in addition to other methods contemplated herein, at Administrative Agent's option, by direct or joint check payment to any or all persons entitled to payment for work or services performed or material furnished in connection with the Project or the Loan (but such direct payments or joint check payment shall only be used with borrower's consent unless a Default has occurred), or by having the proceeds thereof made available to the Title Company (or its agent) for disbursement. Neither Administrative Agent nor any Lender shall not be required to, and has no responsibility to, supervise the proper application or distribution of funds to third parties. Provided no Default exists, Administrative Agent shall also cause interest earned on the Certificate of Deposit (as such term is defined in Section 2.16 of this Agreement) to be credited from time to time to the special account established by Borrower pursuant to this Section 8.

9. Up-Front Equity Account. Borrower, Administrative Agent and Lenders acknowledge that (i) Borrower has established the Up-Front Equity Account with, and under the control of, Administrative Agent; (ii) has deposited the Initial Up-Front Equity Cash into same for the purposes of funding the Total Costs; and (iii) shall, prior to the Initial Advance of Loan Proceeds, deposit the Deferred Up-Front Equity Cash into same for the purposes of funding the Total Costs. No advances of Loan Proceeds, including the Initial Advance of Loan Proceeds, shall be made unless

and until the Up-Front Equity Cash has been advanced from the Up-Front Equity Account towards Total Costs and at any time funds exist in the Up-Front Equity Account, such funds shall be utilized for advances prior to the advancing of any Loan Proceeds. All advances of Up-Front Equity Cash from the Up-Front Equity Account shall be made pursuant to Draw Requests submitted by Borrower pursuant to this Agreement and this Exhibit "F" and shall be subject to all of the terms and conditions of this Agreement and this Exhibit "F". Pursuant to a Collateral Assignment and Pledge of Account of even date herewith, Borrower has pledged and granted a security interest in the Up-Front Equity Account to Administrative Agent and Lenders to secure Borrower's obligations to Administrative Agent and Lenders under the Loan Documents.

10. Reallocation of Hard Cost Contingency. Upon written notice to Administrative Agent, Borrower shall be entitled to reallocate the sum of FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$500,000.00) from the "Hard Cost Contingency" line item in the Budget to the "Development Management Fee" line item in the Budget one time during the term of the Loan provided that Borrower has satisfied of all of the following conditions: (a) no Default exists at the time of Borrower's request for such reallocation, nor has any event occurred which upon the giving of notice or passage of time would become a Default; (b) the Project is at least ninety percent (90%) complete as certified in writing by the Construction Consultant; (c) at the time of Borrower's request for such reallocation, the Borrower is in strict compliance with Section 1.5 of this Agreement; (d) all Letters of Credit issued hereunder have either been cancelled and returned to Administrative Agent or Cash Collateralized as required under this Agreement; and (e) all Grant Money has either been paid to Borrower or Borrower has made the deposit of funds into the Up-Front Equity Account as required in Section 2.f of this Exhibit "F".

EXHIBIT F, PAGE 8

EXHIBIT "F-1"

DRAW REQUEST

[BORROWER'S LETTERHEAD]

DRAW REQUEST NO. _____

TO: BANK OF AMERICA, N.A. ("Administrative Agent")

LOAN NO. _____ DATE _____

PROJECT _____

LOCATION _____

BORROWER _____

FOR PERIOD ENDING _____

In accordance with the Construction Loan Agreement in the amount of \$_____ dated _____, among Borrower, Administrative Agent and the Lenders as defined therein, Borrower requests that \$_____ be advanced from Loan Proceeds [, \$_____ **be advanced from Borrower's Deposit and \$_____ be advanced from Up-Front Equity Cash**]. The proceeds should be credited to the account of _____ Account No. _____, at _____.

1. CURRENT DRAW REQUEST FOR HARD COSTS	\$ _____
2. CURRENT DRAW REQUEST FOR SOFT COSTS	\$ _____
3. TOTAL DRAW REQUEST	\$ _____

AUTHORIZED SIGNER:

Dated: _____

EXHIBIT "G"

SURVEY REQUIREMENTS

1. **Requirements.** The Survey shall be made in accordance with, and meet the requirements of, the certification below by a registered professional engineer or registered professional land surveyor. The description shall be a single metes and bounds perimeter description of the entire Land, and a separate metes and bounds description of the perimeter of each constituent tract or parcel out of the Land. The total acreage and square footage of the Land and each constituent tract or parcel of the Land shall be certified. If the Land has been recorded on a map or plat as part of an abstract or subdivision, all survey lines must be shown, and all lot and block lines (with distances and bearings) and numbers, must be shown. The date of any revisions subsequent to the initial survey prepared pursuant to these requirements must also be shown.

2. **Certification.** The certification for the property description and the map or plat shall be addressed to Administrative Agent for the Lenders, Borrower and the Title Company, signed by the surveyor (a registered professional land surveyor or registered professional engineer), bearing current date, registration number, and seal, and shall be in the following form or its substantial equivalent:

This is to certify to Bank of America, N.A., as Administrative Agent for certain Lenders, HF Logistics-SKX T1, LLC, as Borrower and _____, as the Title Company that this map or plat and the survey on which it is based were made in accordance with the "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys" jointly established and adopted by ALTA and NSPS in 2005, and include optional items 1, 2, 4 (in square feet or acres), 6, 8, 10, 11(b), 16, 17, 18, and if buildings are located on the land, optional items 7(a), 7(b)(1), 7(b)(2) and 9 of Table A thereof. Pursuant to the Accuracy Standards as adopted by ALTA and NSPS and in effect on the date of this certification, the undersigned further certifies that in my professional opinion, as a land surveyor registered in the State of California, the maximum Relative Positional Accuracy resulting from the measurements made on the survey does not exceed the Allowable Relative Positional Accuracy for Measurements Controlling Land Boundaries on ALTA/ACSM Land Title Surveys (0.07 feet or 20 mm + 50 ppm). The undersigned additionally certifies that (a) this survey was made on the ground under my supervision; (b) I have received and examined a copy of the Title Insurance Commitment No. _____ issued by the Title Company as well as a copy of each instrument listed therein, and the subject land and each tract or parcel thereof described in this survey is the same land as described in the Title Commitment; (c) if the subject land consists of two or more tracts or parcels having common boundaries, those tracts and parcels are contiguous along the common boundaries; (d) the subject land and each tract or parcel thereof has a tax map designation separate and distinct from that of any other land and the subject land and each tract or parcel thereof is a separate, legally subdivided parcel; (e) this survey correctly shows all matters of record, (and to the extent they can be located, their location and dimensions) of which I have been advised affecting the subject land according to the legal description in such matters (with instrument, book, and page number indicated); (f) except as shown on this survey, no part of the subject land is located in a 100-year Flood Plain or in an identified "flood prone area," as defined pursuant to the Flood Disaster Protection Act of 1973, as amended, as reflected by Flood Insurance Rate Map Panel # dated _____, which such map panel covers the area in which the Property is situated and this survey correctly indicates the zone designation of any area as being in the 100-year Flood Plain or "flood prone area"; (g) to the best of my knowledge, this survey shows the relation of and distance of all substantial, visible buildings, sidewalks and other improvements to easements and setback lines; and (h) to the best of my knowledge, except as shown on this survey, neither the subject land nor any tract or parcel thereof serves any adjoining land for drainage, utilities, or ingress or egress.

EXHIBIT "H"
INTENTIONALLY OMITTED

EXHIBIT H, PAGE 1

EXHIBIT "I"

LEASING AND TENANT MATTERS

Borrower and Lenders agree as follows:

1. **Approved Leases.** Borrower shall not enter into any tenant lease of space in the Improvements unless satisfactory to or deemed satisfactory to Administrative Agent prior to execution. Borrower's standard form of tenant lease, and any revisions thereto, must have the prior written approval of Administrative Agent. Any tenant lease shall be "deemed" satisfactory to Administrative Agent that (a) is on the standard form lease approved by Administrative Agent, with no deviations except as satisfactory to Administrative Agent; (b) is entered into in the ordinary course of business with a bona fide unrelated third party tenant, and Borrower, acting in good faith and exercising due diligence, has determined that the tenant is financially capable of performing its obligations under the lease; (c) is received by Administrative Agent (together with each guarantee thereof (if any) and financial information regarding the tenant and each guarantor (if any) received by Borrower) within fifteen (15) days after execution; (d) reflects an arms-length transaction at then current market rate for comparable space; (e) contains no right to purchase the Property, or any present or future interest therein; (f) does not require Borrower to provide funds for tenant improvements in excess of the per square foot allowance provided in the Budget; (g) does not cover in excess of twenty-five percent (25%) of the aggregate net rentable area of the Improvements; and (h) is expressly subordinate to the Mortgage. Borrower shall provide to Administrative Agent a correct and complete copy of each tenant lease, including any exhibits, and each guarantee thereof (if any), prior to execution unless the lease in question is satisfactory to Administrative Agent under the foregoing requirements. Borrower shall, throughout the term of this Agreement, pay all reasonable costs incurred by Administrative Agent in connection with Administrative Agent's review and approval of tenant leases and each guarantee thereof (if any), including reasonable attorneys' fees and costs.

2. **Effect of Lease Approval.** No approval of any lease by Administrative Agent shall be for any purpose other than to protect Lenders' security, and to preserve Lenders' rights under the Loan Documents. No approval by Administrative Agent shall result in a waiver of any default of Borrower. In no event shall any approval by Administrative Agent of a lease be a representation of any kind, with regard to the lease or its adequacy or enforceability, or the financial capacity of any tenant or guarantor.

3. **Representations Concerning Leases.** Borrower represents and warrants to Administrative Agent and Lenders that Borrower has delivered to Administrative Agent a true and correct copy of all tenant leases and each guarantee thereof (if any), affecting any part of the Improvements, together with an accurate and complete rent roll for the Project, and no such lease or guarantee contains any option to purchase all or any portion of the Property or any interest therein or contains any right of first refusal relating to any sale of the Property or any portion thereof or interest therein.

4. **Delivery of Leasing Information and Documents.** Borrower shall promptly (a) deliver to Administrative Agent such monthly rent rolls, leasing schedules and reports, operating statements, financial statements for tenants other than residential tenants with a lease term for less than one year and other information regarding tenants and prospective tenants or other leasing information as Administrative Agent from time to time may request, and (b) obtain and deliver to Administrative Agent such estoppel certificates and subordination and attornment agreements executed by such tenants (and guarantors, if any) in the respective forms attached as exhibits to the Closing Checklist, or otherwise in such forms as Administrative Agent from time to time may require.

5. **Income from the Property.** Borrower shall first apply all income from leases, and all other income derived from the Property, to pay costs and expenses associated with the ownership, maintenance, development, operating, and marketing of the Land and Improvements, including all amounts then required to be paid under the Loan Documents, before using or applying such income for any other purpose.

6. **Compliance and Default.** As additional conditions to Lenders' obligations under this Agreement, all tenants having the right to do so must approve all Plans and all changes thereto, the construction of the Improvements, and all other aspects of the Project requiring tenants' approval. A default by Borrower under or any failure by Borrower to satisfy any of the conditions of a lease shall constitute a Default under this Agreement. Borrower shall promptly notify Administrative Agent in writing of any failure by any party to perform any material obligation under

any lease, any event or condition which would permit a tenant to terminate or cancel a lease, or any notice given by a tenant with respect to the foregoing, specifying in each case the action Borrower has taken or will take with respect thereto.

7. Skechers Lease. Notwithstanding anything to the contrary contained herein, Administrative Agent and Borrower hereby acknowledge that the Lease with Skechers previously delivered to Administrative Agent by Borrower is acceptable to Administrative Agent and Borrower shall comply with the requirements of this Exhibit "I" with respect to the Lease. Further, Borrower shall not modify any terms or provisions of the Lease without prior written consent of Administrative Agent, which consent shall be in Administrative Agent's sole discretion.

EXHIBIT I, PAGE 2

EXHIBIT "J"

LIST OF REQUIRED BONDS

- (a) Performance Bond for the general contractor in amount, form and content satisfactory to Administrative Agent; and
- (b) Payment Bond for the general contractor, in form and content satisfactory to Administrative Agent.

Each bond shall be issued by a corporate surety acceptable to Administrative Agent and authorized and admitted to do business and to execute bonds in the state where the Project is located and contain a dual obligee rider with power of attorney in favor of Administrative Agent in form and content satisfactory to Administrative Agent.

EXHIBIT "K"

LETTERS OF CREDIT

1. The Letter of Credit Commitment.

(i) Subject to the terms and conditions set forth herein, (A) the L/C Issuer agrees, in reliance upon the agreements of the other Lenders set forth in this Exhibit "K", (1) from time to time on any Business Day during the period from the date of this Agreement until the Letter of Credit Expiration Date, to issue Letters of Credit for the account of the Borrower, and to amend or renew Letters of Credit previously issued by it, in accordance with Section 2 below, and (2) to honor drafts under the Letters of Credit; and (B) the Lenders severally agree to participate in Letters of Credit issued for the account of the Borrower; *provided* that the L/C Issuer shall not be obligated to make any L/C Credit Extension with respect to any Letter of Credit, and no Lender shall be obligated to participate in, any Letter of Credit if as of the date of such L/C Credit Extension, (x) the outstanding amount of all L/C Obligations and all Loan advances would exceed the combined Commitments, or (y) the outstanding amount of the L/C Obligations would exceed the Letter of Credit Sublimit. Within the foregoing limits, and subject to the terms and conditions hereof, the Borrower's ability to obtain Letters of Credit shall be fully revolving, and accordingly the Borrower may, during the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or that have been drawn upon and reimbursed.

(ii) The L/C Issuer shall be under no obligation to issue any Letter of Credit if:

(A) any order, judgment or decree of any Tribunal or arbitrator shall by its terms purport to enjoin or restrain the L/C Issuer from issuing such Letter of Credit, or any Law applicable to the L/C Issuer or any request or directive (whether or not having the force of Law) from any Tribunal with jurisdiction over the L/C Issuer shall prohibit, or request that the L/C Issuer refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon the L/C Issuer with respect to such Letter of Credit any restriction, reserve or capital requirement (for which the L/C Issuer is not otherwise compensated hereunder) not in effect on the date of this Agreement, or shall impose upon the L/C Issuer any unreimbursed loss, cost or expense which was not applicable on the date of this Agreement and which the L/C Issuer in good faith deems material to it;

(B) the expiry date of such requested Letter of Credit would occur more than twelve months after the date of issuance or last renewal, unless the Required Lenders have approved such expiry date;

(C) the expiry date of such requested Letter of Credit would occur after the Letter of Credit Expiration Date, unless all the Lenders have approved such expiry date;

(D) the issuance of such Letter of Credit would violate one or more policies of the L/C Issuer; or

(E) such Letter of Credit is in an initial amount less than \$25,000, or is to be used for a purpose other than the development of the Improvements or denominated in a currency other than Dollars.

(iii) The L/C Issuer shall be under no obligation to amend any Letter of Credit if (A) the L/C Issuer would have no obligation at such time to issue such Letter of Credit in its amended form under the terms hereof, or (B) the beneficiary of such Letter of Credit does not accept the proposed amendment to such Letter of Credit.

2. Procedures for Issuance and Amendment of Letters of Credit

(i) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the Borrower delivered to the L/C Issuer (with a copy to the Administrative Agent) in the form of a Letter of Credit Application, appropriately completed and signed by Borrower. Such Letter of Credit Application must be received by the L/C Issuer and the Administrative Agent not later than 11:00 a.m., Administrative Agent's Time, at least two Business Days (or such later date and time as the L/C Issuer may agree in a particular instance in its sole discretion)

prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for an initial issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the L/C Issuer: (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount thereof; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; and (G) such other matters as the L/C Issuer may require. In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the L/C Issuer (A) the Letter of Credit to be amended; (B) the proposed date of amendment thereof (which shall be a Business Day); (C) the nature of the proposed amendment; and (D) such other matters as the L/C Issuer may require.

(ii) Promptly after receipt of any Letter of Credit Application, the L/C Issuer will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has received a copy of such Letter of Credit Application from the Borrower and, if not, the L/C Issuer will provide the Administrative Agent with a copy thereof. Upon receipt by the L/C Issuer of confirmation from the Administrative Agent that the requested issuance or amendment is permitted in accordance with the terms hereof, then, subject to the terms and conditions hereof, the L/C Issuer shall, on the requested date, issue a Letter of Credit for the account of the Borrower or enter into the applicable amendment, as the case may be, in each case in accordance with the L/C Issuer's usual and customary business practices. Immediately upon the issuance of each Letter of Credit, each Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the L/C Issuer a participation in such Letter of Credit in an amount equal to the product of such Lender's Pro Rata Share times the amount of such Letter of Credit.

(iv) Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, the L/C Issuer will also deliver to the Borrower and the Administrative Agent a true and complete copy of such Letter of Credit or amendment.

3. Drawings and Reimbursements; Funding of Participations.

(i) Upon receipt from the beneficiary of any Letter of Credit of any notice of a drawing under such Letter of Credit, the L/C Issuer shall notify the Borrower and the Administrative Agent thereof. Not later than 11:00 a.m., Administrative Agent's Time, on the date of any payment by the L/C Issuer under a Letter of Credit (each such date, an "Honor Date"), the Borrower shall reimburse the L/C Issuer through the Administrative Agent in an amount equal to the amount of such drawing. If the Borrower fails to so reimburse the L/C Issuer by such time, the Administrative Agent shall promptly notify each Lender of the Honor Date, the amount of the unreimbursed drawing (the "Unreimbursed Amount"), and the amount of such Lender's Pro Rata Share thereof. In such event, the Borrower shall be deemed to have requested an advance of Base Rate Principal to be disbursed on the Honor Date in an amount equal to the Unreimbursed Amount, subject to the amount of the unutilized portion of the combined Commitments and the conditions set forth in Exhibit "F" (other than the delivery of a Draw Request). Any notice given by the L/C Issuer or the Administrative Agent pursuant to this subsection may be given by telephone if immediately confirmed in writing; provided that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

(ii) Each Lender (including the Lender acting as L/C Issuer) shall upon any notice pursuant to the subsection above make funds available to the Administrative Agent for the account of the L/C Issuer at the Administrative Agent's Office in an amount equal to its Pro Rata Share of the Unreimbursed Amount not later than 1:00 p.m., Administrative Agent's Time, on the Business Day specified in such notice by the Administrative Agent, whereupon, subject to the provisions of the subsection below, each Lender that so makes funds available shall be deemed to have made an advance of Base Rate Principal to the Borrower in such amount. The Administrative Agent shall remit the funds so received to the L/C Issuer.

(iii) With respect to any Unreimbursed Amount that is not fully refinanced by an advance of Base Rate Principal because the conditions set forth in Exhibit "F" cannot be satisfied or for any other reason, the Borrower shall be deemed to have incurred from the L/C Issuer an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the Past Due Rate. In such event, each Lender's payment to the Administrative Agent for the

account of the L/C Issuer pursuant to the subsection above shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute a participation in such L/C Borrowing from such Lender in satisfaction of its participation obligation under this Section.

(iv) Until each Lender funds its Loan advance or participation in an L/C Borrowing pursuant to this Section to reimburse the L/C Issuer for any amount drawn under any Letter of Credit, interest in respect of such Lender's Pro Rata Share of such amount shall be solely for the account of the L/C Issuer.

(v) Each Lender's obligation to make a Loan advance or participation in such L/C Borrowing to reimburse the L/C Issuer for amounts drawn under Letters of Credit, as contemplated by this Section, shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any set-off, counterclaim, recoupment, defense or other right which such Lender may have against the L/C Issuer, the Borrower or any other person for any reason whatsoever; (B) the occurrence or continuance of a Default or event of Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; *provided, however*, that each Lender's obligation to make a Loan advance pursuant to this Section is subject to the conditions set forth in Section 4 of Exhibit "F" being satisfactory to Administrative Agent. No such reimbursement shall relieve or otherwise impair the obligation of the Borrower to reimburse the L/C Issuer for the amount of any payment made by the L/C Issuer under any Letter of Credit, together with interest as provided herein.

(vi) If any Lender fails to make available to the Administrative Agent for the account of the L/C Issuer any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section by the time specified in subsection (ii), the L/C Issuer shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the L/C Issuer at a rate per annum equal to the Federal Funds Rate from time to time in effect. A certificate of the L/C Issuer submitted to any Lender (through the Administrative Agent) with respect to any amounts owing under this clause (vi) shall be conclusive absent manifest error.

4. Repayment of Participations.

(i) At any time after the L/C Issuer has made a payment under any Letter of Credit and has received from any Lender such Lender's participation in a L/C Borrowing in respect of such payment in accordance with Exhibit "K", Section 3, if the Administrative Agent receives for the account of the L/C Issuer any payment in respect of the related Unreimbursed Amount or interest thereon (whether directly from the Borrower or otherwise, including proceeds of Cash Collateral applied thereto by the Administrative Agent), the Administrative Agent will distribute to such Lender its Pro Rata Share (appropriately adjusted, in the case of interest payments, to reflect the period of time Lender's participation payment was outstanding) thereof in the same funds as those received by the Administrative Agent.

(ii) If any payment received by the Administrative Agent for the account of the L/C Issuer pursuant to Exhibit "K", Section 3(i) is required to be returned, under any of the circumstances described in Section 6.4 (including pursuant to any settlement entered into by the L/C Issuer in its discretion) each Lender shall pay to the Administrative Agent for the account of the L/C Issuer its Pro Rata Share thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Lender, at a rate per annum equal to the Federal Funds Rate from time to time in effect.

5. Obligations Absolute. The obligation of the Borrower to reimburse the L/C Issuer for each drawing under each Letter of Credit and to repay each L/C Borrowing, shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

- (i) any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other agreement or instrument relating thereto;
- (ii) the existence of any claim, counterclaim, set-off, defense or other right that the Borrower may have at any time against any beneficiary or any transferee of such Letter of Credit (or any person for whom any such

beneficiary or any such transferee may be acting), the L/C Issuer or any other person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;

(iii) any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(iv) any payment by the L/C Issuer under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by the L/C Issuer under such Letter of Credit to any person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law; or

(v) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Borrower.

The Borrower shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with the Borrower's instructions or other irregularity, the Borrower will immediately notify the L/C Issuer. The Borrower shall be conclusively deemed to have waived any such claim against the L/C Issuer and its correspondents unless such notice is given as aforesaid.

6. Role of L/C Issuer. Each Lender and the Borrower agree that, in paying any drawing under a Letter of Credit, the L/C Issuer shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the person executing or delivering any such document. None of the L/C Issuer, any Agent-Related Person nor any of the respective correspondents, participants or assignees of the L/C Issuer shall be liable to any Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Lenders or the Required Lenders, as applicable; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Letter of Credit Application. The Borrower hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; provided, however, that this assumption is not intended to, and shall not, preclude the Borrower's pursuing such rights and remedies as it may have against the beneficiary or transferee at Law or under any other agreement. None of the L/C Issuer, any Agent-Related Person, nor any of the respective correspondents, participants or assignees of the L/C Issuer, shall be liable or responsible for any of the matters described in clauses (i) through (v) of the above Section; provided, however, that anything in such clauses to the contrary notwithstanding, the Borrower may have a claim against the L/C Issuer, and the L/C Issuer may be liable to the Borrower, to the extent, but only to the extent, of any direct, as opposed to consequential or exemplary, damages suffered by the Borrower which the Borrower proves were caused by the L/C Issuer's willful misconduct or gross negligence or the L/C Issuer's willful failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight draft and certificate(s) strictly complying with the terms and conditions of a Letter of Credit. In furtherance and not in limitation of the foregoing, the L/C Issuer may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and the L/C Issuer shall not be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason.

7. Cash Collateral. Upon the request of the Administrative Agent, (i) if the L/C Issuer has honored any full or partial drawing request under any Letter of Credit and such drawing has resulted in an L/C Borrowing, or (ii) if, as of the Letter of Credit Expiration Date, any Letter of Credit may for any reason remain outstanding and partially or wholly undrawn, the Borrower shall immediately Cash Collateralize the then outstanding amount of all L/C Obligations (in an amount equal to such outstanding amount determined as of the date of such L/C Borrowing

or the Letter of Credit Expiration Date, as the case may be). For the purposes hereof “Cash Collateralize” means to pledge and deposit with or deliver to the Administrative Agent, for the benefit of the L/C Issuer and the Lenders, as collateral for the L/C Obligations, cash or deposit account balances pursuant to documentation in form and substance satisfactory to the Administrative Agent and the L/C Issuer (which documents are hereby consented to by the Lenders). Derivatives of such term shall have corresponding meaning. The Borrower hereby grants the Administrative Agent, for the benefit of the L/C Issuer and the Lenders, a security interest in all such cash and deposit account balances and all proceeds of the foregoing. Cash collateral shall be maintained in blocked, non-interest bearing deposit accounts at Bank of America.

8. Applicability of ISP98 and UCP. Unless otherwise expressly agreed by the L/C Issuer and the Borrower when a Letter of Credit is issued, (i) the rules of the “International Standby Practices 1998” published by the Institute of International Banking Law & Practice (or such later version thereof as may be in effect at the time of issuance) shall apply to each standby Letter of Credit, and (ii) the rules of the Uniform Customs and Practice for Documentary Credits, as most recently published by the International Chamber of Commerce (the “ICC”) at the time of issuance (including the ICC decision published by the Commission on Banking Technique and Practice on April 6, 1998 regarding the European single currency (euro)) shall apply to each commercial Letter of Credit.

9. Letter of Credit Fees. The Borrower shall pay to the Administrative Agent for the account of each Lender in accordance with its Pro Rata Share a Letter of Credit fee for each Letter of Credit equal to: (a) one percent (1%) per annum of the stated amount of the Letter of Credit and times the daily maximum amount available to be drawn under such Letter of Credit (whether or not such maximum amount is then in effect under such Letter of Credit) for any Letter of Credit in an amount greater than TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000); and (b) two percent (2%) per annum per annum of the stated amount of the Letter of Credit and times the daily maximum amount available to be drawn under such Letter of Credit (whether or not such maximum amount is then in effect under such Letter of Credit) for any Letter of Credit in an amount of TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000) or less. Such fee for each Letter of Credit shall be due and payable on the date the Letter of Credit Application is delivered to the L/C Issuer and on the same date of each successive year thereafter until the Letter of Credit Expiration Date.

10. Other Fees. The Borrower shall also pay directly to the L/C Issuer for its own account the customary issuance, presentation, amendment and other processing fees, and other standard costs and charges, of the L/C Issuer relating to letters of credit as from time to time in effect. Such customary fees and standard costs and charges are due and payable on demand and are nonrefundable.

11. Conflict with Letter of Credit Application. In the event of any conflict between the terms hereof and the terms of any Letter of Credit Application, the terms hereof shall control.

12. Limitation on Aggregate Obligation. At no time may the outstanding stated amount of the Letters of Credit and advanced Loan Proceeds (the “Aggregate Obligation”) exceed \$55,000,000; provided, however, that Borrower may request an advance of Loan Proceeds that causes the Aggregate Obligation to exceed \$55,000,000 if no later than sixty (60) days prior to such request, the Borrower Cash Collateralizes, as provided in Paragraph 7 above, in an amount equal to the amount the Aggregate Obligation exceeds \$55,000,000.

EXHIBIT "L"

ASSIGNMENT AND ASSUMPTION

This Assignment and Assumption (this "Assignment") is dated as of the Effective Date set forth below and is entered into by and between _____ (the "Assignor") and _____ (the "Assignee"). Capitalized terms used but not defined herein shall have the meanings given to them in the Construction Loan Agreement identified below (the "Loan Agreement"), receipt of a copy of which is hereby acknowledged by the Assignee. The Standard Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment as if set forth herein in full.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the Loan Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below, (i) all of the Assignor's rights and obligations as a Lender under the Loan Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of the Assignor under the respective facilities identified below (including, without limitation Guarantees), and (ii) to the extent permitted to be assigned under applicable Law, all claims, suits, causes of action and any other right of the Assignor (in its capacity as a Lender) against any person, whether known or unknown, arising under or in connection with the Loan Agreement, any other documents or instruments delivered pursuant thereto or in any way based on or related to any of the foregoing, including, but not limited to contract claims, tort claims, malpractice claims, statutory claims and all other claims at Law or in equity, related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned pursuant to clauses (i) and (ii) above being referred to herein collectively as the "Assigned Interest"). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment, without representation or warranty by the Assignor.

- 1. Assignor: _____
- 2. Assignee: _____, [an Affiliate/Approved Fund of _____]
- 3. Borrower(s): _____
- 4. Administrative Agent: _____, as the administrative agent under the Loan Agreement
- 5. Loan Agreement: The Construction Loan Agreement, dated as of _____, among _____, the Lenders parties thereto, [and] Bank of America, N.A., as Administrative Agent, [and the other agents parties thereto]
- 6. Assigned Interest:

Aggregate Amount of Commitment/Loans for all Lenders	Amount of Commitment/Loans Assigned	Percentage Assigned of Commitment/Loans
\$ _____	\$ _____	_____ %

Effective Date: _____, 20__ [TO BE INSERTED BY ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

The terms set forth in this Assignment are hereby agreed to:

ASSIGNOR:

By: _____

Name: _____

Title: _____

ASSIGNEE:

By: _____

Name: _____

Title: _____



[Consented to and] Accepted:

BANK OF AMERICA, N.A.,
as Administrative Agent

By: _____

Name: _____

Title: _____

[Consented to:]

By: _____

Name: _____

Title: _____

EXHIBIT L, PAGE 3

ANNEX 1 TO ASSIGNMENT AND ASSUMPTION

**STANDARD TERMS AND CONDITIONS FOR
ASSIGNMENT AND ASSUMPTION**

1. Representations and Warranties.

1.1. **Assignor.** The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and to consummate the transactions contemplated hereby; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Loan Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents, or any collateral thereunder, (iii) the financial condition of the Borrower, any of its Subsidiaries or Affiliates or any other person obligated in respect of any Loan Document or (iv) the performance or observance by the Borrower, any of its Subsidiaries or Affiliates or any other person of any of their respective obligations under any Loan Document.

1.2. **Assignee.** The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and to consummate the transactions contemplated hereby and to become a Lender under the Loan Agreement, (ii) it meets all requirements of an Eligible Assignee under the Loan Agreement (subject to receipt of such consents as may be required under the Loan Agreement), (iii) from and after the Effective Date, it shall be bound by the provisions of the Loan Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it has received a copy of the Loan Agreement, together with copies of the most recent financial statements delivered pursuant to Section thereof, as applicable, and such other documents and information as it has deemed appropriate to make its own credit analysis and decision independently and without reliance on the Administrative Agent or any other Lender to enter into this Assignment and to purchase the Assigned Interest on the basis of which it has made such analysis and decision, and (v) if it is a Foreign Lender, attached hereto is any documentation required to be delivered by it pursuant to the terms of the Loan Agreement, duly completed and executed by the Assignee; and (b) agrees that (i) it will, independently and without reliance on the Administrative Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

1.3 **Assignee's Address for Notices, etc.** Attached hereto as Schedule 1 is all contact information, address, account and other administrative information relating to the Assignee.

2. **Payments.** From and after the Effective Date, the Administrative Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignee whether such amounts have accrued prior to or on or after the Effective Date. The Assignor and the Assignee shall make all appropriate adjustments in payments by the Administrative Agent for periods prior to the Effective Date or with respect to the making of this Assignment directly between themselves.

3. **General Provisions.** This Assignment shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment by telecopy shall be effective as delivery of a manually executed counterpart of this Assignment. This Assignment shall be governed by, and construed in accordance with, the Law of the State of Florida.

SCHEDULE 1 TO ASSIGNMENT AND ASSUMPTION

ADMINISTRATIVE DETAILS

(Assignee to list names of credit contacts, addresses, phone and facsimile numbers, electronic mail addresses and account and payment information)

(a) LIBOR Lending Office:

Assignee name: _____
Address: _____

Attention: _____
Telephone: () _____
Facsimile: () _____
Electronic Mail: _____

(b) Domestic Lending Office:

Assignee name: _____
Address: _____

Attention: _____
Telephone: () _____
Facsimile: () _____
Electronic Mail: _____

(c) Notice Address:

Assignee name: _____
Address: _____

Attention: _____
Telephone: () _____
Facsimile: () _____
Electronic Mail: _____

(d) Payment Instructions:

Account No. _____
Attention: _____
Reference: _____

EXHIBIT "M"
FORM OF NOTE
PROMISSORY NOTE

\$ _____

April __, 2010

FOR VALUE RECEIVED, HF LOGISTICS-SKX T1, LLC, a Delaware limited liability company ("Borrower") hereby promises to pay to the order of _____, without offset, in immediately available funds in lawful money of the United States of America, at the Lender's office as defined in the Loan Agreement (as such term is defined herein), the principal sum of _____ DOLLARS

(\$ _____) (or the unpaid balance of all principal advanced against this Note, if that amount is less), together with interest on the unpaid principal balance of this Note from day to day outstanding as hereinafter provided.

1. Note; Interest; Payment Schedule and Maturity Date. This Note is one of the Notes referred to in that certain Construction Loan Agreement of even date herewith (the "Loan Agreement") among the Borrower, Bank of America, N.A., as Administrative Agent for itself as a lender and for the others lenders that are from time to time a party to the Loan Agreement (collectively, the "Lenders"), and the Lenders, and it is entitled to the benefits thereof and subject to prepayment in whole or part as provided therein. The entire principal balance of this Note then unpaid shall be due and payable at the times as set forth in the Loan Agreement. Accrued unpaid interest shall be due and payable at the times and at the interest rate as set forth in the Loan Agreement until all principal and accrued interest owing on this Note shall have been fully paid and satisfied. Any amount not paid when due and payable hereunder shall, to the extent permitted by applicable Law, bear interest and if applicable a late charge as set forth in the Loan Agreement.

2. Security; Loan Documents. The security for this Note includes a Construction Deed of Trust, Assignments of Rents and Leases, Security Agreement and Fixture Filing of even date herewith from Borrower to PRLAP, Inc., as Trustee for the benefit of Bank of America, N.A., a national banking association, as beneficiary in its capacity as administrative agent for the Lenders (which, as it may have been or may be amended, restated, modified or supplemented from time to time, is herein called the "Mortgage"), covering certain property in Moreno Valley, County of Riverside, California described therein (the "Property"). This Note, the Mortgage, the Loan Agreement and all other documents now or hereafter securing, guaranteeing or executed in connection with the loan evidenced by this Note (the "Loan"), are, as the same have been or may be amended, restated, modified or supplemented from time to time, herein sometimes called individually a "Loan Document" and together the "Loan Documents."

3. Defaults.

(a) It shall be an event of default ("Event of Default") under this Note and each of the other Loan Documents if (i) any principal, interest or other amount of money due under this Note is not paid in full when due, regardless of how such amount may have become due; or (ii) there shall occur a Default under the Loan Agreement (as such term "Default" is defined in the Loan Agreement) subject to any applicable notice and cure period contained therein. Upon the occurrence of an Event of Default, Lender shall have the rights to declare the unpaid principal balance and accrued but unpaid interest on this Note, and all other amounts due hereunder and under the other Loan Documents, at once due and payable (and upon such declaration, the same shall be at once due and payable), to foreclose any liens and security interests securing payment hereof and to exercise any of its other rights, powers and remedies under this Note, under any other Loan Document, or at law or in equity.

(b) All of the rights, remedies, powers and privileges (together, "Rights") of Lender and Administrative Agent provided for in this Note and in any other Loan Document are cumulative of each other and of any and all other Rights at law or in equity. The resort to any Right shall not prevent the concurrent or subsequent employment of any other appropriate Right. No single or partial exercise of any Right shall exhaust it, or preclude any other or further exercise thereof, and every Right may be exercised at any time and from time to time. No failure by

Lender to exercise, nor delay in exercising any Right, including but not limited to the right to accelerate the maturity of this Note, shall be construed as a waiver of any Event of Default or as a waiver of any Right. Without limiting the generality of the foregoing provisions, the acceptance by Lender from time to time of any payment under this Note which is past due or which is less than the payment in full of all amounts due and payable at the time of such payment, shall not (i) constitute a waiver of or impair or extinguish the right of Lender to accelerate the maturity of this Note or to exercise any other Right at the time or at any subsequent time, or nullify any prior exercise of any such Right, or (ii) constitute a waiver of the requirement of punctual payment and performance or a novation in any respect.

(c) If any holder of this Note retains an attorney in connection with any Event of Default or at maturity or to collect, enforce or defend this Note or any other Loan Document in any lawsuit or in any probate, reorganization, bankruptcy, arbitration or other proceeding, or if Borrower sues any holder in connection with this Note or any other Loan Document and does not prevail, then Borrower agrees to pay to each such holder, in addition to principal, interest and any other sums owing to Lender hereunder and under the other Loan Documents, all costs and expenses incurred by such holder in trying to collect this Note or in any such suit or proceeding, including, without limitation, reasonable attorneys' fees and expenses, investigation costs and all court costs, whether or not suit is filed hereon, whether before or after the Maturity Date, or whether in connection with bankruptcy, insolvency or appeal, or whether collection is made against Borrower or any guarantor or endorser or any other person primarily or secondarily liable hereunder. Any judgment on this Note shall bear interest at the highest rate allowed by applicable law.

4. Commercial Purpose. Borrower warrants that the Loan is being made solely to finance a portion of the cost to acquire or carry on a business or commercial enterprise, and/or Borrower is a business or commercial organization. Borrower further warrants that all of the proceeds of this Note shall be used for commercial purposes and stipulates that the Loan shall be construed for all purposes as a commercial loan, and is made for other than personal, family, household or agricultural purposes.

5. Service of Process. Borrower hereby consents to process being served in any suit, action, or proceeding instituted in connection with this Note by (a) the mailing of a copy thereof by certified mail, postage prepaid, return receipt requested, to Borrower and (b) serving a copy thereof upon the registered agent designated and appointed by Borrower as Borrower's agent for service of process. Borrower irrevocably agrees that such service shall be deemed to be service of process upon Borrower in any such suit, action, or proceeding. Nothing in this Note shall affect the right of Lender to serve process in any manner otherwise permitted by law and nothing in this Note will limit the right of Lender otherwise to bring proceedings against Borrower in the courts of any jurisdiction or jurisdictions

6. Heirs, Successors and Assigns. The terms of this Note and of the other Loan Documents shall bind and inure to the benefit of the heirs, devisees, representatives, successors and assigns of the parties. The foregoing sentence shall not be construed to permit Borrower to assign the Loan except as otherwise permitted under the Loan Documents. As further provided in the Loan Agreement, Lender may, at any time, sell, transfer, or assign this Note, the Mortgage and the other Loan Documents, and any or all servicing rights with respect thereto, or grant participations therein or issue mortgage pass-through certificates or other securities evidencing a beneficial interest in a rated or unrated public offering or private placement.

7. General Provisions. Time is of the essence with respect to Borrower's obligations under this Note. If more than one person or entity executes this Note as Borrower, all of said parties shall be jointly and severally liable for payment of the indebtedness evidenced hereby. Borrower and all sureties, endorsers, guarantors and any other party now or hereafter liable for the payment of this Note in whole or in part, hereby severally (a) waive demand, presentment for payment, notice of dishonor and of nonpayment, protest, notice of protest, notice of intent to accelerate, notice of acceleration and all other notices (except any notices which are specifically required by this Note or any other Loan Document), filing of suit and diligence in collecting this Note or enforcing any of the security herefor; (b) agree to any substitution, subordination, exchange or release of any such security or the release of any party primarily or secondarily liable hereon; (c) agree that Lender shall not be required first to institute suit or exhaust its remedies hereon against Borrower or others liable or to become liable hereon or to perfect or enforce its rights against them or any security herefor; (d) consent to any extensions or postponements of time of payment of this Note for any period or periods of time and to any partial payments, before or after maturity, and to any other indulgences with respect hereto, without notice thereof to any of them; and (e) submit (and waive all rights to object) to non-exclusive personal jurisdiction of any state or federal court sitting in the State of Florida, and venue in the city or county in which payment is to be made as specified in the first paragraph on Page 1 of this Note, for the enforcement of any and all

obligations under this Note and the Loan Documents; (f) waive the benefit of all homestead and similar exemptions as to this Note; (g) agree that their liability under this Note shall not be affected or impaired by any determination that any security interest or lien taken by Lender to secure this Note is invalid or unperfected; and (h) hereby subordinate any and all rights against Borrower and any of the security for the payment of this Note, whether by subrogation, agreement or otherwise, until this Note is paid in full. A determination that any provision of this Note is unenforceable or invalid shall not affect the enforceability or validity of any other provision and the determination that the application of any provision of this Note to any person or circumstance is illegal or unenforceable shall not affect the enforceability or validity of such provision as it may apply to other persons or circumstances. This Note may not be amended except in a writing specifically intended for such purpose and executed by the party against whom enforcement of the amendment is sought. Lender is hereby authorized to disseminate any information it now has or hereafter obtains pertaining to the Loan, including, without limitation, any security for this Note and credit or other information on Borrower, any of its principals and any guarantor of this Note, to any actual or prospective assignee or participant with respect to the Loan, to any of Lender's affiliates, including, without limitation, Banc of America Securities LLC, to any regulatory body having jurisdiction over Lender, and to any other parties as necessary or appropriate in Lender's reasonable judgment, as further provided in the Loan Agreement. The term "Business Day" shall mean a day on which Lender is open for the conduct of substantially all of its banking business at its office in the city in which this Note is payable (excluding Saturdays and Sundays). Captions and headings in this Note are for convenience only and shall be disregarded in construing it. THIS NOTE, AND ITS VALIDITY, ENFORCEMENT AND INTERPRETATION, SHALL BE GOVERNED BY FLORIDA LAW (WITHOUT REGARD TO ANY CONFLICT OF LAWS PRINCIPLES) AND APPLICABLE UNITED STATES FEDERAL LAW.

8. No Usury. It is expressly stipulated and agreed to be the intent of Borrower and Lender at all times to comply with applicable state law or applicable United States federal law (to the extent that it permits Lender to contract for, charge, take, reserve, or receive a greater amount of interest than under state law) and that this Section shall control every other covenant and agreement in this Note and the other Loan Documents. If applicable state or federal law should at any time be judicially interpreted so as to render usurious any amount called for under this Note or under any of the other Loan Documents, or contracted for, charged, taken, reserved, or received with respect to the Loan, or if Lender's exercise of the option to accelerate the Maturity Date, or if any prepayment by Borrower results in Borrower having paid any interest in excess of that permitted by applicable law, then it is Lender's express intent that all excess amounts theretofore collected by Lender shall be credited on the principal balance of this Note and all other indebtedness and the provisions of this Note and the other Loan Documents shall immediately be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new documents, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder or thereunder. All sums paid or agreed to be paid to Lender for the use, forbearance, or detention of the Loan shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full stated term of the Loan until payment in full so that the rate or amount of interest on account of the Loan does not exceed the maximum lawful rate from time to time in effect and applicable to the Loan (the "Maximum Rate") for so long as the Loan is outstanding. The Lender may, in determining the Maximum Rate, take advantage of: (i) the rate of interest permitted by Florida Statutes, Chapter 658, by reason of both Section 687.12 Florida Statutes ("Interest rates; parity among licensed lenders or creditors") and 12 United States Code, Sections 85 and 86, and (ii) any other law, rule, or regulation in effect from time to time, available to Lender which exempts Lender from any limit upon the rate of interest it may charge or grants to Lender the right to charge a higher rate of interest than that allowed by Florida Statutes, Chapter 687.

9. Notices. Any notice, request, or demand to or upon Borrower or Lender shall be deemed to have been properly given or made when delivered in accordance with the Loan Agreement.

10. Dispute Resolution.

(a) Arbitration. Except to the extent expressly provided below, any Dispute (as defined below) shall, upon the request of either party, be determined by binding arbitration in accordance with the Federal Arbitration Act, Title 9, United States Code (or if not applicable, the applicable state law), the then-current rules for arbitration of financial services disputes of the American Arbitration Association, or any successor thereof ("AAA") and the "Special Rules" set forth below. "Dispute" means any controversy, claim or dispute between or among the parties to this Note, including any controversy, claim or dispute arising out of or relating to (a) this Note, (b) any other Loan Documents, (c) any related agreements or instruments, or (d) the transaction contemplated herein or

therein (including any claim based on or arising from an alleged personal injury or business tort). In the event of any inconsistency, the Special Rules shall control. The filing of a court action is not intended to constitute a waiver of the right of Borrower or Lender, including the suing party, thereafter to require submittal of the Dispute to arbitration. Any party to this Note may bring an action, including a summary or expedited proceeding, to compel arbitration of any Dispute in any court having jurisdiction over such action. For the purposes of this Dispute Resolution Section only, the terms "party" and "parties" shall include any parent corporation, subsidiary or affiliate of Lender involved in the servicing, management or administration of any obligation described in or evidenced by this Note, together with the officers, employees, successors and assigns of each of the foregoing.

(b) Special Rules.

(i) The arbitration shall be conducted in any U.S. state where real or tangible personal property collateral is located, or if there is no such collateral, in the City and County where Lender is located pursuant to its address for notice purposes in this Note.

(ii) The arbitration shall be administered by AAA, who will appoint an arbitrator. If AAA is unwilling or unable to administer or legally precluded from administering the arbitration, or if AAA is unwilling or unable to enforce or legally precluded from enforcing any and all provisions of this Dispute Resolution Section, then any party to this Note may substitute another arbitration organization that has similar procedures to AAA and that will observe and enforce any and all provisions of this Dispute Resolution Section. All Disputes shall be determined by one arbitrator; however, if the amount in controversy in a Dispute exceeds Five Million Dollars (\$5,000,000), upon the request of any party, the Dispute shall be decided by three arbitrators (for purposes of this Note, referred to collectively as the "arbitrator").

(iii) All arbitration hearings will be commenced within ninety (90) days of the demand for arbitration and completed within ninety (90) days from the date of commencement; provided, however, that upon a showing of good cause, the arbitrator shall be permitted to extend the commencement of such hearing for up to an additional sixty (60) days.

(iv) The judgment and the award, if any, of the arbitrator shall be issued within thirty (30) days of the close of the hearing. The arbitrator shall provide a concise written statement setting forth the reasons for the judgment and for the award, if any. The arbitration award, if any, may be submitted to any court having jurisdiction to be confirmed and enforced, and such confirmation and enforcement shall not be subject to arbitration.

(v) The arbitrator will give effect to statutes of limitations and any waivers thereof in determining the disposition of any Dispute and may dismiss one or more claims in the arbitration on the basis that such claim or claims is or are barred. For purposes of the application of the statute of limitations, the service on AAA under applicable AAA rules of a notice of Dispute is the equivalent of the filing of a lawsuit.

(vi) Any dispute concerning this arbitration provision, including any such dispute as to the validity or enforceability of this provision, or whether a Dispute is arbitrable, shall be determined by the arbitrator; provided, however, that the arbitrator shall not be permitted to vary the express provisions of these Special Rules or the Reservations of Rights in subsection (c) below.

(vii) The arbitrator shall have the power to award legal fees and costs pursuant to the terms of this Note.

(viii) The arbitration will take place on an individual basis without reference to, resort to, or consideration of any form of class or class action.

(c) Reservations of Rights. Nothing in this Note shall be deemed to (i) limit the applicability of any otherwise applicable statutes of limitation and any waivers contained in this Note, or (ii) apply to or limit the right of Lender (A) to exercise self help remedies such as (but not limited to) setoff, or (B) to foreclose judicially or nonjudicially against any real or personal property collateral, or to exercise judicial or nonjudicial power of sale

rights, (C) to obtain from a court provisional or ancillary remedies such as (but not limited to) injunctive relief, writ of possession, prejudgment attachment, or the appointment of a receiver, or (D) to pursue rights against a party to this Note in a third-party proceeding in any action brought against Lender in a state, federal or international court, tribunal or hearing body (including actions in specialty courts, such as bankruptcy and patent courts). Lender may exercise the rights set forth in clauses (A) through (D), inclusive, before, during or after the pendency of any arbitration proceeding brought pursuant to this Note. Neither the exercise of self help remedies nor the institution or maintenance of an action for foreclosure or provisional or ancillary remedies shall constitute a waiver of the right of any party, including the claimant in any such action, to arbitrate the merits of the Dispute occasioning resort to such remedies. No provision in the Loan Documents regarding submission to jurisdiction and/or venue in any court is intended or shall be construed to be in derogation of the provisions in any Loan Document for arbitration of any Dispute.

(d) Conflicting Provisions for Dispute Resolution. If there is any conflict between the terms, conditions and provisions of this Section and those of any other provision or agreement for arbitration or dispute resolution, the terms, conditions and provisions of this Section shall prevail as to any Dispute arising out of or relating to (i) this Note, (ii) any other Loan Document, (iii) any related agreements or instruments, or (iv) the transaction contemplated herein or therein (including any claim based on or arising from an alleged personal injury or business tort). In any other situation, if the resolution of a given Dispute is specifically governed by another provision or agreement for arbitration or dispute resolution, the other provision or agreement shall prevail with respect to said Dispute.

(e) Jury Trial Waiver in Arbitration. By agreeing to this Section, the parties irrevocably and voluntarily waive any right they may have to a trial by jury in respect of any Dispute.

11. WAIVER OF JURY TRIAL. WITHOUT INTENDING IN ANY WAY TO LIMIT THE PARTIES' AGREEMENT TO ARBITRATE ANY "DISPUTE" (FOR PURPOSES OF THIS SECTION, AS DEFINED ABOVE) AS SET FORTH IN THIS NOTE, TO THE EXTENT ANY "DISPUTE" IS NOT SUBMITTED TO ARBITRATION OR IS DEEMED BY THE ARBITRATOR OR BY ANY COURT WITH JURISDICTION TO BE NOT ARBITRABLE OR NOT REQUIRED TO BE ARBITRATED, BORROWER AND LENDER WAIVE TRIAL BY JURY IN RESPECT OF ANY SUCH "DISPUTE" AND ANY ACTION ON SUCH "DISPUTE." THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY BORROWER AND LENDER, AND BORROWER AND LENDER HEREBY REPRESENT THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANY PERSON OR ENTITY TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THE LOAN DOCUMENTS. BORROWER AND LENDER ARE EACH HEREBY AUTHORIZED TO FILE A COPY OF THIS SECTION IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER OF JURY TRIAL. BORROWER FURTHER REPRESENTS AND WARRANTS THAT IT HAS BEEN REPRESENTED IN THE SIGNING OF THIS NOTE AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, OR HAS HAD THE OPPORTUNITY TO BE REPRESENTED BY INDEPENDENT LEGAL COUNSEL SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL.

THE LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES.

THERE ARE NO ORAL AGREEMENTS BETWEEN THE PARTIES.

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IN WITNESS WHEREOF, Borrower has duly made and executed this Note under seal as of the date first above written.

BORROWER:

HF LOGISTICS-SKX T1, LLC,
a Delaware limited liability company

By: HF Logistics-SKX, LLC, a Delaware limited liability company, its sole member

By: HF Logistics I, LLC, a Delaware limited liability company, its managing member

[FORM OF NOTE]

By: _____
Iddo Benzeevi, President and
Chief Executive Officer

EXHIBIT M, PAGE 6

EXHIBIT "N"

SCHEDULE OF LENDERS AND OTHER PARTIES

BANK OF AMERICA, N.A., as Administrative Agent:

Notices:

Bank of America, N.A.
One Alhambra Plaza, Penthouse
Coral Gables, Florida 33134
Attn: Commercial Loan Administration
Telephone: (305) 468-4347
Facsimile: (305) 468-4364
Electronic Mail: althea.v.lyn-sue@baml.com

Payment Instructions:

Bank of America, N.A.
Atlanta, Georgia
ABA No.: 0260-0959-3
Account No.: GL 1366211723000
Attention: Nicole Rice
Reference: HF Logistics-SKX T1

BANK OF AMERICA, N.A., as Lender:

Domestic and LIBOR Lending Office:

Commitment Amount: **\$27,500,000.00**

Pro Rata Share: **50%**

Bank of America, N.A.
One Alhambra Plaza, Penthouse
Coral Gables, Florida 33134
Attn: Commercial Loan Administration
Telephone: (305) 468-4347
Facsimile: (305) 468-4364
Electronic Mail: althea.v.lyn-sue@baml.com

Notices:

Bank of America, N.A.
One Alhambra Plaza, Penthouse
Coral Gables, Florida 33134
Attn: Commercial Loan Administration
Telephone: (305) 468-4347
Facsimile: (305) 468-4364
Electronic Mail: althea.v.lyn-sue@baml.com

Payment Instructions:

Bank of America, N.A.
Atlanta, Georgia
ABA No.: 0260-0959-3
Account No.: GL 1366211723000
Attention: Nicole Rice
Reference: HF Logistics-SKX T1

RAYMOND JAMES BANK, FSB

Domestic and LIBOR Lending Office:

Commitment Amount: **\$27,500,000.00**

Pro Rata Share: **50%**

Raymond James Bank, FSB
Loan Ops/CML
710 Carillon Parkway
St. Petersburg, Florida 33176
Attn: _____

Telephone: _____
Facsimile: (866) 597-4002
Electronic Mail: mary.farrell@raymondjames.com

Notices:

Raymond James Bank, FSB
Loan Ops/CML
710 Carillon Parkway
St. Petersburg, Florida 33176
Attn: _____

Telephone: _____
Facsimile: (866) 597-4002
Electronic Mail: mary.farrell@raymondjames.com

Payment Instructions:

Federal Home Loan Bank of Atlanta
ABA No.: 0610-0876-6
Account No.: 3574100 Raymond James Bank
Attention: Loan Ops/CML
Reference: HF Logistics-SKX T1, LLC

**Agreement for the availability of space for the storage of goods and offices
for the management of this**

The undersigned:

ProLogis Belgium III sprl, with offices in Park Hill, Building A, 3^d Floor, Jan Emiel Mommaertslaan 18, B-1831 Diegem, registered with the RPR under number 0472.435.629, hereby represented by Mr. Gerrit Jan Meerkerk,

hereinafter referred to as '**ProLogis**',

and

Skechers EDC sprl, with its registered office in 4041 Milmort, 159 Parc Industriel Hauts-Sarts, Zone 3, avenue du Parc Industriel, registered with the RPR under number 0478.543.758, hereby represented by David Weinberg,

hereinafter referred to as '**Skechers**',

HAVE AGREED THE FOLLOWING:

1 Subject of the Agreement

ProLogis shall make space available ("*terbeschikkingstelling/mise à disposition*") to Skechers, which accepts, for the storage of goods and offices for the management thereof, the following real estate: ProLogis Park Liège Distribution Center II, as referred to in Article 2 as the Premises, which will be erected on the parcel of industrial land located in the Industrial Park Hauts-Sarts, Zone 3, Milmort, Liège, Avenue du Parc Industriel, recorded in the land register according to title as 6th division, section A, part of numbers 621b, 620 and 617, 7th division, section A, part of numbers 450t and 450y (the "Site").

ProLogis will erect a building on the Site with a total surface area of 22,945 m² (hereinafter the 'Premises'), subdivided as follows:

- 21,275 m² warehouse space (hereinafter the 'Warehouse');
- 1,320 m² mezzanine space (hereinafter the 'Mezzanine');
- 350 m² office space (hereinafter the 'Office Space') on mezzanine.

In addition, ProLogis will develop approximately 118 car parking places on the Premises. Upon consultation with ProLogis, Skechers can change or expand the parking places, subject to not jeopardising the traffic flow on the Site. In case of multi-tenancy on the Site, a division by ratio of the parking places will take place.

The Situation plan for the Premises has been appended to this Agreement as Appendix 1 and may be modified subject to the mutual written consent by the parties and as far as possible within the obtained building permit. ProLogis has prepared on a building permit application for the Premises. The permit application has been appended to this Agreement as Appendix 2. The CUSTOMER has reviewed the permit application and declares that it is entirely satisfactory. The obligation of ProLogis to make space available is subject to the delivery of a final building permit for the Premises based upon the building permit application attached as Appendix 2.

Parties waive all their rights in case of difference between the actual total measure(s) of the made available space and the above mentioned measure(s).

2 The Intended Use of the Premises

The Premises will be erected by ProLogis with a view to the industrial purposes of Skechers, i.e. a distribution and added value logistics center and any supporting or related activities. The Warehouse may be used solely and exclusively as a space for the storage, transshipment, repair, transportation, handling and distribution of goods. If an operating or environmental permit or notification is required for the activities of Skechers, Skechers shall be responsible, at its sole risk and expense, for the request and obtainment thereof, as well as for any renewal or extension during the term of this Agreement. Skechers shall bear all costs relating thereto and shall strictly adhere to all conditions imposed by such permit or notification.

In the conduct of its activities, Skechers shall at all times comply with all applicable legislation and regulations. Skechers shall fully indemnify and hold harmless ProLogis for any losses and damages suffered by ProLogis as a result of a breach by Skechers of any law, regulation or permit condition.

The Office Space may be used solely and exclusively for administrative and/or showroom activities, with the exception of any activity as a result of which the Agreement would fall within the scope of the Law of April 30, 1951. The car parking spaces may be used solely and exclusively for the parking of the cars of Skechers and its contacts.

All other activities and/or adjustments in the Premises may only take place subject to prior written permission by ProLogis, which will not withhold its permission without any justified reasons.

ProLogis undertakes to furnish the Premises in such a manner and Skechers undertakes to use the Premises in such a manner that each payment under the current Agreement will at any time be subject to VAT (Belgian VAT) within the meaning of Article 44, §3 2° (a), second point, of the VAT Code.

In the event that, due to a use of the Premises during the term of this Agreement which is not in conformity with the terms of this Agreement, the payments under the current Agreement are no longer subject to VAT, either in part or in their entirety, Skechers will compensate ProLogis for any loss suffered by the latter as a result, including the loss which ProLogis may suffer by being unable to recoup the VAT already paid by it.

Skechers is not authorized to alter this use without prior written permission by ProLogis, which will not withhold its permission without any justified reasons.

It is explicitly agreed that any use of the Premises or the Site for any work or activity covered by the legislation regarding commercial leases (The Law dated April 30, 1951 as amended) is strictly prohibited.

Skechers may not use the Premises as residential accommodation nor may it keep any living animals there.

Skechers may not carry out any activities in the Premises, nor install any objects or equipment which would subject the floor to excessive loads or exert an extreme pressure on the structure of the Premises.

Within this context, it must be stated that the maximum floor load permitted in the Warehouse is 5,000 kg per m² of the floor area, on the Mezzanine floor in the Warehouse 400 kg per m² of the floor area and in the Office Space 400 kg per m² of the floor area.

Skechers is not entitled, for whatever reason, to conduct public sales in the Premises.

Skechers is obliged to obtain all required permits from the competent authorities at its own cost and risk enabling a proper operation in the Premises.

3 Price and Deposit

The Agreement for the availability of the Premises is entered into on the basis of an annual price (price level July 1, 2007) of nine hundred ninety-one thousand nine hundred and seventy-one Euro and fifty-five Eurocent, i.e. €991,971.55, (+VAT : two hundred and eight thousand three hundred and fourteen Euro and three Eurocent i.e. € 208,314,03, hereinafter referred to as the 'Price', payable per quarter and in advance in four (4) equal parts of two hundred and forty-seven thousand nine hundred and ninety-two Euro eighty-nine Eurocent, i.e. € 247,992.89, (+VAT : fifty-two thousand and seventy-eight Euro fifty-one Eurocent i.e. € 52,078.51), to be made by direct bank transfer to the bank account of ProLogis.

As stipulated in Article 5, this Agreement is to take effect on April 1, 2009. The first period over which payment is due will therefore be the period from April 1, 2009 up to and including June 30, 2009, which is due as from April 1, 2009.

In the event that the Premises are completed after April 1, 2009 the provisions relating to the payment of the Price as stipulated in the preceding paragraph shall be suspended until the effective date of completion.

The Price must be paid in Euro and is payable to ProLogis Belgium IIsprl, account number: 720540646989 (ABN Amro Bank in Brussels).

If Skechers, either in part or in its entirety, is in default with the payment of the above-mentioned quarterly payments of the Price on the aforementioned dates when the payments are due, Skechers must pay ProLogis, by operation of law ("*ipso iure*") and without notice of default, the interest due over that sum amounting to twelve percent (12%) per annum, whereby any month that has commenced must be regarded as completed.

When the Price in accordance with Article 4 is modified, the amount of the bank guarantee, as referred to in Article 25, will have to be adjusted in line with the annual adjustment of the Price payments every year. This bank guarantee may only be released six (6) months after the termination of the Agreement, provided that Skechers have been released properly of the obligations resulting from this Agreement. Under no circumstance, shall the bank guarantee be used by Skechers to pay the Price. However, in the event of breach of Agreement on the part of Skechers, ProLogis may use the aforementioned deposit to compensate for Skechers' overdue payments and any other omissions in the performance of its obligations by Skechers.

4 Price Modifications

Unless otherwise provided by law, it is determined that the Price, as stipulated in Article 3, will be linked to the consumer price index ("health index") as published each month in the Belgian State Gazette.

The basic index is that of the month prior to the signature of this Agreement, *i.e.* the month March 2008.

The Price will be reviewed annually on the date of the entry into force of this Agreement, automatically and by operation of law, in accordance with the increase of the aforementioned index according to the formula as defined below, whereby the month used for the new index will be the month prior to the relevant anniversary of the date of the entry into force:

$$\text{new Price} = \frac{\text{Price x new index}}{\text{basic index}}$$

However, the new Price will at no time be lower than the Price as stipulated above.

Skechers will implement the modifications to the Price subject to a one-month notification to that effect by ProLogis.

In the event that the publication of the 'consumer price index' (health index) should be discontinued, the parties will agree to replace this by the new index published by the Belgian government.

In the event that no new official index is published, the parties, if they fail to come to an agreement, will submit the problem to a tribunal of three arbitrators. Each party will appoint its own arbitrator within one month of being requested to do so by the other party and the two arbitrators will jointly appoint a third arbitrator.

If one of the parties fails to duly appoint its arbitrator or if the two arbitrators fail to appoint a third arbitrator, the missing arbitrator will be appointed, at the request of either party, by the Justice of the Peace in whose jurisdiction the Premises are located.

It is explicitly agreed that ProLogis shall only waive the right to increase the Price arising from this article by a written confirmation, signed by ProLogis.

5 Commencement and Duration of the Agreement

Subject to the timely delivery of the building permit for the Premises and the provisions below and all obligations resulting therefrom, the availability of the Premises commences in principle on 1 April 2009, to which is referred to as the 'Commencement Date', unless parties confirm otherwise in writing, for a duration of twenty (20) consecutive years and ends by operation of law on March 31, 2029 or twenty (20) consecutive years after the Commencement Date (if the availability of the Premises starts later than 1 April 2009 and insofar as mutually agreed upon in writing by the Parties).

Skechers is only entitled to terminate the Agreement after five (5), ten (10) and fifteen (15) years after the Commencement Date, being April 1, 2009 or the date as agreed upon between parties in writing as set forth in the preceding paragraph, subject to a notice period of twelve (12) months. without any compensation to ProLogis nor VAT adjustment to be paid, except as set forth in article 2 of this Agreement.

Notice needs to be given twelve (12) months prior to the fifth, tenth and fifteenth anniversary of this Agreement by bailliff's writ or by registered letter. Notices hereunder shall be deemed given and effective (i) if delivered by a bailiff, upon delivery, or (ii) if sent by certified or registered mail, within five (5) days of deposit in the post office.

This Agreement will however in any case end by operation of law on the later of the following dates : March 31, 2029 or the twentieth anniversary of the Commencement Date as agreed upon in writing by the Parties as set forth in this Article . After the latter of these dates , this Agreement can not be tacitly renewed.

6 Building Schedule and Specifications

ProLogis undertakes to complete Warehouse DC II and belonging Customer Fit Out as at April 1, 2009, in accordance with the plans and specifications attached in Appendix 3, insofar the building permit for the Premises is granted ultimately on August 1, 2008.

ProLogis may, in consultation with Skechers carry out variations or substitute alternative materials of a similar colour and to no less a quality or performance criteria within the relevant Belgian Standards (i) so long as it does not materially alter the design, layout and nature of the Warehouse DC II, or (ii) if the changes are to comply with planning or statutory requirements. Skechers will be permitted, after written approval of ProLogis to make minor variations to the specifications or the fitting out works attached in Appendix 3. ProLogis will provide an estimated cost for the amendments and once agreed, ProLogis will instruct the contractor to proceed with those amendments.

ProLogis and Skechers agree that the minutes of the construction meetings will be given only for the convenience of attendees present and/or absent. No rights, obligations, amendments or decisions are to be concluded from these notes.

ProLogis also undertakes as far as possible to integrate Customer Fit Out (i.e. racking, cabling, telephone and other systems or equipment) in the construction schedule. The installation of the Customer Fit Out will be for the account and risk of Skechers. The Warehouse shall be available one month before Commencement Date for Customer Fit Out. Best effort will be made by ProLogis to make it available two months before Commencement Date.

The Customer Fit Out should never cause any delay or hindrance of the building activities of ProLogis. During the construction works best efforts will be used to minimise hindrance to the activity in and the use of DC I by Skechers, it being understood that Skechers will not be entitled to claim damages for any remaining hindrance during the works.

With due observance of the aforementioned conditions, the date of completion of the Warehouse, including Customer Fit Out, is expected to be April 1, 2009.

The date of completion will be postponed in case (i) the Agreement is not signed ultimately May 20, 2008, (ii) the building permit application attached in Appendix 2 can not be filed on April 16, 2008, or (iii) the building permit has not been delivered as at August 1, 2008 or is being successfully suspended and/or challenged afterwards.

7 Transfer of the Availability Agreement and leasing

Skechers may lease the Premises (wholly or partially) and/or transfer its rights (wholly or partially) subject to prior written permission by ProLogis. Such a permission shall not unreasonably be withheld by ProLogis to Skechers' request for permission to sublease all or part of the Premises insofar the articles of this Agreement are complied with.

It shall be reasonable for ProLogis to withhold its consent for a transfer in any of the following instances:

- (i) the identity or business reputation of the candidate will, in the good faith judgment of ProLogis, tend to damage the goodwill or reputation of the Premises;
- (ii) the creditworthiness of the candidate is unsatisfactory to the fair judgment of ProLogis;
- (iii) the transfer to another customer of ProLogis on the Site is at a rate, which is below the rate charged by ProLogis for comparable space on the Site.
- (iv) the terms and conditions of the transfer agreement are not the same as the terms and conditions of this Agreement.
- (v) the term of the transfer agreement will exceed the remaining term of this Agreement. The transfer is not subjected to VAT during its' entire course.

Even if transfer is permitted through the above or by way of consent of ProLogis, Skechers is not allowed to market the Premises for a price lower than the Price under this agreement.

Any approved transfer shall be expressly subject to the terms and conditions of this Agreement.

Skechers shall provide to ProLogis all information concerning the candidate as ProLogis may request.

In the event of (sub-)lease, Skechers will at any rate continue to be jointly and severally responsible and liable toward ProLogis, together with the lessee, for all obligations resulting from this Agreement, and in particular for any additional costs which would result from such letting.

In the event that Skechers transfers its rights as referred to in this Agreement and before the bank guarantee provided by Skechers may be released, the assignee must, in turn, provide ProLogis with a bank guarantee equivalent to a rent period of six (6) months based on the Price (including VAT), applicable at that time, increased, in applicable, with an advance of the service charges of six months, (including VAT).

If ProLogis is of the opinion that the assignee or lessee provides insufficient financial guarantees, ProLogis may make its consent to the transfer of the rights or to the letting by Skechers dependent on the integral maintenance of the bank guarantee provided or to be provided by Skechers together with the bank guarantee of the assignee or lessee equal to six months' Price at that time (including VAT, increased with an advance of the Service Charges of six months (including VAT).

8 Charges, Taxes and Compensation

All relevant charges or taxes relating to the Premises, including the advance levy in respect of real estate tax, VAT, the occupation or the activity carried out by Skechers in them, whether they are imposed by the State, the Province, the Municipality, the Federation of Municipalities, the Urban Area or any other authority will solely and exclusively be for the account of Skechers.

Skechers will compensate ProLogis for any loss which ProLogis may suffer as a result of any overdue payments of the aforementioned taxes and compensation, provided, in case ProLogis receives the payment request from the relevant authority, it informs Skechers as soon as reasonably possible of any such tax or levy being due.

Skechers will bear all costs relating to the use of water, gas, electricity, telephone, telex, etc. or relating to any other services and utilities of the Premises.

It will also pay any charges by the utility companies for measurement appliances, systems, wiring, pipes, mains, etc.

Skechers may not claim any compensation from ProLogis in case of a discontinuance or interruption, irrespective of the duration of such a discontinuance or interruption of the water supply, gas and electricity, telephone, telex, etc., or of any other services and provisions such as heating, airing, etc. related to the Premises, whatever the reason, unless such a discontinuance or interruption may be ascribed to failure on the part of ProLogis to take all reasonable measures to ensure the continuation of such provisions and services.

9 Services

Skechers will take care of all the services, supplies and site maintenance of the Premises according the specifications provided by ProLogis at Skechers' own costs, attached to this Agreement as Appendix 4.

Skechers undertakes for the full term of this Agreement, as a bonus pater familias and in accordance with the requirements of good management, to conclude all agreements which, in Skechers' opinion are required, for the services. Skechers shall inform ProLogis of the conclusion of these agreements. Skechers shall, with the exclusion of ProLogis, be responsible for the due execution of such agreements. Skechers shall fully indemnify and hold harmless ProLogis for all damages or claims which could result from agreements for services concluded by Skechers.

ProLogis has the right to inspect and review the Premises. If Skechers does not perform the services properly, ProLogis will notify Skechers in writing to comply within thirty (30) calendar days. If Skechers fails to comply therewith, ProLogis is entitled to take over all supply, services and maintenance of the Premises. Skechers will be invoiced accordingly.

10 Insurance

ProLogis undertakes to take out an insurance for the Premises (covering fire and water damage, civil liability as well as all windows in the premises); as of the notification by Skechers to ProLogis that Skechers has made the required agreements for the services pursuant to Article 9, this insurance shall be taken out by ProLogis but the insurance premiums in relation thereto shall be charged to Skechers.

Skechers undertakes to insure its personal assets and company equipment which are in the Premises against fire hazards and related risks, loss due to electrical faults, storm damage, water damage and Civil Liability, and to take out any other insurance required on account of the Skechers activities.

At the first request of ProLogis, Skechers will allow inspection of the policies.

The insurance taken by Skechers shall include a clause in which the insurers undertake to notify ProLogis at least fifteen (15) days beforehand by registered mail of any cancellation or termination of the insurance policy.

ProLogis and Skechers, as well as their insurers, mutually waive any right of recourse they might have on the basis of the respective policies taken out toward one another, toward any sublessees and toward any person admitted to the Premises.

Skechers also waives any recourse which it might be entitled to exercise pursuant to Articles 1721 and 1386 of the Belgian Civil Code. Skechers undertakes to impose these obligations to any lessees and/or occupants.

If Skechers increases the risk in such a way that this will lead to an increase of the insurance premium, it alone shall pay the increased premium arising from it in relation to the insurance of the Premises.

11 Advertising Signs

If Skechers wishes to fix any advertising signs, it shall only do so at the places assigned for that purpose by ProLogis on and around the Premises and it must submit a design of this to ProLogis and have its written permission (which shall not be unreasonably withheld), whereby the permission by ProLogis does not affect the obligation on the part of CUSTOMER to acquire the necessary permissions and permits for the proposed advertising signs from the competent authorities.

Drilling in face brick and blue limestone is strictly prohibited.

12 The State of the Premises at the Commencement of the Agreement

Before Skechers commences its occupation of the Premises, a "State-of-Delivery" report will be agreed upon by the parties describing the current status of the Premises as well as the way the Premises should be delivered at the end of the Agreement period or any other agreed termination date of the Agreement, including a list of improvements that do and do not need to be reinstated by Skechers, subject to the provisions in Article 14. Any improvements by Skechers are to be maintained by Skechers and are not an integral part of the Premises. This "State-of-Delivery" report will be signed by Skechers and ProLogis on the official delivery date of the Premises, tentatively scheduled on April 1, 2009, and will be attached to this Agreement as Appendix 5.

13 Maintenance of the Premises

A. During the entire duration of the Agreement, Skechers will have to maintain the Premises well and it will carry out any necessary repairs and work for its own account as well as to ensure compliance with any new legislation or regulation.

It will use and maintain the Premises with due care.

It will, *inter alia*, take care of all the maintenance work and repairs mentioned in articles 1754 a.f. of the Belgian Civil Code, with the exception of the work referred to in Article 14.

Apart from the obligations on the part of Skechers arising from the general regulations of the Belgian Civil Code, Skechers will, *inter alia*, be responsible for the following (without prejudice to the non-restrictive nature of this enumeration):

- to maintain, repair and renew the interior paintwork and the interior decoration of the Premises.
 - to maintain, repair and, if necessary, to replace the sanitary fittings, the water faucets and any equivalent appliances and fittings.
 - to properly maintain the water pipes, the water outlets and sewer pipes, emptying grease traps and protect them against frost and, if necessary, to unblock them.
 - to repair any damage which is not directly the result of age or a defective condition and, if necessary, to replace them.
 - to repair and, if necessary, to replace the wall panelling, floors, all locks and electrical equipment.
- to replace any broken windows, whatever the reason thereof (the costs hereof shall, however, be covered by the insurance referred to in the first paragraph of Article 10).
- to maintain the heating and ventilation system and to repair any damage which is not directly the result of age or a defective condition.
- to clean the ventilation ducts and to have the chimneys swept.
- to be responsible for maintaining the paving of the grounds forming part of the Premises and keeping it at its original level.
- To insure and properly maintain the roof of the Premises.

Skechers undertakes to submit to ProLogis the annual statement regarding the maintenance of the heating and the ESFR Sprinkler system, as well as the annual statement of the sweeping of the chimneys by an approved chimney sweeper.

To keep the certificate of the sprinkler system valid, Skechers shall at least every two weeks start up the engine of the sprinkler pumps. The results of this test must be added to the logbook belonging to the sprinkler system.

If Skechers fails to comply with the obligations which it must fulfill pursuant to the Civil Code in general or pursuant to this article in particular and if it does not remedy this failure within two (2) weeks of the written notice of default by ProLogis, ProLogis, provided it has sent a letter to Skechers containing a plan of the works ("bestek") will be entitled to have the necessary works carried out for the account of Skechers and to claim the repayment of all costs incurred as a result of this. This does not affect any other right and recourse of ProLogis toward Skechers under this Agreement or by law.

B. During the entire duration of the Agreement, Skechers will have to comply with any statutory, administrative or any other applicable regulations. Skechers will be responsible for any consequences arising from failure to comply with these regulations.

C. Skechers will be liable for any loss due to an act or omission of Skechers or due to any act or omission of any its representatives, employees and any persons in general for which Skechers is liable by law.

D. On the date of commencement of this Agreement, the level of the land of the Premises, including the front area pertaining to the Premises is at the original level.

The maintenance of the aforementioned lands, the replacement of any damaged parts of these lands and the maintenance of these lands at the original level will be carried out for the account of Skechers.

14 Furnishing and Alteration Work

Skechers is entitled to fix partitions and lighting systems in the Premises and to carry out small works and improvements necessary for or useful to its activities.

Upon the termination of this Agreement, ProLogis may, at its own choice, keep the partitions, lighting system, small works and improvements itself without any compensation or payment to Skechers, or obligate Skechers to remove the partitions, lighting system, small works and improvements and to return the Premises to their original state, at the costs of Skechers.

If applicable Skechers shall provide ProLogis as soon as possible with a copy of the post intervention files related to such works.

Significant alterations or work, in particular where they affect the structure of the Premises, are not permitted, unless prior written permission has been given by ProLogis. ProLogis will have to give the reasons for withholding its permission. If ProLogis gives such permission, it will also immediately inform Skechers, whether or not, upon termination of the Agreement, it will keep the significant alterations or work subject to the permission. In the absence of such decision by ProLogis, the significant alterations or work need to be removed.

15 Defects and Repairs

ProLogis is, for its own account, only responsible for the repair of any structural defects of the Premises as meant in article 606 of the Civil code.

However, if it appears that any such defects are the result of a failure by Skechers to perform its maintenance obligation or of any injudicious or inadmissible use by Skechers or of any other reason which may be ascribed to Skechers, Skechers will be responsible for the repairs.

If Skechers identifies a defect or any damage for which ProLogis is normally responsible, even if it is caused by a third party, it must notify ProLogis in writing of this situation promptly and not later than ten (10) days following the discovery of the defect and/or damage.

If Skechers fails to notify ProLogis, it will be personally responsible for any damage or loss resulting from this failure of notification.

Skechers will have to allow the performance of any maintenance and repair work, considered necessary by ProLogis. It will not be entitled to any compensation, such as a reduction of the Price or any other type of compensation, relating to or resulting from such work, irrespective of the duration, even where it would exceed 40 days.

All the costs arising from the alterations or adjustments of the Premises ordered by a competent authority on account of a fact, an act or omission on the part of Skechers will be borne solely and exclusively by Skechers.

16 The State of the Premises upon Termination of the Agreement

ProLogis and Skechers agree that, if and for whatever reason, this Agreement terminates or ends, the "State of Delivery" report, as referred to in Article 12, shall be leading and shall be the basis for a new inspection report of the Premises. ProLogis will in the presence of Skechers draw up a new inspection report of the Premises upon the release of them by Skechers, in order to determine whether Skechers is responsible for any damages.

ProLogis will have this inspection report drawn up promptly after the termination of the current Agreement. Such report shall indicate the damages in the Premises for which Skechers is responsible and liable, as well as the duration on non-availability of the Premises due to the required repair works.

In the event of disagreement on the contents of such inspection report, this matter shall be submitted as soon as possible to an independent expert specialized in real estate. This expert shall be appointed by the parties or, failing agreement, at the request of either party by the President of the Chamber of Commerce and Industries of Liège. The decision of the expert shall be binding for both parties. The costs of the expert shall be equally borne by both parties.

The transfer of the keys, in whatever form, upon or after the departure by Skechers shall not at any time release or discharge Skechers of its obligations, either in part or in their entirety in relation with the obligations of the Skechers under this Agreement, and in particular with respect to possible repair works or the non-availability of the Premises.

Upon its departure, Skechers shall pay any outstanding service charges.

Skechers shall have to leave the Premises well-maintained and clean at the end or termination of this Agreement.

Skechers shall be liable for any damages to the Premises, due to an act or omission on its part or due to any act or omission on the part of its representatives, employees and of any persons in general for which Skechers is liable by law or in accordance with this Agreement.

Next to the repair costs, Skechers will have to pay ProLogis any compensation resulting from the unavailability of the Premises due to an act or omission for which Skechers is liable pursuant to the preceding paragraph or because Skechers has not vacated the Premises in due time. This compensation will be the equivalent of the then valid Price due by Skechers for the period of unavailability of the Premises, as determined between parties or by the expert.

17 Expropriation

In the event that the Premises, either in part or in their entirety, are expropriated, Skechers will have no right of recourse against ProLogis. The rights which Skechers asserts against the expropriating authority shall at no time affect the rights which ProLogis shall have against the expropriating authority.

18 Visits to the Premises/ For Rent or For Sale

ProLogis and its agent and representatives are authorized to visit the Premises with a person appointed by Skechers, whenever necessary, subject to prior notification (at least eight working days) to Skechers.

During the six (6) months before the termination of the Agreement or in the event of any sale of the Premises, ProLogis is entitled to fix the necessary advertising signs and announcements without excessively hindering the activities of Skechers.

19 Terms of the Deed of Sale

Skechers explicitly states to be informed and that it is aware of and complies with the terms of the Deed of sale dated June 6, 2001 between ProLogis and Services Promotion Initiatives en Provence de Liège (SPI+) scrl, and Skechers undertakes, for itself, any of its entitled parties and any of its successors and assigns, to comply conscientiously with the provisions of this Deed of sale, if applicable, articles two (2), three (3), four (4), five (5), six (6), seven (7) and eight (8) of this Deed of sale, in so far as these are or can be applicable to Skechers, and to ensure that these stipulations are also complied with conscientiously by any third parties which may acquire a right of lease, use or any other right to the Premises or the site.

Skechers shall indemnify and hold fully harmless ProLogis for any damage and/or costs which may arise from a failure to

comply with the aforementioned terms of the Deed of sale. ProLogis declares that the Agreement is in compliance with articles 2 up to 8 of the Deed of Sale, insofar as applicable.

The articles 2 up to 8 of the above Deed of Sale set forth the following :

L'affectation économique grevant le bien vendu

Article deux.- Le bien faisant l'objet de la présente vente est grevé d'une affectation économique, celle-ci devant être considérée comme une condition essentielle de la cession consentie par la société « Services Promotion Initiatives en Province de Liège ».

La notion d'affectation économique a été précisée dans le préambule.

L'interdiction de donner partiellement ou en totalité au bien, une autre affectation, est absolue sauf ce qui est précisé ci-après.

L'obligation de construire sur le bien des bâtiments dans un délai déterminé.

Article trois.- L'acquéreur s'engage à édifier sur le bien faisant l'objet de la présente convention dans un délai de deux ans un ensemble de bâtiments conformes au plan d'implantation du dix-huit janvier deux mille un et approuvé par la S.P.I. Cet engagement constitue une condition essentielle du présent acte de vente. Sans préjudice au droit pour la S.P.I. d'exercer la faculté de rachat visée à l'article 6, la S.P.I. pourra, en cas d'inexécution de cette obligation, considérer la vente comme résolue de plein droit, et sans mise en demeure préalable. En cas de résolution de la vente, la S.P.I. n'est tenue qu'au remboursement du prix tel que stipulé à l'article 1, sans aucune majoration, indemnité quelconque ni intérêt. L'acquéreur sera tenu de remettre le bien dans l'état où il l'a reçu. La S.P.I. ne devra aucune indemnité pour des améliorations ou plus-values apportées au bien par l'acquéreur et sera libre de conserver le cas échéant, ces améliorations.

L'obligation d'exercer une activité économique déterminée

Article quatre.- L'acquéreur s'engage à exploiter dans l'immeuble à ériger sur le terrain vendu, l'activité définie par les parties, de la manière suivante : construction de halls, pour mise à disposition, par location ou vente, à des entreprises.

Elle devra être conforme à la description plus détaillée qui en a été donnée par l'acquéreur dans sa lettre du dix-huit février deux mille dans la mesure où les termes de cette lettre ont été expressément acceptés par le Bureau Exécutif de la S.P.I. en sa séance du dix mars deux mille.

Cette activité devra être pleinement exercée dans le même délai de deux ans stipulé à l'article 3. L'acquéreur ou tout autre utilisateur du bien lui succédant est tenu de demander l'autorisation préalable à la S.P.I. pour tout changement significatif de l'activité exercée sur le bien vendu ou en cas de cessation totale ou partielle de cette activité. Cet engagement constitue une obligation essentielle du contrat.

La S.P.I. peut, le cas échéant, autoriser l'exercice d'une activité nouvelle et/ou renoncer à la sanction prévue par le contrat. Cette autorisation exceptionnelle et cette renonciation ne se présument pas et doivent faire l'objet d'une décision expresse de la S.P.I.

Cession de la propriété ou de la jouissance du bien à un tiers

Article cinq.- L'acquéreur pourra céder tout ou partie de bien vendu, en faire apport, le donner en location ou en transférer de toute autre manière la propriété, l'usage ou la jouissance, avec l'accord préalable et écrit de la société « Services Promotion Initiatives en Province de Liège » et sous la condition d'imposer au nouvel utilisateur du bien, le respect intégral de la présente convention. Cet accord devra être donné dans un délai de 15 jours ouvrables à dater de la demande faite par l'acquéreur. A défaut, la S.P.I.+ sera sensée avoir donné son accord sur la demande. La S.P.I. refusera ou acceptera la cession de la propriété ou de la jouissance en fonction des objectifs définis au préambule de la présente convention et des objectifs généraux poursuivis par elle. La S.P.I. se réserve notamment le droit de contrôler si l'activité prévue par le cessionnaire ou le locataire ou tout autre utilisateur nouveau, ne risque pas de porter atteinte à la salubrité du parc industriel au sein duquel est intégré le bien vendu et si cette activité s'intègre le cas échéant, dans le programme d'implantation poursuivi sur ce site. Le contrat passé entre l'acquéreur et le nouvel utilisateur du bien doit obligatoirement stipuler l'engagement du nouvel utilisateur au bénéfice de la S.P.I. de respecter toutes les clauses de la présente convention, relatives à l'affectation économique grevant le bien vendu (article 2), à l'obligation de construire les bâtiments dans un délai déterminé (article 3), à l'obligation d'exercer l'activité économique déterminée par la convention (article 4), à la cession de la propriété et de la jouissance (article 5) et à la faculté de rachat (article 6). Ces clauses devront être intégralement reproduites dans la convention. Une copie de celle-ci doit être soumise à la S.P.I. sans délai, dès le jour de la signature. En cas de violation du présent article, l'acquéreur initial reste solidairement tenu de toutes les obligations du contrat en cas de manquement par le cessionnaire à ces obligations.

Faculté de rachat

Article six.- La société « Services Promotion Initiatives en Province de Liège » ou la Région pourra, sur le pied de l'article 32 paragraphe 1 de la loi du 30 décembre 1970 sur l'expansion économique, modifié en ce qui concerne la Région Wallonne par le décret du 15 mars 1990 publié au Moniteur Belge du 7 juin 1990, racheter le terrain et/ou le bâtiment au cas où il ne respecte pas les autres conditions d'utilisation. Le rachat s'opérera au prix du marché de l'immobilier. En aucun cas, ce prix ne peut dépasser celui qui est fixé par les Comités d'Acquisition d'Immeubles. Toutefois, moyennant l'accord de la S.P.I., l'acquéreur pourra revendre le bien, et dans ce cas, l'acte de revente devra reproduire les clauses visées aux articles 2, 3, 4, 5 et 6.

La venderesse considérera comme exécutée l'activité économique telle que précisée à l'article 4 des présente, par la mise en œuvre de tous les moyens normaux et nécessaires ainsi que les efforts de promotion auxquels s'engage de bonne foi l'acquéreur pour que la vente ou la location, le leasing et la mise à disposition de l'immeuble décrit à l'article 3 intervienne dans les meilleurs délais.

CONDITIONS Particulières

Articles sept.- Tout travail de nature à modifier le niveau du terrain faisant l'objet de la présente vente ne pourra être effectué par l'acquéreur sans l'autorisation préalable de la venderesse.

Article huit.- L'acquéreur s'engage à n'installer ou à ne laisser installer sur le bien vendu que des enseignes ou panneaux publicitaires destinés à renseigner sa raison sociale, son nom ou les produits fabriqués ou vendus par lui. L'installation de cette publicité sera soumise à l'accord préalable de la venderesse. L'acquéreur s'engage à maintenir en état de parfaite propreté les parties non bâties de la parcelle.

20 Environment and health

Skechers shall at all times use its best efforts to minimize the impact of its activities on the environment and human health.

Skechers shall, both during the Agreement and afterwards, fully indemnify ProLogis and hold ProLogis harmless for all damages and costs resulting from the release by Skechers of harmful substances into the air, the water, the soil and the groundwater, or from any activity which is harmful for the environment or human health, including but not limited to (i) the fees and expenses for surveys or other studies, preventive or remedying measures and for monitoring programs, (ii) the decrease of the value of the Site, (iii) the loss of benefit of the exploitation of the Site, (iv) liabilities towards third parties and/or public authorities, (v) all penalties, interests, proceedings and fees of technical, legal and financial experts.

Prior to the commencement of this Agreement, ProLogis has conducted a Phase I Environmental Site Assessment, Industrial Park Hauts-Sarts-Milmort, ProLogis Belgium II Sprl ProLogis Belgium III, V, VI Sprl, Avenue du Parc Industriel, 4041 Herstal-Milmort (Liège), Belgium (GEDAS, January 18, 2001, project number: 11/15/1844) and the Geotechnical Site Investigation (GEDAS, March 7, 2001, project number : 11/15/1844 — revision B) on the Site, for its own account. The Assessment and the Geotechnical site Investigation (together 'the GEDAS report') have been appended to this Agreement as [Appendix 6](#). ProLogis shall have established an update of the GEDAS report (of both the Assessment and the Geotechnical site investigation) by GEDAS which will be communicated to Skechers prior to the official delivery date of the Premises, as referred to in Article 5, which will include drills on the Site and an examination of samples of the soil and ground water of the Site evaluated on the basis of the Walloon standards for the parameters for which such standards currently exist and on the basis of the Flemish standards for the other parameters (the "Update report"). This Update report will be attached to this Agreement as [Appendix 7](#). The GEDAS report and the Update report represent a legally appropriate survey and is regarded a sufficient basis to describe the status of the soil and ground water of the Site, agreed by ProLogis and Skechers.

Prior to the termination of the Agreement, Skechers will, at its sole expense, order an accredited expert to carry out an exploratory soil survey on the Site.

If the results of this exploratory soil survey indicate that there are concentrations of substances in the soil and/or the groundwater of the Site exceeding the standards which apply on such date and/or which give cause to further survey measures and/or soil decontamination, Skechers will have these further surveys and soil decontamination carried out, for its own account.

Skechers will also compensate ProLogis for any damage which the latter may suffer as a result of any soil and/or groundwater contamination exceeding the contamination ascertained in 'the GEDAS report' and the Update report or as a result of the survey and remediation measures carried out by Skechers for such contamination

Skechers will make a reasonable effort to ensure that the survey and remediation measures are carried out prior to the termination of the Agreement and interfere as little as possible with the use of the Site.

21 Various clauses

21.1 This Agreement contains the entire agreement of the parties hereto with regard to the object to which it refers and contains everything the parties have negotiated and agreed upon within the framework of this Agreement.

No amendment or modification of this Agreement shall take effect unless it is in writing and is executed by duly authorized representatives of the parties.

The Appendices to this Agreement form an integral part thereof and any reference to this Agreement shall include a reference to the Appendices and vice versa.

It replaces and annuls any agreement, communication, offer, proposal, or correspondence, oral or written, previously exchanged or concluded between the parties and referring to the same object.

21.2 Notwithstanding any provision contrary to the present Agreement, neither party shall be liable for a delay or failure to fulfill its obligations under this Agreement arising from any cause beyond its reasonable control or arising from strikes, lockouts, work stoppages or other collective labor disputes, insofar that the party invoking the force majeure informs the other party as soon as reasonable possible of the occurrence and the estimated duration and the termination thereof, as well as an accurate description of the causes thereof. In case the situation of force majeure has a duration of more than two (2) months, the other party is entitled to terminate this Agreement in accordance with the terms of this Agreement.

21.3 The parties acknowledge that they have required all notices and legal proceedings provided for under the present Agreement, or related hereto, to be drawn up in the English language, to the extent permitted by rules of public policy relating directly or indirectly to these proceedings.

21.4 If one or more of the provisions of this Agreement is declared to be invalid, illegal or unenforceable in any respect under the applicable law, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected. In the case whereby such invalid, illegal or unenforceable clause affects the entire nature of this Agreement, each of the parties shall use its best efforts to immediately and in good faith negotiate a legally valid replacement provision.

21.5 No failure or delay of a party to exercise any right or remedy under this Agreement shall be considered a final waiver thereof, nor shall any single or partial exercise of any right or remedy preclude any other or further exercise thereof. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

21.6 If this Agreement is to be registered, Skechers shall do so as soon as reasonably possible. A proof of registration is to be submitted to ProLogis. The costs and possible penalties resulting thereof are to be borne solely by Skechers.

21.7 The parties acknowledge that they have required the present Agreement to be drawn up in the French and the English language,

both with equal value. The French version will be used for registration purposes. The English version will be attached to the French version as Appendix 8.

22 Choice of Domicile

Any notifications and correspondence which must be addressed to the other party, may be served in a legally valid manner at the following addresses :

for ProLogis : ProLogis Belgium Illsprl, Park Hill, Building A, 3rd Floor, Jan Emiel Mommaertslaan 18 B-1831 Diegem;

for Skechers : Skechers EDC, 159 Parc Industriel Hauts-Sarts, Zone 3, Avenue du Parc Industriel, 4041 Herstal.

Except if agreed otherwise, any change of address can only take place within Belgium. Any change of address must be notified by registered letter to the other party, the new address being considered the official address for purposes of this Agreement from the first business day following the sending of such notice letter.

Notwithstanding the preceding, all notifications between Skechers and ProLogis directly related to the Agreement shall be in the form of registered letters.

23 Competent Courts

In the event of any dispute relating to the conclusion, validity, the implementation or the interpretation of this Agreement, the courts of Liège will have sole and exclusive jurisdiction.

24 Applicable law

This Agreement shall be governed by and construed in accordance with Belgian law.

25 Bank Guarantee

By way of security for the due performance by Skechers of its obligations under the Availability Agreement, Skechers hereby gives to ProLogis a bank guarantee at first demand issued by a first class European bank having an office in Belgium and doing business in Belgium for an amount equal to the Price as defined in the Availability Agreement for a period of three (3) months plus service charges and plus VAT as determined and adjusted in accordance with the terms and conditions of this Agreement.

When the Price in accordance with Article 4 is modified, the amount of the bank guarantee will have to be adjusted in line with the annual adjustment of the Price payments every year. It will have to apply to the entire duration of the Agreement plus six months.

This bank guarantee shall only be released six (6) months after the expiry or termination of the Availability Agreement, including its extensions.

The bank guarantee shall be part of this Agreement and shall be attached to it as Appendix 9.

In the absence of the bank guarantee as at Commencement Date at the latest, this Agreement will be null and void ipso iure without any further notice being required or any legal proceedings to be started. If ProLogis should decide to refer to the lack of the bank guarantee and thereby invokes the nullity of the Agreement, all Price payments, charges and any other payments due to ProLogis under this Agreement will nevertheless remain in force as a compensation due to the unavailability of the Premises, without prejudice to any other compensation ProLogis may claim.

Next to the bank guarantee, ProLogis obtained from Skechers USA Inc., a company under the laws of the State of Delaware having its principal place of business at 228 Manhattan Beach Blvd, Manhattan Beach, CA 90266, USA, a letter, attached hereto as Appendix 10, pursuant to which the latter declares in favor of ProLogis, including the successors in title of ProLogis, the financial soundness and the complete observance by Skechers of its obligations under this Agreement. This letter is essential for ProLogis for entering into this Agreement.

In the absence of the letter at signing date, this letter will be provided within two weeks after signing this Agreement.

*

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This Agreement was made out in quadruplicate in Milmort
Each party acknowledges to have received its original copy.
May 20th 2008

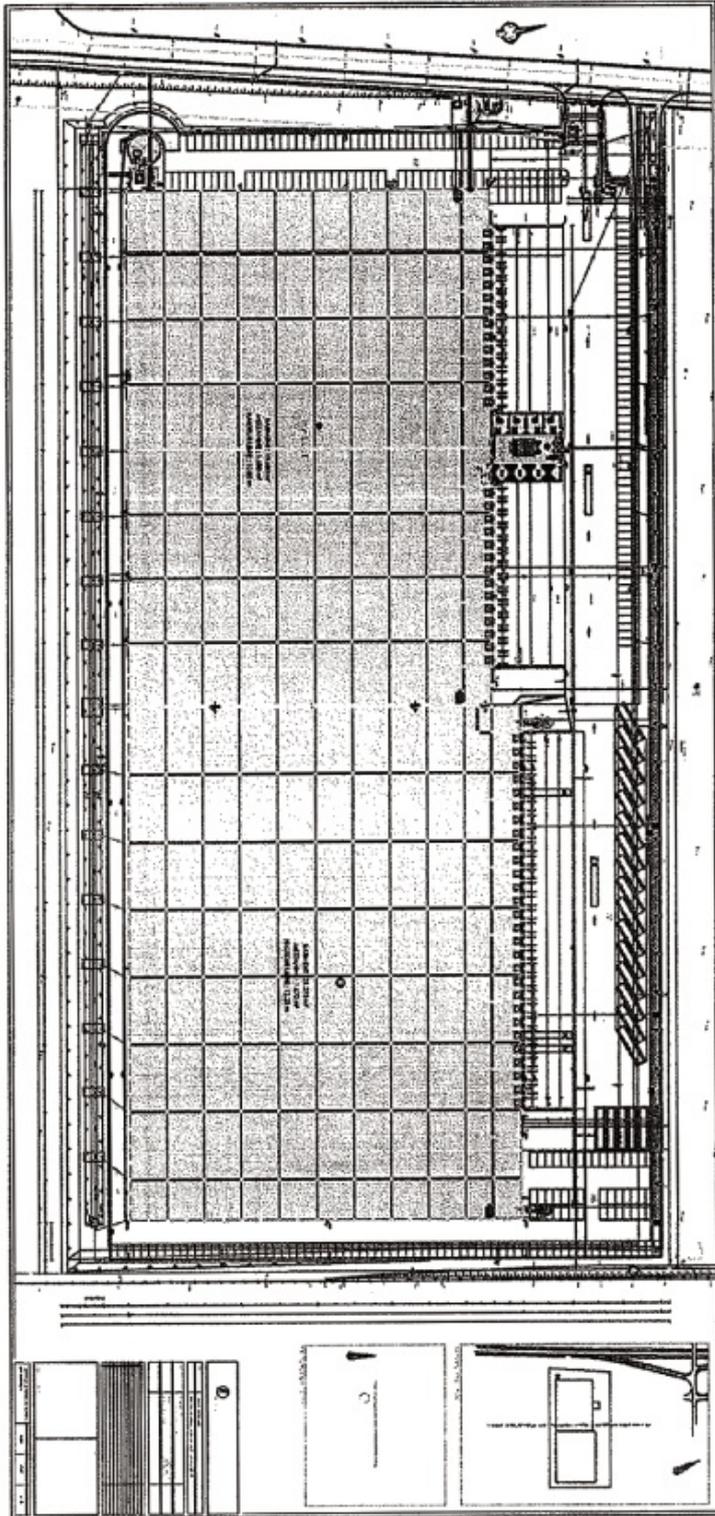
/s/ Gerrit Jan Meerkerk
For ProLogis Belgium III Sprl,
Gerrit Jan Meerkerk

/s/ David Weinberg
For Skechers,
David Weinberg

The following Appendices are part of this Agreement:

- Appendices:**
1. Situation Plan (02/06 6102 07-04-2008);
 2. Building permit Application (E16256);
 3. Plans and Specifications DC II / Outline specifications (May 2008);
 4. List of services, supplies and site maintenance (09-Oct.-2007);
 5. n/a
 6. Gedas report;
 7. n/a
 8. n/a
 9. n/a
 10. n/a
-

Appendix 1
Situation Plan



Appendix 2
Building Permit Application

Walloon Region

Liège — 7 July 2008

Liège Directorate 1
Town Planning Division
Rue Montagne Sainte-Walburge, 2
4000 LIÈGE
Belgium

Tel. +32 (0)4/224.54.11.
Fax +32 (0)4/224.54.66.

REGISTERED LETTER
S.P.R.L. PROLOGIS Belgium III
J.E. Mommaerstlaan, 18
1831 DIEGEM

Your Ref.: /
Our Ref.: E16256/BM/MRM
Encl.: 1 set of plans + notification

APPENDIX 12 — FORM G

PUBLIC INSTITUTIONS OR
STATE APPROVED ACTION AND WORKS
DECISION TO GRANT PLANNING PERMISSION

The Delegated Officer,

Considering the Walloon Code of Law for Town and Country Planning, and Heritage;

Considering the decree dated 11 March 1999 relating to environmental permission;

Considering Volume 1 of the Code of Environmental Law relating to the assessment of the impact of projects upon the environment;

Whereas the private limited liability partnership S.P.R.L. PROLOGIS Belgium III has submitted an application for planning permission relating to a property located in HERSTAL (Liers), Avenue du Parc Industriel, recorded in the land registry under no. 450 e2, g2, and the purpose of which is the construction of an industrial hall

Whereas the full planning permission application was filed with the Delegated Officer of the **Directorate of LIÈGE 1** of the General Directorate for Town and Country Planning, Housing and Heritage. The application was filed by post and received on 15.05.2008;

Direction générale de l'Aménagement du territoire, du Logement et du Patrimoine
General Directorate for Town and Country Planning, Housing and Heritage
Main address: Rue des Brigades d'Irlande 1, B-5100 Namur • Tel.: 081 33 21 11 • Fax: 081 33 21 10
www.wallonie.be • Freephone no. 0800 11 901 (general information)

Whereas the property in question is recorded in the LIÈGE area plan approved by the Walloon Region Executive Decree (A.E.R.W.) dated 26.11.1987 for trade & industry activity and which has continued to apply to the aforementioned property;

Whereas the project falls within the scope stipulated in Article 1, item 5 of the decree dated 11 March 2004 relating to infrastructure accommodating business activities;

Whereas municipal building regulations approved by the Executive Decree dated 05.09.1980 are in force throughout the municipal territory where the property is located;

Whereas the planning permission application comprises an environmental impact assessment notice;

Whereas the services stipulated below have been consulted on the following grounds:

- the Promotion Initiatives Service SPI+, whose opinion requested on 21.05.2008 and issued on 28.05.2008 is favourable;
 - Whereas the project is located within an area of the SPI+;
- the I.I.L.E., whose opinion requested on 21.05.2008 and issued on 16.06.2008 is favourable subject to conditions;
 - on public safety grounds;

Whereas the opinion of the **Municipal Council** was requested on 23.05.2008 and issued on 10.06.2008; and that its opinion is favourable subject to conditions;

Taking into consideration the plans registered by my department on 28.03.2008;

Taking into consideration the project consists of:

- the construction of an industrial (storage) hall of 21,275 m² as an extension to an existing hall;

Whereas the planning permission application does not relate to any project featuring on the list decreed by the Government and which, given its nature, its dimensions or its location, is subject to an environmental impact study, taking into account the selection criteria stipulated in Article D.66 of the Code of Environmental Law;

Whereas the planning permission application is accompanied of an environmental impact assessment notice, and that this notice is complete and appropriately identifies, describes and assesses the direct and indirect impact, and this in the short, medium and long term, of the project layout and implementation upon humans, the fauna and flora; the soil, the water, the air, the climate and the landscape; real estate and cultural heritage; the interaction between the factors stipulated above;

Whereas the planning permission application is not accompanied of an impact study, that the authority is of the opinion that in view of the aforementioned notice and of the plans, that taking into account the relevant selection criteria stipulated in Article D.66, section 2, the project is not likely to have any significant impact upon the environment;

Whereas judging from the plans and the photographic report included in the case file, the impact of the project upon the landscape is insignificant;

Whereas the planned installation does not compromise the general intended use of the area, nor of its architectural nature;

And consequently,

DECIDES

Article 1: The planning permission applied for by the private limited liability partnership S.P.R.L. PROLOGIS Belgium III is granted subject to the following conditions:

- To comply with the decision of the I.I.L.E. enclosed in the appendix;
- To request an inventory of the pavement, the alignment and the level as well as information on the layout of the structures at least 60 days before the estimated date of the start of the works, using the enclosed form. The applicant should take note of the municipal rules and regulations concerning the information on the layout of the structures in accordance with Article 137 of the C.W.A.T.U.P. and the regulations concerning municipal fees for the information on the layout of the structures;
- To provide ventilation for social premises in accordance with the standards in force;
- To install an inspection chamber or an inspection hole at each junction and change of direction in the drainage pipework;
- The access routes to the site must to be installed using a hydrocarbon road covering that makes it possible to differentiate between the public area and the private area;
- The pavement and the gutter system must not under any circumstances be removed or modified;
- The soil originating from the terracing must be disposed of at an inert waste sorting centre. It must not under any circumstances be used to backfill the land;

Article 2. — This decision is issued to the applicant and to the Municipal Council of HERSTAL;

Article 3. — The holder of the planning permission must notify the Municipal Council and the Delegated Officer, and this by registered letter, of the start of the works and of the permitted processes, at least eight days before starting these works or processes.

Article 4. — This planning permission does not dispense the holder from applying for the compulsory authorisations or permits imposed by other legislation or regulations.

Delegated Officer
André DELECOUR
Director

Your contact: Bernadette MOTTET — Architect

EXTRACTS FROM THE WALLOON CODE OF LAW FOR TOWN AND COUNTRY PLANNING, AND HERITAGE1) MEANS OF APPEAL

Art. 127. Section 6. The applicant and the municipal council can lodge an appeal to the Walloon Government within thirty days from receipt of the decision from the delegated officer or from expiry of the deadline stipulated in Article 127, section 4, paragraph 2.

2) DISPLAY OF THE PLANNING PERMISSION

Art. 134. A notice stating that the planning permission has been issued must be displayed on the land facing the highway and legible from the latter, and if this relates to works, prior to the start of the site and throughout the entire period of the works, or in other cases, starting from the preparatory work, before the process or processes have been executed and throughout the entire period of their execution. Throughout this period, the planning permission and the attached case file or a certified true copy of these documents issued by the municipality or the delegated officer must at all times be available to the bodies referred to in Article 156 at the location where the works are executed and the processes are performed.

3) EXPIRY OF THE PLANNING PERMISSION

Art. 87. Section 1. The planning permission expires if, within two years from the date of issue of the planning permission, the beneficiary has not started the works in any significant way. Section 2. The planning permission expires for the remaining section of the works, if the latter have not been completed within five years from the date of its issue, except if the works are authorised to be executed in phases. In this case, the planning permission determines the start of the deadline of expiry for each phase other than the first. The planning permission expires ipso jure.

4) EXTENSION OF THE PERMISSION

Art. 87. Section 3. Upon application by the beneficiary of the planning permission, the latter is extended for a period of one year. This application must be lodged thirty days prior to the expiry deadline stipulated in Article 87, Section 1. The extension is granted by the Government or the delegated officer.

5) CERTIFICATION OF CONFORMITY OF THE WORKS

*Art. 139. Section 1. The beneficiary of the planning permission must have the condition of the property inspected for compliance with the planning permission, and this at the latest within six months from expiry of the deadline stipulated in Article 87, Section 2, or prior to any assignment. **In the case of assignment more than three years following an inspection, the assignor must ensure that the property concerned is inspected for compliance with the planning permission prior to the deed of assignment. However, an inspection is compulsory prior to any assignment following a provisional inspection.***

Section 2. The inspection must be performed by an authorised certification body, selected by the beneficiary of the planning permission or the assignor. If the municipality has not received the town planning certificate of conformity or the document containing the refusal of a town planning certificate of conformity at the end of the six months following expiry of the deadline stipulated in Article 87, Section 2, the Municipal Council or the body appointed by the Municipal Council will automatically commission an authorised certification body to proceed with the inspection.

In any case, the cost of the inspection will be borne by the beneficiary of the planning permission or by the assignor.

6) SPECIAL PROVISIONS APPLICABLE TO GROUP STRUCTURES

Art. 126. When planning permission authorises several structures and if these structures imply the creation of infrastructure and of communal equipment, including water treatment equipment, the planning permission can make these transformations subject to, and this free of charge or against payment, to division, the creation of a long lease or rights to surface area, or a lease of more than nine years, applicable to all or part of these properties:

1. A certificate issued in accordance with the terms and conditions stipulated in Article 95, paragraph 1;

2. A deed of division drawn up by the notary stipulating the town planning guidelines for all of the structures and the management methods of the communal areas.

The planning permission must mention any possible phases of execution of the structures and state the start of every phase.

N.B. LAYOUT

Please note Article 137 of the said Code of Law and therefore the necessity to make contact with the municipality concerned.

Article 137. The planning permission can determine the order in which the works have to be executed and the deadline within which the terms and conditions of the planning permission have to be met. ***The start of the works relating to the new structures, and this including the extended floor occupation of existing structures, will be subject to an on-site statement of the layout performed by the Municipal Council.***

This statement will be recorded in an official report.

Appendix 3

**Plans and Specifications DC II/
Outline Specifications**



**Outline Specification
SKECHERS DC 2 Milmort**

Distribution Center/Warehouse:

- Minimum clear height of 10.8 m
 - Steel building frame or concrete building frame with wooden laminated beams design reference-period 50 years.
 - General column bay spacing 22m x 12 m
 - 2 Overhead doors, 4x 4,5 meter
 - Certified ESFR K14 roof-net sprinkler system in warehouse
 - Loading docks 28 nos. electrically operated doors and levelers (6t dynamic load, 10t static load), equipped with weather shelters and buffers, doors with vision panel.
 - Loading pit (concrete) in front
 - 3 no level access doors per fire compartment
 - Minimum floor loading capacity of 5,000 kg/m², and a rack leg load of 6000 kg.
 - Average floor flatness of Zeile 4 (DIN 18202) — 5 mm under 2m screed
 - Heating central gas heating to 18°C with outside temperature -10°C
 - Abrasion resistance top floor according class MS 25, Dutch code NEN 2743.
 - Minimum lighting level 150 Lux; average lighting level 200 Lux, measured on 1 meter above floor before the installation of racks.
 - Fire alarm and evacuation alarm, fire hoses, emergency lighting as per regulations.
 - Insulation value of 2.5 for the roof and façade (Rc = 2.5 m²K/W)
 - Roof rainwater discharge through a pluvia system
 - Insulated concrete panel plinth (height 2,25m) at loading docks (front façade) and at side and back facades (height 3,75m)
 - Maximum air leakage of the warehouse shell: 3 m³/h/m²
 - Concrete wheel guides to protect loading docks
 - Crash protection poles for all dock doors, level access doors and sliding fire doors. Crash protection for all vertical pipes and stairs in the warehouse.
 - Per unit battery charge points with battery charge electrical connection point:
 - 5 outlets 3*400V/32A (excluding equipment)
 - 5 outlets 240V/16A (excluding equipment)
 - Windows in front on mezzanine level, see drawing architect.
 - 3 fire rf 1/2 hr, doors 3.8 x 4.85 m in fire wall, according to local regulation.
 - Mezzanine floor above loading docks, depth 9.45 meter deep and a floor load capacity of 400 kg/m².
 - Transformer and switch room by DC1 existing building.
 - Water supply sprinkler by existing installation.
 - Sprinkler pump and room according to regulations
 - Restroom/ canteen on mezzanine.
 - A grey water system to be installed for re-use of rain water for flushing toilets and irrigation
 - Employee entrance in side wall under mezzanine
 - Guard house between truck entrance and truck exit including new entrance trucks see drawing architect.
 - Fire alarm and evacuation alarm, fire hoses, emergency lighting as per regulations.
-

Appendix 4

**List of Services, Supplies and
Site Maintenance**

List of Supplies and Services for the rented property

Component	Frequency
Doors	
* Inspection and maintenance of dock equipment (overhead doors, levellers, shelters)	1x p.a.
* Maintenance of exterior door and window furniture	
Grounds	
* Maintenance of paved areas	1x p.a.
* Clean channels, pump sumps, Inspection chambers and outlets, flush through foul water sewer and clean settlement tank including: removal of waste in an environmentally sound manner	1x p.a. 2x p.a.
* Preventative maintenance of electric sliding gates and turnstiles on site	1x p.a.
* Maintenance of green areas	N/A
* Sweep whole site	N/A
* Barriers/outdoor lighting	N/A
External walls	
* Clean external walls and claddings of warehouse, offices + guardhouse	1x/3. years
* Clean external walls and claddings of offices 1x p.a. after first cleaning	1x p.a.
* Clean glazing	N/A
Paintwork	
* Touch up interior paintwork	1x p.a.
Roof surfaces	
* Check roof safeties	N/A
* Clean roof surfaces	2x p.a.
* inspect roof (payable by owner)	N/A
General structural	
* Minor structural maintenance, split between several visits per year (max. 3)	1x p.a.
* Preventative maintenance of fire shutters	1x p.a.
* Preventative maintenance of (interior) sun shading	1x p.a.
Lift systems	
* Regular maintenance of lift systems in accordance with regulations	N/A
* Testing of lift systems in accordance With regulations	N/A
Building maintenance systems	
* Regular maintenance of building maintenance systems in accordance with regulations	N/A
* Testing of building maintenance systems in accordance with regulations	N/A
Plumbing and HVAC systems	
* Preventative maintenance of plumbing and HVAC systems	N/A
System components:	
* Boiler systems	
* Switching cabinets and control equipment	
* Air conditioning systems	
* Gas-fired air heaters	
* Cooling systems (split systems and/or refrigeration equipment)	
* Tempering valves, motorised valves, valves, filling and drain cocks	
* Circulating pumps, pressure expansion tanks, non-return valves, safety devices	
* Air humidifiers	
* Jobs to be performed:	
* Inspection and maintenance of equipment installed	1x p.a.
* Check filters (clean, replace)	1x p.a.
* STEK / F gases decree inspections of refrigeration equipment and airco	2x p.a.
* Periodic inspection of heating equipment under Environmental Management Act	1x/2 years

* including consumables such as air filters (1x p.a.), drive belts, lubricants, cleaning agents, paint, Indicator lamps, screw fuses up to 25A, ionisation / ignition pins	N/A
* Fix faults	
* Use lifting platform	N/A

List of Supplies and Services for the rented property

Components	Frequency
Sanitary installations	
* Preventative maintenance of sanitary installations, installation components:	1x p.a.
* Toilet, basin, shower, utility sink and urinal combinations	
* Fire hose reels	
* Electric water heaters, gas water heater	
* Wash troughs	
* Fire hydrant systems	
* Eye showers	
* Pantries	
* Rainwater outlet and emergency, overflow, outlets	
* Duborain systems	
* Fire hydrants including flow meters	
Electrical systems	
* Preventative maintenance of electrical systems with a hour response time	1x p.a.
System components:	
* Electrical system	
* Emergency lighting system	
* Lightning protection	
* Barrier system	
* Intercom system	
* Evacuation alarm system	
* Surcharge for reducing response time to 4 hours	All year round
* Thermographic Inspection of electrical system	1x/3 years
* Replace fluorescent tubes in racking warehouse	1x/8 years
* Replace fluorescent tubes in other warehouse locations	1x/5 years
	N/A
* Systems/equipment installed by tenant, e.g. security systems, access control systems, Internal turnstiles, battery chargers, wrapping machines, additional compressors, equipment in ESD room, etc.	N/A
	N/A
Sprinkler system	
* Preventative maintenance of sprinkler system	1x p.a.
* Test sprinkler system on fortnightly basis as per regulations	26x p.a.
* Replace gaskets in alarm valves	1x/3 years
* Preventative maintenance of sprinkler control panel	1xp.a.
* Replace batteries in sprinkler control panel	1x/3 years
* Preventative maintenance of sprinkler pump set	1x p.a.
* Replace oil and filters on sprinkler pump set	1x p.a.
* Replace gaskets, thermostat etc.	1x/2 years
* Replace hoses and V belts	1x/6 years
* Major overhaul of pump set	1x/12 years
* Check condition of clean water tank	1x/15 years
* Inspection of sprinkler system by inspection bureau	2x p.a.
* Preventative maintenance of fire doors	1x p.a.
* Preventative maintenance of smoke vents	1x p.a.
Legionella	
* Produce legionella control plan	N/A
* Perform checks detailed in legionella control plan	N/A
Environment	
* Take air and/or contact samples for checking indoor environment	excluded
General	
* Gas	
* Water	
* Electricity	
* Waste removal	
* Pest control	

* Telephone

* Component if applicable; specific in-house components may be added.

* Final frequency to be set in line with use and business process.

* Service level may be extended by mutual agreement (based on Article 16 of the General Terms and Conditions)

Date: 9 October 2007

Lease Prologis DC II

Appendix 6:

Gedas Report

ProLogis BV
Capronilaan 25-27
1119 NP Schipol-Rijk

The Netherlands

GEDAS NV
Clara Snellingsstraat 27
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Deume,
23th September 2002

Contact:
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Project:
Phase I Environmental Site Assessment
ProLogis Belgium II Sprl
Avenue du parc industriel
Industrial Park Hauts-Sarts-Milmort

Final Report:
Update
Phase I Environmental Site Assessment

Client:
ProLogis BV

Our Ref.:
11/15/002415

Direct line:
0032/3/3608395

Direct fax:
0032/3/3608394

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ISO 9001 gecertificeerd voor:
Adviesverlening, studie en ontwerp van gebouwen, infrastructuur, milieu en ruimtelijke ordening

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1 Introduction

1.1 Background — Purpose of the Report

GEDAS, member of the ARCADIS-group, was commissioned by ProLogis on behalf of Prologis Belgium II S.p.r.l. (“ProLogis”) on August 15, 2002 to perform **an update** of a Phase I Environmental Site Assessment (Phase I ESA) of a Site in Liège, located near the Avenue du Parc Industriel, 4041 Herstal-Milmort (Liège), Belgium (“the Site”).

The contract is based on the ARCADIS proposal 2002.M5662 from August 14, 2002.

Representative photographs of the site / site inspection findings are attached in appendix 1; an overview map is shown in appendix 2.1.

Although no soil investigation is included in a Phase I Site Assessment, based on the ASTM practice, an investigation has been conducted in August 2002 and is added in appendix 3 (3.2.).

1.2 Scope of Work/Methodology

ARCADIS GEDAS already performed a Phase I Environmental Site Assessment of the site located near the Avenue du Parc Industriel, 4041 Herstal-Milmort in October-November 2000. This assessment did not identify any non-compliances with the environmental legislation. No further investigation was required by the environmental authorities.

This above described assessment was updated. The update was carried out to define the present environmental condition of the site and to identify potential sources of environmental liabilities.

The main objectives for this update are to acquire an understanding of any changes in the current situation compared with 2000 and liabilities with regard to:

- actual and previous use/site history;
- soil and groundwater;

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- general environmental setting;
- surrounding land use and potential impacts on the site;
- legal requirements, permits;

The Phase I ESA is based upon the following activities:

- Record review: review of available information related to the former and present uses of the location and adjacent properties.
- Site reconnaissance: a visit to the property to investigate the Site and surrounding properties.
- Interviews with current owners and with the government
- Preparation of a written Phase I Environmental Site Assessment report, with a summary of GEDAS's conclusions and recommendations.

1.3 Planned Land Use of the Site

In 2000 the investigated site (app. 15.5 ha) was free of any construction and was used as arable ground (mainly for cereals).

In 2001 the land was divided in 2 pieces (Lot I and Lot II) with each a surface of app. 8 ha. On one of these parcels (Lot I) a building (Lot I, Phase I) has been constructed. ProLogis plans to rent out this new constructed building. Therefore the investigation (Phase I ESA and limited soil investigation), only considers this part of the parcel with the building on.

Extensions to the buildings are foreseen in the near future. A second part of this building will be constructed in the future years (Lot I, Phase II) (*cf.* appendix 2).

The existing buildings and planned buildings are shown in appendix 2.3. The logistics hall and the office were at the time of site inspection not put into use(22/08/2002).

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1.4 Limitations of Investigation/Disclaimer

The Phase I Environmental Site Assessment (ESA) was performed by GEDAS in conformance with the scope and limitations of the American Society of Testing Materials (ASTM) standard practice for Phase I Environmental Site Assessments (E 1527-00) and the Master Services Agreement for consulting with ProLogis European properties Fund, ProLogis Trust, ProLogis B.V. or any of its European affiliates and subsidiaries, agreed and accepted on 4 November 1999.

The Phase I ESA comprised a site visit on August 22, 2002. The site inspection was conducted by Mr. Herwig Teughels and Mr. Kristof Peperstraete. The desk study was performed by Ms. Marleen Clerinx. The desk study comprised a limited review of existing documentation as well as confirmation of regulatory compliance from provided/presented permits or revision protocols and the interpretation of information on the environmental setting of the area in which the site is located.

The results, findings, conclusions, and recommendations provided in this Phase I Environmental Site Assessment report are based on the conditions that were observed during the Site inspection, the review of past occupancy history of the location and information asked for by several authorities provided.

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2 Property Description and Environmental Setting

2.1 The Property

2.1.1 Property Description and Location

The Site is located in an industrial zone (*cf.* appendix 3, 3.4.) in Herstal-Milmort (“Parc d’activités économiques de Hauts-Sarts”), app. 6 km northeast of the city centre of Liège, along the E313 highway Liège-Hasselt (Exit 34) and the A601 (see Site Map, appendix 2).

The nearest houses are situated at a distance of approximately 0,5 km at the northeastern site of the Site. Public transport facilities are present.

The surrounding streets are well maintained and new streets are under construction in other parts of the industrial zone.

The railway station of Herstal is situated at 1,5 km from the Site. At 11,5 km from the site, the airport of Liège is located (in Voroux-Goreux) and the airport of Maastricht is located at app. 46 km.

The investigated part of the site comprises an areal extent of app. 4 ha, of which the logistic hall covers ca. 22.450 m². The future attached building (Lot I, Phase II) covers also 22.450 m² according to the reviewed plans.

A transformer building (approx. 6 m²) is located on the northwestern side of the site. A gas main station is located near the main entrance of the site.

Approx. 20.000 m² are sealed traffic- and parking areas.

A detailed topographical site survey was carried out in 2001. No final detailed topographical survey (levels) was received. The actual buildings show no deviation to the planned building location and size according to the received information from ProLogis.

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The buildings were constructed in the year 2001-2002. No business operations were started. The first tenants will enter the building 15th September 2002. The site layout maps are attached in appendix 2.

Land Register Identification:	Avenue du Parc Industriel 4041 Herstal-Milmort (Liège)
Owner of the properties:	ProLogis Belgium II Sprl
Address:	Capronilaan, 25-27
Town/city:	Schiphol-Rijk
Country:	The Netherlands
Postal code:	1119 NP
Managing Director	Ko Nuiten
Contact person:	Zuzanna Eskinasi
Telephone:	+31/206.556.639
Fax:	+31/206.556.600
Officially responsible persons	
For environment:	none required
for (waste-)water:	none required
for waste:	none required
for hazardous transports:	none required
for health and safety:	none required
for fire protection:	none required
Certification:	Not applicable
At actual location since:	Not applicable — still a vacant building
Significant changes:	agricultural use until approx. 2001 2001 till 2002 construction of building (Lot I, Phase I)
Business activities:	Not applicable — Untill now no activities have been executed on the investigated site
Number of employees:	Not applicable
Administration:	Not applicable
Storage / production:	Not applicable

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Working hours: Not applicable

Buildings rented out
to external companies: none
Rented buildings: none

2.1.2 Current Property Use / Site Operations

The Site is classified as an industrial area allowing non-polluting industrial activities. Zone 3 of the industrial parc in which the Site is located, allows only transportation and transport-related activities since this zone is specified as “parc industriel pour les logistics”. The entire surface of this Industrial Zone 3 is app. 121 ha.

The land studied in 2000 covered approximately 15,5 ha. The whole Site was at the time (2000) owned by S.P.I. (Services Promotion Initiatives en Prov. de Liège, Rue Lonhienne, 14 in 4000 Liège).

This site was in 2001 divided in 2 parts (Lot I and Lot II) of each app. 8 ha. ProLogis bought one of both sites in June 2001 (Lot I). The other part is still property of S.P.I.

Lot I was divided in two pieces : Lot I, Phase I and Lot I, Phase II. Each Phase covers approximately 4 ha. **Only Phase I is included in this investigation.**

The Site of interest (Lot I, Phase I) covers approximately 4 ha. A building of app. 22.450 m³ had been constructed. No electrical towers and overhead power lines are located on the site. Along the southern property border three electrical towers are present.

The cadastral data from Lot I are known as :

- community of Herstal, Division 6, Section A, cadastral parcel 620 a (27.529 m²)
- community of Herstal, Division 7, Section A cadastral parcel 450 b2 (40.548 m²)
- community of Herstal, Division 7, Section A cadastral parcel 450 c2 (9.576 m²)

(cf. appendix 3.1.).

One big distribution facility/warehouse with an office department is located on Site.

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The current site operation (empty building) is not qualified as of any environmental concern according to the results of the site visit, data review and according to verbal statements of the authorities. Specific operation permits beyond the general construction are not required at this time.

2.1.2.1 Electricity, Transformers

The plant's electric system is connected to the public supply net (Idea, in the past Electrabel). No PCB containing transformers or capacitors are in use on site as far as noticed during the site visit. This was confirmed by ProLogis.

The site operates 1 transformer in the transformer-station located near the sprinkler installation (see map in appendix 2.2); the power output is 630 kVA.

2.1.2.2 Water Management

Water Supply

The potable water supply of the Site is partly provided by the S.W.D.E. (Société Wallone des eaux) and the C.I.L.E. (Compagnie Intercommunale Liégeois des eaux). This water concerns sanitary and drinking water. A sprinkler basin (capacity 550 m³) is present on the site (southwestern area of the location).

Sewer System / Waste Water

The site's sanitary waste water and storm water is collected separately in the site's sewer system and conveyed to the new public sewage system. The internal sewer consists of PVC-pipes.

The site does not operate a water / oil separator (not required); production waste water generating processes are not carried out at this time. Sanitary water is headed via a degreaser towards the sewer system.

2.1.2.3 Heating Units

The site operates a natural gas fueled heating system consisting of:

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- a heating circuit with a boiler unit (Ø 160) in the administration building (Firm Elco Klöcler) Two heating rooms are present. The equipment in the offices consist of Radson radiators.
- 16 modern heating radiators type Reznor in the logistic halls.

The radiators in the logistic halls should periodically be supervised by a certified chimney sweep company.

The location of the boiler unit in the administration building is shown in Appendix 2.6.

2.1.2.4 Heating Oil

The site does not operate a heating oil fueled system.

2.1.2.5 Natural Gas

There is a natural gas pipeline (Association Liégois de gaz (A.L.G.) and Distrigas) and a sewage draining system. Electrical power is provided by A.L.E. (Association Liégois d'électricité).

2.1.2.6 Underground Storage Tanks (USTs)

At the site, no underground storage tanks are noticed. No visit was executed inside the building, only the exterior part.

2.1.2.7 Aboveground Storage Tanks (ASTs)

At the site, besides the water tank (550 m³), no aboveground storage tanks are noticed. No visit was executed inside the building, only the exterior part

2.1.2.8 Fuel Station

No fuel station or battery loading stations are noticed on site.

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2.1.2.9 Storage of Chemicals

Nowadays the activities of the site do not (yet) comprise the use, storage and/or handling of hazardous materials and materials of environmental concern.

According to the owner of the site, no spills or accidents occurred till date during the building of the hall.

2.1.2.10 Emissions to the Atmosphere

In the future due to the gas heating / boiler exhausts, emissions will be generated on the site. At this time no air emissions are present on site.

2.1.2.11 Noise, Vibration and Odor Nuisance

Up till now the site does not operate heavy noise generating machinery leading to external noise emissions above the permitted emission values for industrial areas nor generating relevant vibrations.

No complaints occurred during the building of the warehouse.

The truck traffic to and from the ProLogis- site will not pass designated residential areas. Since the site entrance as well as the loading / unloading areas and internal traffic zones are not neighbored by housing areas, truck traffic generated noise emissions are unlikely to be a nuisance in the future.

Odor emitting processes do not occur at the site.

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2.1.2.12 Waste Materials

The site (empty building) produces no hazardous commercial waste (packaging material, cardboard, plastic foil etc.) or normal office waste.

2.1.2.13 Potentially Contaminated Building Materials

Asbestos Containing Materials (ACM)

ACM has not been identified during the inspection of the recently constructed building and is not present according to the owner and the reviewed construction documents (i.e. installation of ACM in new buildings is forbidden according to the applicable Belgian legislation).

PCB

The site does not operate PCB-containing transformers according to the owner; PCB-containing earth cables have not been installed.

2.1.2.14 Radioactive Materials

Prologis has not been using or storing radioactive materials. Ionization-smoke-detectors containing radioactive substances are not used on the site.

2.1.2.15 Other Contaminated Building Material

During the site visit, no contamination of building materials has been observed (new building).

2.1.2.16 Health & Safety

Dangers to the public could not be detected at this time. The site is not in possession of an emergency plan at this time. No plan is required at this time.

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2.1.2.17 Fire Protection

The municipal fire prevention revised the application for the building permit (prior to the start of the construction of the building) and imposed some rules concerning fire protection.

According to the reviewed permit the following rules should be followed :

- Implantation : A connecting road should be present for the intervention vehicles (fire department, ambulance ,...) This road should be 4 m long and should be located at a distance of 2 m from the building. This has been fulfilled.
- Structure : Rf-value (fire resistance) $1/2$ h, electricity should be controlled by a recognized expert, the safety exits should be clearly marked, pictograms must be applied, an alarm should be installed
- Fire protection : The site must be equipped with sufficient hose reels. The whole building must be reached with one jet of water. A proposal with the implantation of the fire extinguishers for the whole building complex must be transferred. Two Fire extinguishers based on water must be installed on each officelevel. Four CO₂ fire extinguishers must be installed on specific sites on the location. The installation of automatic fire / smoke detectors and a sprinkler system is required. An aboveground hydrant should exist (possible to supply 60 m³/hour, during 2 hours).

Should future storage and handling of large volumes of combustible/flammable materials or an expansion of the halls result in an increase of fire risk, than an upgrading of the present fire prevention / fire fighting installations would be required.

2.1.3 Previous Property Use

The site was used for agricultural purposes until 2000-2001. Mainly cereals and maize were grown on the land. An aerial photograph ordered by the firm Eursosense showed that in 1985 no activity was present on the site.

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2.1.4 Summary of Property History

Besides the above mentioned previous use, the site development till date comprises the construction of the present logistic hall and related administration- / service building in 2001-2002. On the 15th of September, new tenants will enter this buildings.

2.2 Environmental Setting

2.2.1 Geology

The geology of the location can be schematised in the following way:

The site of investigation is situated in the wide valley of the Meuse. Immediately below surface, Quaternary river deposits occur. These can consist of gravel (Pleistocene Meuse terraces) and a mixture of sand, silt and clay (Holocene Meuse deposits).

Below these recent layers, the Paleozoic basis occurs. At the location the top is formed by deposits of Westphalian and Namurian (late Carboniferous) age. These consist of sandstone and schist, alternated with coal beds. Underneath, the Viséan and Tournesian limestones occur. The underlying Devonian beds consist of alternating thick limestone and sandstone layers. The basis of the Paleozoic layers is formed by metamorphous schist and kwartsite of Silurian and Cambrian age.

Potential aquifers in the region are formed by the Meuse gravel deposits, and the Paleozoic limestones in which secondary porosity was created by karstic phenomena.

2.2.2 Hydrogeology

According to Mr. Lalleman d'Herstal (2000) it is not possible to abstract groundwater at this location. This is due to the presence of sandstone, schists, limestone and coal beds in the subsoil. The groundwater level of the first aquifer should only be situated at 118 m-gl in the Houiller. However in this formation some sandstone layers can be present with a thickness of 20-30 m. It is impossible to abstract water from the sandstone layers.

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We asked once more for the groundwater abstraction within a radius of 2 and 5 km. Four active abstractions (undrinkable) are present within a distance of 2 km. Two non-active groundwater abstraction wells are present within a distance of 2 km. One potentially polluting activity is present within a distance of 2 km : Axima S.A.. The data are presented in appendix 3 (3.3.).

2.2.3 Hydrology

Rainwater is collected on the site and conveyed into the public sewage system (separation rainwater — discharged waste water). The only surface water bodies of importance for the Site are the river called the “Meuse (de Maas)” and the Albert canal, both located approximately 6 km to the east of the Site. The direction of the groundwaterflow can not be determined based on present data.

The Site is located in an area with problems with respect to rainwater. The soil in this area is very impermeable, which makes it very hard for rainwater to infiltrate in the soil. This was obvious during the site visit as the soil was very swampy after a downpour. A big pond was visible on the southeastern site.

2.2.4 Topography

The topography of the Site slopes from the southeast to the northwest. On the site of Weerts a pile of soil was visible. No information concerning the origin of the ground was given. Probably the soil is originating from Weerts.

2.2.5 Previous Investigations

In the past GEDAS carried out an environmental and geotechnical investigation in the current investigation area and on the neighbouring site.

According to the reviewed files provided for the Phase I Environmental Site Assessment, GEDAS produced the following reports for the site and the neighbouring site:

- Measurement plan dated 6th November 2000, 03/3043 (neighbouring site)
- Measurement plan dated 6th of January 2001, 11/11/1844

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- Phase I Environmental Site Assessment; dated 5th October 2001, 03/3043 (neighbouring site)
- Phase I Environmental Site Assessment; report 11/15/1844 dated 18th January 2001, 11/11/1844
- Geotechnical site investigation dated 29th November 2000, 03/3043 (neighbouring site)
- Geotechnical site investigation dated 23th January 2001, 11/11/1844
- Soil investigation dated 9th October 2000, 03/3043 (neighbouring site)
- Topographical survey dated December 21st 2000, 11/11/1844

Together with the geotechnical study on the neighbouring parcels, 8 soil samples were taken and were analysed to determine the soil quality. No concentrations exceeded the Walloon Background Values or the Flemish Vlarebo Intervention Values.

A new soil investigation was executed on the current site.

2.2.6 Environmental Sensitivity

No wooded areas were observed on or around the property by GEDAS at the time of the Site inspection. The Site was formerly covered with cereals. No stressed vegetation was noticed. The site is not located in a biological valuable area. This was once more asked to the institution of nature conservation.

Regarding the presence of archeologic relicts, an inquirement was made once more with the authorities.

According to the S.P.I. no relicts were ever found on surrounding properties.

The “Service des fouilles de la région Wallonne” has mentioned in 2000 the possible presence of a Roman track from Tongeren to Herstal (Chaussée Brunehaut on the map). This implies that every demand for a building permit should be advised by the “Service de Archéologie, Direction de Liège”. They should attend every meeting concerning the preparation of the works and the start up of the activities. If something important is found they can stop the works.

There were contacts with this authorities during the construction works. A copy of this correspondence is represented in Appendix 3.7.

To the west behind the E313 the municipality of Liers is situated. To the east at 1,5 km the municipality of Milmort is located.

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2.2.7 Planning Applications

The district plan defines the site and its surrounding as an industrial area. A copy of this Plan is attached in appendix 3.4. Additional legal obligations were asked for by the competent authorities.

Building permission for the constructed building :

The building permission was granted on March 5th, 2001. The building permission for the Phase I distribution center is attached in Appendix 3.5.

2.2.8 Current Surrounding Uses

The Site is bordered to the west by the “Avenue du parc industriel” and the E313 Highway and to the other sides by small to medium sized enterprises.

The closest neighbours are Weerts (to the south) and Techspace Aero (to the east). These companies are medium-sized enterprises. Weerts is specialised in transport of biscuits. Techspace Aero produces aircraft engines. On the other sides the site is bordered by agricultural land, property of I.S.P.C. and Air Liquide.

According to the authorities no specific environmental problems were noticed except for some complaints concerning noise in the past. These were complaints from the local inhabitants concerning traffic. These complaints were not addressed to the activities of ProLogis.

The surrounding companies are :

- Techspace aero S.A., Route de Liers, 121, 4041 Milmort, T : 04/278.81.11, F : 04/278.52.07

Activity: Production of aircraft engines and treatment of waste products related with the production process. The activities are present since 30 to 40 years. No particular problems were ever noticed.

- Weerts: Avenue du parc industriel,. This is a rather new site, still under construction.:

Activity: Transport of chocolates

- L'air liquide Belge S.A., Avenue du parc industriel, 2, 4041 Milmort, T : 04/287.78.78, F : 04/278.67.47

Activity: Filling up canisters with industrial gases : The activities are present since 6 à 7 years. No problems were ever reported.

- Gar. Collette Sprl (Mitsubishi), Route de Liers, 122, 4041 Milmort, T : 04/278.58.16 , F : 04/278.71.14

Activity: garage

- Galliker Transport & Logistics, Avenue du parc Industriel, 4041 Milmort, T : 04/287.01.01, F : 04/278.03.03

Activity : The company is active in the transport sector. Activities are present since 1985-1990.

- ISPC, Route de Liers, 125, 4041 Milmort, T : 04/278.92.92

Activity: A wholesale business (+ transport) in horeca requirements (food, cooking utensils, etc.). The company is located on the site since 2 years.

- Van Dijk S.A., Route de Liers, 4-6, 4041 Milmort, T : 04/278.73.25, F : 04/278.06.37

Activity: Production of clinkers

Based on the review available documentation and the site visit, the current use of the surrounding properties does not seem to represent any risk for potential contamination of the Site.

All companies in the surrounding area are in possession of required operational permits and no issues of non-compliance have been reported. No changes with regard to the situation in 2001 was reported. Only Weerts started in 2001 with the storage of foods in refrigerators (*cf.* appendix 3.6.).

2.2.9 Previous Surrounding Uses

The area was previously used for agricultural purposes.

2.2.10 Statement of Property Sensitivity

An official central register regarding the sensitivity of a property does not exist in Belgium. The information regarding potential sensitivity issues such as environmental relevance, landfill

registration, contaminated land registry, mining issues etc. have to be obtained from several authorities.

The mentioned sensitivity aspects are described in the previous chapters.

2.2.11 Site Access and Traffic

The location is served by the E40 and the E313. Public transport facilities are present. The surrounding streets are well-maintained.

2.2.12 Utilities

Water

The potable water supply of the Site is partly provided by the S.W.D.E. (Société Wallone des eaux) and the C.I.L.E. (Compagnie Intercommunale Liégeois des eaux). This water concerns sanitary and drinking water.

Gas

Natural gas is supplied by Distrigas and A.L.G. (Association Liégeois de Gaz) (cf. Paragraph 3).

Electricity

Electricity is provided by Idea (in the past by Electrabel).

Sewer

The sewer service is provided by the local authority.

New information was asked for from the N.A.T.O., Belgacom, S.W.D.E., A.L.E., forces armées, A.L.G. Only the information from Belgacom reached us at the date of the report. Other information will be sent later.

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3 Regulatory / governmental agency inquiries

This section discusses the Walloon legislation regarding environmental practices.

The present legislation in Walloon relating to environmental protection is not well developed. Only in specific domains exists a legislation (f.e. waste).

The authorities are aware of the current situation and have worked out a new legislation. The new decree should replace the old legislation. However one is still waiting for new implementing regulations. Until then the old regulations stay into use.

According to the local authorities it will probably take another two years before this new legislation will be officially enforced.

3.1 Environmental law

A big part of the environmental law of the Walloon district is still sectorial legislation (surface water, noise, etc.). However since ten years some overall environmental aspects are implemented in the Walloon legislation.

From this point of view two decrees merit particular attention.

3.1.1 Environmental impact assessment

In view of the European directive 85/337/EEG concerning environmental impact assessment of some public and private projects, the Walloon authorities have decided on the decree of September 11, 1985. The decree was implemented in 1991 and has found wide application.

The decree makes some government decisions (f.e. granting of exploitation permits, building permits) subject to a preceding environmental impact assessment f.e.:

Whenever a request for an exploitation permit or some building permit is submitted, it has to be joined by a preceding environmental impact assessment („*Notice d'évaluation préalable des incidences*“).

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The competent authorities evaluate the repercussions of the project on the environment. If the authorities consider the repercussions to be negligible, no further investigation / measures should be taken.

If the authorities consider the environmental repercussions of the project to be important, an extensive environmental impact assessment („*étude d'incidences*“) should be conducted.

This elaborate assessment („*étude d'incidences*“) contains at least:

- A description of the project, the location, planning and dimensions
- The necessary information to identify and to value the effects of the project on the environment
- A description of the necessary measures necessary to avoid negative aspects
- A non-technical description of the data mentioned above

The elaborate environmental impact assessment should be conducted by a recognised expert. After the study has been finished, the developer submits five copies of the demand to the competent authorities. These authorities forward the demand to the local authorities with a view to a public investigation.

3.1.2 Admission to environmental information

With a decree of June 13, 1991 (concernant la liberté d'accès des citoyens à l'information relative à l'environnement) the free entrance to environmental information has been converted into law.

3.2 Environmental law concerning specific environmental sectors

Up till now no complete integrated system for environmental permits is implemented. Only in a few domains the legislation is well developed.

The most important legislations at this moment are :

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3.2.1 Exploitation of dangerous or unhealthy activities

In the Walloon provinces the legislation for exploitation of unhealthy goods is still the R.G.P.T. (Réglement Générale pour la Protection du Travail) — legislation (former federal legislation). The permits are given for a maximal duration of 30 years.

Activities listed in Chapter II of title I of the R.G.P.T. should get an exploitation permit. The establishments are grouped in two classes, depending on their size and impact on the environment.

If the activities are defined as second class, the involved municipality (in case Herstal) will judge the demand. If the activities are classified as class one, the involved province (in case Liège) will grant the environmental permit. If necessary an appeal should be lodged with the Walloon minister.

3.2.2 Protection of the surface water

The protection of the surface water is organized in the decree of 7 October 1985¹. A permit is necessary to discharge water (industrial waste water and domestic wastewater).

3.2.3 Protection and exploitation of groundwater and drinking water

With the decree of 30 April 1990² the protection of the groundwater and the surface water is regulated. For example for the abstraction of groundwater a permit is necessary.

3.2.4 Protection of air

No separate legislation exists concerning air pollution. The permit for the exploitation of the activities holds standards for the air emissions. Awaiting a new Walloon legislation, the authorities often use the German TA-Luft standards.

¹ Décret sur la protection et l'exploitation des eaux souterraines et des eaux potables

² sur la protection et l'exploitation des eaux souterraines et des eaux potables

3.2.5 Noise abatement

No separate legislation exists concerning noise abatement. A federal law of 1973 still forms the legal framework. As for the air-emissions, the permit for the exploitation of the activities holds standards for noise.

3.2.6 Soil protection

A soil investigation has been conducted at this site (*cf.* appendix 3.2.).

In Walloon there is only specific regulation concerning soil, soil protection or soil remediation for service stations. Frequently references are made to the Walloon Waste legislation.

The Walloon authorities have however realized that there is a need for such a legislation and are working on a legislation concerning this soil protection.

3.3 Environmental management system

In order to manage environmental issues properly in all departments of the company, it is essential that everyone bears clear-cut responsibilities for the environment. In the event of accidents that affect the environment, the responsible authority has to be informed.

In Belgium, there are no legal requirements for the implementation of an environmental management system, neither in Flanders nor in the Walloon provinces.

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3.4 Sitescope Report

In Belgium, a property data file comparable to a sitescope report and sitefile directory (see next chapter) is not provided. The land registry comprises the areal extent of a property, the covered land parcels / identification, ownership, registered easements.

A copy of the actual land registry dated September, 2002 is attached as appendix 3.1.

According to the land registry, the ProLogis site comprises the following parcels defined in land registry: Municipality of Herstal, Division, Section A, part of parcel 450 y.

3.5 Sitefile Directory

Not applicable in Belgium

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4 Results of Walk-Over Inspection

During the walk-over inspection, no issues representing a relevant matter of environmental concern or indicating the need for major rehabilitation- or corrective measures have been identified. No visit inside the buildings was conducted. No activities were present on site according to ProLogis and as far as seen.

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5 Environmental Risk Assessment

GEDAS, a member of the ARCADIS group, has performed an update of a Phase I Environmental Site Assessment of a Site at the Avenue du Parc industriel at Milmort (Herstal), Belgium in conformance with the scope and limitations of the ASTM standard practice for Phase I Environmental Site Assessments.

Observations made during the Site reconnaissance did not identify any non-compliance with the environmental legislation.

A review of historical activities on Site and the current use of the Site do not reveal any environmental conditions and no further investigation is recommended.

Our Phase I ESA did not reveal any recognised environmental conditions and no indications of possible land contamination were reported nor noted and no further investigation is recommended or required.

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6 Conclusions and Recommendations

Summary of Issues

1. Environmental Risk Assessment	Finding / Conclusion: Based on the findings of the site inspection and data review / desk study, the actual and planned future site utilization and the identified subsurface situation <u>do not inhere</u> any relevant environmental risks	
	Recommendation:	No Action required
2. Results of Walk-Over Inspection	Finding / Conclusion: During the walk-over inspection, no issues representing a relevant matter of environmental concern or indicating the need for major rehabilitation- or corrective measures have been identified	
	Recommendation:	No Action required
3. Planned Building Expansion	Finding / Conclusion: On Lot I, Phase I a new storage building had been constructed. On this parcel no building expansion is provided.	
	Recommendation:	No Action required
4. Site-/Building Survey Report	Finding / Conclusion: Existing documents state that the actual buildings show no deviation of the planned building and the constructed building with regard to location and size.	
	Recommendation:	No Action required

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5. Chemicals

Finding / Conclusion:

Site activities at this time do not comprise use/handling of hazardous materials and materials of environmental concern requiring official permission and regulatory surveillance.

Recommendation:

No Action required

6. Traffic Study

Finding / Conclusion:

Truck traffic is not present at this time. In the future traffic will not pass through designated areas. Since the site entrance as well as the loading / unloading areas and internal traffic zones are not neighbored by housing areas, truck traffic generated noise emissions are unlikely to be a nuisance in the future.

Recommendation:

No Action presently

7. Future Fire-Prevention Measures

Finding / Conclusion:

Should future storage / handling of larger volumes of combustible / flammable materials or an expansion of the halls result in an increase of the fire risk, an upgrading of the present fire prevention / fire fighting installations would be required

Recommendation:

Internal assessment of future fire load situation depending on planned storage activities, informal discussion with authorities regarding potential permission requirements.

No Action presently

8. Soil investigation

Finding / Conclusion:

Based on the soil analysis no further soil and groundwater investigation or remedial actions are required by the authorities.

Recommendation:

No Action required

9. Easements

Finding / Conclusion:

The following easement exist for the ProLogis-site :

- A connecting road should be present for the intervention vehicles (4m long at a distance of 2 m from the building)

Recommendation:

No Action required

Antwerpen, 24th September 2002

Marleen Clerinx

Herwig Teughels

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APPENDICES

- 1. Photographs
- 1.1. Site Photographs
- 1.2. Aerial Photograph

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- 2. Plans and Charts
- 2.1. Location site
- 2.2. Location borings
- 2.3. Location current and future buildings
- 2.4. Measurement plan
- 2.5. Location photographs
- 2.6. Location heating equipment

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- 3. Documents
- 3.1. Cadastral map
- 3.2. Soil investigation (not added, in possession of ProLogis)
- 3.3. Data concerning groundwater abstraction
- 3.4. Industrial zoning
- 3.5. Building permit
- 3.6. Reaction municipality of Herstal
- 3.7. Correspondence authorities concerning archaeological relicts
- 3.8. Information concerning utilities

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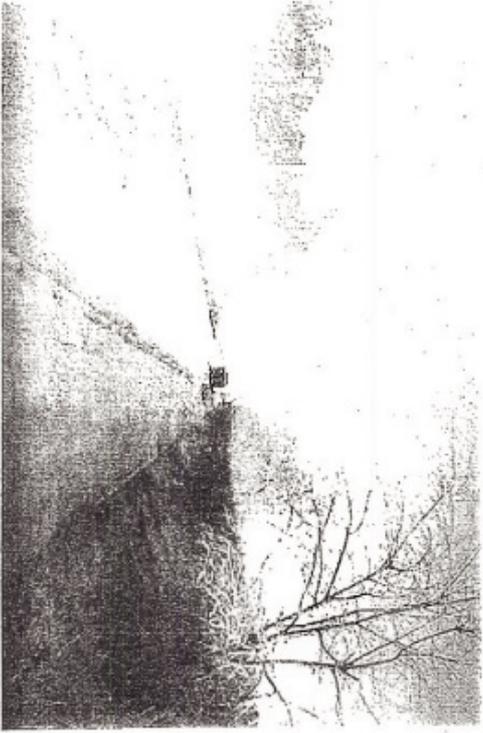
4. Environmental Report Tick List

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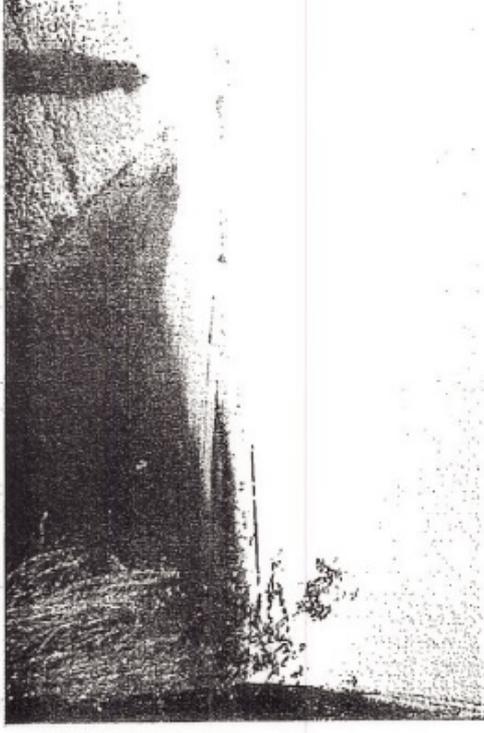
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Appendices 1.1 and 1.2

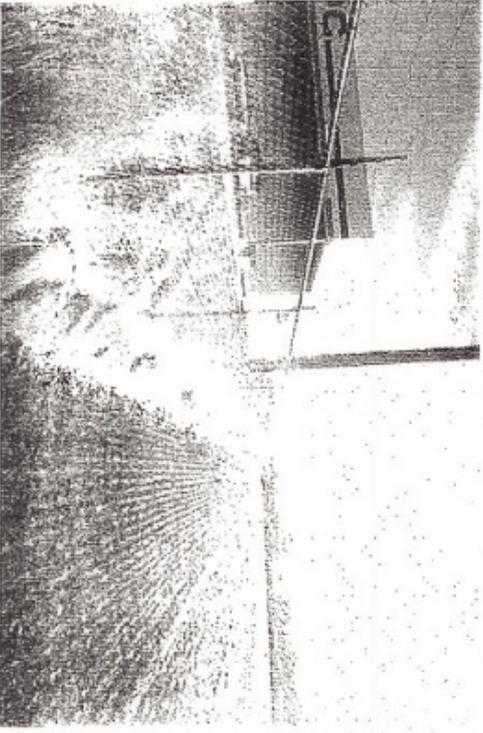
Site Photographs And Aerial Photographs



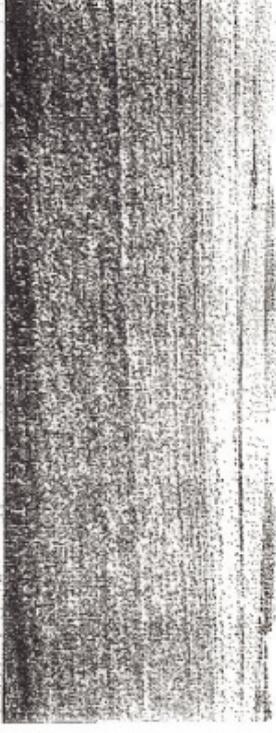
37



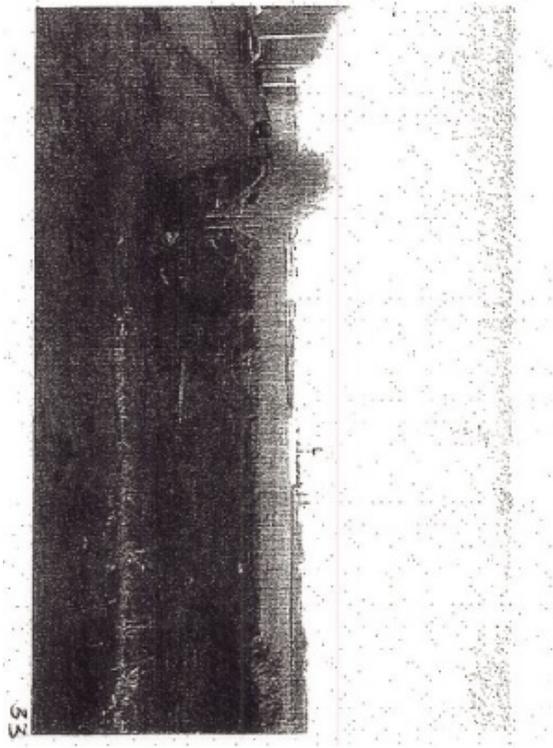
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47

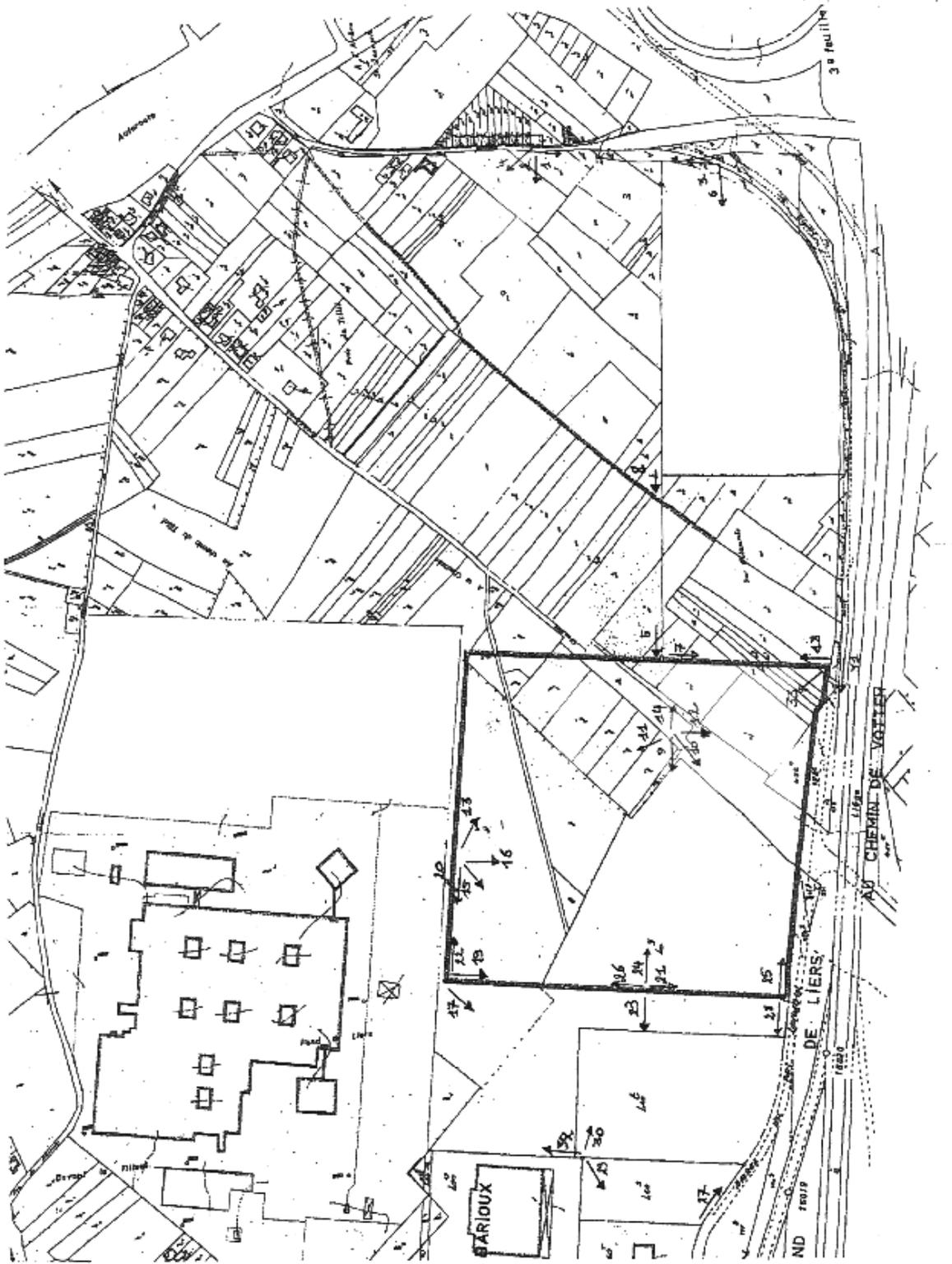


30



Appendix 2.1

Location site



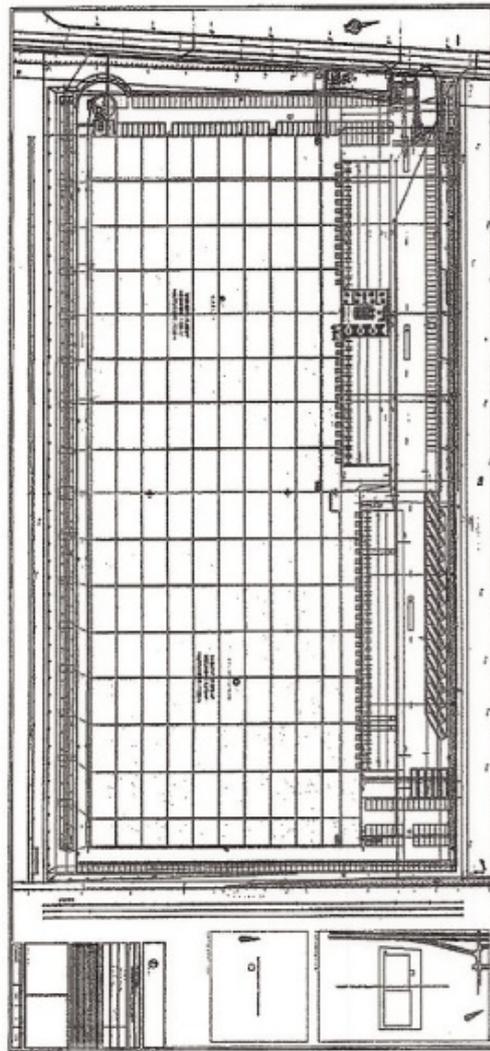
Appendix 2.2

Location borings

See Annex 7.4 of Appendix 3.2.

Appendix 2.3

Location current and future buildings



Appendix 2.4

Measurement plan

See Section 4 of Appendix 3.2.

Appendix 2.5

Location photographs

See Appendices 1.1 and 1.2.

Appendix 2.6

Location heating equipment

Appendix 3.1

Cadastral Map

Situation au 1.1.2000 EXTRAIT DE LA MATRICE CADASTRALE DE LA COMMUNE DE
 Numéro de commune : 62064 HERSTAL 7 DIV/LIERS/ Numéro de l'article : 01193

IDENTIFICATION ET DROITS EVENTUELS DU OU DES PROPRIETAIRES (1)

DOMAINE DE LA SPI+/SERVICES PROMOTION INITIATIVES EN PROVINCE DE LIEGE
 4000 LIEGE R LONHIENNE 14

PARTIE DE L'ARTICLE

N° d'ordre	Situation de la parcelle (rue et numéro ou lieu-dit, hameau)(1) Détails complémentaires	Métrique	Désignation cadastrale		Nature de la propriété	Contenance			Classement et revenu à l'ha ou année de la fin de construction (2)		Revenu cadastral		
			Secteur	Numéro de la parcelle		ha	a	ca	Code (3)	Montant			
0157	CHEM DE VOTTEM		A	498 C	TERRE	N	27	21	LB	2750	1G	700	
0176	AV DU PARC INDUSTRIEL		A	450 Y	TERRE	N	7	19	64	LB	2750	1G	19700

(1) L'Administration du Cadastre ne peut être rendue responsable d'éventuelles erreurs dans la désignation des rues et des numéros de parcelles.

(2) Méthode ou année de fin de construction :

- 0001 : avant 1850
- 0002 : années 1850 à 1874
- 0003 : années 1875 à 1899
- 0004 : années 1900 à 1919
- 0005 : années 1920 à 1939

(3) Première position du code :

- 1 ou 2 : non bâti (1) ou bâti (2) ordinaire
- 3 ou 4 : non bâti (3) ou bâti (4) industriel (ou éventuellement artisanal ou commercial avec outillage)
- 5 ou 6 : matériel et outillage sur une parcelle non bâtie (5) ou bâtie (6)

Deuxième position du code :

- 7 : revenu cadastral imposable
- C,M,P,D : revenus cadastraux bénéficiant, en vertu de dispositions légales, d'une exonération totale ou partielle de précompte immobilier
- J : revenu cadastral non fini ou revenu cadastral fini mais non imposable pour non-occupation ou non-location
- X : revenu cadastral provisionné pour cause d'occupation ou de location avant le complet achèvement
- 8 : revenu cadastral partiel provisionné d'un immeuble à appartements dont tous les appartements ne sont pas occupés ou loués.

REMARQUE

La mise à jour des documents cadastraux n'est effectuée que dans le courant de l'année qui suit la date de la modification. Dès lors, il se pourrait que notamment les revenus cadastraux mentionnés dans l'extrait ne tiennent pas compte de modifications récentes apportées aux biens, auquel cas ils ne pourront être invoqués pour demander une éventuelle remise des droits d'enregistrement. Il se pourrait également que lesdits revenus soient en instance de révision suite à une réclamation.

Reproduction interdite en vertu de l'article 504, §3, du Code des impôts sur les revenus 1992.

NUMERO DE LA DEMANDE : 2000043297

COUF : ~~0000000000~~ BEF

COUF : ~~0000000000~~ EUR

Certifié conforme aux inscriptions de la matrice cadastrale

A LIEGE, LE 03/01/2001

L'AGENT DELEGUE,

Revenu à l'ha et revenu cadastral exprimés en BEF
 prix en BEF et en EUR (taux de conversion 40,3399).

Pirlotte

Situation au 1.1.2000	EXTRAIT DE LA MATRICE CADASTRALE DE LA COMMUNE DE	Nombre de feuillets : 002
Numéro de commune : 62112	HERSTAL 6 DIV/VOFFEM/	Numéro de l'article : 04996
IDENTIFICATION ET DROITS EVENTUELS DU OU DES PROPRIETAIRES (1)		
DOMAINE DE LA SPI+/SERVICES PROMOTION INITIATIVES EN PROVINCE DE LIEGE 4000 LIEGE R LONHIEUNE 14		

PARTIE DE L'ARTICLE

Bro d'ordre	Situation de la parcelle (rue et numéro ou lieu-dit, hameau)(1) Détails complémentaires	Wateringue	Désignation cadastrale		Nature de la propriété	Contenance			Classement et revenu à l'ha ou année de la fin de construction(2)	Revenu cadastral		
			Section	Numéro de la parcelle		ha	a	ca		Code(3)	Montant	
0279	SUR FILAUME		A	589	TERRE	N	18	52	1	3000	1G	550
0280	CHEE BRUNHAULT		A	650/02	CHEMIN	N	61	90		490	1G	300
0286	A LA CHAUSSEE		A	540 B	TERRE	N	40	37	1	3000	1G	1200
0287	A LA CHAUSSEE		A	547 B	TERRE	N	68	79	1	3000	1G	2000
0288	SUR FILAUME		A	588 D	TERRE	N	09	10	1	3000	1G	270
0289	A LA CHAUSSEE		A	549 C	TERRE	N	46	63	1	3000	1G	1300
0294	SUR FILAUME		A	588 C	TERRE	N	10	31	1	3000	1G	300
0304	CHEE BRUNHAULT		A	544 C	TERRE	N	29	90	1	3000	1G	850
0305	CHEE BRUNHAULT		A	550 B	TERRE	N	25	22	1	3000	1G	750
0315	FOND DE LIERS		A	620	TERRE	N	09	59	1	3000	1G	280

(1) L'Administration du Cadastre ne peut être rendue responsable d'éventuelles erreurs dans la désignation des rues et des numéros de police

(2) Période ou année de fin de construction :

- 0001 : avant 1850
- 0002 : années 1850 à 1874
- 0003 : années 1875 à 1899
- 0004 : années 1900 à 1918
- 0005 : années 1919 à 1930

(3) Première position du code :

- 1 ou 2 : non bâti (1) ou bâti (2) ordinaire
- 3 ou 4 : non bâti (3) ou bâti (4) industriel (ou éventuellement artisanal ou commercial avec outillage)
- 5 ou 6 : matériel et outillage sur une parcelle non bâtie (5) ou bâtie (6)

Deuxième position du code :

- F : revenu cadastral imposable
- G,H,I,Q : revenus cadastraux bénéficiant, en vertu de dispositions légales, d'une exonération totale ou partielle de précompte immobilier
- J : revenu cadastral non fixé ou revenu cadastral fixé mais non imposable pour non-occupation ou non-location
- K : revenu cadastral provisoire pour cause d'occupation ou de location avant le complet achèvement
- L : revenu cadastral partiel provisoire d'un immeuble à appartements dont tous les appartements ne sont pas occupés ou loués.

Numéro d'ordre	Situation de la parcelle (rue et numéro ou lieu-dit, hameau)(1) Détails complémentaires	Wateringue	Désignation cadastrale		Nature de la propriété	Contenance			Classement et revenu à l'ha ou année de la fin de construction (2)	Revenu cadastral			
			Section	Numéro de la parcelle		ha	a	ca		Cote	Montant		
0338	A LA CHAUSSEE		A	551 C	TERRE	N	71	40	1	3000	1G	2300	
0356	CHES BRUNSHAULT		A	542 C	TERRE	N	41	20	1	3000	1G	1200	
0357	CHES BRUNSHAULT		A	545 C	TERRE	N	29	00	1	3000	1G	850	
0360	CHES BRUNSHAULT		A	546 C	TERRE	N	03	86	1	3000	1G	110	
0363	A LA CHAUSSEE		A	538 A	TERRE	N	14	80	1	3000	1G	440	
0364	CHES BRUNSHAULT		A	539 C	TERRE	N	42	77	1	3000	1G	1200	
0371	FOND DE LIERS		A	617	TERRE	N	1	11	45	1	3000	1G	3300
0389	CHES BRUNSHAULT		A	543 C	TERRE	N	20	00	1	3000	1G	600	
0402	SUR FILANNE		A	583 C	TERRE	N	92	40	1	3000	1G	2700	
0404	SUR FILANNE		A	584 K	TERRE	N	13	44	1	3000	1G	400	
0406	SUR FICANNIS		A	584 M	TERRE	N	37	90	1	3000	1G	1100	
0424	FOND DE LIERS		A	621 B	TERRE	N	4	45	17	1	3000	1G	13300
0427	CHES BRUNSHAULT		A	539 B	TERRE	N	04	93	2A	3000	1G	140	

(1) et (2) et (3) : voir premier feuillet

REMARQUE

La mise à jour des documents cadastraux n'est effectuée que dans le courant de l'année qui suit la date de la modification. Dès lors, il se pourrait que notamment les revenus cadastraux mentionnés dans l'extrait ne tiennent pas compte de modifications récentes apportées aux biens, auquel cas ils ne pourraient être invoqués pour demander une éventuelle remise des droits d'enregistrement. Il se pourrait également que lesdits revenus soient en instance de révision suite à une réclamation.

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A LIEGE, LE 03/01/2001

L'AGENT DELEGUE,

Pirlatte

HERSTAL 6^e DON (VOTTEM)

Section A 5^e feuille

N° 207 à 214, 47 à 50
Echelle de 1 à 1250

HERSTAL 7^e DON

unique

de
feuille

Commune

Section

Commune

de

Section A, 5^e feuille

Fond de Liens

F

Au che

A la Chaussée

Section

A

Mise à jour - 1-1-2000

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HERSTAL 6^e Don
(VOTTEM)
Section A 4^e feuille

Echelle 1 à 1250
N° 101 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

5^e feuille

Ala Chaussée

Section

Sur Riveau

Commune de HERSTAL 7

Section A feuille unique

Mise à jour : 1-1-2008

Section



Document communiqué en vertu de l'article 10, § 1^{er}
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Appendix 3.2
Soil investigation

**Explorative soil investigation
PROLOGIS BELGIUM III BVBA**

**Research site
Avenue du Parc Industriel 159
4041 Herstal**

Project n°: 09/865



**Explorative soil investigation
PROLOGIS BELGIUM III BVBA**

**Research site
Avenue du Parc Industriel 159
4041 Herstal**

**Project n°: 09/865
12/01/2010**

Author: Timothy Geerts
Function: Project assistant
Date: 4/2/10

Revised by: Mark Van Straaten
Function: CEO
Date:

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- ANNEX 7.2: Certificates leak tests and soil/tank processing
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- ANNEX 7.6: Results previous soil investigations
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- ANNEX 8.1: Topographic map
- ANNEX 8.2: Colouring of the research site according to land use
- ANNEX 8.3: Cadastral data
- ANNEX 8.4: Detailed map research site
- ANNEX 8.5: Detailed map detected soil contamination
- ANNEX 8.6: Detailed map detected groundwater contamination

1 INTRODUCTION

On instruction of PROLOGIS BELGIUM III BVBA an explorative soil investigation is performed on a site located in HERSTAL, Avenue du Parc Industriel 159.

The aim of this investigation is to assess the current condition of the land with respect to an eventual soil and/or groundwater contamination.

Data instructor: PROLOGIS BELGIUM III BVBA
Attn. Pieter Ris
Pegasusparklaan 5
1831 DIEGEM (MACHELEN)
Phone: (+31)20/655.66.71
Fax: (+31)20/655.66.00

The extracts of the cadastral plan can be found in annex 8.2. A situation of the site on the topographic map 42/2N (Oupeye) is also presented (see annex 8.1)

Contact at MAVA Soil Research NV is Timothy Geerts, tel n° 02/759.59.30.

The field work is performed on the following dates:

Table 1-1 Overview field trips

	drilling/soil sampling	wells/ground water sampling
Execution	14/14/2009	/
Sampling	14/12/2009	/
Lab instruction	16/12/2009	/
Analyses	24/12/2009	/

2 PRE-STUDY

The necessary data for the pre-study are obtained from the “Geographical and Environmental Portal Wallonia” (“Portail SIG — DGARNE”-website), information delivered by the client and user of the site, former soil investigations and the topographic map.

2.1 Administrative data

On instruction of PROLOGIS BELGIUM III BVBA an explorative soil investigation is performed on a site located in Herstal, Avenue du Parc Industriel 159.

The site has a surface area of 37099 m², of which 21376 m² is built on.

The complete site consists of following parcels:

Municipality	Municipality N°	Section	Parcel N°	Surface (m ²)
Herstal 7 DIV/LIERS/	62051	A	450 G 2	37099

The above mentioned cadastral information reflects the situation on 01/01/2008.

Following tables represent the data on ownership and use/exploitation of the site.

Table 2-1 Property owners

Parcel n°	Period	Name	Address	Tel	Fax
450 G 2	2001 - present	PROLOGIS BELGIUM III SOCIETE BVBA	Pegasusparklaan 5,1831 DIEGEM (MACHELEN)	(+31)20/655.66.71	(+31)20/655.66.00

Table 2-2 Users

Parcel n°	Period	Name	Address	Tel	Fax
450 G 2	2002 - present	Skechers EDC SPRL	Avenue du Parc Industriel 159, 4040 HERSTAL	04/228.62.11	—

Table 2-3 Exploitation

Parcel n°	Period	Name	Address	Tel	Fax
—	—	—	—	—	—

The Lambert coordinates of the central point of the site are: X = 235,402 km, Y = 153,427 km and Z = 180 m.

The ground is situated in an area designated for industrial activities. Nine groundwater extraction wells exist in an area of 2 km around the center of the research site. As far as known, there are no protection zones for groundwater extraction located near the research site. Close to the site are 3 creeks (2 situated at 370 meters from the site (to the east and to the north-west side), 1 situated next to the southern site of the building at the research site. Three small surface waters are situated within 614 meters around the research site, located to the east, west and north-west side of the site.

Data gathered in former soil investigations are summarized in par. 2.8

2.2 Characteristics surrounding area

The site is located in an industrial zone (Parc Industriel) 5 km to the north of the city Luik. To the west an exit of the highway E313 Luik-Hasselt is found, to the south-east the A3 motorway.

The total industrial zone comprises an area of ca. 180 ha. The area is used by small, medium and large sized companies like ISPC International (food branch), Air Liquide SA (compressed gasses), Eurofreins SA (car parts), Galliker Transports SA (transport company), HTC Wallonie (tankcleaning), Techspace Aero (development of aeronautical propulsion engines), ...

2.3 Geology and hydrogeology

The geology of the location can be schematised as follows:

The research site is situated in the wide valley of the Meuse, Immediately below surface, Quaternary river deposits occur. These can consist of gravel (Pleistocene Meuse terraces) and a mixture of sand, slit and day (Holocene Meuse deposits).

Below these recent layers, the Paleozoic basis occurs. At the location, the top is formed by deposits of Westphalian and Namurian (late Carboniferous) age. These consist of sandstone and schist, alternated with coal beds. Underneath, the Viséan and Touresian limestones occur. The underlying Devonian beds consist of alternating thick limestone and sandstone layers. The basis of the Paleozoic layers is formed by metamorphous schist en kwartsite of Silurian and Cambrian age.

Potential aquifers in the region are formed by the Meuse gravel deposits, and the Paleozoic limestones in wich secondary porosity was created by karstic phenomena.

According to the “Walloon Geo-Environmental website” (OGEAD <http://environnement.wallonie.be/cartosig/ogead/#>) the groundwater can be qualified as **vulnerable**.

The following table presents the geology of the site.

Table 2-4 Geological structure of the research site

<u>Chronostratigraphie</u>	<u>Stratigraphie</u>	<u>Description</u>
Holocène	—	Recent alluvia of the Meuse. Recent colluviums. Homogeneous loess-like silt.
Pléistocène	—	Old alluvia constituting the various levels of terraces of the Meuse. Sands and gravels of fluvial origin (Onx)
Tertiaire	Tongrien	Marine siliceous sands
Secondaire	Crétacique	Conglomerate with flint or scattered flint Chalks with argillaceous intercalations
Primaire	Houiller	Sandstone, schists and psammites

During the fieldwork, following soil profile was observed: beneath all asphalt hardening on the terrain, an artificial, dark brown layer of sand was found until a depth of around 60cm. This layer contained a lot of stone. Below the layer of sand, a more loamy brown layer was found. At most of the drilling locations, it was impossible to get any deeper than 50-60cm: a hard impenetrable layer of unknown origin prevented any further drilling. At drilling locations where no hardening was located on the surface the underground consisted of a brown layer of loam.

The expected depth of the groundwater table is situated around 118 m-gl. The assumed direction of the groundwater flow is unknown.

As far as known, no salt or saltish water is present on the site.

One groundwater extraction source is situated within a radius of 0,5 km and is listed in the table below.

Table 2-5 Extraction wells of groundwater within a radius of 500 m of the site (Source: DOV (website))

Site extraction	X (km)	Y (km)	Distance (m)
BLANCHISSERIE BASSE-MEUSE S.A. RUE DE MAESTRICHT 102 04/374.83.64	235,456	153,166	388

As far as known, none of these extractions has an influence on the direction of the groundwater flow.

2.4 Historical data

In 2000 the site was owned by S.P.I. (Service Promotion Initiatives en province de Liège, Rue Lonhienne, 14 in 4000 liège). During this period, the land was used as agricultural land (mainly for cereals).

In 2001, the terrain became the property of ProLogis and the land was divided in 2 pieces (Lot I and Lot II) with each a surface of app. 8 ha. On one of these parcels (Lot I) a building (Phase I) has been constructed. The building was rented out in 2002 to the company “Skechers”, which uses it as a depot and distribution center for shoes.

Construction of the second part of the building (Phase II) (on the second parcel (Lot II) commenced in august 2008. The second part of the building has also been rented out to the company “Skechers”, which is using it until present day.

As far as known, no accidental spills have occurred on the research site.

There has been a change of the soil profile: the terrain has been partly excavated for the construction of the loading and unloading zones and for the construction of the foundations. Underneath the concrete or other hardening materials, a layer of debris is used as foundation.

As far as known, no polluted soil is excavated, no remediation has occurred, nor a significant groundwater lowering was performed.

2.5 Actual activities

The terrain is used by the company “Skechers” as a depot and distribution center for shoes.

The exact location of cables and sub ground wiring is partly known (before the drillings were performed each location was measured with the aid of wire detection equipment).

2.6 Overview of activities

During the pre-study copies of the available permits concerning present and former activities on the terrain were requested with the City of Herstal.

As far as known, no activities were exploited that present a risk for soil contamination.

2.7 Data storage tanks

As far as known, no storage tanks are/were present at the site.

2.8 Previous soil investigations

In view of the pre-study, it is also investigated whether in the past already soil investigations or remediations have taken place on the terrain. This information is then taken into account for selection of the appropriate research strategy. A more elaborate report of these investigations can be found in annex 7.7.

Soil investigation

Date: 09/10/2000

Consultant: Gedas

Code: 03/3043

Conclusion: (Quote)

Results from laboratory analyses show slightly elevated concentrations of nickel, zinc, lead and PAH's above the Vlarebo-Background values. However, all of the concentrations are lower than 80% of the Intervention Value for type II soil (= agricultural land), which means that no additional investigation is necessary. The Vlarebo Intervention Values are never reached.

No concentrations exceed the Walloon Background Values.

According to the procedure of the OVAM (Vlarebo), a conclusion has to be made for every separate parcel. Since the site is located in Liège, no soil certificate is necessary, therefore one conclusion is made for the whole site.

The conclusion can be summarized in the following statements:

- according to the current legislation there is no contamination above the intervention values on the site
- no additional soil investigation should be conducted on the site
- the slightly elevated concentrations of heavy metals are natural background values, and of no concern
- the parcels should not be registered as 'polluted soils'
- no remedial action is necessary

Based on the soil analysis no further soil and groundwater investigation or remedial actions are recommended.

2.9 Site visit

For the present research one site visit was made.

Visit 14/12/2009 by ASA (drilling company) and Timothy Geerts (project assistant)

Concrete drillings, soil drillings and sampling.

3 SAMPLING STRATEGY

In this paragraph the suspected / potential source zones and sampling strategy are described, and this for different zones present on the site.

With the previous soil investigation dated 09/10/2000, different parcels (under which the current 450 G 2 (which was formerly part of a larger parcel)) were examined according to a self-developed strategy. This strategy was chosen because in Walloon, no specific regulations concerning soil investigation for activities other than service stations exist.

Given that the aim for the Investigation is to determine the environmental status of the site, that in the previous investigation no locations of risk could be identified and that it is unclear if the parcel 450 G 2 was sufficiently screened, it was decided to screen the terrain again according to strategy 1 as prescribed by the OVAM.

3.1 Strategy 1: screening of the research site

The site has a surface area of 37099 m².

The larger part of the terrain is occupied by the warehouse / distribution center. At the north and the east side of the building a parking area is present. At the north side of the building the loading and unloading quays are located. Around the building there is a fire way (constructed in asphalt). To the south of the building there is an artificial creek and fallow ground.

Since — according to literature and former examinations in the region — the suspected groundwaterlevel is situated around 118 m-gl, no groundwater was examined.

3.1.1 Subdividing in blocs

In view of the surface area of the research site and the screening of the terrain, the terrain was subdivided in 6 blocs (see annex 8.4). Per bloc two drillings were performed, of which a soil sample was analyzed for the parameters foreseen in the Walloon Standard Analysis Package (WSAP).

3.1.2 Unsuspected terrain part

The part of the terrain which is unsuspected comprises the complete area. No drillings were allowed inside the warehouse, therefore all drillings were placed outside and around the warehouse.

The unsuspected zones have a combined surface area of ca. 37099 m².

Since in these zones no extra specific parameters of concern could be identified, the selected samples were all just analyzed for the parameters of the Walloon Standard Analysis Package.

3.2 Summarizing table

On the next page, the summary of the sampling strategy is presented.

Table 3-5 Summary sampling strategy (according to the OVAM guidelines)

Research site	PROLOGIS BELGIUM III BVBA Avenue du Parc Industrial 159 4041 Herstal									
Surface area complete site	37099 m ²									
General screening research site according to strategy 1	No of blocs	No of drillings	No of wells	No of analyses soil WSAP			N° of analyses groundwater SAP			
	6	12	0	12			0			
N° and surface area registered parcel	Description suspected zones and surface area	Sampling strategy	Description potential pollution sources and surface area	Soil protection	Suspected substances	Suspected soil layer	No of drillings (Ind. wells)	No of wells	No of analyses soil	No of analyses groundwater
450 G 2	Unsuspected	1	—	Asphalt, concrete, none	—	0-1 m bgl	12	0	12	0
Summary	Total no of drillings (Ind. wells)	Total no of wells								
	12	0								

4 FIELDWORK AND LABORATORY RESEARCH

This chapter describes the conducted fieldwork and laboratory research. The sensory perceptions and analysis results are presented.

4.1 Field research and sampling

All drillings and sampling presented in this report are performed according to the OVAM guidelines, published in the “Compendium for sampling and analysis”, as approved by the Ministerial Order of 11/01/2008.

The drillings and sampling are executed by ASA, Industriepark Brechtsebaan 10, 2900 Schoten.

The followed procedures are given in annex 7.3. The complete drilling report with the observed soil structure on the site is given in annex 7.4. A short overview of the observed details is given in the following paragraphs.

4.1.1 Motivation for the location of drillings and wells

In chapter 3 an overview is given of the performed drillings and wells per zone of risk and source of contamination. The eventual deviations of the strategy are discussed here.

It was necessary to keep the warehouse floor intact, therefore all drillings were placed outside the building.

On 4 drilling locations, it was impossible to get any deeper than 50-60cm: a very hard impenetrable layer of unknown origin prevented any further drilling. Several drillings were replaced, but each time the impenetrable layer prevented further drilling.

4.1.2 Soil structure

For a detailed description of the geology and hydrogeology, reference is made to paragraph 2.3.

During the fieldwork, following soil profile was observed: beneath all asphalt hardening on the terrain, an artificial, dark brown layer of sand was found until a depth of around 60cm. This layer contained a lot of stone. Below the layer of sand, a more loamy brown layer was found. At a lot of these drilling locations, it was impossible to get any deeper than 50-60cm: a very hard impenetrable layer prevented any further drilling. At drilling locations where no hardening was located on the surface the underground consisted of a brown layer of loam.

The complete bore logs are given in annex 7.4.

The organoleptic/sensory observations are given in the table below.

Table 4-1 Characteristic sensory observations

<u>Zone</u>	<u>Source</u>	<u>Drilling</u>	<u>Depth (m)</u>	<u>Trajectory (m-g.l.)</u>	<u>Sensory observation</u>
Unsuspected	Unsuspected	58	0,5	0,10-0,50	Containing extreme amounts of stone
37099 m ²	37099 m ²				Drilling stopped at 0,50 m-g.l (impenetrable layer)
		5A	0,6	0,10-0,60	Containing extreme amounts of stone
					Drilling stopped at 0,60 m-g.l (impenetrable layer)
		5	0,5	0,10-0,50	Containing extreme amounts of stone
					Drilling stopped at 0,50 m-g.l (impenetrable layer)
		1	2	0,10-0,30	Containing extreme amounts of stone
		2	0,6	0,10-0,60	Containing extreme amounts of stone
					Drilling stopped at 0,60 m-g.l (impenetrable layer)
		3	0,5	0,10-0,50	Containing extreme amounts of stone
					Drilling stopped at 0,50 m-g.l (impenetrable layer)
		4	0,5	0,10-0,50	Containing extreme amounts of stone
					Drilling stopped at 0,50 m-g.l (impenetrable layer)
		13	0,4	0,10-0,40	Containing extreme amounts of stone
					Drilling stopped at 0,50 m-g.l (impenetrable layer)

In these zones no NAPLs (Non-Aqueous Phase Liquids) were observed during the fieldwork.

4.1.3 Groundwater

A groundwater research was not performed.

4.2 Laboratory research and analyses

The sampling procedure is described in annex 7.3.

The table below gives an overview of the selected samples and analyses.

Table 4-3 Sampling overview and analytical parameters

<u>Zone</u>	<u>Source</u>	<u>(Mixed)Sample</u>	<u>Analysis</u>
Unsuspected	Unsuspected	1 (1,50-2,00)	Walloon SAP package ground
37099 m ²	37099 m ²	2 (0,10-0,60)	Walloon SAP package ground
		3 (0,10-0,50)	Walloon SAP package ground
		4 (0,10-0,50)	Walloon SAP package ground
		5 (0,10-0,50)	Walloon SAP package ground
		6 (1,50-2,00)	Walloon SAP package ground
		7 (0,00-0,50)	Walloon SAP package ground
		8 (0,00-0,50)	Walloon SAP package ground
		9 (0,00-0,50)	Walloon SAP package ground
		10 (1,50-2,00)	Walloon SAP package ground
		11 (0,00-0,50)	Walloon SAP package ground
		12 (0,00-0,50)	Walloon SAP package ground

The analyses were done by the laboratory Eurofins Analytico BV, Gildeweg 44-46, 3770 Barneveld (The Netherlands). A description of the analytical methods used and the original analysis certificates are given in annex 7.5.



4.3 Analysis results

4.3.1 Reference values Flanders

On the 29th of October 1995 the Decree on soil remediation issued by the Flemish government became effective (B.S. 29/4/1995). This legislation has meanwhile been cancelled by the Flemish Government and replaced by a new decree.

The new Decree on soil remediation and soil protection (B.S. 22/01/2007) became effective on 01/06/2008. In this new decree, the striving levels and remediation standards for pollution substances in soil and groundwater were determined. In the Decree, distinction is made between striving values for soil quality and soil remediation levels.

Striving levels reflect the concentration of contaminating substances in soil or groundwater which can be found in non-polluted soils with comparable soil features.

Aim levels reflect the level of soil pollution under which a soil can be used to its potential without any restrictions.

Soil remediation levels reflect a level of contamination which can cause serious adverse effects for man and environment. When these soil remediation values are passed, the contamination is regarded serious.

Legally also a difference is made between the different types of land use (I: nature, II: agricultural area, III: residential area, IV: recreation area and V: industrial area). Use of sites situated in areas for groundwater exploitation and the preservation area's therefore are regarded as land use type I.

For the evaluation of an eventual contamination also the point in time at which the contamination came about has to be considered. A distinction is made between the following types:

Historical soil contamination is a contamination originating before 29/10/1995.

New soil contamination is a contamination originating after 28/10/1995.

Mixed soil contamination is a contamination originating partially before and partially after the date of coming into operation of the Decree Soil Remediation (29/10/1995), as far as the two types of contamination can not be separated.

Increased concentrations are considered a "pollution" when the analyses show concentrations which are higher than the aim level.

Parameters for which no soil remediation levels are known, the evaluation values are determined according to the Dutch striving and intervention values, as given in the Guide for Soil Protection. When applicable, these are mentioned in annex 7.9.

4.3.2 Analysis results for soil samples

The analysis results of the soil samples are listed in the tables below.

A comparison is made between the measured concentrations and the soil background and remediation levels. For the soil samples, these standards are corrected for the content of clay, organic matter and pH, as is legally foreseen. The contents which are used are mentioned for every sampling point (drilling). The measured values for organic matter and clay are given in the following table:

Table 4-4 Overview of the measured values for clay content and organic matter

Sample top layer (former investigation, dd. 05/01/2007)

Sampling	Clay (%)	Organic Matter (%)	pH
B1 (0,00-0,50)	30,0	<0,5	6,8

Sample deep layer (former investigation, dd. 05/01/2007)

Sampling	Clay (%)	Organic matter (%)	pH
B4 (1,50-2,00)	18,5	1,2	7,8

The soil remediation levels for land use type V, INDUSTRIAL AREA, are used.

Measured values which exceed the Flemish Striving Levels (SL) significantly, but remaining below the Remediation Standards (REMS), are printed in *Italic*. Concentrations exceeding the Flemish Remediation Standards (REMS) for the applicable type of land use are given in **bold**. Concentrations exceeding the Aim Levels (AL) are underlined.

Table 4-4 Analysis results for soil samples

[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]
Depth sample (m bgl)	1,50-2,00	1,50-2,00	1,50-2,00			
Sampling date	14/12/2009	14/12/2009	14/12/2009			
Parcel n°	0450 G 2	0450 G 2	0450 G 2			
Land Use Type	V	V	V			
Clay content (%)	18,5	18,5	16,5			
Organic matter (%)	1,2	1,2				
pH	7,8	7,8	7,8			
[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]
Other [ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]
Dry Matter % (m/m)	81,4	84,9	84,0	—	—	—
Mineral oil (mg/kg)	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]
Mineral oil (C16-C21)	—	—	—	—	—	—
Mineral oil (C21-C30)	—	—	—	—	—	—
Mineral oil (C30-C35)	—	—	—	—	—	—
Mineral oil (C35-C40)	—	—	—	—	—	—
Mineral oil (C10-C12)	—	—	—	—	—	—
Mineral oil (C12-C16)	—	—	—	—	—	—
Mineral oil (GC)	<38	<38	<38	50,0	300	900
PAH (mg/kg)	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]
Naphthalene	<0,01	<0,01	<0,01	0,100	0,800	97,3
Benzo(a)pyrene	<0,01	<0,01	<0,01	0,100	0,300	7,20
Fenanthrene	<0,01	<0,01	<0,01	0,080	30,0	1.650
Fluorantene	<0,01	0,019	<0,01	0,200	10,1	268
Benzo(a)anthracene	<0,01	<0,01	<0,01	0,060	2,50	30,0
Chrysene	<0,01	<0,01	<0,01	0,150	5,10	320
Benzo(b)fluorantene	<0,01	<0,01	<0,01	0,200	1,10	30,0
Benzo(k)fluorantene	<0,01	<0,01	<0,01	0,200	0,600	30,0
Benzo(ghl)perylene	<0,01	<0,01	<0,01	0,100	35,0	4.690
Indeno(1,2,3-cd)pyrane	<0,01	<0,01	<0,01	0,100	0,550	30,0
Pyrene	<0,01	<0,01	<0,01	0,100	62,0	3.150
Fluorene	<0,01	<0,01	<0,01	0,100	19,0	4.690
Dibenz(a,h)anthracene	<0,01	<0,01	<0,01	0,100	0,300	3,60
Anthracene	<0,005	<0,005	<0,005	0,100	1,50	4.690
Acenaftylene	<0,05	<0,05	<0,05	0,200	0,600	33,7
Acenaphtene	<0,01	<0,01	<0,01	0,200	4,60	150
PAH (sum of 10 VROM)	<0,095	<0,095	<0,095	—	—	—
PAH (sum of 16 EPA)	<0,2	<0,2	<0,2	—	—	—
Heavy metals (mg/kg)	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]
Arsenic (As)	<10	<10	<10	21,0	41,2	267
Cadmium (Cd)	<0,4	<0,4	<0,4	0,700	2,63	30,0
Chromium (Cr)	34,0	17,0	33,0	82,3	91,0	880
Copper (Cu)	12,0	6,80	11,0	21,7	104	500
Mercury (Hg)	<0,1	<0,1	<0,1	0,100	1,70	11,0
Lead (Pb)	<10	<10	14,0	25,7	120	1.250
Nickel (Ni)	26,0	14,0	28,0	24,6	56,0	530
Zinc (Zn)	45,0	27,0	49,0	89,5	354	1.250
Eox (mg/kg)	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]
EOCI	<0,1	<0,1	0,1	—	—	—
Other heavy metals (mg/kg)	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]
Cobalt (Co)	8,10	5,20	9,40	—	—	—

[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]
Depth sample (m bgl)	0,00-0,50	0,00-0,50	0,00-0,50	0,00-0,50	0,00-0,50	0,00-0,50			
Sampling date	14/12/2009	16/12/2009	14/12/2009	14/12/2009	14/12/2009	14/12/2009			
Parcel n°	0450 G 2								
Land Use Type	V	V	V	V	V	V			
Clay content (%)	38	30	30	30	30	30			
Organic matter (%)	0,5	0,5	0,5	0,5	0,5	0,5			
pH	6,8	5,8	6,8	6,8	6,8	6,8			
[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]
Other [ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]
Dry matter (% (m/m))	82,6	82,3	84,7	81,2	85,6	—	—	—	—
Mineral oil (mg/kg)	[ILLEGIBLE]								
Mineral oil (C16-C21)	—	—	—	—	—	—	—	—	—
Mineral oil (C21-C30)	—	—	—	—	—	—	—	—	—
Mineral oil (C30-C35)	—	—	—	—	—	—	—	—	—
Mineral oil (C35-C40)	—	—	—	—	—	—	—	—	—
Mineral oil(C10-C12)	—	—	—	—	—	—	—	—	—
Mineral oil (C12-C16)	—	—	—	—	—	—	—	—	—
Mineral oil (GC)	<38	<38	<38	<38	<38	50,0	300	750	
PAH (mg/kg)	[ILLEGIBLE]								
Naphthalene	<0,01	<0,01	<0,01	<0,01	<0,01	0,100	0,800	81,6	
Benzo(a)pyrene	0,085	0,046	<0,01	<0,01	<0,01	0,100	0,300	7,20	
Fenantrene	0,047	0,042	<0,01	<0,01	<0,01	0,080	30,0	1.650	
Fluorantene	0,150	0,084	<0,01	<0,01	<0,01	0,200	10,1	268	
Benzo(a)anthracene	0,088	0,043	<0,01	<0,01	<0,01	0,060	2,50	30,0	
Chrysene	0,083	0,050	<0,01	<0,01	<0,01	0,150	5,10	320	
Benzo(b)fluoranterne	0,110	0,054	<0,01	<0,01	<0,01	0,200	1,10	30,0	
Benzo(k)fluorantene	0,048	0,024	<0,01	<0,01	<0,01	0,200	0,600	30,0	
Benzo(gh)perylene	<0,01	<0,01	<0,01	<0,01	<0,01	0,100	35,0	4,690	
Indeno(1,2,3-cd)pyrene	<0,01	<0,01	<0,01	<0,01	<0,01	0,100	0,550	30,0	
Pyrene	0,110	0,060	<0,01	<0,01	<0,01	0,100	62,0	3.150	
Fluorene	<0,01	<0,01	<0,01	<0,01	<0,01	0,100	19,0	4.690	
Dibenz(a,h)anthracene	<0,01	<0,01	<0,01	<0,01	<0,01	0,100	0,300	3,60	
Anthracene	0,009	<0,005	<0,005	<0,005	<0,005	0,100	1,50	4.690	
Acenaftylene	<0,05	<0,05	<0,05	<0,05	<0,05	0,200	0,600	32,0	
Acenaphthene	<0,01	<0,01	<0,01	<0,01	<0,01	0,200	4,60	134	
PAH (sum of 10 VROM)	0,510	0,290	<0,095	<0,095	<0,095	—	—	—	
PAH (sum of 16 EPA)	0,740	0,400	<0,2	<0,2	<0,2	—	—	—	
Heavy metals (mg/kg)	[ILLEGIBLE]								
Arsenic (As)	12,0	<10	<10	<10	<10	25,9	46,0	267	
Cadmium (Cd)	1,50	1,50	<0,4	0,620	<0,4	0,700	2,43	30,0	
Chromium (Cr)	30,0	32,0	34,0	25,0	22,0	96,5	91,0	880	
Copper (Cu)	15,0	17,0	11,0	13,0	8,20	23,9	138	500	
Mercury (Hg)	<0,1	0,130	<0,1	<0,1	<0,1	0,100	1,70	11,0	
Lead (Pb)	58,0	55,0	13,0	26,0	<10	24,7	120	1,250	
Nickel (Ni)	18,0	19,0	25,0	21,0	18,0	34,5	56,0	530	
Zinc (Zn)	180	180	48,0	93,0	33,0	101	549	1,250	
EOX (mg/kg)	[ILLEGIBLE]								
EOCI	0,130	<0,1	<0,1	<0,1	<0,1	—	—	—	
Other Heavy metals (mg/kg)	[ILLEGIBLE]								
Cobalt (Co)	7,80	8,90	9,00	7,80	6,50	—	—	—	

[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]
Depth sample (m bgl)	0,10-0,50	0,10-0,60	0,10-0,50	0,10-0,50			
Sampling date	14/12/2009	14/12/2009	14/12/2009	14/12/2009			
Parcel n°	0450 G 2	0450 G 2	0450 G 2	0450 G 2			
Land Use Type	V	V	V	V			
Clay content (%)	30	30	30	30			
Organic matter (%)	0,5	0,5	0,5	0,5			
pH	6,8	6,8	6,8	6,8			
[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]
Other [ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]
Dry matter (%(m/m))	96,6	92,1	91,4	96,3	—	—	—
Mineral oil (mg/kg)	[ILLEGIBLE]						
Mineral oil (C16-C21)	—	9,30	<6	<6	—	—	—
Mineral oil (C21-C30)	—	50,0	24,0	<12	—	—	—
Mineral oil (C30-C35)	—	22,0	19,0	14,0	—	—	—
Mineral oil (C35-C40)	—	13,0	17,0	15,0	—	—	—
Mineral oil (C10-C12)	—	4,10	<3	<3	—	—	—
Mineral oil (C12-C16)	—	<5	<5	<5	—	—	—
Mineral oil (GC)	<38	100	63,0	39,0	50,0	300	750
PAH (mg/kg)	[ILLEGIBLE]						
Naphthalene	<0,01	0,045	0,017	0,012	0,100	0,800	81,6
Benzo(a)pyrene	0,011	0,300	0,130	0,056	0,100	0,300	7,20
Fenantrene	0,031	0,360	0,270	0,046	0,080	30,0	1.650
Fluorantene	<0,01	0,920	0,420	0,059	0,200	10,1	268
Benzo(a)anthracene	<0,01	0,370	0,150	0,041	0,060	2,50	30,0
Chrysene	0,011	0,310	0,440	0,045	0,150	5,10	320
Benzo(b)fluorantene	0,018	0,360	0,150	0,071	0,200	1,10	30,0
Benzo(k)fluorantene	<0,01	0,160	0,075	0,028	0,200	0,600	30,0
Benzo(gh)perylene	<0,01	0,220	0,120	0,085	0,100	35,0	4.690
Indeno(1,2,3-cd)pyrene	<0,01	0,140	0,120	0,042	0,100	0,550	30,0
Pyrene	<0,01	0,520	0,280	0,044	0,100	62,0	3.150
Fluorene	<0,01	0,038	0,032	<0,01	0,100	19,0	4,690
Dlbenz(a,h)anthracene	<0,01	0,050	0,021	<0,01	0,100	0,300	3,60
Anthracene	<0,005	0,076	0,048	0,008	0,100	1,50	4,690
Acenaftylene	<0,05	<0,05	<0,05	<0,05	0,200	0,600	32,0
Acenaphthene	<0,01	0,026	0,039	0,011	0,200	4,60	134
PAH (sum of 10 VROM)	<0,095	2,90	1,50	0,420	—	—	—
PAH (sum of 15 EPA)	<0,2	3,90	2,00	0,550	—	—	—
Heavy metals (mg/kg)	[ILLEGIBLE]						
Arsenic (As)	<10	<10	<10	<10	25,9	46,0	267
Cadmium (Cd)	<0,4	0,670	<0,4	<0,4	0,700	2,43	30,0
Chromium (Cr)	9,10	18,0	24,0	7,20	96,5	91,0	880
Copper (Cu)	<5	18,0	31,0	<5	23,9	138	500
Mercury (Hg)	<0,1	0,120	<0,1	<0,1	0,100	1,70	11,0
Lead (Pb)	<10	79,0	47,0	<10	24,7	120	1.250
Nickel (Ni)	8,20	16,0	18,0	7,20	34,5	56,0	530
Zinc (Zn)	40,0	180	370	50,0	101	549	1.250
EOX (mg/kg)	[ILLEGIBLE]						
EOCI	<0,1	0,110	<0,1	0,170	—	—	—
Other heavy metals (mg/kg)	[ILLEGIBLE]						
Cobalt (Co)	<5	<5	8,70	<5	—	—	—

Table 4-5 Analysis results groundwater samples

No groundwater samples are analysed.

4.3.3 Reference values Wallonia

In the Walloon region, currently one legislation and one decree exist on soil remediation and soil protection:

- The Walloon legislation concerning service stations, dated 4/03/1999. This legislation is only applicable to service stations.
- The Decree on soil remediation and rehabilitation of economical sites (M.B. 07/06/2004). This decree is not yet active.

Concerning the soil remediation levels, only the levels determined in the legislation concerning service stations are currently legally applicable. Both the legislation concerning service stations as the Decree on soil remediation and rehabilitation of economical sites are using a system with 3 concentration values (Valeur Référence, Valeur Seuil en Valeur d'Intervention).

Valeur Référence reflect the concentration of contaminating substances in soil or groundwater which can be found in non-polluted soils with comparable soil features.

Valeur Seuil determines whether additional investigation is necessary.

Valeur d'Intervention reflect a level of contamination which can cause serious adverse effects for man and environment. When these soil remediation values are passed, the contamination is regarded serious.

Since no service station exists on the research site, concentrations will be indicatively compared to the levels as stated in the Decree on soil remediation and rehabilitation of economical sites.

4.3.4 Analysis results for soil samples

The analysis results of the soil samples are listed in the tables below.

A comparison is made between the measured concentrations and the soil background and remediation levels. These standards do not have to be corrected for the content of clay, organic matter and pH.

The soil remediation levels for land use type V, INDUSTRIAL AREA, are used.

Measured values which exceed the Walloon "Valeur Référence" (VR) significantly, but remaining below the Valeur d'Intervention (VI), are printed in *Italic*. Concentrations exceeding the Walloon Valeur d'Intervention (VI) for the applicable type of land use are given in **bold**. Concentrations exceeding the Valeur Seuil (VS) are underlined.

Table 4-5 Analysis results for soil samples

[ILLEGIBLE]	7	8	9	1	2	VR	VS	VI
Depth sample (m bgl)	1,50-2,00	0,00-0,50	1,50-2,00	0,00-0,50	0,00-0,50			
Sampling date	14/12/2009	14/12/2009	14/12/2009	14/12/2009	14/12/2009			
Parcel n°	0450 G 2							
Land Use Type	V	V	V	V	V			
[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]
[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]
Dry matter %(m/m)	81,4	82,6	84,9	82,3	84,7	—	—	—
Mineral oil (mg/kg)	[ILLEGIBLE]							
Mineral oil (C10-C12)	—	—	—	—	—	2,5	130	160
Mineral oil (C12-C16)	—	—	—	—	—	15	130	520
Mineral oil (C16-C21)	—	—	—	—	—	15	1250	2500
Mineral oil (C21-C30)	—	—	—	—	—	—	—	—
Mineral oil (C30-C35)	—	—	—	—	—	—	—	—
Sum C21-C30+C30-C35	—	—	—	—	—	15	1250	2500
Mineral oil (C35-C40)	—	—	—	—	—	—	—	—
Mineral oil (GC)	<38	<38	<38	<38	<38	—	—	—
PAH (mg/kg)	[ILLEGIBLE]							
Naphthalene	<0,01	<0,01	<0,01	<0,01	<0,01	0,1	2,58	25
Benzo(a)pyrene	<0,01	0,085	<0,01	0,046	<0,01	0,01	1,3	13
Fenantrene	<0,01	0,047	<0,01	0,042	<0,01	0,1	16	164
Fluorantene	<0,01	0,150	0,019	0,084	<0,01	0,01	47	475
Benzo(a)anthracene	<0,01	0,088	<0,01	0,043	<0,01	0,01	1,5	15
Chrysene	<0,01	0,083	<0,01	0,050	<0,01	0,01	6	60
Benzo(b)fluorantene	<0,01	0,110	<0,01	0,054	<0,01	0,01	1,3	13
Benzo(k)fluorantene	<0,01	0,048	<0,01	0,024	<0,01	0,01	4,7	47
Benzo(ghi)perylene	<0,01	<0,01	<0,01	<0,01	<0,01	0,01	5	46
Indeno(1,2,3-cd)pyrene	<0,01	<0,01	<0,01	<0,01	<0,01	0,01	1,5	15
Pyrene	<0,01	0,110	<0,01	0,060	<0,01	0,01	6,4	64
Fluorene	<0,01	<0,01	<0,01	<0,01	<0,01	0,01	16	163
Dibenz(a,h)anthracene	<0,01	<0,01	<0,01	<0,01	<0,01	0,01	1,4	14
Anthracene	<0,005	0,009	<0,005	<0,005	<0,005	0,01	1,3	13,3
Acenafylene	<0,05	<0,05	<0,05	<0,05	<0,05	0,01	43	410
Acenaphthene	<0,01	<0,01	<0,01	<0,01	<0,01	0,01	6	56
PAH (sum of 10 VROM)	<0,095	0,510	<0,095	0,290	<0,095	—	—	—
PAH (sum of 16 EPA)	<0,2	0,740	<0,2	0,400	<0,2	—	—	—
Heavy metals (mg/kg)	[ILLEGIBLE]							
Arsenic (As)	<10	12,0	<10	<10	<10	12	50	300
Cadmium (Cd)	<0,4	1,50	<0,4	1,50	<0,4	0,2	—	15 50
Chromium (Cr)	34,0	30,0	17,0	32,0	34,0	34	165	700
Copper (Cu)	12,0	15,0	6,80	17,0	11,0	14	120	500
Mercury (Hg)	<0,1	<0,1	<0,1	0,130	<0,1	0,05	5	50
Lead (Pb)	<10	58,0	<10	55,0	13,0	25	385	1360
Nickel (Ni)	26,0	18,0	14,0	19,0	25,0	24	210	500
Zinc (Zn)	45,0	180	27,0	180	48,0	67	320	1300
EOX (mg/kg)	[ILLEGIBLE]							
EOCI	<0,1	0,130	<0,1	<0,1	<0,1	—	—	—
Other heavy metals (mg/kg)	[ILLEGIBLE]							
Cobalt (Co)	8,10	7,80	5,20	8,90	9,00	—	—	—

[ILLEGIBLE]	7	8	9	1	2	VR	VS	VI
Depth sample (m bgl)	0,00-0,50	0,00-0,50	0,10-0,50	1,50-2,00	0,10-0,60			
Sampling date	14/12/2009	14/12/2009	14/12/2009	14/12/2009	14/12/2009			
Parcel no	0450 G 2	0450 G 2	0430 G 2	0450 G 2	0450 G 2			
Land Use Type	V	V	V	V	V			
[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]
[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]
Dry matter (% (m/m))	81,2	85,6	96,6	84,0	92,1	—	—	—
Mineral oil (mg/kg)	[ILLEGIBLE]							
Mineral oil (C10-C12)	—	—	—	—	4,10	2,5	130	160
Mineral oil (C12-C16)	—	—	—	—	<5	15	130	520
Mineral oil (C16-C21)	—	—	—	—	9,30	15	1250	2500
Mineral oil (C21-C30)	—	—	—	—	50,0	—	—	—
Mineral oil (C30-C35)	—	—	—	—	22,0	—	—	—
Sum C21-C30+C30-C35	—	—	—	—	72,0	15	1250	2500
Mineral oil (C35-C40)	—	—	—	—	13,0	—	—	—
Mineral oil (GC)	<38	<38	<38	<38	100	—	—	—
PAH (mg/kg)	[ILLEGIBLE]							
Naphthalene	<0,01	<0,01	<0,01	<0,01	0,045	0,1	2,58	25
Benzo(a)pyrene	<0,01	<0,01	0,011	<0,01	0,300	0,01	1,3	13
Fenentrene	<0,01	<0,01	0,031	<0,01	0,360	0,1	16	164
Fluorantene	<0,01	<0,01	<0,01	<0,01	0,920	0,01	47	475
Benzo(a)anthracene	<0,01	<0,01	<0,01	<0,01	0,370	0,01	1,5	15
Chrysene	<0,01	<0,01	0,011	<0,01	0,310	0,01	6	60
Benzo(b)fluorantene	<0,01	<0,01	0,018	<0,01	0,360	0,01	1,3	13
Benzo(k)fluorantene	<0,01	<0,01	<0,01	<0,01	0,160	0,01	4,7	47
Benzo(gh)perylene	<0,01	<0,01	<0,01	<0,01	0,220	0,01	5	46
Indeno(1,2,3-cd)pyrene	<0,01	<0,01	<0,01	<0,01	0,140	0,01	1,5	15
Pyrene	<0,01	<0,01	<0,01	<0,01	0,520	0,01	6,4	64
Fluorene	<0,01	<0,01	<0,01	<0,01	0,038	0,01	16	163
Dilbenz(a,h)anthracene	<0,01	<0,01	<0,01	<0,01	0,050	0,01	1,4	14
Anthracene	<0,005	<0,005	<0,005	<0,005	0,076	0,01	1,3	13,3
Acenaftylene	<0,05	<0,05	<0,05	<0,05	<0,05	0,01	43	410
Acenaphtene	<0,01	<0,01	<0,01	<0,01	0,026	0,01	6	56
PAH (sum of 10 VROM)	<0,095	<0,095	<0,095	<0,095	2,90	—	—	—
PAH (sum of 16 EPA)	<0,2	<0,2	<0,2	<0,2	3,90	—	—	—
Heavy metals (mg/kg)	[ILLEGIBLE]							
Arsenic (As)	<10	<10	<10	<10	<10	12	50	300
Cadmium (Cd)	0,620	<0,4	<0,4	<0,4	0,670	0,2	15	50
Chromium (Cr)	25,0	22,0	9,10	33,0	18,0	34	165	700
Copper (Cu)	13,0	8,20	<5	11,0	18,0	14	120	500
Mercury (Hg)	<0,1	<0,1	<0,1	<0,1	0,120	0,05	5	50
Lead (pb)	26,0	<10	<10	14,0	79,0	25	385	1360
Nickel (Ni)	21,0	18,0	<8,20	28,0	16,0	24	210	500
Zinc (Zn)	93,0	33,0	40,0	49,0	180	67	320	1300
EOX (mg/kg)								
EOCI	<0,1	<0,1	<0,1	<0,1	0,110	—	—	—
Other heavy metals(mg/kg)	[ILLEGIBLE]							
Cobalt (Co)	7,80	6,50	<5	9,40	<5	—	—	—

[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	VR	VS	VI
Depth sample (m bgl)	0,10-0,50	0,10-0,50			
Sampling date	14/12/2009	14/12/2009			
Parcel n ^o	0450 G 2	0450 G 2			
Land Use Type	V	V			
[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]
Andore	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]
Dry matter (%(m/m))	91,4	96,3	—	—	—
Mineral oil (mg/kg)	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]
Mineral oil (C10-C12)	<3	<3	2,5	130	160
Mineral oil (C12-C16)	<5	<5	15	130	520
Mineral oil (C16-C21)	<6	<6	15	1250	2500
Mineral oil (C21-C30)	24,0	<12	—	—	—
Mineral oil (C30-C35)	19,0	14,0	—	—	—
Sum C21-C30+C30-C35	43	26	15	1250	2500
Mineral oil (C35-C40)	17,0	15,0	—	—	—
Mineral oil (GC)	63,0	39,0	—	—	—
PAH (mg/kg)	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]
Naphthalene	0,017	0,012	0,1	2,58	25
Benzo(a)pyrene	0,130	0,056	0,01	1,3	13
Fenantrene	0,270	0,046	0,1	16	164
Fluorantene	0,420	0,059	0,01	47	475
Benzo(a)anthracene	0,150	0,041	0,01	1,5	15
Chrysene	0,140	0,045	0,01	6	60
Benzo(b)fluorantene	0,150	0,071	0,01	1,3	13
Benzo(k)fluorantene	0,075	0,028	0,01	4,7	47
Benzo(ghl)perylene	0,120	0,085	0,01	5	46
Indeno(1,2,3-cd)pyrene	0,120	0,042	0,01	1,5	15
Pyrene	0,280	0,044	0,01	6,4	64
Fluorene	0,032	<0,01	0,01	16	163
Dibenz(a,h)anthracene	0,021	<0,01	0,01	1,4	14
Anthracene	0,048	0,008	0,01	1,3	13,3
Acenaftylene	<0,05	<0,05	0,01	43	410
Acenaphtene	0,039	0,011	0,01	6	56
PAH (sum of 10 VROM)	1,50	0,420	—	—	—
PAH (sum of 16 EPA)	2,00	0,550	—	—	—
Heavy metals (mg/kg)	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]
Arsenic (As)	<10	<10	12	50	300
Cadmium (Cd)	<0,4	<0,4	0,2	15	50
Chromium (Cr)	24,0	7,20	34	165	700
Copper (Cu)	31,0	<5	14	120	500
Mercury (Hg)	<0,1	<0,1	0,05	5	50
Lead (Pb)	47,0	<10	25	385	1360
Nickel (Ni)	18,0	7,20	24	210	500
Zinc (Zn)	370	50,0	67	320	1300
EOX (mg/kg)	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]
EOCI	<0,1	0,170	—	—	—
Other heavy metals (mg/kg)	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]	[ILLEGIBLE]
Cobalt (Co)	8,70	<5	—	—	—

Table 4-7 Analysis results groundwater samples

No groundwater samples are analysed.

5 DATA EVALUATION

This chapter describes per zone and source the results and formulated conclusions.

For a dear description of the parcels, zones, potential contaminating sources, drillings, wells and sampling, reference is made to the previous chapters. There also an overview of the sensory data and field measurements is given.

The gathered data shows no gaps.

Since the activities on the site started after 2000, eventual encountered contaminations which can be linked with the activities on the site have to be considered as “new pollution”.

5.1 Evaluation status of contamination per zone

Paragraph 4.1.1. gives schematically the executed drillings per parcel and per zone. The field observations and analysis results are discussed in the following paragraphs.

Unsuspected zones (strategy 1; drillings 1, 2, 4, 5, 6, 8, 9, 10, 11 & 12)

According to Flemish regulations:

Three soil samples show concentrations only slightly above the striving levels for PAH and two samples show a slightly elevated concentration above the striving level for mineral oil. Almost all soil samples show elevated concentrations for heavy metals, exceeding the striving levels. However, all concentrations remain well below 80% of the soil remediation levels for industrial land use.

Since all concentrations remain well below 80% of the soil remediation levels for industrial land use, no further investigations are necessary and no further actions have to be taken.

According to Walloon regulations:

All concentrations for mineral oil stay below the “Valeur Référence”. Six soil samples show elevated concentrations for PAH, slightly exceeding the “Valeur Référence”. Eight soil samples show concentrations above the “Valeur Référence” for heavy metals of which one sample (3 (0, 10-0,50)) is slightly exceeding the “Valeur Seuil” for the heavy metal Zinc. However, all measured concentrations stay well below 80% of the “valeur d’intervention”.

Since the analysis certificate mentions that sample 3 (0,10-0,50) has been grinded cryogenically, it can be assumed that the sample consisted largely out of stone instead of soil. The bore log affirms the presence of these stones. Considering this, it can be stated that the result is not representing the state of the soil on the research site and the result can be disregarded.

The groundwater is not investigated in this zone.

There are no indications for the presence of NAPLs (Non-Aqueous Phase Liquids).

No contamination is detected in this zone.

There is no need for a descriptive soil investigation.

There is no need for precaution measures or for limiting the usage of this zone of the site.

5.1.1 Groundwater evaluation

In view of the facts that the lightly elevated zinc concentration in the solid phase is only slightly above the “Valeur Seuil” and far below the 80% level of the “valeur d’intervention” and the fact that the groundwater is present more than 118 meters below ground level, it can be assumed that the risk to the groundwater originating from zinc will be very unlikely.

5.2 Summary per zone

In the following table a schematic overview is given of the observed contaminations per zone.

Table 5-1 Overview contaminations

<u>Parcel</u>	<u>Zone</u>	<u>Harmful activity</u>	<u>Parameter > vs</u>	<u>Soil/ groundwater</u>	<u>nature (1)</u>	<u>Precaution measures (Y/N)</u>	<u>Limitation of use (Y/N)</u>
450 G 2	Unsuspected	—	Zinc (*)	Soil	N	N	N

(1) H= Historic, G=Mixed, N=New

(*) The Observed slightly elevated zinc concentration is most likely caused by the presence of large amounts of stones in the analyzed sample. Considering the fact that the sample has been cryogenically grinded, it can be stated that the result is not representing the state of the soil on the research site and the result can be disregarded.

6 SUMMARY AND CONCLUSION

On instruction of PROLOGIS BELGIUM III BVBA an explorative soil investigation is performed on a site located in HERSTAL, Avenue du Parc Industriel 159.

The complete site consists of following cadastral parcels:

Municipality	Municipality N°	Section	Parcel N°	Surface (m ²)
Herstal 7 DIV/LIERS/	62051	A	450 G 2	37099

The administrative data of instructors, owners and users are found in the pre-study (chapter 2).

The site is located in an industrial zone (Parc Industriel) 5 km to the north of the city Luik. To the west an exit of the highway E313 Luik-Hasselt is found, to the south-east the A3 motorway.

The total industrial zone comprises an area of ca. 180 ha. The area is sold to small, medium and large sized companies like ISPC International (food branch), Air Liquide SA (compressed gasses), Eurofreins SA (car parts), Galliker Transports SA (transport company), HTC Wallonie (tankcleaning), Techspace Aero (development of aeronautical propulsion engines), ...

Nine groundwater extraction wells exist in an area of 2 km around the center of the research site. As far as known, there are no protection zones for groundwater extraction located near the research site. Close to the site are 3 creeks (2 situated at 370 meters from the site (to the east and to the north-west side), 1 situated next to the southern site of the building at the research site. Three small surface waters are situated within 614 meters around the research site, located to the east, west and north-west side of the site.

In 2000 the site was owned by S.P.I. (Service Promotion Initiatives en province de Liège, Rue Lonhienne, 14 in 4000 Liège). During this period, the land was used as agricultural land (mainly for cereals).

In 2001, ProLogis became owner of the terrain and the land was divided in 2 pieces (Lot I and Lot II) with each a surface of app. 8 ha. On one of these parcels (Lot I) a building (Phase I) has been constructed. The building was rented out in 2002 to the company “Skechers”, which uses it as a depot and distribution center for shoes.

Construction of the second part of the building (Phase II) (on the second parcel (Lot II) commenced in august 2008. The second part of the building has also been rented out to the company “Skechers”, which is using it until present day.

As far as known, no accidental spills have occurred on the research site.

There has been a change of the soil profile: the terrain has been partly excavated for the construction of the loading and unloading zones and for the construction of the foundations. Underneath the concrete or other hardening materials, a layer of debris is used as foundation.

As far as known, no polluted soil is excavated, no soil remediation has occurred, nor a significant groundwater lowering was performed.

The terrain is used by the company “Skechers” as a depot and distribution center for shoes.

During the fieldwork, following soil profile was observed: beneath all asphalt hardening on the terrain, an artificial, dark brown layer of sand was found until a depth of around 60cm. This layer contained a lot of stone. Below the layer of sand, a more loamy brown layer was found. At a lot of these drilling locations, it was impossible to get any deeper than 50-60cm: a very hard impenetrable layer prevented any further drilling. At drilling locations where no hardening was located on the surface the underground consisted of a brown layer of loam.

According to the “Walloon Geo-Environmental website” (OGEAD — <http://environnement.wallonie.be/cartosig/ogead/#>) the groundwater can be qualified as **vulnerable**.

For an overview of the sampling strategy and the performed fieldwork and laboratory research, reference is made to the summarizing table in the chapter “Sampling strategy”.

In the following paragraphs per cadastral parcel a conclusion is given.

6.1 Parcel: HERSTAL 7 DIV (62051), section A, parcel n° 450 G 2

In none of the soil samples, the soil remediation standards, or 80% of these levels, were surpassed.

There is no need to perform a descriptive soil investigation on the cadastral parcel.

There is no need for precaution measures or for limiting the usage of the cadastral parcel.

For this research sufficient information could be gathered.

6.2 General

According to Flemish regulations:

A few soil samples show concentrations only slightly above the striving levels for PAH and mineral oil. Almost all soil samples show elevated concentrations for heavy metals, exceeding the striving levels. Since all concentrations remain well below 80% of the soil remediation levels for industrial land use, no further investigations are necessary and no further actions have to be taken.

According to Walloon regulations:

One sample (3 (0,10-0,50)) is slightly exceeding the “Valeur Seuil” for the heavy metal Zinc. All other concentrations are — at the very most — exceeding the “Valeur Référence”.

Since the analysis certificate mentions that the sample 3 (0,10-0,50) has been grinded cryogenically, it can be assumed that the sample consisted largely out of stone instead of soil. The bore state affirms the presence of this stone. Considering this, it can be stated that the result is not representing the state of the soil on the site and the result can be disregarded.

No further investigations are necessary and no further actions have to be taken.

A groundwater investigation was not performed. However, it can be assumed that the risk to the groundwater, originating from the observed slightly elevated concentrations for zinc, will be very unlikely.

No contamination was observed.

There is no need for precaution measures or for limiting the usage of the cadastral parcel.

Steenokkerzeel — 4 februari 2010,

MAVA,



Timothy GEERTS,
Project assistant.



31/03/2010

Mark VAN STRAATEN,
CEO.

7 ANNEXES

- ANNEX 7.1: Former and recent environmental permits
- ANNEX 7.2: Certificates leak tests and soil/tank processing
- ANNEX 7.3: Technical sampling description
- ANNEX 7.4: Drilling logs
- ANNEX 7.5: Analytical methods and original analysis reports
- ANNEX 7.6: Results previous soil investigations
- ANNEX 7.7: Evaluation values for non-normalized parameters

ANNEX 7.1: Former and recent environmental permits

Permits were requested at the local authorities, but were not yet received at the time of writing the report.



ANNEX 7.2: Certificates leak tests and soil/tank processing

Not applicable

ANNEX 7.3: Technical description sampling

Drillings and wells

Drillings are normally executed manually with a Edelman manual drilling set. On locations where pavements/hard surfaces are present, first hole is made with a diamond drill. If the sub ground contains significant debris, a mechanical spiral drill is used.

On predefined places, the drillings are finished to wells. A HDPE-tubing is used with a diameter of 50 x 51,4 mm, and a filter length of 2 m. The different pieces are screwed together. The filter element (standard length 2 m) is placed cutting the groundwater level, so that possible LNAPL (light non aqueous phase layer) can be detected. The filter element is surrounded by a filter stocking and fine gravel. Above the filter, the drilling hole is filled with clay over a length of approx. 50 cm. The water in the wells is pumped directly after finishing.

Soil sampling

On the site a number of drillings are performed. Each 50 cm or when the soil composition is changing, a sample is taken. For each drilling the organoleptically most contaminated sample is selected. When a contamination is not obvious or present, the surface sample is selected. In the presence of underground potential contaminating sources, the sample at the base level of this source is selected. Modifications of the sampling procedure are always possible and if necessary are clarified in the report.

Groundwater sampling

Sampling of the wells takes place only at least a week after placement. The wells are pumped empty thoroughly (5x its volume), after which a sample is taken with a peristaltic pump. During sampling the temperature, conductivity and pH of the groundwater is measured for each sampling point.

The selected samples are sent for laboratory analysis within 24h.

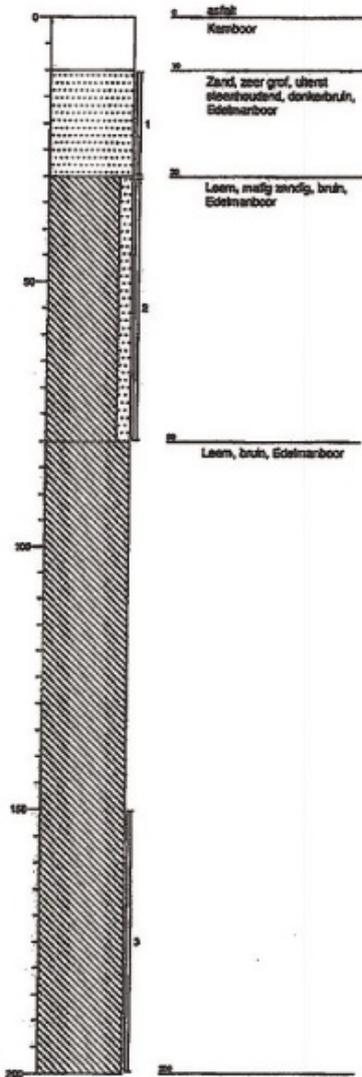
The exact location of drillings and gauges is presented in a detailed plan of the site, which can be found in annex 8.4.



Boring: B1

Datum: 14-12-2009

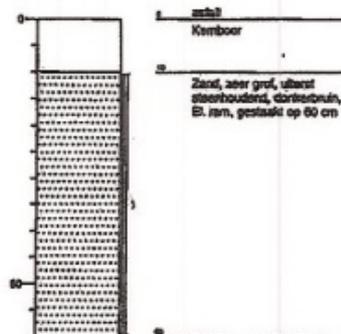
Opdracht:



Boring: B2

Datum: 14-12-2009

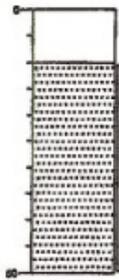
Opdracht:



Boring: B3

Datum: 14-12-2009

Opmerking:



X: Y:

0
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
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28
29
30
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37
38
39
40
41
42
43
44
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46
47
48
49
50

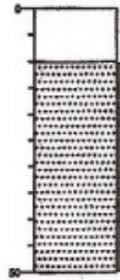
0-10 cm: **afsluit**
Kerfboor

10-50 cm: **Zand, zeer grof, uiterst steenhouend, donkerbruin, El. rsm, gestast op 50 cm**

Boring: B4

Datum: 14-12-2009

Opmerking:



X: Y:

0
1
2
3
4
5
6
7
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0-10 cm: **afsluit**
Kerfboor

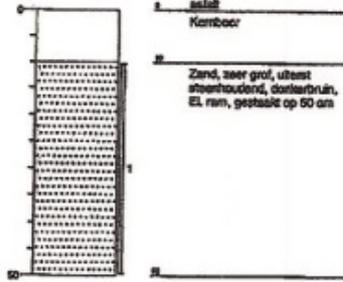
10-50 cm: **Zand, zeer grof, uiterst steenhouend, donkerbruin, El. rsm, gestast op 50 cm**

**ALL
SOIL
ASSISTANCE**

Boring: B5

Date: 14-12-2009

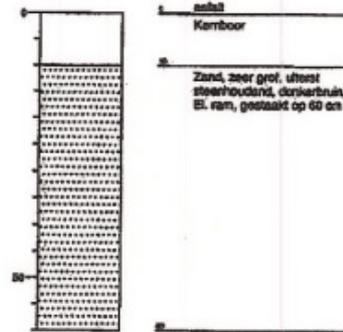
Opmeting:



Boring: B5A

Date: 14-12-2009

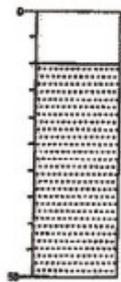
Opmeting:



Boring: B5B

Date: 14-12-2003

Opmerking:



0
Kerboor

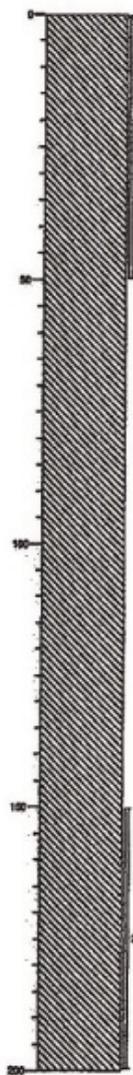
Zand, zeer grof, uiterst steenhouderig, donkerbruin, El. ren, getast op 50 cm

50

Boring: B6

Date: 14-12-2003

Opmerking:



0
groenstrook
Leem, bruin, Edelmanboor

200

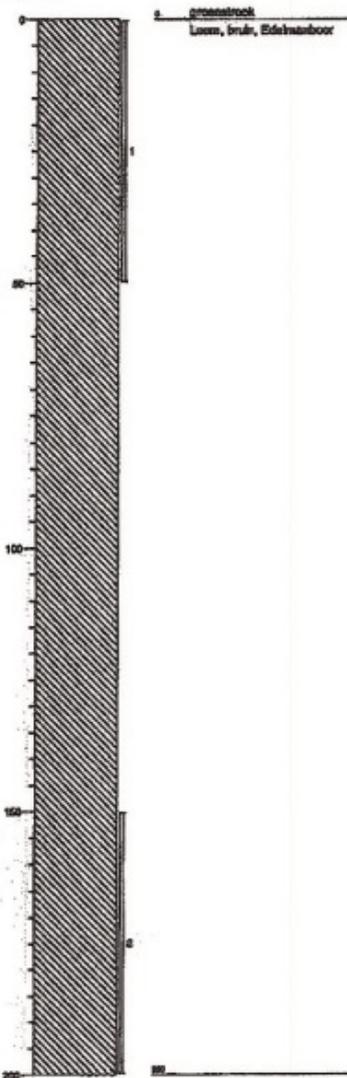
ALL
SOIL
ASSISTANCE

Boring: B7

Date: 14-12-2009

Opmerking:

X: Y:

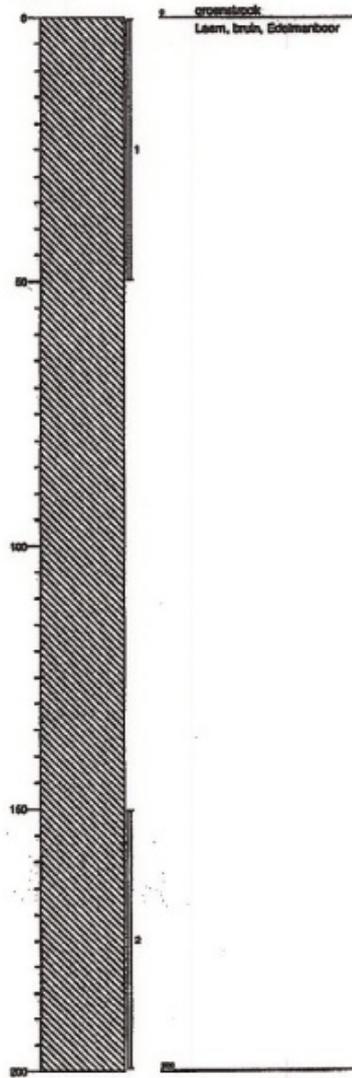


Boring: B8

Date: 14-12-2009

Opmerking:

X: Y:



Projectcode: 09B65

Opdrachtgever: Mava Bodemonderzoek

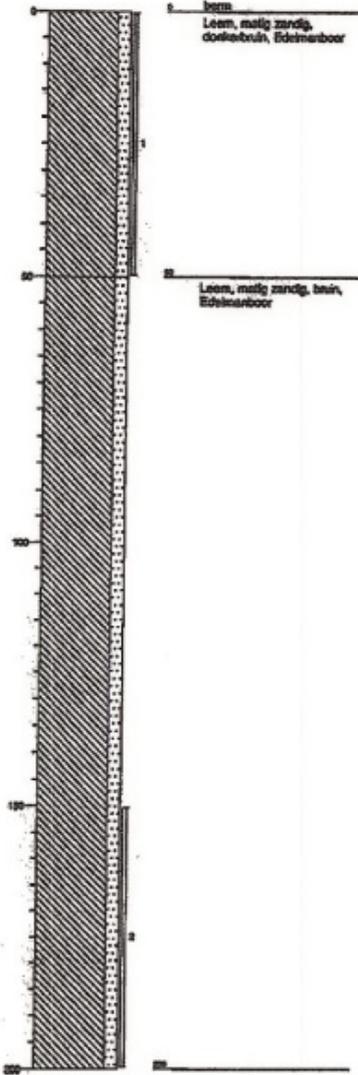
Locatienaam: Prologis - Herstal

ALL
SOIL
ASSISTANCE

Boring: B9

Datum: 14-12-2009

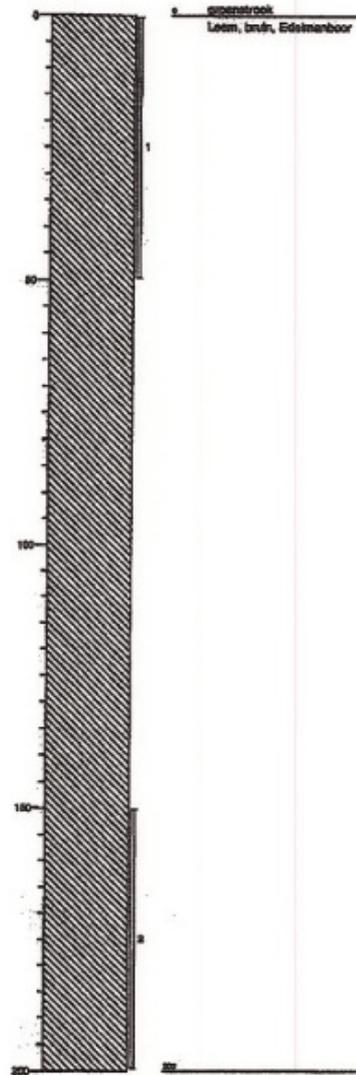
Opmerking:



Boring: B10

Datum: 14-12-2009

Opmerking:



Projectcode: 09/885

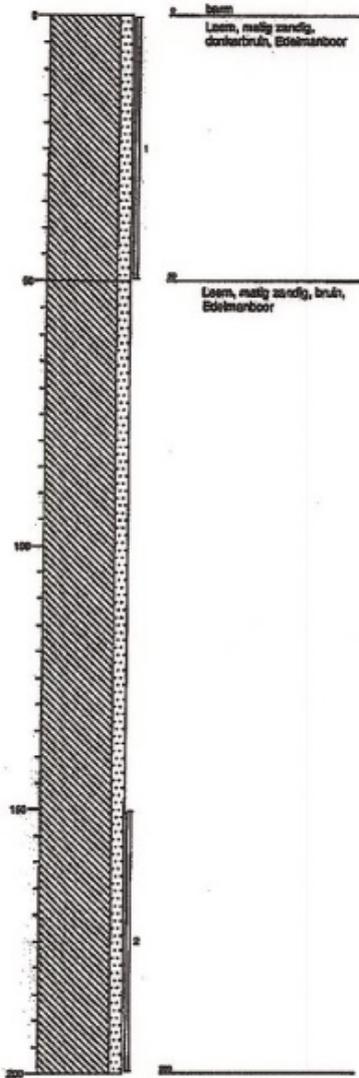
Opdrachtgever: Mave Bodemonderzoek

Locatienam: Prologis - Herstal

Boring: B11

Date: 14-12-2009

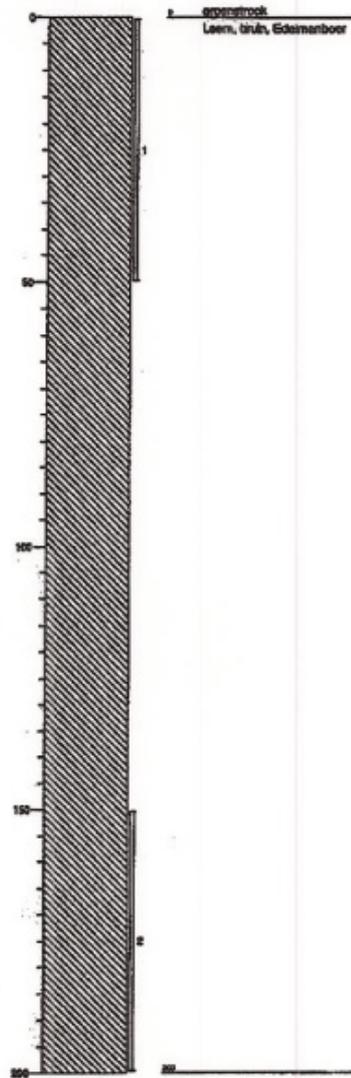
Opmerking:



Boring: B12

Date: 14-12-2009

Opmerking:

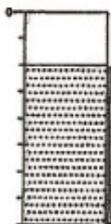


**ALL
SOIL
ASSISTANCE**

Boring: B13

Date: 14-12-2009

Opmerking:



1. zand
Kerboor

2. Zand, zeer grof, uiterst
steenhoudend, dorkbaar,
El. am, gestak op 40 cm

ANNEX 7.5: Analytical methods and original analyses reports

Analytical methods

Depending on the potential contamination, soil and groundwater samples are analysed for one or more parameters which can be found in paragraph 3.3.

The analytical methods used are the following:

Soil

Extraction HF	Microwave CMA 2/IIA.3.2
Dry matter	Gravimetry NEN 5747
Organic matter	Spectrometry ISO 14235
Lutum content	Sedimentation CMA 2/IIA.6
pH (pH-KCl)	Potentiometry Conform NEN 5750
Mineral oil	GC-FID conform CMA 3/R
EOX	Microcoulometry Conform CMA 3/N
PAH	HPLC
Heavy metals	ICP-AES NEN 6426/CMA 2/ I/ B.1
Mercury	ICP-MS NEN equivalent to NVN 7324/EN1483

Water

Mineral oil	LV-GC-FID Own method/CMA/R.1
Chlorinated hydrocarbons	HS-GC-MS CF. NEN-EN-ISO 10301/ CMA 3/E
MAH (BTEX)	HS-GC-MS Conform ISO 11423-1 / CMA 3 / E
Heavy metals	ICP-MS Cf. O-NEN 6427/Equivalent to EN 11885
Mercury	ICP-MS Equivalent to NVN 7324/EN 1483

A complete overview of the work flow for sampling and analysis can be found in chapter 4 and accompanying annexes. More detailed information and description of the analytical methodology used can be found in the “Compendium for Sampling and Analysis in execution of the Decree on Waste Materials and on Soil Remediation” (CMA), edited by OVAM (KB dd 27/09/2002).



Analysecertificaat

Uw projectnummer	09/845 Prologis	Certificaatnummer	2009200032
Uw projectnaam	09/845 EBO Prologis Herstal	Startdatum	17-12-2009
Uw ordernummer	09/845 Prologis	Rapportagedatum	24-12-2009/09:03
Datum monstername	14-12-2009	Bijlage	A, C
Monsternummer	RSR	Pagina	1/6

Analyse	Eenheid	1	2	3	4	5
Voorbehandeling						
Q Cryogeen malen			Uitgevoerd			
Bodemkundige analyses						
Q Droge stof	% (n/m)	84.0	92.1	91.4	96.3	96.6
Metaalen						
Q Arseen (As)	mg/kg ds	<10	<10	<10	<10	<10
Q Cadmium (Cd)	mg/kg ds	<0.40	0.67	<0.40	<0.40	<0.40
Q Kobalt (Co)	mg/kg ds	9.4	<5.0	6.7	<5.0	<5.0
Q Chroom (Cr)	mg/kg ds	33	18	24	7.2	9.1
Q Koper (Cu)	mg/kg ds	11	16	31	<5.0	<5.0
Q Kwik (Hg)	mg/kg ds	<0.10	0.12	<0.10	<0.10	<0.10
Q Nikkel (Ni)	mg/kg ds	28	16	18	7.2	8.2
Q Lood (Pb)	mg/kg ds	14	79	47	<10	<10
Q Zink (Zn)	mg/kg ds	49	180	370	80	40
Minerale olie						
Minerale olie (C10-C12)	mg/kg ds	--	4.1	<3.0	<3.0	--
Minerale olie (C12-C14)	mg/kg ds	--	<5.0	<5.0	<5.0	--
Minerale olie (C14-C21)	mg/kg ds	--	9.3	<6.0	<6.0	--
Minerale olie (C21-C30)	mg/kg ds	--	80	24	<12	--
Minerale olie (C30-C35)	mg/kg ds	--	22	19	14	--
Minerale olie (C35-C40)	mg/kg ds	--	13	17	16	--
Q Minerale olie totaal (C10-C40)	mg/kg ds	<38	100	63	39	<38
Chromatogram olie (GC)			Zie bijl.	Zie bijl.	Zie bijl.	
Somparameter organohalogenen verbindingen						
Q EOX	mg/kg ds	<0.10	0.11	<0.10	0.17	<0.10
Polycyclische Aromatische Koolwaterstoffen, PAK						
Q Nafthalen	mg/kg ds	<0.010	0.045	0.017	0.012	<0.010
Q Acenafyleen	mg/kg ds	<0.030	<0.050	<0.050	<0.050	<0.050
Q Acenafteen	mg/kg ds	<0.010	0.024	0.039	0.011	<0.010
Q Fluoreen	mg/kg ds	<0.010	0.038	0.032	<0.010	<0.010
Q Fenanthreen	mg/kg ds	<0.010	0.36	0.27	0.046	0.031
Q Anthraceen	mg/kg ds	<0.0050	0.074	0.048	0.0075	<0.0050
Q Fluorantheen	mg/kg ds	<0.010	0.92	0.42	0.089	<0.010
Q Pyreen	mg/kg ds	<0.010	0.52	0.28	0.044	<0.010
Q Benzo(a)anthraceen	mg/kg ds	<0.010	0.37	0.15	0.041	<0.010

Mr. Nonsteromschrijving

- 1 1 (1, 50-2, 00)
- 2 2 (0, 10-0, 60)
- 3 3 (0, 10-0, 80)
- 4 4 (0, 10-0, 50)
- 5 5 (0, 10-0, 50)

Analytico-nr.

- 8135816
- 8135817
- 8135818
- 8135819
- 8135820

Q: door een geaccrediteerde verrichting
 R: BPO4 erkende verrichting
 S: AS 2000 erkende verrichting

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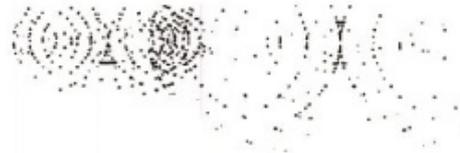
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BSN NR00 54 89 74 496
 VRT/OTW No.
 NL 6043.14.005.001
 KvK No. 09084023

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 en door de overheden van Frankrijk en Luxemburg (CIV).




Analysecertificaat

Uw projectnummer 09/865 Prologis
 Uw projectnaam 09/865 EBO Prologis Herstal
 Uw ordernummer 09/865 Prologis
 Datum monstername 14-12-2009
 Monsternemer RSA

Certificaatnummer 2009200032
 Startdatum 17-12-2009
 Rapportagedatum 24-12-2009/09:03
 Bijlage A, C
 Pagina 2/6

Analyse	Eenheid	1	2	3	4	5
Q Chryseen	ng/kg ds	<0.010	0.31	0.14	0.048	0.011
Q Benzo(b)fluorantheen	ng/kg ds	<0.010	0.36	0.15	0.071	0.018
Q Benzo(k)fluorantheen	ng/kg ds	<0.010	0.16	0.075	0.028	<0.010
Q Benzo(a)pyreen	ng/kg ds	<0.010	0.30	0.13	0.056	0.011
Q Dibenzo(ah)anthraceen	ng/kg ds	<0.010	0.050	0.021	<0.010	<0.010
Q Benzo(ghi)perylene	ng/kg ds	<0.010	0.22	0.12	0.085	<0.010
Q Indeno(123-cd)pyreen	ng/kg ds	<0.010	0.14	0.12	0.042	<0.010
Q PAK Totaal EPA (16)	ng/kg ds	<0.20	3.9	2.0	0.55	<0.20
Q PAK Totaal YROM (10)	ng/kg ds	<0.095	2.9	1.5	0.42	<0.095

Nr. Monsteromschrijving

1 1 (1, 50-2, 00)
 2 2 (0, 10-0, 60)
 3 3 (0, 10-0, 50)
 4 4 (0, 10-0, 50)
 5 5 (0, 10-0, 50)

Analytico-nr.

5135816
 5135817
 5135818
 5135819
 5135820

Q: door IVM geaccrediteerde verrichting
 R: NPO4 erkende verrichting
 S: AS 2000 erkende verrichting
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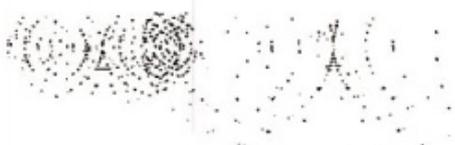
Gildeweg 44-46
 3771 RB Somerwold
 P.O. Box 489
 3779 BL Somerwold NL

Tel. +31 (0)24 242 63 00
 Fax +31 (0)24 242 63 99
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 VHT/STW No.
 NL 0942.14.042.901
 Ivk No. 09986623

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 en door de overheden van Frankrijk en Luxemburg (SIV).




Analysecertificaat

Uw projectnummer 09/865 Prologis
 Uw projectnaam 09/865 ISO Prologis Herstal
 Uw ordernummer 09/865 Prologis
 Datum monstername 14-12-2009
 Monstermerer ASR

Certificaatnummer 2009200032
 Startdatum 17-12-2009
 Rapportagedatum 24-12-2009/09:03
 Bijlage R, C
 Pagina 3/6

Analyse	Eenheid	6	7	8	9	10
Bodemkundige analyses						
Q Droge stof	% (m/n)	81.4	81.2	85.6	82.6	84.9
Metalen						
Q Arseen (As)	mg/kg ds	<10	<10	<10	12	<10
Q Cadmium (Cd)	mg/kg ds	<0.40	0.62	<0.40	1.5	<0.40
Q Kobalt (Co)	mg/kg ds	8.1	7.8	6.8	7.8	5.2
Q Chroom (Cr)	mg/kg ds	34	25	22	30	17
Q Koper (Cu)	mg/kg ds	12	15	8.2	15	6.8
Q Kwik (Hg)	mg/kg ds	<0.10	<0.10	<0.10	<0.10	<0.10
Q Nikkel (Ni)	mg/kg ds	26	21	18	18	14
Q Lood (Pb)	mg/kg ds	<10	26	<10	58	<10
Q Zink (Zn)	mg/kg ds	48	93	33	180	27
Minerale olie						
Minerale olie (C10-C12)	mg/kg ds	--	--	--	--	--
Minerale olie (C12-C16)	mg/kg ds	--	--	--	--	--
Minerale olie (C16-C21)	mg/kg ds	--	--	--	--	--
Minerale olie (C21-C30)	mg/kg ds	--	--	--	--	--
Minerale olie (C30-C35)	mg/kg ds	--	--	--	--	--
Minerale olie (C35-C40)	mg/kg ds	--	--	--	--	--
Q Minerale olie totaal (C10-C40)	mg/kg ds	<38	<38	<38	<38	<38
Somparameter organohalogenen verbindingen						
Q FOX	mg/kg ds	<0.10	<0.10	<0.10	0.13	<0.10
Polycyclische Aromatische Koolwaterstoffen, PAK						
Q Nafthalen	mg/kg ds	<0.010	<0.010	<0.010	<0.010	<0.010
Q Acenafyleen	mg/kg ds	<0.050	<0.050	<0.050	<0.050	<0.050
Q Acenafteen	mg/kg ds	<0.010	<0.010	<0.010	<0.010	<0.010
Q Fluoreen	mg/kg ds	<0.010	<0.010	<0.010	<0.010	<0.010
Q Fenanthreen	mg/kg ds	<0.010	<0.010	<0.010	0.047	<0.010
Q Anthraceen	mg/kg ds	<0.0050	<0.0050	<0.0050	0.0090	<0.0050
Q Fluorantheen	mg/kg ds	<0.010	<0.010	<0.010	0.13	0.019
Q Pyreen	mg/kg ds	<0.010	<0.010	<0.010	0.11	<0.010
Q Benzo(a)anthraceen	mg/kg ds	<0.010	<0.010	<0.010	0.088	<0.010
Q Chryseen	mg/kg ds	<0.010	<0.010	<0.010	0.053	<0.010
Q Benzo(b)fluorantheen	mg/kg ds	<0.010	<0.010	<0.010	0.11	<0.010
Q Benzo(k)fluorantheen	mg/kg ds	<0.010	<0.010	<0.010	0.048	<0.010

Nr. Monsteromschrijving
 4 4 (1, 50-2, 00)
 7 7 (0, 00-0, 50)
 8 8 (0, 00-0, 50)
 9 9 (0, 00-0, 50)
 10 10 (1, 50-2, 00)

Analytico-nr.
 5135821
 5135822
 5135823
 5135824
 5135825

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 3770 AL Borneveld NL

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 Site www.analytico.com

ASN RNRO 04 03 74 436
 VRT/STW No.
 NL 0043.14.003.001
 KVE No. 09006023

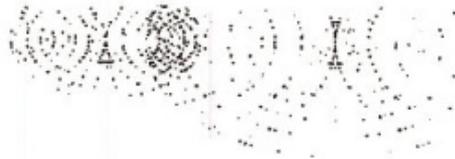
Q: door RVA geaccrediteerde verrichting
 N: NPO4 erkende verrichting
 S: IS 2000 erkende verrichting

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 Brusselse Gewest (BIO), het Waalse Gewest (DGGMI-OWG) en door de
 overheden van Frankrijk en Luxemburg (CER).



TESTEN
 RvA L010


Analysecertificaat

Uw projectnummer 09/665 Prologis
 Uw projectnaam 09/665 EBO Prologis Herstal
 Uw ordernummer 09/665 Prologis
 Datum monstername 14-12-2009
 Monstername RSR

Certificaatnummer 2009200032
 Startdatum 17-12-2009
 Rapportagedatum 24-12-2009/09:03
 Bijlage R, C
 Pagina 4/6

Analyse	Eenheid	6	7	8	9	10
Q Benzo(a)pyreen	ng/kg ds	<0.010	<0.010	<0.010	0.085	<0.010
Q Dibenzo(ah)anthraceen	ng/kg ds	<0.010	<0.010	<0.010	<0.010	<0.010
Q Benzo(ghi)peryleen	ng/kg ds	<0.010	<0.010	<0.010	<0.010	<0.010
Q Indeno(123-cd)pyreen	ng/kg ds	<0.010	<0.010	<0.010	<0.010	<0.010
Q PRK Totaal EPA (1-6)	ng/kg ds	<0.20	<0.20	<0.20	0.74	<0.20
Q PRK Totaal YR0H (10)	ng/kg ds	<0.095	<0.095	<0.095	0.51	<0.095

Nr. Monsteromschrijving

6 6 (1, 50-2, 00)
 7 7 (0, 00-0, 50)
 8 8 (0, 00-0, 50)
 9 9 (0, 00-0, 50)
 10 10 (1, 50-2, 00)

Analytico-nr.

5135021
 5135022
 5135023
 5135024
 5135025

Q: door een geaccrediteerde verrichting
 R: RP04 erkende verrichting
 S: AS 3000 erkende verrichting

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RSR RNR 24 63 74 486
 YRZ/STW No.
 NL 0047.14.003.001
 Zvk No. 09048623

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 en door de overheden van Frankrijk en Luxemburg (DIP).




Analysecertificaat

Uw projectnummer	09/865 Prologis	Certificaatnummer	2009200032
Uw projectnaam	09/865 EBO Prologis Herstal	Startdatum	17-12-2009
Uw ordernummer	09/865 Prologis	Rapportagedatum	24-12-2009/09:03
Datum monstername	14-12-2009	Bijlage	A, C
Monsternummer	85A	Pagina	5/6

Analyse	Eenheid	11	12
Bodemkundige analyses			
Q Droge stof	% (m/n)	82.3	84.7
Metalen			
Q Arseen (As)	mg/kg ds	<10	<10
Q Cadmium (Cd)	mg/kg ds	1.5	<0.40
Q Kobalt (Co)	mg/kg ds	8.9	9.0
Q Chroom (Cr)	mg/kg ds	32	34
Q Koper (Cu)	mg/kg ds	17	11
Q Kwik (Hg)	mg/kg ds	0.13	<0.10
Q Nikkel (Ni)	mg/kg ds	19	25
Q Lood (Pb)	mg/kg ds	55	13
Q Zink (Zn)	mg/kg ds	180	45
Minerale olie			
Minerale olie (C10-C12)	mg/kg ds	--	--
Minerale olie (C12-C16)	mg/kg ds	--	--
Minerale olie (C16-C21)	mg/kg ds	--	--
Minerale olie (C21-C30)	mg/kg ds	--	--
Minerale olie (C30-C35)	mg/kg ds	--	--
Minerale olie (C35-C40)	mg/kg ds	--	--
Q Minerale olie totaal (C10-C40)	mg/kg ds	<38	<38
Somparameter organohalogenen verbindingen			
Q HX	mg/kg ds	<0.10	<0.10
Polycyclische Aromatische Koolwaterstoffen, PAH			
Q Naftaleen	mg/kg ds	<0.010	<0.010
Q Acenafteen	mg/kg ds	<0.050	<0.050
Q Acenafteen	mg/kg ds	<0.010	<0.010
Q Fluoreen	mg/kg ds	<0.010	<0.010
Q Fenanthreen	mg/kg ds	0.042	<0.010
Q Anthraceen	mg/kg ds	<0.0050	<0.0050
Q Fluorantheen	mg/kg ds	0.084	<0.010
Q Pyreen	mg/kg ds	0.060	<0.010
Q Benzo(a)anthraceen	mg/kg ds	0.043	<0.010
Q Chryseen	mg/kg ds	0.050	<0.010
Q Benzo(b)fluorantheen	mg/kg ds	0.054	<0.010
Q Benzo(k)fluorantheen	mg/kg ds	0.024	<0.010

Nr. Monsteromschrijving
 11 11 (0,00-0,50)
 12 12 (0,00-0,50)

Analytica-nr.
 5135824
 5135827

Q: door RVA geaccrediteerde verrichting
 R: IPO4 erkende verrichting
 S: AS 3000 erkende verrichting

Eurofins Analytica B.V.

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RBN ANNO 34 89 74 484
 VRT/STW No.
 NL 0042.14.003.001
 KVK No. 09088023

Eurofins Analytica B.V. is ISO 9001:2008 gecertificeerd door Lloyd's
 REG en erkend door het Vlaamse Gewest (VVM) en Dep. IWO,
 het Brussels Gewest (BIO), het Waalse Gewest (D-GEST-GWS)
 en door de overheden van Frankrijk en Luxemburg (OIV).



TESTEN
 RvA L010


Analysecertificaat

Uw projectnummer 09/865 Prologis
Uw projectnaam 09/865 EBO Prologis Herstal
Uw ordernummer 09/865 Prologis
Datum monstername 14-12-2009
Monsternummer ASA

Certificaatnummer 2009200032
Startdatum 17-12-2009
Rapportagedatum 24-12-2009/09:03
Bijlage A, C
Pagina 6/6

Analyse	Eenheid	11	12
Q Benzo(a)pyreen	mg/kg ds	0.044	<0.010
Q Dibenzo(ah)anthraceen	mg/kg ds	<0.010	<0.010
Q Benzo(ghi)perylene	mg/kg ds	<0.010	<0.010
Q Indeno(123-cd)pyreen	mg/kg ds	<0.010	<0.010
Q PAK Totaal EPA (16)	mg/kg ds	0.40	<0.20
Q PAK Totaal VROM (10)	mg/kg ds	0.29	<0.095

Nr. Monsteromschrijving

11 11 (0,00-0,80)
12 12 (0,00-0,80)

Analytico-nr.

B135826
B135827

Eurofins Analytico B.V.

Sildeweg 44-46
 3771 NB Bernevelde
 P.O. Box 459
 3770 AL Bernevelde NL

Tel. +31 (0)24 242 43 00
 Fax +31 (0)24 242 43 99
 E-mail info@analytico.com
 Site www.analytico.com

IBAN NL04 314 063 801
 IBAN NL04 314 063 801
 IBAN NL04 314 063 801
 KVK No. 09069422

Q: door NVI geaccrediteerde verrichting
 A: NPO4 erkende verrichting
 S: NS 3000 erkende verrichting

Dit certificaat mag uitsluitend in zijn geheel worden gereproduceerd.

Akkoord
Pr.coörd.
MR



TESTEN
Ref. LD10

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 AQH en erkend door het Vlaamse Gewest (OVAM en Dep. ILM),
 het Brusselse Gewest (BIMO), het Waalse Gewest (SARL-OWD)
 en door de overheden van Frankrijk en Luxemburg (INVO).



Bijlage (A) met deelmonsterinformatie behorende bij analysecertificaat 2009200032

Pagina 1/1

Analytico-n Boomr	Deelmonster Omschrijving	Van	Tot	Barcode	Monsteromschrijving
5135814				0505121021	1 (1,50-2,00)
5135817				0505120735	2 (0,10-0,60)
5135818				0505120738	3 (0,10-0,80)
5135819				0505120730	4 (0,1 -0,80)
5135820				0505121028	5 (0,10-0,50)
5135821				0505120691	6 (1,50-2,00)
5135822				0505120684	7 (0,00-0,50)
5135823				0505120681	8 (0,00-0,50)
5135824				0505120688	9 (0,00-0,50)
5135825				0505120684	10 (1,50-2,00)
5135826				0505120688	11 (0,00-0,50)
5135827				0505121029	12 (0,00-0,50)

eurofins Analytico B.V.

Gildeweg 44-46
3771 NS Dornaveeld
P.O. Box 489
3770 AL Dornaveeld NL

Tel. +31 (0)34 242 43 00
Fax +31 (0)34 242 43 99
E-mail info@analytico.com
Site www.analytico.com

RIB ANRS 54 65 74 484
VSTW No.
NL 5047.14.70X.001
KvK No. 09088623

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QA en erkend door het Vlaamse Gewest (VLAN) en Dep. ILM,
het Brusselse Gewest (BRU), het Waalse Gewest (DCRWS-OWB)
en door de overheden van Frankrijk en Luxemburg (LUX).


Bijlage (c) met methodeverwijzingen behorende bij analysecertificaat 2009200032

Pagina 1/1

Analyse	Methode	Techalek	Referentiemethode
Vermaling (cryogeen, <=1 kg)	W0106	Crushen	Cf. NEN 7513
Droge stof	W0104	Gravimetrie	Gw. NEN-ISO 11468 en CMA 2/II/R.1
RES/ICP Arseen (As)	W0417	ICP-RES	Cf. NEN 6966 en cf.CMA 2/I/B.1
RES/ICP Cadmium (Cd)	W0417	ICP-RES	Cf. NEN 6966 en cf.CMA 2/I/B.1
RES/ICP Cobalt (Co)	W0417	ICP-RES	Cf. NEN 6966 en cf.CMA 2/I/B.1
RES/ICP Chroom (Cr)	W0417	ICP-RES	Cf. NEN 6966 en cf.CMA 2/I/B.1
RES/ICP Koper (Cu)	W0417	ICP-RES	Cf. NEN 6966 en cf.CMA 2/I/B.1
RES/ICP Kwik (Hg)	W0417	ICP-RES	Eigen methode / Sellijkw. EN 1483: 1997 i.b.
RES/ICP Nikkel (Ni)	W0417	ICP-RES	Cf. NEN 6966 en cf.CMA 2/I/B.1
RES/ICP Lood (Pb)	W0417	ICP-RES	Cf. NEN 6966 en cf.CMA 2/I/B.1
RES/ICP Zink (Zn)	W0417	ICP-RES	Cf. NEN 6966 en cf.CMA 2/I/B.1
Minerale Olie (GC)	W0202	GC-FID	Eigen methode
Chromatogram MO (GC)	W0202	GC-FID	Eigen methode
EOX	W0351	Microcoulometrie	Eigen methode
PRK (EPR)	W0301	HPLC	Cf. NEN 6977

Nadere informatie over de toegepaste onderzoeksmethoden alsmede een classificatie van de meetonzekerheid staan vermeld in ons overzicht "Specificaties analysemethoden", versie juli 2009.

eurofins Analytica B.V.

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 Tel. +31 (0)34 242 63 00
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 E-mail info@analytica.com
 Site www.analytica.com

 RBN RNR0 24 85 74 466
 VRT/STW No.
 NL 0647.14.003.001
 EVK No. 09086023

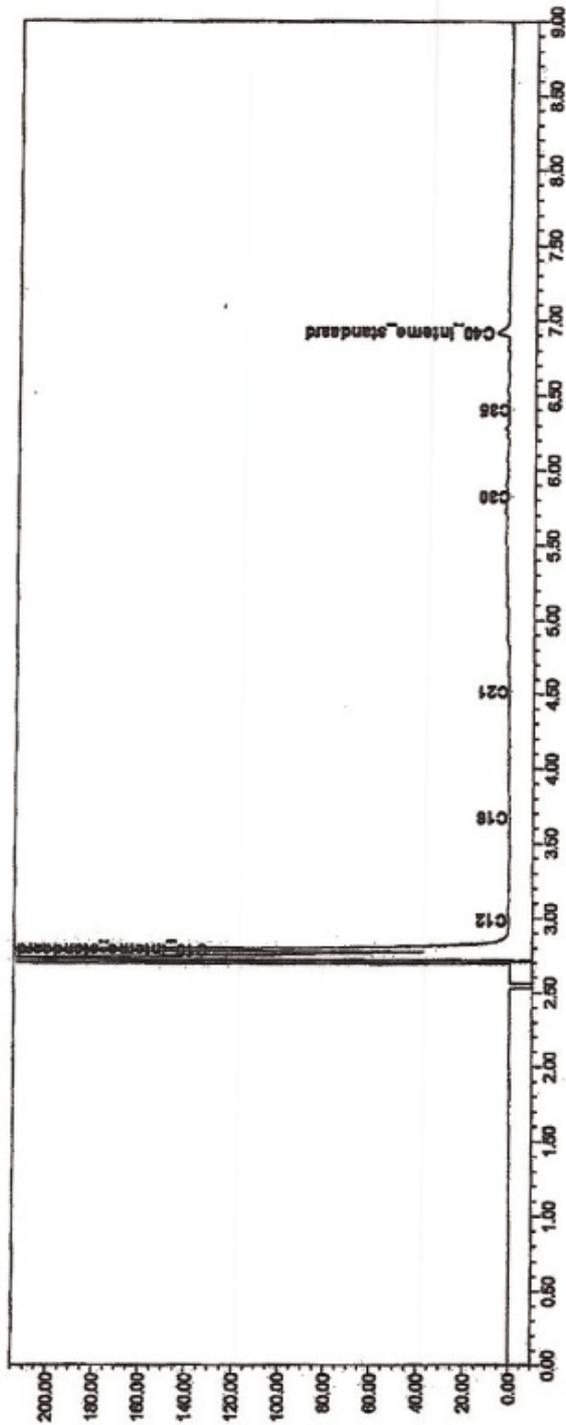
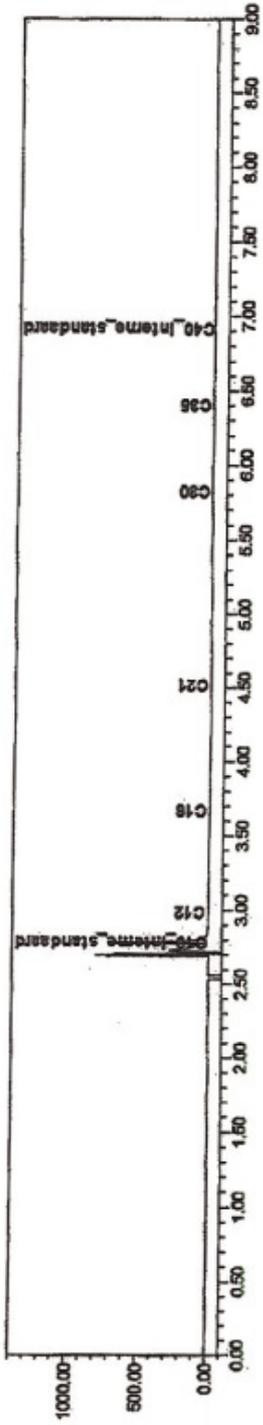
 eurofins Analytica B.V. is ISO 9001: 2008 gecertificeerd door Lloyd's
 BQR en erkend door het Vlaamse Gewest (Vlaamse Reguleerder),
 het Brusselse Gewest (DIN), het Waalse Gewest (GDRG-GRG)
 en door de overheden van Frankrijk en Luzeburg (IFP).

Chromatogram TPH/Mineral Oil

Sample id.: 5f35817

Certificate no.: 2009200032

Sample description.: 2 (0,10-0,60)



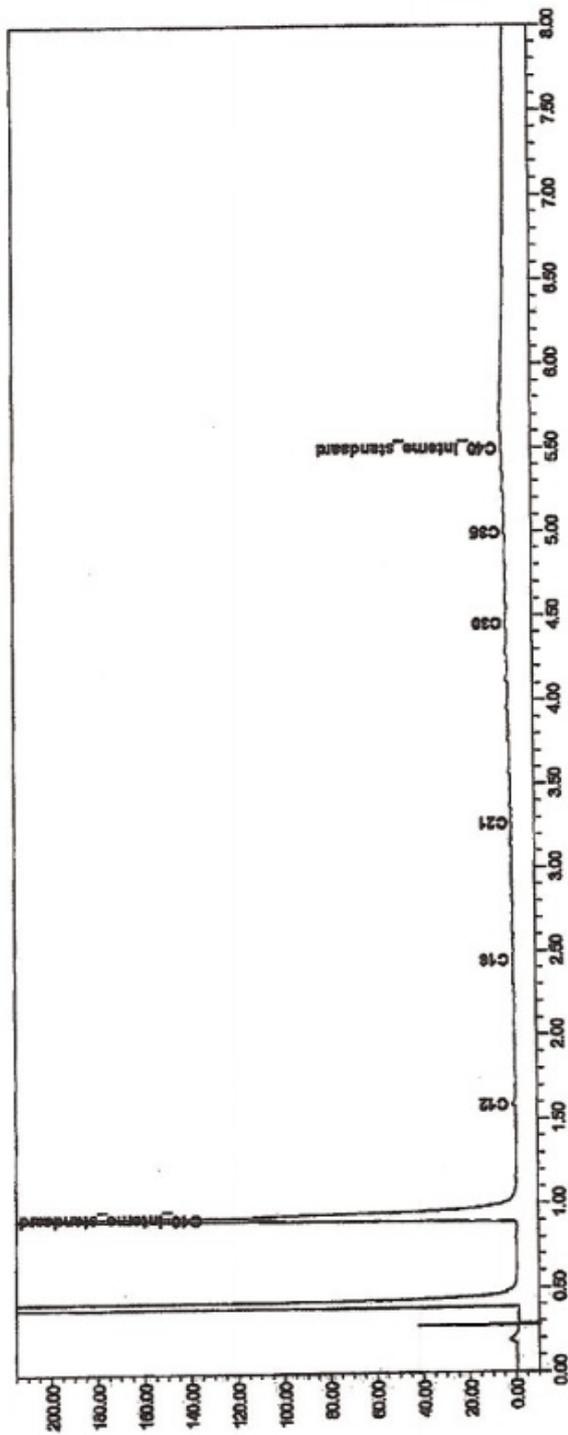
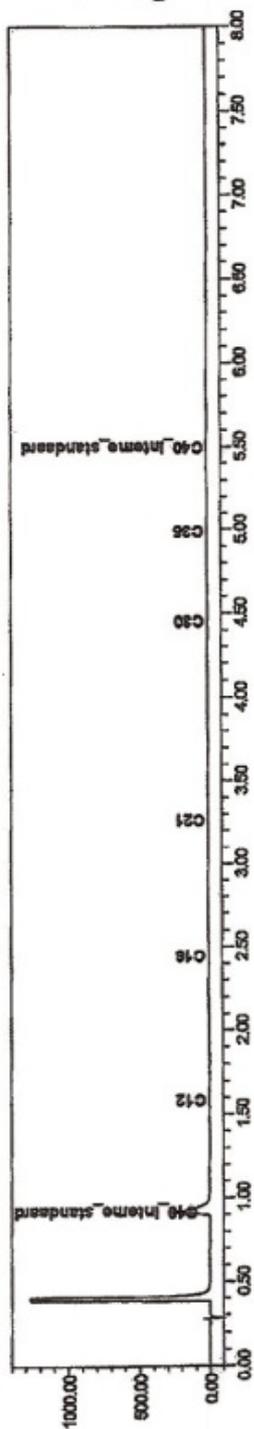


Chromatogram TPH/Mineral Oil

Sample id.: 5135818

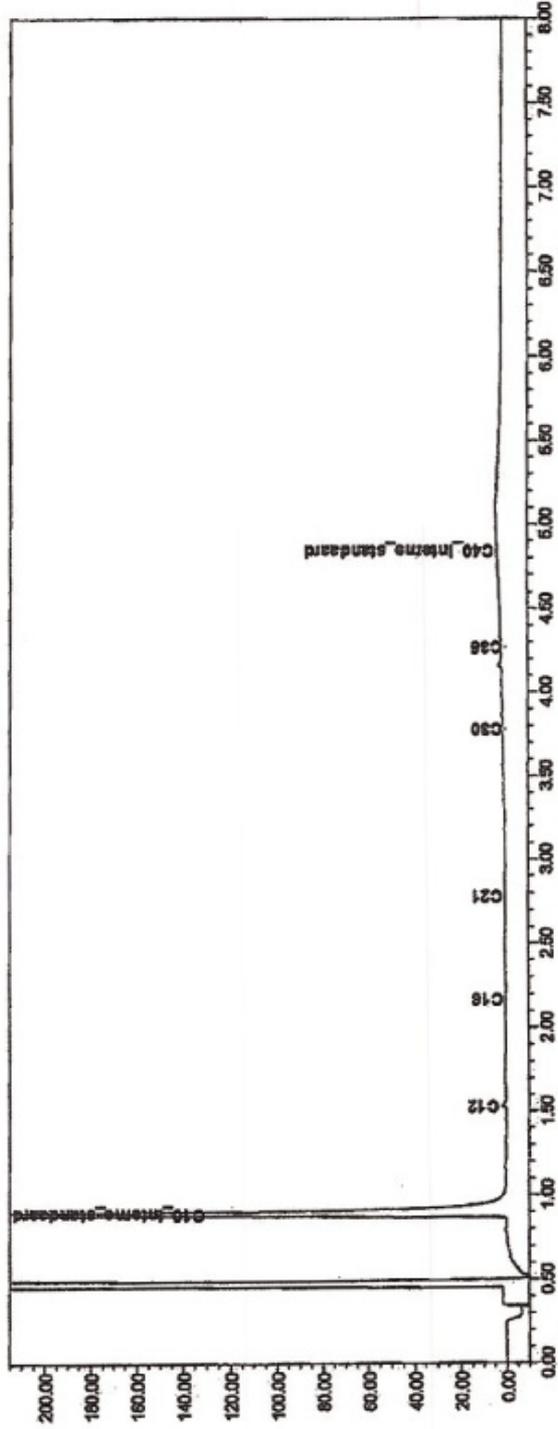
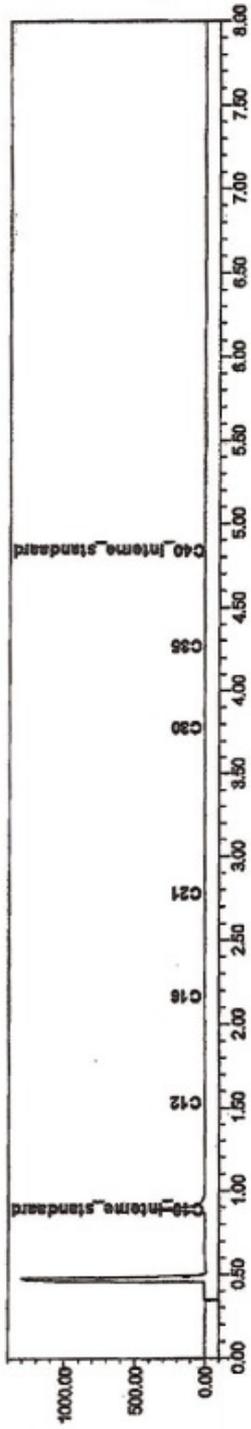
Certificate no.: 2009200032

Sample description.: 3 (0,10-0,50)



Chromatogram TPH/Mineral Oil

Sample id.: 5135819
Certificate no.: 2009200032
Sample description.: 4 (0,10-0,50)





ANNEX 7.6: Results previous soil investigations

Project 09/865 — ESI PROLOGIS BELGIUM III BVBA HERSTAL

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6. EVALUATION OF ANALYTICAL RESULTS

Results from laboratory analyses show slightly elevated concentrations of nickel, zinc, lead and PAH's above the Vlarebo-Background values. However, all of the concentrations are lower than 80% of the Intervention Value for type II soil (= agricultural land), which means that no additional investigation is necessary. The Vlarebo Intervention Values are never reached.

No concentrations exceed the Walloon Background Values.

According to the procedure of the OVAM (Vlarebo), a conclusion has to be made for every separate parcel. Since the site is located in Liege, no soil certificate is necessary, therefore one conclusion is made for the whole site.

The conclusion can be summarized in the following statements:

- according to the current legislation there is no contamination above the intervention values on the site
- no additional soil investigation should be conducted on the site
- the slightly elevated concentrations of heavy metals are natural background values, and of no concern
- the parcels should not be registered as 'polluted soils'
- no remedial action is necessary

Based on the soil analysis no further soil and groundwater investigation or remedial actions are recommended.

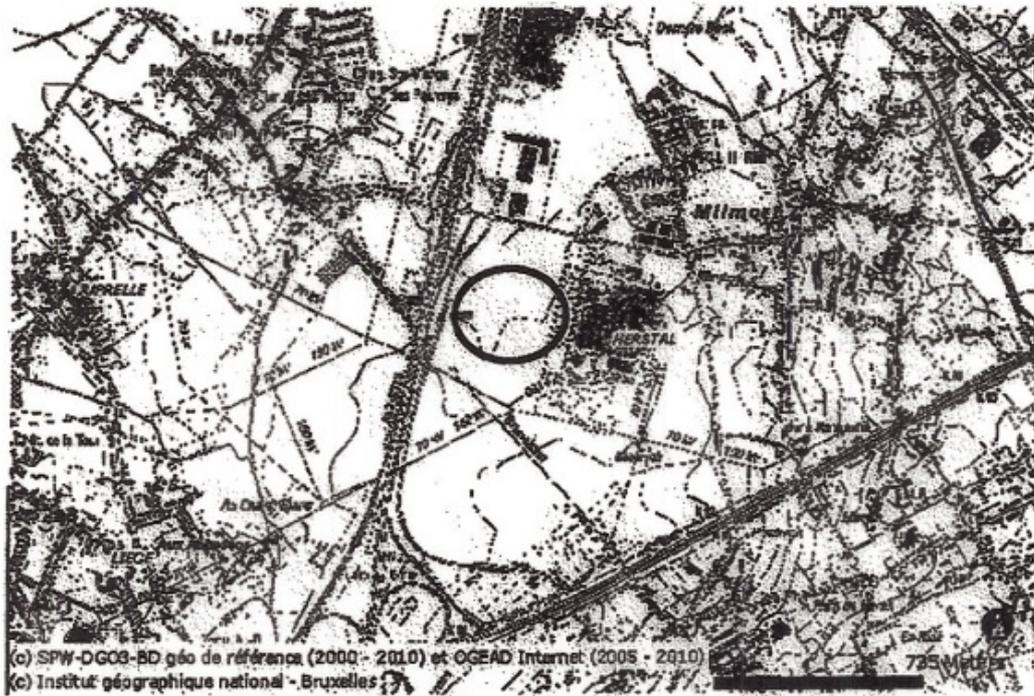
Recognized soil remediation expert

ir. Nico Bergmans

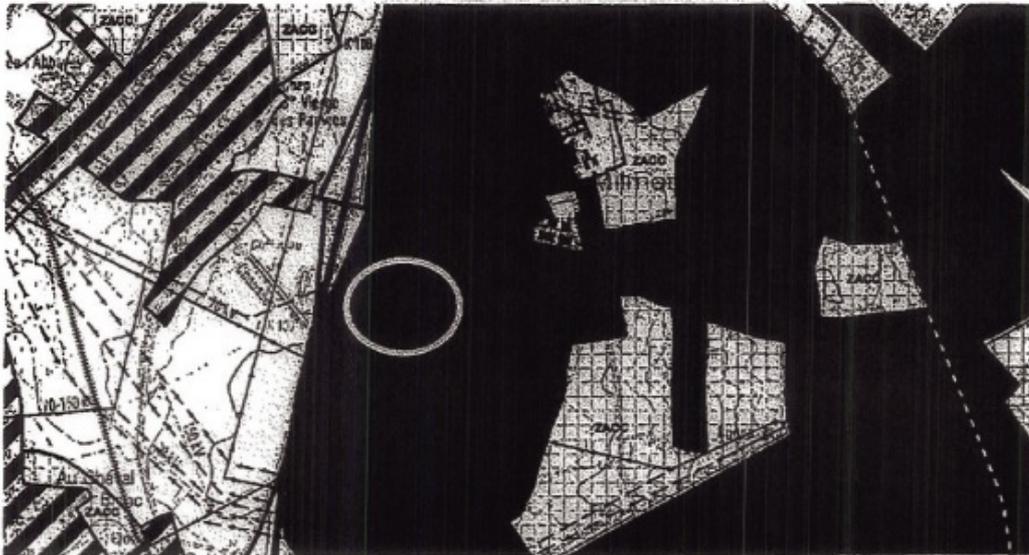
8 MAPS

- ANNEX 8.1: Topographical map
- ANNEX 8.2: Cadastral data
- ANNEX 8.3: Colouring of the research site according to land use
- ANNEX 8.4: Detailed map research site
- ANNEX 8.5: Detailed map detected soil contamination
- ANNEX 8.6: Detailed map detected groundwater contamination

ANNEX 8.1: Topographical map



ANNEX 8.2: Colouring of the research site according to land use



Situation au : 01.01.2009 Numéro de commune : 62064 Numéro de l'article : 02194 Nombre de pages : 002

IDENTIFICATION ET DROITS EVENTUELS DU OU DES PROPRIETAIRES

SOCIETE/SPRL PROLOGOS BELGIUM XII
 1451 BIEVEN PEDASUPARKLAAN 5

- extraits complémentaires -

Numéro d'ordre	SITUATION DE LA PARCELLE (rus et numéro ou lieu-dit) Détails complémentaires (1)	N° héritages	Désignation cadastrale		Nature de la propriété (1) (4)	SUPERFICIE			Classification et revenu à l'ha ou après de la fin de construction (2)	Revenu cadastral	
			Section	Numéro de la parcelle		ha	a	ca		Classe	Montant
0002	AV DU PARC INDUSTRIEL		A	450 0 2	TERRAIN	3	70	99	11E	1P	415

TOTAL DE L'ARTICLE	REVENU CADASTRAL						SUPERFICIE		
	Revenu industriel		Revenu outillage		Revenu ordinaire		ha	a	ca
	non bâti	bâti	non bâti	bâti	non bâti	bâti			
Imposable						415	3	70	99
Exempté									

* (1), (2), (3) et (4) voir notice explicative au verso *

Certifié conforme aux inscriptions de la matrice cadastrale

Revenu à l'ha et revenu cadastral exprimé en eur

A Liège, le 10/05/2009

N° de la demande : 2009004101 01012006 6206402194

L'agent délégué,

COUT : 5,50 EUR

Osodevick

32 4 2548030

001/002

EXTRAITS LIEGE

09/03 2009 14:47 FAX 32 4 2548080



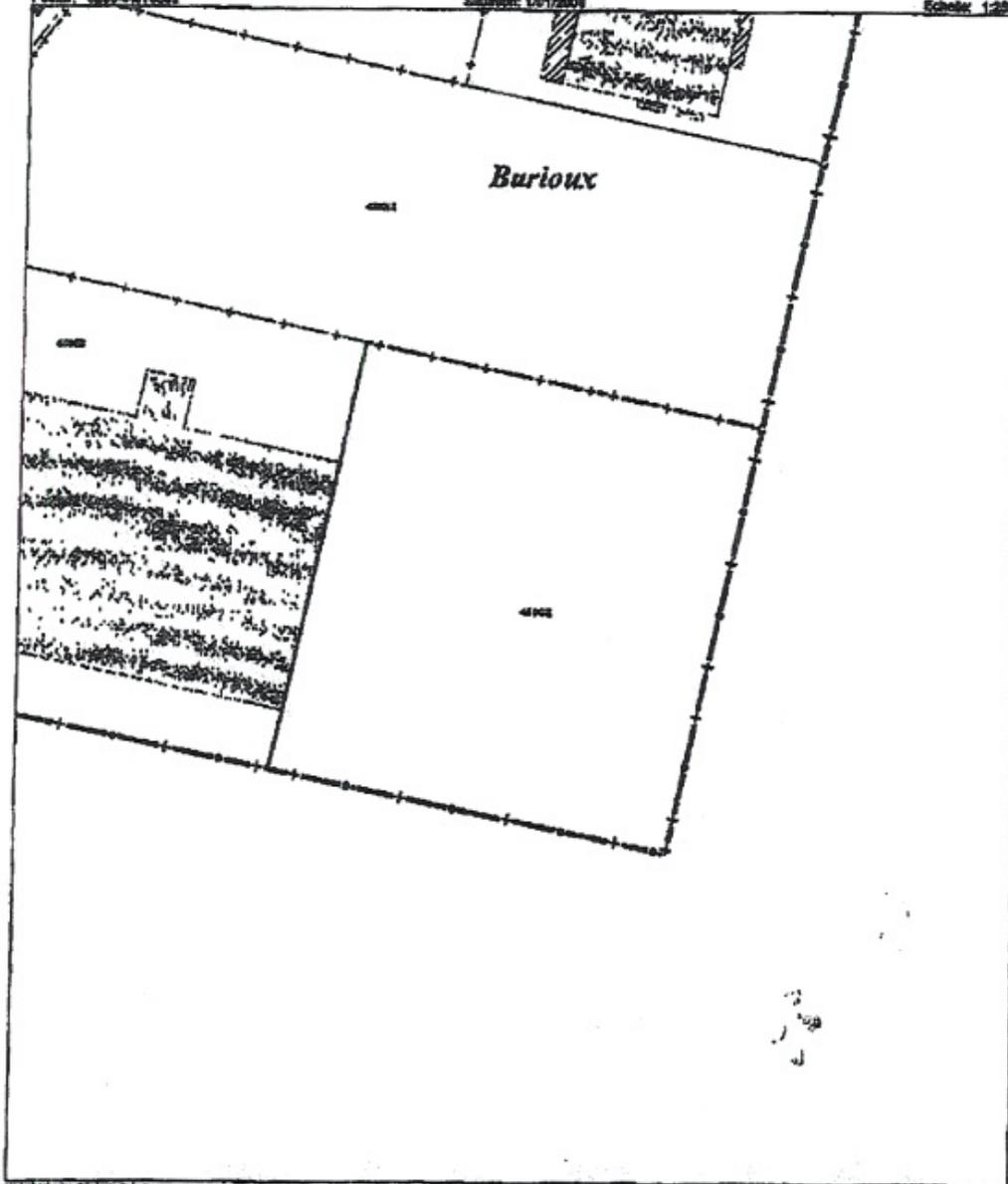


Droit de plus parcelle cadastré: HERSTAL 7 DNL/ERS/
Section: A/1

Feuille: 5204401002

Situation: 14/12008

Echelle: 1:200



L'Administration Générale de la Documentation Patrimoniale et l'Office du plus-prenant respectif, en se référant au plan de situation de la parcelle en question, ont constaté que les données sont exactes, et ont été arrêtées de ce fait. Les données sont exactes et ont été arrêtées de ce fait.

Numéro de référence du demandeur:
Numéro dossier AGDP: 2009/004101

Coût: 11,00 EUR

Certifié conforme,
L'agent délégué,

Michel Bartholomeo

Liège, le 18/03/2009.



32 4 2548030

11



ANNEX 8.4: Detailed map research site



ANNEX 8.5: Detailed map detected soil contamination

Not applicable.



ANNEX 8.6: Detailed map detected groundwater contamination

Not applicable.

Appendix 3.3
Groundwater data

Visualisation of geocentric approach

Definition of research circle :

Coordinates of centre X :	235414 M
Coordinates of centre Y :	154656 M
Radius :	2100 M

Accessible entities :

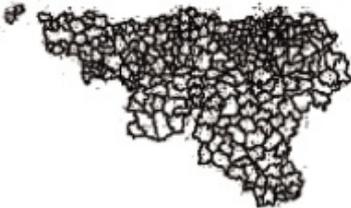
- Underground water supply points drinkable in operation :	O	0
- Underground water supply points non drinkable in operation :	O	3
- Underground water supply points not in operation :	O	3
- Piezometers :	O	0
- Surface water supply points drinkable :	O	0
- Polluting premises :	O	1

Map display :

Normal format	A4 format	A3 format
---------------	-----------	-----------

Geocentric Ten under Radiua 2.1 Km

Géocentrique Dix-sous Rayon 2,1 Km



- Underground water supply points drinkable in operation:
- - Underground water supply points non drinkable in operation :
- - Underground water supply points not in operation :
- - Piezometers :
- - Surface water supply points drinkable :
- - Polluting premises :



<http://dgrne.intra.mrw.w.../esrimap.dll?name=Carto&cmd=Point&usr=SMAL&fmt=A> 27/12/2000

GEOCENTRIC APPROACH

RESEARCH CENTRE COORDINATES : X – 235,414 M ; Y = 154,656 M. RADIUS= 2,100 M

UNDERGROUND WATER SUPPLY POINTS IN OPERATION

DISTANCE	DIR. X(M) HOLDER	Y(M)	TYPE	WORK CODE	USE CODE	OPER. CODE	ZONE PREV.	LAYER CODE	CONTACT NAME & TEL
1,088	N-O 234.910 WINAND JOSEPH	155.620	PF	42/2/1/03	32	10	N	0	WINAND JOSEPH 04/278.50.16
1,119	O 234.350 SMASH SC	154.310	PF	42/2/4/001	31	50	N	305	
1,747	E 237.153 R MC S.A.	154.484	PF	42/2/5/002	24	50	N	0	MARC BRONCKAERS 04/278.10.37

UNDERGROUND WATER SUPPLY POINTS NOT IN OPERATION

DISTANCE	DIR. X(M) HOLDER	Y(M)	TYPE	WORK CODE	USE CODE	OPER. CODE	ZONE PREV.	LAYER CODE	CONTACT NAME & TEL
755	S-E 236.050	154.250	PT	42/2/4/002				305	
1,143	O 234.300	154.400	PT	42/2/4/003				305	
1,809	N-E 236.170	156.300	PT	42/2/1/001				305	

Wednesday 27 December 2000 10.22.36

POLLUTING PREMISES

<u>DISTANCE</u>	<u>DIR</u>	<u>X(M)</u> <u>PLACE KNOW AS OR NAME</u>	<u>Y(M)</u>	<u>OPERATOR</u>	<u>TELEPHONE</u>	<u>WORK</u> <u>CODE</u>	<u>TYPE</u>
1,410	S	235.800	153.300	AXIMA S.A.	041/78.85.39	43/2/4/001	TOX

LISTE OF WATER USE CODES

Code	Description	Taxable	Fee
00	Indeterminate	Y	Y
01	Test pumping for a time not exceeding 12 months	Y	Y
02	Temporary pumping/Public or private civil engineering work	Y	N
11	Public supply	Y	Y
12	Bottling source water or natural mineral water	Y	Y
13	Water production for heating	Y	Y
14	Human consumption, except for private use (household)	Y	Y
15	Manufacturing foodstuffs	Y	Y
16	Drink industry	Y	Y
17	Rinsing and cleaning in drink industry	Y	Y
18	Baths, showers, swimming pools or other similar plant	Y	Y
21	Industrial manufacture of a non foodstuff	Y	Y
22	Washing and preparation of a product or raw material	Y	Y
23	Cooling of plants and refrigeration	Y	Y
24	Cleaning premises and/or equipment	Y	Y
25	Steam production	Y	Y
31	Agriculture – Horticulture — Arboriculture	Y	Y
32	Livestock farming	Y	Y
33	Fish farming	Y	Y
41	Supply for a pond, swimming pool, fountain	Y	Y
42	Domestic and sanitary use	Y	Y
51	Car wash	Y	Y
52	Hairdresser – washing — laundry	Y	Y
61	Heat pump	Y	Y
62	Geothermal pumping for collective heating – Public buildings	Y	N
71	Use in an institution with non contagious patients	Y	Y
81	Property protection	Y	N
82	Discharge height	Y	Y
83	Demergement	Y	N
84	Fire service	Y	N
91	Artificial refilling of watertable	Y	Y
95	Water supply point used as piezometer	N	N
96	Old water supply point filled in	N	N

LIST OF TYPES OF WORK

Code Type	Description
CA	Quarry
DR	Drain
ES	Surface water
FO	Excavation
GF	Hillside tunnel
GP	Tunnel accessible by shaft
GX	Tunnel to de determined
MI	Mine
PF	Sunk shaft
PM	Mine shaft
PN	Natural shaft
PT	Traditional shaft
SE	Source at emergence
X	To be determined

LIST OF WATER TABLES

Table	Labelled
000	Unknown or non existant
100	Quaternary undifferentiated
101	Sea dunes
102	Sea plains (Polders, Yser, Waardamma)
103	Flemish valley (Pleistocene, Bruges, Gand, NL border, Gand-Terneuzen)
104	Thalwegs de l ; Escaut and tributaries
105	Peaty alluvia of the Haine Valley
106	Thalwegs de la Meuse and tributaries
107	Meuse Valley terraces
108	Senne Valley alluvia
109	Merksplas sands
110	Pea bog layer
111	Mol and Brasschaat (Moseen) sands + Campine sands
201	Lillo and Poederlee formations
202	Formations of Kattendijk and Kasterlee
203	Miocene sands (Diestien, Anversien, Bolderien) + (Berchem, Genk, Houthalen)
204	Chattien sands (Boncelles)
205	Inferior Rupel Sands (Berg Sands)
206	Tongeren Sands (Neerepen Sands)
207	Kallo Complex (S3 or S2)
208	Kallo Complex (S1, Asse Sands)
209	Ledo-panisiliens and Ledo-bruxelliens Sands (Lede – Bruxelles – Vlierzele – Aalter)
210	Brussels sands
211	Ypres sands
212	Undifferentiated Landenien
213	Sands from the upper Landenien L2
214	Glaucoferes Sands of the lower Landenien L1
215	Tufa-stone of the Landenien
216	Heersiennes marl (marl gelinder and sands of Orp)
301	Maastrichtiens Tufa-stone of the Geer
302	Captive groundwater of the Maastrichtien
303	Captive chalks of Brabant and the two Flanders
304	Chalks of the Mons basin
305	Hesbaye chalks
306	Cretaceous undifferentiated of the Pays d’Herve
307	Pays d’Herve Chalks
308	Sands of Aachen in Pays d’Herve
309	Cretaceous basin of Paris
401	Bajociens Limestone
402	Undifferentiated Virtonien
403	Macignos Virtonien (Macignos of Aubange and Messancy)
404	Sands and gres of Virton (Lower Virtonien vra)
405	Undifferentiated Sinemurien
406	Sinemurien : development of Orval
407	Sinemurien : development of Florenvielle
501	Sands and Pudding-stones
601	Conglomerate of Stavelot
701	Undifferentiated carboniferous soil
702	Phtanite of the Namurien
703	Carboniferous Limestone of the Tournaisis (Mouscron – Pecq – Tournai)

Table	Labelled
704	Carboniferous limestone of northern edge of Namur basin
705	Carboniferous limestone of southern edge of Namur basin
706	Carboniferous limestone of the Vesdre massif
707	Carboniferous limestone of the Dinant bassin
708	Borinage geothermal carboniferous limestone
709	Campine carboniferous limestone
801	Devonian limestone of the northern edge of Namur basin
802	Devonian limestone of southern edge of Namur basin
803	Devonian limestone of Vesdre massif
804	Devonian limestone of Dinant basin
805	Mountainous Schistocyte mass of the Ardenne (Gedinien, siegenien, emsien, couvinien)
806	Mountainous Schistocyte mass of the Ardenne (Frasnien, Fammenien)
807	Mountainous Schistocyte mass of Dinant Basin (Gedinien, siegenien, emsien, couvinien)
808	Mountainous Schistocyte mass of Namur Basin (Frasnien, Fammenien)
809	Mountainous Schistocyte mass of Vedre Basin (Frasnien, Fammenien)
810	Mountainous Schistocyte mass of Dinant Basin (Frasnien, Fammenien)
901	Calmbro-silurien of the Ardenne : Superficial weathering groundwater
902	Calmbro-silurien of the Ardenne : groundwater of the deep cracks
903	Calmbro-silurien of the Brabant massif : Superficial weathering groundwater
904	Calmbro-silurien of the Brabant massif : groundwater of the deep cracks
905	Carbo-gaseous mineral waters

Appendix 3.4
Industrial Zoning



No copies of the exploitation permits were available in Herstal during the visit.

According to the authorities no specific environmental problems were noticed except for some complaints concerning noise. These were complaints from the local inhabitants to global transport noise.

The surrounding companies are:

- Techspace aero S.A.
Route de Liers, 121
4041 Milmort
T: 04/278.81.11
F: 04/278.52.07
Activity: Production of aircraft engines and treatment of waste products related with the production process. The activities are present since 30 to 40 years. No particular problems were ever noticed.
Number on the Site Map: 103
 - Weerts

No adress available. This is a completely new site, still under construction.
The activity of the site will be the transport of chocolates
Number on the Site Map: Indicated as Weerts on the Site Map

Other companies in the neighbourhood.
 - L'air liquide Belge S.A.
Avenue du parc industriel, 2
4041 Milmort
T: 04/287.78.78
F: 04/278.67.47
Activity: Filling up canisters with industrial gases
The activities are present since 6 à 7 years. No problems were ever reported.
Number on the Site Map: 102
 - Gar. Collette Sprl (Mitsubishi)
Route de Liers, 122
4041 Milmort
T: 04/278.58.16
F: 04/278.71.14
Activity: garage
Number on the Site Map: Not indicated
 - Galliker Transport & Logistics
Avenue du parc industriel
4041 Milmort
T: 04/287.01.01
F: 04/278.03.03
Activity: The company is active in the transport sector. Activities are present since 1985-1990.
Number on the Site Map: 101
-



- ISPC
Route de Liers, 125
4041 Milmort
T: 04/278.92.92
Activity: A wholesale business (+ transport) in horeca requirements (food, cooking utensils, etc.). The company is located on the site since 2 years.
Number on the Site Map: 129
- Van Dijck S.A.
Route de Liers, 4-6
4041 Milmort
T: 04/278.73.25
F: 04/278.06.37
Activity: Production of clinkers
Number on the Site Map: Not indicated on the Site map

Based on the review available documentation and the site visit, the current use of the surrounding properties do not seem to represent any risk of potential contamination of the Site.

Legend:

planned round about
for heavy trucks



**DUE DILIGENCE
STUDIES PROLOGIS LIEGE
FEASIBILITY REVIEW**
Map 3: site map



Etude: BPI - Annuaire 2000
Projet: LIG, Vervikale
Economie, Totaal, Centrale
Economie 2000
Projet: 03/0043
2000-00000000



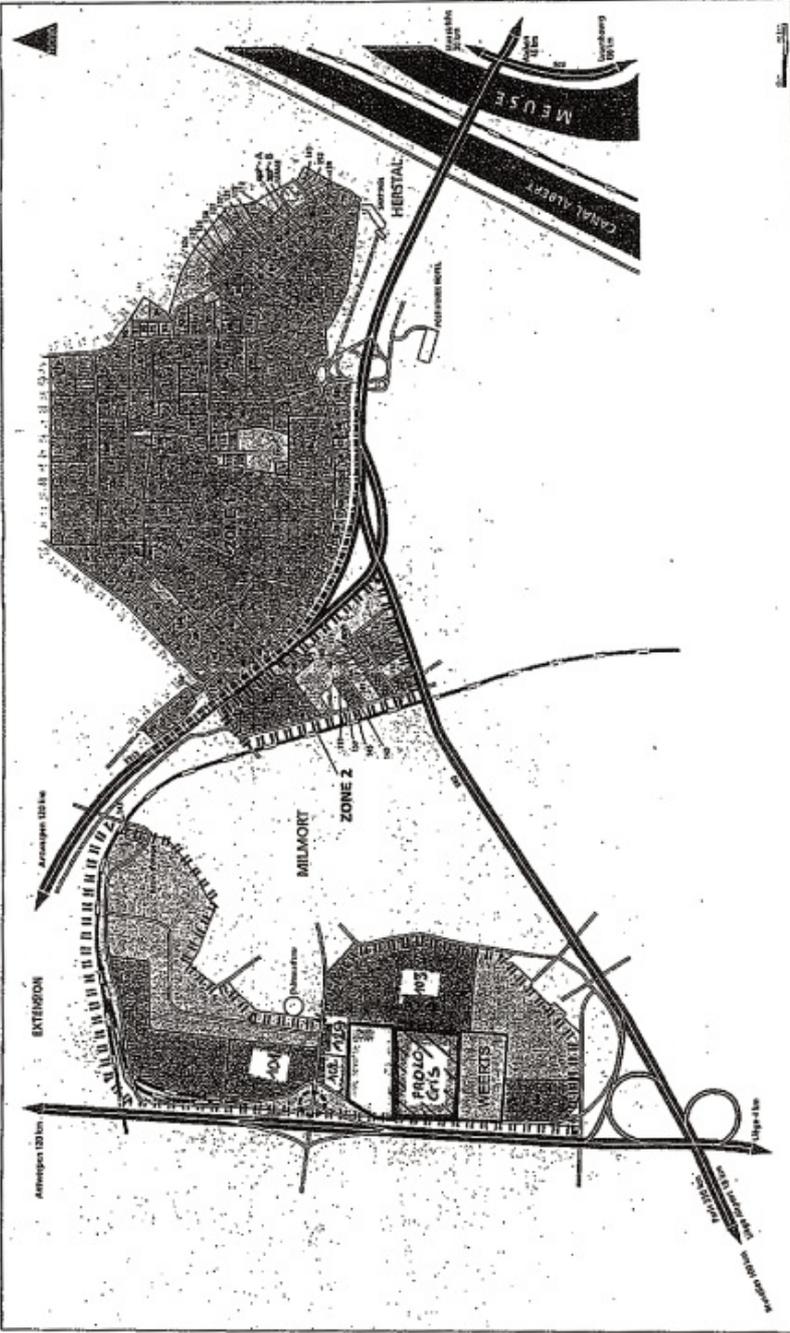
HAUTS-SARTS
Autoroute E40 • spib 36 • 642
6313 • route 36

PARC D'ACTIVITES ECONOMIQUES



HAUTS-SARTS

spif
14, rue Luchowicz • 4000 SARTS
Tel: 020 4020111 • Fax: 020 4020110



Appendices 3.5 and 3.6
Building permit and reaction municipality of Herstal



TO: Mevr.Sophie Houtmeyer
Skechers
Parc Industrial Hauts-Sarts, zone 3
Avenue du parc industriel 159
4041 Milmort
Belgium

FROM: Ing.C.A.Hommel
Project Manager ProLogis

DATE: May 6, 2008

SUBJECT: Project ProLogis SkechersMilmort
Avenue du parc industriel 159,
4041 Milmort

cc:

Dear,

Please find attached (as discussed with Mr Nuijten) the documents as they were submitted for the building permit application.

Should you have any questions please do not hesitate to contact me on 06 12 29 42 10.

Kind regards,

Mr C A Hommel, Engineer

[Signature]

Project Manager Prologis

Addendum: Statistics of the building permit

Drawing 01/05

Drawing 02/05

Drawing 03/05

Drawing 04/05

Drawing 05/05

Liege 1 Management
Town Planning Division
Rue Montagne Sainte-Walburge, 2
4000 LIEGE

WALLOON REGION

Liege, 7 July 2008

Tel: 04/224.54.11
Fax: 04/224.54.66

REGISTERED LETTER
S.P.R.L. PROLOGIS Belgium III
J.E. Mommaerstsiaan, 18
1831 DIEGEM

Your ref: /
Our ref: E1256/BM/MRM
Enc.: 1 set of plans + notice

1/3

ENCLOSURE 12- FORM G

PERSONS UNDER PUBLIC LAW
ACTS AND WORK OF PUBLIC BENEFIT

DECISION TO GRANT A TOWN PLANNING PERMIT

The designated Official,

Given the Walloon Code of Town and Country Planning, Town Planning and Heritage;

Given the decree of 11 March 1999 concerning an environmental permit;

Given Book 1 of the Environment Code relating to assessment of the impact of projects on the environment;

Considering that S.P.R.L. PROLOGIS Belgium III

Has put in an application for a town planning permit relating to a property located at HERSTAL (Liers), Avenue du Parc Industriel

land registry Section A. no. 450 e2, g2

with the purpose of constructing an industrial hall

Considering that the complete permit application was sent to the designated Official in the LIEGE 1 Management of the General Management for Town and Country Planning, Town Planning and Heritage, by mail with acknowledgement of receipt on 15.05.2008;

MINISTRY OF THE WALLOON REGION

General Management for Town and Country Planning, Town Planning and Heritage
General address: Rue des Brigades d'Irlande 1, B-5100 Namur – Tel: 081 33 21 11
Fax: 081 33 21 10. www.wallonie.be – Toll free: 0800 11 901 (General information)

Considering that the property in question is detailed on the LIEGE sector plan approved by the A.E.R.W. of 26.1.1987 in an industrial economic activity area and which is still in effect for the aforementioned property;

Considering that the project is located in the area cited in article 1, 5° of the decree of 11 March 2004 relating to reception infrastructures for economic activities;

Considering that a municipal regulation on building approved by the A.R. of 05.09.1980 is in effect throughout the municipal territory where the property is located;

Considering that the permit application includes an environmental impact assessment notice;

Considering that the services cited below have been consulted for the following reasons:

- the SPI+, that its opinion requested on 21.05.2008 and sent on 28.05.2008 is favourable;
- considering that the project is detailed in an SPI+ zoning;
- the I.I.L.E., that its opinion requested on 21.05.2008 and sent on 16.06.2008 is favourable subject to conditions;
- for public safety reasons;

Considering that the opinion of the **Municipal College** was requested on 2.05.2008 and sent on 10.06.2008; that its opinion is favourable subject to conditions;

Considering the plans registered in my services on 28.03.2008;

Considering that the project consists of:

- the construction of an industrial hall (storage) of 22,275 m2 as an extension to an existing hall;

Considering that the permit application does not refer to a project shown on the list drawn up by the government and which, due to its type, its dimensions or its location is subject to study of environmental impact, given the selection criteria cited in article D.66 of Environmental code;

Considering that the permit application is accompanied by an environmental impact assessment notice, that this notice is complete in appropriately identifying, describing and assessing the direct and indirect, short medium and long term effects of the installation and operation of the project on man, flora and fauna; the soil, water, air climate and landscape, material property and cultural heritage; interaction between the aforementioned factors;

Considering that the permit application is not accompanied by an impact study, that the authority considers in view of the above mentioned notice and plan, that taking into account the relevant selection criteria cited in article D.66, §2, the project is not likely to have significant impacts on the environment;

Considering that it appears from the plans and photographic reports returned with the file that the project's environmental impact is legible;

Considering that the projected installation does not compromise the area's general purpose, or its architectural character;

Therefore,

DECIDES

Article 1: the permit applied for by S.P.R.L. PROLOGIS Belgium III is granted under the following conditions:

- respecting the I.I.L.E. opinion enclosed;
- asking for the state of the pavement locality, the alignment and level as well as indication of construction sites at least 60 days before the anticipated work start date, by means of the form attached to this document. The applicants attention is drawn to the municipal regulation relating to indication of construction sites in accordance with article 137 of the C.W.A.T.U.P. and to the municipal charges regulation on the indication of construction sites;
- provide for ventilation of the company premises in accordance with standards in effect;
- provide for an inspection chamber or manhole at each junction and change of direction of drainage piping;
- access to the site must be carried out using a hydrocarbon covering enabling differentiating the public domain from the private domain;
- the pavement and water channel may not in any case be removed or modified;
- the earth resulting from earthworks will be removed to an approved sorting centre for inert waste. In no case will these be backfilled into the ground.

Article 2: The issuance of this decision is sent to the applicant and to the HERSTAL Municipal College;

Article 3: The permit holder advises, by registered letter, the Municipal College and the designated Official about the start of the permitted works or acts, at least eight days before starting this work or acts.

Article 4.- This permit does not exempt the obligation of requesting authorisations or permits imposed by other laws or regulations.

THE DESIGNATED OFFICIAL.
Andre DELECOUR
Manager

Your contact: MOTTET Bernadette – Architect

EXTRACTS FROM THE WALLOON CODE OF TOWN AND COUNTRY PLANNING, TOWN PLANNING AND HERITAGE.

1) MEANS OF APPEAL

Art. 27. §6. The applicant and the college of burgomasters and deputy burgomasters may put in an appeal to the Walloon government within thirty days of receipt of the designated official's decision or the timeframe cited in article 127, §6, paragraph 2.

2) DISPLAY OF PERMIT

Art.134. A notice indication that the permit has been issued is displayed on the land in front of the road way and legible from this, under the applicants care, either it concerns work, prior to opening the site and throughout the duration of this, or in other cases, from the preparations, before the act of acts have been completed and throughout the time they are being completed. During this time, the permit and the attached file or a copy of these documents certified as a true copy by the municipality or the designated official must be permanently available to agents designated in article 156 at the place where the work is being carried out and the acts being completed.

3) PERMIT EXPIRY DATE

Art 87, §1 – If, within two years of sending the town planning permit, the beneficiary has not started the works in a significant way, the permit expires.

§2. The permit expires for the rest of the work if this has not been completely carried out within five years of it being sent, except if its execution is authorised by stages. In this case, the permit lays down the start of the expiry time limit for each stage other than the first.

The expiry of the permit takes place as of right.

4) EXTENSION OF THE PERMIT

Art. 87 §3. At the request of the town planning permit's applicant, it is extended for a period of one year. This application is put in thirty days before the expiry time limit cited in article 87, §1. The extension is granted by the college of burgomasters and deputy burgomasters.

5) CERTIFICATION OF COMPLIANCE OF WORK

Art 139. §1. The beneficiary of the permit must have the conformity of the property's state with the work verified at the latest within six months following the expiry of the time laid down in article 87 §2, or prior to a transfer.

In case of transfer more than three years after verification, the transferor has the compliance of his property with the permit verified before the act of transfer. However, verification is required before any transfer subsequent to a provisional verification.

§2. An approved certifier, chosen by the beneficiary of the permit or the transferor, carries out the verification.

If the municipality has not received the town planning certificate of conformity or the document containing refusal of a town planning certificate of conformity at the end of six months following the expiry of the time laid down in article 87, §2, the college of burgomasters and deputy burgomasters or the agent delegated by this college appoints without consultation an approved certifier to carry out the verification.

In all cases, the verification is to the charge of the beneficiary of the permit or transferor.

6) SPECIFIC PROVISIONS APPLICABLE TO GROUPE/D CONSTRUCTIONS

Art. 126 When a town planning permit authorises several constructions and these constructions involve carrying out common infrastructures and facilities including waste water purification facilities, the permit may be subordinate to the transfers either free or costing, sharing, of long lease or surface constitution, or leasing for more than nine years, concerning all or part of these properties:

1 – to a certificate issued under the conditions cited in article 95, paragraph 1;

2 – to a division act drawn up by a notary setting the own planning provisions for it all and the conditions for management of the common parts.

The permit states the possible stages for execution of the constructions stating the start of each phase.

N.B. INSTALLATION

Your attention is drawn to article 137 of the same Code and therefore to the necessity of making contact with the municipality concerned.

Article 137. The permit may decide on the order in which the work must be carried out and the time within which the conditions which come with the permit must be implemented.

The start of work relating to the new constructions, including the extension of the ground extent of existing constructions, is subject to indication on site of the installation by the Municipal College.

A statement of the indication is drawn up.

Appendix 3.7

Correspondance with the archeological authorities

9 OCT. 2008

MINISTRY OF THE WALLOON REGION

GENERAL MANAGEMENT
OF TOWN AND COUNTRY
PLANNING , TOWN PLANING
AND HERITAGE

Liege, 12 [illegible]

HERITAGE DIVISION

GEDAS B.I. NV
Attention: Mrs M. CLERINX
Clara Snellingsstraat 27
2100 DEURNE

Archaeology Management

Your ref:

Our ref: D POJ/DA/SALg/jSml/mg/00325

Re: Hauts-Sarts economic activity park — Herstal

Dear Mrs Clerinx

As agreed, I am confirming the content of our telephone conversation today.

The area concerned by the industrial construction is very sensitive archeologically. It is in fact crossed by a roadway which, in Roman times, linked Tongres to Herstal (« Brunehaut roadway » on the plan). The surrounding land is therefore liable to contain ancient remains relating to the antique road. Any permit application put in to the municipal Administration concerned is sent to the Designated Official — Town Planning Division, Ministry of the Walloon region — who automatically forwards it to the Archaeological Service, Management of Liege. In the case in question, the latter will then give a notice requesting the insertion of an archaeological clause and to be invited to any preparatory work meeting. It goes without saying that, the sooner the Archaeology Service is informed of the project (execution times, possible stages of work...), the better the cooperation will be and, thus, planning of any intervention by our service, prior to implementation of the project.

Hoping this information meets with your expectation, I remain

Yours etc.

Jean-Marc LEOTARD
Provincial archaeologist

Specialist representative: Michele Gustin Archaeologist

■ Avenue des Tilleuls, 62 • 4000 Liège • Tél. 04/254 28 93 - 04/252 75 37 • Fax 04/252 23 26
NUMÉRO VERT : 0800-1 190-1

Herstal
Municipality of the Future

Letter ref: DP/37/2001
Communication Service
Mrs Dominique POCET
Tel: 04/240.65.46
Fax: 04/240.64.93 - Email address:

Service Code no.: G.01.04.
ECRIDO.COM

Herstal, 11 January 2001

Place Jean Jaures 1
4040 Herstal

GEDAS NV
Attention Mrs
Marleen CLERINX
Clara Snellingsstraat, 27

2100 ANTWERPEN

Dear Madam,

In your letter of 20 December 2000, you wish to obtain a copy of the Techspace Aero, ISPC, Weerts and Galliker licences to operate.

These were sent to you on 11 October 2000 after payment of an amount of 393 francs.

At the present time, no modification has been made to the Techspace Aero and Weerts operation licences.

However, if you wish to have these document again, you can reapply in writing to our new "Ecrido" Service.

We remain,
Yours etc.

BY THE COLLEGE:

The Municipal Secretary

For the Mayor in absentia
The 1st Deputy Mayor
Richard BASTIN

Appendix 3.8
Information concerning utilities

9 OCT. 2008

MINISTRY OF THE WALLOON REGION

GENERAL MANAGEMENT
OF TOWN AND COUNTRY
PLANNING , TOWN PLANING
AND HERITAGE

Liege, 12 [illegible]

HERITAGE DIVISION

GEDAS B.I. NV
Attention: Mrs M. CLERINX
Clara Snellingsstraat 27
2100 DEURNE

Archaeology Management

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Municipality of the Future

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However, if you wish to have these document again, you can reapply in writing to our new "Ecrido" Service.

We remain,
Yours etc.

BY THE COLLEGE:

The Municipal Secretary

For the Mayor in absentia
The 1st Deputy Mayor
Richard BASTIN

Appendix 4
Environmental thick report

The report must include The Environmental Report Tick List below (which is necessary to demonstrate to ourselves and our insurers that which our consultants have seen and not seen.)

The Purpose of this report is to identify environmental issues effecting the proposed purchase and development of the proposed site. The list below will enable Prologis to assess the items which the consultant has considered and tabulates specific works but must not be taken as complete or limit the comments made by the consultant which may effect the purpose of the investigation

This Form Must be completed by the consultant and included in the Environmental Phase 1 Report

Development Name
 Site Address
 Consultant Practice
 Name of Consultant (individual)
 Date of Visit

GEDAS N.V.
 Clara Snellingsstraat, 27
 2100 Dourne
 Herwig Teughels, Kristof Peperstraeete
 22/08/2002

Review of existing documents available

- a. Environmental
 - Phase 1 Environmental Site Assessment; dated 5th October 2001, 03/3043 (neighbouring site)
 - Phase 1 Environmental Site Assessment; report 11/15/1844 dated 18th January 2001, 11/11/1844
- b. Asbestos
 - -
- c. Geotechnical
 - Geotechnical site investigation dated 29th November 2000, 03/3043 (neighbouring site)
 - Geotechnical site investigation dated 23th January 2001, 11/11/1844
 - Soil investigation dated 9th October 2000, 03/3043 (neighbouring site)
 - Soil investigation dated 4th September 2002, 11/15/002415 (current site)
- d. Soil investigation
 - Topographical survey dated December 21st 2000, 11/11/1844
- e. Topographical survey
 - Measurement plan dated 6th November 2000, 03/3043 (neighbouring site)
 - Measurement plan dated 6th of January 2001, 11/11/1844
 - Building permit 23/2001 dated March 5th, 2001

<p>h Cadastral plan i Zoning plan</p>	<ul style="list-style-type: none"> • d.d. August 28th, 2002 • d.d.26/11/1987, Plan de secteur Nr. 15 (Liège), carte 42/2 • Permis d'Air Liquide d.d.05/04/2000 • Permis d'Air Liquide d.d. 22/04/1994 • Permis de S.A. Techspace Aero d.d.02/10/1995 • Permis de S.A. ISPC d.d.30/04/1998 • Permis de Charlier Transport d.d.17/08/1990 <p>An update of these permits was requested for</p>	<p>j exploitation permits surrounding firms</p>
<p>This Section to be filled in by the Consultant</p> <p>Location of Site</p>	<p>Map Reference</p> <p>Near Airport/ Rail /Major Road Power Station Etc</p> <p>Rough estimate of the shape of the site</p> <p>Brief description of topography</p> <p>Site surroundings (specify radius of 1km of the site)</p> <p>Identifiable aspects of the site i.e.: ponds, trees, water courses, drainage, services etc.</p>	<p>Site description</p>
<p>Please tick the Box if seen or carried out</p>	<p>[Redacted]</p>	<p>Comments</p> <p>ca. 4 ha</p> <p>No ponds, trees, water courses visible</p>

Records Review

A desk top study using historical maps and other sources, local libraries and local knowledge
The use of any local data bases that may be held by the local building inspector, planning office,
etc.

Any historical data that can be gained from adjoining land or properties

In discussion with any regulatory authorities, any licences, consents or other data effecting the
site

Mining or other intrusive operations, reference to aquifers

Site geology

Site hydrogeology

	Information has been reclaimed
	Not applicable
	An aerial photograph reclaimed from Eurosense
	Reclaimed

Site Reconnaissance

Identification of items which may effect the
environmental issues on the site i.e.:

No visit inside the new building has been executed. The surroundings were checked.

Any underground or above ground tanks

Storage facilities for materials

Waste disposal arrangements

Evidence of spillages

Details of existing drainage services

	Information reclaimed from the construction company
--	---

Details of services –		
gas		Information reclaimed from A.L.G.
water		Information reclaimed from the S.D.W.E.
electricity		Information reclaimed from the A.L.E.
sewers (septic tanks)		Information gathered from the received plan
Indications of previous use i.e.: manufacturing processes, demolition evidence, use of pesticides		
Evidence of flooding or knowledge of water table (probable depth, direction of flow)		
Surface water hydrology		
Wetlands		
Local wildlife/ecology		
Electro magnetic fields		
Details of superficial deposits		Three electrical towers One pile of soil visible on the side of Weerts

[Redacted]

Footpaths and rights of way
Local population, including traffic impact assessment
Vibration

[Redacted]

Any evidence of endangered species
SSI's (Special Scientific Interest) sites or ecological resources, (e.g.: newts, stream diversions, landscaping, designation as a site of special scientific interest or an area of outstanding natural beauty, wetlands etc.)
The site or surroundings that may affect air quality
Sound restrictions (potential impact of noise during construction and final development stage)
Light pollution (any future development shading existing buildings or vice versa)
Landscaping
Registered and potential landfill sites
Surface water drainage and hydrology and evidence of flooding, including the identification of the water table
To check for signs of Japanese Knotweed, Himalayan Balsam, Giant Hogweed and other non-native, invasive and destructive vegetation.

No

[Redacted]

Interview or telephone conversation with existing owners, agents or occupiers
Interview with possible occupants

Confidential information

Environmental Matters

Interviews

Existing Structures In addition to the above, if buildings are on the site, then each building is to be reviewed and the following ascertained:

Interview or telephone conversation with existing owner or agent

The current use and previous use of the buildings

- The current or previous use of adjoining properties
- Possible industrial processes
- Possible landfill areas
- Evidence of industrial dumping
- Evidence of any chemical storage on site i.e.: drums
- Evidence of any ponds or lagoons used within the waste treatment process
- Evidence of vent pipes
- Points of discharge from any of the drainage on site
- Evidence of existing sub stations, gas meter houses or pumping stations
- Name, address and contact number for each of the owners of the properties

Internal observations of existing buildings i.e.: machinery, processes, tanks, asbestos

Do the regulatory authorities know the current company?

Evidence of termite infestation

Date: 23th September2002

Page: 41/44

	No activities occurred on site
--	--------------------------------

	ref. Paragraph 2.2.8.
	Only the outside of the building was checked
	Yes, building permit
	No

Confirmation from the Structural Engineer appointed for the project to comment upon the Environmental Phase I report (if appointed)

Any archaeological requirements which may impact upon the site development

Presence of minerals/geotechnical faults/any other problem disclosed by the Desktop Study

--

The assessment of data in summary form following the factual reporting on the above. To include comments on the possible impact on construction.

Further Items For Consideration

Evaluation Of Data

Note that the purpose of a Phase II is to answer a specific question and should be specific with regards to methodology and scope.

**ADDENDUM 2 TO AGREEMENT FOR THE AVAILABILITY OF SPACE FOR THE STORAGE OF GOODS
AND OFFICES FOR THE MANAGEMENT OF THIS DATED AUGUST 12, 2002**

The undersigned:

ProLogis Belgium II BVBA, registered with the RPR under number 0472.435.431, with its offices in Park Hill, Building A, 8th Floor, Jan Emiel Mommaertslaan 18, B-1831 Diegem and hereby represented by Gerrit Jan Meerkerk, hereinafter referred to as '**ProLogis II**',

and

Skechers EDC sprl, with its registered office in 4041 Milmort, Parc Industriel Hauts-Sarts, Zone 3, avenue du Parc Industriel, registered with the RPR 0478.543.758, hereby represented by David Weinberg, hereafter referred to as '**Skechers EDC**' or as '**CUSTOMER**',

AFTER HAVING CONSIDERED THE FOLLOWING:

1. On August 12, 2002 ProLogis and Skechers International have signed an "Agreement for the availability of space for the storage of goods and offices for the management of this" concerning the following real estate: ProLogis Park Liège Distribution Center I with a total surface area of approximately 22,458 m² and approximately 100 car parking spaces located in the Industrial Park Hauts-Sarts, Milmort, Liège, Avenue du Parc Industriel (hereafter referred to as 'the Availability Agreement');
 2. On August 27, 2003 Skechers International transferred all its rights and obligations under the Availability Agreement to Skechers EDC in full accordance with the terms and conditions thereof.
 3. ProLogis and the CUSTOMER have now agreed to align the duration of the Availability Agreement with the commencement and duration of the Agreement for the availability of space for the storage of goods and offices for the management of this" concerning the following real estate: ProLogis Park Liège Distribution Center II between Skechers EDC and ProLogis Belgium III sprl (with its registered office in Regus Pegasus Park, Pegasuslaan 5, B-1831 Diegem), of the same date as this Addendum (the "Availability Agreement DC II").
 4. The terms with a capital will have the same meaning as set forth in the Availability Agreement, unless expressly set forth otherwise herein.
-

HAVE AGREED THE FOLLOWING:

1 Duration of the Availability Agreement

Article 5 of the Availability Agreement is replaced as follows :

The availability of the Premises is rendered for a duration of five (5) years as of the Commencement Date provided for in the Availability Agreement DC II, i.e. in principle on 1 April 2009, to which is referred to as the '**Commencement Date**', unless parties confirm otherwise in writing (if the availability of the Premises starts later than 1 April 2009 and insofar as mutually agreed upon in writing by the Parties).

If either party does not terminate the Agreement by registered mail not later than twelve (12) months prior to the end of the duration set forth in the first paragraph of this Article, i.e. in principle March 31, 2014 or the date as agreed upon between parties in writing as set forth in the preceding paragraph, this Agreement shall be tacitly renewed under the same terms as stipulated in this Agreement for subsequent periods of five (5) years in the absence of the required termination notification by either party, without prejudice to Article 20 and without any compensation to ProLogis nor VAT adjustment to be paid, except as set forth in article 2 of this Agreement. This Agreement will however in any case end by operation of law on the latter of the following dates : March 31, 2029 or the twentieth anniversary of the Commencement Date as agreed upon in writing by the Parties as set forth in this Article. After the latter of these dates, this Agreement can not be renewed in accordance with this paragraph.

Notice needs to be given by bailliff's writ or by registered letter. Notices hereunder shall be deemed given and effective (i) if delivered by a bailiff, upon delivery, or (ii) if sent by certified or registered mail, within five (5) days of deposit in the post office.

2 Various clauses

2.1 The other terms and conditions of the Availability Agreement remain fully applicable between parties with respect to the Premises, except for Articles 20 and 22 of the Availability Agreement which are no longer applicable due to the decision of the CUSTOMER not to commit to use DC III and DC IV.

No amendment or modification of this Addendum shall take effect unless it is in writing and is executed by duly authorized representatives of the parties.

2.2 If one or more of the provisions of this Addendum is declared to be invalid, illegal or unenforceable in any respect under the applicable law, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected. In the case whereby such invalid, illegal or unenforceable clause affects the entire nature of this Addendum, each of the parties shall use its best efforts to immediately and in good faith negotiate a legally valid replacement provision.

3 Applicable law and competent courts

This Addendum shall be governed by and construed in accordance with Belgian law. In the event of any dispute relating to the conclusion, validity, the implementation or the interpretation of this Addendum, the courts of Liège will have sole and exclusive jurisdiction.

This Agreement was made out in four (4) copies in Milmort, May 20, 2008. Each party acknowledges to have received its original copy.

/s/ Gerrit Jan Meerkerk

Gerrit Jan Meerkerk,
ProLogis Belgium II Sprl

/s/ David Weinberg

David Weinberg,
Skechers EDC

Appendix 1
List of Additional Items

Skechers DC#2 Millmort, ADDITIONAL WORKS TI

		Cost Skechers direct	Cost Prologis	INVESTMENT OWNED BY		RESPONSIBLE MAINTENANCE *		RESPONSIBLE RENEWAL **	
				SKECHERS	PROLOGIS	SKECHERS	PROLOGIS	SKECHERS	PROLOGIS
Items additional to the Contract Specification									
5.2	Changing 2 fire doors Rf 1h, 4x6 m		€ 22,050.00		addendum 1	X			addendum 1
5.3	Two extra escape doors		€ 7,350.00		addendum 1	X			addendum 1
5.4	Barrier next to the parking road		€ 18,201.92		addendum 1	X			addendum 1
5.5	Adaptions lighting capacity (200 Lux between racks)		€ 179,295.84		addendum 1	X			addendum 1
5.7	Motion detection in racking lanes		€ 24,363.09		addendum 1	X			addendum 1
5.8a	Water supplies		€ 2,076.90		addendum 1	X			addendum 1
5.8b	Slophoppers		€ 7,703.69		addendum 1	X			addendum 1
5.9	Adaptions acces control Intercom		€ 5,826.12		addendum 1	X			addendum 1
5.10	High voltage		€ 124,676.12		addendum 1	X			addendum 1
5.11	Electrical extra existing DC new DC ask by Skechers		€ 105,515.56		addendum 1	X			addendum 1
5.12a	IT room on mezzanine	€ 23,665.15		X		X			X
5.12b	IT room on mezzanine floor cabling	€ 108,888.71		X		X			X
5.13	Offer for radio-system	€ 12,086.54		X		X			X
5.15	Extra porte Hall 1 (electrical)	€ 8,821.84		X		X			X
5.16	24 extra connection Telefoon atenne computer system	€ 1,653.60		X		X			X
5.17	more high of IT-room	€ 8,880.62		X		X			X
5.19	addaption of hight double doors	€ 475.00		X		X			X
5.20	reeling removebal	€ 5,889.00		X		X			X
5.21	addapion of the service road by sprinkler tank	€ 5,530.00		X		X			X
5.22	barrier between parking and entrance road	€ 5,135.00	€ 5,135.00		X	X			X
5.23	extra water and sewage in IT Room	€ 1,577.49		X		X			X
5.24	bicyclesheet	€ 4,240.36		X		X			X
5.26	painting	€ 675.44		X		X			X
5.27	woks high tension	€ 1,775.00	€ 1,775.00		X	X			X
5.28	work on music installation	€ 2,234.60		X		X			X
5.29	greenery	€ 3,940.00	€ 3,940.00		X	X			X
6.1	Exit doors safety as 103 en 106		€ 11,413.71		X	X			X
6.4	Offices fire detectors		€ 49,524.93		X	X			X
6.5	Heating in offices		€ 43,190.95		X	X			X
6.6	Thermostate protection		€ 1,537.60		X	X			X
6.7	Modification sanitary area's		€ 9,392.17		X	X			X
6.8	Electrical "loze" pipe		€ 5,789.41		X	X			X
6.11	IT locaal (outside walls)		€ 25,889.94		X	X			X
6.13	Sewer pit (sterfput)		€ 987.48		X	X			X
6.14	Change connections fire brigade		€ 11,439.46		X	X			X
6.15	extra lighting		€ 6,779.59		X	X			X
6.16	adaptions control room demanded by fire department		€ 4,901.00			X	X		X
6.17	parking buffers 50% sketcher. 50% Prologis	€ 2,100.00	€ 2,100.00		X	X			X
6.19	tiles in sanitary floor on the mezzanine		€ 3,153.13		X	X			X

* Maintenance as indicated in the lease agreement and the general terms and conditions.

** Renewal as indicated in the lease agreement and the general terms and conditions.

SKECHERS U.S.A., INC.
AMENDMENT NO. 1
TO
2008 EMPLOYEE STOCK PURCHASE PLAN

The following constitutes the amended provision of the 2008 Employee Stock Purchase Plan (the "Plan") of Skechers U.S.A., Inc. (the "Company"). Pursuant to approval of the Board of Directors obtained at a meeting held on December 10, 2009, the following amendment to the Plan was approved:

1. Section 7 of the Plan shall be deleted in its entirety and replaced with the following:

"Grant of Option. On the Enrollment Date of each Offering Period, each Eligible Employee participating in such Offering Period shall be granted an option to purchase on each Exercise Date during such Offering Period (at the applicable Purchase Price) up to a number of shares of the Company's Common Stock determined by dividing such participant's payroll deductions accumulated prior to or on such Exercise Date and retained in the participant's account as of the Exercise Date by the applicable Purchase Price; *provided, however*, that in no event shall a participant be permitted to purchase during each Offering Period more than 100,000 shares of Common Stock (subject to any adjustment pursuant to Section 19 hereof) (the "Per Period Limit") and during each Purchase Period more than the Per Period Limit (for the avoidance of doubt, in the event that the Offering Period and Purchase Period are approximately the same length, the participant shall only be entitled to purchase an aggregate of the number of shares of Common Stock equal to the Per Period Limit); and provided, further, that such purchase shall be subject to the limitations set forth in Sections 3(c) and 13 hereof. The Administrator may, for future Offering Periods, increase or decrease, in its absolute discretion, the maximum number of shares of the Company's Common Stock a participant may purchase during each Purchase Period and Offering Period. Exercise of the option shall occur as provided in Section 8 hereof, unless the participant has withdrawn pursuant to Section 10 hereof or otherwise becomes ineligible to participate in the Plan. The option shall expire on the last day of the Offering Period."

IN WITNESS WHEREOF, pursuant to the dual adoption and approval of this amendment to the Plan by the Board of Directors on the day and year first above written, the Company has caused this amendment to the Plan to be duly executed by its duly authorized officer.

SKECHERS U.S.A., INC.,
a Delaware corporation

/s/ David Weinberg

Name: David Weinberg
Title: Chief Operating Officer

CERTIFICATION

I, Robert Greenberg, certify that:

1. I have reviewed this quarterly report on Form 10-Q for the three months ended June 30, 2010 of Skechers U.S.A., Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 6, 2010

/S/ ROBERT GREENBERG

Robert Greenberg
Chief Executive Officer

CERTIFICATION

I, David Weinberg, certify that:

1. I have reviewed this quarterly report on Form 10-Q for the three months ended June 30, 2010 of Skechers U.S.A., Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 6, 2010

/S/ DAVID WEINBERG

David Weinberg
Chief Financial Officer

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the quarterly report of Skechers U.S.A, Inc. (the "Company") on Form 10-Q for the three months ended June 30, 2010 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), each of the undersigned, in the capacities and on the date indicated below, hereby certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to his knowledge:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ ROBERT GREENBERG

Robert Greenberg
Chief Executive Officer
(Principal Executive Officer)
August 6, 2010

/s/ DAVID WEINBERG

David Weinberg
Chief Financial Officer
(Principal Financial and Accounting Officer)
August 6, 2010

A SIGNED ORIGINAL OF THIS WRITTEN STATEMENT REQUIRED BY SECTION 906 HAS BEEN
PROVIDED TO THE COMPANY AND WILL BE RETAINED BY THE COMPANY AND FURNISHED TO
THE SECURITIES AND EXCHANGE COMMISSION OR ITS STAFF UPON REQUEST.