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DEVELOPMENT AGREEMENT

BETWEEN

THE CITY OF VICTORVILLE

AND

MACERICH VICTOR VALLEY LLC

FOR

THE MALL OF VICTOR VALLEY

September 7, 2012

DEVELOPMENT AGREEMENT

~~Sept~~^{Sept}: This Development Agreement (“**Agreement**”), dated for reference purposes ~~August 7~~^{August 7}, 2012, is entered into by and between THE CITY OF VICTORVILLE (the “**City**”), a public body, corporate and politic, and MACERICH VICTOR VALLEY LLC, a Delaware limited liability company (“**Developer**”), with reference to the following facts:

RECITALS

A. Pursuant to California Government Code Section 65864 et seq., and Section 16-3.19 et seq. of the Victorville Municipal Code (collectively, the “**Development Agreement Statutes**”), the City is authorized to enter into binding development agreements with persons or entities having a legal interest or an equitable interest in real property for the development of such real property.

B. Developer is the owner of certain real property located at 14400 Bear Valley Road, Victorville, California comprising the entire shopping center commonly known as The Mall of Victor Valley (the “**Mall Property**” or the “**Mall**”). The Mall Property includes all of the parcels of real property commonly referred to as the following street addresses: (1) 14400 Bear Valley Road, Victorville, CA 92392; (2) 14420 Bear Valley Road; (3) 14470 Bear Valley Road; (4) 14500 Bear Valley Road; (5) 14370 Bear Valley Road; and (6) 14580 Bear Valley Road.

C. A portion of the Mall Property is comprised of an existing, building with approximately 70,822 square feet of gross leasable area, now vacant, formerly occupied by an entity operating under the trade name Gottschalk’s (“**Vacant Anchor Building B**”) and associated parking areas (collectively, the “**Macy’s Parcel**”). Developer intends to convey the Macy’s Parcel to Macy’s West Stores, Inc. or another affiliate of Macy’s, Inc. (“**Macy’s**”). For purposes of clarity, Developer has informed that City that the conveyance of the Macy’s Parcel to Macy’s may be accomplished as part of a tax-free exchange of property consistent with Section 1031 of the Internal Revenue Code of 1984, as amended, and any regulations promulgated thereunder. Accordingly, legal title to the Macy’s Parcel may temporarily be held by an entity acting as an accommodator for the Section 1031 exchange of property, and such accommodator will not be an affiliate of Macy’s Inc. However, the accommodator will, as part of the Section 1031 exchange of property, ultimately convey fee title to the Macy’s Parcel to Macy’s. Accordingly, the portion of the Mall Property that excludes the Macy’s Parcel and that will continue to be owned and operated by Developer is legally described on Exhibit “A” attached hereto, and is comprised of approximately 45.05 acres of land (the “**Developer Property**”).

D. The Developer Property is improved with the following: (i) an existing building with approximately 74,850 square feet of gross leasable area, now vacant, formerly occupied by an entity operating under the trade name Forever 21 (“**Vacant Anchor Building A**”); (ii) Vacant Anchor Building B; (iii) an existing building with approximately 49,965 square feet of gross leasable area (the “**Existing Penney Building**”), currently leased to J.C. Penney Corporation, Inc. (“**Penney**”); (iv) an existing building with approximately 75,084 square feet of gross leasable area (the “**Sears Building**”), currently leased to Sears, Roebuck and Co.; (v) an existing building with approximately 65,000 square feet of gross leasable area currently leased to Cinemark; (vi) approximately 195,500 square feet of gross leasable area of in-line retail space (the “**In-Line Retail Space**”); and (vii) related parking and other facilities. Vacant Anchor Building A (part of the Developer Property) and Vacant Anchor Building B (part of Macy’s Parcel) are referred to herein collectively as the “**Vacant Anchor Buildings.**” Penney and Macy’s are sometimes collectively referred to as the “**Anchor Stores.**”

E. Developer intends to redevelop the Mall Property by doing the following: (i) causing Macy’s to enlarge the Vacant Anchor Building B for occupancy by Macy’s; (ii) enlarging Vacant Anchor Building A for occupancy by Penney; (iii) increasing the occupancy rate of the In-Line Retail Space; (iv) renovating the four customer entries to the enclosed portion of the Mall (the “**Mall Entries**”); (v) installing a new pylon sign with an electronic reader board; (vi) updating the landscaping in portions of the Developer Property; and (vii) performing other improvements to cause the Mall Property to retain its stature as a regional shopping center destination for the City and the surrounding region.

F. Developer intends to amend its existing lease with Penney to provide for the relocation of Penney from the Existing Penney Building to Vacant Anchor Building A. Either Developer or Penney may then expand Vacant Anchor Building A by incorporating into such building approximately 16,790 square feet of gross leasable area from the adjacent shop space and enclosed mall, so that after the expansion, the expanded Vacant Anchor Building A would contain approximately 91,640 square feet of gross leasable area, and perform any necessary associated site modifications (the “**Penney Expansion Work**”).

G. After Penney takes occupancy of Vacant Anchor Building A and vacates the Existing Penney Building, Developer will (i) remodel and/or reconfigure the Existing Penney Building, resulting in the building shell that will accommodate approximately 49,965 square feet of new space for one or more occupants (the “**New Shop Space**”) that will accommodate certain commercial retail uses which may include without limitation, retail, restaurant, entertainment and service uses typical to a first class regional mall, which uses are intended to support the City’s goal of increased tax revenue and job growth through the enhanced ability of Developer to lease such space and other, existing, in-line retail space in the Mall, and (ii) perform any necessary associated site modifications.

H. In addition, Developer intends to remodel all four of the existing Mall Entries (the “**Mall Entry Remodel Work**”).

I. Developer intends to sell the Macy's Parcel to Macy's. Developer or Macy's may then remodel Vacant Anchor Building B, which remodel may include an expansion of Vacant Anchor Building B of up to approximately 30,200 additional square feet of gross leasable area, so that after the expansion (if any), the expanded Vacant Anchor Building B would contain up to approximately 103,008 square feet of gross leasable area (the "**Macy's Remodel Work**").

J. The City has established a Commercial land use designation under the City's General Plan for the Mall Property and C-2 ("**Commercial**") zoning for the Mall Property under the Zoning Ordinance. To aid in the redevelopment of the Mall Property, the City and Developer desire to allow Developer to complete a lot line adjustment that will result in the Macy's Parcel that can then be conveyed from Developer to Macy's.

K. Developer filed an application for a Site Plan Modification and the modification was processed as case number PLN11-0020. The City prepared a negative declaration (the "**Negative Declaration**") in connection with the review of the Site Plan Modification. Developer requested and the City approved a Site Plan Modification that allows for up to 30,200 square feet of expansion space for the Vacant Anchor Building B and up to 6,511 square feet of expansion of two restaurant spaces within the Mall. The City approved the Site Plan Modification and adopted the Negative Declaration on January 11, 2012.

L. Developer filed an application for a Development Agreement, pursuant to Victorville Municipal Code ("**VMC**") Section 16-3.19.20 of the Development Agreement Statutes, on or around February 2012 (the "**Development Application**"). The Development Application was designated by the City as Application No. PLN12-00014. The Development Application is for the planned redevelopment of the Mall Property that would allow for the following (the "**Project**"): (a) the Mall Entry Remodel Work; (b) the Penney Expansion Work; (c) the Macy's Remodel Work; (d) the New Shop Space; (e) upgrade for the In-Line Retail Space; (f) the new pylon sign with an electronic reader board; and (g) related improvements, all as shown on the Project plans and elevations attached to this Agreement as Exhibit "B" (the "**Project Plans**"). The Project is more fully described in this Agreement.

M. Developer has paid all necessary costs and fees associated with the City's processing of the Development Application and this Agreement.

N. The primary purpose of the Project is to permit Developer to construct the Project on the Developer Property (including the Penney Expansion Work), permit Macy's to construct the Macy's Remodel Work on the Macy's Parcel, and thereby provide the Commercial zone with a revitalized regional shopping center including contemporary anchor stores. The Parties agree that but for the assistance being provided pursuant to the terms of this Development Agreement, there is a significant risk that the Mall could continue to experience a slow but steady decline in economic activity. This is especially true given the age of the Mall which opened in 1987. Over the last several years, the Mall has suffered from a steady decline in sales tax revenues and has seen an increase in retail space vacancies. These effects have been exacerbated by the global

economic downturn and must be reversed in order to insure the continued vitality of this regional shopping center. The Project would increase sales taxes above current levels by redeveloping the Mall Property and thus attracting a more diverse shopping population, through an increased focus on adult fashion and high quality retail products as well as reducing the potential for the diverse retail shopping needs of Victor Valley residents to be served by regional malls outside of the Victor Valley. Over the life of this Agreement, it is important for the Mall to remain competitive with regional malls located outside the Victor Valley region that are competing for local retail sales. A successful redevelopment would cause the Mall to become more of a destination for the regional shopper and would likely generate increased sales tax revenues, thereby providing revenues to the City of Victorville in the long term that may be used to satisfy its public service needs, including the creation of new local jobs and an increase in police and fire service levels. The State of California's recent adoption of AB x1 26 and the resulting elimination of redevelopment agencies and forms of assistance available to redevelopment agencies has further increased the necessity for the City to provide the assistance set forth in this Agreement. The City cannot rely upon any form of redevelopment agency assistance to the Mall. Therefore, without this Agreement, the City would have no meaningful ability to support the Developer's rehabilitation and redevelopment of the Mall. The financial assistance provided to Developer in this Agreement is necessary to prevent increased vacancies and the corresponding reduction of sales tax revenues from the Mall. The City relies upon the sales tax revenues from the Mall as a significant source of revenue that is used to provide to the citizens of the City many of the necessary public services, such as police and fire public safety services. The Parties desire to enter into this Agreement in conformance with the Development Agreement Statutes in order to achieve the development of the Project on the Mall Property and to confirm for Developer that the existing land use and zoning designations will continue to apply to the entire Mall Property. For all purposes of this Agreement, the term "**retail**" includes, without limitation, restaurants, entertainment, and commercial service uses common to a first class shopping center.

O. The Parties likewise desire to provide a land use on the Mall Property consistent with the Commercial land use designation under the City's General Plan and provide Developer the opportunity to redevelop the existing retail mall as a revitalized fashion-anchored regional mall development, including additional in-line retail tenants at the Developer Property. The development of the Project at the Mall Property will enhance the sales and operations at the Mall Property, increase the sales tax revenues available to the City, and provide additional public benefits, all in the promotion of the health, safety, and general welfare of the residents of the City. The Project will be a vital part of the redevelopment of the Commercial land use area nearby Interstate 15 and requires the assurances set forth in this Development Agreement with respect to the identification of specific development standards and requirements in order to accommodate the development of the Project on the Mall Property.

P. The City Council has determined that a development agreement is appropriate for the proposed development of the Mall Property. This Agreement will (1) eliminate uncertainty in planning for the Project and will secure the orderly development of the Project, (2) assure installation of necessary improvements on the Mall Property, (3) secure for the City improvements that benefit the public, and (4) otherwise achieve the goals and purposes for which the Development Agreement Statutes were enacted.

Q. This Agreement is consistent with the public health, safety, and welfare needs of the residents of the City and the surrounding region. The City has specifically considered and approved the impact and benefits of the development of the Project on the Mall Property in accordance with this Agreement upon the welfare of the City and the region. The Project will provide a number of public benefits, including without limitation, the following: (i) retaining an important retail center in the City; (ii) providing for the redevelopment of the Mall Property into a revitalized fashion-anchored regional mall that will contain substantial additional retail area and is likely to substantially increase sales tax revenues to the City; (iii) causing the Macy's or an Approved Substitute Anchor to enter into a long term operating covenant for Vacant Anchor Building B; (iv) causing Penney or an Approved Substitute Anchor to enter into a long term operating covenant for Vacant Anchor Building A; (v) retaining and providing additional high paying skilled jobs; (vi) increasing the likelihood that, through redevelopment of the Mall, sales tax revenues generated from retail sales at the Mall will increase over time and provide additional revenue to the City; and (vii) improving the aesthetics of the Mall Property by improving the facades of Vacant Anchor Buildings to be occupied by the Anchor Stores, renovating the Mall Entries, and enhancing landscaping in selected areas of the Mall Property.

R. The City Council has found that the provisions of this Development Agreement are consistent with the relevant provisions of (1) the City's General Plan and (2) the Zoning Ordinance, including the standards of the Commercial zone.

S. On July 11, 2012, the City's Planning Commission held a duly noticed public hearing on the Development Application. The Commission adopted Resolution P-12-032 and recommended that this Agreement be approved by the City Council, based upon its compatibility with the City's General Plan, conditioned upon the inclusion of Section 12.21 in this Agreement.

T. On July 17, 2012, the City Council held a duly noticed public hearing on the Development Application and at such hearing the City Council introduced Ordinance No. 2291 for first reading, approving this Agreement and made a finding that the Negative Declaration adequately evaluated all of the environmental impacts of the Project and the rights of the applicant under this Agreement would not allow for any expansion, construction or changes to the Mall Property that were not evaluated in the Negative Declaration.

U. On August 7, 2012, the City Council adopted Ordinance No. 2291.

NOW THEREFORE, in consideration for the covenants and conditions hereinafter set forth, the Parties hereto do hereby agree as follows:

ARTICLE 1

DEFINITIONS

The terms defined below have the meanings in this Agreement as set forth below.

1.1 “**Agreement**” means this Development Agreement entered into between the City and Developer as of the Effective Date.

1.2 “**Approved Substitute Anchor**” has the meaning set forth in Section 2.5.5 below.

1.3 “**Assistance Amount**” for a Measurement Year means the amount by which the actual Sales Tax Revenues (after excluding Excluded Sales Tax Revenues) for such Measurement Year exceeds One Million Dollars (\$1,000,000.00). The following is provided to illustrate how the calculation shall be applied:

1.3.1 If in any Measurement Year, Sales Tax Revenues do not exceed \$1,000,000.00, the Assistance Amount in such Measurement Year shall equal zero.

1.3.2 Assume that in a Measurement Year the Sales Tax Revenues are equal to \$1,200,000, then in that Measurement Year the Assistance Amount would be \$200,000.

1.4 “**Assistance Payments**” means all of the payments of Assistance Amounts that are actually paid by the City to Developer pursuant to Section 5.1 below.

1.5 “**Breach**” has the meaning set forth in Section 9.1.1 below.

1.6 “**Certificate of Performance**” has the meaning set forth in Section 12.17 below.

1.7 “**City Council**” means the City Council of the City of Victorville, or its designee.

1.8 “**City’s General Plan**” or “**General Plan**” means the applicable General Plan of the City of Victorville.

1.9 “**Developer**” means Macerich Victor Valley LLC, a Delaware limited liability company, its successors and assigns.

1.10 “**Discretionary Approvals**” are actions which require the exercise of judgment or a discretionary decision, and which contemplate and authorize the imposition of revisions or additional conditions, by the City, including any board, commission, or department of the City and any officer or employee of the City. Discretionary Approvals do not include any Ministerial Approvals.

1.11 “**Effective Date**” has the meaning set forth in Section 7.1 below.

1.12 “**Estoppel Certificate**” has the meaning set forth in Section 12.6 below.

1.13 “**Event of Monetary Default**” has the meaning set forth in Section 9.2 below.

1.14 “**Event of Non-Monetary Default**” has the meaning set forth in Section 9.3.1 below.

1.15 “**Excluded Retailers**” means any person or entity operating a commercial retail store or restaurant (in either case, exceeding 2,000 square feet) in another part of the City of Victorville that executes a lease with Developer for space at the Mall and then closes its existing retail operation elsewhere in the City of Victorville so that such retailer can open the same or similar retail store or restaurant at the Mall during the Term of this Agreement. The purpose for this definition is to help determine Prior Established Sales Taxes defined in Section 5.1.2 so that Prior Established Sales Taxes may be excluded from the calculation of the Assistance Amount. The Parties intend that the term “Excluded Retailer” will include only a retailer operating in the City of Victorville immediately prior to opening the same or similar retail store or restaurant at the Mall. The Parties intend that the term “Excluded Retailer” will not include any retailer who closes its retail operation in the City of Victorville more than twelve months prior to opening the same or similar retail store or restaurant at the Mall.

1.16 “**Excluded Sales Taxes**” means, with respect to a Measurement Year, the aggregate of the Prior Established Sales Taxes for all of the Excluded Retailers operating at the Mall during such Measurement Year. The Excluded Sales Taxes are intended to be combined threshold for excluding certain sales taxes from the calculation of Sales Tax Revenues. As an example of the foregoing, if in a Measurement Year there are three Excluded Retailers operating at the Mall, and those three Excluded Retailers had been generating \$600,000, \$300,000, and \$100,000 of Prior Established Sales Taxes per year prior to moving their operations to the Mall, then the Excluded Sales Taxes for such Measurement Year would be \$1,000,000 (i.e. the aggregate of all of the Prior Established Sales Taxes for all three of the Excluded Retailers). In such example, if the aggregate of all of the sales taxes generated by the three Excluded Retailers at the Mall in the Measurement Year was equal to \$1,150,000, then for purposes of calculating Sales Tax Revenues for such Measurement Year, Developer would include only \$150,000 of sales taxes from those three Excluded Retailers as part of the Sales Tax Revenues for such Measurement Year.

1.17 “**Existing Regulations**” has the meaning set forth in Section 4.1.1 below.

1.18 “**Final Measurement Year**” means the calendar year 2039.

1.19 “**Hearing Notice**” has the meaning set forth in Section 9.4.2 below.

1.20 “**Including**” means “including, but not limited to.”

1.21 “**Legal Action**” means any action in law or equity.

1.22 “**Logically Evolve**” means a refinement or amplification of the Project Plans into subsequently approved architectural drawings and design material which flow naturally and foreseeably from the Project Plans, which reflect good architectural design and engineering design, and local construction practices, code requirements, applicable plan check and permit conditions.

1.23 “**Macy’s Operating Condition**” has the meaning set forth in Section 2.5.4 below.

1.24 “**Macy’s Operating Covenant**” means the operating covenant and all of its terms and conditions, to be provided by Macy’s in favor of Developer in connection with the closing of the transaction providing for the conveyance of the Macy’s Parcel to Macy’s or its 1031 Exchange accommodator, or a substantially similar operating covenant executed by an Approved Substitute Anchor for its retail operations in the Vacant Anchor Building B.

1.25 “**Macy’s Operating Period**” means a period of 120 consecutive calendar months, commencing on the date that the Public Opening – Macy’s occurs.

1.26 “**Measurement Year**” means any year during the Term of this Agreement; provided that the last Measurement Year shall be the Final Measurement Year.

1.27 “**Ministerial Approval**” means an action which merely requires the City (including any board, commission, or department of the City and any officer or employee of the City), in the process of approving or disapproving a permit or other entitlement, to determine whether there has been compliance with applicable statutes, ordinances, regulations, or conditions of approval.

1.28 “**Mortgage**” has the meaning set forth in Section 10.1 below.

1.29 “**Notice of Breach**” has the meaning set forth in Section 9.1.1 below.

1.30 “**Parties**” mean both City and Developer and “**Party**” means either City or Developer, as applicable.

1.31 “**Penney Operating Condition**” has the meaning set forth in Section 2.5.3 below.

1.32 “**Penney Operating Covenant**” means the operating covenant and all of its terms and conditions, to be provided by Penney in favor of Developer approximately concurrently with the closing of the transaction providing for the leasing to Penney of the Vacant Anchor Building A, or a substantially similar operating covenant executed by an Approved Substitute Anchor for its retail operations in the Vacant Anchor Building A.

1.33 “**Penney Operating Period**” means a period of 84 consecutive calendar months, commencing on the date that the Public Opening – Penney occurs.

1.34 “**Periodic Review**” has the meaning set forth in Section 8.1 below.

1.35 “**Permitted Macy’s Substitute**” means any entity that operates a retail department store in Vacant Anchor Building B under any trade name or trade dress that is allowed pursuant to the terms of the Macy’s Operating Covenant.

1.36 “**Prior Established Sales Taxes**” with respect to an Excluded Retailer has the meaning set forth in Section 5.1.3 below.

1.37 “**Property Transferee**” has the meaning set forth in Section 11.1.2 below.

1.38 “**Public Opening – Macy’s**” means that Macy’s, a Permitted Macy’s Substitute, or an Approved Substitute Anchor has opened for business to the public in Vacant Anchor Building B.

1.39 “**Public Opening - Penney**” means that Penney or an Approved Substitute Anchor has opened for business to the public in Vacant Anchor Building A.

1.40 “**Repeated Default Amount**” has the meaning set forth in Section 9.3.4 below.

1.41 “**Repeated Default Period**” has the meaning set forth in Section 9.3.4 below.

1.42 “**Request for Notice**” has the meaning set forth in Section 10.1.2 below.

1.43 “**Sales Tax Revenues**” means, with respect to a Measurement Year, the difference, if any, between (a) that portion of sales taxes accrued on account of sales made from the Mall Property during such Measurement Year and that would be payable to the City from the SBOE minus (b) any Excluded Sales Taxes; provided that such sales taxes are or will be legally available for use by the City’s General Fund which use is not otherwise restricted by the state or federal government, from the imposition of the Bradley Burns Uniform Local Sales and Use Tax Law (commencing with Section 7200 of the California Revenue and Taxation Code, as amended). As used in this definition, the phrase “on account of sales made from the Mall Property” regarding sales taxes means all sales taxes that are derived from, accrue, arise in connection with or are on account of any and all businesses conducted on the Mall Property, including without limitation the sales of goods and services at or from the Mall Property, determined in accordance with existing law or any subsequent changes to the applicable portions of the

Bradley Burns Uniform Local Sales and Use Tax Law. For purposes of clarity, the term “Sales Tax Revenue” is intended to mean only the approximate 1% of sales tax receipts disbursed from the State Board of Equalization to the City, and is not intended to mean the entire 8.25% sales tax amount (or different percentage from time to time) required to be collected by retailers for taxable sales, during the Term of this Agreement.

1.44 “**SBOE**” means the California State Board of Equalization or its successor agency.

1.45 “**Secured Lender**” has the meaning set forth in Section 10.1 below.

1.46 “**Secured Lender’s Cure Period**” has the meaning set forth in Section 10.1.2 below.

1.47 “**Subsequent Code Changes**” has the meaning set forth in Section 4.1.1 below.

1.48 “**Term**” has the meaning set forth in Section 7.2.1 below.

1.49 “**Termination Certificate**” has the meaning set forth in Section 7.2.3 below.

1.50 “**Unavoidable Delay**” means a delay due to domestic war, acts of terrorism, insurrection, strikes, lock-outs, other labor disputes, area-wide labor or material shortages, riots, civil disturbances, floods, earthquakes, fires, windstorms, hail, casualties, natural disasters, acts of God, acts of the public enemy, epidemics, quarantine restrictions, domestic freight embargoes, lack of transportation attributable to any of these, acts or failure to act of the other party, acts or the failure to act of any public or governmental agency or entity (except that acts or failure to act of the City or any agency, board, department or other instrumentality or representative of the City shall not excuse performance by the City), legal or governmental restrictions on priority, initiative or referendum, moratoria, unusual delay in processing with governmental agencies, unusually severe weather, third party claims, administrative challenge or litigation of this Agreement or any entitlements issued by the City with respect to the Mall Property, or any other causes beyond the control or without the fault of the party claiming an extension of time to perform. Unavoidable Delay does not include delays resulting from a lack of funding or financing.

1.51 “**Zoning Ordinance**” means Title 16 (Development Code), Chapter 3 (Zoning and Land Use Requirements) of the VMC.

ARTICLE 2

DESCRIPTION OF THE PROJECT

2.1 General Description. The Project includes all aspects of the proposed development of the Mall Property as more particularly described in this Agreement and (for design purposes only) on the Project Plans; as such plans may Logically Evolve. If there is a conflict or inconsistency regarding the design or any aesthetic element of the Project between the text of this Agreement and the Project Plans, the Project Plans will prevail.

2.1.1 Principal Components of the Project. The Project will include the following principal components:

- (a) The Penney Expansion Work;
- (b) The Macy's Remodel Work;
- (c) The New Shop Space;
- (d) The Mall Entry Remodel Work; and
- (e) The new pylon sign with an electronic reader board.

2.2 No Obligation to Develop.

2.2.1 No Obligation to Develop. Notwithstanding any provisions of this Agreement to the contrary:

- (a) Nothing in this Agreement shall be construed to require Developer to commence or complete the Project.
- (b) The decision to proceed or to forbear or delay in proceeding with implementation or construction of the Project or any portion thereof shall be in Developer's sole discretion.
- (c) Failure by Developer to proceed with construction or implementation of the Project or any portion thereof shall not give rise to any liability, claim for damages or cause of action against Developer.

2.2.2 Vested Rights Continue. Failure by Developer to proceed with construction or implementation of the Project or any portion thereof shall not result in any loss or diminution of development rights, except upon expiration of Developer's vested rights pursuant to this Agreement or early termination of this Agreement pursuant to Section 7.3 below.

2.2.3 Mitigation Measures. Notwithstanding any provision of this Section 2.2 to the contrary, if Developer elects to construct the Project, or portion thereof, then Developer shall be required to implement all applicable mitigation measures and conditions required under this Agreement, in accordance with Exhibit “C” and Exhibit “D” attached to this Agreement.

2.3 Vested Rights.

2.3.1 Approval of Project Plans. The City hereby approves the Project Plans. The City shall maintain a complete copy of the Project Plans, stamped “Approved” by the City, in the Office of the City Clerk, and Developer shall maintain a complete copy of the Project Plans, stamped “Approved” by the City, in its offices at the Project site. The Project Plans to be maintained by the City and Developer shall be a half-size set. Further detailed plans for the construction of the buildings and improvements, including, without limitation, structural plans and working drawings shall be developed by Developer subsequent to the Effective Date based upon the Project Plans. Any such further detailed plans shall be deemed approved by the City to the extent that they Logically Evolve from the Project Plans and are not inconsistent with the development standards set forth herein or in the Existing Regulations.

2.3.2 Right to Develop. During the Term, Developer shall have the vested rights (the “**Vested Rights**”) to (a) develop and construct the Project in accordance with the following: (i) the Project Plans, as such Plans may Logically Evolve; and (ii) the requirements and obligations of Developer related to the improvements which are specifically set forth in this Agreement; (b) except for the limitations in clause (c) below, use and occupy the Mall for any uses permitted in the Commercial zone; and (c) use and occupy the New Shop Space and the In-Line Retail Space only for those permitted uses set forth in Section 2.4. Developer intends to construct the Project in phases. The City shall have no further discretion over the elements of the Project which have been delineated in the Project Plans (as the same may be modified from time to time in accordance with this Agreement).

2.4 Permitted Uses. Subject to those uses that may otherwise be approved pursuant to Section 6.1 of this Agreement, Exhibit “E” shall govern permitted and ancillary uses within the New Shop Space and In-Line Retail Space.

2.5 Public Benefits.

2.5.1 Local and Regional Public Benefits. This Agreement provides assurances that the public benefits identified below in this Section 2.5 will be achieved and developed in accordance with the terms of this Agreement. The Project will provide local and regional public benefits to the City, including without limitation: (i) increasing tax revenues; (ii) providing new high quality retail space in order to retain and attract retail, entertainment and hospitality jobs; and (iii) the retention by the Mall of its stature as a regional shopping center destination for the City and the surrounding region. These benefits shall enable the City to provide increased public safety services and reduce the effects of economic and physical blight that would otherwise occur if the Project was not

developed. The Project would improve the health, safety and welfare of the Victor Valley residents by (i) retaining an important retail center in the City; (ii) providing for the redevelopment of the Mall Property into a revitalized fashion-anchored regional mall that will contain substantial additional retail area and is likely to substantially increase sales tax revenues to the City; (iii) retaining and providing additional high paying skilled jobs; (iv) increasing the likelihood that, through redevelopment of the Mall, sales tax revenues generated from retail sales at the Mall will increase over time and provide additional revenue to the City; and (v) improving the aesthetics of the Mall Property by improving the facades of Vacant Anchor Buildings to be occupied by the Anchor Stores, renovating the Mall Entries, and enhancing landscaping in selected areas of the Mall Property. The Parties agree that but for the assistance being provided pursuant to the terms of this Agreement, there is a significant risk that the Mall would continue to experience a slow but steady decline in economic activity. This is especially true given the age of the Mall which opened in 1987. Over the last several years, the Mall has suffered from a steady decline in sales tax revenues and has seen an increase in retail space vacancies. These effects have been exacerbated by the global economic downturn and must be reversed in order to insure the continued vitality of this regional shopping center. The State of California's recent adoption of AB x1 26 and the resulting elimination of redevelopment agencies and forms of assistance available to redevelopment agencies has further increased the necessity for the City to provide the assistance set forth in this Agreement. The City cannot rely upon any form of redevelopment agency assistance to the Mall. Therefore, without this Agreement, the City would have no meaningful ability to support the Developer's rehabilitation and redevelopment of the Mall. The financial assistance provided to Developer in this Agreement is necessary to prevent increased vacancies and the corresponding reduction of sales tax revenues from the Mall. The City relies upon the sales tax revenues from the Mall as a significant source of revenue that is used to provide to the citizens of the City many of the necessary public services, such as police and fire public safety services.

2.5.2 Project Conditions. Developer must satisfy the Project Conditions (as such term is defined in Section 5.1) as conditions precedent to the City's obligation to make the first Assistance Payment under this Agreement.

2.5.3 Penney Operating Condition. The "**Penney Operating Condition**" means Penney (or an Approved Substitute Anchor) is continuously open to the public as a retail store in Vacant Anchor Building A, subject to the terms and conditions of the Penney Operating Covenant (or an operating covenant of a similar duration from an Approved Substitute Anchor), during its normal business days and hours during such Measurement Year or portion thereof which occurs during the Penney Operating Period (except for temporary periods of closure that are permitted by the Penney Operating Covenant or otherwise for holidays, special events, inventory, stocking, employee training, repairs, alterations, remodeling and the like, and except for periods of closure due to Unavoidable Delay). During any part of the Penney Operating Period that the Penney Operating Condition is not being complied with by Penney (or an Approved Substitute Anchor) (a "**Penney Non-Operating Period**"), the City, as its sole and exclusive remedy for any such failure of the Penney Operating Condition, may temporarily withhold payment of Assistance Payments in accordance with this

Section 2.5.3. After the commencement of a Penney Non-Operating Period, such Penney Non-Operating Period shall end on the date that Penney (or an Approved Substitute Anchor) reopens for business to the public as a retail store in Vacant Anchor Building A (a “**Penney Reopening Date**”). Accordingly, during any Penney Non-Operating Period, the City may elect to defer any Assistance Payments otherwise payable under this Agreement during each Penney Non-Operating Period, commencing any time during a Penney Non-Operating Period and continuing until the applicable Penney Reopening Date. The City shall pay all such deferred Assistance Payments to Developer within sixty (60) days after the applicable Penney Reopening Date. After the end of the Penney Operating Period, the City shall have no further right to defer payments of any Assistance Payments under this Section 2.5.3.

2.5.4 Macy’s Operating Condition. The “**Macy’s Operating Condition**” means Macy’s, a Permitted Macy’s Substitute, or an Approved Substitute Anchor, is continuously open to the public as a retail store in Vacant Anchor Building B, subject to the terms and conditions of the Macy’s Operating Covenant (or an operating covenant of a similar duration from a Permitted Macy’s Substitute or from an Approved Substitute Anchor), during its normal business days and hours during such Measurement Year or portion thereof which occurs during the Macy’s Operating Period (except for temporary periods of closure that are permitted by the Macy’s Operating Covenant or otherwise for holidays, special events, inventory, stocking, employee training, repairs, alterations, remodeling and the like, and except for periods of closure due to Unavoidable Delay). During any part of the Macy’s Operating Period that the Macy’s Operating Condition is not being complied with by Macy’s, a Permitted Macy’s Substitute, or an Approved Substitute Anchor (a “**Macy’s Non-Operating Period**”), the City, as its sole and exclusive remedy for any such failure of the Macy’s Operating Condition, may temporarily withhold payment of Assistance Payments in accordance with this Section 2.5.4. After the commencement of a Macy’s Non-Operating Period, such Macy’s Non-Operating Period shall end on the date that Macy’s, a Permitted Macy’s Substitute, or an Approved Substitute Anchor reopens for business to the public as a retail store in Vacant Anchor Building B (a “**Macy’s Reopening Date**”). Accordingly, during any Macy’s Non-Operating Period, the City may elect to defer any Assistance Payments otherwise payable under this Agreement during each Macy’s Non-Operating Period, commencing any time during a Macy’s Non-Operating Period and continuing until the applicable Macy’s Reopening Date. The City shall pay all such deferred Assistance Payments to Developer within sixty (60) days after the applicable Macy’s Reopening Date. After the end of the Macy’s Operating Period, the City shall have no further right to defer payments of any Assistance Payments under this Section 2.5.4.

2.5.5 Approved Substitute Anchor.

(a) Approval Prior to Public Opening. Prior to the date on which the Public Opening – Penney occurs, Developer may request that the City approve an occupant for Vacant Anchor Building A other than Penney. Prior to the date on which the Public Opening – Macy’s occurs Developer may request that the City approve an occupant for Vacant Anchor Building B other than Macy’s or a Permitted Macy’s Substitute. In either of the foregoing cases, Developer shall submit to City a written

notice stating the name of the proposed substitute retailer, together with such information about the product lines sold by such entity, information regarding the locations and types of operations, and the financial abilities of such entity, all as the City may reasonably request. Within thirty (30) days of such request, the City shall review the information submitted and then shall deliver written notice to Developer stating whether such proposed substitute retailer is acceptable to the City. The City shall not unreasonably withhold, condition, or delay its approval of the proposed substitute retailer; provided that the retailer is a nationally or regionally recognized fashion anchor retailer. Any such approved substitute retailer shall be an “**Approved Substitute Anchor.**” If, pursuant to this Section 2.5.5(a), the City approves an Approved Substitute Anchor to occupy Vacant Anchor Building A in lieu of Penney, then the date on which such Approved Substitute Anchor opens for business to the public in Vacant Anchor Building A shall be deemed to be the Public Opening – Penney for all purposes under this Agreement. If, pursuant to this Section 2.5.5(a), the City approves an Approved Substitute Anchor to occupy Vacant Anchor Building B in lieu of Macy’s or a Permitted Macy’s Substitute, then the date on which such Approved Substitute Anchor opens for business to the public in Vacant Anchor Building B shall be deemed to be the Public Opening – Macy’s for all purposes under this Agreement.

(b) Approval After Public Opening. After the date on which the Public Opening – Penney occurs, Developer may request that the City approve an occupant for Vacant Anchor Building A other than the entity (whether Penney or an Approved Substitute Anchor) that caused the Public Opening – Penney to occur. The proposed new occupant for Vacant Anchor Building A must deliver to Developer a new Penney Operating Covenant and the term of such new Penney Operating Covenant shall be for the unexpired portion of the Penney Operating Period on the date executed by the new retailer. After the date on which the Public Opening – Macy’s occurs, Developer may request that the City approve an occupant for Vacant Anchor Building B other than the entity (whether Macy’s, a Permitted Macy’s Substitute, or an Approved Substitute Anchor) that caused the Public Opening – Macy’s to occur. The proposed new occupant for Vacant Anchor Building B must deliver to Developer a new Macy’s Operating Covenant and the term of such new Macy’s Operating Covenant shall be for the unexpired portion of the Macy’s Operating Period on the date executed by the new retailer. In either of the foregoing cases, Developer shall submit to City a written notice stating the name of the proposed substitute retailer, together with such information about the product lines sold by such entity, information regarding the locations and types of operations, and the financial abilities of such entity, all as the City may reasonably request. Within thirty (30) days of such request, the City shall review the information submitted and then shall deliver written notice to Developer stating whether such proposed substitute retailer is acceptable to the City. The City shall not unreasonably withhold, condition, or delay its approval of the proposed substitute retailer; provided that the retailer is a nationally or regionally recognized fashion anchor retailer. Any such approved substitute retailer shall also be an Approved Substitute Anchor.

(c) Requirements to Obtain the City Approval of an Approved Substitute Anchor. Developer shall only be required to obtain the consent of the City for any Approved Substitute Anchor pursuant to this Section 2.5.5 for the following reasons

(and no others): (i) to satisfy the Project Conditions set forth in Section 5.1.1(a) or Section 5.1.1(b); (ii) to cause a Penney Reopening Date to occur pursuant to Section 2.5.3; or (iii) to cause a Macy's Reopening Date to occur pursuant to Section 2.5.4. Nothing in this Section 2.5.5 shall be deemed or construed to restrict the use or occupancy of either of the Vacant Anchor Buildings.

2.5.6 Operation of the Developer Property. Other than Vacant Anchor Buildings, during each Measurement Year commencing with the Measurement Year in which the Project Conditions are first satisfied, Developer shall keep and maintain or cause to be kept and maintained the Developer Property and the improvements thereon and all facilities appurtenant thereto, in good order and repair and safe condition, and the whole of the Developer Property, in a clean, sanitary, and orderly condition free from debris, graffiti and waste materials.

ARTICLE 3

PROJECT FEES, EXACTIONS, MITIGATION MEASURES AND CONDITIONS

3.1 Fees, Exactions, Mitigation Measures and Conditions.

3.1.1 Fees and Exactions. Developer shall be responsible for the payment of only those fees and exactions as are expressly set forth on Exhibit "C" in connection with the development of the Project. All fees shall be calculated based on the net new Floor Area resulting from the Project.

3.1.2 Mitigation Measures and Conditions of Approval. Developer shall be responsible for the implementation of only those mitigation measures and conditions of approval as are expressly set forth on Exhibit "D" attached hereto.

3.2 Permitted Fees, Exactions, Mitigation Measures and Conditions. Except as expressly set forth in Section 3.3 (relating to modifications) and Section 4.3.1 (relating to Subsequent Code Changes) below, the City shall charge and impose only those fees, exactions, mitigation measures and conditions, including, without limitation, dedications and any other fees relating to development or the privilege of developing the Developer Property, as are expressly set forth in Exhibit "C" attached hereto, and no others. Unless provided for otherwise in Exhibit "C", the City may not increase any such fees, mitigation measures, conditions or exactions and the City may not charge any fees or exactions that are not listed on Exhibit "C". If any of the mitigation measures or conditions set forth on Exhibit "D" is satisfied by others, Developer shall be deemed to have satisfied such measures or conditions.

3.3 Conditions on Modifications. The City may impose fees, exactions, mitigation measures and conditions in connection with its approval of Major Modifications, provided that all fees, exactions, mitigation measures and conditions shall be in accordance with applicable law.

ARTICLE 4

EFFECT OF AGREEMENT ON CITY LAWS AND REGULATIONS

4.1 Development Standards for the Developer Property; Existing Regulations. The following development standards and restrictions set forth in this Section 4.1 govern the use and development of that portion of the Project to be constructed on the Developer Property and shall constitute the Existing Regulations, except as otherwise expressly required by this Agreement.

4.1.1 Defined Terms. The following terms shall have the meanings set forth below:

(a) **“Existing Regulations”** collectively means all of the following which are in force and effect as of the Effective Date: (i) the General Plan; (ii) the Zoning Ordinance (including the provisions of the Commercial zone) except as modified herein; (iii) any and all ordinances, rules, regulations, standards, specifications and official policies of the City governing, regulating or affecting the demolition, grading, design, development, building, construction, occupancy or use of buildings and improvements or any exactions therefore, except as amended by this Agreement; and (iv) the development standards and procedures in Article 2 of this Agreement.

(b) **“Subsequent Code Changes”** collectively means all of the following which are adopted or approved subsequent to the Effective Date, whether such adoption or approval is by the City Council, any department, division, office, board, commission or other agency of the City, by the people of the City through charter amendment, referendum, initiative or other ballot measure, or by any other method or procedure: (i) any amendments, revisions, additions or deletions to the Existing Regulations; or (ii) new codes, ordinances, rules, regulations, standards, specifications and official policies of the City governing or affecting the grading, design, development, construction, occupancy or use of buildings or improvements or any exactions therefor. “Subsequent Code Changes” includes, without limitation, any amendments, revisions or additions to the Existing Regulations imposing or requiring the payment of any fee, special assessment or tax.

4.1.2 Existing Regulations Govern the Project. Except as provided in Section 4.2, development of the buildings and improvements that will comprise the Project, including without limitation, the development standards for the demolition, grading, design, development, construction, occupancy or use of such buildings and improvements, and any exactions therefor, shall be governed by the Existing Regulations. Any provisions of the Existing Regulations inconsistent with the provisions of this

Agreement, to the extent of such inconsistencies and not further are hereby deemed modified to that extent necessary to effectuate the provisions of this Agreement. The Project shall be exempt from: (a) all Discretionary Approvals or review by the City or any agency or body thereof, other than the limited matters of architectural review as specified in Section 4.2; provided that any architectural review shall be ministerial in nature; (b) the application of any subsequent local development or building moratoria, development or building rationing systems or other restrictions on development which would adversely affect the rate, timing, or phasing of construction of the Project; and (c) Subsequent Code Changes which are inconsistent with this Agreement.

4.2 No Further Architectural Review. Most elements of the design review process have been incorporated in the review process of this Agreement and will be considered and approved by the City Council pursuant to this Agreement. Therefore, no further architectural review shall be required for any portion of the Project reflected on the Project Plans, including any features or matters which have been specifically approved by this Agreement or in the Project Plans or in any plans or specifications that Logically Evolve from the Project Plans (including without limitation height, intensity, setbacks, and the structural design of the Project). Notwithstanding anything to the contrary in the Existing Regulations, Developer shall not be required to obtain any approvals or consents from any department or division of the City for the installation of the new pylon sign with an electronic reader board; provided that the pylon and sign that are actually installed substantially conform to the drawings for such pylon and sign included in the Project Plans. Developer shall develop plans for the exterior Mall improvements that result in the Mall, in its entirety, being architecturally compatible with the Project Plans provided for as Exhibit "B".

4.3 Permitted Subsequent Code Changes.

4.3.1 Notwithstanding the terms of Section 4.1, this Agreement shall not prevent the City from applying to the Project the Subsequent Code Changes set forth below in this Section 4.3.1.

(a) Processing fees and charges imposed by the City to cover the estimated actual costs to City of processing applications for development approvals.

(b) General or special taxes, including, but not limited to, property taxes, sales taxes, parcel taxes, transient occupancy taxes, business taxes, which may be applied to the Developer Property or to businesses occupying the Developer Property, provided that the tax is of general applicability City-wide and does not burden the Developer Property disproportionately to other commercial developments within the City.

(c) Procedural regulations relating to hearing bodies, petitions, applications, notices, documentation of findings, records, manner in which hearings are conducted, reports, recommendations, initiation of appeals, and any other matters of procedure; provided such regulations are uniformly imposed by the City on all matters, do not result in any unreasonable decision-making delays and do not affect the

substantive findings by the City in approving this Agreement or as otherwise established in this Agreement.

(d) Regulations governing construction standards and specifications which are of general application that establish standards for the construction and installation of structures and associated improvements, including, without limitation, the City's Building Code, Plumbing Code, Mechanical Code, Electrical Code and Fire Code; provided that such construction standards and specifications are applied on a City-wide basis and do not otherwise limit or impair the Project approvals granted in this Agreement.

(e) Any City regulations to which Developer has consented in writing.

(f) Collection of such fees or exactions as are imposed and set by governmental entities not controlled by City but which are required to be collected by City.

(g) Regulations which do not impair the rights and approvals granted to Developer under this Agreement. For the purposes of this Section 4.3.1(g), regulations which impair Developer's rights or approvals include, but are not limited to, regulations which (i) materially increase the cost of the Project (except as provided in Section 4.3.1(a) and Section 4.3.1(b) above) or (ii) which would materially delay development of the Project.

4.3.2 This Agreement shall not be construed to prevent the City from applying new rules, regulations and policies in those circumstances specified in Government Code Section 65866.

4.3.3 If state or federal laws or regulations, enacted after the Effective Date, prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations; provided that this Agreement shall remain in full force and effect to the extent it is not inconsistent with such laws or regulations and to the extent such laws or regulations do not render such remaining provisions impractical to enforce.

4.4 Common Set of Existing Regulations. Prior to the Effective Date, the City and Developer shall use reasonable efforts to identify, assemble and copy three identical sets of the Existing Regulations to be retained by the City and Developer, so that if it becomes necessary in the future to refer to any of the Existing Regulations, there will be a common set of the Existing Regulations available to all Parties.

4.5 Conflicting Enactments. Except as provided in Section 4.3.1 above, any Subsequent Code Change which would conflict in any way with or be more restrictive than the Existing Regulations shall not be applied by the City to any part of the Developer Property. Developer may, in its sole discretion, give the City written notice of its election to have any Subsequent Code Change applied to such portion of the

Developer Property as it may own, in which case such Subsequent Code Change shall be deemed to be an Existing Regulation insofar as that portion of the Developer Property is concerned. If there is any conflict or inconsistency between the terms and conditions of this Agreement and the Existing Regulations, the terms and conditions of this Agreement shall control.

4.6 Timing of Development. The California Supreme Court held in Pardee Construction Co. v. City of Camarillo, 37 Cal.3d 465 (1984), that failure of the parties in that case to provide for the timing of development resulted in a later adopted initiative restricting the timing of development to prevail over such parties' agreement. It is the intent of Developer and the City to cure that deficiency by expressly acknowledging and providing that any Subsequent Code Change that purports to limit over time the rate or timing of development or to alter the sequencing of development phases (whether adopted or imposed by the City Council or through the initiative or referendum process) shall not apply to the Developer Property or the Project and shall not prevail over this Agreement. In particular, but without limiting any of the foregoing, no numerical restriction shall be placed by the City on the amount of total square feet of buildings or structures that can be built each year on the Mall Property; provided that the development of the Project shall be consistent with the terms of this Agreement.

4.7 Certificates of Occupancy. Developer contemplates that the Project may be constructed in phases and upon the completion of any one Building in the Project, tenants or Developer or its affiliates may occupy such Building prior to the completion of any other Building. Therefore, the City shall not condition the issuance of a temporary or final certificate of occupancy for any Building within the Project upon the commencement or completion of any other building in the Project. Developer may obtain temporary certificates of occupancy for any portion of space within a Building, even though the remainder of the Building may be incomplete.

ARTICLE 5

CITY ASSISTANCE

5.1 City Assistance. The City shall make the Assistance Payments to Developer in accordance with this Section 5.1 as part of the consideration for Developer doing the following: (i) constructing so much of the Project as will satisfy the Project Conditions; (ii) causing the Public Opening – Macy's to occur; (iii) causing the Public Opening – Penney to occur; (iv) causing Penney to provide to Developer the Penney Operating Covenant; and (v) causing Macy's to provide to Developer the Macy's Operating Covenant.

5.1.1 Project Conditions are Conditions Precedent to the First Assistance Payment. The conditions set forth below in this Section 5.1.1 (the “**Project Conditions**”) shall be satisfied as conditions precedent before the City shall have any obligation to pay to Developer the first Assistance Payment. Developer shall use its commercially reasonable efforts to cause the Project Conditions to be satisfied; provided that the failure to satisfy any one or more of the Project Conditions shall not constitute a breach or default of this Agreement.

(a) The Public Opening - Penney shall have occurred (or be deemed to have occurred under Section 2.5.5).

(b) The Public Opening - Macy’s shall have occurred (or be deemed to have occurred under Section 2.5.5).

(c) Developer shall have completed the Mall Entry Remodel Work.

(d) Developer shall have executed initial leases with prospective tenants for retail stores (which may include, without limitation, restaurants) that contemplate the leasing to such tenants of premises that, in the aggregate, comprise at least 25,000 square feet of space within the New Shop Space. Executed leases shall be for terms of not less than 36 months, and shall contemplate occupancy within nine (9) months from the date the lease is signed. Notwithstanding the foregoing, the condition in this Section 5.1.1(d) shall be deemed satisfied if: (i) the Assistance Amount for a Measurement Year is greater than zero; and (ii) prior to the date that the Assistance Payment with respect to such Measurement Year would otherwise be payable, Developer has used commercially reasonable efforts to lease at least 25,000 square feet of space within the New Shop Space for retail stores (which may include, without limitation, restaurants).

5.1.2 City’s Right to Defer Certain Assistance Payments During a Penney Non-Operating Period or a Macy’s Non-Operating Period. As set forth in Section 2.5.3, the City has certain rights to defer the payment of the Assistance Payments that would otherwise be payable during a Penney Non-Operating Period. As set forth in Section 2.5.4, the City has certain rights to defer the payment of the Assistance Payments that would otherwise be payable during a Macy’s Non-Operating Period. Developer shall use its commercially reasonable efforts to cause the Penney Operating Condition to be satisfied during the entire Penny Operating Period; provided that the failure to satisfy the Penney Operating Condition shall not constitute a breach or default of this Agreement. Developer shall use its commercially reasonable efforts to cause the Macy’s Operating Condition to be satisfied during the entire Macy’s Operating Period; provided that the failure to satisfy the Macy’s Operating Condition shall not constitute a breach or default of this Agreement.

5.1.3 Prior Established Sales Taxes from Excluded Retailers.

If Developer executes a lease at the Mall with an Excluded Retailer, then within thirty (30) days of the date such Excluded Retailer opens for business at the Mall, Developer shall deliver written notice to the City of such lease, and such notice shall include the name of the Excluded Retailer and the address of the other location in the City that was previously occupied by the Excluded Retailer and that has closed as a result of the Excluded Retailer relocating to the Mall. The City, within ninety (90) days after receipt of Developer's notice regarding an Excluded Retailer, shall deliver to Developer written notice (including prior quarterly sales tax reports and other reasonable evidence) of the amount of annual sales tax revenues that were derived from the retail sales generated by such Excluded Retailer at such other location in the City, during the last full calendar year of operations by the Excluded Retailer at such other location in the City (the "**Prior Established Sales Taxes**"). The Prior Established Sales Taxes for such Excluded Retailer shall be excluded from the calculation of Sales Tax Revenues during each Measurement Year that the Excluded Retailer is open to the public in the Mall, as described in the example set forth in the definition of Excluded Sales Taxes. If, during any Measurement Year, the Excluded Retailer operates for less than the entire calendar year, then for such Measurement Year, the calculation of Sales Tax Revenues shall exclude an amount equal to the product obtained by multiplying (a) the Prior Established Sales Taxes for such Excluded Retailer by (b) a fraction, the numerator of which is the number of days during the Measurement Year that the Excluded Retailer was open for business to the public in the Mall, and the denominator of which is 365. Notwithstanding the foregoing, Developer may request that the City waive the provisions of this Section 5.1.3 with respect to any Excluded Retailer, and the City shall reasonably consider such request.

5.1.4 Payment of Assistance Payments. On June 1 of each calendar year, City shall pay to Developer an Assistance Payment in an amount equal to the Assistance Amount calculated for the immediately preceding Measurement Year; provided that each such Assistance Payment shall be subject to the Maximum Payment Amount set forth in Section 5.1.5 below. The City shall only be obligated to make Assistance Payments when the City has actually received Sales Tax Revenues, and the City shall only be required to pay Assistance Payments in any calendar year in the amount of the Sales Tax Revenues actually received by the City. Notwithstanding the foregoing, if the City does not pay the full amount of any Assistance Payment because the City has not yet received Sales Tax Revenues from the SBOE, then the City shall pay the remaining unpaid portion of such Assistance Payment promptly after the City receives such delayed Sales Tax Revenues. The City's obligation to pay Assistance Payments that have accrued but have not been paid before the expiration or earlier termination of this Agreement shall survive the termination of this Agreement. For the avoidance of doubt, the Parties intend that the Assistance Amount shall be calculated with respect to a particular Measurement Year based upon the Sales Tax Revenues that accrue during such Measurement Year (regardless of the date such Sales Tax Revenues are actually received by the City from the SBOE), and that the Assistance Payment shall be paid by City to Developer on June 1 of the calendar year immediately following the Measurement Year, based on actual amounts of Sales Tax Revenues collected.

5.1.5 Maximum Assistance Payments. The aggregate of all Assistance Payments paid to Developer under this Agreement during the entire Term and accrued through the Final Measurement Year shall not exceed \$18,886,644 (the “**Maximum Payment Amount**”). On the date that the aggregate of all Assistance Payments paid to Developer under this Agreement equals the Maximum Payment Amount, then from and after such date, the City shall have no further obligation to pay to Developer any additional Assistance Payments. Notwithstanding the foregoing, the City shall not be obligated to make any Assistance Payments calculated on any sales at the Mall that occur after the Final Measurement Year.

5.1.6 Source of Assistance Payments. The Assistance Payments shall be payable from any source of unrestricted funds legally available to the City. The City shall not be obligated to, but may pay Assistance Payments from Sales Tax Revenues collected by the City. The determination of the source of funds shall be in the sole and absolute discretion of the City. In this regard, Developer acknowledges that nothing in this Agreement shall constitute a pledge of Sales Tax Revenues by the City, or a pledge of any other particular source of funds. Accordingly, the definition of Sales Tax Revenues is used merely as a measure of the amount of the Assistance Payment that the City may be obligated to pay to Developer with respect to any Measurement Year.

5.2 Determination of Sales Tax Revenue. The City shall deliver a written statement to Developer on or about May 1 of each calendar year showing the City’s calculation of the Assistance Amount for the immediately preceding Measurement Year. The Assistance Amount for a Measurement Year shall be calculated based upon the amount of the Sales Tax Revenues that accrue during such Measurement Year (regardless of the date such Sales Tax Revenues are actually received by the City from the SBOE). The Sales Tax Revenues that accrue during a Measurement Year shall be confirmed by the report furnished by the City’s sales tax consultant as provided by the SBOE, which the City shall provide to Developer upon request. Developer, on its behalf and on behalf of all successors in interest, hereby waives its right to protect against disclosure of the information contained in its sales tax returns (to the City’s sales tax consultant, in order to comply with the terms of this Agreement) and further authorizes the release to such sales tax consultant of such information to the extent necessary to comply with the terms of this Agreement; provided the City shall require such sales tax consultant to maintain the confidentiality thereof, except as otherwise provided by law. Developer shall have the right to conduct an audit of the Sales Tax Revenues paid or payable by the SBOE to the City with respect to any Measurement Year, and if the audit reveals that the City is entitled to receive additional Sales Tax Revenues for such Measurement Year, the City shall use its best efforts to collect all of the Sales Tax Revenues that the audit indicates the City should have received from the SBOE.

5.3 Commencement of Assistance Payments. The first Assistance Payment shall be due on June 1 of the calendar year following the Measurement Year in which the Project Conditions are first satisfied. The first Assistance Payment shall be calculated based on the Sales Tax Revenues that have accrued for the full Measurement Year in which the Project Conditions are first satisfied.

5.4 Adjustment to Assistance Payment Based on SBOE Reconciliation. The SBOE makes payments of Sales Tax Revenues to the City based upon actual sales tax and the SBOE makes a periodic reconciliation of such payments. If any reconciliation occurs, the City shall prepare a reconciliation report as soon as practicable and deliver the same to Developer. From time to time, the City may deliver to Developer an adjusted Assistance Payment calculation reflecting any differences between (a) the amount of Sales Tax Revenues shown in the Assistance Payment calculation that was previously calculated in accordance with this Agreement and (b) the amount of Sales Tax Revenues for the applicable Measurement Year based upon the final audited sales tax amounts applicable to the Mall Property for such Measurement Year disseminated by the SBOE. Developer and the City shall adjust the Assistance Payment for a Measurement Year if the amount of Sales Tax Revenues used by the City to calculate an Assistance Payment in accordance with Section 5.2 is greater or lesser than the Sales Tax Revenues for the applicable Measurement Year based upon the final audited sales tax amounts disseminated by the SBOE (any such amount a “**Payment Difference**”). If there has been an overpayment of an Assistance Payment, within thirty (30) days of receipt by Developer of written notice from the City of the overpayment (together with reasonable supporting documentation), Developer shall pay to the City the Payment Difference. If there has been an underpayment of an Assistance Payment, the City shall, within thirty (30) days of receipt from the SBOE of the final audited sales tax amounts, deliver to Developer written notice of the Payment Difference (together with reasonable supporting documentation), and concurrently a payment of the Payment Difference. Any Payment Difference payable by Developer to the City or by the City to Developer shall be made without the inclusion of any interest or other similar charge.

5.5 Obligation Survives The Term. At the end of the Final Measurement Year, if any Assistance Amounts have accrued but have not been paid as of the last day of the Final Measurement Year, then the obligation of the City to calculate and pay such accrued but unpaid Assistance Amounts thereafter shall continue until such Assistance Amounts have been paid in accordance with the terms of this Agreement, and such obligation shall survive even the expiration of the Term of this Agreement.

ARTICLE 6

AMENDMENT AND MODIFICATION

6.1 Amendment and Modification of Development Agreement. Subject to the notice and hearing requirement of the applicable Development Agreement Statutes, this Agreement may be modified or amended from time to time only with the written consent of Developer and the City or their successors and assigns in accordance with the provisions of the VMC and Section 65868 of the Government Code.

ARTICLE 7

TERM

7.1 Effective Date. This Agreement shall be dated, and the obligations of the Parties hereunder shall be effective as of the date upon which the ordinance approving this Agreement becomes effective (the “**Effective Date**”). The Parties shall execute this Agreement within ten (10) working days of the Effective Date.

7.1.1 If one or more lawsuits (each, a “**New Action**” and such term shall include any appeal of any such lawsuit) are filed challenging the City’s approval of this Agreement, then the Term of this Agreement shall be extended during the pendency of such New Action.

7.1.2 “**Satisfactory Resolution**” of a New Action means the earliest date on which one of the following occurs: (i) full and final dismissal, with prejudice of such New Action; (ii) full and final dismissal, without prejudice, of such New Action and all statutes of limitations applicable to the claims in such New Action shall have expired; (iii) final judgment has been reached in such New Action and the plaintiff or petitioner in such New Action has no further right to appeal; or (iv) any other resolution or settlement of such New Action in a manner acceptable to Developer, in Developer’s sole and absolute discretion.

7.1.3 If a New Action is filed, then “**Challenge Period**” means the period commencing on the date the New Action is filed in court and ending on the date of the Satisfactory Resolution of the New Action.

7.2 Term.

7.2.1 The term of this Agreement shall commence on the Effective Date and shall continue for twenty-eight (28) years thereafter (the “**Term**”), unless the Term is otherwise terminated pursuant to Section 9.4, after the satisfaction of all applicable public hearing and related procedural requirements. The Term shall be extended by one day for each day of during any Challenge Period.

7.2.2 Notwithstanding anything to the contrary in this Agreement, the City’s obligation to make accrued but unpaid Assistance Payments to Developer shall survive the expiration or earlier termination of this Agreement.

7.2.3 Upon the expiration of the Term or upon earlier termination of this Agreement, the Parties hereto shall execute an appropriate certificate of termination in recordable form (a “**Termination Certificate**”), which shall be recorded in the official records of San Bernardino County.

7.3 Early Termination if the Project Conditions Remain Unsatisfied by the Outside Date.

7.3.1 “**Outside Date**” means December 31, 2015.

7.3.2 If the Project Conditions have not been satisfied by the Outside Date, then on any date after the Outside Date and prior to the date that the Project Conditions have been satisfied, the City may elect to terminate this Agreement by delivering written notice of termination to Developer. If the City delivers a termination notice, then this Agreement shall terminate on the date that is ninety (90) days after the date of delivery to Developer of the City’s notice and the City shall not be required to make any payments to Developer under Section 9.5 below. Notwithstanding the foregoing sentence, if the City has delivered a termination notice and Developer satisfies the Project Conditions prior to the ninetieth (90th) after the date of delivery of such notice, then the notice shall be null and void on the date that the Project Conditions are satisfied.

ARTICLE 8

PERIODIC REVIEW OF COMPLIANCE

8.1 City Review. The City shall review compliance with this Development Agreement once each year, on or before each anniversary of the Effective Date (each, a “**Periodic Review**”), in accordance with this Article 11 in order to determine whether or not Developer is out-of-compliance with any specific term or provision of this Agreement. At commencement of each Periodic Review, the City shall notify Developer in writing that said Periodic Review is or has been commenced.

8.2 Evidence of Good Faith Compliance. During each Periodic Review, the City shall deliver written notice to Developer requesting Developer to demonstrate that it has been in good faith compliance with this Agreement during the twelve (12) month period prior to the anniversary of the Effective Date. For purposes of this Agreement, the phrase “good faith compliance” shall mean the following: (a) substantial compliance by Developer with the requirements of the Existing Regulations, except as otherwise modified by this Agreement; (b) substantial compliance by Developer with the terms and conditions of this Agreement, subject to the existence of any specified Unavoidable Delays which prevented or delayed the timely performance by Developer of any of its obligations under this Agreement.

8.3 Information to be Provided to Developer. The City shall deliver to Developer a copy of all staff reports prepared in connection with a Periodic Review, written comments from the public and, to the extent practical, all related exhibits concerning such Periodic Review. If the City delivers to Developer a Notice of Breach pursuant to Section 9.1 below, the City shall concurrently deliver to Developer a copy of all staff reports prepared in connection with such Notice of Breach, all written comments from the public and all related exhibits concerning such Notice of Breach.

8.4 Notice of Breach; Cure Rights. If during any Periodic Review, the City reasonably concludes on the basis of substantial evidence that Developer has not demonstrated that it is in good faith compliance with this Agreement, then the City may issue and deliver to Developer a written Notice of Breach pursuant to Section 9.1 below, and Developer shall have the opportunity to cure the default identified in the Notice of Breach during the cure periods and in the manner provided by Section 9.2 and Section 9.3, as applicable.

8.5 Failure of Periodic Review. The City's failure to review at least annually compliance by Developer with the terms and conditions of this Agreement shall not constitute or be asserted by any Party as a breach by any other Party of this Agreement.

ARTICLE 9

DEFAULT

9.1 Notice and Cure.

9.1.1 Breach. If either Party fails to substantially perform any material obligation under this Agreement which is required on its part to be performed (a "**Breach**"), the non-defaulting Party shall have those rights and remedies provided in this Agreement; provided that such non-defaulting Party has first sent a written notice of Breach (a "**Notice of Breach**"), in the manner required by Section 12.1, specifying the precise nature of the alleged Breach (including references to pertinent Sections of this Agreement), and the manner in which the alleged Breach may satisfactorily be cured. If the City alleges a Breach by Developer, the City shall also deliver a copy of the Notice of Breach to any Secured Lender of Developer which has delivered a Request for Notice to the City in accordance with Section 10.1.2.

9.1.2 Monetary Breach. In the case of a monetary Breach by either Party, the Party in Breach shall have thirty (30) days after receipt by such Party of the Notice of Breach in which to cure such Breach.

9.1.3 Non-Monetary Breach. In the case of a non-monetary Breach by either Party, subject to Unavoidable Delay, the Party in Breach shall promptly commence to cure the identified Breach and shall diligently prosecute such cure to completion; provided that the defaulting Party shall complete such cure within sixty (60) days after receipt of the Notice of Breach or provide evidence of Unavoidable Delay that prevents or delays the completion of such cure. The sixty (60) day cure period for a non-monetary Breach shall be extended as is reasonably necessary to remedy such Breach; provided that the alleged defaulting Party commences such cure promptly after receiving the Notice of Breach and diligently pursues such remedy until such Breach is cured.

9.1.4 Unavoidable Delay. Notwithstanding anything to the contrary contained in this Agreement, the City's exercise of any of its rights or remedies under this Article 9 shall be subject to the provisions regarding Unavoidable Delay in Section 12.8 below.

9.2 Remedies for Monetary Default.

9.2.1 City Remedies for Developer's Monetary Breach. If there is a Breach by Developer in the performance of any of its monetary obligations under this Agreement which remains uncured for thirty (30) days after receipt by Developer of a Notice of Breach from the City and (b) after expiration of Secured Lender's Cure Period under Section 10.1 (if a Secured Lender of Developer has delivered a Request for Notice to the City in accordance with Section 10.1), then an "**Event of Monetary Default**" shall have occurred by Developer and the City shall have, as its sole and exclusive remedy for such breach, the right to pursue a Legal Action against Developer in a court of competent jurisdiction seeking damages for such Event of Monetary Default. The City shall have no right to terminate this Agreement as a result of any Event of Monetary Default by Developer. The City waives any right it might have to seek consequential or punitive damages against Developer for any Event of Monetary Default.

9.2.2 Developer Remedies for City's Monetary Breach. If there is a Breach by the City in the performance of any of its monetary obligations under this Agreement which remains uncured thirty (30) days after receipt by the City of a Notice of Breach from Developer then an Event of Monetary Default shall have occurred by the City and Developer shall have, as its sole and exclusive remedy for such breach, the right to pursue a Legal Action against the City in a court of competent jurisdiction seeking damages for such Event of Monetary Default. Developer shall have no right to seek to terminate this Agreement as a result of any Event of Monetary Default by the City. Developer's right to obtain a judgment against the City for monetary damages shall be limited, as of the date the action is filed, to the aggregate amount of all Assistance Payments and other sums that have become due and payable and remain unpaid under this Agreement, together with interest thereon at the maximum rate allowed by law, and Developer's legal fees, costs and expenses incurred in connection with the enforcement of this Agreement. Developer shall be permitted to file multiple actions for monetary damages under this Agreement, if such legal action is required. Developer waives any right it might have to seek consequential or punitive damages against the City for any Event of Monetary Default.

9.3 Remedies for Non-Monetary Default.

9.3.1 Remedies of Parties. If any Party receives a Notice of Breach from the other Party regarding a non-monetary Breach, and the non-monetary Breach remains uncured: (a) after expiration of all applicable notice and cure periods, and (b) in the case of a Breach by Developer, after the expiration of Secured Lender's Cure Period under Section 10.1 (if a Secured Lender of Developer has delivered a Request for Notice to the City in accordance with Section 10.1), then an "**Event of Non-Monetary Default**" shall have occurred and the non-defaulting Party shall have, as its sole and exclusive remedy (except as expressly provided by Section 9.4 below), the right to pursue specific performance and injunctive relief for the Event of Non-Monetary Default. No Party may terminate this Agreement as a result of any Event of Non-Monetary Default by the other Party. The Parties each waives any right it might have to seek damages, including without limitation consequential or punitive damages, against the other Party for any

Event of Non-Monetary Default. Notwithstanding the foregoing, the prevailing party in any Legal Action regarding an Event of Non-Monetary Default shall be entitled to legal fees and costs in accordance with Section 12.10 below.

9.3.2 Specific Performance. Due to the size, nature and scope of the Project and due to the fact that it will not be practical or possible to restore the Mall Property to its condition as of the date of this Agreement once implementation of this Agreement has begun, Developer may be prevented from making alternative choices it may have had for the use of the Mall Property or portions of the Mall Property. Developer has invested significant time and resources, performed extensive planning and processing of the Project, and will be investing even more significant time and resources in implementing the Project in reliance upon the terms of this Agreement. Consequently, the City and Developer acknowledge that monetary damages and remedies at law generally are inadequate and that specific performance is an appropriate remedy for the enforcement of this Agreement against the City. Therefore, unless otherwise expressly provided herein, the remedy of specific performance and/or injunctive relief shall be available to each of Developer and City under this Agreement, including without limitation in the case where the City causes an Event of Non-Monetary Default to occur.

9.3.3 Writ of Mandate. The City and Developer hereby stipulate that Developer shall be entitled to obtain relief in the form of a writ of mandate in accordance with Code of Civil Procedure Section 1085 or Section 1094.5, as appropriate, to remedy any Event of Non-Monetary Default by the City of its obligations and duties under this Agreement. Nothing in this Section 9.3.3, however, is intended to alter the evidentiary standard or the standard of review applicable to any action of, or approval by, the City pursuant to this Agreement or with respect to the Project.

9.3.4 Possible Liquidated Damages Against Developer for Repeated Non-Monetary Defaults.

(a) In General. The City acknowledges that Developer would not have entered into this Agreement if Developer were to be liable in damages under or with respect to any Event of Non-Monetary Default by Developer under this Agreement. Consequently, except for (i) the payment of attorneys' fees in accordance with Section 12.10 and court costs, and (ii) the liquidated damages available pursuant to Section 9.3.4(d) below, Developer shall not be liable in damages to the City for any Event of Non-Monetary Default by Developer under this Agreement. Except as expressly permitted by Section 9.3.4(d) below, the City hereby covenants not to sue Developer for or make any claim against Developer for any of the following (except to the extent of attorneys' fees and court costs in accordance with Section 12.10):

(1) damages for any Event of Non-Monetary Default under this Agreement, or which arises out of this Agreement; or

(2) damages arising out of or connected with any dispute, controversy or issue regarding the application or interpretation or effect of the provisions of this Agreement.

(b) Repeated Default Period. “**Repeated Default Period**” shall be a period of eighteen (18) full calendar months. The 18-month period commences on the date that the first Event of Non-Monetary Default occurs.

(c) Special Notice for Second Breach During a Repeated Default Period. If, during a Repeated Default Period, the City determines that Developer has failed to substantially perform any subsequent, separate material obligation under this Agreement which is required on its part to be performed (a “**Second Breach**”), the City may, but shall not be obligated, to deliver to the Developer a special notice in accordance with this Section 9.3.4, and only with the delivery of such special notice may the City be entitled to exercise the unique remedy provided in Section 9.3.4(d) below. The special notice required shall be a written notice of Breach (a “**Special Notice of Breach**”) that: (i) shall be delivered in the manner required by Section 12.1 prior to the expiration of the Repeated Default Period; (ii) shall specify the precise nature of the alleged Breach (including references to pertinent sections of this Agreement); (iii) shall state the manner in which the alleged Breach may satisfactorily be cured; and (iv) shall contain the following text on the top of each page of the notice: “FAILURE TO CURE THE BREACH IDENTIFIED IN THIS NOTICE WITHIN THE CURE PERIOD SPECIFIED IN SECTION 9.1.3 OF THE DEVELOPMENT AGREEMENT WILL RESULT IN THE LOSS OF ASSISTANCE PAYMENTS UNDER THE DEVELOPMENT AGREEMENT”. For the Special Notice of Breach to be effective, the City must also, no later than two (2) days after the date the Special Notice of Breach is delivered to Developer, deliver a copy of the Special Notice of Breach to any Secured Lender of Developer that has delivered a Request for Notice to the City in accordance with Section 10.1.2. If the Breach identified in the Special Notice of Breach remains uncured after the cure period specified in Section 9.1.3 above, and after the expiration of Secured Lender’s Cure Period under Section 10.1 (if a Secured Lender of Developer has delivered a Request for Notice to the City in accordance with Section 10.1), then an “**Repeated Event of Non-Monetary Default**” shall have occurred.

(d) Assistance Payment Reduction. If a Repeated Event of Non-Monetary Default has occurred and the City files a Legal Action seeking declaratory relief to establish that a Repeated Event of Non-Monetary Default has occurred, and if at any time thereafter the City obtains a final court judgment against Developer that holds that a Repeated Event of Non-Monetary Default has occurred, then in addition to any judgment of specific performance and/or injunction that the court may enter the Final Measurement Year shall automatically, without any further action by either Party, be reduced by one full calendar year. As an example of the foregoing, but not in limitation thereof, assume that in the year 2017, for the first time under this Agreement, the City obtains a court order that a Repeated Event of Non-Monetary Default has occurred. Then, on the date such court judgment is entered by the court, the Final Measurement Year shall automatically be reduced by eliminating the year 2039 as a Measurement Year.

(e) Liquidated Damages. The City and Developer agree that the City's damages resulting from Developer's repeated Events of Non-Monetary Default are difficult, if not impossible, to determine and the Assistance Payment Reduction is a fair estimate of those damages which has been agreed to in an effort to cause the amount of such damages to be certain. The City and Developer agree that the payment of such liquidated damages is not intended as a forfeiture or penalty within the meaning of California Civil Code sections 3275 or 3369, but is intended to constitute liquidated damages to the City pursuant to California Civil Code sections 1671.

9.4 Modification or Termination of Agreement by City.

9.4.1 Default by Developer. If Developer causes an Event of Non-Monetary Default to occur, then the City may commence proceedings to modify or terminate this Agreement pursuant to this Section 9.4, but only in strict accordance with these terms.

9.4.2 Procedure for Modification or Termination. The procedures for modification or termination of this Agreement by the City for the grounds set forth in Section 9.4.1 are as follows:

(a) Following an Event of Non-Monetary Default by Developer, the City shall provide a written notice to Developer (and to any Secured Lender of Developer which has delivered a Request for Notice to the City in accordance with Section 10.1) of its intention to modify or terminate this Agreement unless Developer (or the Secured Lender) cures or corrects the acts or omissions that constitute the basis of such determinations by the City (a "**Hearing Notice**"). The Hearing Notice shall be delivered by the City to Developer in accordance with Section 12.1 and shall contain the time and place of a public hearing to be held by the City Council on the determination of the City to proceed with modification or termination of this Agreement. The public hearing shall not be held earlier than: (i) ninety (90) days after delivery of the Hearing Notice to Developer or (ii) if a Secured Lender has delivered a Request for Notice in accordance with Section 10.1, the tenth (10th) business day following the expiration of the "Secured Lender Cure Period" (as defined in Section 10.1).

(b) If, following the conclusion of the public hearing, the City Council: (i) determines that Developer has caused an Event of Non-Monetary Default to occur and (ii) further determines that Developer (or the Secured Lender, if applicable) has not cured (within the applicable cure periods) the acts or omissions that constitute the basis of the Event of Non-Monetary Default, or if those acts or omissions could not be reasonably remedied prior to the public hearing that Developer (or the Secured Lender) has not in good faith commenced to cure or correct such acts or omissions prior to the public hearing or is not diligently and continuously proceeding therewith to completion, then upon making such conclusions, the City Council may modify or terminate this Agreement. If the City elects to terminate this Agreement as a result of such uncured Event of Non-Monetary Default, then prior to terminating this Agreement, Developer and the Secured Lender shall be entitled to a subsequent ninety (90) day cure period to attempt to cure the Event of Non-Monetary Default upon which the City elected to

terminate this Agreement. If, at the end of such 90-day period, the Event of Non-Monetary Default remains uncured, then the City may deliver written notice to Developer of the termination of this Agreement; provided that the termination shall not become effective until the City has made the termination payment required by Section 9.5 below. The City cannot unilaterally modify the provisions of this Agreement pursuant to this Section 9.4. Any such modification requires the written consent of Developer.

9.5 Accelerated Payments Upon Termination. If the City elects to terminate this Agreement in accordance with Section 9.4, then prior to the date that such termination can become effective, the City shall pay to Developer a termination fee equal to the difference between (a) the Maximum Payment Amount and (b) the sum of all Assistance Payments previously paid to Developer, discounted at a compounded rate of 8% over the remaining term of the Agreement. Notwithstanding any expiration or termination of this Agreement, Developer shall retain all Assistance Payments paid to Developer. Notwithstanding anything to the contrary in this Agreement, the City shall not have any payment obligations under this Section 9.5 if the City elects to terminate this Agreement pursuant to Section 7.3 above and this Agreement thereafter terminates in accordance with Section 7.3.

9.6 Cessation of Rights and Obligations. If the City elects to terminate this Agreement, pays any termination fee required by Section 9.5, and thereafter this Agreement is terminated by the City pursuant to and in accordance with Section 9.4, the rights, duties and obligations of the Parties under this Agreement shall cease as of the date of such termination, except only for those rights and obligations that expressly survive the termination of this Agreement. In such event, any and all benefits, including money received by the City prior to the date of termination, shall be retained by the City.

9.7 Completion of Improvements. Notwithstanding the provisions of Sections 9.2, 9.3, 9.4, and 9.5, if prior to the Outside Date, Developer has performed substantial work and incurred substantial liabilities in good faith reliance upon a building permit issued by the City, then Developer shall have acquired a vested right to complete construction of the Building that is the subject of the building permit in accordance with the terms of the building permit and occupy or use such Building upon completion for the use(s) permitted for that Building as provided in this Agreement. Any building completed or occupied pursuant to this Section 9.7 shall be considered legal non-conforming subject to all City ordinances standards and policies as they then exist governing legal non-conforming buildings and uses unless the Building otherwise complies with the property development standards for the district in which it is located and the use is otherwise permitted or conditionally permitted in the district.

ARTICLE 10

MORTGAGEES

10.1 Encumbrances on the Developer Property. This Agreement shall not prevent or limit Developer (in its sole discretion), from encumbering the Developer Property (in any manner) or any portion thereof or any improvement thereon by any mortgage, deed of trust, assignment of rents or other security device securing financing with respect to the Developer Property (a “**Mortgage**”). Each mortgagee of a mortgage or a beneficiary of a deed of trust (each, a “**Secured Lender**”) on the Developer Property shall be entitled to the rights and privileges set forth in this Article 10. Any Secured Lender may require from the City certain interpretations of this Agreement. The City shall from time to time, upon request made by Developer, meet with Developer and representatives of each of its Secured Lenders to negotiate in good faith any Secured Lender’s request for interpretation of any part of this Agreement. The City will not unreasonably withhold, condition, or delay the delivery to a Secured Lender of the City’s written response to any such requested interpretation; provided such interpretation is consistent with the intent and purposes of this Agreement.

10.1.1 Mortgage Not Rendered Invalid. Neither entering into this Agreement nor a Breach of this Agreement, nor any Event of Monetary Default nor any Event of Non-Monetary Default shall defeat, render invalid, diminish, or impair the lien of any Mortgage made in good faith and for value.

10.1.2 Right of Secured Lender to Cure Default.

(a) A Secured Lender may give notice to the City, specifying the name and address of such Secured Lender and attaching thereto a true and complete copy of the Mortgage held by such Secured Lender (a “**Request for Notice**”). If the Request for Notice shall be given, at the same time the City sends such notice to Developer, the City shall send to such Secured Lender a copy of each Notice of Breach and Hearing Notice from the City to Developer. The copy of the Notice of Breach or Hearing Notice sent to the Secured Lender pursuant to this Section 10.1.2(a) shall be addressed to such Secured Lender at its address last furnished to the City. The period within which a Secured Lender may cure a particular Event of Monetary Default or Event of Non-Monetary Default shall not commence until the City has sent to the Secured Lender such copy of a Notice of Breach or Hearing Notice.

(b) After a Secured Lender has received a copy of such Notice of Breach or Hearing Notice, such Secured Lender shall thereafter have a period of time (in addition to any notice and/or cure period afforded to Developer under this Agreement) equal to: (a) ten (10) days in the case of any Event of Monetary Default and (b) thirty (30) days in the case of any Event of Non-Monetary Default, during which period the Secured Lender may provide a remedy or cure of the applicable Event of Monetary Default or may provide a remedy or cure of the applicable Event of Non-Monetary Default; provided that if the cure of the Event of Non-Monetary Default cannot reasonably be completed within thirty days, Secured Lender may within such 30-day

period commence to cure the same and thereafter diligently prosecute such cure to completion (a “**Secured Lender’s Cure Period**”). If Developer has caused an Event of Monetary Default or an Event of Non-Monetary Default, then each Secured Lender shall have the right to remedy such Event of Monetary Default or an Event of Non-Monetary Default, as applicable, or to cause the same to be remedied prior to the conclusion of the Secured Lender’s Cure Period and otherwise as herein provided. The City shall accept performance by any Secured Lender of any covenant, condition, or agreement on Developer’s part to be performed hereunder with the same force and effect as though performed by Developer.

(c) The period of time given to the Secured Lender to cure any Event of Monetary Default or an Event of Non-Monetary Default by Developer which reasonably requires that said Secured Lender be in possession of the Developer Property to do so, shall be deemed extended to include the period of time reasonably required by said Secured Lender to obtain such possession (by foreclosure, the appointment of a receiver or otherwise) promptly and with due diligence; provided that during such period all other obligations of Developer under this Agreement, including, without limitation, payment of all amounts due, are being duly and promptly performed.

10.1.3 Secured Lender Not Obligated Under this Agreement. No Secured Lender shall have any obligation or duty under this Agreement to perform the obligations of Developer’s or the affirmative covenants of Developer’s hereunder or to guarantee such performance unless and until such time as such Secured Lender takes possession or becomes the owner of the estate covered by its Mortgage, and then only for obligations arising or accruing during or with respect to the time such Secured Lender is in possession or is the owner under such estate.

10.2 Secured Lender’s Rights Upon Foreclosure. If a Secured Lender or a Successor Owner (defined below) acquires all or substantially all of the Developer Property (excluding any portion thereof conveyed to an Anchor Store or other occupant of the Developer Property) through a Foreclosure (defined below), then Secured Lender or the Successor Owner, as applicable, shall succeed to the interests of Developer under this Agreement, including without limitation the right to receive all Assistance Payments payable after the date of such transfer of title.

10.2.1 Foreclosure. “**Foreclosure**” means the foreclosure (or any sale thereunder) of any security instrument held by a Secured Lender, whether by judicial proceedings, by virtue of any power of sale under the security instrument, by acceptance of a deed-in-lieu of foreclosure, or by any other conveyance of all or any portion of the Developer Property by other appropriate proceedings in the nature of a foreclosure, resulting in the transfer of all or any portion of the Developer Property to (a) any Secured Lender, (b) any entity that controls Secured Lender, is controlled by Secured Lender, or is controlled by an entity that also controls Secured Lender, (c) any participating lender in the applicable loan, and/or (d) any third party purchaser at a sale under the applicable security instrument.

10.2.2 Successor Owner. “**Successor Owner**” means each and every person or entity owning or acquiring any right, title or interest in or to all or substantially all of the Developer Property (excluding any portion thereof conveyed to an Anchor Store or other occupant of the Developer Property) through a Foreclosure, or from the Secured Lender (or its nominee) following a Foreclosure.

ARTICLE 11

TRANSFERS AND ASSIGNMENTS

11.1 Transfers and Assignments.

11.1.1 Not Severable from Ownership Interest in the Developer Property. Except as set forth below in Section 11.1.4 and subject to a Lender’s rights under Section 10.2, this Agreement shall not be severable from Developer’s interest in the Developer Property and any transfer of the Developer Property or any portion thereof (other than a transfer of the fee interest to a portion thereof to an Anchor Store or other occupant of the Developer Property) shall automatically operate to transfer the benefits and burdens of this Agreement with respect to the transferred Developer Property or transferred portions, as applicable. Notwithstanding the foregoing, if Developer conveys any portion of the Developer Property to an Anchor Store or other occupant of the Developer Property, the City shall continue to make all Assistance Payments to Developer, and such Anchor Store or other occupant shall have no rights or obligations under this Agreement. No person or entity that acquires any fee interest or lesser interest in any part of the Developer Property (other than a transferee of all or substantially all of Developer’s fee interest in the Developer Property, excluding any portion thereof conveyed to an Anchor Store or other occupant) shall acquire any right to receive any portion of the Assistance Payments; provided that this limitation shall not be construed to limit the rights of a Secured Lender or its successors in interest or a Successor Owner to receive the Assistance Payments in accordance with Section 10.2.

11.1.2 Transfer Rights Prior to Completion of the Project. Prior to the date on which Developer has satisfied the Project Conditions, Developer may only sell, transfer, exchange, or otherwise dispose of its interest in the Developer Property (or any portion thereof), with the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed. Prior to the date on which Developer has satisfied the Project Conditions, Developer shall give written notice to the City, in accordance with Section 12.1, of any proposed transfer (that would be consummated prior to the date on which the Project Conditions will be satisfied) of any fee interest in any portion of the Developer Property, disclosing in such notice (a) the identity of the proposed transferee of the Developer Property, (b) the address of the proposed transferee, and (c) such information on the financial ability and operating ability of the proposed transferee as the City may reasonably request. The City shall consider and reasonably approve, conditionally approve, or disapprove such proposed transferee within sixty (60) days after the date of Developer’s notice. If the City approves a proposed transferee, then

such approved transferee shall be a “**Property Transferee.**” Notwithstanding the foregoing, Developer shall have the unrestricted right, without the consent of the City, to do the following: (i) enter into leases of space at the Developer Property; (ii) hypothecate or encumber the Developer Property; (iii) enter into easements, licenses and use agreements for the Developer Property; and (iv) sell, assign, transfer or convey any portion of the Developer Property to another entity that is controlling, controlled by, or under common control with Developer.

11.1.3 Transfer Rights After Completion of the Project. From and after the date on which Developer has satisfied the Project Conditions, Developer may freely sell, transfer, exchange, hypothecate, encumber or otherwise dispose of its interest in the Developer Property (or any portion thereof), without the consent of the City. Developer shall, however, give written notice to the City, in accordance with Section 12.1, of any transfer of any fee interest in any portion of the Developer Property, disclosing in such notice (a) the identity of the transferee of the Developer Property and (b) the address of the proposed transferee. Any such transferee shall be deemed to be a Property Transferee.

11.1.4 Transfer of the Macy’s Parcel. Notwithstanding anything to the contrary in this Agreement, this Agreement shall not be binding upon and shall not apply to the Macy’s Parcel, being that portion of the Mall Property sold or conveyed to any of the following: (i) Macy’s; (ii) an accommodator for a Section 1031 exchange of property to be completed by Macy’s; (iii) a Permitted Macy’s Substitute; or (iv) an Approved Substitute Anchor for Macy’s, whether prior or subsequent to the date hereof, and none of the benefits or burdens of this Agreement shall apply to the Macy’s Parcel. Notwithstanding the foregoing, the Project Condition for the Public Opening – Macy’s shall be effective for purposes of determining Developer’s satisfaction of the Project Conditions under this Agreement. None of (i) Macy’s, (ii) a Permitted Macy’s Substitute, (iii) an Approved Substitute Anchor for Macy’s, (iv) any accommodator for a Section 1031 exchange of property to be completed by Macy’s, or (v) any successive owner of all or any portion of the Macy’s Parcel or any interest therein, shall have any rights or obligations under this Agreement and shall not have any right to receive any portion of the Assistance Payments.

11.2 Release Upon Transfer. Upon the sale or other transfer of the rights and interests of Developer in the Developer Property, Developer shall be released from its obligations thereafter arising under this Agreement to the extent of such sale or transfer with respect to the Developer Property if : (a) Developer has provided written notice of such transfer to City; and (b) the Property Transferee executes and delivers to City a written agreement in which the Property Transferee expressly and unconditionally assumes all of the obligations of Developer thereafter arising under this Agreement with respect to the Developer Property (an “**Assumption Agreement**”). Failure to deliver a written Assumption Agreement hereunder shall not affect the transfer of the benefits and burdens as provided in Section 11.1.

ARTICLE 12

GENERAL PROVISIONS

12.1 Notices. Formal notices, demands and communications between the Parties shall be deemed sufficiently given if delivered to the principal offices of the City or Developer, as applicable, by (i) personal service, or (ii) express mail, Federal Express, or other similar overnight mail or courier service, regularly providing proof of delivery, or (iii) registered or certified mail, postage prepaid, return receipt requested, or (iv) facsimile (provided that any notice delivered by facsimile is followed by a separate notice sent within twenty-four (24) hours after the transmission by facsimile delivered in one of the other manners specified above). Such notice shall be addressed as follows:

To City:

City of Victorville
14343 Civic Drive
Victorville , CA 92392
Attn: City Manager

With a Copy to:

Andre de Bortnowsky
Green, de Bortnowsky & Quintanilla
23801 Calabasas Road, Suite 1015
Calabasas, CA 91302
Fax: (818) 704-4729

To Developer:

Macerich Victor Valley LLC
c/o Macerich
401 Wilshire Boulevard, Suite 700
Santa Monica, California 90401
Attn: Chief Legal Officer
Fax: (310) 394-7692

With a Copy to:

General Manager
Victor Valley Mall
14400 Bear Valley Road, Suite 735
Victorville, California 92392
Fax: (760) 241-0501

With a Copy to:
Overton Kuhn
401 Wilshire Boulevard, Suite 700
Santa Monica, California 90401
Fax: (310) 656-0041

Notice given in any other manner shall be effective when received by the addressee. Any Party may change the addresses for delivery of notices to such Party by delivering notice to the other Party in accordance with this provision.

12.2 Entire Agreement; Conflicts. This Agreement represents the entire agreement of the Parties. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the Parties or their predecessors in interest with respect to all or any part of the subject matter hereof. Should any or all of the provisions of this Agreement be found to be in conflict with any other provision or provisions found in the Existing Regulations, then the provisions of this Agreement shall prevail.

12.3 Binding Effect. Subject to the provisions of Article 11, the Parties intend that the provisions of this Agreement shall constitute covenants which shall run with the land comprising the Developer Property during the Term for the benefit thereof and that the burdens and benefits thereof shall bind and inure to the benefit of all successors-in-interest to the Parties hereto. Subject to the provisions of Article 11, every Party who now or hereafter owns or acquires any right, title, or interest in or to any portion of the Developer Property during the Term is and shall be conclusively deemed to have consented and agreed to every provision contained herein, to the extent relevant to said right, title or interest, whether or not any reference to this Agreement is contained in the instrument by which such person acquired an interest in the Developer Property. Notwithstanding the foregoing, no person or entity that acquires any fee interest or lesser interest in any part of the Developer Property (other than a transferee of all or substantially all of Developer's fee interest in the Developer Property, excluding any portion thereof conveyed to an Anchor Store or other occupant) shall acquire any right to receive any portion of the Assistance Payments; provided that this limitation shall not be construed to limit the rights of a Secured Lender or its successors in interest to receive the Assistance Payments in accordance with Section 10.2

12.4 Agreement Not for Benefit of Third Parties. This Agreement is made and entered into for the sole protection and benefit of Developer and the City and their respective successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

12.5 No Partnership or Joint Venture. Nothing in this Agreement shall be deemed to create a partnership or joint venture between the City and Developer or to render either Party liable in any manner for the debts or obligations of the other.

12.6 Estoppel Certificates. Either Party may, at any time, and from time to time, deliver written notice to the other Party requesting such Party to certify in writing (each, an “**Estoppel Certificate**”): (a) that this Agreement is in full force and effect, (b) that this Agreement has not been amended or modified either orally or in writing, or if so amended, identifying the amendments, (c) whether or not, to the knowledge of the responding Party, the requesting Party is in Breach or claimed Breach in the performance of its obligations under this Agreement, and, if so, describing the nature and amount of any such Breach or claimed Breach, and (d) whether or not, to the knowledge of the responding Party, any event has occurred or failed to occur which, with the passage of time or the giving of notice, or both, would constitute an Event of Monetary Default or an Event of Non-Monetary Default and, if so, specifying each such event. A Party receiving a request for an Estoppel Certificate shall execute and return such Certificate within thirty (30) days following the receipt of the request therefor. If the party receiving the request hereunder does not execute and return the certificate in such 30-day period and if circumstances are such that the Party requesting the notice requires such notice as a matter of reasonable business necessity, the Party requesting the notice may seek a second request which conspicuously states “FAILURE TO EXECUTE THE REQUESTED ESTOPPEL CERTIFICATE WITHIN FIFTEEN (15) DAYS SHALL BE DEEMED WAIVER PURSUANT TO SECTIONS 12.6 AND 12.12 OF THE DEVELOPMENT AGREEMENT” and which sets forth the business necessity for a timely response to the estoppel request. If the Party receiving the second request fails to execute the Estoppel Certificate within such 15-day period, it shall be conclusively deemed that the Agreement is in full force and effect and has not been amended or modified orally or in writing, and that there are no uncured defaults under this Agreement or any events which, with passage of time of giving of notice, of both, would constitute a default under the Agreement. The City Manager shall have the right to execute any Estoppel Certificate requested by Developer under this Agreement. The City acknowledges that an Estoppel Certificate may be relied upon by any Property Transferee, Secured Lender or other party.

12.7 Time. Time is of the essence for each provision of this Agreement of which time is an element.

12.8 Unavoidable Delays. In addition to any specific provisions of this Agreement, non-performance by Developer of its obligations under this Agreement shall be excused when it has been prevented or delayed in such performance by reason of Unavoidable Delay.

12.9 Governing Law. This Agreement shall be governed exclusively by the provisions hereof and by the laws of the State of California.

12.10 Attorneys’ Fees. If any Party commences any action for the interpretation, enforcement, termination, cancellation or rescission of this Agreement or for specific performance for the Breach of this Agreement, the prevailing Party shall be entitled to its reasonable attorneys’ fees, litigation expenses and costs. Attorneys’ fees shall include attorneys’ fees on any appeal as well as any attorneys’ fees incurred in any post-judgment

proceedings to collect or enforce the judgment. Such attorneys' fees shall be paid whether or not such action is prosecuted to judgment.

12.11 Recordation. The Parties shall cause this Agreement to be recorded against title to the Developer Property in the Official Records of the County of San Bernardino. The cost, if any, of recording this Agreement shall be borne by Developer.

12.12 No Waiver. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the Party against whom enforcement of a waiver is sought and referring expressly to this Section 12.12. No delay or omission by either Party in exercising any right or power accruing upon non-compliance or failure to perform by the other Party under any of the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof, except as expressly provided herein. No waiver by either Party of any of the covenants or conditions to be performed by the other Party shall be construed or deemed a waiver of any succeeding breach or nonperformance of the same or other covenants and conditions hereof of this Agreement.

12.13 Construction of this Agreement. The Parties agree that each Party and its legal counsel have reviewed and revised this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not apply in the interpretation of this Agreement or any amendments or exhibits thereto.

12.14 Other Governmental Approvals. Developer may apply for such other permits and approvals as may be required for development of the Project in accordance with this Agreement from other governmental or quasi-governmental agencies having jurisdiction over the Developer Property. The City shall reasonably cooperate with Developer in its endeavors to obtain such permits and approvals.

12.14.1 Further Assurances; Covenant to Sign Documents. Each Party shall take all actions and do all things, and execute, with acknowledgment or affidavit, if required, any and all documents and writings, which may be necessary or proper to achieve the purposes and objectives of this Agreement.

12.14.2 Reimbursement and Apportionment. Although the Parties do not contemplate any future approvals for the Project requiring excess capacity or size of required dedications or public facilities beyond that required by the Existing Regulations, nothing in this Agreement precludes the City or Developer from entering into any reimbursement agreements for the portion (if any) of the cost of any dedications, public facilities and/or infrastructure that the City, pursuant to this Agreement, may require as a condition of any future approvals, to the extent that they are in excess of those reasonably necessary to mitigate the impacts of the Project or development on the Developer Property.

12.14.3 Processing. Upon satisfactory completion by Developer of all required preliminary actions and payments of appropriate processing fees, if any, the City shall, subject to all legal requirements, promptly initiate, diligently process, and complete at the earliest possible time all required steps, and expeditiously act upon any approvals and permits necessary for the development by Developer of the Project in accordance with this Agreement, including, but not limited to, the following:

- (a) the processing of applications for and issuing of all Discretionary Approvals requiring the exercise of judgment and deliberation by City;
- (b) the holding of any required public hearings; and
- (c) the processing of applications for and issuing of all City Technical Permits requiring the determination of conformance with the Existing Regulations.

12.14.4 No Revocation. The City shall not revoke or subsequently disapprove any approval or future approval for the development of the Project or the Mall Property once issued by the City; provided that the development of the Project or the Mall Property is in accordance with such approval. Any disapproval by the City shall state in writing the reasons for such disapproval and the suggested actions to be taken in order for approval to be granted.

12.14.5 Processing During Third Party Litigation. If any third party lawsuit is filed against the City or Developer relating to this Agreement or to other development issues affecting the Project, the City shall not delay or stop the development, processing or construction of the Project, or issuance of City Technical Permits, unless the third party obtains a court order preventing the activity. The City shall not stipulate to or fail to oppose the issuance of any such order.

12.14.6 State, Federal or Case Law. Where any state, federal or case law allows the City to exercise any discretion or take any act with respect to that law, the City shall, in an expeditious and timely manner, at the earliest possible time, (i) exercise its discretion in such a way as to be consistent with, and carry out the terms of, this Agreement and (ii) take such other actions as may be necessary to carry out in good faith the terms of this Agreement.

12.15 Venue. Any Legal Action or proceeding among the Parties arising out of this Agreement shall be instituted in the Superior Court of the County of San Bernardino, State of California, in any other appropriate court in that County, or in the Federal District Court in the Central District of California.

12.16 Exhibits. The following exhibits which are part of this Agreement are attached hereto and each of which is incorporated herein by this reference as though set forth in full:

Exhibit "A"	Legal Description of the Developer Property (excluding the Macy's Parcel)
Exhibit "B"	Project Plans
Exhibit "C"	Permitted Fees and Exactions
Exhibit "D"	Mitigation Measures and Conditions
Exhibit "E"	Permitted Uses for New Shop Space and In-Line Retail Space

If there are any inconsistencies between the Exhibits and the text of this Agreement, the text of this Agreement shall prevail.

12.17 Certificate of Performance. Upon the completion of the Project, or any phase thereof, or upon performance of this Agreement or its earlier revocation and termination, the City shall provide Developer, upon Developer's request, with a statement ("**Certificate of Performance**") evidencing said completion, termination or revocation and the release of Developer from further obligations hereunder, except for any further obligations which survive such completion, termination or revocation. The Certificate of Performance shall be signed by the appropriate agents of Developer and the City and shall be recorded against title to the Developer Property in the official records of San Bernardino County, California. Such Certificate of Performance is not a notice of completion as referred to in California Civil Code Section 3093.

12.18 Operating Memoranda. The provisions of this Agreement require a close degree of cooperation between the City and Developer. During the Term, clarifications to this Agreement and the Existing Regulations may be appropriate with respect to the details of performance of the City and Developer. If and when, from time to time, during the Term, the City and Developer agree that such clarifications are necessary or appropriate, they shall effectuate such clarification through operating memoranda approved in writing by the City and Developer, which, after execution, shall be attached hereto and become part of this Agreement and the same may be further clarified from time to time as necessary with future written approval by the City and Developer. Operating memoranda are not intended to and cannot constitute an amendment to this Agreement but mere ministerial clarifications, therefore public notices and hearings shall not be required for any operating memorandum. The City Attorney shall be authorized, upon consultation with and approval of Developer, to determine whether a requested clarification may be effectuated pursuant to the execution and delivery of an operating memorandum or whether the requested clarification is of such character to constitute an amendment of this Agreement which requires compliance with the provisions of Section 6.1 above. The authority to enter into such operating memoranda is hereby delegated to the City Manager and the City Manager is hereby authorized to execute any operating memoranda hereunder without further action by the City Council.

12.19 Acknowledgments, Agreements and Assurance on the Part of Developer.

12.19.1 Developer's Faithful Performance. The Parties acknowledge and agree that Developer's faithful performance in developing the Project on the Developer Property and in constructing and installing certain public improvements pursuant to this Agreement and complying with the Existing Regulations will fulfill substantial public needs. The City acknowledges and agrees that there is good and valuable consideration to the City resulting from Developer's assurances and faithful performance thereof and that same is in balance with the benefits conferred by the City on the Project. The Parties further acknowledge and agree that the exchanged consideration hereunder is fair, just and reasonable. Developer acknowledges that the consideration is reasonably related to the type and extent of the impacts of the Project on the community and the Developer Property, and further acknowledges that the consideration is necessary to mitigate the direct and indirect impacts caused by Developer on the Developer Property.

12.19.2 Obligations to be Non-Recourse. As a material element of this Agreement, and as an inducement to Developer to enter into this Agreement, each of the Parties understands and agrees that the City's remedies for breach of the obligations of Developer under this Agreement shall be limited as described in Section 9.2 Section 9.3 and Section 9.4 above.

12.20 Not a Public Dedication. Nothing in this Agreement shall be deemed to be a gift or dedication of the Developer Property, or of the Project, or any portion thereof, to the general public, for the general public, or for any public use or purpose whatsoever, it being the intention and understanding of the Parties that this Agreement be strictly limited to and for the purposes herein expressed for the development of the Project as private property. Developer shall have the right to prevent or prohibit the use of the Developer Property, or the Project, or any portion thereof, including common areas and buildings and improvements located thereon, by any person for any purpose inimical to the development of the Project, including without limitation to prevent any person or entity from obtaining or accruing any prescriptive or other right to use the Developer Property or the Project.

12.21 Defense of Agreement. City agrees to and shall timely take all actions which are necessary or required to uphold the validity and enforceability of this Agreement, subject to the indemnification provisions of this Section 12.21. Developer shall defend, indemnify, protect, and hold harmless, the City and any agency or instrumentality thereof, and/or any of its officers, employees, and agents from any and all claims, actions, or proceedings against the City, or any agency or instrumentality thereof, or any of its officers, employees and agents, to attack, set aside, void, or annul this Agreement. The City shall promptly notify Developer of any claim, action, or proceeding brought forth which has not been separately served on Developer as a party or real party in interest. Developer shall select legal counsel of its choice to conduct such defense and the City shall cooperate fully in the defense.

12.22 Severability and Termination. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, or if any provision of this Agreement is superseded or rendered unenforceable according to any law which becomes effective after the Effective Date, the remainder of this Agreement shall be effective to the extent the remaining provisions are not rendered impractical to perform, taking into consideration the purposes of this Agreement.


{signatures on next page}

12.23 Counterpart Signatures. The Parties may execute this Agreement on separate signature pages which, when attached hereto, shall constitute one complete Agreement.

This Agreement is executed by the Parties on the date first set forth above and is made effective on and as of the Effective Date.

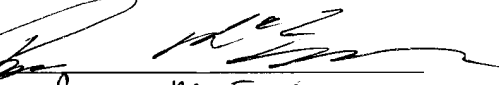
Developer:

MACERICH VICTOR VALLEY LLC,
a Delaware limited liability company

By: 
Name: Stephen L. Spector
Its: Senior Vice President, General Counsel

CITY:

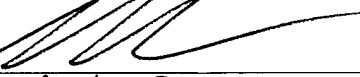
CITY OF VICTORVILLE

By: 
Name: Ryan McEachron
Title: Mayor

ATTEST:

By: Marcie Walters
Name: Marcie Walters
Deputy City Clerk

APPROVED AS TO FORM:

By: 
Name: Andre DeBartnowsky
City Attorney

APPROVED AS TO FORM:

By: 
Name: C.J. August
City Risk Manager

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of San Bernardino

On August 27, 2012 before me, Sylvia Calderon, Notary Public,
(Here insert name and title of the officer)

personally appeared Ryan S. Mceachron

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.

Sylvia Calderon
Signature of Notary Public

(Notary Seal)



ADDITIONAL OPTIONAL INFORMATION

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they~~, is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

Individual (s)

Corporate Officer

(Title)

Partner(s)

Attorney-in-Fact

Trustee(s)

Other _____

State of California

}

} ss.

County of Los Angeles

}

On October 8, 2012 before me, Joanne E. Hill, a Notary Public
(Insert name of Notary Public and title)

personally appeared Stephen L. Spector,
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/she executed the
same in his/her authorized capacity, and that by his/her 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.

Joanne E. Hill (Seal)
Signature of Notary Public

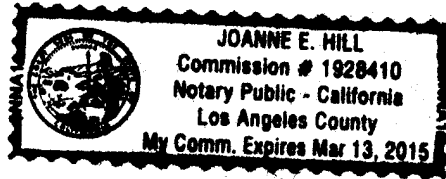


EXHIBIT "A"

LEGAL DESCRIPTION OF DEVELOPER PROPERTY

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

PARCEL A:

THAT PORTION OF PARCELS 1 AND 8 OF PARCEL MAP NO. 9250, IN THE CITY OF VICTORVILLE, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS SHOWN ON A MAP FILED IN BOOK 100, PAGES 6 THROUGH 9, OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST SOUTHERLY CORNER OF SAID PARCEL 1, SAID POINT BEING ON THE GENERALLY NORTHWESTERLY RIGHT-OF-WAY LINE OF AMARGOSA ROAD, 33.00 FOOT HALF-WIDTH, AS SHOWN ON SAID PARCEL MAP NO. 9250; THENCE ALONG THE GENERALLY SOUTHERLY LINE OF SAID PARCEL 1 NORTH 40°26'06" WEST, 50.26 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 170.00 FEET, A RADIAL LINE TO SAID BEGINNING OF CURVE BEARS SOUTH 29°31'58" EAST; THENCE SOUTHWESTERLY CONTINUING ALONG SAID GENERALLY SOUTHERLY LINE OF PARCEL 1 AND ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 05°25'18" AN ARC LENGTH OF 16.09 FEET TO THE BEGINNING OF A COMPOUND CURVE, CONCAVE NORTHERLY, HAVING A RADIUS OF 332.00 FEET; THENCE WESTERLY CONTINUING ALONG SAID GENERALLY SOUTHERLY LINE OF PARCEL 1 AND ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 15°00'01" AN ARC LENGTH OF 86.92 FEET TO THE MOST EASTERLY CORNER OF SAID PARCEL 8; THENCE LEAVING SAID GENERALLY SOUTHERLY LINE OF PARCEL 1 AND ALONG THE GENERALLY NORTHEASTERLY LINE OF SAID PARCEL 8 NORTH 40°26'06" WEST, 244.31 FEET TO AN ANGLE POINT; THENCE CONTINUING ALONG SAID GENERALLY NORTHEASTERLY LINE OF PARCEL 8 NORTH 49°33'54" EAST, 198.00 FEET TO AN ANGLE POINT; THENCE CONTINUING ALONG SAID GENERALLY NORTHEASTERLY LINE OF PARCEL 8 NORTH 40°26'06" WEST, 32.29 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID GENERALLY NORTHEASTERLY LINE OF PARCEL 8 SOUTH 49°40'44" WEST, 44.67 FEET; THENCE SOUTH 04°56'16" WEST, 8.50 FEET; THENCE SOUTH 49°30'13" WEST, 86.73 FEET; THENCE NORTH 85°56'28" WEST, 8.50 FEET; THENCE SOUTH 49°32'40" WEST, 81.32 FEET; THENCE NORTH 40°22'14" WEST, 63.53 FEET; THENCE NORTH 85°01'19" WEST, 8.55 FEET; THENCE NORTH 40°27'49" WEST, 121.31 FEET; THENCE NORTH

04°07'54" EAST, 8.55 FEET; THENCE NORTH 40°24'50" WEST, 137.81 FEET; THENCE NORTH 49°37'47" EAST, 39.96 FEET; THENCE NORTH 04°24'02" EAST, 8.58 FEET; THENCE NORTH 49°34'10" EAST, 91.34 FEET; THENCE SOUTH 83°56'55" EAST, 8.42 FEET; THENCE NORTH 49°21'51" EAST, 38.18 FEET; THENCE NORTH 05°05'07" EAST, 8.45 FEET; THENCE NORTH 49°29'29" EAST, 37.49 FEET; THENCE SOUTH 40°27'12" EAST, 73.91 FEET; THENCE NORTH 49°36'17" EAST, 79.75 FEET; THENCE SOUTH 40°26'17" EAST, 212.06 FEET; THENCE SOUTH 49°33'27" WEST, 79.75 FEET TO A LINE THAT BEARS NORTH 40°19'31" WEST FROM THE TRUE POINT OF BEGINNING; THENCE ALONG SAID LINE SOUTH 40°19'31" EAST, 54.78 FEET TO THE TRUE POINT OF BEGINNING.

SAID DESCRIPTION IS MADE PURSUANT TO AND DESCRIBED IN EXHIBIT "F" AND SHOWN ON EXHIBIT "G" SHEET 1 OF LOT LINE ADJUSTMENT NO. ADM12-00006, CITY OF VICTORVILLE, RECORDED APRIL 12, 2012 AS INSTRUMENT NO. 2012-0141065 OF OFFICIAL RECORDS.

PARCEL B1:

PARCEL A OF LOT LINE ADJUSTMENT CITY CASE NO. ADM12-00006, IN THE CITY OF VICTORVILLE, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, PER A DOCUMENT RECORDED APRIL 12, 2012 AS INSTRUMENT NO. 2012—0141065, OF OFFICIAL RECORDS.

EXCEPT THEREFROM THE LAND DESCRIBED IN EXHIBIT 'C' OF LOT LINE ADJUSTMENT NO. LA-6-91, PER A DOCUMENT RECORDED APRIL 23, 1991 AS INSTRUMENT NO. 91-135036, OF OFFICIAL RECORDS.

ALSO EXCEPT THEREFROM THAT PORTION OF SAID PARCEL A OF LOT LINE ADJUSTMENT CITY CASE NO. ADM12-00006, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST SOUTHERLY CORNER OF THE LAND DESCRIBED IN EXHIBIT 'C' OF LOT LINE ADJUSTMENT NO. LA-6-91 PER A DOCUMENT RECORDED APRIL 23, 1991 AS INSTRUMENT NO. 91—135036, OF OFFICIAL RECORDS, SAID CORNER ALSO BEING THE SOUTHWESTERLY CORNER OF PARCEL 10 OF PARCEL MAP NO. 9250, AS SHOWN ON A MAP FILED IN BOOK 100, PAGES 6 THROUGH 9, OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE ALONG THE SOUTHERLY LINE OF SAID LOT LINE ADJUSTMENT NO. LA-6-91 NORTH 68°00'00" EAST, 48.80 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID SOUTHERLY LINE NORTH 68°00'00" EAST, 151.20 FEET TO THE EASTERLY LINE OF SAID LOT LINE ADJUSTMENT NO. LA-6-91; THENCE ALONG SAID EASTERLY LINE NORTH 22°00'00" WEST, 300.00 FEET

TO THE NORTHERLY LINE OF SAID LOT LINE ADJUSTMENT NO. LA-6-91; THENCE ALONG SAID NORTHERLY LINE SOUTH 68°00'00" WEST, 183.60 FEET; THENCE LEAVING SAID NORTHERLY LINE NORTH 22°05'54" WEST, 202.63 FEET; THENCE NORTH 67°54'06" EAST, 50.00 FEET; THENCE NORTH 22°05'54" WEST, 83.50 FEET; THENCE NORTH 65°03'15" EAST, 213.90 FEET; THENCE SOUTH 22°04'27" EAST, 144.40 FEET; THENCE NORTH 37°55'21" EAST, 44.36 FEET; THENCE SOUTH 22°04'27" EAST, 131.13 FEET; THENCE NORTH 51°17'33" EAST, 210.60 FEET; THENCE SOUTH 38°43'50" EAST, 26.37 FEET; THENCE SOUTH 34°34'16" EAST, 58.79 FEET; THENCE SOUTH 26°38'25" EAST, 46.50 FEET; THENCE SOUTH 67°55'21" WEST, 11.38 FEET; THENCE SOUTH 13°50'22" EAST, 26.26 FEET; THENCE SOUTH 80°00'00" EAST, 14.90 FEET; THENCE SOUTH 82°41'52" EAST, 71.01 FEET; THENCE SOUTH 56°58'44" EAST, 173.95 FEET TO THE GENERALLY SOUTHEASTERLY LINE OF SAID PARCEL A, SAID POINT BEING ON THE GENERALLY NORTHWESTERLY RIGHT-OF-WAY LINE OF AMARGOSA ROAD, 33.00 FOOT HALF-WIDTH, AS SHOWN ON SAID PARCEL MAP NO. 9250; THENCE ALONG SAID GENERALLY SOUTHEASTERLY LINE AND ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE SOUTH 33°01'16" WEST, 24.00 FEET; THENCE LEAVING SAID GENERALLY SOUTHEASTERLY LINE AND SAID NORTHWESTERLY RIGHT-OF-WAY LINE AND ALONG THE NORTHEASTERLY LINE OF PARCEL 7 OF SAID PARCEL MAP NO. 9250 NORTH 56°58'44" WEST, 50.00 FEET; THENCE LEAVING SAID NORTHEASTERLY LINE AND ALONG THE NORTHWESTERLY PROLONGATION OF SAID NORTHEASTERLY LINE NORTH 56°58'44" WEST, 118.48 FEET; THENCE LEAVING SAID NORTHWESTERLY PROLONGATION NORTH 82°41'52" WEST, 66.66 FEET; THENCE SOUTH 10°00'0" WEST, 11.75 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 293.00 FEET, A RADIAL LINE TO SAID BEGINNING OF CURVE BEARS NORTH 88°09'24" EAST; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 11°56'03" AN ARC LENGTH OF 61.03 FEET; THENCE SOUTH 10°05'27" WEST, 305.26 FEET TO THE BEGINNING OF A CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 333.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 17°37'54" AN ARC LENGTH OF 102.47 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 2,919.00 FEET, A RADIAL LINE TO SAID BEGINNING OF CURVE BEARS SOUTH 54°31'35" EAST; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 02°02'27" AN ARC LENGTH OF 103.97 FEET; THENCE SOUTH 37°30'52" WEST, 150.18 FEET TO A LINE THAT BEARS SOUTH 22°00'00" EAST FROM THE TRUE POINT OF BEGINNING; THENCE ALONG SAID LINE NORTH 22°00'00" WEST, 309.75 FEET TO THE TRUE POINT OF BEGINNING.

SAID LAND IS ALSO DESCRIBED AS PARCEL A AS SET FORTH IN EXHIBIT "D" IN THAT CERTAIN LOT LINE ADJUSTMENT CITY CASE NO. ADM12-00018,

RECORDED JUNE 22, 2012 AS INSTRUMENT NO. 2012-025097 OF OFFICIAL RECORDS.

PARCEL B2:

PARCEL 9 OF PARCEL MAP NO. 9250, IN THE CITY OF VICTORVILLE, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 100, PAGE(S) 6 THROUGH 9, OF PARCEL MAPS RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL C:

PARCEL 1 OF PARCEL MAP NO. 12076, CITY OF VICTORVILLE, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 155 PAGES 64 AND 65, OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXHIBIT "B"

PROJECT PLANS

The following cases as on file with the City Clerk's Office of the City of Victorville:

- PLN11-00020 – Mall Expansion (Macy's and Two Restaurant Tenants)
- PLN12-00010 – Master Sign Program
- ADM12-00004 – Exterior Changes to Proposed J.C. Penney
- ADM12-00011 – Remodeling of Four Main Mall Entries
- PMT11-01141 – Anchor Expansion for J.C. Penney Relocation
- PMT12-00129 – J.C. Penney Tenant Improvement
- PMT12-00306 – J.C. Penney Tenant Improvement Demo
- PMT12-00465 – J.C. Penney Racking
- PMT12-00068 – Macy's Area Parking Lot Lighting
- PMT12-00190 – Macy's Pad
- PMT12-00226 – Macy's Grading
- PMT12-00242 – Macy's Landscaping
- PMT12-00353 – Macy's Building Shell
- PMT12-00200 – Mall Entries
- PMT12-00227 – Cinemark Tenant Improvement
- ENG12-00157 – Grading Path of Travel (Macy's Area)

EXHIBIT "C"

PERMITTED FEES AND EXACTIONS

Developer shall pay fees and charges that are within the City's jurisdiction and at the rate in effect at the time applications are made. Notwithstanding rates identified separately in this exhibit, fees and charges shall be those that are approved for general application citywide by the Victorville City Council. For Illustration purposes, Exhibit C-1 represents the currently adopted commercial fee structure. Among those fees are the following:

1. Upon submittal for plan check, Developer shall pay all City application and plan check fees;
2. Prior to issuance of construction permits for public/private improvements, Developer shall pay fees, including but not limited to Building, Plumbing, Mechanical, Electrical, Grading, Seismic Mapping, SMIP, Imaging and Green Building Fees.
3. Development Impact Fees
4. VVWRA Sewer Treatment Capacity Fees
5. Sewer Collection System Connection Fees (Local)
6. School District Fees
7. Bridge Fees (currently estimated at \$.2335 per square foot)
8. Traffic/Drainage, Water Supply Assessments, Water Will-Serves, Water Backflow upgrades and water service fees.
9. Development Agreement Application Fee of \$10,000 (This fee is intended to supersede the fee established in C-1 due to the nature and complexity of this Development Agreement and being different from the traditional development agreements approved by the City)
10. Periodic Review/Contract Maintenance Fee (Sec. 8.1) of \$2000/annually (Any amounts above this maintenance fee shall be mutually consented to in writing and be based on actual costs incurred to perform said service)
11. Sales Tax Revenue Analysis/Independent Analysis of \$2,000/annually (Any amounts above this maintenance fee shall be mutually consented to in writing and be based on actual costs incurred to perform said service).
12. This exhibit shall not be construed to limit the City's ability to charge for recurring services related charges that are required as a function of the ongoing operation of the Project.



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BUILDING FEES - COMMERCIAL

In order to assist you in estimating the permit fees for your project, several tables and charts have been compiled and are included in this package. By following the steps listed below, a reasonable estimate may be made.

- STEP 1 – Review page 2 for type of project and determine the value per square foot. Multiply this figure by the total square footage of the project.
- STEP 2 – Find the valuation of the project on page 3, and then add the fees for plan review and construction permit.
- STEP 3 – Review page 4 for miscellaneous plumbing, electrical, and mechanical fees.

Note that a separate permit is required for each independent structure, even though they may be located on the same parcel.

Additional Permit Fees

Development Impact Fee – \$9.28 per square foot for commercial projects, \$3.44 per square foot for industrial projects and \$1.87 per square foot for industrial high cube projects. This fee is used for parks, roads, and public safety capital improvement costs.

VVWRA (Victor Valley Water Reclamation Authority) – Fees are used for the expansion of sewage treatment facilities, and can be computed by completing the form on page 5.

Sewer Connection Fees – Commercial projects are figured on an equivalent dwelling unit basis by using the following calculations:

Total number of fixture units (using form on page 5), divided by 20, and multiplied by \$350.00.

Other Special Assessments – Depending on the location of the project, there may also be special assessment fees to cover storm drains, bridges, road widening, street lighting, and fire hydrant installation. Please contact the Department of Building and Safety for more information regarding special assessment districts.

Strong Motion Implementation Program (SMIP) Fee – Projects with a valuation less than \$2,381 will receive a SMIP fee of .50. Projects with a valuation greater than \$2,381 should multiply the valuation by .00021 to determine SMIP.

Imaging Fee – Multiply the valuation by .0005 to determine the imaging fee.

Green Building Fee – Senate Bill 1473 which provides for the creation of the Building Standards Administration Special Revolving Fund.

Permit Valuation	Fee
\$1 – 25,000	\$1
\$25,001 – 50,000	\$2
\$50,001 – 75,000	\$3
\$75,001 – 100,000	\$4
Every \$25,000 or fraction thereof above \$100,000	Add \$1

PRIOR TO THE ISSUANCE OF THE BUILDING PERMIT, THE DEPARTMENT OF BUILDING AND SAFETY MUST BE IN RECEIPT OF THE FOLLOWING ITEMS:

1. A Certificate of Compliance from the school district.
2. A completed and approved Joshua Tree Inspection Report.
3. Proof of Engineering Department compliance (i.e., permit for improvement in City right-of-way, easement dedication, suspension agreement, etc.)

THESE FEES ARE FOR ESTIMATION PURPOSES ONLY. ALL PLANS MUST BE SUBMITTED AND APPROVED BEFORE OFFICIAL FEES CAN BE ASSESSED.



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THE FOLLOWING BUILDING VALUATION DATA REPRESENTS AVERAGE COSTS FOR MOST NEW CONSTRUCTION BUILDINGS. THIS CHART IS ADJUSTED ANNUALLY AS RELEASED BY THE INTERNATIONAL CODE COUNCIL AND USED SOLELY FOR THE DETERMINATION OF PERMIT FEES. TENANT IMPROVEMENTS WILL BE VALUATED AT 20% OF THESE FEES.

Construction Group	Construction Type								
	1A	1B	2A	2B	3A	3B	4 - HT	5A	5B
A-1 Assembly, theaters, with stage	204.81	196.86	192.77	184.35	172.91	168.11	177.81	158.10	151.39
A-1 Assembly, theaters, w/out stage	187.37	180.42	175.33	166.91	155.51	150.71	160.37	140.70	133.99
A-2 Assembly, nightclubs	155.74	151.36	147.50	141.90	133.46	129.73	136.94	121.02	116.96
A-2 Assembly, restaurants, bars, banquet halls	154.74	150.36	145.50	140.90	131.46	128.73	135.94	119.02	115.96
A-3 Assembly, churches	189.22	182.27	177.18	168.76	157.33	152.53	162.22	142.51	135.80
A-3 Assembly, general, community halls, libraries, museums	158.87	151.92	145.83	138.41	125.97	122.17	131.88	111.16	105.45
A-4 Assembly, arenas	186.37	179.42	173.33	165.9 ¹	153.51	149.71	159.37	138.70	132.99
B Business	158.40	152.65	147.57	140.34	127.30	122.71	134.52	111.91	106.66
E Educational	171.53	165.59	160.55	153.20	141.88	134.72	147.92	123.99	119.32
F-1 Factory and industrial, moderate hazard	93.92	89.61	84.47	81.69	73.14	69.92	78.41	60.23	56.97
F-2 Factory and industrial, low hazard	92.92	88.61	84.47	80.69	73.14	68.92	77.41	60.23	55.97
H-1 High Hazard, explosives	88.02	83.71	79.57	75.79	68.42	64.20	72.51	55.51	0.00
H-2, 3, 4 High Hazard	88.02	83.71	79.57	75.79	68.42	64.20	72.51	55.51	51.25
H-5 HPM	158.40	152.65	147.57	140.34	127.30	122.71	134.52	111.91	106.66
I-1 Institutional, supervised environment	159.09	153.09	148.95	142.51	130.74	127.30	138.80	117.44	112.84
I-2 Institutional, hospitals	266.39	260.64	255.56	248.33	234.50	0.00	242.51	219.11	0.00
I-2 Institutional, nursing homes	185.59	179.83	174.76	167.53	154.81	0.00	161.71	139.41	0.00
I-3 Institutional, restrained	180.47	174.72	169.64	162.41	150.60	145.01	156.59	135.20	127.96
I-4 Institutional, day care facilities	159.09	153.50	148.95	142.51	130.74	127.30	138.80	117.44	112.84
M Mercantile	115.80	111.42	106.56	101.96	93.15	90.42	97.00	80.71	77.65
R-1 Residential, hotels	1670.44	14.84	150.29	143.85	132.24	128.80	140.31	118.95	114.35
S-1 Storage, moderate hazard	87.02	82.71	77.57	74.79	66.42	63.20	71.51	53.51	50.25
S-2 Storage, low hazard	86.02	81.71	77.57	73.79	66.42	62.20	70.51	53.51	49.25

BUILDINGS PROVIDED WITH AUTOMATIC SPRINKLER SYSTEMS WILL BE GIVEN AN ADDITIONAL VALUATION OF \$2.40 PER SQUARE FOOT.



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Project Valuation

TOTAL VALUATION		PERMITS		TOTAL VALUATION		PERMITS		TOTAL VALUATION		PERMITS	
\$1.00 - \$2,000.00	\$29.25	\$45.00	\$270,001.00 - \$275,000.00	\$613.60	\$1,252.00	\$590,001.00 - \$600,000.00	\$1,520.68	\$2,339.50			
\$2,001.00 - \$5,000.00	\$48.80	\$72.00	\$275,001.00 - \$280,000.00	\$825.18	\$1,269.50	\$600,001.00 - \$610,000.00	\$1,540.18	\$2,369.50			
\$5,001.00 - \$10,000.00	\$76.05	\$117.00	\$280,001.00 - \$285,000.00	\$836.55	\$1,287.00	\$610,001.00 - \$620,000.00	\$1,559.68	\$2,399.50			
\$10,001.00 - \$15,000.00	\$105.30	\$162.00	\$285,001.00 - \$290,000.00	\$847.93	\$1,304.50	\$620,001.00 - \$630,000.00	\$1,579.18	\$2,429.50			
\$15,001.00 - \$20,000.00	\$134.55	\$207.00	\$290,001.00 - \$295,000.00	\$859.30	\$1,322.00	\$630,001.00 - \$640,000.00	\$1,598.68	\$2,459.50			
\$20,001.00 - \$25,000.00	\$163.80	\$252.00	\$295,001.00 - \$300,000.00	\$870.68	\$1,339.50	\$640,001.00 - \$650,000.00	\$1,618.18	\$2,489.50			
\$25,001.00 - \$30,000.00	\$184.93	\$284.50	\$300,001.00 - \$305,000.00	\$882.05	\$1,357.00	\$650,001.00 - \$660,000.00	\$1,637.68	\$2,519.50			
\$30,001.00 - \$35,000.00	\$206.05	\$317.00	\$305,001.00 - \$310,000.00	\$893.43	\$1,374.50	\$660,001.00 - \$670,000.00	\$1,657.18	\$2,549.50			
\$35,001.00 - \$40,000.00	\$227.18	\$349.50	\$310,001.00 - \$315,000.00	\$904.80	\$1,392.00	\$670,001.00 - \$680,000.00	\$1,676.68	\$2,579.50			
\$40,001.00 - \$45,000.00	\$248.30	\$382.00	\$315,001.00 - \$320,000.00	\$916.18	\$1,409.50	\$680,001.00 - \$690,000.00	\$1,696.18	\$2,609.50			
\$45,001.00 - \$50,000.00	\$269.43	\$414.50	\$320,001.00 - \$325,000.00	\$927.55	\$1,427.00	\$690,001.00 - \$700,000.00	\$1,715.68	\$2,639.50			
\$50,001.00 - \$55,000.00	\$284.05	\$437.00	\$325,001.00 - \$330,000.00	\$938.93	\$1,444.50	\$700,001.00 - \$710,000.00	\$1,735.18	\$2,669.50			
\$55,001.00 - \$60,000.00	\$298.68	\$459.50	\$330,001.00 - \$335,000.00	\$950.30	\$1,462.00	\$710,001.00 - \$720,000.00	\$1,754.68	\$2,699.50			
\$60,001.00 - \$65,000.00	\$313.30	\$482.00	\$335,001.00 - \$340,000.00	\$961.68	\$1,479.50	\$720,001.00 - \$730,000.00	\$1,774.18	\$2,729.50			
\$65,001.00 - \$70,000.00	\$327.93	\$504.50	\$340,001.00 - \$345,000.00	\$973.05	\$1,497.00	\$730,001.00 - \$740,000.00	\$1,793.68	\$2,759.50			
\$70,001.00 - \$75,000.00	\$342.55	\$527.00	\$345,001.00 - \$350,000.00	\$984.43	\$1,514.50	\$741,001.00 - \$750,000.00	\$1,813.18	\$2,789.50			
\$75,001.00 - \$80,000.00	\$357.18	\$549.50	\$350,001.00 - \$355,000.00	\$995.80	\$1,532.00	\$750,001.00 - \$760,000.00	\$1,832.68	\$2,819.50			
\$80,001.00 - \$85,000.00	\$371.80	\$572.00	\$355,001.00 - \$360,000.00	\$1,007.18	\$1,549.50	\$760,001.00 - \$770,000.00	\$1,852.18	\$2,849.50			
\$85,001.00 - \$90,000.00	\$386.43	\$594.50	\$360,001.00 - \$365,000.00	\$1,018.55	\$1,567.00	\$770,001.00 - \$780,000.00	\$1,871.68	\$2,879.50			
\$90,001.00 - \$95,000.00	\$401.05	\$617.00	\$365,001.00 - \$370,000.00	\$1,029.93	\$1,584.50	\$780,001.00 - \$790,000.00	\$1,891.18	\$2,909.50			
\$95,001.00 - \$100,000.00	\$415.68	\$639.50	\$370,001.00 - \$375,000.00	\$1,041.30	\$1,602.00	\$790,001.00 - \$800,000.00	\$1,910.68	\$2,939.50			
\$100,001.00 - \$105,000.00	\$427.05	\$657.00	\$375,001.00 - \$380,000.00	\$1,052.68	\$1,619.50	\$800,001.00 - \$810,000.00	\$1,930.18	\$2,969.50			
\$105,001.00 - \$110,000.00	\$438.43	\$674.50	\$380,001.00 - \$385,000.00	\$1,064.05	\$1,637.00	\$810,001.00 - \$820,000.00	\$1,949.68	\$2,999.50			
\$110,001.00 - \$115,000.00	\$449.80	\$692.00	\$385,001.00 - \$390,000.00	\$1,075.43	\$1,654.50	\$820,001.00 - \$830,000.00	\$1,969.18	\$3,029.50			
\$115,001.00 - \$120,000.00	\$461.18	\$709.50	\$390,001.00 - \$395,000.00	\$1,086.80	\$1,672.00	\$830,001.00 - \$840,000.00	\$1,988.68	\$3,059.50			
\$120,001.00 - \$125,000.00	\$472.55	\$727.00	\$395,001.00 - \$400,000.00	\$1,098.18	\$1,689.50	\$840,001.00 - \$850,000.00	\$2,008.18	\$3,089.50			
\$125,001.00 - \$130,000.00	\$483.93	\$744.50	\$400,001.00 - \$405,000.00	\$1,109.55	\$1,707.00	\$850,001.00 - \$860,000.00	\$2,027.68	\$3,119.50			
\$130,001.00 - \$135,000.00	\$495.30	\$762.00	\$405,001.00 - \$410,000.00	\$1,120.93	\$1,724.50	\$860,001.00 - \$870,000.00	\$2,047.18	\$3,149.50			
\$135,001.00 - \$140,000.00	\$506.68	\$779.50	\$410,001.00 - \$415,000.00	\$1,132.30	\$1,742.00	\$870,001.00 - \$880,000.00	\$2,066.68	\$3,179.50			
\$140,001.00 - \$145,000.00	\$518.05	\$797.00	\$415,001.00 - \$420,000.00	\$1,143.68	\$1,759.50	\$880,001.00 - \$890,000.00	\$2,086.18	\$3,209.50			
\$145,001.00 - \$150,000.00	\$529.43	\$814.50	\$420,001.00 - \$425,000.00	\$1,155.05	\$1,777.00	\$890,001.00 - \$900,000.00	\$2,105.68	\$3,239.50			
\$150,001.00 - \$155,000.00	\$540.80	\$832.00	\$425,001.00 - \$430,000.00	\$1,166.43	\$1,794.50	\$900,001.00 - \$910,000.00	\$2,125.18	\$3,269.50			
\$155,001.00 - \$160,000.00	\$552.18	\$849.50	\$430,001.00 - \$435,000.00	\$1,177.80	\$1,812.00	\$910,001.00 - \$920,000.00	\$2,144.68	\$3,299.50			
\$160,001.00 - \$165,000.00	\$563.55	\$867.00	\$435,001.00 - \$440,000.00	\$1,189.18	\$1,829.50	\$920,001.00 - \$930,000.00	\$2,164.18	\$3,329.50			
\$165,001.00 - \$170,000.00	\$574.93	\$884.50	\$440,001.00 - \$445,000.00	\$1,200.55	\$1,847.00	\$930,001.00 - \$940,000.00	\$2,183.68	\$3,359.50			
\$170,001.00 - \$175,000.00	\$586.30	\$902.00	\$445,001.00 - \$450,000.00	\$1,211.93	\$1,864.50	\$940,001.00 - \$950,000.00	\$2,203.18	\$3,389.50			
\$175,001.00 - \$180,000.00	\$597.68	\$919.50	\$450,001.00 - \$455,000.00	\$1,223.30	\$1,882.00	\$950,001.00 - \$960,000.00	\$2,222.68	\$3,419.50			
\$180,001.00 - \$185,000.00	\$609.05	\$937.00	\$455,001.00 - \$460,000.00	\$1,234.68	\$1,899.50	\$960,001.00 - \$970,000.00	\$2,242.18	\$3,449.50			
\$185,001.00 - \$190,000.00	\$620.43	\$954.50	\$460,001.00 - \$465,000.00	\$1,246.05	\$1,917.00	\$970,001.00 - \$980,000.00	\$2,261.68	\$3,479.50			
\$190,001.00 - \$195,000.00	\$631.80	\$972.00	\$465,001.00 - \$470,000.00	\$1,257.43	\$1,934.50	\$980,001.00 - \$990,000.00	\$2,281.18	\$3,509.50			
\$195,001.00 - \$200,000.00	\$643.18	\$989.50	\$470,001.00 - \$475,000.00	\$1,268.80	\$1,952.00	\$990,001.00 - \$1,000,000.00	\$2,300.68	\$3,539.50			
\$200,001.00 - \$205,000.00	\$654.55	\$1,007.00	\$475,001.00 - \$480,000.00	\$1,280.18	\$1,969.50	\$1,000,001.00 - \$1,500,000.00	\$2,850.68	\$4,539.50			
\$205,001.00 - \$210,000.00	\$665.93	\$1,024.50	\$480,001.00 - \$485,000.00	\$1,291.55	\$1,987.00	\$1,500,001.00 - \$2,000,000.00	\$3,600.68	\$5,539.50			
\$210,001.00 - \$215,000.00	\$677.30	\$1,042.00	\$485,001.00 - \$490,000.00	\$1,302.93	\$2,004.50	\$2,000,001.00 - \$2,500,000.00	\$4,250.68	\$6,539.50			
\$215,001.00 - \$220,000.00	\$688.68	\$1,059.50	\$490,001.00 - \$495,000.00	\$1,314.30	\$2,022.00	\$2,500,001.00 - \$3,000,000.00	\$4,900.68	\$7,539.50			
\$220,001.00 - \$225,000.00	\$700.05	\$1,077.00	\$495,001.00 - \$500,000.00	\$1,325.68	\$2,039.50	\$3,000,001.00 - \$3,500,000.00	\$5,550.68	\$8,539.50			
\$225,001.00 - \$230,000.00	\$711.43	\$1,094.50	\$500,001.00 - \$510,000.00	\$1,345.18	\$2,069.50	\$3,500,001.00 - \$4,000,000.00	\$6,200.68	\$9,539.50			
\$230,001.00 - \$235,000.00	\$722.80	\$1,112.00	\$510,001.00 - \$520,000.00	\$1,364.68	\$2,099.50	\$4,000,001.00 - \$4,500,000.00	\$6,850.68	\$10,539.50			
\$235,001.00 - \$240,000.00	\$734.18	\$1,129.50	\$520,001.00 - \$530,000.00	\$1,384.18	\$2,129.50	\$4,500,001.00 - \$5,000,000.00	\$7,500.68	\$11,539.50			
\$240,001.00 - \$245,000.00	\$745.55	\$1,147.00	\$530,001.00 - \$540,000.00	\$1,403.68	\$2,159.50	\$5,000,001.00 - \$5,500,000.00	\$8,150.68	\$12,539.50			
\$245,001.00 - \$250,000.00	\$756.93	\$1,164.50	\$540,001.00 - \$550,000.00	\$1,423.18	\$2,189.50	\$5,500,001.00 - \$6,000,000.00	\$8,800.68	\$13,539.50			
\$250,001.00 - \$255,000.00	\$768.30	\$1,182.00	\$550,001.00 - \$560,000.00	\$1,442.68	\$2,219.50	\$6,000,001.00 - \$6,500,000.00	\$9,450.68	\$14,539.50			
\$255,001.00 - \$260,000.00	\$779.68	\$1,199.50	\$560,001.00 - \$570,000.00	\$1,462.18	\$2,249.50	\$6,500,001.00 - \$7,000,000.00	\$10,100.68	\$15,539.50			
\$260,001.00 - \$265,000.00	\$791.05	\$1,217.00	\$570,001.00 - \$580,000.00	\$1,481.68	\$2,279.50	\$7,000,001.00 - \$7,500,000.00	\$10,750.68	\$16,539.50			
\$265,001.00 - \$270,000.00	\$802.43	\$1,234.50	\$580,001.00 - \$590,000.00	\$1,501.18	\$2,309.50	\$7,500,001.00 - \$8,000,000.00	\$11,400.68	\$17,539.50			



Exhibit C-1
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PLUMBING – ELECTRICAL – MECHANICAL FEES

Note: A one-time fee of \$20.00 will be added to Plumbing, Electrical and Mechanical Permits.

PLUMBING			
Bathtub	7.00	Septic System	40.00
Clothes Washer	7.00	Sewer System	15.00
Dishwasher	7.00	Shower	7.00
Drinking Fountain	7.00	Sink	7.00
Floor Drain	7.00	Swimming Pool / Spa	7.00
Floor Sink	7.00	Toilet	7.00
Gas System	5.00	Urinal	7.00
Hose Bib	5.00	Waste Interceptor	7.00
Interceptor / Trap	7.00	Water Closet w/Flushometer	7.00
Irrigation System	7.00	Water Heater	7.00
Lavatory	7.00	Water System	7.00
Lawn Sprinkler	7.00		
ELECTRICAL		MECHANICAL	
Commercial Square Feet	0.015	Boiler, Hot Water	14.70
Construction Power	15.00	Boiler, Steam	14.70
Fixtures / Receptacles	2.00	Evaporative Cooler	10.65
Garage / Carport Square Feet	0.015	Exhaust Duct	10.65
Light Standards	10.00	FAU < 100 MBTU	14.80
Motors < 10 HP	5.00	FAU > 100 MBTU	14.80
Motors 10-50 HP	12.30	Generator	10.65
Motors > 50	49.00	HVAC [8	14.80
Patio / Porch Square Feet	0.015	HVAC > 8	18.20
Residential Square Feet	0.035	Mechanical Fireplace	10.65
Service < 200 AMP	30.50	Vent System	7.25
Service > 200 < 1000 AMP	62.50		
Service > 1000 AMP	124.30		
Subpanel	23.50		



Exhibit C-1
City of Victorville
Department of Development
 Planning • Building • Code Enforcement

14343 Civic Drive
 PO Box 5001
 Victorville, CA 92393-5001
 (760) 955-5102
 Fax (760) 269-0071
 ville@ci.victorville.ca.us

TYPE OF UNIT			
HOTEL/MOTEL <input type="checkbox"/>	INDUSTRIAL <input type="checkbox"/>	COMMERCIAL <input type="checkbox"/>	OTHER: _____

FIXTURES	NO. OF FIXTURES	X	NO. OF EQUIV FIXTURE UNITS	TOTAL NUMBER OF FIXTURE UNITS
Bar Sink			2	
Bathtub (With or Without Shower)			4	
Dental Unit or Cuspidor			1	
Dishwasher			4	
Drinking Fountain (Each Head)			1	
Floor Drain			4	
Floor Drain (For Emergency Overflows)			1	
Laundry Tub or Clotheswasher (Each Pair Faucets)			4	
Lavatory (Bathroom) - Dual Basins			4	
Lavatory (Bathroom) - Single Basin			2	
Lavatory (Dental)			1	
R. V. Dump Stations			20	
Recreational Vehicle Spaces			8	
Shower (Each Set of Faucets)			4	
Sink (Flushing Rim, Clinic)			10	
Sink (Kitchen/Utility)			4	
Sink (Wash Up, Circular Spray)			4	
Sink (Wash Up, Each Set Faucets)			3	
Urinal (Wall)			5	
Water Closet (Flush Tank) - Home Style			6	
Water Closet (Flushometer Automatic Valve)			10	
Total Number of Fixture Units: _____	X	\$187.50 / unit	VVWRA SUBTOTAL	\$
SEWAGE FACILITY FEES				
1. Prison			\$117.75 / bed	\$
2. Restaurant			\$52.98 / seat	\$
3. Cocktail Bar			\$21.20 / seat	\$
4. Hospital			\$264.98 / bed	\$
5. Laundromat			\$235.53 / machine	\$
6. Day Care Center			\$23.56 / per child	\$
7. Convalescent Center			\$58.88 / bed	\$
			VVWRA SUBTOTAL	\$
VVWRA GRAND TOTAL				\$

2010 Planning Fee Schedule

Entitlement	Fee
Appeal Planning Commission	\$200
Appeal City Council	\$200
Conditional Use Permit – Planning Commission	\$2,000
Conditional Use Permit - Zoning Administrator	\$350
Density Bonus	\$500
Development Agreement	\$4,000 +\$500 per revision
Development Plan	\$1,500
Environmental Assessment/Negative Declaration	\$1,000
EIR	Actual Cost
Finding of Public Convenience or Necessity	\$25
Garage Sale Permit	\$5
General Plan Amendment	\$1,500
Historical Monument	\$25
Home Occupation Permit	\$50
Kiosk Sign Program	\$25 per sign location
Kiosk Sign Program Renewal	\$5 per sign location
Lot Line Adjustment	\$250
Lot Merger	\$250
Master Sign Program	\$500
Minor Deviation - Zoning Administrator	\$250
Misc. Review – Administrative Development Director/Zoning Administrator	\$50
Misc. Review – Planning Commission	\$100
Planned Unit Development	\$1,500 +\$15 per lot
Planned Unit Development Modification	\$1,000
RV/Truck Parking Permit	\$10
Site Plan – Planning Commission	\$2,000
Site Plan - Zoning Administrator	\$400
Specific Plan	\$5,000
Specific Plan Amendment	\$2,500
Temporary Sign Permit	\$10
Temporary Use Permit	\$50
Temporary Use Permit – Model Home Complex	\$300
Tentative Parcel Map	\$1,000
Tentative Tract Map	\$1,500 +\$15 per lot
Variance – Planning Commission	\$1,000
Variance - Zoning Administrator	\$725
Weekend Model Home Complex Directional Sign	\$25 per sign location
Zone Change	\$1,500

2010 Engineering Plan Check Fee Schedule

Plan Check Type	Fee
Parcel Map	\$1,500 +\$30 per lot
Tract Map	\$2,000 +\$30 per lot
Improvement Plan (precise grading, streets, sewer, storm drain, water) Engineer's Cost Estimate: \$1 - \$50,000 \$50,001 - \$250,000 >\$250,001	 5% 4% 3%
Mass Grading	\$.01/cubic yard
Traffic signal Engineer's Cost Estimate In City Multi-jurisdictional	 2% 1%
Map and Improvement Plan Check (excess of three)	Actual Staff Time

**VICTORVILLE WATER DISTRICT
RESOLUTION NO. VWD 11-013**

**A RESOLUTION OF THE VICTORVILLE WATER DISTRICT FIXING
CHARGES FOR WATER SERVICE CONNECTIONS AND OTHER RELATED
FEES AND CHARGES**

WHEREAS, the Victorville Water District (the "District") shall function under, and carry out all authorized duties and responsibilities assigned to a county water district as outlined in California Water Code Section 30000 et seq.; and

WHEREAS, the District constructs, owns, operates, improves and maintains the water system and related facilities and infrastructure that serves the District's existing customers and provides water service availability to new customers and developments within the jurisdictional boundaries of the District; and

WHEREAS, reasonable and uniform procedures for obtaining water service from the District and for connecting to the District's water production and distribution facilities have been established and are being enforced in order to ensure the protection of the District's facilities and to protect the public health, safety and welfare; and

WHEREAS, this Resolution shall fix the amount of the charges for the water service connections and other related fees and charges and the rates for water service; and

WHEREAS, this Resolution is intended harmonize the amount and structure of rates, fees, and charges in the two Improvement Districts within the Victorville Water District; and

WHEREAS, adequate capital facilities and services must be available to accommodate the needs, demands and burdens of present and forecasted new development, including, but not limited to, an adequate source of water supply; and

WHEREAS, the connection fees fixed by this Resolution are adequate to cover the cost of construction of the facilities and of providing the services made available as a result of new development making a connection to the District's water system; and

WHEREAS, developers of lands within the District should be required to mitigate the burdens created by their development through the construction or financing of the construction of the public capital facilities and services improvements necessitated by such new development; and that such mitigation can and should be accomplished through the imposition and collection of water service connection fees, at the time of connection to the District's facilities; and

WHEREAS, the District's periodic cost estimates for the construction of capital facilities, the expansion of capacity, preparations for the treatment of water, and the acquisition of necessary sources of water supply, are reasonable cost estimates for the provision of the necessary facilities and services to new development, and the fees expected to be generated by such new development through the existing connection fees will not exceed the total of these costs; and

WHEREAS, the imposition of fees to finance public facilities and services improvements for the District, necessitated by new development, is necessary in order to protect the public safety and welfare.

NOW, THEREFORE, BE IT RESOLVED by the Board, as follows:

1. Findings

- a. The above recitals shall be incorporated herein and are true and correct.
- b. given notice of the public hearing to be held in connection with this Resolution and the District has complied with all notice and public hearing requirements of the law, pursuant to the requirements of and in full compliance with *Government Code* Sections 6062a, 66016 and 66018, and with the *California Constitution*; and
- c. received, reviewed and given due consideration to the evidence presented in connection with the fees established by this Resolution, including the various reports and other information received by the Board of Directors in the course of its business; and
- d. pursuant to Article XIII.B. of the *California Constitution*, the Board of Directors intends that the District require the ascertainment and recovery of cost reasonably borne from fees and charges levied therefore in providing the regulation, products or services hereinafter enumerated in this Resolution; and
- e. the charges established herein represent fair and reasonable charges which defray, the actual cost to the District in providing water services, are consistent with the requirements of the law, and are based on the estimated reasonable costs of providing the services for which the fees or charges are imposed.

2. Repeal of Conflicting Provisions.

The fees, charges, costs and other provisions fixed for the same services in previously adopted inconsistent Resolutions are hereby rescinded, superseded, repealed and replaced; however this Resolution shall not in any way affect any other rate, fee or charge fixed by the District for any other service not superseded herein by this Resolution.

3. The charges for water service connection is hereby established and fixed as follows:

- a. **Water Service Connection Fee.** The amount of the Water Service Connection Fee shall be based on an engineering study wherein future infrastructure cost calculations are determined. One such fee shall be collected for each connection to the District's water system. All Water Service Connection Fees shall be paid at the time meter installation is required or requested. The total Water Service Connection Fee (including facility/capacity charge, impact fee, system development charge, and recycled water service connection) is fixed as of August 1, 2011, as follows:

Exhibit C-1

Meter Size (in inches)	Connection Fee
¾	\$ 3,606
1	\$ 6,021
1 ½	\$ 12,007
2	\$ 19,218
3	\$ 36,056
4	\$ 60,106
6	\$ 120,176
8	\$ 192,288

This fee shall be adjusted, effective each July 1st, by a standard inflation factor, hereby established as the U. S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index CUURA421SA0 for Los Angeles-Riverside-Orange County, Annual, for the prior calendar year. The adjusted fee shall be applied in a duly adopted resolution of the Board of Directors.

- b. **Alternate Water Source Charge.** The amount of the Alternate Water Source Charge shall be based on an engineering study wherein future infrastructure cost calculations to obtain alternative water sources are determined. One such fee shall be collected for each connection to the District's water system. All Alternate Water Source Charges shall be paid at the time meter installation is required or requested. The Alternate Water Source Charge is hereby fixed as of August 1, 2011 as follows:

Meter Size (in inches)	Alternate Water
¾	\$ 1,302
1	\$ 1,302
1 ½	\$ 3,906
2	\$ 6,510
3	\$ 15,611
4	\$ 26,040
6	\$ 52,080
8	\$ 78,120

This fee shall be adjusted, effective each July 1st, by a standard inflation factor, hereby established as the U. S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index CUURA421SA0 for Los Angeles-Riverside-Orange County, Annual, for the prior calendar year. The adjusted fee shall be applied in a duly adopted resolution of the Board of Directors.

4. Effective Date.

This Resolution and the fees, charges, costs and other provisions which are fixed or established hereby, shall become effective August 1, 2011.

5. Compliance with Law; Severability.

In fixing the fees, charges and costs, and adopting the provisions of this Resolution, the Board intends to comply with all applicable laws. If any fee, charge, cost or other provision approved herein is held to be invalid under existing or subsequently enacted law, it is the intent of the Board that any portion of the rates, charges, fees and/or costs found to be invalid, if possible, shall be deemed revised to the extent required to render them valid and lawful; and that such portions of the rates, fees, charges, costs and other provisions approved herein which are not so invalidated shall be and remain in full force and effect until repealed or modified by formal action of the Board. Further, if any section, subsection, sentence, clause or phrase of this Resolution is found, for any reason, to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining provisions of this Resolution.

RESOLUTION NO. 97-74

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VICTORVILLE ADOPTING A REVISED CONSTRUCTION AND EXCAVATION PERMIT INSPECTION FEE SCHEDULE AND RESCINDING RESOLUTION NO. 64-74.

THE CITY COUNCIL OF THE CITY OF VICTORVILLE DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. CONSTRUCTION AND EXCAVATION PERMIT INSPECTION FEE SCHEDULE:

Trench Excavation

400 lin. ft. or less	\$ 0.10 per lin. ft.
401 to 500 lin. ft.	\$40.00 plus 0.09 per lin. ft. over 400 lin. ft.
over 500 lin. ft.	\$49.00 plus 0.08 per lin. ft. over 500 lin. ft.

Manholes, Catch Basins, Underground Vaults, etc.

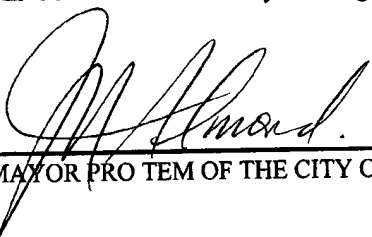
4 or less	\$ 8.00 each
5 to 10	\$32.00 plus \$7.00 each over 4
Over 10	\$67.00 plus \$6.00 each over 10

Curbs, Gutters, Sidewalks and Street Surfacing not Associated with a Subdivision of Land

When the Superintendent of Streets determines that engineered plans are required prior to the issuance of a permit, fees for plan check and inspection shall be determined in accordance with the schedule contained in Resolution No. 97-73.

SECTION 2. THAT RESOLUTION NO. 64-74 IS HEREBY RESCINDED IN ITS ENTIRETY.

PASSED, APPROVED AND ADOPTED this 5th day of August, 1997.


MAYOR PRO TEM OF THE CITY OF VICTORVILLE

ATTEST:


CITY CLERK

APPROVED AS TO FORM AND CONTENT:


CITY ATTORNEY

I, CAROLEE STOTKO, City Clerk of the City of Victorville and ex-officio Clerk to the City Council of said City, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 97-74 which was adopted at a meeting held on the 5th day of August, 1997, by the following roll call vote, to wit:

AYES: Councilmembers Caldwell, Hunter and Rothschild

NOES: Mayor Pro Tem Almond

ABSENT: Mayor Busby

ABSTAIN: None


CITY CLERK OF THE CITY OF VICTORVILLE

Resolution No. VWD 11-013

PASSED, APPROVED AND ADOPTED this 5th day of JULY 2011



CHAIRMAN OF THE BOARD OF DIRECTORS

ATTEST:



BOARD SECRETARY

APPROVED AS TO FORM:



LEGAL COUNSEL FOR VICTORVILLE WATER DISTRICT

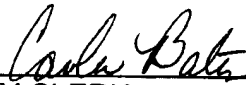
I, CAROLEE BATES, City Clerk of the City of Victorville and ex-officio Clerk to the Victorville Water District of said City, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. VWD 11-013 and was adopted at a meeting held on the 5th day of July 2011, by the following roll call vote, to wit:

AYES: Board Members Cabriales, Kennedy, and Rothschild

NOES: Board Member McEachron

ABSENT: Board Member Valles

ABSTAIN: None



CITY CLERK

TRAFFIC, DRAINAGE STUDIES

Traffic Impact Analysis:

Dependent on incremental size or accumulative size of proposed project(s).
Review by Consultant at actual cost (\$500 deposit required).
Mitigation Fee required for impacts above those provided by Road DIF.

Hydrology, Hydraulic Studies:

Reviewed by staff at actual cost (\$500 deposit required).

WATER

Water Supply Assessment, or Water Feasibility Study:

Dependent on incremental size or accumulative size of proposed project(s).
Review by Consultant at actual cost

OR

Will Serve Letter:

Reviewed by staff. Currently no cost.

Backflow upgrade:

Inspection by staff at no cost. If upgrade needed, plans required for review at Water Plan Check fee rate.

NON-WATER PUBLIC IMPROVEMENTS

Plan Check Public Improvement Plans:

Sewer
Street
Traffic Signal
Drainage
Water

See attached Resolution for Fee Schedule

Construction Permits for Public Improvements:

Sewer
Street
Traffic Signal
Drainage
Water

See attached Resolution for Fee Schedule

EXHIBIT “D”

MITIGATION MEASURES AND CONDITIONS

As specified with the Approved Project Plans (Exhibit “B”)

**EXHIBIT “E”
PERMITTED USES**

The uses permitted for the New Shop Space and In-Line Retail Space are as follows:

NEW SHOP SPACE

The New Shop Space shall be redeveloped to become an enhancement to the Mall with the intent of broadening its attraction by including a combination of retail uses (that may include restaurants) attractive to a diverse demographic. Other similar and/or compatible uses are also permitted and the following categories are not intended as a limitation on permitted uses; provided that the following specific uses shall be used to serve as comparison to specific uses not identified in this section. Nothing herein shall be construed to obligate Developer to redevelop the New Shop Space.

Casual Dining, Quick Serve and Sit-Down Restaurants (excluding fast food) , and Restaurant with accessory entertainment uses, including bar and catering to lunch, dinner and night time crowds:

- For example: Dave and Busters, TGIFridays, Famous Daves BBQ, California Pizza Kitchen, Yardhouse, Elephant Bar, PF Chang’s, coffee shops, ice cream and yogurt shops and other specialty food service establishments.

Micro-Brewery, Micro-Brewery with accessory restaurant and entertainment uses

- For example: BJ’s Brewery, Oggi’s Pizza and Brewing Company

Grocery, Beverage and Drug Stores:

- For example: BevMo, Wine Spirits & More, Total Wine, Sprouts, Trader Joe’s, Whole Foods, CVS, Walgreen’s, Rite-Aid. Not to include Von’s, Ralphs, Stater Bro’s or like supermarkets.

Entertainment:

- For example, a well-known or national chain Comedy Club or Dinner Theatre

Adult Men’s and Woman’s Fashion:

- For example: Banana Republic, Oakley, Coach, Coldwater Creek, Gap, White House/Black Market, Guess, Sports Authority. Teen, children and other specialty apparel stores are also permitted.

Furniture, Home Furnishings, Consumer Electronics, Books and Music, Toys, Gifts, Pet Shops and Pet Supplies, Eyewear, Cards, Cosmetics, and Accessories

High Quality Retail Goods:

- For example: Apple Store, Ulta Cosmetics, Sephora

IN-LINE RETAIL SPACE

A broad mix of retail uses serving adults and teenagers. To include those uses provided for (as permitted or conditional uses) in the general commercial zoning for the City (C-2) with focus on commercial uses that are traditional to a first-class regional mall.

The following uses are prohibited in the New Shop Space and In-Line Retail Space without approval of the City:

- Medical Ambulance Services
- Animal Hospital/Veterinarian in premises larger than 5,000 square feet of space; provided this restriction shall not prohibit the provision of veterinary services as an ancillary part of a pet shop or pet supply store
- Medical/Dental Offices in premises larger than 5,000 square feet of space
- Hospital
- The sale of automobiles, or an auto body repair shop or auto service station; provided this restriction shall not prohibit a Sears tire, batteries and accessories facility or similar operation
- A retail business that has a primary line of business that is the sale of Building Materials; provided that tenants may sell building materials as ancillary products to their main line of business
- Social Services
- Massage Parlors (other than day spas); provided that (i) the existing massage parlor tenant in the Mall on the date of this Agreement or any licensed massage therapist at a reputable business is not a prohibited use, and (ii) the offering of massage services as an ancillary part of a permitted primary use [for example, in a health club, fitness facility, or nail or beauty salon] shall be permitted).
- Schools (other than cooking schools, beauty schools or other schools that cater to customers)
- Pay-Day Loans/Check Cashing Agencies; provided this restriction shall not prohibit a bank or other financial institution commonly found in first class shopping centers

- Government (excepting Police substation)
- Used Goods (including Antiques); provided this restriction shall not prohibit the sale of used goods as an ancillary part of a permitted primary retail use
- Swap Meets (multiple users in a single suite)
- Adult Oriented Businesses whose primary line of business is the sale of Sexual or Pornographic material. The foregoing shall not prohibit a book store or video store or digital media retailer; provided such business carries a full line of products in addition to any adult-oriented material.