



CITY OF SANTA MONICA – CITY PLANNING DIVISION  
DISCRETIONARY PERMIT APPLICATION

Applications are submitted online through a [virtual appointment system](https://www.santamonica.gov/virtual-appointments).

If you have questions about completing this application, please email City Planning at [311@santamonica.gov](mailto:311@santamonica.gov).

GENERAL INFORMATION

**PROJECT ADDRESS:** Property bounded by Broadway, 2nd Street, Colorado Avenue, and 4th Street. See attached Legal Description.

**PROJECT DESCRIPTION:**

The Project comprises the installation, operation, and maintenance of LED digital displays and associated sign structures on the Property for displaying digital content, including paid advertising and content representing the City and Santa Monica Place. The Project includes Digital Displays as follows: (a) at the corner of 4th Street and Colorado Avenue, one 900 square-foot east-facing sign at 30 feet wide and 30 feet high; (b) at the corner of Broadway and 4th Street, a 1,040 square-foot sign with two sign faces, one north-facing at 25 feet wide by 20 feet high (500 square feet), and one west-facing at 27 feet wide by 20 feet high (540 square feet); and (c) at the corner of Broadway and 2nd Street, one 754 square-foot west-facing sign at 29 feet wide and 26 feet high.

By applying for a permit, I understand and agree that contact information, including but not limited to, email addresses and telephone numbers, will become part of a disclosable public record pursuant to the California Public Records Act and that the City may elect not to redact contact information contained in this application prior to disclosing a copy of this application to the public. I further agree that I do not object to the City's disclosure of contact information contained in this application in response to public records requests.

**APPLICANT** (Note: All correspondences will be sent to the contact person)

Name: David M. Short, EVP Organization Name: Macerich SMP LP  
Address: 401 Wilshire Boulevard, Suite 700 City/State: Santa Monica Zip: 90401  
Phone: (310) 395-2791 Email: Dave.Short@macerich.com

**CONTACT PERSON** (If different from applicant)

Name: Dale Goldsmith Organization Name: Armbruster Goldsmith & Delvac LLP  
Address: 12100 Wilshire Boulevard, Suite 1600 City/State: Los Angeles Zip: 90025  
Phone: (310) 208-8800 Email: dale@agd-landuse.com  
Relation to Applicant: Land Use Counsel

**PROPERTY OWNER**

Name: David M. Short, EVP Organization Name: Macerich SMP LP  
Address: 401 Wilshire Boulevard, Suite 700 City/State: Santa Monica Zip: 90401  
Phone: (310) 395-2791 Email: Dave.Short@macerich.com

I hereby certify that I am the owner of the subject property and that I have reviewed the subject application and declare, under penalty of making a false declaration, that to the best of my knowledge and belief, the information provided within this application is true, correct, complete, and made in good faith. I authorize the applicant or contact person to make decisions that may affect my property as it pertains to this application.

David M. Short  
Property Owner's Name (PRINT)

David M. Short  
Property Owner's Signature / Date

Digitally signed by: David M. Short  
DN: CN = David M. Short, email = dave.short@macerich.com C =  
US O = Macerich OU = Asset Management  
Date: 2024.02.01 11:27:22 -0800

**PROJECT INFORMATION**

**PLANNING ENTITLEMENTS REQUESTED** (check all that apply):

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Conditional Use Permit    | <input type="checkbox"/> Minor Use Permit                 | <input type="checkbox"/> Major Modification |
| <input type="checkbox"/> Development Review Permit | <input checked="" type="checkbox"/> Development Agreement | <input type="checkbox"/> Variance           |
| <input type="checkbox"/> Waiver                    |   |   |

Total Floor Area (SF): N/A No. of Stories / Height: N/A  
 Commercial Floor Area (SF): N/A Parcel Area: approx. 10 acres  
 Residential Floor Area (SF): N/A No. of Parking Spaces: Res: N/A Com: N/A  
 Floor Area Ratio (FAR): N/A No. of "Protected Units" per SB 330 / 8: N/A

Unit Count:

	Studios	1 Bedrooms	2 Bedrooms	3 Bedrooms	4 Bedrooms
# of Existing Units	0	0	0	0	0
# of Proposed Units	0	0	0	0	0

**Affordable Housing Production Program Acknowledgement** N/A

In accordance with [SMMC 9.64](#), all multi-unit projects involving the construction of two or more market rate units shall comply with the affordable housing obligations as set forth in [SMMC 9.64.040](#). From the options listed below, please indicate how the Project will comply with the provisions of [SMMC 9.64.040](#) (check all that apply):

- |   |  |
|---|--|
| <input type="checkbox"/> <u>On-Site Option (SMMC 9.64.050)</u>  | <input type="checkbox"/> <u>Affordable Housing Fee (SMMC 9.64.070)</u> |
| <input type="checkbox"/> <u>Off-Site Option (SMMC 9.64.060)</u> | <input type="checkbox"/> <u>Land Acquisition (SMMC 9.64.080)</u>       |

On-site affordable units and affordability level

	Very Low	Low	Moderate	Total
# Studios				
# 1 Bedrooms				
# 2 Bedrooms				
# 3 Bedrooms				

Off-site affordable units and affordability level

	Very Low	Low	Moderate	Total
# Studios				
# 1 bedrooms				
# 2 bedrooms				
# 3 bedrooms				

Proposed Location: \_\_\_\_\_

## SUBMITTAL REQUIREMENTS

### Neighborhood Notification

Owners and tenants and interested parties within 500 feet and by publication in a newspaper of general circulation in the City.

### Project Submittal

- All materials must be submitted digitally. Prepare one PDF file with the **SIGNED** application and all supplemental materials and a second PDF file of the Project Plans. Resolution should allow legible printing at 11" x 17".

### Air Quality Assessment N/A

- Applicants of new residential development within the Air Quality Assessment Zone shall be required to include design features necessary to reduce resident exposure to diesel particulate matter (DPM). Applicants shall be responsible for the preparation of a brief technical memorandum that describes the effectiveness of the selected measures in reducing DPM emissions below SCAQMD cancer risk thresholds of 10 cancer cases per million (1.0 x 10<sup>-5</sup>).

### Application Fees

- The payment of an application fee is required at time of submittal. Contact City Planning at [311@santamonica.gov](mailto:311@santamonica.gov) for applicable fees.

### Digital Project Plans

- Plans for Planning Permits must include:
  - Detailed project description and vicinity map.
  - Existing site plan showing all existing improvements and structures.
  - Site plan showing compliance with development standards, applicable setbacks etc.
  - Fully dimensioned floor plans indicating square feet and interior layout. Please show floor area calculations. In the case of remodeling, existing and proposed dimensioned floor plans, as well as a demolition plan, are required.
  - Dimensioned exterior elevations of the proposed Project and adjacent existing buildings. Exterior elevations must show the height of each building dimensioned from Average Natural Grade (ANG), Segmented Average Natural Grade (SANG), or Theoretical Grade (TG), as applicable. Height calculation methodology must be shown as described in [SMMC 9.04.050](#), Measuring Height. Elevation measurements, accompanied by a survey of existing site conditions, must be certified by a licensed surveyor or engineer. In the case of additions to existing buildings, all exterior elevations of both the addition and the existing building are required.
  - Cross-section and longitudinal sections calling out building heights, height projections, and all building levels in relation to ANG, ANG, or TG.
  - Show size and location of any exterior mechanical equipment on both site plan and elevations. Indicate existing buildings on adjacent parcels and their zoning and use (commercial, residential, etc.)
  - Other such information, drawings, plans, and renderings that may be helpful.

**Demolition Permit Acknowledgement (For Structures 40 Years or Older)** N/A

Pursuant to [SMMC 9.25.040\(E\)](#) a demolition permit is required for demolition of any building or structure on the property (primary or accessory structure). For buildings or structures constructed more than 40 years ago no entitlement will be accepted until at least 75 days after a complete demolition permit application is accepted. A Landmark or Structure of Merit Designation Application may be filed during this 75-day review period, and the Landmarks Commission may subsequently designate the property (structure and/or parcel) as a Landmark, Landmark Parcel, or Structure of Merit in accordance with and based on findings established in SMMC [9.56](#) and [9.58](#).

- My property contains a structure (or structures) 40 years old or older and the proposed development of this property will require a demolition permit.
- My application for a demolition permit has been submitted and, no formal historic designation application has been filed during the 75-day review period.

**\*\*Application will not be accepted until this requirement is complete.\*\***

**Rent Control Status Form** N/A

- Contact Rent Control: [rentcontrol@santamonica.gov](mailto:rentcontrol@santamonica.gov).

**Replacement Unit Determination Form** N/A

- Pursuant to the Housing Crisis Act of 2019 (SB8/SB330), housing development projects on sites that have demolished dwelling units in the last 5 years or proposing the demolition of dwelling units must complete and provide a supplemental Replacement Unit Determination Form.

**Color Photos**

- Provide color digital photographs showing all relevant elevations of the project site and surrounding properties and uses. Photos shall be labeled with site address and description of photo content.

**Project Rendering**

- For new development projects, rendering of the street front elevation and adjacent properties, showing building design, colors and materials and mature (3-year-old) landscaping.

**Sign Posting Requirement**

- All applications for discretionary permits (and any accompanying applications) must include a photograph of the posted sign at the project site per the Sign Posting Requirements (attached).

**Model** N/A

- Presentation of a model of the project to the Planning Commission (or City Council on appeal) is required for projects of 15,000 sq. ft. or more and recommended for all projects. The model may be either a physical representation or computer-generated model with a minimum of 3 views. The model shall include:
  - Massing of adjacent and proposed building
  - Relationship of proposed building to the street
  - Primary and secondary elements including fenestration, roof decks, balconies, etc.



**Conditional Use Permits for Alcohol (only applicable for Alcohol related requests)** N/A

- Supplemental Application for Alcohol Permits

**Tier 2 Community Benefits (if a Tier 2 project is proposed)** N/A

Applications for Tier 2 projects providing community benefits pursuant to SMMC Chapter 9.23 must also include the following:

- A separate sheet detailing the proposed community benefits in accordance with SMMC Chapter 9.23

**Transportation Demand Management** N/A

- A PDF copy of a draft [Transportation Demand Management \(TDM\) Plan](#), if applicable, in accordance with the requirements of [SMMC Section 9.53](#).

*A draft TDM Plan is required if the Project meets the requirements of its respective project type:*

- *Residential Projects: 16 or more residential units.*
- *Mixed-use Projects: 16 or more residential units with any associated nonresidential floor area or 7,500 sf or more of nonresidential floor area with any number of residential units.*

**Development Agreement (only applicable for Development Agreements)**

- A proposed Development Agreement contract
- A detailed description why a Development Agreement is requested, other potential permit options, any unique circumstances, and potential community benefits.

**Additional Information**

All decisions on project applications are based upon the findings of fact that are required by the Santa Monica Municipal Code.

The effective date of the decision by the Zoning Administrator or Planning Commission is 14 calendar days after the date of action. Decisions of the Zoning Administrator are appealable to the Planning Commission. Decisions of the Planning Commission are appealable to the City Council.

An appeal of the Zoning Administrator or Planning Commission decision may be made within this period by completing an appeal form, available from the City Planning Division, referencing the specific project and stating the reasons for the appeal. Any interested person, Planning Commissioner, or City Council member may make an appeal. The appeal form must be accompanied by an appeal fee (email [311@santamonica.gov](mailto:311@santamonica.gov)). An appeal will have the effect of staying all action on the matter until a decision is reached in a public hearing before the Planning Commission or City Council, whose decision will become final immediately.

**OAKS INITIATIVE DISCLOSURE FORM**

**\*\* Required for all Applications \*\***

Pursuant to City Charter Article XXII, The Taxpayer Protection Amendment of 2000, the applicant is required to disclose all of its trustees, directors, partners, officers, and those with more than a ten percent (10%) equity, participation or revenue interest in Applicant / Contractor.

**Identify the names of the following individuals**

Applicant / Contractor:

Macerich SMP LP

Trustees, directors, partners, officers of the Applicant / Contractor (attach additional sheets if necessary):

See attached list of Officers.

Those with more than a 10% equity, participation or revenue interest in Applicant / Contractor (attach additional sheets if necessary):

DISCRETIONARY PERMIT APPLICATION SUBMITTAL REQUIREMENTS

## Santa Monica Sustainable City Program (please read)

We live in a time in which increased population growth, high levels of consumption and the desire to feed growing economies have created escalating demands on our resources - natural, human and social - on a local, regional, and global scale. These demands negatively impact the natural environment, our communities and the quality of our lives. In the face of these challenges, people worldwide have developed a growing concern for the environment and a desire to live sustainably.

In 1994 the Santa Monica City Council took steps to address these pressures locally by adopting the Santa Monica Sustainable City Program. The Sustainable City Program was initially proposed in 1992 by the City's Task Force on the Environment to ensure that Santa Monica can continue to meet its current needs – environmental, economic and social - without compromising the ability of future generations to do the same. It is designed to help us as a community begin to think, plan and act more sustainably – to help us address the root causes of problems rather than the symptoms of those problems, and to provide criteria for evaluating the long-term rather than the short-term impacts of our decisions – in short, to help us think about the future when we are making decisions about the present.

The program includes goals and strategies, for the City government and all sectors of the community, to conserve and enhance our local resources, safeguard human health and the environment, maintain a healthy and diverse economy, and improve the livability and quality of life for all community members in Santa Monica. (A full copy of the Sustainable City Program is available upon request.)

Please review and familiarize yourself with the goals of the Santa Monica Sustainable City Program outlined below. Please take some time to consider how the proposed project and/or components of the project are consistent with or relate to the goals of the Santa Monica Sustainable City Program. After reading each topic and the corresponding goals, please acknowledge your understanding of the goals by providing your signature and providing a supplemental sheet that details how your project may be consistent with the goals.

### RESOURCE CONSERVATION

#### Goals

Across all segments of the community:

1. Significantly decrease overall community consumption, specifically the consumption of non-local, non-renewable, non-recyclable and non-recycled materials, water, and energy and fuels. The City should take a leadership role in encouraging sustainable procurement, extended producer responsibility and should explore innovative strategies to become a zero waste city.
2. Within renewable limits, encourage the use of local, non-polluting, renewable and recycled resources (water, energy – wind, solar and geothermal – and material resources)

### ENVIRONMENTAL AND PUBLIC HEALTH

#### Goals

1. Protect and enhance environmental health and public health by minimizing and where possible eliminating:
  - The use of hazardous or toxic materials, in particular POPs (persistent organic pollutants) and PBTs (persistent bioaccumulative & toxic chemicals), by residents, businesses and City operations;
  - The levels of pollutants entering the air, soil and water; and
  - The risks that environmental problems pose to human and ecological health.
2. Ensure that no one geographic or socioeconomic group in the City is being unfairly impacted by environmental pollution.
3. Increase consumption of fresh, locally produced, organic produce to promote public health and to minimize resource consumption and negative environmental impacts.

### TRANSPORTATION

#### Goals

1. Create a multi-modal transportation system that minimizes and, where possible, eliminates pollution and motor vehicle congestion while ensuring safe mobility and access for all without compromising our ability to protect public health and safety.
2. Facilitate a reduction in automobile dependency in favor of affordable alternative, sustainable modes of travel.

ECONOMIC DEVELOPMENT

Goals

- 1. Nurture a diverse, stable, local economy that supports basic needs of all segments of the community.
- 2. Businesses, organizations and local government agencies within Santa Monica continue to increase the efficiency of their use of resources through the adoption of sustainable business practices. The City takes a leadership role by developing a plan by 2005 to increase the adoption of sustainable practices by Santa Monica businesses and encouraging sustainable businesses to locate in Santa Monica.

OPEN SPACE AND LAND USE

Goals

- 1. Develop and maintain a sufficient open space system so that it is diverse in uses and opportunities and includes natural function/wildlife habitat as well as passive and active recreation with an equitable distribution of parks, trees and pathways throughout the community.
- 2. Implement land use and transportation planning and policies to create compact, mixed-use projects, forming urban villages designed to maximize affordable housing and encourage walking, bicycling and the use of existing and future public transit systems.
- 3. Residents recognize that they share the local ecosystem with other living things that warrant respect and responsible stewardship.

HOUSING

Goal

- 1. Achieve and maintain a mix of affordable, livable and green housing types throughout the city for people of all socio-economic / cultural / household groups (including seniors, families, singles, and disabled).

COMMUNITY EDUCATION AND CIVIC PARTICIPATION

Goals

- 1. Community members of all ages participate actively and effectively in civic affairs and community improvement efforts.
- 2. Community members of all ages understand the basic principles of sustainability and use them to guide their decisions and actions - both personal and collective.

HUMAN DIGNITY

Goals

Santa Monica will be a community in which:

- 1. All its members are able to meet their basic needs and are empowered to enhance the quality of their lives; and
- 2. There is access among community members to housing, health services, education, economic opportunity, and cultural and recreational resources; and
- 3. There is respect for and appreciation of the value added to the community by differences among its members in race, religion, gender, age, economic status, sexual orientation, disabilities, immigration status and other special needs.

I acknowledge the goals and policies of the Santa Monica Sustainable City Program.

David M. Short

Property Owner's Name (PRINT)

David M. Short

Property Owner's Signature / Date

Digitally signed by: David M. Short  
 DN: CN = David M. Short email = dave.  
 short@macerich.com C = US O = Macerich OU = Asset  
 Management  
 Date: 2024.02.01 11:28:05 -08'00'

## SIGN POSTING REQUIREMENTS

The property which is the subject of a Discretionary Permit (or related applications, if any) shall be posted with a sign prior to filing an application(s). When the application is filed, the applicant must submit two photographs of the sign to verify its posting. One photograph must clearly show the sign text. The second photograph must show the location of the sign on the property. At least eight weeks prior to the public hearing date, the applicant must submit another photograph to verify that the project case number and the public hearing date have been correctly posted on the sign. Failure to submit this photograph shall be cause for continuance of the hearing. The applicant shall also submit to the Zoning Administrator an affidavit verifying the date that this information was posted on the sign. The sign shall conform to the following requirements:

1. Size: Shall be twelve (12) square feet in sign area (generally three feet by four feet).
2. Height: Shall not exceed eight (8) feet from ground level.
3. Location: Not less than one (1) foot nor more than ten (10) feet inside the property line, in an area most visible to the public. Signs may be attached to a building at zero setback if none exists.
4. The sign shall not be illuminated.
5. Only one such sign may be displayed per street frontage unless otherwise permitted by the Director of Planning and Community Development.
6. The sign shall include only the following factual information (all applicable applications must be listed) :
  - a. Title: NOTICE OF PENDING [Application(s) – CONDITIONAL USE PERMIT, DEVELOPMENT REVIEW PERMIT, etc.]
  - b. Project case number: (e.g. 17ENT-0001).
  - c. Brief explanation of the request: (e.g. Proposed 23,000 SQUARE FOOT COMMERCIAL BUILDING or PROPOSED 30-UNIT APARTMENT BUILDING; Do not use descriptive words such as “luxurious”, “elegant”, etc.)
  - d. Name and telephone number of project proponent
  - e. Location of property
  - f. Date, time, and location of public hearing to be inserted when public hearing date has been set. The posting affidavit must be returned to the City Planning Division at least two weeks before scheduled hearing date. The date shall be inserted at least two weeks. If the hearing date is changed, the new hearing date must be marked on the sign. Dates shall also be changed for Planning Commission items appealed to the City Council. The applicant is responsible for proper posting of the site.
  - g. City Planning Division phone number (310) 458-8341
7. The lettering style shall be a standard typeface (Arial or similar). The lettering size shall be 2-inch capital letters for the title and project case number. All other letters shall be 1-inch in size and may be either capitals or upper and lower case. All letters shall be black upon a white background.
8. The sign shall remain in place until after the 14-day appeal period has passed following a final decision by the Zoning Administrator or Planning Commission. If an appeal is filed, the sign shall remain in place, with the new hearing date noted, until the final decision by the Planning Commission or City Council. The sign shall be removed within ten (10) days of either the end of the appeal period or the final decision of the Planning Commission or City Council, whichever applies.

I acknowledge these sign posting requirements and that failure to post the sign/required information and failure to conform to placement/graphic standards will result in delay in the required public hearing.

**David M. Short**

Property Owner’s Name (PRINT)

**David M. Short**

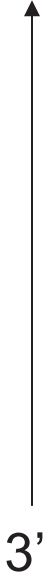
Property Owner’s Signature / Date

Digitally signed by: David M. Short  
DN: CN = David M. Short email = dave.  
short@macerich.com C = US O = Macerich OU =  
Asset Management  
Date: 2024.02.01 11:28:30 -0800

# EXAMPLE OF REQUIRED SIGN POSTING



4'



3'

## NOTICE OF PENDING

[Requested Application(s)]

(Conditional Use Permit, Development Review Permit, Variance, etc.)

Site Address: \_\_\_\_\_

Application(s) Number: \_\_\_\_\_

Proposed Project On This Site: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Applicant: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: (\_\_\_\_) \_\_\_\_\_ Email: \_\_\_\_\_

Hearing Date/Time: \_\_\_\_\_

Location of Hearing: City Council Chambers  
1685 Main Street, Room 250

For more Information email the City Planning Division at: [planning@santamonica.gov](mailto:planning@santamonica.gov)  
Para mas informacion favor de llamar or mandar un correo electronico:  
(310) 458-8341/ [planning@santamonica.gov](mailto:planning@santamonica.gov)





N/A

## SUPPLEMENTAL APPLICATION FOR ALCOHOL APPLICATIONS

Address: \_\_\_\_\_

The following information must be provided:

- Description of any previous approvals relating to food service and/or alcohol use at the site.
- Copy of any existing alcohol license(s) for the premises.
- A map drawn to scale showing any schools, parks, residences, churches, and other alcohol outlets within a 500' radius of the site. The map should also be accompanied by a list of such uses.
- Photographs of the interior and exterior of the establishment mounted on 8 ½" x 11" sheets.
- A complete set of floor plans, drawn to scale, which show the following:
  - Number of restaurant seats
  - Number of bar seats
  - Number of customer waiting seats
  - Total number of seats
  - Square footage of customer seating and dining areas
  - Square footage of separate bar area
  - Square footage of kitchen, storage, restrooms, office and other support areas
  - Square footage and linear shelf space of alcohol display if liquor is proposed to be sold for off-site consumption
  - If entertainment is proposed, floor plans must show area devoted to such uses and the applicant should indicate hours of such use
  - Number and location of any televisions or video projectors
- Copy of proposed Alcohol Awareness Server Training Policies.
- Copy of proposed Designated Driver Program.
- Copy of security plan for the establishment approved by the Santa Monica Police.



# CITY OF SANTA MONICA

## Plot Plan Requirements

The requirements of a Plot Plan are as follows:

1. Sheet size: Not larger than 24" by 36", nor smaller than 11" by 17"
2. Scale: Use a scale at a size adequate to show all information clearly. Indicate scale on plan.
3. North arrow (use directions with north located at top of sheet, and using assumed north rather than true north)
4. Title block which includes:
  - a. Project address
  - b. Applicant name, address and telephone number
  - c. Architect/engineer/designer name, address and telephone number
  - d. Architect/engineer/designer's seal
  - e. Date of plan
  - f. Box for revision dates
  - g. Sheet number
5. Street trees in the City street right-of-way adjacent to the project site.
  - a. The plans shall indicate the precise location of all trees, the species, and trunk diameter measured at 4 ½ feet above finish grade and the canopy spread.
  - b. A Tree Protection Zone that encompasses the canopy plus an additional radius of 10 feet
6. Proposed staging area for all construction activities as taking place outside of the Tree Protection Zone
7. Location of pool fence enclosure and pool equipment (for pools only)
8. Show all existing and proposed parking areas
9. Property dimensions (length and width) and property lines indicated. Label all property lines with "PL" notation
10. Building footprint of all structures on property, proposed use and zoning district
11. Adjacent streets, alleys and sidewalks with right-of-way labeled and dimensioned, with centerline of alley and any alley dedication required by the City labeled, with sidewalk and pavement widths shown and with an indication of distance to nearest intersection and neighboring driveways.
12. Easements
13. Exterior mechanical equipment
14. Signs
15. Driveway curb cuts, aprons and approaches
16. Parkways
17. Fences and gates
18. Indicate with arrows the slope of roof and the drainage flow directions. Runoff will not be permitted to empty into alleys or sheet across sidewalks except for single-family residences. Show all drain lines, area cleans, catch basins, downspouts, sump pumps, etc.
19. Label and indicate with arrows the slope of landscaped and paved areas; show finished surface elevation at all critical points, property corners, area drains, driveways and building finished floor
20. All setback dimensions, front, rear, and sides measured from property lines, and any projections into required setbacks dimensioned
21. Lot coverage calculation
22. Footprint and uses of existing and proposed structures, parking areas, driveways, planters/landscaping, and zoning district of adjacent property, including driveways and aprons on opposite side of street or alley
23. Location and dimensions of trash/recycling area
24. Unexcavated side yards
25. Dimension of any fixed object or landscaping located within 5-feet of the intersection of driveway and property line
26. Indicate where existing curb cuts are to be removed
27. Locations and dimensions of all proposed and existing parking areas, spaces, aisles, driveways (including cross slope), garage doors, sidewalks, and loading spaces

## **SANTA MONICA PLACE DIGITAL SIGNAGE**

### **PROJECT DESCRIPTION**

Macerich SMP LP (the “Applicant”) is the owner of approximately 10 acres of land located in the City of Santa Monica (the “City”) and developed with a shopping center with approximately 586,453 square feet of commercial uses, commonly known as Santa Monica Place). The shopping center is located at the southeastern end of the Third Street Promenade and is situated within the superblock bounded by Broadway to the northwest, 4th Street to the northeast, Colorado Avenue to the southeast, and 2nd Street to the southwest (the “Property”).

The Applicant is proposing to fabricate, install, operate, and maintain LED digital displays and associated sign structures (“Digital Displays”) on multiple façades of Santa Monica Place for displaying paid on-site or off-site advertising and content representing the City and Santa Monica Place (the “Project”). The Digital Displays will include:

- A digital display at the corner of 4th Street and Colorado Avenue with one 900-square foot southeast-facing sign at 30 feet wide and 30 feet high;
- A digital display at the corner of Broadway and 4th Street with a 1,040-square foot sign with two sign faces – one northeast-facing (face C1) at 25 feet wide by 20 feet high (500 square feet); and one northwest-facing (face C2) at 27 feet wide by 20 feet high (540 square feet); and
- A digital display at the corner of Broadway and 2nd Street, one 754-square foot southwest-facing sign at 29 feet wide and 26 feet high.

The Project does not include any new floor area, parking, or other improvements other than the installation of the Digital Displays.

Santa Monica Place is located in the City’s Downtown Commercial District. The Property and surrounding area is zoned C3-C-Downtown Commercial, which allows general retail, office, residential, hotel, and visitor-serving uses. Santa Monica Place also is located in the area designated by the City of Santa Monica General Plan Land Use and Circulation Element of its General Plan (“LUCE”) as the Downtown Core, which allows for the City’s broadest mix of land uses and highest intensity development. Land uses across Colorado Avenue from Santa Monica Place include the two-story former Sears Retail Center and the single-story Leaf & Petal Nursery. Land uses across the intersection of Colorado Boulevard and 4th Street consist of the Exposition Light Rail line (“Expo LRT”) Downtown Santa Monica station. Land uses across 4th Street from Santa Monica Place include a single-story bank, a six-story mixed-use building, the single-story Salvation Army building, and the two-story Ken Edwards Community Center. Land uses across 2nd Street from Santa Monica Place include 1540 Second Street (a four-story building containing fast-food, retail, and commercial land uses), the Shore Hotel, and various retail uses. Land uses across Broadway Avenue from Santa Monica Place include the Third Street Promenade, which includes retail, residential, and commercial land uses.

Santa Monica Place is operated in accordance with the City-approved Santa Monica Place Transportation Demand Management (“TDM”) program and the overall expansion of TDM efforts resulting from adoption of the LUCE. Santa Monica Place also is well-served by public transit, including bus lines operated by Metro and Santa Monica’s Big Blue Bus system. The Metro 720 bus line maintains a bus stop at the intersection of Colorado Avenue and 4th Street. Santa Monica’s Big Blue Bus maintains a bus stop across Colorado Avenue from Santa Monica Place (in front of the LUXE@1539 mixed-use building) that serves bus line nos. 2, 3, 4, 5, 9, and 20. The Metro 720 bus line also utilizes this bus stop. In addition, the Downtown Santa Monica station for the Expo LRT is across the intersection of Colorado Avenue and 4th Street from Santa Monica Place.

The Project will provide the following community benefits:

- Pursuant to the License Agreement, the Applicant will pay the City a signing bonus and monthly rent; and
- Up to 34 percent of digital content and programming appearing on the Digital Displays shall represent the Santa Monica community and/or Santa Monica Place in messaging that elevates, reinforces, and amplifies Santa Monica's brand through community-minded, locally-focused digital content.

In addition, the Project will reinforce and advertise the stores, events, and operations of Santa Monica Place which will serve to preserve and enhance the economic viability of Santa Monica Place as well as increase tax revenue for the City.

The Development Agreement is necessary to: (1) eliminate uncertainty in planning for the Project and result in the orderly development of the Project; (2) assure installation of necessary improvements on the Property; (3) provide for public infrastructure and services appropriate to development of the Project; (4) preserve substantial City discretion in reviewing subsequent development of the Property; (5) secure for the City improvements that benefit the public; (6) ensure the provision of community benefits as envisioned in the LUCE; and (7) otherwise achieve the goals and purposes for which the Development Agreement Statutes pursuant to California Government Code Section 65864 et seq. and Chapter 9.60 of the Santa Monica Municipal Code were enacted.

Approvals required for the Project include, but are not limited to, the following:

- Approval of a Development Agreement with the City of Santa Monica;
- City of Santa Monica Redevelopment Successor Agency Approval;
- City Architectural Review Board review;
- California Coastal Commission approval of an amendment to the Coastal Development Permit and the Development Agreement; and
- Any other incidental discretionary or administrative approvals needed for the construction and operation of the Project.

## FINDINGS

The recommendation of the Planning Commission shall include whether or not the proposed Development Agreement:

*A. Is Consistent with the objectives, policies, general land uses and programs specified in the General Plan and any applicable specific plan.*

The Property is located within the Downtown Core land use designation under the LUCE. The Property is in the Transit Adjacent (TA) District under the Downtown Community Plan. The Development Agreement is consistent with the following provisions of the City's General Plan, including the LUCE:

Consistent with LUCE Goal D.I, maintain Santa Monica's Downtown's competitive advantage as a premier local and regional shopping, dining, and entertainment destination, and support its evolution in order to respond to changing market conditions by allowing digital displays to maintain and enhance the economic viability of Santa Monica Place;

Consistent with LUCE Policy EI, make land use decisions that respond to changing market conditions and meet the needs of City residents and visitors by allowing a new source of revenue for Santa Monica Place, which is facing economic challenges due to changing market conditions;

Consistent with Downtown Plan Goals LU3 and CCP2, ensure that Santa Monica's Downtown continues to be the economic center for the City and a thriving and diverse economic force that supports the City's vitality, fiscal stability, and high levels of community services by allowing digital displays to maintain and enhance the economic viability of Santa Monica Place;

Establishing a public-private partnership that generates long-term general fund revenue, beyond taxes and fees, to support city programs and services for the betterment and overall well-being of the community; and

Providing messaging that elevates, reinforces, and amplifies Santa Monica's brand through community-minded, locally-focused digital content.

*B. Is compatible with the uses authorized in the district in which the real property is located.*

The Property and surrounding area is zoned C3-C-Downtown Commercial, which allows general retail, office, residential, hotel, and visitor-serving uses. As noted above, the Property is located within the Downtown Core which allows the highest intensity of uses in the City. The Property is surrounded by a variety of high intensity retail, restaurant, hotel, and mixed-use buildings, as well as the Expo LRT Downtown Santa Monica station to the southeast and the Third Street Promenade to the north. The Project would build on the Project vicinity's current identity as a destination for both residents and tourists. The Project will be compatible with the surrounding uses and provide a visual link between the Project and these uses and will contribute to a lively and exciting pedestrian atmosphere along the Property's street frontages.

*C. Is in conformity with the public necessity, public convenience, general welfare, and good land use practices.*

The Project is in conformity with the public necessity, public convenience, general welfare, and good land use practices. The Project is designed to help revitalize Santa Monica Place to attract patrons and sponsors resulting in additional business, retail, and restaurants in the area. Permitting more context-oriented and innovative signage through the proposed Digital Displays would allow for the use of state-of-the-art technologies to create a diversity of signage types at key locations on the Property.

The Digital Displays would enhance the cultural, entertainment, and shopping experience of Santa Monica Place P by displaying paid advertising and community messaging representing the City and Santa Monica Place. In addition, the Project would provide visual interest to the Property and would reinforce the pedestrian-oriented character of the streets surrounding the Property. By attracting more patrons to Santa Monica Place and its vicinity, the Digital Displays would help to create a lively environment complementing the existing uses in the area and would enhance business and retail viability and draw visitors to the area. Finally, the Digital Displays will be subject to maximum sign areas, illumination level limitations, and operating hour restrictions to reduce light and glare. As such, the Project would conform to the public necessity, convenience, general welfare, and good land use practices.

*D. Will be detrimental to the health, safety and general welfare.*

The Digital Displays will be subject to maximum sign areas, illumination level limitations, and operating hour restrictions to reduce light and glare and avoid potential impacts. As thoroughly analyzed in the Lighting Study prepared by Francis Krahe & Associates, dated August 23, 2023, the Digital Displays will not have a significant impact on nearby sensitive uses, and sensitive uses more distant than the sensitive uses analyzed will receive substantially less light from the Digital Displays. In addition, the light from the Digital Displays will not exceed the maximum defined by the California Vehicle Code, so there is no impact to drivers. As described above, the Project will comply with City's General Plan and the goals and policies of the LUCE. Therefore, the Project will not be detrimental to the health, safety, and general welfare.

*E. Will adversely affect the orderly development of the property.*

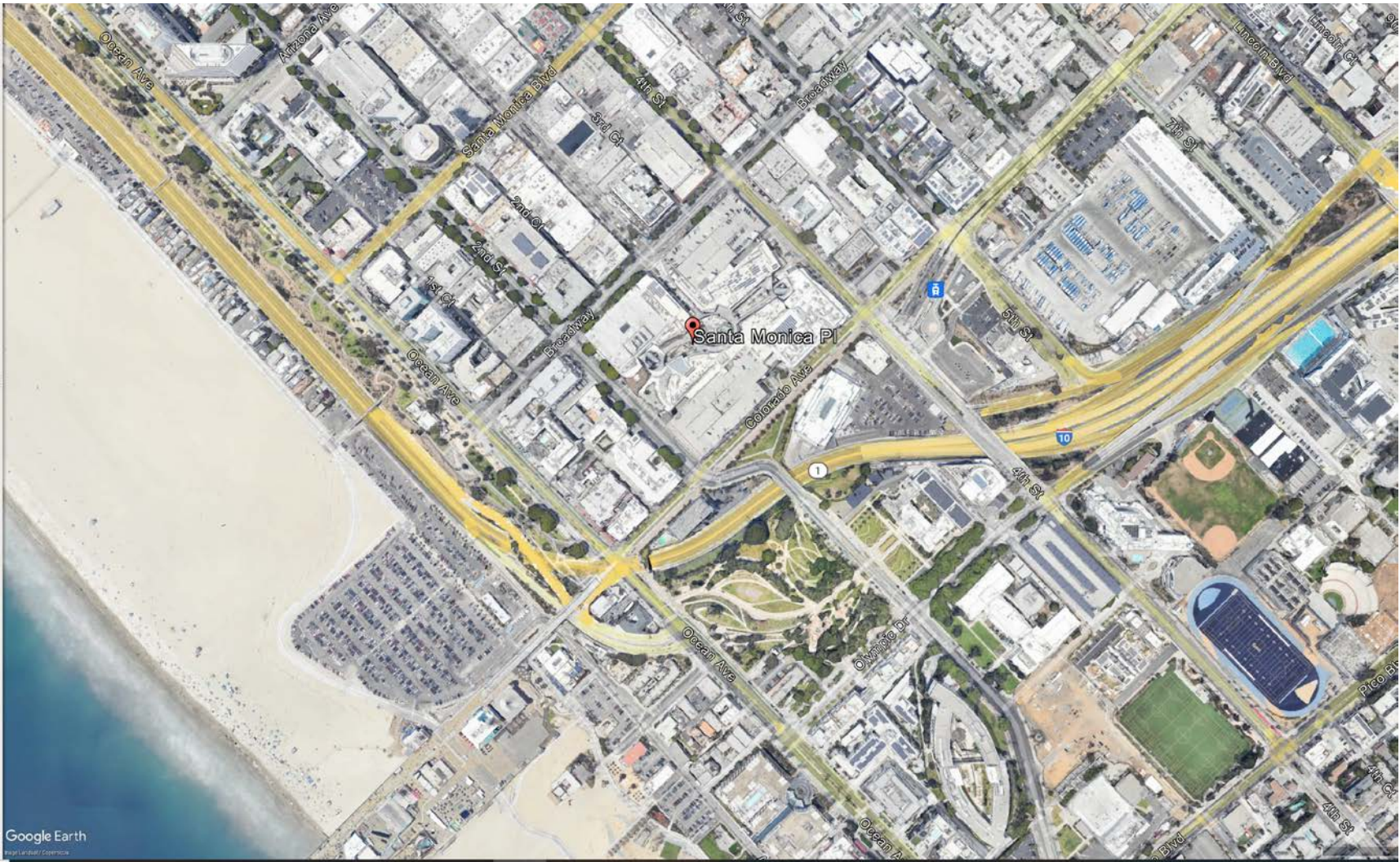
The Project does not include new development or floor area and will only include the installation and operation of Digital Displays on various limited façade areas of the existing development. As noted above, the Development Agreement will preserve substantial City discretion in reviewing subsequent development of the Property. Therefore, the Project will not adversely affect the orderly development of the Property.

*F. Will have a positive fiscal impact on the City.*

The Project will have a positive fiscal impact on the City by allowing the installation of Digital Displays that will include on-site and off-site messaging and provide a new source of revenue for



Santa Monica Place. Pursuant to a License Agreement, the Applicant will pay the City a signing bonus and monthly rent. In addition, up to 34 percent of digital content and programming appearing on the Digital Displays shall represent the Santa Monica community and/or Santa Monica Place in messaging that elevates, reinforces, and amplifies Santa Monica's brand through community-minded, locally-focused digital content. The Project will reinforce and advertise the stores, events, and operations of Santa Monica Place, which will serve to preserve and enhance the economic viability of Santa Monica Place as well as increase tax revenues to the City. Therefore, the Project will have a positive fiscal impact on the City.



VICINITY MAP

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**20130000673**



Pages:  
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Recorded/Filed in Official Records  
Recorder's Office, Los Angeles County,  
California

01/02/13 AT 08:00AM

FEES:	46.00
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OTHER:	0.00
PAID:	NEPR



LEADSHEET



201301020140002

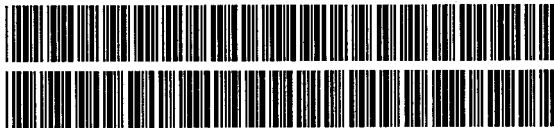
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SEQ:  
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DAR - Title Company (Hard Copy)



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T94

LAWYERS TITLE COMPANY

RECORDING REQUESTED BY:  
COMMONWEALTH LAND TITLE INSURANCE COMPANY

AND WHEN RECORDED MAIL GRANT DEED TO:  
DLA PIPER LLP (US)  
550 S. Hope Street, Suite 2300  
Los Angeles, California 90071  
Attention: Michael Hamilton, Esq.



AND MAIL TAX INFORMATION TO:  
C/O THOMSON PROPERTY TAX SERVICES  
P.O. Box 847  
Carlsbad, California 92018

12251813-27.

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT DEED

APNs: 4291-026-025, 4291-026-026, 8940-289-129 AND 8940-289-130.

The undersigned Grantor declares that the Documentary Transfer Tax is \$0.00. The Grant Deed represents a transfer from MACERICH SANTA MONICA LP, a Delaware limited partnership, to MACERICH SMP LP, a Delaware limited partnership. This transaction constitutes an exempt transaction for purposes of Documentary Transfer Tax because it qualifies as "any transfer between...legal entities...that results solely in a change in the method of holding title to the realty and in which proportional ownership interests in the realty...remain the same immediately after the transfer." See R&T §11925(d).

TRANSFER TAX  
NOT A PUBLIC RECORD

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, MACERICH SANTA MONICA LP, a Delaware limited partnership, with an office at c/o The Macerich Company, 401 Wilshire Boulevard, Suite 700, Santa Monica, California 90401 ("Grantor"), hereby does grant, bargain, and sell and convey unto MACERICH SMP LP, a Delaware limited partnership, with an office at c/o The Macerich Company, 401 Wilshire Boulevard, Suite 700, Santa Monica, California 90401 ("Grantee"), all of its right, title and interest in and to the real property located in the County of Los Angeles, State of California, and described on Exhibit A attached hereto together with all rights, privileges, easements and appurtenances held by Grantor appertaining to the Property, SUBJECT TO those matters of record and any and all applicable laws, ordinances, rules, regulations and permits affecting the Property or governing the use thereof.

[SIGNATURE TO FOLLOW]

DOCUMENT TRANSFER TAX \$ Not A Public Record  
 COMPUTED ON FULL VALUE OF PROPERTY CONVEYED  
 OR COMPUTED ON FULL VALUE LESS LIENS AND ENCUMBRANCES REMAINING AT TIME OF SALE.  
 Signature of Declarant or Agent determining tax. Firm Name

1A

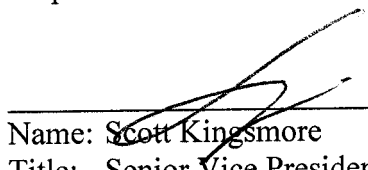
IN WITNESS WHEREOF, Grantor has caused its duly authorized representative to execute this instrument as of the date hereinafter written.

DATED: December 28, 2012

**MACERICH SANTA MONICA LP,**  
a Delaware limited partnership

By: Macerich Santa Monica Place Corp.,  
a Delaware corporation,  
its general partner

By:

  
Name: Scott Kingsmore  
Title: Senior Vice President

ACKNOWLEDGMENT

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF LOS ANGELES )

On 12/20, 2012, before me, Kristen McCormick,  
notary public, personally appeared Scott Kuyumore, who  
proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same  
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument  
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature Kristen McCormick (Seal)





## **EXHIBIT A**

### **Legal Description (Santa Monica Place)**

All that certain real property situated in the County of Los Angeles, State of California, described as follows:

#### **Parcel A:**

Lot 4 and that portion of Lot 3 of Tract No. 34997, in the City of Santa Monica, County of Los Angeles, State of California, shown on the map filed in Book 926, Pages 44 to 48, inclusive, of Maps, in the Office of the County Recorder of said County, described as follows:

That portion of Lot 3 which lies Northeasterly of a line which is parallel with and Southwesterly of Northeast line of Lot 3, distant South 45° 52' 05" West 28.00 feet along the Northwesterly line of Lot 3 from the most Northerly corner of Lot 3.

Said description is made pursuant to Proposed Parcel B of that certain Certificate of Compliance recorded May 24, 2010, as Instrument No. 20100706689, of Official Records of said County.

Also except all oil, gas and mineral substances below a depth of 500 feet for the surface of said land, together with the right to explore for and extract such substances, provided that the opening of any well, hole, shaft or other means of exploring for, reaching or extracting such substances shall not be located upon the surface of the land within the City of Santa Monica Downtown Redevelopment Project as recorded October 27, 1977 as Document No. 77-1193683, of Official Records of Los Angeles County, State of California, and shall not penetrate any part of or portion of said project area, including the land hereinabove described, within 500 feet of the surface thereof or on said surface, as excepted and/or reserved in the following instruments:

(I) Judgment and Final Order of Condemnation recorded October 17, 1978 as Instrument No. 78-1207129 of Official Records of said County as to the Lots "K" and "L", in Block 197, shown on the map of said Town of Santa Monica, except the rear 50 feet of said Lots "K" and "L" and as to that portion of the Southwesterly half of the vacated portion of Third Street, 80 feet wide, adjoining said Lot "K" and "L" on the Northeast.

(II) Grant Deed executed by Benjamin M. Weiss and Rose G. Weiss, recorded December 13, 1978 as Instrument No. 78-1379892 of Official Records, as to Lot "E" in Block 197 of said Town of Santa Monica and that portion of the Southwesterly half of the Third Street, 80 feet wide, vacated, lying between the Northeasterly prolongation of the Northwesterly line of Lot "E" and the Northeasterly prolongation of the Southeasterly line of Lot "E", Block 197 of said Town of Santa Monica, together with that portion of the Northeasterly half of that certain alley, 20 feet wide, vacated lying between the Southwesterly prolongation of the Northwesterly line of said Lot "E" and Southwesterly prolongation of the Southeasterly line of said Lot "E".

(III) Grant Deed executed by the Redevelopment Agency of the City of Santa Monica, California, a Public Body, Corporate and Politic, recorded December 22, 1978 as Instrument No. 78-1420857 of Official Records, as to all of Parcels "T".

(IV) Judgment and Final Order of Condemnation, recorded January 16, 1979 as Instrument No. 79-67734 of Official Records, as to the Southwesterly 75 feet of Lots "X" and "W", in Block 197 of said Town of Santa Monica.

(V) Grant Deed executed by Quali-T.V., a partnership, recorded January 25, 1979 as Instrument No. 79-104926 of Official Records, as to Lot "F", in Block 197 of said Town of Santa Monica and that portion of the Southwesterly half of 3rd Street, 80 feet wide, vacated, lying between the Northeasterly prolongation of the Northwesterly line of Lot "F" and the Northeasterly prolongation of the Southeasterly line of Lot "F", in Block 197 of The Town of Santa Monica, as shown on the map recorded in Book 3 Pages 80 and 81, and in Book 39 Pages 45, et seq., both of Miscellaneous Records, in the office of the County Recorder of said County, together with that portion of the Northeasterly half of that certain alley, 20 feet wide, vacated, lying between the Southwesterly prolongation of the Northwesterly line of said Lot "F" and the Southwesterly prolongation of the Southeasterly line of said Lot "F".

(VI) Judgment and Final Order of Condemnation, recorded April 11, 1979 as Instrument No. 79-393620 of Official Records, as to Lot "P", in Block 197 of said Town of Santa Monica and that portion of the Southwesterly half of that certain alley, 20 feet wide, vacated, lying between the Northeasterly prolongation of the Northwesterly line of said Lot "P" and the Northeasterly prolongation of the Southeasterly line of said Lot "P".

(VII) Judgment and Final Order of Condemnation, recorded April 19, 1979 as Instrument No. 79-424582 of Official Records, as to the Southeasterly 75 feet of Lots "A" and "B", in Block 197 of Santa Monica, in the City of Santa Monica, County of Los Angeles, State of California, as per map recorded in Book 3 Pages 80 and 81 and in Book 39 Page 45 of Miscellaneous Records, in the office of the County Recorder of Los Angeles County and as to that portion of the Northeasterly half of that certain alley, 20 feet wide, vacated, lying between the Southwesterly prolongation of the Northwesterly line of Lot "A" and the Southwesterly prolongation of the Southeasterly line of Block "B", both in Block 197, Town of Santa Monica, as per map recorded in Book 3 Pages 80 and 81 and in Book 39 Pages 45 et seq., both of Miscellaneous Records, in the office of the County Recorder of said County.

(VIII) Judgment and Final Order of Condemnation, recorded April 25, 1979 as Instrument No. 79-447312 of Official Records, as to Lot "V", in Block 197 of The Town of Santa Monica, in the City of Santa Monica, County of Los Angeles, State of California, as per map recorded in Book 3 Pages 80 and 81 and in Book 39 Page 45 et seq., both of Miscellaneous Records, in the office of the County Recorder of said County and as to that portion of the Southwesterly half of that certain alley, 20 feet wide, vacated, lying between the Northeasterly prolongation of the Northwesterly line of Lot "V" and the Northeasterly prolongation of the Southeasterly line of Lot "V", in Block 197, Town of Santa Monica, as shown on the map recorded in Book 3 Pages 80 and 81 and in Book 39 Pages 45 et seq., both of Miscellaneous Records, in the office of the County Recorder of said County.

(IX) Partial Judgment and Final Order of Condemnation, recorded September 4, 1979 as Instrument No. 79-986702 of Official Records, as to the Northeasterly 52 feet of Lots "A" and "B", in Block 197 of said Town of Santa Monica and that portion of the Southwesterly half of Third Street, 80 feet wide, vacated, adjoining said Lots "A" and "B" on the Northeast lying between the Northeasterly prolongation of the Northwesterly line of said Lot "A" and the Northeasterly prolongation of the Southeasterly line of said Lot "B".

**Parcel C:**

Lots 1 and 2 of Tract No. 34997, in the City of Santa Monica, County of Los Angeles, State of California, as per Map recorded September 12, 1979 in Book 926, Pages 44, 45 and 46 of Maps, in the Office of the County Recorder of said County.

Except all oil, gas and mineral substances, together with the right to explore for and extract such substances, provided that the surface opening of any well, hole, shaft or other means of exploring for, reaction of extraction such substances shall not be located within the City of Santa Monica Downtown Redevelopment Project as recorded as Document No. 77-1193603 of Official Records, County Records, State of California, and shall not penetrate any part of or portion of said project area within 500 feet of the surface thereof, as excepted and reserved in the judgment and final order of condemnation, recorded October 17, 1978 as Instrument No. 78-1207129 of Official Records of said County, lying within Lots "K" and "L", Block 197, Town of Santa Monica, in the City of Santa Monica, County of Los Angeles, State of California, as per map recorded in Book 3 Pages 80 and 81 and in Book 39 Pages 45 to 51, inclusive, both of Miscellaneous Records, in the office of the County Recorder of said County, except the rear 50 feet thereof; and lying within that portion of Third Street, 80 feet wide, vacated, between the Southwesterly prolongation of the Northwesterly line of said Lot "A" and the Southwesterly prolongation of the Southeasterly line of Lot "M", both in Block 196 of said Town of Santa Monica, the foregoing parcel of land is more particularly described as follows:

Beginning at the most Northerly corner of Lot "A", Block 196 of said Town of Santa Monica; thence along the Northwesterly line of said Block 196 and its Southwesterly prolongation, South 45° 52' 05" West 394.57 feet; thence leaving said line South 44° 07' 55" East 419.33 feet to the true point of beginning; thence continuing South 44° 07' 55" East 180.40 feet to the Northeasterly prolongation of the Southeasterly line of said Block 197; thence along said Northeasterly prolongation and said Southeasterly line South 45° 50' 35" West 314.66 feet to a point thereon, North 45° 50' 35" East 10.00 feet from the Southwesterly corner of said Lot "M", Block 197; thence North 89° 08' 55" West 14.14 feet to a point in the Southwesterly line of said Lot "M" said point being North 44° 08' 25" West 10.00 feet from the Southwesterly corner of said Lot "M"; thence along the Southwesterly line of said Block 197, North 44° 08' 25" West 170.54 feet to a line that is parallel with the Northwesterly line of said Block 197, said line bears South 45° 52' 05" West from the true point of beginning; thence along said line North 45° 52' 05" East 324.69 feet to the true point of beginning.

And as excepted and reserved in the Judgment and Final Order of Condemnation, recorded April 11, 1979 as Instrument No. 79-393620 of Official Records of said County, lying within Lot "P",

Block 197, Town of Santa Monica, in the City of Santa Monica, County of Los Angeles, State of California, as per map recorded in Book 3 Pages 80 and 81 and in Book 39 Pages 45 to 51 inclusive, both of Miscellaneous Records, in the office of the County Recorder of said County and that portion of the Southwesterly half of that certain alley, 20 feet wide, vacated, lying between the Northeasterly prolongation of the Northwesterly line of said Lot "P" and the Northeasterly prolongation of the Southeasterly line of said Lot "P".

**Parcel D:**

Lot 3 of Tract No. 34997, in the City of Santa Monica, County of Los Angeles, State of California, shown on the map filed in Book 926, Pages 44 to 48, inclusive, of Maps, in the Office of the County Recorder of said County.

Except therefrom that portion of thereof which lies Northeasterly of a line which is parallel with and Southwesterly of Northeast line of Lot 3, distant South 45° 52' 05" West 28.00 feet along the Northwesterly line of Lot 3 from the most Northerly corner of Lot 3.

Said description is made pursuant to Proposed Parcel A of that certain Certificate of Compliance, recorded May 24, 2010, as Instrument No. 20100706689, of Official Records of said county.

Also except all oil, gas and mineral substances below a depth of 500 feet for the surface of said land, together with the right to explore for and extract such substances, provided that the opening of any well, hole, shaft or other means of exploring for, reaching or extracting such substances shall not be located upon the surface of the land within the City of Santa Monica Downtown Redevelopment Project as recorded October 27, 1977 as Document No. 77-1193683, of Official Records of Los Angeles County, State of California, and shall not penetrate any part of or portion of said project area, including the land hereinabove described, within 500 feet of the surface thereof or on said surface, as excepted and/or reserved in the following instruments:

(I) Judgment and Final Order of Condemnation recorded October 17, 1978 as Instrument No. 78-1207129 of Official Records of said County as to the Lots "K" and "L", in Block 197, shown on the map of said Town of Santa Monica, except the rear 50 feet of said Lots "K" and "L" and as to that portion of the Southwesterly half of the vacated portion of Third Street, 80 feet wide, adjoining said Lot "K" and "L" on the Northeast.

(II) Grant Deed executed by Benjamin M. Weiss and Rose G. Weiss, recorded December 13, 1978 as Instrument No. 78-1379892 of Official Records, as to Lot "E" in Block 197 of said Town of Santa Monica and that portion of the Southwesterly half of the Third Street, 80 feet wide, vacated, lying between the Northeasterly prolongation of the Northwesterly line of Lot "E" and the Northeasterly prolongation of the Southeasterly line of Lot "E", Block 197 of said Town of Santa Monica, together with that portion of the Northeasterly half of that certain alley, 20 feet wide, vacated lying between the Southwesterly prolongation of the Northwesterly line of said Lot "E" and Southwesterly prolongation of the Southeasterly line of said Lot "E".

(III) Grant Deed executed by the Redevelopment Agency of the City of Santa Monica, California, a Public Body, Corporate and Politic, recorded December 22, 1978 as Instrument No. 78-1420857 of Official Records, as to all of Parcels "T".

(IV) Judgment and Final Order of Condemnation, recorded January 16, 1979 as Instrument No. 79-67734 of Official Records, as to the Southwesterly 75 feet of Lots "X" and "W", in Block 197 of said Town of Santa Monica.

(V) Grant Deed executed by Quali-T.V., a partnership, recorded January 25, 1979 as Instrument No. 79-104926 of Official Records, as to Lot "F", in Block 197 of said Town of Santa Monica and that portion of the Southwesterly half of 3rd Street, 80 feet wide, vacated, lying between the Northeasterly prolongation of the Northwesterly line of Lot "F" and the Northeasterly prolongation of the Southeasterly line of Lot "F", in Block 197 of The Town of Santa Monica, as shown on the map recorded in Book 3 Pages 80 and 81, and in Book 39 Pages 45, et seq., both of Miscellaneous Records, in the office of the County Recorder of said County, together with that portion of the Northeasterly half of that certain alley, 20 feet wide, vacated, lying between the Southwesterly prolongation of the Northwesterly line of said Lot "F" and the Southwesterly prolongation of the Southeasterly line of said Lot "F".

(VI) Judgment and Final Order of Condemnation, recorded April 11, 1979 as Instrument No. 79-393620 of Official Records, as to Lot "P", in Block 197 of said Town of Santa Monica and that portion of the Southwesterly half of that certain alley, 20 feet wide, vacated, lying between the Northeasterly prolongation of the Northwesterly line of said Lot "P" and the Northeasterly prolongation of the Southeasterly line of said Lot "P".

(VII) Judgment and Final Order of Condemnation, recorded April 19, 1979 as Instrument No. 79-424582 of Official Records, as to the Southeasterly 75 feet of Lots "A" and "B", in Block 197 of Santa Monica, in the City of Santa Monica, County of Los Angeles, State of California, as per map recorded in Book 3 Pages 80 and 81 and in Book 39 Page 45 of Miscellaneous Records, in the office of the County Recorder of Los Angeles County and as to that portion of the Northeasterly half of that certain alley, 20 feet wide, vacated, lying between the Southwesterly prolongation of the Northwesterly line of Lot "A" and the Southwesterly prolongation of the Southeasterly line of Block "B", both in Block 197, Town of Santa Monica, as per map recorded in Book 3 Pages 80 and 81 and in Book 39 Pages 45 et seq., both of Miscellaneous Records, in the office of the County Recorder of said County.

(VIII) Judgment and Final Order of Condemnation, recorded April 25, 1979 as Instrument No. 79-447312 of Official Records, as to Lot "V", in Block 197 of The Town of Santa Monica, in the City of Santa Monica, County of Los Angeles, State of California, as per map recorded in Book 3 Pages 80 and 81 and in Book 39 Page 45 et seq., both of Miscellaneous Records, in the office of the County Recorder of said County and as to that portion of the Southwesterly half of that certain alley, 20 feet wide, vacated, lying between the Northeasterly prolongation of the Northwesterly line of Lot "V" and the Northeasterly prolongation of the Southeasterly line of Lot "V", in Block 197, Town of Santa Monica, as shown on the map recorded in Book 3 Pages 80 and 81 and in Book 39 Pages 45 et seq., both of Miscellaneous Records, in the office of the County Recorder of said County.

(IX) Partial Judgment and Final Order of Condemnation, recorded September 4, 1979 as Instrument No. 79-986702 of Official Records, as to the Northeasterly 52 feet of Lots "A" and "B", in Block 197 of said Town of Santa Monica and that portion of the Southwesterly half of Third Street, 80 feet wide, vacated, adjoining said Lots "A" and "B" on the Northeast lying between the Northeasterly prolongation of the Northwesterly line of said Lot "A" and the Northeasterly prolongation of the Southeasterly line of said Lot "B".

**Parcel E:**

The reciprocal and non-exclusive right, easements, privileges of use, ingress and egress parking and for utility and other purposes as created and granted in and by that certain Construction, Operation and Reciprocal Easement Agreement dated and recorded December 22, 1978 as Instrument No. 78-1420860 of Official Records and re-recorded June 13, 1979 as Instrument No. 79-636701 of Official Records, as amended by First Amendment to REA dated as of May 1, 1979 and recorded on June 13, 1979 as Instrument No. 79-636702 of Official Records, as assigned by that certain Quitclaim Deed and Assignment of Partnership Contracts and Assets recorded June 11, 1980 as Instrument No. 80-564153 of Official Records, as further assigned by that certain Assignment and Assumption of Operating Agreements dated as of October 29, 1999 and recorded November 1, 1999 as Instrument No. 99-2039815 of Official Records, and as further amended by that certain Amendment to and Restatement of Construction, Operation and Reciprocal Easement Agreement dated as of July 28, 2010 and recorded August 5, 2010 as Instrument No. 20101087258 of Official Records, in, on, over, upon and under the land described above in Parcel B.

**Parcel F:**

The non-exclusive rights, easement, privileges of use, ingress and egress for the passage of motor vehicles and the accommodation of pedestrians and other purposes as created and granted as an appurtenance to Parcel B by that certain Amended and Restated Off-Site Parking Easement and Permit Agreement dated as of July 28, 2010 and recorded August 5, 2010 as Instrument No. 20101087259 of Official Records, in, on, over, upon and under the following described land:

That certain parcel of land, situated in the City of Santa Monica, County of Los Angeles, State of California, being that portion of the Rancho San Vicente Y Santa Monica, as shown on a map thereof recorded in Book 3, Pages 30 and 31 of Patents, together with portions of Lots 1 and 2 in Block 3 of the Bandini Tract, as shown on a map thereof filed in Book 55 Pages 56 and 57 of Miscellaneous Records, both in the Office of the County Recorder of said Los Angeles County, described as follows:

Commencing at the Northwesterly terminus of that certain course shown as being "North 44°44'01" West 48.92 feet" in the new centerline of Fourth Street on Parcel Map No. 18134 filed in Book 202, Pages 21 through 23 of Parcel Maps, in the Office of the County Recorder of said Los Angeles County, said terminus also being the intersection of said new centerline of Fourth Street with the centerline of Olympic Boulevard eastbound as shown on said Parcel Map; thence at right angles to said new centerline of Fourth Street, South 45°15'00" West 37.50 feet to the



11

Southwesterly right-of-way line of Fourth Street (75.00 feet wide); thence along said Southwesterly right-of-way line, North 44°45'00" West 9.35 feet to a point in a non-tangent curve concave Southeasterly and having a radius of 25.00 feet, a radial line of said curve from said point bears South 07°08'39" East, said point also being the true point of beginning; thence along said curve Southwesterly 13.78 feet through a central angle of 31°35'21"; thence tangent from said curve South 51°16'00" West 93.93 feet to the beginning of a tangent curve concave Easterly and having a radius of 25.00 feet; thence along said curve Southwesterly, Southerly and Southeasterly 41.89 feet through a central angle of 96°00'47"; thence tangent from said curve South 44°44'47" East 366.42 feet to the beginning of a tangent curve concave Northerly and having a radius of 15.00 feet; thence along said curve Southeasterly, Easterly and Northeasterly 23.56 feet through a central angle of 90°04'34"; thence tangent from said curve North 45°10'39" East 112.16 feet to the beginning of a tangent curve concave Northwesterly and having a radius of 20.00 feet; thence along said curve Northeasterly 10.97 feet through a central angle of 31°26'24" to said Southwesterly right-of-way line of Fourth Street (75.00 feet wide); thence along said Southwesterly right-of-way line and non-tangent from said curve North 45°26'02" West 329.77 feet and North 44°45'00" West 58.53 feet to the true point of beginning.

Excepting forever, the title and exclusive right to all of the minerals and mineral ores of every kind and character now known to exist or hereafter discovered upon, within or underlying said land or that may be produced therefrom including, without limiting the generality of the foregoing, all petroleum, oil, natural gas and other hydrocarbon substances and products derived therefrom, together with the exclusive and perpetual right of said grantor, its successor and assigns of ingress and egress beneath the surface of said land, to explore for, extract, mine and remove the same, and to make such use of the said land beneath the surface as is necessary or useful in connection therewith, which use may include lateral or slant drilling, digging, boring, or sinking of wells, shafts or tunnels, provided however, that said grantor, its successor and assigns, shall not use the surface of said land in the exercise of any of said rights and shall not disturb the surface of said land or any improvements thereon or remove or impair the lateral or subjacent support of said land or any improvements thereon, as reserved by Pacific Electric Railway Company, a corporation, by deed recorded July 17, 1958 in Book D158 Page 141 of Official Records.

**Assessor's Parcel Numbers: 4291-026-025, 4291-026-026, 8940-289-129, 8940-289-130**

166

140002  
T94

(Form for Non-disclosure)

Document No.: \_\_\_\_\_

Order No.

01/02/2013

Recording



\*20130000673\*

**STATEMENT OF TAX DUE AND REQUEST THAT SAID AMOUNT NOT BE MADE PART OF PERMANENT RECORD IN OFFICE OF THE COUNTY RECORDER.**

TO: COUNTY RECORDER OF Los Angeles County  
=NAF=

**TRANSFER TAX  
NOT A PUBLIC RECORD**

The amount of remittance below is in full payment of the Documentary Transfer Tax for the document attached and described below. When tax payment is verified and after the permanent record is made, attach this request to the document pursuant to Section 11932 R & T Code.

Assignor / Grantor: MACEBUCH SANTA MONICA LP ✓  
Assignee / Grantee: MACEBUCH SMP LP ✓

Amount of remittance: \$ .00 for Documentary Transfer Tax.  
Amount of remittance: \$ 00. for City Transfer Tax.

- computed on full value of property conveyed, or
- computed on full value less value of liens or encumbrances remaining at time of sale.

[Signature]

UNRECORDED LEASES  
CONTAINING TERMS OF  
35 YEARS OR LESS  
THIS CONVEYANCE CONFIRMS  
TITLE IN THE ASSIGNEE.  
TRANSFER TAX IN THE AMOUNT OF  
\$ 0 IS BEING PAID ON  
THE GRANT DEED RECORDING  
CONCURRENT, R & T 11911.

- Unincorporated
- City of SANTA MONICA

[Signature]  
Signature of Party or Agent

**DOUGLAS ABERNATHY  
SENIOR TITLE OFFICER**

**RECORDED CONCURRENTLY HEREWITH**

**THE GRANTORS AND THE GRANTEEES IN THE CONVEYANCE ARE COMPRISED OF THE SAME PARTIES WHO CONTINUE TO HOLD THE SAME PROPORTIONATE INTEREST IN THE PROPERTY, R & T 11923(d).**

17A

**Macerich SMP GP LLC**  
**WRITTEN CONSENT OF Sole Member**

September 1, 2023

The undersigned, being the Sole Member of Macerich SMP GP LLC, a Delaware limited liability company (the "Company"), pursuant to Section 18-404 of the Delaware Limited Liability Company Act, hereby consents to the adoption of the following resolutions.

RESOLVED, that the persons identified in Exhibit A attached hereto be, and they hereby are, appointed to the office set forth beside their respective names, each to hold office as provided in the Limited Liability Company Agreement or Operating Agreement of the Company, as applicable, and any amendments thereto;

RESOLVED FURTHER, that any newly-appointed Vice President, or any other officer appointed senior to such position, of The Macerich Company shall be deemed to hold such title within the Company and shall be authorized and empowered to act on behalf of and in the name of the Company until or unless they no longer hold such title;

RESOLVED FURTHER, that each officer or agent of the Company is authorized, directed and empowered to execute and deliver any contracts, purchase and sale agreements, lease agreements, finance agreements, letter agreements, certificates, agreements, instruments, documents, amendments or supplements on behalf of the Company;

RESOLVED FURTHER, that any action taken by any officer or agent on behalf of the Company prior to the adoption of these resolutions which are within the authority conferred herein are hereby ratified, adopted, confirmed and approved.

IN WITNESS WHEREOF, the undersigned has executed this Consent effective on the date set forth above.

Macerich SMP Pledgor GP LLC  
a Delaware limited liability company

DocuSigned by:  
By: Ann C. Menard  
6299455689104DE...  
Ann C. Menard  
Senior Executive Vice President,  
Chief Legal Officer and Secretary

EXHIBIT A

Thomas O'Hern - Chief Executive Officer  
Ed Coppola - President  
Doug Healey - Senior Executive Vice President, Leasing  
Scott Kingsmore - Senior Executive Vice President, Chief Financial Officer & Treasurer  
Ann Menard - Senior Executive Vice President, Chief Legal Officer & Secretary  
F.K. Grunert - Executive Vice President, Leasing  
Michael Guerin - Executive Vice President, Leasing  
Olivia Bartel Leigh - Executive Vice President, Portfolio Operations & People  
Cory Scott - Executive Vice President, Asset Management  
Dave Short - Executive Vice President, Asset Management  
Will Voegele - Executive Vice President, Chief Development Officer  
Ken Volk - Executive Vice President, Business Development  
Bob Beffa - SVP, Real Estate  
Tom Birdsall - SVP, IT  
Jamie Bourbeau - SVP, Leasing  
Eric Bunyan - SVP, Leasing  
Kim Choukalas - SVP, Leasing  
Melissa Freas - SVP, Leasing  
Zechariah Gaskell - SVP, Leasing  
Dave Hofmeister - SVP, Development  
Kurt Ivey - SVP, Marketing  
Jennifer Jensen - SVP, Finance  
Ted Kaminski - SVP, Specialty Leasing  
Mark Klein - SVP, National Leasing  
Neal Kleinman - SVP, National Operations & RE Tax  
Petra Maruca - SVP, Business Development  
Brad Miller - SVP, Asset Management  
Scott Nelson - SVP, Development  
Garrett Newland - SVP, Development  
Nancy Rendos - SVP, Senior Development & Leasing Counsel  
Kathy Sherwood - SVP, Senior Leasing Counsel  
Mike Slavin - SVP, Information Technology  
Alison Wais - SVP, Senior Development, JV & RE Counsel  
Chris Zecchini - SVP, Chief Accounting Officer  
Jerry Anderson - VP, Leasing  
Greg Bassett - VP, Group Controller  
Matt Boyd - VP, Asset Management  
Jeanne Butz - VP, Leasing  
Erin Byrne - VP, Leasing  
Eric Caudill - VP, Asset Management  
Marsha Chappell - VP, Payroll  
Mike Charron - VP, Asset Management  
Darlene David - VP, Senior Real Estate Counsel  
Jarett Dery - VP, Kiosk Leasing  
Brent Dykstra - VP, Group Controller  
Vitaliy Farber - VP, Information Technology  
Tawney Farmer - VP, Development

Justin Garrison - VP, PreConstruction  
Aladdin Ghafari - VP, Environmental  
Andy Greenwood - VP, Development  
Michael Johnson - VP, Property Management  
Meghan Kaltenstein - VP, Leasing  
Nikki Keiser - VP, Leasing  
Aaron Keswick - VP, Leasing  
John Kinsella - VP, Leasing  
Jacob Knudsen - VP, Development  
Ryan Knudson - VP, Corporate Responsibility  
Julia Ladd - VP, Property Management  
Mark Long - VP, People & Culture  
Lynn Lovell - VP, Tenant Coordination  
Staci Maderos - VP, Leasing  
Phil Maguire - VP, Development  
Cassie Malayil - VP, Senior Real Estate Counsel & Legal Department Manager  
Dean Matsumoto - VP, Group Controller  
Bob Maurer - VP, Business Development  
Guy Mercurio - VP, National Restaurant Leasing  
Mary Merkley - VP, Leasing  
Michael Morlan - VP, Leasing  
Hillary Muss - VP, Leasing  
Sean O'Connor - VP, Design & Construction  
Bill Palmer - VP, Asset Management  
Lisa Pena - VP, Corporate Paralegal  
Chris Perry - VP, Business Development  
Mechelle Peters - VP, Corporate Marketing  
Kelvin Peyton - VP, Real Estate  
Hayley Rable - VP, Leasing  
Michelle Raff - VP, Corporate Paralegal  
Dustin Rand - VP, Leasing  
Sylvia Rocha - VP, Operations Controller  
Brian Schwartz - VP, Information Technology  
Katherine Smart - VP, Risk Management & People  
Aaron Spector - VP, Specialty Leasing  
Jon Stoeckly - VP, Development  
Steve Strom - VP, Revenue Accounting  
Lindsey Tennant - VP, IT  
Ashley Venable - VP, Asset Management & Property Management  
Jay Vosburgh - VP, Specialty Leasing  
Nicole Wall - VP, Kiosk Leasing  
John Wallace - VP, Construction  
Chris Woiwode - VP, Security  
Hillary Zahm - VP, Development  
Karen Lehman - AVP, Assistant Controller

**MACERICH SMP LP**

**WRITTEN CONSENT OF GENERAL PARTNER**

**Authorization of Development Agreement with City of Santa Monica  
January 30, 2024**

The undersigned, **MACERICH SMP GP LLC**, a Delaware limited liability company (the “**General Partner**”), being the general partner of Macerich SMP LP, a Delaware limited partnership (the “**Partnership**”), pursuant to that certain Amended and Restated Limited Partnership Agreement of Macerich SMP LP dated as of December 4, 2017 (as amended, the “**Partnership Agreement**”), hereby consents to the resolutions set forth herein.

**WHEREAS**, the Partnership is owner of certain real property located in the City of Santa Monica, State of California, which is part of a shopping center commonly known as Santa Monica Place (the “**Shopping Center**”);

**WHEREAS**, pursuant to the Partnership Agreement, the General Partner, acting alone, for and on behalf of the Partnership, is authorized to bind the Partnership and exercise all powers necessary, convenient or incidental to accomplish the purposes of the Partnership;

**WHEREAS**, the Partnership is in negotiations with the City of Santa Monica (the “**City**”) with respect to a certain Development Agreement (the “**Development Agreement**”) setting forth the terms and conditions of a revenue sharing arrangement in connection with a potential signage project at the Shopping Center (the “**Project**”);

**WHEREAS**, upon the finalization of the Development Agreement, the General Partner desires to cause the Partnership to enter into the Development Agreement;

**WHEREAS**, the General Partner deems it to be in the best interests of the Partnership to enter into (i) the Development Agreement, (ii) any other agreement contemplated by or necessary to effectuate the transactions contemplated by the Development Agreement and (iii) any and all other documents necessary or appropriate to carry out the Project or to satisfy the conditions of the City’s approval of the Project, to the extent the Partnership elects to proceed with the Project (the foregoing clauses (i)-(iii), collectively, the “**Project Documents**”), and to perform the obligations contemplated thereby;

**WHEREAS**, it is intended that these resolutions will serve as the resolutions for the General Partner, in its own capacity and in its capacity as general partner of the Partnership, and for the Partnership.

**NOW, THEREFORE, BE IT RESOLVED**, that General Partner hereby approves the Development Agreement and the Project and authorizes execution of the Project Documents.

**RESOLVED FURTHER**, that any duly appointed officer or agent of General Partner, in its capacity as General Partner of the Partnership (the “**Authorized Officers**”), be, and each of them hereby is, authorized, directed and empowered to execute and deliver the Project Documents, and all other documents that are necessary to carry out the Project, and to take such actions as such Authorized Officers deem necessary or desirable on behalf of General Partner and the Partnership, with such terms and conditions as such duly appointed officers or agents shall approve, the necessity or desirability of which shall be conclusively evidenced by the execution thereof.

**RESOLVED FURTHER**, that if, in anticipation of the authority herein delegated, the Authorized Officers have already executed and delivered any of the documents required to carry out the Project or effectuate the transactions contemplated by the Development Agreement, then all such actions are hereby ratified, confirmed and approved.

**RESOLVED FURTHER**, that any and all actions taken heretofore by the Authorized Officers in connection with the subjects of these resolutions be, and they hereby are, approved, adopted, ratified and confirmed.

**RESOLVED**, that this Written Consent may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one document, and any signature transmitted electronically through DocuSign® or .pdf shall be deemed an original signature (it being agreed that each electronic signature shall have the same force and effect as an original signature).

**IN WITNESS WHEREOF**, General Partner has executed this written consent as of the date first written above.

**GENERAL PARTNER:**

**MACERICH SMP GP LLC,**  
a Delaware limited liability company

By:

  
\_\_\_\_\_  
Alison Wais  
SVP, Senior Development, Joint Venture &  
Real Estate Counsel

Recording Requested By:

City of Santa Monica

When Recorded Mail To:

City of Santa Monica  
Santa Monica City Attorney's Office  
1685 Main Street, Third Floor  
Santa Monica, CA 90401  
Attention: Senior Land Use Attorney

---

Space Above Line For Recorder's Use  
No Recording Fee Required  
California Government Code Section 27383

**DEVELOPMENT AGREEMENT**

**BETWEEN**

**CITY OF SANTA MONICA**

**AND**

**MACERICH SMP LP**

**FOR THE SANTA MONICA PLACE SIGNAGE PROJECT**  
**\_\_\_\_\_ , 202\_**



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## DEVELOPMENT AGREEMENT

This Development Agreement (“**Agreement**”), dated \_\_\_\_\_, 2024 (“**Effective Date**”), is entered into by and between MACERICH SMP LP, a Delaware limited partnership (“**Developer**”), and the CITY OF SANTA MONICA, a municipal corporation organized and existing pursuant to the laws of the State of California and the Charter of the City of Santa Monica (the “**City**”), with reference to the following facts:

### RECITALS

A. Pursuant to California Government Code Section 65864 et seq. and Chapter 9.602 of the Santa Monica Municipal Code, (collectively, the “**Development Agreement Statutes**”), the City is authorized to enter into binding development agreements with persons or entities having a legal or equitable interest in real property for the development of such real property.

B. Developer is the owner of approximately 10 acres of land located in the City of Santa Monica, State of California developed with shopping center with approximately 586,453 square feet of retail uses, commonly known as Santa Monica Place, as more particularly described in Exhibit “A” attached hereto and incorporated herein by this reference (the “**Property**”).

C. The City has included the Property within the Downtown Core land use designation under the City’s Land Use and Circulation Element of its General Plan (the “**LUCE**”). The Property is in the Transit Adjacent (TA) District under the Downtown Community Plan (“**Downtown Plan**”) and is located within the C3C District under the City’s Zoning Ordinance. The City and Developer desire to allow Developer to fabricate, install, operate, maintain, and repair LED digital displays and associated sign structures (“**Digital Displays**”) on the Property for displaying paid advertising and content representing the City and Santa Monica Place (the “**Project**”).

D. On \_\_\_\_\_, Developer filed an application for a Development Agreement, pursuant to Santa Monica Municipal Code (“**SMMC**”) Section 9.60.060 (the “**Development Application**”). The Development Application was designated by the City as Application No. DEV \_\_\_\_\_. The Development Application is for the Project, as more fully described in this Agreement.

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

G. Following filing of the Development Application, the City determined that the Project qualifies for a Class 32 Categorical Exemption (“**Categorical Exemption**”) pursuant to the California Environmental Quality Act (“**CEQA**”).

H. The primary purpose of the Project is to allow for Digital Displays on the Property to help preserve and enhance the economic viability of Santa Monica Place as well as generate revenues for the City. 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 Property.

I. The City Council has determined that a development agreement is appropriate for the proposed development of the Project. This Agreement will: (1) eliminate uncertainty in planning for the Project and result in the orderly development of the Project; (2) assure installation of necessary improvements on the Property; (3) provide for public infrastructure and services appropriate to development of the Project; (4) preserve substantial City discretion in reviewing subsequent development of the Property; (5) secure for the City improvements that benefit the public; (6) ensure the provisions of community benefits as envisioned in the LUCE; and (7) otherwise achieve the goals and purposes for which the Development Agreement Statutes were enacted.

J. 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 Property in accordance with this Agreement upon the welfare of the region. The Project will provide a number of public benefits, including without limitation the following:

Consistent with LUCE Goal D.1, maintain Santa Monica's Downtown's competitive advantage as a premier local and regional shopping, dining, and entertainment destination, and support its evolution in order to respond to changing market conditions by allowing digital displays to maintain and enhance the economic viability of Santa Monica Place;

Consistent with LUCE Policy E1, make land use decisions that respond to changing market conditions and meet the needs of City residents and visitors by allowing a new source of revenue for Santa Monica Place, which is facing economic challenges due to changing market conditions;

Consistent with Downtown Plan Goals LU3 and CCP2, ensure that Santa Monica's Downtown continues to be the economic center for the City and a thriving and diverse economic force that supports the City's vitality, fiscal stability, and high levels of community services by allowing digital displays to maintain and enhance the economic viability of Santa Monica Place;

Establishing a public-private partnership that generates long-term general fund revenue, beyond taxes and fees, to support city programs and services for the betterment and overall well-being of the community; and

Providing messaging that elevates, reinforces, and amplifies Santa Monica's brand through community-minded, locally-focused digital content.

K. The City Council has found that the provisions of this Development Agreement are consistent with the relevant provisions of the City's General Plan, including the LUCE.

L. On \_\_\_\_\_, the City's Planning Commission held a duly noticed public hearing on the Development Application, this Agreement, and the Categorical Exemption and at such hearing, the Planning Commission recommended that the City Council find that the Project is categorially exempt from CEQA and approve this Agreement.

M. On \_\_\_\_\_, the City Council held a duly noticed public hearing on the Development Application, this Agreement and at such hearing the City found the Project to be categorially exempt from CEQA and introduced Ordinance No. \_\_\_\_\_ for first reading, approving this Agreement.

O. On \_\_\_\_\_, the City Council adopted Ordinance No. \_\_\_\_\_, approving this Agreement.

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 unless the Agreement expressly requires otherwise:

- 1.1 “**Agreement**” means this Development Agreement entered into between the City and Developer as of the Effective Date
- 1.2 “**ARB**” means the City's Architectural Review Board.
- 1.3 “**Assumption Agreement**” has the meaning set forth in Section 13.2, below.
- 1.4 “**Breach**” has the meaning set forth under Section 11.1.1, below.
- 1.5 “**Categorical Exemption**” has meaning set forth in Recital G.
- 1.6 “**CEQA**” has the meaning set forth in Recital G.
- 1.7 “**City**” means the City of Santa Monica.
- 1.8 “**City Council**” means the City Council of the City of Santa Monica, or its designee.

1.9 “**City General Plan**” or “**General Plan**” means the General Plan of the City of Santa Monica, and all elements thereof including the LUCE, as of the Effective Date unless otherwise indicated in this Agreement.

1.10 “**City Indemnified Parties**” has the meaning set forth in Section 14.1, below.

1.11 “**City Parties**” means the City, its City Council, boards and commissions, departments, officers, agents, employees, volunteers, and other representatives.

1.12 “**Damages**” has the meaning set forth in Section 14.1, below.

1.13 “**Developer**” means Macerich SMP LP, a Delaware limited partnership.

1.14 “**Developer Parties**” has the meaning set forth in Section 14.1, below.

1.15 “**Development Agreement Statutes**” has the meaning set forth in Recital A.

1.16 “**Development Application**” has the meaning set forth in Recital D.

1.17 “**Digital Displays**” has the meaning set forth in Recital C.

1.18 “**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 Ministerial Approvals.

1.19 “**Downtown Plan**” has the meaning set forth in Recital C.

1.20 “**Effective Date**” has the meaning set forth in Section 9.1, below.

1.21 “**Estoppel Certificate**” has the meaning set forth in Section 15.6, below.

1.22 “**Event of Monetary Default**” has the meaning set forth in Section 11.2, below.

1.23 “**Event of Non-Monetary Default**” has the meaning set forth in Section 11.3.1, below.

1.24 “**Excusable Delays**” has the meaning set forth in Section 15.8.1, below.

1.25 “**Existing Regulations**” has the meaning set forth in Section 5.1.1(a), below.

1.26 “**Extension Notice Date**” has the meaning set forth in Section 3.3, below.

1.27 “**Hearing Notice**” has the meaning set forth in Section 11.4.2(a), below.



- 1.28 “**Including**” means “including, but not limited to.”
- 1.29 “**Legal Action**” means any action in law or equity.
- 1.31 “**License Agreement**” has the meaning set forth in Section 2.5.1, below.
- 1.32 “**Major Modification**” has the meaning set forth in Section 4.3, below.
- 1.33 “**Ministerial Approvals**” mean any 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.
- 1.34 “**Minor Modifications**” has the meaning set forth in Section 2.4.2, below.
- 1.35 “**Mortgage**” has the meaning set forth in Section 12.1, below.
- 1.36 “**Notice of Breach**” has the meaning set forth in Section 11.1.1, below.
- 1.37 “**Outside Project Permit Issuance Date**” has the meaning set forth in Section 3.3, below.
- 1.38 “**Parking Garage No. 8**” means the parking structure located at the northeast corner of 2<sup>nd</sup> St. and Colorado Avenue.
- 1.39 “**Parties**” mean both the City and Developer and “**Party**” means either the City or Developer, as applicable.
- 1.40 “**Periodic Review**” has the meaning set forth in Section 10.1, below.
- 1.41 “**Planning Director**” means the Planning Director of the City of Santa Monica, or his or her designee.
- 1.42 “**Project**” means the development project described herein and reflected on the Project Plans.
- 1.43 “**Project Plans**” mean the plans for the Project that are attached to this Agreement as Exhibit “B.”
- 1.44 “**Property**” has the meaning set forth in Recital B.
- 1.45 “**Property Transferee**” has the meaning set forth in Section 13.1.2 below.
- 1.46 “**Request for Notice**” has the meaning set forth in Section 12.1.3(a) below.
- 1.47 “**Secured Lender**” has the meaning set forth in Section 12.1, below.

1.48 “**Secured Lender’s Cure Period**” has the meaning set forth in Section 12.1.3(b), below.

1.49 “**SMMC**” means the Santa Monica Municipal Code.

1.50 “**Subsequent Code Changes**” has the meaning set forth in Section 5.2.1, below.

1.51 “**Technical City Permits**” has the meaning set forth in Section 7.1.1, below.

1.52 “**Technical Codes**” has the meaning set forth in Section 7.3.2(d), below.

1.53 “**Technical Permit Applications**” has the meaning set forth in Section 7.1.2, below.

1.54 “**Term**” has the meaning set forth in Section 9.2.1.

1.55 “**Termination Certificate**” has the meaning set forth in Section 9.2.2, below.

1.56 “**Vested Rights**” has the meaning set forth in Section 2.4.5, below.

1.57 “**Zoning Ordinance**” means the City of Santa Monica Comprehensive Land Use and Zoning Ordinance (Article 9 of the SMMC), as the same are in effect on the Effective Date, as set forth in its entirety as part of Exhibit “E” (Planning and Zoning).

## ARTICLE 2

### DESCRIPTION OF THE PROJECT

2.1 General Description. The Project includes all aspects of the proposed development of the Property as more particularly described in this Agreement and on the Project Plans. If there is a conflict or inconsistency between the text of this Agreement and the Project Plans, the Project Plans shall prevail; provided, however, that omissions from the Project Plans shall not constitute a conflict or inconsistency with the text of this Agreement.

2.2 Principal Components of the Project. The Project consists of the following principal components, as well as the other components delineated in the Project Plans, all of which are hereby approved by the City subject to the other provisions of this Agreement: Digital Displays (a) at the corner of 4th Street and Colorado Avenue, one 900 square-foot east-facing sign at 30 feet wide and 30 feet high; (b) at the corner of Broadway and 4th Street, a 1,040 square-foot sign with two sign faces, one north-facing at 25 feet wide by 20 feet high (500 square feet), and one west-facing at 27 feet wide by

20 feet high (540 square feet); and (c) at the corner of Broadway and 2nd Street, one 754 square-foot west-facing sign at 29 feet wide and 26 feet high. The Digital Displays may display digital content, including paid on-site or off-site advertising and content representing the City and Santa Monica Place.

### 2.3 No Obligation to Develop.

#### 2.3.1 Except as specifically provided herein:

(a) Nothing in this Agreement shall be construed to require Developer to proceed with the construction of the Project or any portion thereof.

(b) The decision to proceed or to forbear or delay in proceeding with construction of the Project or any portion thereof shall be in Developer's sole discretion.

(c) Failure by Developer to proceed with construction of the Project or any portion thereof shall not give rise to any liability, claim for damages, or cause of action against Developer, except as may arise pursuant to a nuisance abatement proceeding under SMMC Chapter 8.96, or any successor legislation.

2.3.2 Failure by Developer to proceed with construction of the Project or any portion thereof shall not result in any loss or diminution of development rights, except upon expiration or termination of this Agreement.

2.3.3 Notwithstanding any provision of Section 2.3 to the contrary, Developer shall be required to implement all and any conditions of approval required under this Agreement in accordance with Exhibit "D". If Developer has proceeded with the construction of the Project, the conditions of approval in Exhibit "D" shall survive termination of this Agreement (except as otherwise expressly limited in this Agreement), and notice of the conditions shall be recorded separately from and concurrently with this Agreement.

### 2.4 Vested Rights.

2.4.1 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 or at the Project site. The Project Plans to be maintained by the City and Developer shall be in a half-size set. Further detailed plans for the construction of the Project and improvements, including working drawings, shall be prepared by Developer subsequent to the Effective Date based upon the Project Plans.

2.4.2 Minor Modifications to Project. Developer, with the approval of the Planning Director, may make minor changes to the Project or Project Plans (“**Minor Modifications**”) without amending this Agreement; provided that the Planning Director makes the following specific findings that the Minor Modifications: (i) are consistent with the Project’s approvals as approved by the City Council; (ii) are consistent with the provisions, purposes and goals of this Agreement; (iii) are not detrimental to the public health, safety, convenience or general welfare; and (iv) will not significantly and adversely affect the public benefits associated with the Project. The Planning Director shall notify the Planning Commission in writing of any Minor Modifications approved pursuant to this Section 2.4.2. Any proposed change which the Planning Director denies as not qualifying for a Minor Modification based on the above findings must be processed as a Major Modification.

2.4.3 Modifications Requiring Amendment to this Agreement. Developer shall not make any “Major Modifications” (defined below) to the Project without first amending this Agreement to permit such Major Modifications. A “**Major Modification**” means the following:

- (a) Any increase in the area of a Digital Display.
- (b) Any material variation in the design of the Project (except as permitted as a Minor Modification pursuant to Section 2.4.2), that renders the Project out of substantial compliance with the Project Plans after ARB approval; and
- (c) Any change that would substantially reduce or alter the community benefits as set forth in Section 2.5.

If a proposed modification does not exceed the Major Modification thresholds established above, then the proposed modification may be reviewed in accordance with Section 2.4.2.

2.4.4 City Consent to Modification. The Planning Director shall not unreasonably withhold, condition, or delay his or her approval of a request for such Minor Modification. The City may impose fees, exactions, conditions, and mitigation measures in connection with its approval of a Minor or Major Modification, subject to any applicable law. Notwithstanding anything to the contrary herein or in the Existing Regulations, if the Planning Director approves a Minor Modification or if the City Council approves a Major Modification (and the corresponding amendment to this Agreement for such Major Modification), as the case may be, Developer shall not be required to obtain any other Discretionary Approvals for such modification, except for ARB approval, in the case of certain Major Modifications.

2.4.5 Right to Develop. Subject to the provisions of Section 3.3, below, during the Term (as defined in Section 9.2, below) of this Development Agreement, Developer shall have the vested rights (the “**Vested Rights**”) to develop and construct the Project in accordance with the following: (i) the Project Plans (as the same

may be modified from time to time in accordance with this Agreement); (ii) any Minor Modifications approved in accordance with Section 2.4.2; (iii) any Major Modifications which are approved pursuant to Section 2.4.3; and (iv) the requirements and obligations of Developer related to the improvements which are specifically set forth in this Agreement. Except for any required approvals from the ARB pursuant to Section 6.1 of this Agreement, 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).

2.5 Project and Community Benefits. The Project will provide the following project and community benefits:

2.5.1 License Agreement. Developer and City shall enter into the License Agreement in the form of Exhibit “H” hereto (“**License Agreement**”) under which Developer shall pay to City a signing bonus and rent, as set forth in the License Agreement.

2.5.2 City and Santa Monica Place Content. Up to 34 percent of digital content and programming appearing on the Digital Displays shall represent the Santa Monica community and/or Santa Monica Place in messaging that elevates, reinforces, and amplifies Santa Monica's brand through community-minded, locally-focused digital content.

### **ARTICLE 3**

#### **CONSTRUCTION**

3.1 Construction Mitigation Plan. During the construction phase of the Project, Developer shall comply with the Construction Management Plan attached as Exhibit “F” hereto.

3.2 Construction Hours. Developer shall be permitted to perform construction between the hours of 7:00 a.m. to 12:00 a.m., subject to the conditions set forth in Exhibit “D” Monday through Friday, and 9:00 a.m. to 5:00 p.m. Saturday; provided that construction work which does not generate noise of more than thirty (30) decibels beyond the Property line may also be performed between the hours of 7:00 a.m. to 8:00 a.m. and 6:00 p.m. to 7:00 p.m. Monday through Friday, and 8:00 a.m. to 9:00 a.m. and 5:00 p.m. to 6:00 p.m. Saturday. Notwithstanding the foregoing, pursuant to SMMC Section 4.12.110(e), Developer has the right to seek a permit from the City authorizing construction activity during the times otherwise prohibited by this Section.

3.3 Outside Project Permit Issuance Date. If Developer has not been issued a building permit for the Project by the “Outside Project Permit Issuance Date” (defined below), then on the day after the Outside Project Permit Issuance Date, without any further action by either Party, this Agreement shall automatically terminate and be of no further force or effect. For purposes of clarity, if Developer has not been issued a building permit for the Project by the Outside Project Permit Issuance Date, the City shall not be required to pursue its remedies under Section 11.4 of this Agreement, and this

Agreement shall, instead, automatically terminate. “**Outside Project Permit Issuance Date**” means the date that is the last day of the sixtieth (60<sup>th</sup>) full calendar month after the Effective Date; provided that the Outside Project Permit Issuance Date may be extended by applicable Excusable Delays and otherwise in accordance with the remainder of this paragraph. If the approval by the ARB of the Project design does not occur within four (4) months of the submittal by Developer to the ARB of the Project design, then the Outside Project Permit Issuance Date shall be extended one month for each additional month greater than four that the final ARB approval is delayed. At any time after the last day of the fifty-seventh (57<sup>th</sup>) full calendar month after the Effective Date (the “**Extension Notice Date**”), Developer may deliver written notice to the Planning Director, requesting an extension of the Outside Project Permit Issuance Date for an additional twelve (12) months. The Outside Project Permit Issuance Date may be administratively extended not more than two (2) times for an additional twelve (12) months per extension. The Planning Director shall grant such extension if Developer can demonstrate substantial progress has been made towards obtaining a building permit and show reasonable cause why Developer will not be able to obtain the building permit for the Project by the initial Outside Project Permit Issuance Date and can demonstrate that: (a) the condition of the Property will not adversely affect public health or safety; and (b) the continued delay will not create any unreasonable visual or physical detriment to the neighborhood.

Notwithstanding anything to the contrary in this Agreement, if Developer obtains building permits for the Project and, at any time after the Outside Project Permit Issuance Date, such building permits expire or are revoked pursuant to the applicable terms of the SMMC (as the same may be amended from time to time), then Developer may not subsequently apply for new building permits for the Project without first obtaining the prior written consent of the Planning Director, which may be granted or withheld in the Planning Director’s sole discretion.

3.4 Construction Period. Construction of the Project shall be subject to the provisions of SMMC Section 8.08.070.

3.5 Damage or Destruction. If the Project, or any part thereof, is damaged or destroyed during the term of this Agreement, Developer shall be entitled to reconstruct the Project in accordance with this Agreement if: (a) Developer obtains a building permit for this reconstruction prior to the expiration of this Agreement; and (b) the Project is found to be consistent with the City’s General Plan and any applicable Specific Plan in effect at the time of obtaining the building permit provided, however, that nothing in this Section 3.5 shall be deemed to impair such Developer's rights under the City's Zoning Ordinance, as it exists at the time, to reconstruct non-conforming buildings.

3.6 Construction Staging. Developer may use the upper level of Parking Garage No. 8 for construction staging; provided, however, that all construction staging areas shall be restored for public parking use promptly following completion of the Project.

## ARTICLE 4

### PROJECT FEES, EXACTIONS, MITIGATION MEASURES AND CONDITIONS

4.1 Fees, Exactions, Mitigation Measures and Conditions. Except as expressly set forth in Section 2.5 (relating to Community Benefits), Section 4.2 (relating to modifications), and Section 5.2 (relating to Subsequent Code Changes) below, the City shall charge and impose only those fees, exactions, conditions, and standards of construction set forth in this Agreement, including Exhibits “C” and “D” attached hereto, and no others. If any of the conditions set forth on Exhibit “D” is satisfied by others, Developer shall be deemed to have satisfied such measures or conditions. The City acknowledges and agrees that because the Project involves only the construction of Digital Displays and not the construction of new Floor Area, the Project is not subject to the Childcare Linkage Program (SMMC Chapter 9.72), the Transportation Impact Fee (SMMC Chapter 9.73), the cultural arts in lieu contribution (SMMC Section SMMC Section 9.04.10.20.120), or developer school fee (Government Code Section 65995) requirements.

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

#### 4.3 Implementation of Conditions of Approval.

4.3.1 Compliance with Conditions of Approval. Developer shall be responsible to adhere to the conditions of approval set forth in Exhibit “D” in accordance with the timelines established in Exhibit “D”.

4.3.2 Survival of Conditions of Approval. If Developer proceeds with the construction of the Project, except as otherwise expressly limited in this Agreement, the obligations and requirements imposed by the conditions of approval set forth in the attached Exhibit “D” shall survive the expiration of the Term of this Agreement and shall remain binding on Developer, its successors and assigns, and shall continue in effect for the life of the Project. Notice of the conditions of approval shall be recorded by the City separately and concurrently with this Agreement.

## ARTICLE 5

### EFFECT OF AGREEMENT ON CITY LAWS AND REGULATIONS

5.1 Development Standards for the Property; Existing Regulations. The following development standards and restrictions set forth in this Section 5.1 govern the use and development of the Project and shall constitute the Existing Regulations, except as otherwise expressly required by this Agreement.

5.1.1 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 (including, without limitation, the LUCE); (ii) the Downtown Plan, (iii) the Zoning Ordinance, except as modified herein; (iv) 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 (v) 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.

5.1.2 Existing Regulations Govern the Project. Except as provided in Section 5.2, development of the Project and improvements that will comprise the Project, including without limitation, the development standards for the demolition, grading, design, development, construction, or use of the Project and improvements, and any exactions therefor, shall be governed by the Existing Regulations. The City agrees that this Agreement is consistent with the General Plan, including the LUCE, and the Downtown Plan as more fully described in the Recitals. 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 matters of architectural review by the ARB as specified in Section 6.1 and review of modifications to the Project as expressly set forth in Sections 2.4.2 and 2.4.3; (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, whether adopted by the City Council or through the initiative process or otherwise; and (c) Subsequent Code Changes which are inconsistent with this Agreement.



## 5.2 Permitted Subsequent Code Changes.

5.2.1 Applicable Subsequent Code Changes. Notwithstanding the terms of Section 5.1, this Agreement shall not prevent the City from applying to the Project the following Subsequent Code Changes set forth below in this Section 5.2.1.

(a) Processing fees and charges imposed by the City to cover the estimated actual costs to City of processing applications for development approvals including: (i) all application, permit, and processing fees incurred for the processing of this Agreement, any administrative approval of a Minor Modification, or any amendment of this Agreement in connection with a Major Modification; (ii) all building plan check and building inspection fees for work on the Property in effect at the time an application for a grading permit or building permit is applied for; and (iii) the public works plan check fee and public works inspection fee for public improvements constructed and installed by Developer and (iv) fees for monitoring compliance with any development approvals, or any environmental impact mitigation measures; provided that such fees and charges are uniformly imposed by the City at similar stages of project development on all similar applications and for all similar monitoring.

(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 Property or to businesses occupying the Property, provided that: (i) the tax is of general applicability City-wide and does not burden the Property disproportionately to other similar developments within the City; and (ii) the tax is not a levy, assessment, fee, or tax imposed for the purpose of funding public or private improvements on other property located within the Downtown Core District (as defined in the City's LUCE as of the Effective Date).

(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) [Intentionally omitted.]

(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 5.2.1(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 5.2.1(a) and (b) above); (ii) materially delay development of the Project or cause a material change in the uses of the Project as provided in this Agreement; or (iii) materially impair the development, operation, or use of the Project.

5.2.2 New Rules and Regulations. 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.

5.2.3 State or Federal Laws. In the event that 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.

5.3 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.

5.4 Conflicting Enactments. Except as provided in Section 5.2 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 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 Property as it may have an interest in, in which case such Subsequent Code Change shall be deemed to be an Existing Regulation insofar as that portion of the 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.

5.5 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 the 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 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 or the number of buildings, structures, residential units that can be built each year on the Property except as expressly provided in this Agreement.

## ARTICLE 6

### ARCHITECTURAL REVIEW BOARD/COASTAL DEVELOPMENT PERMIT

6.1 Architectural Review Board Approval. The Project shall be subject to review and approval or conditional approval by the ARB in accordance with design review procedures in effect under the Existing Regulations. The ARB cannot require modifications to the Project design which negates the fundamental development standards established by this Agreement. For example, the ARB cannot require reduction in the size of the signs or their location, orientation, lighting intensity, or digital content. Notwithstanding anything to the contrary in the Existing Regulations, decisions of the ARB are appealable to the Planning Commission, and the Planning Commission's decision may be appealed by Developer only to the City Council.

6.2 Coastal Development Permit. City acknowledges and agrees that Developer may apply to the California Coastal Commission for a coastal development permit prior to obtaining ARB approval; provided, however, that ARB approval must be received prior to any action taken by the California Coastal Commission.

## ARTICLE 7

### CITY TECHNICAL PERMITS

7.1 Definitions. For purposes of this Agreement, the following terms shall have the meanings set forth below:

7.1.1 “**Technical City Permits**” means any Ministerial Approvals, consents, or permits from the City or any office, board, commission, department, division, or agency of the City, which are necessary for the actual construction of the Project or any portion thereof in accordance with the Project Plans and this Agreement. Technical City Permits include, without limitation (a) building permits, (b) related mechanical, electrical, plumbing, and other technical permits, (c) demolition, excavation, and grading permits, (d) encroachment permits, and (e) temporary and final certificates of occupancy.

7.1.2 “**Technical Permit Applications**” means any applications required to be filed by Developer for any Technical City Permits.

7.2 Diligent Action by City.

7.2.1 Upon satisfaction of the conditions set forth in Section 7.3, the City shall accept the Technical Permit Applications filed by Developer with the City and shall diligently proceed to process such Technical Permit Applications to completion.

7.2.2 Upon satisfaction of the conditions set forth in Section 7.3, the City shall diligently issue the Technical City Permits which are the subject of the Technical Permit Applications.

### 7.3 Conditions for Diligent Action by the City.

7.3.1 Acceptance and Processing of Technical Permit Applications. The obligation of the City to accept and diligently process the Technical Permit Applications which are filed by Developer, and then issue the Technical City Permits, is subject to the satisfaction of the following conditions:

(a) Developer shall have completed and filed all Technical Permit Applications which are required under the administrative procedures and policies of the City which are in effect on the date when the Technical Permit Application is filed; provided that such procedures and policies are uniformly in force and effect throughout the City;

(b) Developer shall have paid all processing and permit fees established by the City in connection with the filing and processing of any Technical Permit Application which are in effect on the date when the Technical Permit Application is filed; provided that such fees are uniformly in force and effect throughout the City; and

(c) If required for the particular Technical Permit Application, Developer shall have obtained the approval of the ARB referred to in Section 6.1 above.

7.3.2 Issuance of a Technical City Permit. The obligation of the City to issue a Technical City Permit which is the subject of a Technical Permit Application filed by Developer is subject to the satisfaction of the following conditions (and only such conditions and no others):

(a) Developer shall have complied with all of its obligations under this Agreement which are required to be performed prior to or concurrent with the issuance of the Technical City Permits for the Project;

(b) Developer shall have received any permits or approvals from other governmental agencies which are required by law to be issued prior to or concurrent with the issuance of the Technical City Permits for the Project;

(c) The Project conforms to the development standards established in this Agreement. In the event that the Project is not in conformance with the development standards, Developer shall have the right to seek any relief from such standards under the procedures then available in the City; and

(d) The proposed Project conforms to the applicable Administrative and Technical Construction Codes of the City (Article VIII, Chapter 1 of the Santa Monica Municipal Code) (the “**Technical Codes**”).

7.4 Duration of Technical City Permits. The duration of Technical City Permits issued by the City, and any extensions of the time period during which such Technical City Permits remain valid, shall be established in accordance with the Technical Codes in effect at the time that the Technical City Permits are issued. Subject to Section 3.3, the lapse or expiration of a Technical City Permit shall not preclude or impair Developer

from subsequently filing another Technical Permit Application for the same matter during the Term of this Agreement, which shall be processed by the City in accordance with the provisions of this Article 7.

## **ARTICLE 8**

### **AMENDMENT AND MODIFICATION**

8.1 Amendment and Modification of Development Agreement. Subject to the notice and hearing requirements 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 SMMC and Section 65868 of the California Government Code.

## **ARTICLE 9**

### **TERM**

9.1 Effective Date. This Agreement shall be dated, and the obligations of the Parties hereunder shall be effective as of the later to occur of (a) the date upon which the ordinance approving this Agreement becomes effective, or (b) approval of this Agreement by the California Coastal Commission (the “**Effective Date**”). The Parties shall execute this Agreement within ten (10) working days of the Effective Date.

9.2 Term.

9.2.1 Term of Agreement. The term of this Agreement shall commence on the Effective Date and shall continue for twenty (20) years thereafter (the “**Term**”), unless the Term is otherwise terminated pursuant to Section 11.4, after the satisfaction of all applicable public hearing and related procedural requirements or pursuant to Section 3.3.

9.2.2 Termination Certificate. Upon 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 Los Angeles County.

9.2.3 Effect of Termination. Except as expressly provided herein (e.g., Section 4.3.2), none of the parties’ respective rights and obligations under this Agreement shall survive the Term.

## **ARTICLE 10**

### **PERIODIC REVIEW OF COMPLIANCE**

10.1 City Review. The City shall review compliance with this Development Agreement once each year, on or before March 31<sup>st</sup> (each, a “**Periodic Review**”), in

accordance with this Article 10 in order to determine whether or not Developer is out-of-compliance with any specific term or provision of this Agreement.

10.2 Evidence of Good Faith Compliance. On or before October 1<sup>st</sup> of each year, Developer shall deliver to the City a written report demonstrating that Developer has been in good faith compliance with this Agreement during the twelve (12) month period prior to the anniversary of the Effective Date. The written report shall be provided in the form established by the City. For purposes of this Agreement, the phrase “good faith compliance” shall mean the following: (a) compliance by Developer with the requirements of the Existing Regulations, except as otherwise modified by this Agreement; and (b) compliance by Developer with the terms and conditions of this Agreement, subject to the existence of any specified Excusable Delays (as defined in Section 15.8, below) which prevented or delayed the timely performance by Developer of any of its obligations under this Agreement.

10.3 Information to be Provided to Developer. Prior to any public hearing concerning the Periodic Review of this Agreement, 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 11.1.1, 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.

10.4 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 11.1.1, 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 11.2 and Section 11.3, as applicable.

10.5 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.

10.6 Termination of Development Agreement. If Developer fails to timely cure any item(s) of non-compliance set forth in a Notice of Default, then the City shall have the right but not the obligation to initiate proceedings for the purpose of terminating this Agreement pursuant to Section 11.4, below.

10.7 City Cost Recovery. Following completion of each Periodic Review, Developer shall reimburse the City for its actual and reasonable costs incurred in connection with such review.

## ARTICLE 11

### DEFAULT

#### 11.1 Notice and Cure.

11.1.1 Breach. If either Party fails to substantially perform any term, covenant, or condition of 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 15.1, specifying the precise nature of the alleged Breach (including references to pertinent Sections of this Agreement and the Existing Regulations or Subsequent Code Changes alleged to have been breached), 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 Article 12.

11.1.2 Monetary Breach. In the case of a monetary Breach by Developer, Developer shall promptly commence to cure the identified Breach and shall complete the cure of such Breach within thirty (30) business days after receipt by Developer of the Notice of Breach; provided that if such monetary Breach is the result of an Excusable Delay or the cure of the same is delayed as a result of an Excusable Delay, Developer shall deliver to the City reasonable evidence of the Excusable Delay.

11.1.3 Non-Monetary Breach. In the case of a non-monetary Breach by either Party, the alleged defaulting Party 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 thirty (30) days after receipt of the Notice of Breach or provide evidence of Excusable Delay that prevents or delays the completion of such cure. The thirty (30) 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 continuously and diligently pursues such remedy at all times until such Breach is cured.

11.1.4 Excusable Delay. Notwithstanding anything to the contrary contained in this Agreement, the City’s exercise of any of its rights or remedies under this Article 11 shall be subject to the provisions regarding Excusable Delay in Section 15.8, below.

11.2 Remedies for Monetary Default. If there is a Breach by Developer in the performance of any of its monetary obligations under this Agreement which remains uncured (a) thirty (30) business 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 12.1.3(b) (if a Secured Lender of Developer has delivered a Request for Notice to the City in accordance with Section 12.1.3(a)), then an “**Event of Monetary Default**” shall have occurred by Developer and the City shall have available any right or remedy

provided in this Agreement, at law, or in equity. All of said remedies shall be cumulative and not exclusive of one another, and the exercise of any one or more of said remedies shall not constitute a waiver or election in respect to any other available remedy.

### 11.3 Remedies for Non-Monetary Default.

11.3.1 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 12.1.3(b) (if a Secured Lender of Developer has delivered a Request for Notice to the City in accordance with Section 12.1.3(a)), then an "**Event of Non-Monetary Default**" shall have occurred and the non-defaulting Party shall have available any right or remedy provided in this Agreement, or provided at law or in equity except as prohibited by this Agreement. All of said remedies shall be cumulative and not exclusive of one another, and the exercise of any one or more of said remedies shall not constitute a waiver or election in respect to any other available remedy.

11.3.2 Specific Performance. 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. Therefore, unless otherwise expressly provided herein, the remedy of specific performance shall be available to the non-defaulting party if the other Party causes an Event of Non-Monetary Default to occur.

11.3.3 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 11.3.3, 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.

11.3.4 No Damages Relief Against City. It is acknowledged by Developer that the City would not have entered into this Agreement if the City were to be liable in damages under or with respect to this Agreement or the application thereof. Consequently, and except for the payment of attorneys' fees and court costs, the City shall not be liable in damages to Developer and Developer covenants on behalf of itself and its successors in interest not to sue for or claim any damages:

- (a) for any default under this Agreement;
- (b) for the regulatory taking, impairment, or restriction of any right or interest conveyed or provided hereunder or pursuant hereto; or
- (c) arising out of or connected with any dispute, controversy, or issue regarding the application or interpretation or effect of the provisions of this Agreement.



The City and Developer agree that the provisions of this Section 11.3.4 do not apply for damages which:

- (a) do not arise under this Agreement;
- (b) are not with respect to any right or interest conveyed or provided under this Agreement or pursuant to this Agreement; or
- (c) do not arise out of or which are not connected to any dispute, controversy, or issue regarding the application, interpretation, or effect of the provisions of this Agreement or the application of any City rules, regulations, or official policies.

11.3.5 Enforcement by the City. The City, at its discretion, shall be entitled to apply the remedies set forth in Chapters 1.09 and 1.10 of the SMMC as the same may be amended from time to time and shall follow the notice procedures of Chapter 1.09 and 1.10, respectively, in lieu of Section 11.1 of this Agreement if these remedies are applied.

11.3.6 No Damages Against Developer. It is acknowledged by the City that Developer would not have entered into this Agreement if Developer were to be liable in damages in connection with any non-monetary default hereunder. Consequently, and except for the payment of attorneys' fees and court costs, Developer shall not be liable in damages to the City for any nonmonetary default and the City covenants on behalf of itself not to sue for or claim any damages:

- (a) for any non-monetary default hereunder or;
- (b) arising out of or connected with any dispute, controversy, or issue regarding;
- (c) the application or interpretation or effect of the provisions of this Agreement;

The City and Developer agree that the provisions of this Section 11.3.6 do not apply for damages which:

- (a) are for a monetary default; or
- (b) do not arise out of or which are not connected with any dispute, controversy, or issue regarding the application, interpretation, or effect of the provisions of this Agreement to, or the application of, any City rules, regulations, or official policies.
- (c) Damages that arise under Section 14.1.

11.3.7 No Other Limitations. Except as expressly set forth in this Section 11.3, the provisions of this Section 11.3 shall not otherwise limit any other rights,

remedies, or causes of action that either the City or Developer may have at law or equity after the occurrence of any Event of Non-Monetary Default.

#### 11.4 Modification or Termination of Agreement by City.

11.4.1 Default by Developer. If Developer causes either an Event of Monetary Default or an Event of Non-Monetary Default, then the City may commence proceedings to modify or terminate this Agreement pursuant to this Section 11.4.

11.4.2 Procedure for Modification or Termination. The procedures for modification or termination of this Agreement by the City for the grounds set forth in Section 11.4.1 are as follows:

(a) 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 12.1.3(a)) 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 15.1 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) thirty-one (31) 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 12.1.3(a), the day following the expiration of the “Secured Lender Cure Period” (as defined in Section 12.1.3(b)).

(b) If, following the conclusion of the public hearing, the City Council: (i) determines that an Event of Non-Monetary Default has occurred 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 determination under clause (i) above 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. The City cannot unilaterally modify the provisions of this Agreement pursuant to this Section 11.4.2. Any such modification requires the written consent of Developer. If the City Council does not terminate this Agreement, but proposes a modification to this Agreement as a result of the public hearing and Developer does not (within five (5) days of receipt) execute and deliver to the City the form of modification of this Agreement submitted to Developer by the City, then the City Council may elect to terminate this Agreement at any time after the sixth day after Developer’s receipt of such proposed modification.

11.5 Cessation of Rights and Obligations. If this Agreement is terminated by the City pursuant to and in accordance with Section 11.4, 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.

11.6 Completion of Improvements. Notwithstanding the provisions of Sections 11.2, 11.3, 11.4, and 11.5, if prior to termination of this Agreement, 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 Project in accordance with the terms of the building permit and use the Project upon completion for the uses permitted for the Project as provided in this Agreement. The Project, once completed pursuant to this Section 11.6, 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 Project 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 12**

### **MORTGAGEES**

12.1 Encumbrances on the Property. This Agreement shall not prevent or limit Developer (in its sole discretion), from encumbering the 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 Property (a “**Mortgage**”). Each mortgagee of a mortgage or a beneficiary of a deed of trust (each, a “**Secured Lender**”) on the Property shall be entitled to the rights and privileges set forth in this Article 12. 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.

12.1.1 Mortgage Not Rendered Invalid. Except as provided in Section 12.1.2, 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.

12.1.2 Priority of Agreement. This Agreement shall be superior and senior to the lien of any Mortgage. Any acquisition or acceptance of title or any right or interest in or with respect to the Property or any portion thereof by a Secured Lender or its successor in interest (whether pursuant to foreclosure, trustee’s sale, deed in lieu of foreclosure, lease termination or otherwise) shall be subject to all of the terms and conditions of this Agreement.

### 12.1.3 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, specifying the portion of the Property that is encumbered by the Secured Lender's lien (a "**Request for Notice**"). If the Request for Notice has been given, at the same time the City sends to Developer any Notice of Breach or Hearing Notice under this Agreement, then if such Notice of Breach or Hearing Notice affects the portion of the Property encumbered by the Secured Lender's lien, the City shall send to such Secured Lender a copy of each such Notice of Breach and each such Hearing Notice from the City to Developer. The copy of the Notice of Breach or the Hearing Notice sent to the Secured Lender pursuant to this Section 12.1.3(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 the applicable Notice of Breach or Hearing Notice.

(b) After a Secured Lender has received a copy of such Notice of Default 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) business 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 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.

#### 12.1.4 Secured Lender Not Obligated Under this Agreement.

(a) 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 a Secured Lender takes possession or becomes the owner of the estate covered by its Mortgage. If the Secured Lender takes possession or becomes the owner of any portion of the Property, then from and after that date, the Secured Lender shall be obligated to comply with all provisions of this Agreement; provided that the Secured Lender shall not be responsible to the City for any unpaid monetary obligations of Developer that accrued prior to the date the Secured Lender became the fee owner of the Property.

(b) Nothing in Section 12.1.4(a) is intended, nor should be construed or applied, to limit or restrict in any way the City's authority to terminate this Agreement, as against any Secured Lender as well as against Developer if any curable Event of Monetary Default or an Event of Non-Monetary Default is not completely cured within the Secured Lender's Cure Period.

### **ARTICLE 13**

#### **TRANSFERS AND ASSIGNMENTS**

##### 13.1 Transfers and Assignments.

13.1.4 Not Severable from Ownership Interest in Property. This Agreement shall not be severable from Developer's interest in the Property and any transfer of the Property or any portion thereof shall automatically operate to transfer the benefits and burdens of this Agreement with respect to the transferred Property or transferred portions, as applicable.

13.1.5 Transfer Rights. Developer may freely sell, transfer, exchange, hypothecate, encumber, or otherwise dispose of its interest in the Property, without the consent of the City. Developer shall, however, give written notice to the City, in accordance with Section 15.1, of any transfer of the Property, disclosing in such notice (a) the identity of the transferee of the Property (the "**Property Transferee**") and (b) the address of the Property Transferee as applicable.

13.2 Release Upon Transfer. Upon the sale, transfer, exchange, or hypothecation of the rights and interests of Developer to the Property, Developer shall be released from its obligations under this Agreement to the extent of such sale, transfer, or exchange with respect to the 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 under this Agreement with respect to the Property in the form of Exhibit "I" attached hereto (the "**Assumption Agreement**"). Upon such transfer of the Property and the express assumption of Developer's obligations under this Agreement by the transferee, the City agrees to look solely to the transferee for compliance with the provisions of this Agreement. Any such transferee shall be entitled

to the benefits of this Agreement as “Developer” hereunder and shall be subject to the obligations of this Agreement. Failure to deliver a written Assumption Agreement hereunder shall not affect the transfer of the benefits and burdens as provided in Section 13.1, provided that the transferor shall not be released from its obligations hereunder unless and until the executed Assumption Agreement is delivered to the City.

## **ARTICLE 14**

### **INDEMNITY TO CITY**

14.1 **Indemnity.** Developer agrees to and shall defend, indemnify, and hold harmless the City, its City Council, boards and commissions, officers, agents, employees, volunteers and other representatives (collectively referred to as “**City Indemnified Parties**”) from and against any and all loss, liability, damages, cost, expense, claims, demands, suits, attorney’s fees, and judgments (collectively referred to as “**Damages**”), including but not limited to claims for damage for personal injury (including death) and claims for property damage arising directly or indirectly from the following: (1) for any act or omission of Developer and its officers, board members, agents, employees, volunteers, contractors, and subcontractors (collectively referred to as the “**Developer Parties**”), which occurs during the Term and relates to this Agreement; (2) for any act or omission related to the operations of Developer Parties. Developer’s obligation to defend, indemnify and hold harmless applies to all actions and omissions of Developer Parties as described above caused or alleged to have been caused in connection with the Project or Agreement, except to the extent any Damages are caused by the active negligence or willful misconduct of any City Indemnified Parties. This Section 14.1 applies to all Damages suffered or alleged to have been suffered by the City Indemnified Parties regardless of whether or not the City prepared, supplied, or approved plans or specifications or both for the Project.

14.2 **City’s Right to Defense.** The City shall have the right to approve legal counsel retained by Developer to defend any claim, action, or proceeding which Developer is obligated to defend pursuant to Section 14.1, which approval shall not be unreasonably withheld, conditioned, or delayed. If any conflict of interest results during the mutual representation of the City and Developer in defense of any such action, or if the City is reasonably dissatisfied with legal counsel retained by Developer, the City shall have the right (a) at Developer’s costs and expense, to have the City Attorney undertake and continue the City’s defense, or (b) with Developer’s approval, which shall not be reasonably withheld or delayed, to select separate outside legal counsel to undertake and continue the City’s defense.

## **ARTICLE 15**

### **GENERAL PROVISIONS**

15.1 **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 Santa Monica  
1685 Main Street, Room 204  
Santa Monica, CA 90401  
Attention: City Manager  
Fax: (310) 917-6640

With a Copy to:

City of Santa Monica  
1685 Main Street, Room 212  
Santa Monica, CA 90401  
Attn: Planning and Community Development Director  
Fax: (310) 458-3380

To Developer:

Macerich SMP LP  
401 Wilshire Boulevard, Suite 700  
Santa Monica, CA 90401  
Attn: Dave Short, EVP, Asset Management  
Fax: (310) 395-2791

With a Copy to:

Macerich SMP LP  
401 Wilshire Blvd., Suite 700  
Santa Monica, CA 90401  
Attn: Chief Legal Officer  
Fax: (310) 395-2791

With a Copy to:

Armbruster Goldsmith & Delvac LLP  
12100 Wilshire Boulevard, Suite 1600  
Los Angeles, CA 90025  
Attn: Dale Goldsmith  
Fax: (310) 209-8801

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.

15.2 Entire Agreement; Conflicts. This Agreement and the License Agreement represent the entire agreement of the Parties. This Agreement and the License Agreement integrate all of the terms and conditions mentioned herein or incidental

hereto, and supersede 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.

15.3 Binding Effect. The Parties intend that the provisions of this Agreement shall constitute covenants which shall run with the land comprising the 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. Every Party who now or hereafter owns or acquires any right, title, or interest in or to any portion of the Project 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 Project.

15.4 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. Except for the rights given to Secured Lenders under Article 12 above, no other person shall have any right of action based upon any provision of this Agreement.

15.5 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.

15.6 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 15.6 AND 15.13 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.

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

15.8 Excusable Delays.

15.8.1 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 any act, event, or condition beyond the reasonable control of Developer (collectively, “**Excusable Delays**”) for any of the following reasons:

(a) War, insurrection, walk-outs, riots, acts of terrorism, floods, earthquakes, fires, casualties, disease, acts of God, or similar grounds for excused performances;

(b) Governmental restrictions or moratoria imposed by the City or by other governmental entities or the enactment of conflicting State or Federal laws or regulations;

(c) The imposition of restrictions or moratoria by judicial decisions or by litigation, contesting the validity, or seeking the enforcement or clarification of, this Agreement whether instituted by Developer, the City or any other person or entity, or the filing of a lawsuit by any Party arising out of this Agreement or any permit or approval Developer deems necessary or desirable for the implementation of the Project;

(d) The institution of a referendum pursuant to Government Code Section 65867.5 or a similar public action seeking to in any way invalidate, alter, modify, or amend the ordinance adopted by the City Council approving and implementing this Agreement;

(e) Inability to secure necessary labor, materials, or tools, due to strikes, lockouts, or similar labor disputes; and

(f) Failure of the City to timely perform its obligations hereunder, including its obligations under Section 7.2 above.

15.8.2 Under no circumstances shall the inability of Developer to secure financing be an Excusable Delay to the obligations of Developer.

15.8.3 In order for an extension of time to be granted for any Excusable Delay, Developer must deliver to the City written notice of the commencement of the Excusable Delay within sixty (60) days after the date on which Developer becomes aware of the existence of the Excusable Delay. The extension of time for an Excusable Delay shall be for the actual period of the delay.

15.8.4 Nothing contained in this Section 15.8 is intended to modify the terms of either Section 5.1.2 or Section 5.5 of this Agreement.

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

15.10 Cooperation in Event of Legal Challenge to Agreement. If there is any court action or other proceeding commenced that includes any challenge to the validity, enforceability or any term or provision of this Agreement, then Developer shall indemnify, hold harmless, pay all costs actually incurred, and provide defense in said action or proceeding, with counsel reasonably satisfactory to both the City and Developer. The City shall cooperate with Developer in any such defense as Developer may reasonably request.

15.11 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. In any case where this Agreement provides that the City or Developer is entitled to recover attorneys' fees from the other, the Party so entitled to recover shall be entitled to an amount equal to the fair market value of services provided by attorneys employed by it as well as any attorneys' fees actually paid by it to third Parties. The fair market value of the legal services for public attorneys shall be determined by utilizing the prevailing billing rates of comparable private attorneys.

15.12 Recordation. The Parties shall cause this Agreement and any notice of covenants required herein to be recorded against title to the Property in the Official Records of the County of Los Angeles. The cost, if any, of recording these documents shall be borne by Developer.

15.13 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 15.13. 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.

15.14 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.

15.15 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 Property. The City shall reasonably cooperate with Developer in its endeavors to obtain such permits and approvals.

15.15.1 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.

15.15.2 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.

15.15.3 No Revocation. The City shall not revoke or subsequently disapprove any approval or future approval for the development of the Project or the Property once issued by the City provided that the development of the Project or the 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.

15.15.4 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 Property, the City shall not delay or stop the development, processing or construction of the Property, or issuance of the City Technical Permits, unless the third party obtains a court order preventing the activity. Notwithstanding the foregoing and without prejudice to the provisions of Section 15.8(c),

after service on the City or Developer of the initial petition or complaint challenging this Agreement or the Project, the Developer may apply to the Planning Director for a tolling of the applicable deadlines for Developer to otherwise comply with this Agreement. Within 40 days after receiving such an application, the Planning Director shall either toll the time period for up to five years during the pendency of the litigation or deny the requested tolling.

15.15.5 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.

15.16 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 Los Angeles, State of California, in any other appropriate court in that County, or in the Federal District Court in the Central District of California.

15.17 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 Property
Exhibit "B"	Project Plans
Exhibit "C"	Permitted Fees and Exactions
Exhibit "D"	Mitigation Measures and Conditions
Exhibit "E"	SMMC Article 9 (Planning and Zoning)
Exhibit "F"	Construction Management Plan
Exhibit "G"	Assignment and Assumption Agreement
Exhibit "H"	License Agreement

Except as to the Project Plans (attached hereto as Exhibit B) which shall be treated in accordance with Section 2.1 above, the text of this Agreement shall prevail in the event that any inconsistencies exist between the Exhibits and the text of this Agreement.

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

15.19 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 Property in the official records of Los Angeles County, California. Such Certificate of Performance is not a notice of completion as referred to in California Civil Code Section 3093.

15.20 Interests of Developer. Developer represents to the City that, as of the Effective Date, it is the owner of the entire Property, subject to encumbrances, easements, covenants, conditions, restrictions, and other matters of record.

15.21 Operating Memoranda. The provisions of this Agreement require a close degree of cooperation between the City and Developer. During the Term of this Agreement, 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 of this Agreement, 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 are 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 8.1 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.

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

15.22.5 Developer's Faithful Performance. The Parties acknowledge and agree that Developer's faithful performance in developing the Project on the 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 Property, and

further acknowledges that the consideration is necessary to mitigate the direct and indirect impacts caused by Developer on the Property.

15.22.6 Obligations to be Non-Recourse. As a material element of this Agreement, and in partial consideration for Developer's execution of this Agreement, the Parties each understand and agree that the City's remedies for breach of the obligations of Developer under this Agreement shall be limited as described in Sections 11.2 through 11.4 above.

15.23 Not a Public Dedication. Nothing in this Agreement shall be deemed to be a gift or dedication of the 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 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 Property or the Project.

15.24 Other Agreements. The City acknowledges that certain additional agreements may be necessary to effectuate the intent of this Agreement and facilitate development of the Project. The City Manager or his/her designee is hereby authorized to prepare, execute, and record those additional agreements.

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15.25 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.

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 SMP LP,  
a Delaware limited partnership

By: MACERICH SMP GP LLC,  
a Delaware limited liability company,  
its general partner

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**CITY:**

CITY OF SANTA MONICA  
a municipal corporation

ATTEST:

\_\_\_\_\_  
DENISE ANDERSON-WARREN  
City Clerk

By: \_\_\_\_\_  
DAVID WHITE  
City Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
DOUGLAS T. SLOAN  
City Attorney

**EXHIBIT A**  
**LEGAL DESCRIPTION OF PROPERTY**



**EXHIBIT B  
PROJECT PLANS**

**EXHIBIT C**  
**PERMITTED FEES AND EXACTIONS**

**EXHIBIT D**  
**CONDITIONS OF APPROVAL**

**EXHIBIT E**  
**SMMC ARTICLE 9 (PLANNING AND ZONING)**

On file with the City Clerk

**EXHIBIT F**  
**CONSTRUCTION MANAGEMENT PLAN**

**EXHIBIT G**  
**ASSIGNMENT AND ASSUMPTION AGREEMENT**

Recording Requested By and  
When Recorded Mail To:

Armbruster Goldsmith & Delvac LLP  
12100 Wilshire Blvd., Suite 1600  
Los Angeles, CA 90049  
Attn: Dale Goldsmith, Esq.

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**ASSIGNMENT AND ASSUMPTION AGREEMENT**

This ASSIGNMENT AND ASSUMPTION AGREEMENT (“Agreement”) is made and entered into by and between MACERICH SMC LP, a Delaware limited liability company (“Assignor”), and \_\_\_\_\_, a \_\_\_\_\_ (“Assignee”).

**RECITALS**

A. The City of Santa Monica (“City”) and Assignor entered into that certain Development Agreement dated \_\_\_\_\_, 2024 (the “Development Agreement”), with respect to the real property located in the City of Santa Monica, State of California more particularly described in Exhibit “A” attached hereto (the “Project Site”).

B. Assignor has obtained from the City certain development approvals and permits with respect to the development of the Project Site, including without limitation, approval of the Development Agreement and a vesting parcel map for the Project Site (collectively, the “Project Approvals”).

C. Assignor intends to sell, and Assignee intends to purchase, the Project Site.

D. In connection with such purchase and sale, Assignor desires to transfer all of the Assignor’s right, title, and interest in and to the Development Agreement and the Project Approvals with respect to the Project Site. Assignee desires to accept such assignment from Assignor and assume the obligations of Assignor under the Development Agreement and the Project Approvals with respect to the Project Site.

THEREFORE, the parties agree as follows:

1. Assignment. Assignor hereby assigns and transfers to Assignee all of Assignor’s right, title, and interest in and to the Development Agreement and the Project

Approvals with respect to the Project Site. Assignee hereby accepts such assignment from Assignor.

2. Assumption. Assignee expressly assumes and agrees to keep, perform, and fulfill all the terms, conditions, covenants, and obligations required to be kept, performed, and fulfilled by Assignor under the Development Agreement and the Project Approvals with respect to the Project Site.

3. Effective Date. The execution by City of the attached receipt for this Agreement shall be considered as conclusive proof of delivery of this Agreement and of the assignment and assumption contained herein. This Agreement shall be effective upon its recordation in the Official Records of Los Angeles County, California, provided that Assignee has closed the purchase and sale transaction and acquired legal title to the Project Site.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the dates set forth next to their signatures below.

“ASSIGNOR”

MACERICH SMP LP,  
a Delaware limited partnership

By: MACERICH SMP GP LLC,  
a Delaware limited liability  
company, its general partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

“ASSIGNEE”

RECEIPT BY CITY

The attached ASSIGNMENT AND ASSUMPTION AGREEMENT is received by the City of Santa Monica on this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

CITY OF SANTA MONICA

\_\_\_\_\_  
By: \_\_\_\_\_  
Planning Director



**EXHIBIT H**  
**LICENSE AGREEMENT**

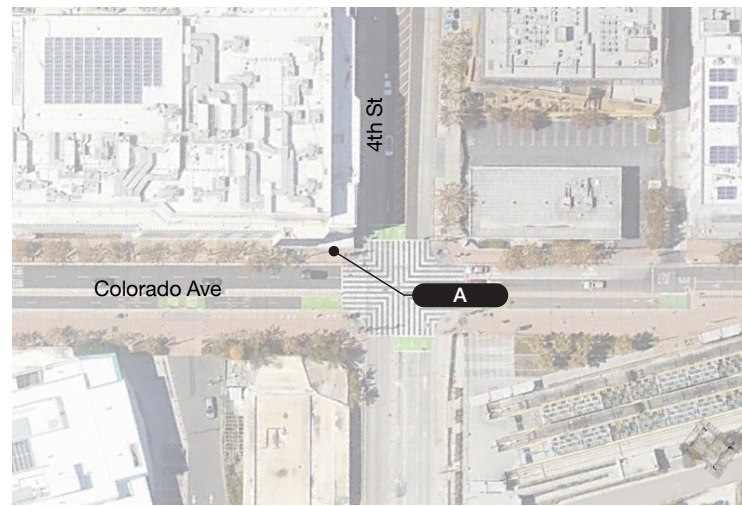
# Santa Monica Place LED Digital Displays

Development Agreement Application  
Existing Location Photos

February 1, 2024



Location A Existing  
Colorado Ave. & 4th St.  
(South facing elevation)

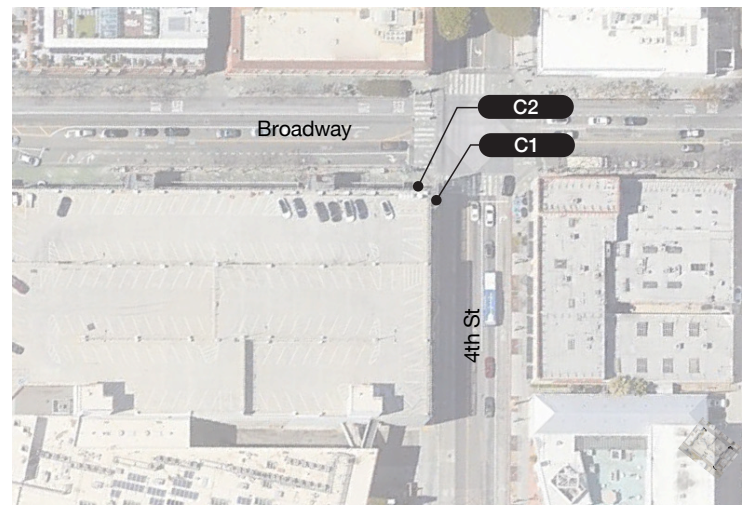


Key Plan





Location C Existing  
Broadway & 4th St.  
(East & North facing elevations)

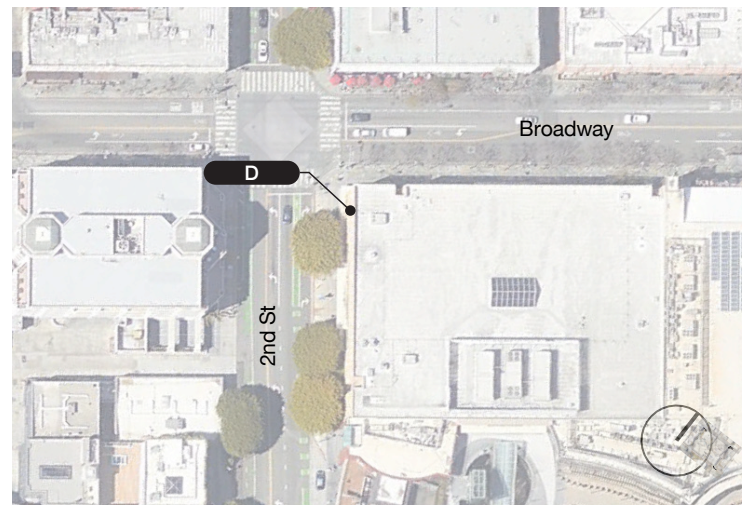


Key Plan





Location D Existing  
Broadway & 2nd St.  
(West facing elevation)



Key Plan







NOTICE OF PENDING

[Requested Application(s)]

(Conditional Use Permit, Development Review Permit, Variance, etc.)

Site Address: 395 Santa Monica Place, Santa Monica, CA 90401\*

Application(s) Number: TBD

Proposed Project On This Site: The project consists the installation, operation, and maintenance of 100 digital displays and associated site activities on the Property for displaying digital content, including paid advertising and content representing the City and Santa Monica Place.

Applicant: Macerich SMP LP  
Address: 401 Wilshire Blvd, Ste. 700  
Phone Number: (310) 394-6000, Email: smp\_info@macerich.com

Hearing Date/Time: TBD  
Location of Hearing: City Council Chambers  
1685 Main Street, Room 250

\*Property bounded by Broadway, 2nd Street, Colorado Avenue, and 16th Street  
For more information email the City Planning Division at: [planning@santamonica.gov](mailto:planning@santamonica.gov)  
Para mas informacion favor de llamar o mandar un correo electronico:  
(310) 458-8341/ [planning@santamonica.gov](mailto:planning@santamonica.gov)







NOTICE OF PENDING

(Requested Application(s))

(Conditional Use Permit, Development Review Permit, Variance, etc.)

Site Address: 395 Santa Monica Place, Santa Monica, CA 90401\*

Application(s) Number: TBD

Proposed Project On This Site: The Project comprises the installation, operation and maintenance of LED digital displays and associated sign structures on the Property for displaying digital content, including paid advertising and content representing the City and Santa Monica Place.

Applicant: Macerich SMP LP  
Address: 401 Wilshire Blvd., Ste. 700  
Phone Number: (310) 394-6000 Email: smp\_info@macerich.com

Hearing Date/Time: TBD

Location of Hearing: City Council Chambers  
1685 Main Street, Room 250

\*Property bounded by Broadway, 2nd Street, Colorado Avenue, and 4th Street  
For more information email the City Planning Division at: [planning@santamonica.gov](mailto:planning@santamonica.gov)  
Para mas informacion favor de llamar or mandar un correo electronico:  
(310) 458-6341/ [planning@santamonica.gov](mailto:planning@santamonica.gov)





NOTICE OF PENDING

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(Conditional Use Permit, Development Review Permit, Variance, etc.)

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STAIR 8