

ATTACHMENT A
SUBVENTION AGREEMENT

(Next page)

SUBVENTION AGREEMENT

among the

CITY OF LOS ANGELES,
a municipal corporation

and

21919 ERWIN STREET LLC,
a Delaware limited liability company

and

WEST VALLEY OWNER LLC,
a California limited liability company

Dated as of _____, 2014

City of Los Angeles
(Village at Westfield Topanga)

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SUBVENTION AGREEMENT

THIS SUBVENTION AGREEMENT (“Agreement”) is made as of March 1, 2014, by and among the CITY OF LOS ANGELES, a municipal corporation (the “City”), 21919 ERWIN STREET LLC, a Delaware limited liability company (the “**Erwin Street Developer**”), and WEST VALLEY OWNER LLC, a California limited liability company (the “**West Valley Owner**” and collectively, with the Erwin Street Developer, the “**Developer**”), with reference to the following facts, purposes, and understandings.

RECITALS

A. On or about December 12, 2012 the City Council approved that certain Memorandum of Understanding (the “**MOU**”) whereby the City and Westfield, LLC agreed to commence negotiations for the development of a proposed project on a 29.84 net acre site in that portion of the Warner Center region of the City generally bounded by Topanga Canyon Boulevard to the west, Owensmouth Avenue to the east, Victory Boulevard to the north and Erwin Street to the south, as more specifically described in the legal description attached hereto as Exhibit A and depicted on the Site Map attached hereto as Exhibit B (the “**Project Site**”), each of which is incorporated herein as though fully set out.

B. The proposed project is comprised of the construction of a new 549,394 square-foot, first class mixed-use development, which shall include an anchor retailer (Costco) which would support an ancillary member-only fueling station, upscale retail, boutique specialty shops, personal services, restaurants, a community center and other uses typically found in a first class regional shopping center along with associated common spaces, parking and landscaping (these components are collectively referred to herein as the “**Project**”).

C. Developer and the City desire to expedite the construction of the Project in order to bring the Project, attendant jobs, and the necessary infrastructure to the community sooner than would otherwise occur. As provided in this Agreement, Developer desires to accelerate construction of the Project.

D. Pursuant to the MOU, the Developer requested certain financial assistance from the City to ensure the feasibility of the Project and help offset project costs.

E. In response to the Developer’s foregoing request for financial assistance, the City engaged RSG, Inc. to provide a financial analysis of the proposed Project, and engaged PKF Consulting to review RSG, Inc.’s financial analysis. The analysis concluded that the total cost of developing the Project, including a reasonable return on the Developer’s investment, resulted in an estimated project feasibility gap of approximately Thirty-Five Million Six Hundred Thousand Dollars (\$35,600,000) (the “**Feasibility Gap**”).

F. The City has determined that the development of this Project is of public benefit and contributes to the general welfare of its citizens because it will be constructed on a site long vacant in the community, eliminating a source of economic and physical blight and creating in excess of 1,000 construction jobs and approximately 1,500 new permanent operational jobs, as well as increasing the City’s tax base to better fund vital municipal facilities and services, and providing other public benefits, such as local hiring, living wage protections, sustainable design

and construction of new open and community spaces (as further set forth herein and in the Community Benefits Plan attached hereto as Exhibit E).

G. The City has determined that the Project will not be constructed unless the City defrays up to Twenty-Five Million Dollars (\$25,000,000) net present value in 2013 dollars to partially fund the Feasibility Gap, the payment of which shall be subject to a reconciliation of Project costs and an annual reconciliation of Net New Tax Revenues upon the completion of the Project for the term specified herein.

H. Developer and the City desire to insure and expedite the construction of the Project in order to bring the Project infrastructure, the attendant Jobs and public benefits to the community.

I. The City's policy for reinvestment of site specific tax revenues provides that no more than fifty percent (50%) the Net New Tax Revenues collected by the City as a result of a project may be reinvested for purposes of closing a feasibility gap (the "**Policy**").

J. The City intends to establish a Special Fund into which the City will deposit from its general funds on a yearly basis, an amount not to exceed fifty percent (50%) of Net New Tax Revenues generated by the development of the Project, and will pay to Developer, out of amounts so deposited into the Special Fund, annual payments in the form of (x) rebates of property taxes paid by Developer and (y) refundable tax credits (the total amount to be received by Developer pursuant to (x) and (y) in a single year, the "**Annual Subvention Payment.**")

K. The City currently estimates that approximately fifty percent (50%) of the actual Net New Tax Revenues projected to be generated by the project will be used to determine the general funds to be deposited in the Special Fund and has set an absolute cap of fifty percent (50%) of Net New Tax Revenues. Accordingly, the reinvestment of Net New Tax Revenues provided for herein is in compliance with the Policy.

L. The City's obligation to deposit any funds into the Special Fund to the Developer will be subject to certain contingencies, including that the Developer construct and maintain the entire Project within the parameters of the Project approvals from the City in a single phase and the City actually receives Net New Tax Revenue.

M. The development efforts made as part of this Agreement are in the vital and best interests of the City, and the health, safety and welfare of its residents, and are in accord with the public purposes and provisions of applicable State and local laws and requirements.

NOW, THEREFORE, in reference to the foregoing Recitals in consideration of the promises, covenants and agreements set forth in this Agreement and other good and valuable consideration, receipt of which is hereby acknowledged, the City and the Developer hereby agree as follows:

ARTICLE 1

DEFINITIONS

Section 1.1 Definitions. In addition to the terms defined elsewhere in this Agreement, the following capitalized words shall have the following meanings:

“**Adjusted Project Construction Cost**” shall mean the Project Construction Cost as adjusted pursuant Section 3.3 of this Agreement.

“**Affiliate**” means any corporation, partnership, limited liability company or other organization or entity which is Controlled by, Controlling or under common Control with (directly or indirectly) Developer.

“**Agreement**” shall mean this Subvention Agreement.

“**Annual Subvention Payment**” is defined in the Recitals.

“**Assumption Agreement**” is defined in Section 5.5.

“**Auditor**” shall mean that auditor appointed by the City and the Developer to undertake the annual reconciliation of Net New Tax Revenues pursuant to Section 3.2(c).

“**Business Day**” shall mean a calendar day which is not a weekend day or a Federal or State holiday and on which the City is open for business.

“**CEQA**” shall mean the California Environmental Quality Act.

“**Certified Quantity Surveyor**” shall mean that certain certified quantity surveyor appointed by the City and the Developer to undertake the Project Construction Cost Reconciliation pursuant to Section 3.2(b) below

“**City**” shall mean the City of Los Angeles, California, a municipal corporation, existing and organized as a charter city pursuant to the California Constitution and the laws of the State of California, operating through its governing body, the City Council, and its various departments. Unless otherwise indicated, the City’s Chief Legislative Analyst shall be the City’s representative in providing any City approvals pursuant to this Agreement.

“**City Council**” shall mean the Council of the City.

“**City Deposit**” shall mean the City’s deposits into the Special Fund, for the Subvention Term, on a not less than yearly basis, of an amount equal to fifty percent (50%) of Net New Tax Revenues actually Received by the City which are attributable to construction sales and use taxes Received by the City during the construction phase of the Project and, upon and subsequent to the Completion Date, an amount equal to fifty percent (50%) of Net New Tax Revenue actually Received by the City. In no event shall the City or be obligated to deposit any monies which would cause the City to exceed the City Policy limiting the reinvestment of not more than fifty

percent (50%) of total Net New Tax Revenue or any monies attributable to increase property taxes prior to the Completion Date.

“**City Event of Default**” shall mean any default by the City as set forth in Section 7.3, subject to any applicable notice and cure rights set forth therein.

“**Community Benefits Plan**” shall mean that community benefit plan attached hereto as Exhibit E, which sets forth the additional community benefits which the Developer has voluntarily agreed to provide during the development and operation of the Project.

“**Completion Date**” shall mean that date on which the City first issues certificates of occupancy or temporary certificates of occupancy for not less than 428,115 square feet of completed Improvements at the Project pursuant to Section 12.26 of the Los Angeles Municipal Code, which permits the Project to operate.

“**Contract Provisions for Contracts**” shall mean those contract provisions set forth in Exhibits D1 and D2 attached hereto, which the developer shall insert into every contract with each contractor, subcontractor or good and/or service provider into which the Developer enters into a contract for the development of any portion of the Improvements.

“**Contractor**” means Westfield Development, Inc., a Delaware corporation.

“**Control**” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of an entity or person, whether through the ability to exercise voting power, by contract or otherwise, which power may be subject to approval of customary major decisions by one or more other parties.

“**Costco**” shall mean Costco Wholesale Corporation, Inc.

“**Costco Property**” shall mean that certain portion of the Property depicted on Exhibit A-2 attached hereto leased to Costco.

“**CPPIB**” shall mean Canada Pension Plan Investment Board, a corporation established pursuant to the Canada Pension Plan Board Act.

“**Developer**” shall mean, collectively, 21919 Erwin Street LLC, a Delaware limited liability company and West Valley Owner LLC, a California limited liability company, and their permitted successors and assigns.

“**Developer Guarantor**” shall mean Westfield, LLC.

“**Developer Guaranty**” shall mean an unconditional corporate guaranty to be executed by the Developer Guarantor, substantially in the form attached hereto as Exhibit G, by which the Guarantor will guaranty to the City annual general fund revenues derived from the Project Site of not less than \$116,141, which represents the amount generated by the existing properties and or businesses on the effective date of this Agreement.

“Developer Event of Default” shall mean any default by the Developer as set forth in Section 7.4, subject to any applicable notice and cure rights set forth therein.

“Development Agreement” shall mean that certain Development Agreement by and among the City and Developer dated July 23, 2012.

“Effective Date” shall mean the latter of the date this Agreement is executed by the Developer or the date the City Council approves and executes this Agreement.

“Excluded Retailers” shall mean any person or entity operating (i) a commercial retail store (exceeding 2,000 square feet) in those zip codes set forth in Exhibit H, (ii) an eating and drinking establishment (exceeding 2,000 square feet) within a five-mile radius of the Project, and (iii) a store selling convenience goods (i.e., a grocery store or pharmacy) within a three-mile radius (each a **“Trade Area”**) that executes a lease with Developer for space at the Project and then permanently closes its existing retail operation elsewhere in the applicable Trade Area within twenty-four (24) months, so that such retailer can open the same or similar retail storage or restaurant at the Project and the old-space has not been backfilled within that period. The purpose for this definition is to help determine Net New Tax Revenues so that Existing City Revenues may be excluded from the calculation of the Subvention Amount. The Parties intend that the term “Excluded Retailer” will include only a retailer operating in the Trade Area immediately prior to opening the same or similar retail store or restaurant at the Project. The Parties intend that the term “Excluded Retailer” will not include any retailer who closes its retail operation in the Trade Area more than twenty-four (24) months prior to opening the same or similar retail store or restaurant at the Project.

“Existing City Revenues” shall mean the actual tax revenues, including property taxes, received by the City during the full fiscal year prior to the Completion Date from: 1) the existing Canoga Park Costco store operating at 21300 Roscoe Boulevard as of the date of this Agreement which is proposed to be relocated to the Project 2) the proposed Costco gas station at the Project, 3) an amount equal to any net lost City revenues attributable to the closing of the existing Costco which is not replaced by an existing business on the Costco Site (such net amount shall be excluded from Net New Tax Revenues and shall not form the basis of any subvention payment) and 4) any other tax revenues from Excluded Retailers (to be measured only within the first three years after the Completion Date). Developer shall secure and provide to the City waivers from Costco and other Excluded Retailers which report the actual tax revenues paid to the City for the basis of this calculation. In no event shall Existing City Revenues be included in any Annual Subvention Payment or the Subvention Amount.

“Improvements” shall mean and include all demolition, site preparation and grading, as well as all buildings, structures, fixtures, excavation, parking, landscaping, and other work, construction, rehabilitation, alterations and improvements of whatsoever character to be constructed or performed by Developer on, around, under or over the Project Site pursuant to this Agreement.

“Memorandum of Agreement” shall mean that memorandum of agreement substantially in the form attached hereto as Exhibit C which will be recorded against the Site.

“Mortgage” shall mean any mortgage, deed of trust, pledge (including a pledge of equity interests in Developer), hypothecation, charge, encumbrance or other security interest granted to a lender, made in good faith and for fair value, encumbering all or any part of Developer’s interest in (i) this Agreement, (ii) the Property, (iii) the Improvements, or (iv) any equity interest in Developer; provided, however, that it shall not include any mortgage, deed of trust, pledge, encumbrance or other security interest granted to a lender (x) in which Developer or an Affiliate of Developer has an interest of 20% or more, or (y) which has an interest of 20% or more in Developer or an Affiliate of Developer.

“Mortgagee” shall mean any mortgagee, beneficiary under any deed of trust, trustee of any bonds, holder of a pledge of an equity interest in Developer, or, if the Property is the subject of a sale-leaseback transaction, the person acquiring fee title to the Property.

“Net New Tax Revenues” shall mean net new tax revenues actually Paid to and Received by the City subsequent to the Completion Date that are directly attributable to the development and operation of the Project and shall include new property taxes, motor vehicle license in-lieu-fee, any new sales/use taxes, City businesses taxes or utility taxes, gross receipts taxes, and parking occupancy taxes from parking facilities on the Project Site in excess of Existing City Revenues as defined herein. For purposes of this definition, “Paid” shall mean the actual transfer of funds from the tax-paying entity to the tax-collecting entity in connection with any payment of tax, evidenced by supporting documentation that the tax-paying entity’s check has “cleared” or immediately available funds have been wired, electronically transferred or otherwise paid to the tax-collecting entity, provided that any amount refunded to the tax-paying entity for any reason, other than pursuant to Section 3.2(a) of this Agreement, shall not be considered Paid. Notwithstanding the above, construction sales and use taxes Received by the City from the Project prior to the Completion Date shall be included as Net New Revenue.

“Parties” shall mean the City and Developer.

“Project Construction Cost” shall mean the lesser of (i) Three Hundred Thirty Five Million Seven Hundred Thousand Dollars (\$335,700,000), or (ii) the Adjusted Project Construction Cost determined in accordance with Section 3.3 for the construction of the Project.

“Project Financing” shall mean the terms and conditions of the permanent or take-out financing (including, without limitation, mezzanine financing), if any, arranged by Developer to repay the construction financing and construction equity, including, without limitation, the principal amount, amortization, interest rate, loan to cost ratio, loan to value ratio, debt service coverage, mandatory prepayment terms, term and other material terms.

“Project Site” shall have the meaning given to it in Recital A above.

“Received” shall mean City’s actual receipt of tax funds; provided however, that Received shall not include any Existing City Revenues, any City revenues attributable to any future hotel or any Net New Tax Revenues subsequently refunded by the City to the taxpayer, other than pursuant to Section 3.2(a) of this Agreement.

“Schedule of Performance” shall mean the schedule of performance attached to this Agreement as Exhibit I, setting out the dates and/or time periods by which certain obligations set

forth in this Agreement must be accomplished. The Schedule of Performance is subject to revision from time to time as mutually agreed upon by Developer and the City's Chief Legislative Analyst.

"Scope of Development" shall mean the scope of development attached to this Agreement as Exhibit J, which describes the scope, amount and quality of development of the Improvements to be constructed by Developer pursuant to the terms and conditions of this Agreement.

"Special Fund" shall mean a special fund to be established by the City into which the City will make the City Deposit for the duration of the Subvention Term.

"Subvention Amount" shall mean the cumulative amount of Annual Subvention Payments received by Developer pursuant to this Agreement (which is currently estimated by the City to be Twenty Million Nine Hundred Thousand \$20,900,000 net present value in 2013 dollars); provided, however, that the Developer may be entitled to receive hereunder an amount up to Twenty-Five Million Dollars (\$25,000,000) net present value in 2013 dollars, subject to actual Net New Tax Revenues Received by the City and the Project Construction Cost Reconciliation process set forth in Section 3.3.

"Subvention Term" shall mean the period commencing on the Completion Date and ending on the first to occur of (i) the twenty-fifth (25th) anniversary of the Completion Date, (ii) the date on which Developer has received the Subvention Amount (as adjusted if applicable), and (iii) the termination of this Agreement for any reason pursuant to the terms of this Agreement.

"Total Project Construction Costs" shall mean all costs incurred by the Developer in connection with the planning, design, development, entitlement and construction of the Project, including, without limitation, land costs, hard costs and soft costs, direct and indirect costs, and construction financing costs (including, without limitation, fees, costs, and interest), developer fee/profit not to exceed eight percent (8%) of direct costs, general and administrative costs not to exceed two percent (2%) of direct costs, management fee not to exceed one percent (1%) of direct costs, and equity procurement costs (including without limitation fees and costs). Total Project Construction Costs shall not include costs with prior development applications on the Project Site.

"Transfer" shall mean a transfer defined in Section 5.1 of this Agreement

"Westfield Sponsor" shall mean one or more of Westfield Holdings Limited, Westfield America Trust, Westfield Trust, Westfield Corporation Limited, WFD Trust, Westfield America, Inc., Westfield U.S. Holdings, LLC and Westfield America Limited Partnership or any such entity resulting from the merger, consolidation, or restructure of any such entities and their respective successors and assigns.

Section 1.2 Exhibits. The following exhibits are attached to and incorporated into this Agreement:

Exhibit A Legal Description of the Property

| | |
|-------------|--|
| Exhibit B | Site Plan for the Property |
| Exhibit C | Form of Memorandum of Agreement |
| Exhibit D-1 | Form of Contract Provisions for Major Contracts |
| Exhibit D-2 | Form of Contract Provisions for Other Contracts |
| Exhibit E | Community Benefits Program - Local Hiring/First Source/Minority Business Recruitment Program |
| Exhibit F | Construction Cost Reconciliation Formula |
| Exhibit G | Form of Developer Guaranty |
| Exhibit H | Zip Codes for Excluded Retailers |
| Exhibit I | Schedule of Performance |
| Exhibit J | Scope of Development |
| Exhibit K | Estimated City Deposits |
| Exhibit L | Standard City Terms and Conditions |

ARTICLE 2

POLICIES AND PURPOSES

Section 2.1 Recitals. The Recitals are true and correct and are hereby incorporated by this reference.

Section 2.2 Economic Revitalization. The Project is projected to provide a significant positive impact to the northwest San Fernando Valley area, the City and the Los Angeles County regional economy. During the construction period, the economic impact of the Project is expected to generate thousands of direct and indirect jobs and approximately 2,205 jobs upon completion. The Project is also anticipated to generate approximately \$95,400,000 in total new City revenues and approximately \$458,000,000 in overall economic impact to the regional economy over the 25 years following the Completion Date.

Section 2.3 Municipal Policy. The City Council has determined that encouraging economic development, including private investment that involves creation of new jobs and income in the City, or the retention of existing jobs and income that would otherwise be lost by the City, is a valid and important public and municipal purpose.

Section 2.4 Public Benefit. By authorizing the City to enter into this Agreement, the City Council has determined that the benefits accruing as a result of the transactions contemplated by this Agreement, including, without limitation, (i) direct benefits such as

revenues from the Project and increased revenues from property, sales, parking, business license, and utility, (ii) the enhanced economic opportunities generated by the repositioning of what is currently a near-vacant 30-acre parcel, and (iii) the acceleration of infrastructure to the south west Los Angeles San Fernando Valley area, together with the Developer's obligations under the Community Benefits Plan attached to this Agreement, represent fair consideration for all of the obligations to be undertaken by the City as contemplated by this Agreement.

ARTICLE 3

FINANCIAL ASSISTANCE BY CITY

Section 3.1 Establishment and Payments Into Special Fund by City.

(a) Subject to the terms and conditions of this Agreement, the City shall establish the Special Fund and shall deposit, on a not less than yearly basis, from the City's general funds, the City Deposit into that Special Fund. The City Deposit will be automatically reconciled against actual receipts pursuant to a yearly reconciliation process to be conducted by the Auditor in accordance with Section 3.2 of this Article 3. Notwithstanding the foregoing, the final aggregate Subvention Amount shall be calculated by the City upon Project Completion in accordance with Section 3.3 of this Article 3, and such amount shall not exceed the lesser of (i) fifty percent (50%) of Net New Tax Revenues over the Subvention Term and (ii) Twenty-Five Million Dollars (\$25,000,000) net present value in 2013 dollars, over the Subvention Term, as of the date of the determination of the final maximum Subvention Amount (subsequent to the Completion Date).

(b) Developer acknowledges and agrees that the City's obligation to make the City Deposit, or to provide any rebate or refund to Developer as set forth in Section 3.2, below, is a conditional obligation, which arises only upon the Developer's continual compliance with the terms of this Agreement, including without limitation the development of the Project in a single phase within the time set forth in the Schedule of Performance and in accordance with the Scope of Development as well as the maintenance of the Project as a first class development for the entire Subvention Term. Developer further acknowledges that the City Deposit will be made by the City from its general funds subsequent to the reconciliation process and that nothing in this Agreement is intended to, or authorizes the City, to pledge or otherwise commit any of its current or future general funds to payment of the Subvention Amount nor is it intended to grant to the Developer any rights or interest in any City taxes unless the City Deposit has been made to the Special Fund, after which, such City Deposit shall be pledged to the Developer. The Developer further acknowledges that the Subvention Amount is not an obligation of the City's general fund until such amount has been appropriated by the City for that budgetary year.

(c) The City reserves the right to designate the source of Net New Tax Revenues stream which it will use to determine the City Deposit, and may, in its sole discretion, designate up to one hundred percent (100%) of any specific Net New Tax Revenues stream as a source of such payments; provided that the total City Deposits shall not violate City Policy. However, the City shall consult with Developer on the sources used to pay the City Deposit and shall use its best efforts to designate up to one hundred percent (100%) of the City's share of property tax as a source for payment into the Special Fund. The City covenants and agrees to

make the City Deposit into the Special Fund and subsequent rebates and refunds to Developer, as set forth in this Agreement, irrespective of the source of Net New Tax Revenues.

(d) The Developer acknowledges and agrees that in the event that the Developer pursues and the City approves the Developer's application for any signage district for off-site advertising pursuant to Article 4.4 of Chapter 1 of the Los Angeles Municipal Code that was not originally anticipated by the financial analysis of this Project and the Developer receives any revenue from the signage that requires the approval of a sign district and that revenue was not set forth in the original pro-forma, either directly or indirectly, the Subvention Amount shall be reduced by 50% of such Developer revenue or such other percentage as the Parties may subsequently agree to in writing.

(e) Similarly, the Developer acknowledges that the City Deposit, as well as the Subvention Amount, will automatically be reduced by the amount of any lost taxes which the City suffers as a result of the Developer, or the Developer's contractors and/or subcontractors, failure to adhere to the provisions of this Agreement, including, without limitation, the failure to designate the City of Los Angeles as the place of use of any goods purchased for the development of the Project.

(f) The City's obligation to fund the Subvention Amount expires at the expiration of the Subvention Term.

Section 3.2 Annual Subvention Payment Payments and Reconciliation.

(a) Commencing on the Completion Date and during the Subvention Term, the City shall pay Developer the Annual Subvention Payment from the Special Fund for the prior calendar year, the payment to be (i) a rebate to Developer of that portion of the Annual Subvention Payment from the Special Fund that represents the City's share of Developer's property taxes for the applicable year ("**Rebate Amount**") and (ii) to the extent in excess of the Rebate Amount, a refundable tax credit to Developer. Such payments shall be made solely from the Special Fund annually each February 15th pursuant to wiring instructions provided by Developer. On March 15th of each calendar year, Developer shall provide to the City a True Up report setting forth the actual Net New Tax Revenues generated by the Project for the prior calendar year ("**Annual True Up**") and the City shall reasonably cooperate with Developer's efforts in calculating the Annual True Up. Such Annual True Up will be based upon auditable back-up information, including, but not limited to, tax bills, invoices, sales reports, and/or canceled checks. The City and Developer shall reconcile the Annual True Up with the Annual Subvention Payment payment, an estimate of each such Annual Subvention Payment is set forth on Exhibit K attached hereto. If there has been an overpayment of the Annual Subvention Payment based on the Annual True Up, within sixty (60) days of receipt by Developer of written notice from the City of the overpayment (together with reasonable supporting documentation), Developer shall refund the amount of the overpayment to the City (with such refund to first be a repayment of the portion of the Annual Subvention Payment which is treated as a refund to Developer pursuant to this Agreement). If there has been an underpayment of the Annual Subvention Payment based on the Annual True Up, within sixty (60) days of receipt by the City of written notice from Developer of the underpayment (together with reasonable supporting documentation), the City shall pay the underpayment to Developer.

(b) The City will conduct a yearly reconciliation by hiring the Auditor at Developer's expense to audit and review the Annual True Up and the Net New Tax Revenues generated by the Project. Developer shall fully cooperate with the City in the reconciliation process.

(c) Developer acknowledges and agrees that although the City Deposit will be determined by a portion of the amount of Net New Tax Revenues generated by the Project, the Developer, nor its agents, are entitled to retain, or be otherwise excused from timely remitting any and all City taxes which it may owe to the City or which it may collect on behalf of the City.

(d) Developer further acknowledges that tax records are confidential information and that the City will not divulge such information to Developer absent written authorization from the taxpayer (or other legal authorization) and that the City will notify the Developer of the Net New Tax Revenues generated by the Project which the City will use for the determination of the City Deposit. Developer shall be required to provide its own authorization to provide the necessary confidential information and shall coordinate with its tenants to provide any and all confidentiality waivers necessary for the City to determine the Net New Tax Revenues generated by the Project.

(e) Notwithstanding anything to the contrary in this Agreement, in the event that counsel or independent accountants for West Valley REIT 1 LLC, West Valley REIT 2 LLC or West Valley REIT 3 LLC, each an indirect owner of Developer and a Delaware limited liability company that has elected to be taxed as a real estate investment trust (each such entity a "**West Valley REIT**") determine that there exists a material risk that the receipt by Developer during a taxable year of refundable tax credits (*i.e.*, the remaining Annual Subvention Payment for such year after the rebate of Developer's property taxes) hereunder would generate income not described in Sections 856(c)(2)(A)-(H) and 856(c)(3)(A)-(I) of the Code (such income, "**Non-Qualifying Income**") and thereby create a material risk that such West Valley REIT would have Non-Qualifying Income for the applicable year in an amount in excess of 4.5% of such West Valley REIT's gross income for such year (any amount so in excess, the "**Excess Non-Qualifying Income**"), the amount of tax credits refunded to Developer pursuant to Section 3.2(a) of this Agreement in such tax year shall not exceed the maximum amount that can be refunded to Developer in such year without causing such West Valley REIT to have Excess Non-Qualifying Income for such year. If the amount refunded for any tax year under the preceding sentence is less than the amount which would otherwise be refunded to Developer pursuant to Section 3.2(a) of this Agreement (the "**Deferred Refund Amount**"), then: Developer shall not be entitled to any such amount, unless and until Developer delivers to the City, at the sole option of the applicable West Valley REIT, (i) an opinion of such West Valley REIT's tax counsel to the effect that such amount, if and to the extent refunded, should not constitute Excess Nonqualifying Income, (ii) a letter from the independent accountants of such West Valley REIT indicating the maximum amount that should be refundable at that time to Developer without causing such West Valley REIT to have Excess Nonqualifying Income for any relevant taxable year, in which case Developer shall be refunded such maximum amount or (iii) a private letter ruling issued by the IRS to such West Valley REIT indicating that the receipt of any Deferred Refund Amount hereunder will not cause such West Valley REIT to fail to meet the requirements imposed on REITs pursuant to Sections 856 through and including 860 of the Code. The obligation of the City to refund any Deferred Refund Amount which is not refunded

as a result of this provision shall terminate five years from the original date such amount would have been refunded without regard to this provision and Developer shall have no further right to receive any such amount.

(f) For the avoidance of doubt, the parties intend and agree that the Annual Subvention Payment paid to Developer pursuant to Section 3.2(a) constitutes (i) a rebate of the City's share of Developer's property taxes for the applicable year and, to the extent the Annual Subvention Payment is in excess of the Rebate Amount, (ii) a refundable tax credit.

Section 3.3 Construction Cost Reconciliation and Subvention Amount Adjustment.

(a) Developer shall commence and diligently pursue construction on the Property in accordance with the Schedule of Performance and the Scope of Development. No later than one hundred eighty (180) days after the Completion Date, the Developer and City Administrative Officer will commence to establish the final maximum Subvention Amount which will be established by conducting a final review and audit of the Total Project Construction Costs and the Project Financing ("**Project Construction Cost Reconciliation**").

(b) The City Administrative Officer will employ the Certified Quantity Surveyor to perform the Project Construction Cost Reconciliation. The Developer shall be responsible for the costs and payment of the Certified Quantity Surveyor's services, but the City shall be the Certified Quantity Surveyor's client for purposes of the Certified Quantity Surveyor's services. At such time as the Project Construction Cost Reconciliation occurs, the final Subvention Amount shall be established based on the Adjusted Project Construction Cost. As part of the Project Construction Cost Reconciliation, Developer shall submit to the City its determination of the Total Project Construction Costs and the Project Financing (if any), which cost of such Project Financing may not exceed the actual out-of-pocket costs for the Developer's cost of capital, together with supporting plans and documentation. The Certified Quantity Surveyor shall review such submission and Developer shall promptly respond to any comments or questions provided by the Certified Quantity Surveyor. Upon completion of this Project Construction Cost Reconciliation, the final maximum Subvention Amount will be established, which in no event will exceed Twenty-Five Million Dollars (\$25,000,000) based on the formula attached as Exhibit F. Upon completion of the Project Construction Cost Reconciliation, Developer and the City shall execute a certificate memorializing the Adjusted Project Construction Cost and the final maximum Subvention Amount. If Developer and City cannot reasonably agree on the Adjusted Project Construction Cost, or a component thereof, the City shall make the final determination in its reasonable discretion based on information provided by the Developer and the Certified Quantity Surveyor. The Annual Subvention Payments shall be discounted at the rate of 6% commencing upon the establishment of the final maximum Subvention Amount. The City may at its discretion make advance payments of the Subvention Amount from any deposits the City has made into the Special Fund for Net New Tax Revenues Received by the City during the construction phase which are attributable to construction sales/use taxes.

(c) In the event that the Project Construction Cost Reconciliation discloses that the Total Project Construction Costs are less than Three Hundred Thirty-Five Million Dollars (\$335,000,000), the Subvention Amount shall be automatically reduced on a dollar per dollar

basis. The Developer shall be fully responsible for any increases in the financing gap or any other cost over runs that may occur during or after construction. Developer shall, within ninety (90) days following the period for Project Construction Cost Reconciliation, as set forth in Section 3.3(a) above, have a one-time right to terminate this Agreement upon written notice to the City.

Section 3.4 Intentionally Omitted.

Section 3.5 Sales Tax Origin. For purposes of the State sales and use tax, Developer shall insert a contract provision in its contract with the general contractor and/or architect as applicable, requiring the general contractor and its major subcontractors to designate the City of Los Angeles as the place of use of any materials purchased for the development of the Project. Developer shall further comply with the provisions of this Section 3.5 to provide, to the extent possible under applicable laws and regulations, that local sales and use taxes generated in connection with all eligible purchases of materials, fixtures, machinery, equipment and supplies for the Project during the construction thereof are allocated directly to the City, subject to Regulation 1521 titled "Construction Contractors" and resolution titled "Contractors No. 260,20" under the Compliance Policy and Procedures Manual of the California State Board of Equalization.

(a) Meeting with the Office of Finance. Prior to issuance of the first building permit for the Project, the Developer, and its contractors and its subcontractors then providing services or materials to the Project in excess of Ten Million Dollars (\$10,000,000) ("**Major Contractors and Subcontractors**") (to the extent such contractors and subcontractors have been identified and contracted with at such time) may, at their election, meet with the City's Office of Finance to review the process that the Developer's contractors and subcontractors should follow with respect to sales and use taxes. Developer agrees to advise any Major Contractors and Subcontractors that do not attend this initial meeting of the requirements of this Section, and, upon reasonable request, the City agrees to meet and review with such Major Contractors and Subcontractors the process that they should follow. The Developer shall comply with the following:

(b) Contract Provisions for Major Contracts. The Developer shall include, and shall cause its general contractor to include, a provision in all construction contracts entered into with Major Contractors and Subcontractors substantially in the form attached as Exhibit D-1.

(c) Contract Provisions for Other Contracts. The Developer shall include, and shall cause its general contractor to include, a provision in all construction contracts entered into with Other Material Contractors and Subcontractors (as defined below) substantially in the form attached as Exhibit D-2. "Other Material Contractors and Subcontractors" shall mean any contractors providing services or materials to the Project in excess of Five Hundred Thousand Dollars (\$500,000) but less than Five Million Dollars (\$5,000,000).

(d) Major Contractor Information. The Developer shall, when reasonably requested by the City, provide the City's Office of Finance with (unless such information

requires the disclosure of confidential information, trade secrets, or information that impairs the Developer's ability to gain pricing advantages relative to materials and services):

(1) A list of the Developer's Major Contractors and Subcontractors who will or have performed construction services or who will or have furnished materials for the construction of the Project, which list shall include the following items:

- (i) Name of contractor
- (ii) Address and telephone number of headquarters or office
- (iii) Name and telephone number of contact person
- (iv) Estimated value of the contract
- (v) Estimated Completion Date
- (vi) Scope of Work

(2) A copy of the contract with each such contractor (which may have confidential information redacted).

(e) City's Remedies. If the City determines that any Major Contractor or Subcontractor has not complied with the provisions set forth in its agreement with the Developer or Developer's contractor, as the case may be, subject to this Section 3.5(e), the Subvention Amount shall be automatically reduced in accordance with this Article 3. Nothing in this Section 3.5 shall limit the City's remedies against the Developer in the event that the Developer has failed to comply with its obligations; provided, however, that there shall be no diminution in the dedication to the Special Fund for the failure of the Major Contractor and its Subcontractors to comply with their respective obligations if the Developer complies with its obligations in this Agreement.

(f) Subject to Applicable Law. The obligations set forth in this Agreement shall in all cases be subject to applicable laws and regulations, including without limitation the California Sales and Use Tax Law, and in no event shall Developer (or any of its contractors or subcontractors) be required to do anything that is in violation of or inconsistent with such laws and regulations.

Section 3.6 Sales Tax Disclosure by Project Businesses. For purposes of the State sales and use tax the Developer shall insert a contract provision in its lease with each of its tenants, requiring the tenant, as well as their sub-tenants, to authorize the California State Franchise Board to provide to the City of Los Angeles, access to sales and/or use tax records, for each business located within the Project. Developer shall use commercially reasonable efforts to add such a provision to any leases executed prior to the Effective Date. Upon the request of the City, Developer agrees that it shall exercise its audit rights under tenant leases in order to determine sales and/or tax amounts and shall report such amounts to the City.

Section 3.7 Progress Reports. Until the Completion Date, the Developer shall provide the City with periodic progress reports, as reasonably requested by the City (but not more than once every calendar quarter), regarding the status of the construction of the Improvements. Such report shall consist of an executive summary of the work to date, including, but not limited to, the causes for any delays and the work that is anticipated for the following quarter, a reasonable number of construction photographs taken since the last report submitted to the City, and shall be in a form reasonably acceptable to the City. The City shall be entitled to utilize and reproduce the information and photographs contained in the progress reports for government activities and other governmental purposes as determined by the City.

ARTICLE 4

OBLIGATIONS WHICH CONTINUE THROUGH AND BEYOND THE COMPLETION OF CONSTRUCTION

Section 4.1 Use of the Project. The Developer, and its successors and assigns, shall use the Property for the operation of the Project, subject to changes to the Project based on market conditions and other changes required by Developer in connection with the operation of the Project, for the Subvention Term; provided, however that the Developer shall not be in default of this Section 4.1 if the Project is damaged or destroyed or there occurs a force majeure event (including, without limitation, a condemnation event) that precludes the operation of the Project and Developer takes commercially reasonable steps to repair and restore the Project (subject to the availability of insurance proceeds for such restoration) or to address the force majeure event, as the case may be, within a reasonable period of time.

Section 4.2 Maintenance. The Developer hereby agrees that prior to completion of construction of the Project, the Property shall be maintained in a neat and orderly condition to the extent practicable and in accordance with industry health and safety standards, and that the Project shall be well maintained as to both external and internal appearance of the buildings, the common areas, and the parking areas. The Developer shall maintain or cause to be maintained the Project in good repair and working order, including the walkways, driveways, parking areas and landscaping, and from time to time make all necessary and proper repairs, renewals, and replacements. If the Developer fails to implement and continuously maintain the standard described above/then the City shall notify the Developer in writing of such condition, giving the Developer thirty (30) days from receipt of such notice to commence and thereafter diligently to proceed to cure said condition. In the event the Developer fails to cure or commence to cure the condition within thirty (30) days and such other additional time as may be required by Developer to cure the condition, the City shall notify the Developer in writing and thereafter the City shall have the right to perform all acts necessary to cure such a condition, or to take other recourse at law or equity that the City may then have. The Developer shall reimburse the City's reasonable costs, plus ten percent (10%) interest from the date of expenditure, in taking such action. The Parties hereto further mutually understand and agree that the rights conferred upon the City expressly include the right to enforce or establish a lien or other encumbrance against any of the parcels comprising the Property not complying with this Agreement. The provisions of Sections 4.1 and 4.2 shall be assumed by all successors to Developer and shall be in effect until expiration or termination of Section 4.1 hereof.

Section 4.3 Employment Opportunity. During the operation of the Project, there shall be no discrimination by the Developer on the basis of race, color, creed, religion, sex, sexual orientation, marital status, national origin, ancestry, or handicap in the hiring, firing, promoting, or demoting of any person engaged in the operation of the Project.

Section 4.4 Community Benefits Program. As part of the Development Agreement, Developer agreed to provide certain community benefits. In addition to those benefits, Developer shall comply with the Community Benefits Program requirements as follows:

(a) Developer shall comply with Section 3.5 of this Agreement in order to cause the City to be designated as the “point of sale” so that it will receive sales and use taxes generated from the purchase of materials, fixtures, machinery, equipment and supplies during the construction of the Project; and

(b) Developer shall provide the public benefits described in Exhibit E attached hereto.

Section 4.5 Compliance with Applicable Law and City Policies. Contractor shall comply with the Standard Provisions for City Contracts (Rev. 3/12), which is attached hereto as Exhibit L and incorporated herein by reference and which shall constitute a term of this Agreement. The provisions of the body of this Agreement and the contract between Developer and the Contractor shall prevail over the provisions of the Standard Provisions for City Contracts should there be any inconsistency. The term “contract” as used in the Standard Provisions for City Contracts shall include this Agreement.

The Developer shall cause all work performed in connection with construction of the Improvements to be performed in compliance with: (a) all applicable laws, ordinances, rules and regulations of federal, state, county or municipal governments or agencies now in force or that may be enacted hereafter, (including, without limitation, the prevailing wage provisions of Sections 1770 et seq. of the California Labor Code); (b) all directions, rules and regulations of any fire marshal, health officer, building inspector, or other officer of every governmental agency now having or hereafter acquiring jurisdiction; (c) all applicable disabled access requirements; and (d) all applicable City policies. The work shall proceed only after procurement of each permit, license, or other authorization that may be required by any governmental agency having jurisdiction, and the Developer shall be responsible for the procurement and maintenance thereof, as may be required of the Developer and all entities engaged in work on the Project Site.

Section 4.6 Relocation. If and to the extent acquisition of the Project Site or any aspect of development or operation of the Project results in the permanent or temporary displacement of any occupants of the Project Site, the following shall apply: (a) Developer shall comply with all applicable local, state and federal statutes and regulations with respect to relocation planning, advisory assistance and payment of monetary benefits (collectively referred to as the “**Relocation Laws**”); and (b) Developer shall be solely responsible for payment of any relocation benefits (if any) to any displaced persons and any other obligations (if any) associated with complying with the Relocation Laws, including, but not limited to, moving assistance, rent vouchers and the cost of a Relocation Consultant selected by City. If the Developer is

determined by a court of competent jurisdiction or any government agency to be in violation of any Relocation Laws as described in this section, City may, in its sole discretion, declare Developer to be a “non-responsible Contractor”, and ineligible to apply for any future City contracts or financial assistance. Developer also hereby agrees to indemnify, defend and hold the City harmless from any and against any and all claims and liabilities arising directly or indirectly as a result of or in connection with the breach of Developer’s obligations set forth in this Section 4.6. This indemnity obligation shall survive the issuance of a Certificate of Completion by the City, payment of the Subvention Amount and the termination of this Agreement.

Section 4.7 Publicity. Developer shall acknowledge the City in all public ceremonies conducted by Developer concerning the Project, including, groundbreaking and ribbon cutting ceremonies within one (1) year of the Completion Date.

Section 4.8 Progress Reports. Developer shall provide the City with periodic progress reports regarding the status of the development of the Project and attend status conferences relating to pre-construction and/or compliance with City policies and the conditions of this Agreement, as reasonably requested by the City, but not more often than monthly.

Section 4.9 Entry by the City. At all times during the Subvention Term, Developer shall permit the City representatives to enter the Project Site at all reasonable times and upon reasonable notice to inspect the Project Site for compliance with this Agreement. Except in the event of inspections regarding safety or compliance with City policies, reasonable notice shall mean at least 48 hours written notice. The City shall be under no obligation to (a) supervise construction, (b) inspect the Project Site or (c) inform the Developer of information obtained by the City during any inspection. The Developer shall not rely upon the City for any supervision or inspection. The rights granted to the City pursuant to this section are in addition to any rights of entry and inspection the City may have in exercising its municipal regulatory authority.

Section 4.10 Mechanics’ Liens. The Developer shall indemnify the City and hold the City harmless against and defend the City in any proceeding related to any mechanic’s lien, stop notice or other claim brought by a subcontractor, laborer or material supplier who alleges having supplied labor or materials in the course of the construction of the Project by the Developer. This indemnity obligation shall survive the payment of the Subvention Amount and the termination of this Agreement.

Section 4.11 Barriers to the Disabled.

(a) Compliance with all Accessibility Requirements. Developer shall comply with all applicable requirements of state, local and federal rules, laws and regulations relating to accessibility and reasonable accommodations for persons with disabilities, including, without limitation, the following to the extent any are applicable to the Project: Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794 and implementing regulations at 24 CFR Part 8); the Americans with Disabilities Act (42 U.S.C. Sections 12131 *et seq.* and 12181 *et seq.*, and implementing regulations at 28 CFR Parts 35 and 36); the Fair Housing Act (42 U.S.C. Section 3601 *et seq.*, and implementing regulations at 24 CFR Part 100); the Fair Employment and

Housing Act (California Government Code Section 12926); and Title 24 of the California Building Code. Without limiting the generality of the foregoing,

- (i) projects that receive City or other nonfederal sources of funding shall comply with all applicable requirements of the Americans with Disabilities Act, the Fair Housing Act, the Fair Employment and Housing Act, Title 24 of the California Building Code, and all other applicable requirements;
- (ii) commercial structures, and common areas and public use areas in residential projects, shall comply with all applicable requirements of the Americans with Disabilities Act, Title 24 of the California Building Code and all other applicable requirements.

Developer shall ensure that construction plans submitted for review by the City and/or City comply with all applicable requirements of law and that Project construction is carried out in conformity with Plan Check Drawings (as defined in Exhibit I), as may be modified from time-to-time.

(b) ADA Certification. Developer hereby certifies as follows:

- (i) Developer is in compliance with and shall continue to comply with the Americans with Disabilities Act, 42 U.S.C. 12101 *et seq.* and its implementing regulations.
- (ii) Developer shall provide for reasonable accommodations to allow qualified individuals with disabilities to have access to and participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act.
- (iii) Developer shall not discriminate against persons with disabilities or against persons due to their relationship or association with a person with a disability.

The certification set forth in this Section is a material representation of fact upon which reliance was placed when the Parties entered into this transaction

Section 4.12 Non-Discrimination during Development; Equal Opportunity. The Developer, for itself, its successors and assigns, and transferees agrees that in the construction of the Project provided for in this Agreement:

(a) The Developer shall not discriminate against any employee or applicant for employment because of race, color, religion, creed, national origin, ancestry, disability, actual and perceived, medical condition, age, marital status, sex, sexual orientation, Acquired Immune Deficiency Syndrome (AIDS), actual or perceived, or retaliation for having filed a discrimination complaint or any additional basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section 12955.2 of the Government Code, as such provisions may be amended from time to time (collectively, the “**Nondiscrimination Factors**”). The Developer shall take affirmative steps to ensure that applicants are employed by

the Developer, and that its employees are treated without regard to the Nondiscrimination Factors during employment including, but not limited to, activities of: upgrading, demotion or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Developer agrees to post in conspicuous places, available to its employees and applicants for employment, the applicable nondiscrimination clause set forth herein.

(b) The Developer shall ensure that its solicitations or advertisements for employment are in compliance with the aforementioned nondiscrimination factors; and

(c) The Developer shall cause the foregoing provisions to be inserted in all contracts for the construction of the Project entered into by Developer after the Effective Date and shall ensure that its general contractor shall insert the foregoing provisions in the general contractor's subcontracts; provided, however, that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials. For any contracts entered into by Developer prior to the Effective Date, Developer shall use commercially reasonable efforts to cause the foregoing provisions to be inserted in all contracts for the construction of the Project.

(d) For purposes of this Section 5.7, the term "Developer" shall mean and include the Developer and the Developer's general contractor and subcontractors of any tier engaged by Developer in the construction of the Project.

ARTICLE 5

ASSIGNMENT AND TRANSFERS

Section 5.1 Definitions. As used in this Article 5, the term "Transfer" means:

(a) Any total or partial sale, assignment or conveyance, or any transfer in any other mode or form, of or with respect to this Agreement, or of the Project, or any part thereof or any ownership interest therein or of the Improvements constructed thereon, or any contract or agreement to do any of the same; or

(b) Any total or partial sale, assignment or conveyance, or any transfer in any other mode or form, of or with respect to more than fifty percent (50%) ownership interest in the Developer, or any contract or agreement to do any of the same, but only to the extent such transfer results in a change of Control.

Section 5.2 Purpose of Restrictions on Transfer. This Agreement is entered into solely for the purpose of development and operation of the Project and its subsequent use in accordance with the terms of this Agreement, The qualifications and identity of the Developer are of particular concern to the City, in view of:

(a) The importance of the development of the Project to the general welfare of the community;

(b) The financial resources, reputation and experiences of the Developer in development of projects; and

(c) The fact that a Transfer as defined in Section 5.1 above is for practical purposes a transfer or disposition of the Project.

It is because of the qualifications and identity of the Developer that the City is entering into this Agreement with the Developer and that Transfers are permitted only as provided in this Agreement.

Section 5.3 Prohibited Transfers. Developer shall not make or create or suffer to be made or created, any Transfer, other than a Permitted Transfer, either voluntarily or by operation of law, without the prior written approval of the City which approval shall not be unreasonably withheld, conditioned or delayed, thereafter. In the event of a proposed Transfer (other than a Permitted Transfer), the Developer shall submit to the City such documentation as the City determines is sufficient to evaluate the relevant experience, financial capability and reputation of the proposed transferee necessary to fulfill the obligations undertaken in this Agreement by the Developer.

Any Transfer made in contravention of this Section 5.3 shall be void and shall be deemed to be a default under this Agreement.

Section 5.4 Permitted Transfers. Notwithstanding the provisions of Section 5.3, the Developer shall have the right to affect the following Transfers without the prior approval of the City (each a “**Permitted Transfer**”):

(a) Any Transfer creating a Mortgage or other security or financing for the Project, including, but not limited to the Project Financing.

(b) Any Transfer directly resulting from the foreclosure of a Mortgage or other security financing interest or the granting of a deed in lieu of foreclosure of a Mortgage (including, without limitation, a conveyance in lieu of foreclosure of a pledge of equity interests) or other security financing interest and any subsequent transfer to any buyer or successor after such foreclosure of granting of a deed or conveyance in lieu of foreclosure.

(c) The leasing or licensing of space within the Improvements.

(d) The leasing of a hotel Site to an approved hotel operator.

(e) The conveyance or dedication of a portion of the Property to any public entity, including a public utility, required to allow for the development or operation of the Improvements.

(f) The granting of temporary or permanent easements, licenses, rights-of-way, or permits to facilitate development and/or operation of the Project.

(g) A Transfer which may result from any merger, consolidation or reorganization involving Developer so long as the same shall possess all or substantially all of the business and assets of Developer immediately prior thereto.

(h) The Transfer of a non-controlling direct or indirect interest in the equity interests in the Developer.

(i) A Transfer of the direct or indirect membership interests in Developer to its joint venture partner (or its Affiliate) or from its joint venture partner to Developer (or an Affiliate of Developer) pursuant to the provisions of their joint venture agreements.

(j) Deleted.

(k) A Transfer to an Affiliate of Developer or to an Affiliate of Developer's joint venture partners.

(l) A Transfer of the Property (or a portion thereof) or a direct or indirect interest in Developer to a person or entity which, with its affiliates, (a) has a net worth or assets under management (whether through a separate account or other investment vehicle) in excess of One Hundred Million Dollars (\$100,000,000), and (b) owns, leases, operates or has under management (whether through a separate account or other investment vehicle) at least five (5) regional retail centers with not less than 1,000,000 square feet under management on a cumulative basis.

(m) A Transfer by Developer of the rights to payment under this Agreement to a taxable REIT subsidiary.

(n) A Transfer to a tenant at the Property pursuant to the terms of its lease.

(o) A Transfer of the Costco Property to Costco pursuant to the terms of that certain Lease between Developer and Costco.

(p) A Transfer of non-income producing, non-material portions of the Property (including, the parking areas).

(q) The transfer or issuance of any securities, units, shares or interests in, or the merger or consolidation of, any Westfield Sponsor or CPPIB or any individual, corporation, partnership, joint venture, limited liability company, estate or trust owning an interest in any Westfield Sponsor or CPPIB.

All Transfers other than those enumerated in this Section 5.4 shall require the administrative written approval of the City, which approval shall not be unreasonably withheld, conditioned, or delayed. The City shall respond to such request for approval within ten (10) days after receipt of the request.

Section 5.5 Effectuation of Permitted Transfers. No Transfer in the Property shall be permitted unless, at the time of the Transfer, the person or entity to which such Transfer is made, by an agreement reasonably satisfactory to the City (the "**Assumption Agreement**"), expressly

agrees to perform and observe, from and after the date of such transfer, all the obligations, terms and conditions of this Agreement, and if less than all of the Property is transferred, the transferee shall agree to perform the obligations, terms and conditions of this Agreement, relating to the portion of the Project that is transferred to the transferee. The Assumption Agreement shall be executed by Developer and the assignee or transferee, and shall name the City as an express third party beneficiary with respect to such agreement with a copy thereof delivered to the City within thirty (30) days after the effective date thereof. Upon transfer of this Agreement pursuant to an Assumption Agreement, the assignor's liability with respect to any such obligations relating to the Project accruing from and after the date of such assignment or transfer shall be released.

Section 5.6 Transfers of Interest in Developer. Notwithstanding Section 5.3, the City shall not unreasonably withhold its approval of a Transfer of a controlling direct or indirect equity interest in Developer if the replacement member, partner or shareholder has, together with its affiliates, sufficient financial resources and liquidity to fulfill Developer's obligations under this Agreement. For purposes hereof an individual or entity shall be considered to have sufficient financial resources and liquidity if it, or its Affiliates, has a net worth or assets under management (whether through a separate account or other investment vehicle), including the Property, equal to or exceeding One Hundred Million Dollars (\$100,000,000), determined based on financial statements of such transferee, at the time of the Transfer. The City shall respond to such request for approval within ten (10) days after receipt of the request and supporting documentation. This Section 5.6 does not apply to any Permitted Transfers for which the City's consent to a transfer is not required.

Section 5.7 Transfers of Interests in Non-Controlling Membership Interests in Developer. The prohibition on Transfers of interests in Developer shall not restrict transfers of non-controlling interests in Developer pursuant to Article 5 of this Agreement.

ARTICLE 6

MORTGAGEE PROTECTIONS

Provided that any Mortgagee provides the City with a conformed copy of each Mortgage that contains the name and address of such Mortgagee, the City hereby covenants and agrees to faithfully perform and comply with the following provisions with respect to such Mortgage:

Section 6.1 No Termination. No action by Developer or the City to cancel or surrender this Agreement or to materially modify the terms of this Agreement or the provisions of this Article 6 shall be binding upon a Mortgagee without its prior written consent, which such Mortgagee shall not unreasonably withhold, condition or delay, unless (solely with respect to cancelling or surrendering this Agreement) such the Mortgagee shall have failed to cure a default within the time frames set forth in this Article 6. The lien of any Mortgage shall at all times be senior and superior to any lien in favor of the City established pursuant to the terms of this Agreement.

Section 6.2 Notices. If the City shall give any notice of default to Developer hereunder, the City shall simultaneously give a copy of such notice of default to any Mortgagee that has filed or recorded a request for such notice, at the address theretofore designated by it.

No notice of default given by the City to Developer shall be binding upon or affect said Mortgagee unless a copy of said notice of default shall be given to Mortgagee pursuant of this Article 6. In the case of an assignment of such Mortgage or change in address of such Mortgagee, said assignee or Mortgagee, by written notice to the City, may change the address to which such copies of notices of default are to be sent. The City shall not be bound to recognize any assignment of such Mortgage unless and until the City shall be given written notice thereof, a copy of the executed assignment, and the name and address of the assignee. Thereafter, such assignee shall be deemed to be the Mortgagee hereunder with respect to the Mortgage being assigned. If such Mortgage is held by more than one person, corporation or other entity, no provision of this Agreement requiring the City to give notices of default or copies thereof to said Mortgagee shall be binding upon the City unless and until all of said holders shall designate in writing one of their number to receive all such notices of default and copies thereof and shall have given to the City an original executed counterpart of such designation.

Section 6.3 Performance of Covenants. Mortgagee shall have the right (but not the obligation) to perform any term, covenant or condition and to remedy any default by Developer hereunder within the time periods specified herein, and the City shall accept such performance with the same force and effect as if furnished by Developer; provided, however, that said Mortgagee shall not thereby or hereby be subrogated to the rights of the City. Notwithstanding the foregoing, nothing herein shall be deemed to permit or authorize such Mortgagee (or its designee) to undertake or continue the construction or completion of the Improvements without first having expressly assumed Developer's obligations to the City or its designee by written agreement satisfactory to the City.

Section 6.4 Default by Developer. In the event of a default by Developer, the City agrees not to terminate this Agreement (1) unless and until Developer's notice and cure periods have expired and the City thereafter provides written notice of such default to any Mortgagee and such Mortgagee shall have failed to cure such Event of Default within thirty (30) days of delivery of such notice, and (2) as long as:

(i) In the case of a default which cannot practicably be cured by said Mortgagee without taking possession of the Improvements, said Mortgagee shall proceed diligently to obtain possession of the Improvements as Mortgagee (including possession by receiver) and, upon obtaining such possession, shall proceed diligently to cure such default; or

(ii) In the case of a default which is not susceptible to being cured by said Mortgagee, said Mortgagee shall institute foreclosure proceedings and diligently prosecute the same to completion (unless in the meantime it shall acquire Developer's right, title and interest hereunder, either in its own name or through a nominee, by assignment in lieu of foreclosure) and upon such completion of acquisition or foreclosure such default shall be deemed to have been cured.

Mortgagee shall not be required to obtain possession or to continue in possession as Mortgagee of the Improvements pursuant to Subsection (i) above, or to continue to prosecute foreclosure proceedings pursuant to Subsection (ii) above, if and when such default shall be cured. Nothing herein shall preclude the City from exercising any of its rights or remedies with

respect to any other default by Developer during any period of such forbearance, but in such event Mortgagee shall have all of its rights provided for herein. If Mortgagee, its nominee, or a purchaser in a foreclosure sale, shall acquire title to Developer's right, title and interest hereunder and shall cure all defaults which are susceptible of being cured by Mortgagee or by said purchaser, as the case may be, then prior defaults which are not susceptible to being cured by Mortgagee or by said purchaser shall no longer be deemed defaults hereunder. References herein to defaults which are "not susceptible of being cured" by a Mortgagee or purchaser (or similar language) shall not be deemed to refer to any default which Mortgagee or purchaser is not able to cure because of the cost or difficulty of curing such default, but rather shall be deemed to refer only to defaults specifically relating to the identity of Developer which by their nature can be cured only by Developer (such as Developer bankruptcy or a change in control of Developer). Any acquisition or acceptance of title or any right or interest in or with respect to the Project or any portion thereof by a Mortgagee, pursuant to foreclosure, trustee's sale, deed or conveyance in lieu of foreclosure, or otherwise, shall be subject to all of the terms and conditions of this Agreement except that any such Mortgagee, including its Affiliate or designee, who takes title to the Property or any portion thereof shall be entitled to the benefits arising under this Agreement.

Section 6.5 No Obligation to Cure. Mortgagee shall not have any obligation or duty pursuant to the terms set forth in this Agreement to perform the obligations of Developer or other affirmative covenants of Developer hereunder, or to guarantee such performance and nothing herein contained shall require any Mortgagee to cure any default of Developer referred to above. However, in the event that Mortgagee elects not to cure any default susceptible of being cured, the City's obligation to further fund any portion of the Subvention Amount shall be suspended for a period of up to 6 months (or such earlier time that Mortgagee cures the default). Failure of Mortgagee to cure within 6 months of Mortgagee's acquisition of title shall automatically render the Subvention Amount to \$0 and terminate any City obligation to further fund any portion of this Project. For purposes of this Section 6.5, the City's written approval of a cure plan submitted by the Mortgagee shall act to extend the 6 month period for such time as is necessary to execute the cure plan. The City shall have no obligation to fund any portion of the Subvention Amount during such extension period. No default by Developer or termination of this Agreement shall defeat, render invalid, diminish, or impair the lien of any Mortgagee.

Section 6.6 Separate Agreement. The City may, upon request, execute, acknowledge and deliver to each Mortgagee, an agreement prepared at the sole cost and expense of Developer, in form satisfactory to each Mortgagee, between the City, Developer and the Mortgagees, agreeing to all of the provisions hereof.

Section 6.7 Form of Notice. Any Mortgagee under a Mortgage shall be entitled to receive the notices required to be delivered to it hereunder provided that such Mortgagee shall have delivered to the City a notice substantially in the following form:

The undersigned, whose address is _____, does hereby certify that it is the Mortgagee (as such term is defined in that certain Subvention Agreement ("**Subvention Agreement**") dated as of _____, 2013 among 21919 Erwin Street, LLC, West Valley Owner, LLC and the City of Los Angeles, of the parcel of land described on Exhibit A attached hereto. In the event that any notice shall be given of a default of Developer under the

Subvention Agreement, a copy thereof shall be delivered to the undersigned who shall have the rights of a Mortgagee to cure the same, as specified in the Subvention Agreement. Failure to deliver a copy of such notice shall in no way affect the validity of the notice to the Developer, but no such notice shall be effective as it relates to the rights of the undersigned under the Subvention Agreement with respect to the Mortgage, including the commencement of any cure periods applicable to the undersigned, until actually received by the undersigned.

All notices to be provided by Mortgagee to the City shall be provided in accordance with Section 8.2.

Section 6.8 Further Assurances. The City and Developer agree to cooperate in including in this Agreement, by suitable amendment, any provision which may be reasonably requested by any Mortgagee or any proposed Mortgagee for the purpose of (i) more fully or particularly implementing the mortgagee protection provisions contained herein, (ii) adding mortgagee protections consistent with those contained herein and which are otherwise commercially reasonable, (iii) allowing such Mortgagee reasonable means to protect or preserve the security interest of such mortgagee in the collateral, including its lien on the Property and the collateral assignment of this Agreement, and/or (iv) clarifying terms or restructuring elements of the transactions contemplated hereby; provided, however, in no event shall the City be obligated to materially and adversely modify any of Developer's obligations or the City's rights under this Agreement in any manner not already contemplated in this Article 6.

ARTICLE 7

DEFAULT AND REMEDIES

Section 7.1 Application of Remedies. The provisions of this Article 7 shall govern the Parties' remedies for breach of this Agreement.

Section 7.2 No Fault of Parties.

(a) Basis for Termination. The lack of performance by either Party shall not be deemed a default where performance is prevented due to a court order or final judgment is rendered in a lawsuit and all applicable appeal periods have expired, successfully challenging the Final Environmental Impact Report, any governmental approval for the Project, the Development Agreement, this Agreement, or the Developer's or City's authority to perform their respective obligations hereunder. The preceding events constitute a basis for any Party to terminate this Agreement upon thirty (30) days' notice to the other Party.

(b) No Liability. Upon the effective date of the notice of termination, no Party shall have any rights against or liability to the other, except further that the provisions of this Agreement that are specified to survive such termination shall remain in full force and effect and those liabilities occurring or arising prior to the date of such termination shall remain effective.

Section 7.3 Fault of City.

(a) Event of Default. Following notice and cure as set forth in subsection (b) below, a City breach of any material provision of this Agreement constitutes a “City Event of Default” and a basis for the Developer to take legal action against the City.

(b) Notice and Cure Procedure; Remedies. Upon the occurrence of the above-described event, the Developer shall first notify the City in writing of its purported breach or failure, giving the City thirty (30) days from receipt of such notice to cure such breach or failure. In the event the City does not then cure the default within such thirty-day period (or, if the default is not reasonably susceptible of cure within such thirty-day period, the City fails to commence the cure within such period and thereafter to prosecute the cure diligently to completion), then the Developer shall be entitled to any rights afforded it in law or in equity by pursuing any or all of the following remedies: (1) terminating this Agreement by written notice to the City; (2) prosecuting an action for damages up to the amount of the unfunded Subvention Amount (excluding punitive, exemplary and consequential damages); or (3) seeking any other remedy available at law or in equity (excluding punitive, exemplary and consequential damages). In no event shall any remedy include recovery of attorneys’ fees. If the Developer elects to terminate this Agreement with respect to the portion of the Improvements to which the default relates, the provisions of this Agreement relating to the other portion of the Improvements with respect to which there is not a default and other provisions of this Agreement that are specified to survive termination shall remain in full force and effect.

Section 7.4 Fault of Developer.

(a) Event of Default. Following notice and cure as set forth in subsection (b) below, each of the following events constitutes a “Developer Event of Default” and a basis for the City to take legal action against the Developer:

(1) The Developer completes a Transfer except as permitted under Article 5.

(2) The Developer breaches any other material provision of this Agreement.

(3) The Developer’s: (1) filing for bankruptcy, dissolution, or reorganization, or failure to obtain a full dismissal of any such involuntary filing brought by another party before the earlier of final relief or ninety (90) days after the filing; (2) making a general assignment for the benefit of creditors; (3) applying for the appointment of a receiver, trustee, custodian, or liquidator, or failure to obtain a full dismissal of any such involuntary application brought by another party before the earlier of final relief or ninety (90) days after the filing; or (4) failure, inability or admission in writing of its inability to pay its debts as they become due.

(4) The Developer defaults under this Agreement and has not cured such default within the applicable time period contained in such agreement.

(5) Notice and Cure Procedure; Remedies. Upon the occurrence of any of the above-described events contained in Section 7.4(a), the City shall first notify the Developer in writing of its purported breach or failure, giving the Developer thirty

(30) days from receipt of such notice to cure such breach or failure. If the Developer does not cure the default within such thirty-day period (or if the default is not reasonably susceptible of being cured within such thirty-day period, the Developer fails to commence the cure within such period and thereafter to prosecute the cure diligently to completion), then the City shall be afforded all of its rights at law or in equity by taking any or all of the following remedies: (1) terminating this Agreement by written notice to the Developer or (2) prosecuting an action for actual damages limited to third-party costs and expenses. In no event shall any remedy include recovery of attorneys' fees. If the City elects to terminate this Agreement, the provisions of this Agreement relating to the other portion of the Improvements with respect to which there is not a default and other provisions of this Agreement that are specified to survive such termination shall remain in full force and effect.

Section 7.5 Rights and Remedies Cumulative. Except as otherwise provided, the rights and remedies of the Parties are cumulative, and the exercise or failure to exercise any right or remedy shall not preclude the exercise, at the same time or different times, of any right or remedy for the same default or any other default. If the City or any designated or authorized agency, representative or other party acting on its behalf, fails to pay any amount due hereunder or commences (or becomes the subject of) any insolvency, liquidation, receivership or any similar action, case or proceeding, Developer shall have the right to exercise any remedies available to it at law or in equity. The remedies set forth in this Section 7.5 are cumulative in nature and election of one remedy does not preclude the right to seek or enforce any other remedy in this Section.

Section 7.6 Termination of Subvention. Upon termination of this Agreement under this Article 7 due to a Developer Event of Default, the Developer's right to receive the Subvention Amount shall terminate and be of no further force and effect.

ARTICLE 8

GENERAL PROVISIONS

Section 8.1 Representations and Warranties.

(a) The Developer. The Developer represents and warrants to the City as of the Effective Date, as follows:

(1) Organization.

(i) The Erwin Street Developer is a limited liability company, duly formed in the State of Delaware, validly existing and in good standing under the laws of the State of California, with full power and authority to conduct its business as presently conducted and to execute, deliver and perform its obligations under this Agreement.

(ii) The West Valley Developer is a limited liability company, duly formed in the State of California, validly existing and in good standing under the

laws of the State of California, with full power and authority to conduct its business as presently conducted and to execute, deliver and perform its obligations under this Agreement.

(2) Authorization. The Developer has taken all necessary action to authorize its execution, delivery and, subject to any conditions set forth in this Agreement, performance of this Agreement. Upon the Effective Date, this Agreement shall constitute an obligation of the Developer.

(3) No Conflict. The execution, delivery and performance of this Agreement by the Developer does not and will not conflict with, or constitute a violation or breach of, or constitute a default under (i) the charter or incorporation documents of the Developer, (ii) any applicable law, rule or regulation binding upon or applicable to the Developer, or (iii) any material agreements to which the Developer is a party.

(4) No Litigation. Unless otherwise disclosed in writing or otherwise known to the City prior to the date of this Agreement, and except for Woodland Hills Homeowners Organization v. City of Los Angeles, which action was dismissed on July 18, 2013, but may still be appealed to the Court of Appeals, there is no existing or, to the Developer's actual knowledge, pending litigation, suit, action or proceeding before any court or administrative agency affecting the Developer or the Property that would, if adversely determined, materially and adversely affect the Developer or the Property or the Developer's ability to perform its obligations under this Agreement or to develop and operate the Project.

(5) Default Under Other Agreements. There is no event, act or omission which constitute, or but for the passage of time or the giving of notice, or both, would constitute a breach, violation or default by the Developer under any agreement materially related to the development or operation of the Project, including but not limited to any partnership agreement, joint venture agreement, or loan agreement executed by the Developer that would materially and adversely affect the Developer or the Property or the Developer's ability to perform its obligations under this Agreement or to develop and operate the Project.

Until the expiration or earlier termination of this Agreement, Developer shall, upon learning of any fact or condition which would cause any of the warranties and representations in this Section 8.1 not to be true, promptly give written notice of such fact or condition to the City. The representations and warranties contained in this Section 8.1 shall be true for any transferee assuming the obligations of this Agreement as of the date of the Transfer.

(b) The City: The City represents and warrants to the Developer as of the Effective Date, as follows:

(1) Authorization. The City has taken all necessary action to authorize its execution, delivery and, subject to any conditions set forth in this Agreement, performance of this Agreement. Upon the Effective Date, this Agreement shall constitute an obligation of the City.

(2) No Conflict. The execution, delivery and performance of this Agreement by the City does not and will not conflict with, or constitute a violation or breach of, or constitute a default under (i) the charter or incorporation documents of the City, (ii) any applicable law, rule or regulation binding upon or applicable to the City, or (iii) any material agreements to which the City is a party.

(3) No Litigation. Unless otherwise disclosed in writing or otherwise known to the Developer prior to the date of this Agreement, and except for Woodland Hills Homeowners Organization v. City of Los Angeles, which action was dismissed on July 18, 2013, but may still be appealed to the Court of Appeals, there is no existing or, to the City's actual knowledge, pending litigation, suit, action or proceeding before any court or administrative agency affecting the City or the Property that would, if adversely determined, materially and adversely affect the City or the Property or the City's ability to perform its obligations under this Agreement.

Section 8.2 Notices Demands and Communications. Formal notices, demands, submittals and communications between the City and the Developer shall be sufficiently given if, and shall not be deemed given unless, delivered personally, or dispatched by certified mail, return receipt requested, or by reputable overnight delivery service with a receipt showing date of delivery, to the principal offices of the City and the Developer as follows:

City: City of Los Angeles
Office of the City Administrative Officer
200 North Main Street
Los Angeles, CA 90012
Attn: City Administrative Officer

City of Los Angeles
Office of City Attorney
200 North Main Street
Los Angeles, CA 90012
Attn: Asst. City Attorney, Public Finance

With copies to: City of Los Angeles
Office of the Chief Legislative Analyst
200 North Spring Street, Suite 255
Los Angeles, CA 90012
Attn: Chief Legislative Analyst

City of Los Angeles
Office of the Mayor
200 North Spring Street, Suite 303
Los Angeles, CA 90012
Attn: Deputy Mayor for Economic Development

Developer: WEST VALLEY OWNER, LLC
c/o Westfield, LLC

Attention: Peter Schwartz, General Counsel
2049 Century Park East, 41st Floor
Los Angeles, CA 90067

With copies to: Goodwin Procter LLP
601 South Figueroa Street, 41st Floor
Los Angeles, CA 90071
Attention: Lewis G. Feldman, Esq.

Such written notices, demands and communications may be sent in the same manner to such other addresses as the affected Party may from time to time designate by mail as provided in this Section 8.2. Delivery shall be deemed to have occurred at the time indicated on the receipt for delivery or refusal of delivery.

Section 8.3 Non-Liability of Officials, Employees and Agents. No member, official, employee or agent of the City shall be personally liable to Developer, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Developer or on any obligation under the terms of this Agreement. No member, official, employee or agent of Developer shall be personally liable to the City, or any successor in interest, in the event of any default or breach by Developer or for any amount which may become due to the City or on any obligation under the terms of this Agreement.

Section 8.4 Enforced Delay. In addition to specific provisions of this Agreement, performance by either Party shall not be deemed to be in default where delays or defaults are due to war; insurrection; terrorist acts; strikes; lockouts; riots; floods; earthquakes; fires; casualties; acts of God or other deities; acts of the public enemy; epidemics; quarantine restrictions; moratoria, or other governmental restrictions; freight embargoes; the filing of a lawsuit challenging the Final Environmental Impact Report, any governmental approval, the Subvention Amount, this Agreement, the Development Agreement, or the Developer's or the City's authority to perform their respective obligations hereunder (which shall be deemed to be a delay of the Parties); or court order; an act or omission of the other Party; or any other similar causes (other than lack of funds of the Developer or the Developer's inability to finance the Project) beyond the control or without the fault of the Party claiming an extension of time to perform. An extension of time for any cause will be deemed granted if notice by the Party claiming such extension is sent to the other within thirty (30) days from the commencement of the cause. In no event shall the cumulative delays exceed twenty-four (24) months, unless otherwise agreed to by the Parties in writing.

Section 8.5 Estoppel Certificates. Any party to this Agreement shall, promptly upon the request of any other party, execute, acknowledge and deliver to or for the benefit of any other party, a certificate certifying: (i) that this Agreement is unmodified and in full force and effect (or, if there have been modifications, that this Agreement is in full force and effect, as modified, and stating the modifications), (ii) whether there are then existing any defaults on the part of the party requesting the certificate known to the party delivering the certificate in the performance or observance of any agreement, covenant or condition hereof to be performed or observed and whether any notice has been given of any default which has not been cured (and, if so, specifying the same), and (iii) such other matters as may be reasonably requested.

Section 8.6 Inspection of Books and Records. Not more than once per year, the City has the right at all reasonable times during normal business hours and upon ten (10) Business Days prior written notice to inspect on a confidential basis the books, records and all other documentation of the Developer pertaining to its obligations under this Agreement. Not more than once per year, Developer also has the right at all reasonable times during normal business hours and upon ten (10) Business Days prior written notice to inspect the books, records and all other documentation of the City pertaining to its obligations under this Agreement.

Section 8.7 Title of Parts and Sections. Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of its provision.

Section 8.8 Applicable Law. This Agreement is subject to the City Standard Terms and Conditions attached hereto as Exhibit L and shall be interpreted under and pursuant to the laws of the State of California.

Section 8.9 Severability. If any term, provision, covenant or condition of this Agreement is held in a final disposition by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall continue in full force and effect unless the rights and obligations of the Parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

Section 8.10 Binding Upon Successors; Covenants to Run With Land. This Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest, and assigns of each of the Parties; provided, however, that there shall be no Transfer except as permitted in Article 5. Any reference in this Agreement to a specifically named Party shall be deemed to apply to any successor, heir, administrator, executor, successor, or assign of such Party who has acquired an interest in compliance with the terms of this Agreement or under law.

The terms of this Agreement shall run with the land, and shall bind all successors in title to the Property until the termination of this Agreement, except that the provisions of this Agreement that are specified to survive termination of this Agreement shall run with the land in perpetuity and remain in full force and effect following such termination. Every contract, deed, or other instrument hereafter executed covering or conveying the Property, or any portion thereof, shall be held conclusively to have been executed, delivered and accepted subject to such covenants and restrictions, regardless of whether such covenants or restrictions are set forth in such contract, deed or other instrument, unless the City expressly releases the Property, or the applicable portion of the Property, from the requirements of this Agreement. Upon the termination of this Agreement, the City shall execute and deliver such documents in recordable form as are reasonably necessary to release the Property from the requirements of this Agreement.

Section 8.11 Parties Not Co-Venturers. Nothing in this Agreement is intended to or does establish the Parties as partners, co-venturers, or principal and agent with one another.

Section 8.12 Entire Understanding of the Parties. This Agreement constitutes the entire understanding and agreements of the Parties with respect to the Project. There are no oral or written representations, understandings or ancillary covenants, undertakings or agreements which are not contained or expressly referred to herein (or any such representations, understandings or ancillary covenants, undertakings or agreements are integrated in this Agreement).

Section 8.13 Discretion Retained By City. The City's approval, as called for in various sections of this Agreement, in no way limits the discretion of the City in the permit and approval process in connection with the Project.

Section 8.14 Counterparts. This Agreement may be executed in counterparts and multiple originals.

Section 8.15 Amendments. The Parties can amend this Agreement only by means of a writing signed by both Parties; provided, however, that any amendments, modifications, or supplements to this Agreement required as a matter of tax law compliance for City or Developer] shall be made as a matter of ministerial duty by the parties.

Section 8.16 Recordation of Memorandum of Agreement. The Developer and the City consent to the recordation of a Memorandum of this Agreement against the Property in the Office of the Los Angeles County Recorder, in the form of Exhibit C attached hereto and incorporated herein by this reference.

Section 8.17 Standard of Approval. Any consents or approvals required or permitted under this Agreement shall not be unreasonably delayed, conditioned or withheld, except where it is specifically provided that a sole discretion standard applies.

Section 8.18 Indemnity: City. Except for the gross negligence, fraud, intentional or willful misconduct of the City or its vendors, contractors, subcontractors, or employees, the Developer undertakes and agrees to indemnify, hold harmless and defend the City, its Councilmembers, officers, employees, agents, from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, reasonable attorney's fees and costs of litigation, damage due to any challenge to any portion of this Agreement, including but not limited to any challenge as to any ancillary agreement entered into pursuant to this Agreement or any challenge to any taxing district or similar mechanism which the City creates pursuant to this Agreement or is otherwise intended to fund any portion of the City assistance (whether financial or not) as set forth in this Agreement. Developer further undertakes and agrees to indemnify, hold harmless and defend the City, its Councilmembers, officers, employees, agents, from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, reasonable attorney's fees and costs of litigation, damage due to the death or personal injury of any person, or physical damage to any person's real or personal property, caused by the construction of the Project by Developer or by construction related activities of the Developer on the Property, arising in any manner by reason of or incident to the performance of this Agreement. The Developer's indemnification obligation under this Section 8.18 shall include but not be limited to any litigation related to any challenges made to the City's action regarding the approval of this Agreement, or funding thereunder or the

environmental review conducted for the Project and the City's actions related thereto under CEQA.

Section 8.19 Effectiveness of Subvention Agreement. This Agreement is dated for convenience only and shall only become effective on the Effective Date.

Section 8.20 Further Assurances. Each Party hereto shall execute and deliver such further documents, papers and instruments and take such further action as is necessary, appropriate or helpful as the other Party may reasonably request in order to carry out the purposes, effect and intent of this Agreement.

Section 8.21 Time of the Essence. Time is of the essence for each provision of this Agreement of which time is an element.

[Signatures on following page]

WHEREFORE, the Parties have executed this Agreement as of the date first above written.

Dated: _____

CITY:
CITY OF LOS ANGELES,
a municipal corporation

APPROVED AS TO FORM:

MICHAEL N. FEUER,
CITY ATTORNEY

By: _____
Name: _____
Its: _____

By: _____
Miguel Dager, Esq.
Deputy City Attorney

ATTEST:

CITY CLERK

By: _____
Deputy City Clerk

Date:

DEVELOPER:

WEST VALLEY OWNER, LLC,
a California limited liability company

By: West Valley REIT 3, LLC
a Delaware limited liability company
its managing member

By: West Valley LP,
a Delaware limited partnership
its managing member

By: Westfield West Valley GP LLC,
a Delaware limited liability company
its general partner

By: West Valley Holding 2 LLC,
a Delaware limited liability company
its sole member

By: Westfield America Limited Partnership,
a Delaware limited partnership
its sole member

By: Westfield U.S. Holdings, LLC,
a Delaware limited liability company
its general partner

By: _____
Name: _____
Title: _____

2919 ERWIN STREET, LLC,
a Delaware limited liability company

By: West Valley Owner, LLC,
a California limited liability company,
its sole member

By: West Valley REIT 3, LLC
a Delaware limited liability company
its managing member

By: West Valley LP,
a Delaware limited partnership
its managing member

By: Westfield West Valley GP LLC,
a Delaware limited liability company
its general partner

By: West Valley Holding 2 LLC,
a Delaware limited liability company
its sole member

By: Westfield America Limited Partnership,
a Delaware limited partnership
its sole member

By: Westfield U.S. Holdings, LLC,
a Delaware limited liability company
its general partner

By: _____
Name: _____
Title: _____

Exhibit A

Legal Description of the Property

The land referred to herein is situated in the State of California, County of Los Angeles, City of Los Angeles, and is described as follows:

LEGAL DESCRIPTION

THE REAL PROPERTY REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

LOTS 1 AND 2, TRACT 31621, RECORDED IN BOOK 856, PAGES 18 AND 19 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; AND

PARCEL A OF PARCEL MAP L.A. NO. 3700, RECORDED IN BOOK 89, PAGES 33 AND 34 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT THEREFROM THAT PORTION WITHIN THE BOUNDARY OF TRACT NO. 51449-01, AS PER MAP RECORDED IN BOOK 1274, PAGES 70 AND 71 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; AND

PARCEL B OF PARCEL MAP L.A. NO. 3700, RECORDED IN BOOK 89, PAGES 33 AND 34 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT THEREFROM THAT PORTION WITHIN THE BOUNDARY OF TRACT NO. 51449-01, AS PER MAP RECORDED IN BOOK 1274, PAGES 70 AND 71 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PREPARED UNDER THE SUPERVISION OF:


TOM STEMNOCK, R.C.E. 18662

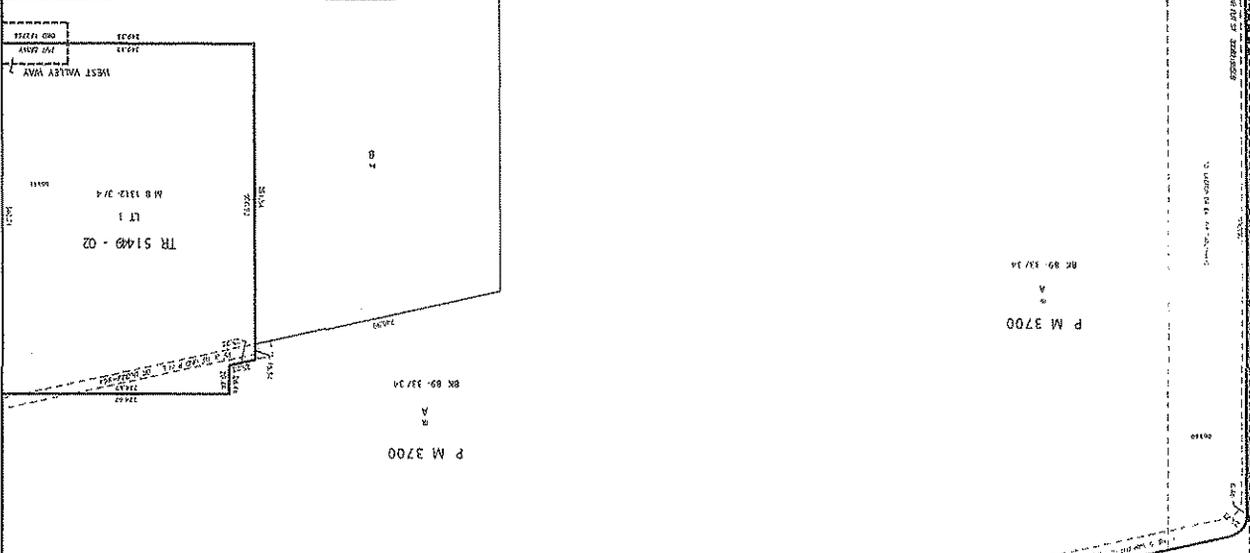
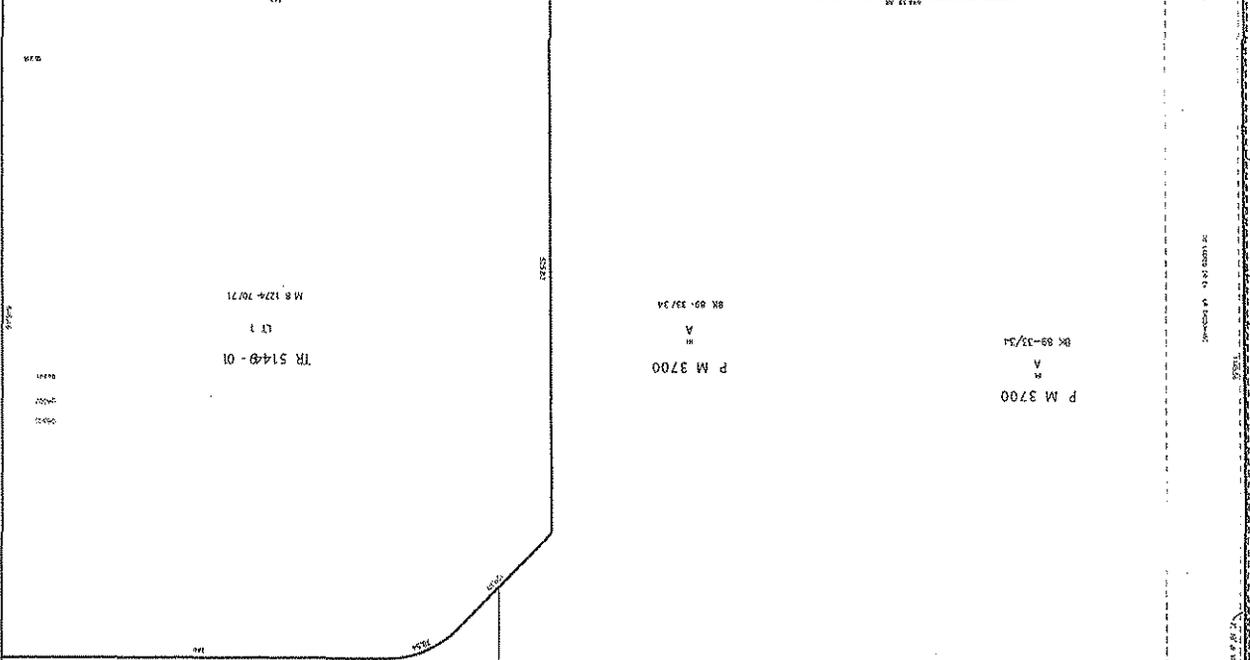
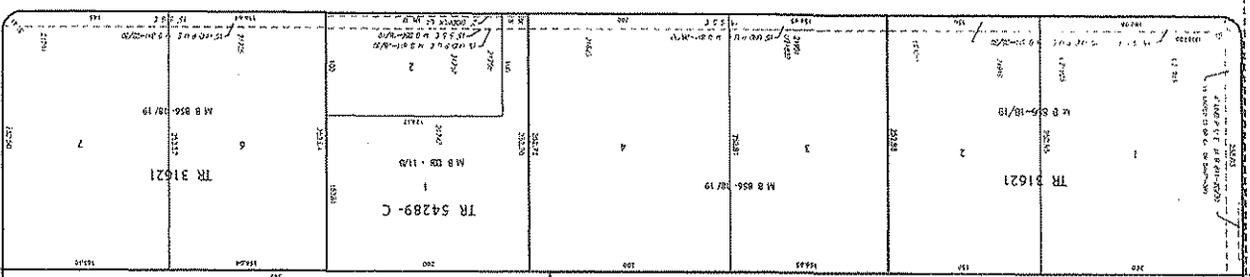


ST 8 & ERWIN

BLVD 5550 TOPANCA CANYON

BLVD 118 VICTORY

WESTFIELD WAY



OWENSWORTH AVE

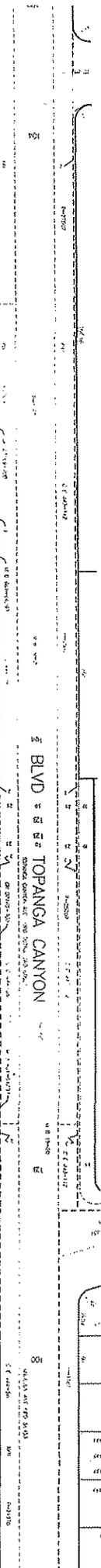
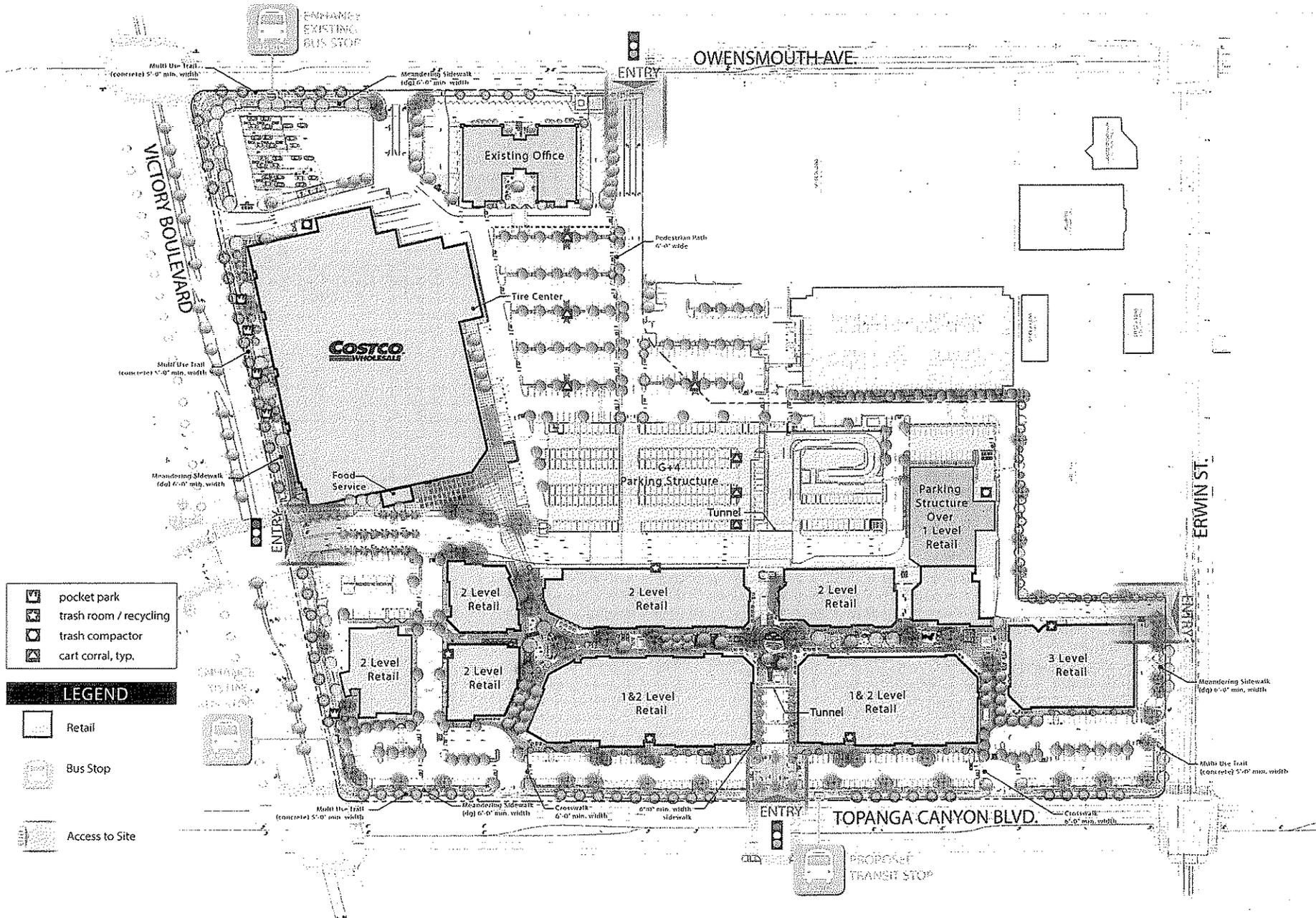


Exhibit B

Site Plan of the Property



- pocket park
- trash room / recycling
- trash compactor
- cart corral, typ.

LEGEND

- Retail
- Bus Stop
- Access to Site

Conceptual Design, For Illustrative Purposes Only



Exhibit C

Form of Memorandum of Agreement

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

The City of Los Angeles
200 North Main Street
Los Angeles, CA 90012
Attn:

No fee for recording pursuant to
Government Code Section 27383

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT (the "**Memorandum**") is made as of March ____, 2014, by and among, the City of Los Angeles, a charter city and municipal corporation (the "**City**"), 21919 Erwin Street LLC, a Delaware limited liability company, and West Valley Owner LLC, a California limited liability company (collectively, the "**Developer**") to confirm that the City and the Developer have entered into that certain Subvention Agreement dated as of _____, 2014 (the "**Agreement**"). The Subvention Agreement imposes certain conditions, requirements, covenants, and restrictions with respect to a proposed project to be constructed on the real property described in Exhibit A attached hereto and incorporated herein (the "**Property**"). The Subvention Agreement is a public document and may be reviewed at the office of the Los Angeles City Clerk.

This Memorandum shall incorporate herein all of the terms and provisions of the Subvention Agreement as though fully set forth herein. This Memorandum is solely for recording purposes and shall not be construed to alter, modify, amend or supplement the Subvention Agreement, of which this is a memorandum.

This Memorandum may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

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Exhibit D-1

Form of Contract Provisions for Major Contracts

Construction Sales and Use Tax Insert for
Major Contractors and Subcontractors

Contractor shall comply with the provisions of this Section to provide that local sales and use taxes generated in connection with all eligible purchases of materials, fixtures, furniture, machinery, equipment and supplies for the work to be performed hereunder are allocated directly to the City of Los Angeles (the "City"). In particular, Contractor shall:

- (a) Apply for a jobsite sub-permit with the California State Board of Equalization ("CBOE") prior to the purchase of any materials, fixtures, furniture, machinery, equipment and supplies for the work to be performed hereunder (a "Jobsite Sub-Permit"). Upon the request of Owner, Contractor shall furnish a copy of its application for Jobsite Sub-Permit. Promptly following Contractor's receipt of a Jobsite Sub-Permit from the CBOE, Contractor shall provide Owner and the City with a copy of such Jobsite Sub-Permit.
- (b) If Contractor is a seller and/or retailer of tangible items, apply for a seller's permit from the CBOE and provide the City with a copy of such seller's permit when it is received by Contractor from the CBOE.
- (c) (i) Incorporate a "transfer of title clause" in contracts for the purchase of materials and fixtures to be used in connection with the work to be performed hereunder and (ii) issue resale certificates to Contractor's suppliers, whether based in state or out of state, when purchasing materials and fixtures. The "transfer of title clauses" in such purchase contracts shall (A) explicitly provide for the transfer of title to the materials prior to the time materials are installed, and (B) separately state the price of materials, exclusive of the charge for installation.
- (d) Provide the Owner and the City, upon the reasonable request of either, with:
 - (A) a list Major Contractors and Subcontractors in connection with the work to be performed hereunder, which list shall include (unless such information requires the disclosure of confidential information, trade secrets, or information that impairs the Developer's ability to gain pricing advantages relative to materials and services):
 - vii. Name of subcontractor
 - viii. Address and telephone number of headquarters or office
 - ix. Name and telephone number of contact person
 - x. Estimated value of the contract
 - xi. Estimated completion date
 - xii. Scope of Work
 - (B) A copy of the first page and signature page of the subcontract

- (C) Such additional information as may be reasonably requested in writing by the City to ensure compliance with the foregoing provisions, including without limitation copies of the Contractor's sales and use tax returns and schedules of purchases of materials, fixtures, equipment, and machinery.

CONTRACTOR ACKNOWLEDGES AND AGREES THAT THE CITY IS A THIRD PARTY BENEFICIARY OF THE FOREGOING PROVISIONS AND THAT CONTRACTOR'S AGREEMENT TO COMPLY WITH SUCH PROVISIONS FOR THE BENEFIT OF THE CITY IS A MATERIAL INDUCEMENT TO OWNER IN ENTERING INTO THIS CONTRACT. CONTRACTOR FURTHER AGREES THAT ANY FAILURE BY CONTRACTOR TO COMPLY WITH THE FOREGOING PROVISIONS MAY BE DIRECTLY ENFORCED BY THE CITY. WITHOUT LIMITING THE REMEDIES OR OWNER OR THE CITY, THE CITY SHALL HAVE THE RIGHT TO SEEK, AS DAMAGES, THE FULL AMOUNT OF ANY SALES AND USE TAXES NOT ALLOCATED TO THE CITY AS A RESULT OF CONTRACTOR'S FAILURE TO COMPLY WITH THE FOREGOING PROVISIONS, WITHOUT REGARD TO WHETHER CONTRACTOR OR ITS SUBCONTRACTORS PAID SUCH SALES AND USE TAX, TOGETHER WITH INTEREST AT THE LOWER OF 10% OR THE HIGHEST INTEREST RATE ALLOWED BY LAW.

Exhibit D-2

Contract Provisions for Other Contracts

Contractor shall comply with the provisions of this Section _____ to provide that local sales and use taxes generated in connection with all eligible purchases of materials, fixtures, furniture, machinery, equipment and supplies for the work to be performed hereunder are allocated directly to the City of Los Angeles (the "City"). In particular, Contractor shall:

- (a) If Contractor makes any purchases of materials and fixtures amounting to \$500,000 or more (but less than \$5,000,000) from an out-of-state retailer in connection with the work performed hereunder and such materials or fixtures are shipped directly to Contractor from a point outside of California, Contractor shall state the jobsite address (i.e. in the City of Los Angeles) in Schedule C of its sales tax return, and
- (b) If Contractor makes any purchases of furniture totaling \$500,000 or more (but less than \$5,000,000) from a retailer at an out-of-state location and has that property shipped directly to them from a point outside of California, Contractor shall state the jobsite address (i.e. in the City of Los Angeles) in Schedule C of its sales tax return.

Contractor acknowledges and agrees that the City is a third party beneficiary of the foregoing provisions and that Contractor's agreement to comply with such provisions for the benefit of the City is a material inducement to Owner in entering into this contract. Contractor further agrees that any failure by Contractor to comply with the foregoing provisions may be directly enforced by the City.

Exhibit E

Community Benefits Package

The Project will provide public benefits to the City, consisting of the elements described below. The Developer's obligation to provide these benefits are hereby incorporated into the Subvention Agreement as set forth therein.

1. The Developer shall implement a Local Hiring/First Source/Minority Business Recruitment program as more particularly described in Exhibit F attached to the Subvention Agreement, the provisions of which are incorporated into the Subvention Agreement.
2. The Developer shall follow the guidelines established by the U.S. Green Building Council (USGBC) for Leadership in Energy and Environmental Design (LEED®) Rating System for new construction to achieve LEED certification at the minimum LEED Silver sustainability requirement for the shell buildings comprising the Project, except that Costco shall be required to satisfy the sustainability standards included in Exhibit J attached hereto. The City reserves the right to accept alternative certification which the City, in its sole and absolute discretion, determines to be equivalent to LEED Silver.
3. The Developer shall accelerate the construction of the Project in a single continual phase and build out the required infrastructure associated with the Project.
4. To maximize tax benefits realized by the City of Los Angeles, Developer will cause the City of Los Angeles to be designated as the "point of sale" from the purchase of materials, fixtures, machinery, equipment and supplies during the construction of the Project.
5. In addition to the significant financial and operating commitments in the Development Agreement, Developer will:
 - a. Developer shall pay to the City THREE MILLION THREE HUNDRED TWENTY-FIVE MILLION DOLLARS (\$3,325,000) for deposit into The Village at Westfield Topanga Public Benefit Trust Fund ("Public Benefit Trust Fund Deposit") within ninety (90) days of the Effective Date, subject to Developer's rights to terminate this Agreement as set forth in Section 3.3, whereby the City shall refund the Public Benefits Trust Fund Deposit to Developer;
 - b. Establish a location for the San Fernando Valley's "Walk of Hearts" within The Village at Westfield Topanga and annually recognize The Valley's top educator and teacher;

- c. Provide digital signs within the Project for displaying public service announcements and community messages;
- d. Include public art and programming in the Project's outdoor plaza

Exhibit G

Form of Developer Guaranty

IRREVOCABLE AND UNCONDITIONAL GUARANTY
(RE: Westfield Village Subvention)

This Irrevocable and Unconditional Guaranty is entered into as of this ___ day of _____ 2014 (“**Corporate Guaranty**”) by Westfield, LLC, a Delaware limited liability company (“**Guarantor**”), for the benefit of the City of Los Angeles, a municipal corporation, acting through its Office of the Chief Legislative Officer (the “**City**”).

RECITALS

WHEREAS, The City and 21919 Erwin Street LLC, a California limited liability company and West Valley Owner LLC a California limited liability company (21919 Erwin and West Valley Owner are collectively referred to herein as the “**Developer**”) have entered into that certain Subvention Agreement number _____ of City Contracts dated as of _____, 201 (the “**Subvention Agreement**”) pursuant to which the City has agreed to provide a subvention amount not to exceed \$25,000,000 net present value in 2013 dollars, in support of the Westfield Topanga Village project, on the terms and conditions set forth in the Agreement;

WHEREAS, as a condition of the City’s approval of the Subvention Agreement, the City is requiring that Guarantor execute this Guaranty, whereby guaranteeing certain revenues existing at the property as of the date of hereof:

AGREEMENT

1) Guaranty of Obligations.

Guarantor hereby unconditionally, irrevocably and absolutely guarantees to City the due and punctual payment of \$116,000 annually, to the extent that City suffers any loss to its general fund during the construction period for the Project, subject to the restrictions, conditions and limitations set forth in this Guaranty (the “**Guaranteed Obligations**”) and agrees that if the Guaranteed Obligations are not paid by Developer if and when due, Guarantor will promptly, on demand by City, make such payments to City. This is a guaranty of payment and not of collection. Guarantor further agrees that the liability of Guarantor under this Guaranty shall be direct and immediate and that this Guaranty may be enforced by City without having first to proceed against Developer beyond awaiting the expiration of any applicable grace period.

This Guaranty shall remain effective until the Completion Date or until terminated earlier by written consent of City. In the absence of any termination of this Guaranty, Guarantor agrees that nothing shall discharge or satisfy its obligations created hereunder except for the full payment and performance of the Guaranteed Obligations. Upon such full payment and performance of the Guaranteed Obligations, this Guaranty shall automatically terminate.

2) Independent Obligations.

The Guarantor's obligations under this Guaranty are independent of the obligations of the Developer, and the City may enforce any of its rights under this Guaranty independently of any other right or remedy that the City may have for any Guaranteed Obligation. Without limiting the generality of the foregoing, the City may bring a separate action against Guarantor without first proceeding against Developer or any security held by the City, regardless of whether Developer is joined in any such action. Guarantor's liability under this Guaranty will at all times be for One Hundred Percent (100%) of the Guaranteed Obligations, regardless of any limitations on the liability of Developer to the City contained in the Subvention Agreement or elsewhere. The City's rights under this Guaranty will not be exhausted by any action taken by the City until all of the Guaranteed Obligations have been fully paid and performed. The Guarantor shall remain liable for the payment of any and all Guaranteed Obligations even if any portion of it becomes uncollectible by operation of law. If the City is required to restore or return any amount at any time paid for any Guaranteed Obligation in a bankruptcy, insolvency or reorganization of Developer, the Guarantor's liability under this Guaranty will be reinstated and revived, and the rights of the City will continue as though such amount had not been paid.

3) Guaranty Absolute.

The Guarantor expressly agrees that, until the Guaranteed Obligations have been performed in full and each and every term, covenant and condition of this Guaranty is fully performed, the Guarantor shall not be released by or because of:

- a. Any act or event which might otherwise discharge, reduce, limit or modify any of Guarantor's obligations under this Guaranty;
- b. Any waiver, extension, modification, forbearance, delay or other act or omission of the City, or its failure to proceed promptly or otherwise as against Developer, Guarantor or any security;
- c. Any action, omission or circumstance which might increase the likelihood that Guarantor may be called upon to perform under this Guaranty or which might affect the rights or remedies of Guarantor as against Developer; or
- d. Any business interactions occurring at any time between Developer and the City, whether relating to the Loan Documents or otherwise.
- e. Any action of the City described in Section 4 below.

The Guarantor hereby expressly waives and surrenders any and all defense to its liability under this Guaranty based upon any of the foregoing acts, omissions, agreements, waivers or matters. It is the purpose and intent of this Guaranty that the obligations of Guarantor hereunder shall be absolute and unconditional under any and all circumstances except as expressly set forth in this Guaranty.

4) Authority to Modify Obligations.

The Guarantor authorizes the City, at any time and from time to time without notice and without affecting Guarantor's liability under this Guaranty, to:

- a. Alter the terms of all or any part of the Guaranteed Obligations and any security for them;
- b. Accept new or additional instruments, documents, agreements, security of guaranties in connection with all or any part of the Guaranteed Obligations;
- c. Accept partial payments on any Guaranteed Obligation; and
- d. Waive, release, reconvey, terminate, abandon, subordinate, exchange, substitute, transfer, compound, compromise, liquidate and enforce all or any part of the Guaranteed Obligations and any security of guaranties for them and apply and such security and direct the order or manner of its sale (and bid and purchase at any such sale), as the City in its discretion may determine.

5) Guarantor's Waivers.

Without limiting the generality of any other provision of this Guaranty, the Guarantor hereby expressly waives:

- a. All statutes of limitations as a defense to any action or proceeding brought against Guarantor by the City or in any action for the collection of the Guaranteed Obligations to the fullest extent permitted by law;
- b. Any right and/or remedy it now has or hereafter may have to require the City to proceed against the Developer, proceed against or exhaust any security held from the Developer, waives any benefit of, and any right to participate in or direct the application of any now existing or hereafter acquired security or support for the Guaranteed Obligations, or pursue any other remedy in the City's power to pursue; including proceeding against any other person or entity guarantying the Guaranteed Obligations.
- c. Any defense based on any claim that Guarantor's obligations exceed or are more burdensome than those of the Developer;
- d. Any defense based on: (i) any legal disability of Developer, and (ii) any release, discharge, modification, impairment or limitation of the liability of Developer to the City from any cause, whether consented to by the City or arising by operation of law or from any bankruptcy or other voluntary or involuntary proceeding, in or out of court, for the adjustment of debtor-creditor relationships ("**Insolvency Proceeding**");
- e. Any defense based on any action taken or omitted by the City in any Insolvency Proceeding involving Developer, including any election to have the City's claim allowed as being secured, partially secured or unsecured, any extension of credit by the City to Developer in any Insolvency Proceeding, and the taking and holding by the City of any security for any such extension of credit;

- f. All presentments, demands for performance, notices of nonperformance, protests, notices of protest, notices of dishonor, notices of acceptance of this Guaranty and of the existence, creation, or incurring of new or additional indebtedness, and demands and notices of every kind except as expressly set forth in this Guaranty; and
 - g. Any defense based on or arising out of any defense that Developer may have to the payment or performance of any of its obligations under the Loan Agreement;
 - h. Any disability or other defense of Developer, or the partial or complete cessation from any cause whatsoever of the liability of Developer for the Indebtedness for any reason other than payment in full and final satisfaction;
 - i. Any act or omission by City that directly or indirectly results in or aids the discharge of Developer or any of the Indebtedness by operation of law or otherwise.
- 6) Statutory Waiver of Rights and Defenses Regarding Election of Remedies.

The Guarantor has been made aware of the provisions of California Civil Code Section 2856 (as amended), has read and understands the provisions of that statute, has been advised by its counsel as to the scope, purpose and effect of that statute, and based thereon, and without limiting the foregoing waivers, the Guarantor agrees to waive all suretyship rights and defenses described in California Civil Code Section 2856(a). Without limiting any other waivers herein, the Guarantor hereby gives the following waivers pursuant to Sections 2856(c) and 2856(d) of the California Civil Code:

7) Waiver of Subrogation and Certain Other Rights.

Regardless of whether Guarantor may have made any payments to the City, until the Guaranteed Obligations have been paid in full Guarantor hereby waives: (i) all rights of subrogation, indemnification, contribution and any other rights to collect reimbursement from Developer or any other party for any sums paid to the City, whether contractual or arising by operation of law (including, without limitation, under any provisions of the Bankruptcy Code, or any successor or similar statutes) or otherwise, (ii) all rights to enforce any remedy that the City may have against Developer, and (iii) all rights to participate in any security now or later to be held by the City for the Guaranteed Obligations. Guarantor further agrees that, to the extent the waiver or agreement to withhold the exercise of its rights of subrogation, reimbursement, indemnification and contribution as set forth herein is found by a court of competent jurisdiction to be void or voidable for any reason, any rights of subrogation, reimbursement, contribution and indemnification Guarantor may have against Developer or against any collateral or security, shall be junior and subordinate to any rights the City may have against Developer, and to all right, title and interest the City may have in any such collateral or security. If any amount shall be paid to Guarantor on account of any such subrogation, reimbursement, contribution or indemnification rights at any time when obligations under the Guaranteed Obligations have not been paid in full, such amount shall be held in trust for the City and shall forthwith be paid over to the City to be credited and applied against the Guaranteed Obligations. The covenants and waivers of Guarantor contained in this Section 7 shall be effective until the Guaranteed Obligations have been paid and performed in full and are made for the benefit of City, Developer, and any other

person against whom Guarantor shall at any time have any rights of subrogation, reimbursement, contribution, or indemnification with respect to Guarantor's obligation under this Guaranty.

8) Relationship of Parties.

Guarantor represents and warrants to the City that:

- a. The City has not made any representations or warranties to Guarantor regarding the creditworthiness of Developer or the prospects of repayment from sources other than Developer.
- b. This Guaranty is executed at the request of Developer.
- c. Guarantor has established adequate means of obtaining from Developer on a continuing basis financial and other information pertaining to the business of Developer; and
- d. Guarantor assumes full responsibility for keeping fully informed with respect to the ownership, business, operation, condition and assets of Developer. Guarantor agrees that the City will have no duty to disclose or report to Guarantor any information now or hereafter known to the City relating to the ownership, business, operation, condition or assets of Debtor, the City will have no duty to inquire into the authority or powers of Developer or any officer, employee or agent of Developer with regard to any Guaranteed Obligations, and all Guaranteed Obligations made or created in good faith reliance upon the professed exercise of any such authority or powers will be guaranteed under this Guaranty.

9) Subordination.

Until all of the Guaranteed Obligations have been paid in full, Guarantor agrees that all existing and future debts, obligations and liabilities of Developer to Guarantor (hereinafter collectively referred to as "**Subordinated Debt**") will be and hereby are expressly subordinated to the Guaranteed Obligations, and Guarantor's right of payment of the Subordinated Debt is expressly deferred to the prior payment in full of the Guaranteed Obligations.

10) Notice of Certain Events.

Guarantor shall give written notice to the City promptly (in any event within five (5) calendar days after Guarantor learns of same) of any of the following: the institution of any litigation or legal or administrative proceeding or investigation pending against or materially affecting the Guarantor, or any of the Guarantor's properties.

11) Reasonableness and Effect of Waivers.

Guarantor warrants and agrees that each of the waivers set forth in this Restated Guaranty is made with full knowledge of its significance and consequences and that, under the circumstances, the waivers are reasonable and not contrary to public policy or law. If any of such waivers is determined to be contrary to any applicable law or public policy, such waiver will be effective only to the maximum extent permitted by law

12) Cumulative Remedies; No Waiver.

The rights, powers and remedies of the City under this Guaranty are cumulative and not exclusive of any other right, power or remedy that the City would otherwise have. No failure or delay on the part of the City in exercising any such right, power or remedy preclude any other right, power or remedy under this Guaranty.

13) Costs and Expenses of Enforcement.

Guarantor agrees to pay to the City, on demand, all costs and expenses, including attorneys' fees, incurred by the City in exercising any right, power or remedy conferred by this Guaranty, or in the enforcement of this Guaranty, whether or not any action is filed in connection with such exercise. Such costs, expenses and attorneys' fees will also include:

- a. Those incurred in connection with any action that may be filed, regardless of whether settled or prosecuted to final judgment, as determined by the court, mediator, referee or arbitrator, including, without limitation, in connection with appeal, review, or rehearing, and
- b. Those incurred in any post-judgment proceeding to enforce any judgment in connection with this Guaranty.

14) Further Assurances.

The Guarantor must execute, acknowledge and deliver to the City all documents and must take all actions reasonably required by the City from time to time to confirm or effect the matters set forth herein, or otherwise to carry out the purposes of this Guaranty.

15) Notices.

All notices, demands, approvals and other communications provided for in this Restated Guaranty must be in writing and be delivered to the appropriate party at its address as follows:

If to Guarantor: Westfield, LLC
Attention: Peter Schwartz, General Counsel
2049 Century Park East, 41st Floor
Los Angeles, CA 90067

With copies to: Goodwin Procter LLP
601 South Figueroa Street, 41st Floor
Los Angeles, CA 90071
Attention: Lewis G. Feldman, Esq.

If to the City:

Community Development Department
Economic Development Division
1200 West Seventh Street, Sixth Floor

Los Angeles CA 90017
Attention: Director, Economic Development Division

Addresses for notice may be changed from time to time by written notice to all other parties. All communications will be effective when actually received; provided, however, that non-receipt of any communication as the result of a change of address of which the sending party was not notified or as the result of a refusal to accept delivery will be deemed receipt of such communication.

16) Binding Agreement; Assignment; Amendment.

This Guaranty and its terms, covenants and conditions will be binding upon and inure to the benefit of Guarantor, the City and their respective successors and assigns, except that Guarantor will not be permitted to transfer, convey or assign this Guaranty or any right or obligation under it without the prior written consent of the City (and any attempt to do so shall be void). Such consent may be withheld in the sole and absolute discretion of the City. The City may assign or otherwise transfer all or part of its interest under this Guaranty without notice to or the consent of Guarantor. Neither this Guaranty nor any provision of it may be amended, modified, waived, discharged or terminated except by an instrument in writing duly signed by or on behalf of the City.

17) No Third Parties Benefit.

This Guaranty is made for the purpose of setting forth certain rights and obligations of Guarantor and the City, and no other person will have any rights under or by reason of this Guaranty.

18) Interpretation.

Whenever the context requires, all terms used herein in the singular will be construed in the plural and vice versa, and each gender will include each other gender. The term "Developer" will mean the named Developer and any other Person at any time and from time to time assuming or otherwise becoming primarily liable on all or any part of the Guaranteed Obligations. Section headings in this Guaranty are included for convenience of reference only and are not a part of this Guaranty for any other purpose.

19) Counterparts.

This document may be executed in counterparts with the same force and effect as if the parties had executed on the instrument, and each counterpart will constitute an original.

20) Miscellaneous.

All provisions of this Guaranty are severable, and no provision of this Guaranty that is held to be inoperable, unenforceable or invalid will affect the remaining provisions.

21) Time is of the Essence.

Time is of the essence of this Guaranty. This Guaranty is governed by the laws of the State of California.

22) Attorneys' Fees.

If any claim or controversy arising under this Guaranty between the City and Guarantor is litigated in any lawsuit action between such parties, Guarantor agrees to pay all expenses incurred arising out of litigated action, including reasonable attorneys' fees.

IN WITNESS WHEREOF, Guarantor has executed this Guaranty as of the date first written above.

Guarantor:

Westfield, LLC,
a Delaware limited liability company

By: _____

Name: _____

Its: _____

Exhibit H

Zip Codes for Excluded Retailers

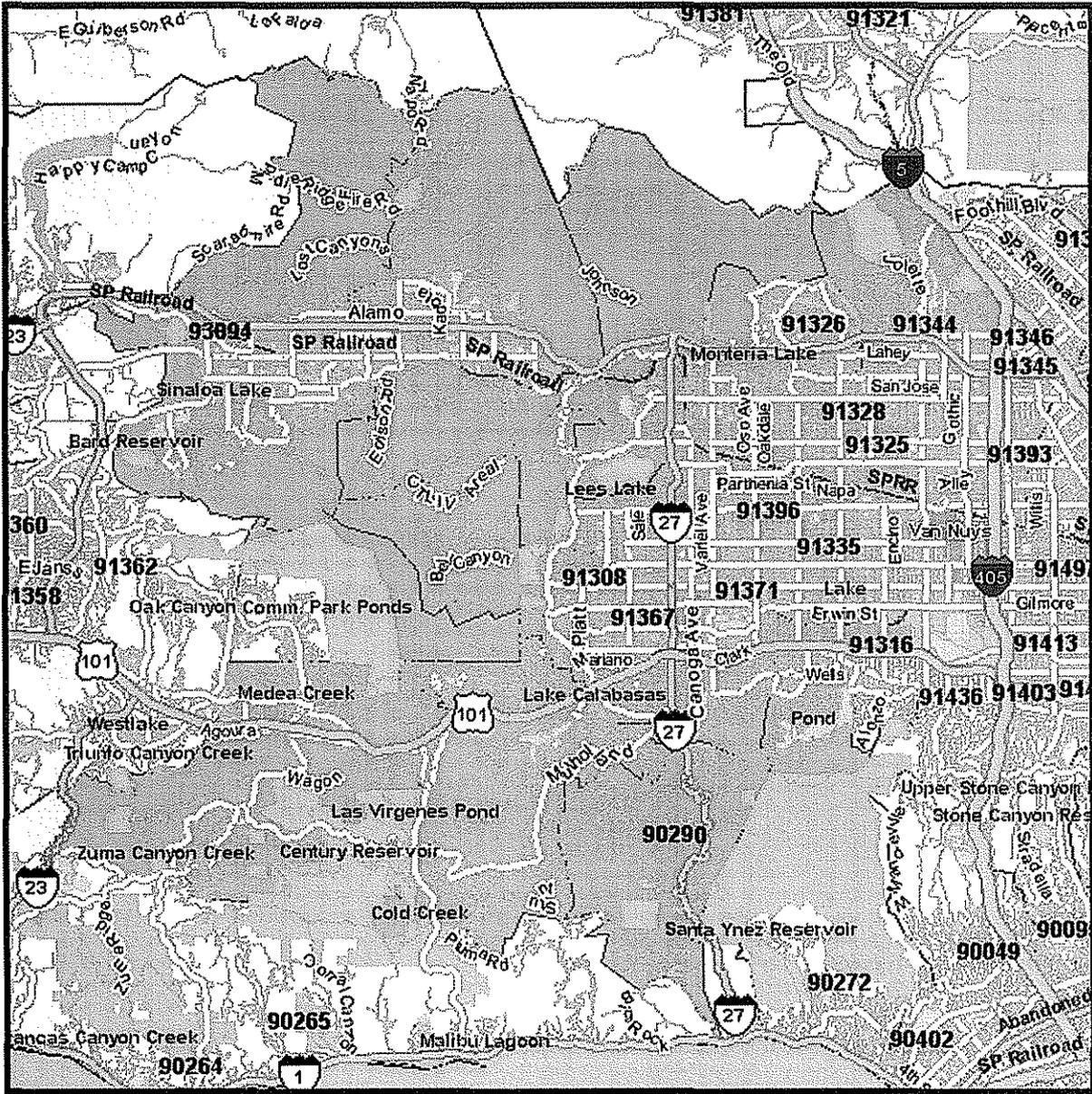


Exhibit I

Schedule of Performance

| | Action to be Taken | Time of Performance |
|---|--|--|
| Actions relating to Design Requirements | | |
| 1. | Submittal by the Developer of those certain plans under plan check numbers 13010-1000-02904, 13010-1000-02905, 13010-1000-02906, 13010-1000-02908, 13010-1000-02909, 13010-1000-02910, 13010-10001-02747, 13010-20003-02747, and 13010-10000-02749 (“ Plan Check Drawings ”). | As of the date of this Effective Date. |
| 2. | <u>Approvals and Permits.</u> Developer shall obtain and submit to City evidence of all permits and approvals necessary for the construction of the Project. | After City approval of Plan Check Drawings, but in no event later than the time required for commencement of construction. |
| Actions relating to Construction | | |
| 3. | <u>Preconstruction Meeting.</u> Developer and General Contractor shall meet with City Office of Audits and Compliance. | Not later than sixty (60) Business Days after receipt of all permits and approvals. |
| 4. | <u>Commencement of Construction.</u> Developer shall commence construction of the Improvements as required by the Subvention Agreement and thereafter (the “ Construction Commencement Date ”). Subvention Agreement Section 5.1. | Not later than 6 months following execution of the Subvention Agreement. |
| 5. | <u>Completion of Construction</u> Developer shall complete construction of the Improvements. | Not later than 30 months after Construction Commencement Date. |
| 6. | <u>Final Inspection.</u> City shall conduct a final inspection of all improvements. | Within fifteen (15) Business Days after request by Developer. |

Exhibit J

SCOPE OF DEVELOPMENT

This Scope of Development establishes the responsibilities of the Developer for development of the Project Site. The development of the Project shall conform to the following approvals by the City of Los Angeles:

1. That certain Development Agreement by and among the City and Developer dated July 23, 2012, Council File Nos: 11-1980; 11-1980-S1; and 11-1980-S2.
2. CPC-2011-382-SPP-CUB-CU-GB, as revised by PLUM on February 7, 2012.
3. VTT 69943-1A-(A)2.
4. 11-1980-S4.

Exhibit J

Scope of Development – Costco Specific Sustainability Features

Building and Materials

- The building will include at least 10 percent recycled content;
- The roof will include skylights for day lighting and/or solar / photovoltaic panels; and
- A “Cool Roof” design will be implemented to reduce the heat island effect.

Energy

- Photosensors installed in the skylights throughout the warehouse automate the control of HID lighting, minimizing use of artificial lighting;
- Interior and Exterior High-Intensity Discharge (HID) lighting systems will be used to continually increase efficiency, which generate more light per unit of electric power than fluorescent and incandescent lamps;
- Refrigeration systems will use waste heat to preheat hot water tanks;
- Night screens will be installed on all open refrigeration cases reducing cooling loss and energy loads on refrigeration compressors;
- Localized energy controls will be installed in all refrigeration units, allowing warehouse manager to manage energy requirements;
- Air Doors will be installed in Produce Coolers, using air flow to contain cool air in the interior;
- Costco’s integrated Energy Management Systems include centralized controls and monitoring for lights, HVAC and Refrigeration; and
- Low flow fixtures will be utilized in restrooms, and all hand sinks, meeting LEED defined criteria for water efficiency of 40%.

Reuse and Recycling

- Grease interceptor systems will be installed, allowing the filtering and recycling of grease to be processed into biofuel;
- Organic waste produced will be sent to worm farms and commercial compost facilities, diverting from landfills;
- All recycled plastics will be composed of 70-100% post-consumer recycled plastics. Suppliers will be requested to use no PVC;

- Corrugated cardboard materials will use approximately 60% recycled content;
- Specified to vendors to use brown craft vs. bleach cardboard, diverts materials from landfills, saving water, trees, and energy; and
- Source separated recycling will be implemented and practiced, and a dedicated area will be maintained for separating and storage.

General Project Sustainability Features

Water Use. The project shall employ the following water conservation features for the Project’s retail, restaurant, hotel, and office and other permitted uses (unless otherwise required and to the satisfaction of the City of Los Angeles Department of Building and Safety):

- Employ strategies that in aggregate use 30 percent less water than the water use baseline calculated for the building;
- Install separated greywater piping for retail buildings and landscaping;
- Reduce potable water consumption for irrigation, including by using recycled water for irrigation;
- Install high-efficiency toilets that provide a maximum 1.28 gallons per flush;
- Install no-flush or waterless urinals;
- Install restroom faucets/toilet controls of a self-closing design (i.e., that would automatically turn off when not in use);
- Install pre-rinse, self-closing spray heads for restaurant sinks;
- Use Energy Star–rated dishwashers;
- Use Energy Star–rated clothes washers within the hotel;
- Install restroom faucets with a maximum flow rate of 1.5 gallons per minute for hotel, restaurant, and office uses;
- Install restroom faucets with a maximum flow rate of 0.5 gallons per minute for retail uses; and
- Prohibit the use of single-passing cooling equipment.

Landscaping. The project shall employ the following sustainable landscaping features:

- Weather-based irrigation controls with rain shutoff;
- Matched precipitation (flow) rates for sprinkler heads;

- Minimized use of spray systems in favor of drip, bubblers, rotating sprinkler nozzles, etc;
- Irrigation system with minimum distribution uniformity of 75 percent;
- Proper hydro-zoning, turf minimization and use of native (at least 10 percent) and drought tolerant plant materials (at least 30 percent);
- Use of water conserving power spray equipment for non-permeable surface cleaning;
- Flow sensors and master shutoff;
- Use of landscape contouring to minimize precipitation runoff; and
- A separate water meter (or submeter), flow sensor, and master valve shutoff shall be installed for irrigated landscape areas totaling 5,000 square feet and greater, to the satisfaction of the City of Los Angeles Department of Building and Safety.

Energy. The project shall employ the following energy conservation features:

- Enhanced energy commissioning;
- Heat reflective roofs;
- Provide photovoltaic panels on a minimum of [40,000] square feet of roof area
- The Project's buildings shall be designed to maximize energy performance, using a computer simulation model to identify the most cost-effective energy efficiency measures; and
- All tenants shall be provided with guidelines for sustainable design and construction, enabling the tenants' improvements to be designed to optimize the efficiency of water and energy use.

Stormwater Design.

- Permeable paving with underground water detention shall be installed in the locations shown in Exhibit F to the Development Agreement; and
- Bioswale shall be constructed along Victory Boulevard east of Westfield Way as shown in Exhibit F to the Development Agreement.

Recycling.

- Recycle and/or salvage at least 75 percent of non-hazardous construction and demolition debris;
- Use a minimum of 10 percent of the total materials value on building materials or

products extracted, harvested, or recovered and manufactured within 500 miles of the project site; and

- Use a minimum of 50 percent of wood-based materials and products, certified in accordance with the Forest Stewardship Council's Principles and Criteria, for wood building components including, but not limited to, structural framing and general dimensional framing, flooring, finishes, and wood doors.

Connections to Alternative Transportation.

- Bicycle parking, showers, and changing areas shall be provided at the Project site;
- The existing bus stops along Owensmouth Avenue and Victory Boulevard, and the proposed stop along Topanga Canyon Boulevard, shall be enhanced with pedestrian seating and shade shelters;
- Electric vehicle charging stations shall be provided for alternative fuel vehicles;
- Preferred parking for low emitting and fuel efficient vehicles shall be provided; and
- Walking and bicycling to the Project site will be facilitated through the creation and maintenance of landscaped linear parks along the Project's street edges, that include meandering sidewalks and multi-use trails as well as pedestrian amenities such as seating areas, canopies, and lighting.

Exhibit K
Estimated City Deposit Schedule

Exhibit L

STANDARD PROVISIONS FOR CITY CONTRACTS

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STANDARD PROVISIONS FOR CITY CONTRACTS

PSC - 1. CONSTRUCTION OF PROVISIONS AND TITLES HEREIN

All titles, subtitles, or headings in this contract have been inserted for convenience, and shall not be deemed to affect the meaning or construction of any of the terms or provisions hereof. The language of this contract shall be construed according to its fair meaning and not strictly for or against the City or Contractor. The word "Contractor" herein in this contract includes the party or parties identified in the contract. The singular shall include the plural; if there is more than one Contractor herein, unless expressly stated otherwise, their obligations and liabilities hereunder shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

PSC - 2. NUMBER OF ORIGINALS

The number of original texts of this contract shall be equal to the number of the parties hereto, one text being retained by each party. At the City's option, one or more additional original texts of this Contract may also be retained by the City.

PSC - 3. APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT

Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the City including, but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing laws which affect employees. This contract shall be enforced and interpreted under the laws of the State of California without regard to conflict of law principles. Contractor shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this contract.

If any part, term or provision of this contract is held void, illegal, unenforceable, or in conflict with any law of a federal, state or local government having jurisdiction over this contract the validity of the remaining parts, terms or provisions of the contract shall not be affected thereby.

PSC - 4. INTEGRATED CONTRACT

This contract contains the full and complete agreement between the parties, sets forth all of the rights and duties of the parties with respect to the subject matter hereof, and replaces any and all previous agreements or understandings, whether written or oral, relating thereto. No verbal agreement nor conversation with any representative of either party shall affect or modify any of the terms and conditions of the contract.

PSC - 5. AMENDMENT

Any change to the terms of the contract, including changes in the scope of work to be performed and any increase or decrease in the amount of compensation, which are agreed to by the parties shall be incorporated into the contract by a written amendment properly executed by the authorized representatives of the parties and effective pursuant to the provisions of PSC-4. No verbal agreement with any officer or employee shall affect or modify any of the terms or conditions of the contract.

PSC - 6. BREACH

If any party fails to perform, in whole or in part, any promise, covenant, or agreement set forth herein, or should any representation made by it be untrue, any aggrieved party may avail itself of all rights and remedies, at law or equity, in the courts of law.

PSC - 7. WAIVER

A waiver of a default of any part, term or provision of this contract must be in writing and shall not be construed as a waiver of any succeeding default or as a waiver of the part, term or provision itself. A party's performance after the other party's default shall not be construed as a waiver of that default.

PSC - 8. PERMITS

Contractor and its directors, officers, partners, agents, employees, and subcontractors, to the extent allowed hereunder, shall obtain and maintain all licenses, permits, certifications and other documents necessary for Contractor's performance hereunder and shall pay any fees required therefore.

PSC - 9. LOS ANGELES CITY BUSINESS TAX REGISTRATION CERTIFICATE

If applicable, Contractor represents that it has obtained and presently holds the Business Tax Registration Certificate(s) required by the City's Business Tax Ordinance, Section 21.00 *et seq.* of the Los Angeles Municipal Code. For the term covered by this contract, Contractor shall maintain, or obtain as necessary, all such Certificates required of it under the Business Tax Ordinance, and shall not allow any such Certificate to be revoked or suspended.

PSC - 10. INTELLECTUAL PROPERTY WARRANTY

Contractor represents and warrants that its performance of all obligations under this contract does not infringe in any way, directly or contributorily, upon any third party's intellectual property rights, including, without limitation, patents, copyrights, trademarks, trade secrets, right of publicity and proprietary information.

PSC - 11. WARRANTY AND RESPONSIBILITY OF CONTRACTOR

Contractor warrants that the work performed hereunder shall be completed in a manner consistent with professional standards practiced among those firms within Contractor's profession, doing the same or similar work under the same or similar circumstances.

PSC - 12. NON-DISCRIMINATION

Unless otherwise exempt, this contract is subject to the non-discrimination provisions in Sections 10.8 through 10.8.2 of the Los Angeles Administrative Code as amended from time to time. The Contractor shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and the City. In performing this contract, Contractor shall not discriminate in its employment practices against any employee

or applicant for employment because of such person's race, religion, national origin, ancestry, sex, sexual orientation, age, disability, domestic partner status, marital state or medical condition. Any subcontract entered into by Contractor to the extent allowed hereunder, shall include a like provision for work to be performed under this contract.

PSC - 13. EQUAL EMPLOYMENT PRACTICES

Unless otherwise exempt, this Contract is subject to the equal employment practices provisions in Section 10.8.3 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of this contract, Contractor agrees and represents that it will provide equal employment practices and Contractor and each subcontractor hereunder will ensure that in his or her employment practices persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
 - 1. This provision applies to work or service performed or materials manufactured or assembled in the United States.
 - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
 - 3. Contractor agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.

- B. Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

- C. Nothing contained in this Contract shall be construed in any manner so as to require or permit any act which is prohibited by law.

- D. At the time a supplier registers to do business with the City, or when an individual bid or proposal is submitted, Contractor shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of City Contracts.

- E. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
 - 1. Hiring practices;
 - 2. Apprenticeships where such approved programs are functioning and other on-the-job training for non-apprenticeable occupations;

3. Training and promotional opportunities; and
 4. Reasonable accommodations for persons with disabilities.
- F. Any subcontract entered into by Contractor, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

PSC - 14. AMERICANS WITH DISABILITIES ACT

Contractor hereby certifies that it will comply with the Americans with Disabilities Act, 42 USC §12101 et seq., and its implementing regulations (ADA), the Americans with Disabilities Act Amendments Act of 2008 (ADAAA), Pub. L. 110-325 and all subsequent amendments, Section 504 of the Rehabilitation Act of 1973 (Rehab. Act), as amended, 29 USC 794 and 24 CFR Parts 8 and 9, the Uniform Federal Accessibility Standards (UFAS), 24 CFR, Part 40, and the Fair Housing Act, 42 U.S.C. 3601, *et seq.*; 24 CFR Parts 100, 103, and 104 (FHA) and all implementing regulations. The Contractor will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the ADA, the ADAAA, the Rehab Act, the UFAS and the FHA and all subsequent amendments. Contractor will not discriminate against persons with disabilities or against persons due to their relationship to or association with a person with a disability. Any subcontract entered into by the Contractor, relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

PSC - 15. CONTRACTOR RESPONSIBILITY ORDINANCE

Unless otherwise exempt, this contract is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 et seq., of the Los Angeles Administrative Code, as amended from time to time, which requires Contractor to update its responses to the responsibility questionnaire within thirty calendar days after any change to the responses previously provided if such change would affect Contractor's fitness and ability to continue performing this contract.

In accordance with the provisions of the Contractor Responsibility Ordinance, by signing this contract, Contractor pledges, under penalty of perjury, to comply with all applicable federal, state and local laws in the performance of this contract, including but not limited to, laws regarding health and safety, labor and employment, wages and hours, and licensing laws which affect employees. Contractor further agrees to: (1) notify the City within thirty calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that Contractor is not in compliance with all applicable federal, state and local laws in performance of this contract; (2) notify the City within thirty calendar days of all findings by a government agency or court of competent jurisdiction that Contractor has violated the provisions of Section 10.40.3(a) of the Contractor Responsibility Ordinance; (3) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, submit a Pledge of Compliance to the City; and (4) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, comply with the requirements of the Pledge of Compliance and the requirement to notify the City within thirty calendar days after any government agency or court of competent jurisdiction has initiated an investigation or has found

that the subcontractor has violated Section 10.40.3(a) of the Contractor Responsibility Ordinance in performance of the subcontract.

PSC - 16. SLAVERY DISCLOSURE ORDINANCE

Unless otherwise exempt, this contract is subject to the Slavery Disclosure Ordinance, Section 10.41 of the Los Angeles Administrative Code as amended from time to time. Contractor certifies that it has complied with the applicable provisions of the Slavery Disclosure ordinance. Failure to fully and accurately complete the affidavit may result in termination of this contract.

PSC - 17. COMPLIANCE WITH LOS ANGELES CITY CHARTER SECTION 470(c)(12)

The Contractor, Subcontractors, and their Principals are obligated to fully comply with City of Los Angeles Charter Section 470(c)(12) and related ordinances regarding limitations on campaign contributions and fundraising for certain elected City officials or candidates for elected City office if the contract is valued at \$100,000 or more and requires approval of a City elected official. Additionally, Contractor is required to provide and update certain information to the City as specified by law. Any Contractor subject to Charter Section 470(c)(12), shall include the following notice in any contract with a subcontractor expected to receive at least \$100,000 for performance under this contract:

Notice Regarding Los Angeles Campaign Contribution and Fundraising Restrictions

As provided in Charter Section 470(c)(12) and related ordinances, you are a subcontractor on City of Los Angeles Contract #_____. Pursuant to City Charter Section 470(c)(12), subcontractor and its principals are prohibited from making campaign contributions and fundraising for certain elected City officials or candidates for elected City office for 12 months after the City contract is signed. Subcontractor is required to provide to contractor names and addresses of the subcontractor's principals and contact information and shall update that information if it changes during the 12 month time period. Subcontractor's information included must be provided to Contractor within ten (10) business days. Failure to comply may result in termination of contract or any other available legal remedies including fines. Information about the restrictions may be found at the City Ethics Commission's website at <http://ethics.lacity.org/> or by calling 213/978-1960.

Contractor, Subcontractors, and their Principals shall comply with these requirements and limitations. Violation of this provision shall entitle the City to terminate this Agreement and pursue any and all legal remedies that may be available.

ATTACHMENT B

THE VILLAGE AT WESTFIELD TOPANGA
REVISED FEASIBILITY STUDY

(Next page)



BETTER COMMUNITIES. BOLDER FUTURES.

ROSENOW SPEVACEK GROUP INC.
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SANTA ANA, CALIFORNIA
92701-4502

T 714 541 4585
F 714 541 1175
E INFO@WEBRSG.COM
WEBRSG.COM

Via Electronic Mail

Date: February 25, 2014

To: Gerry Miller
Office of the Chief Legislative Analyst
CITY OF LOS ANGELES

From: Jim Simon, Principal
ROSENOW SPEVACEK GROUP INC.

**SUBJECT: VILLAGE AT WESTFIELD TOPANGA REVISED FEASIBILITY STUDY,
DEVELOPMENT GAP, DEMAND ANALYSIS, AND FISCAL AND ECONOMIC
IMPACT PROJECTIONS**

On May 3, 2013, Rosenow Spevacek Group, Inc ("RSG") provided the Office of the Chief Legislative Analyst our Project Feasibility and Economic Impact Assessment for the proposed Village at Westfield Topanga project in Warner Center ("2013 Report"). The report assessed the development proposal by Westfield LLC to construct an outdoor lifestyle shopping center anchored by a relocated Costco and a select-service hotel in a single phase beginning this year ("Project"). In part, the 2013 Report concluded that the Project faced a financial gap of \$48.4 million that would need to be closed in order for projected fiscal benefits totaling \$140.9 million to accrue to the City. On June 28, 2013, the City Council directed staff to negotiate the terms and conditions of a \$25 million subvention payment to facilitate development by Westfield LLC.

After receiving City Council direction, CLA staff and the District 3 Council office began discussions with the developer on a subvention agreement and several drafts were exchanged. During negotiations, it was revealed by the developer that the Project's scope was changing, specifically removing the hotel from the initial phase, increased development costs, adding a parking fee program, and some changes to the proposed tenant mix. CLA requested a preliminary update from RSG regarding the potential impact to the City of these changes, and received from RSG a memo dated January 29, 2014 which both delineated lower fiscal benefits as well as a recommendation to review the entirety of the development program changes including the development feasibility, fiscal impact and economic impact determinations made in the 2013 Report.

This memorandum serves to highlight the key differences between the 2013 Report and the revised tenant information and development program. In sum, while the 2013 Report concluded that the Project would generate a net new fiscal impact of \$140.9 million (or \$61.1 million net present value) and a \$48.4 million Project feasibility shortfall, our current analysis concludes that the Project's net new fiscal impact is **\$95.4 million** (or \$41.9 million net present value) and faces a **\$35.6 million** feasibility gap. The Subvention Amount, defined as 50% of the net present value (6% discount rate) of the projected tax revenues over 25-years, is approximately **\$20.9 million**.

FISCAL HEALTH
ECONOMIC DEVELOPMENT
REAL ESTATE, HOUSING
AND HEALTHY COMMUNITIES

PROJECT FEASIBILITY

Throughout 2013, Westfield made significant changes to the development program, which in turn have substantial impacts on the development costs, operating income and Project feasibility gap. The following changes have been made since the 2013 Report, impacting the development costs:

- Removed hotel from development program
- Decreased parking structure size due to removal of hotel
- Increased construction quality of the retail component
- Increased retail concourse and kiosk improvements
- Increased shuttle development/set up costs
- Portions of the surface parking will incorporate permeable paving
- Additional pre-development costs
- Additional on site improvements
- Additional off site improvements, including reconfiguration of the Topanga Mall entry
- General increases in construction costs over approximately 12-months
- Updated lease rates based on committed tenants
- Additional operating revenues, including parking revenues

As in the 2013 Report, RSG assessed the feasibility of the Project using direct capitalization ("direct cap"), discounted cash flow ("DCF"), and internal rate of return ("IRR") methodologies to calculate a feasibility gap. In the 2013 Report, RSG placed the most weight on the direct cap methodology because the direct cap methodology requires fewer assumptions and relies on projected revenues as soon as the Project reaches stabilization. In contrast, the DCF and IRR methodologies rely heavily on long-term revenues of the Project, revenues which are merely calculated based on expected growth rates. This memo presents the feasibility gap with an emphasis on the direct cap methodology for many of the same reasons outlined in the 2013 Report, most importantly that fewer assumptions impact the feasibility gap under a direct cap analysis.

The following table outlines the Project development costs, including land cost, supportable investment under the direct cap methodology, and a development feasibility gap.

RETAIL SUMMARY

| | | |
|----------------------------------|-----------|---------------------|
| Land Cost | \$ | 42,932,380 |
| Retail Construction | | 292,761,739 |
| Total Project | \$ | 335,694,119 |
| Supportable Investment | | |
| Direct Cap /1 | | 300,060,634 |
| Feasibility Gap (Rounded) | | (35,600,000) |

FISCAL IMPACT CHANGES

The developer is proposing a paid-parking program and provided a parking analysis from Gibson Transportation Consulting Inc. which reports that the Project could expect to realize over \$2.0 million annually in parking revenues (net of Costco and gym guest validations). The purpose of this program is to provide the developer additional cash flow from the parking. The developer is correct that some newer peer projects are shifting away from free parking, so this concept is not unusual even in the West Valley where there are ample parking spaces available for free (which happen to be at the developer's Topanga Mall and Promenade projects). The City levies a 10 percent parking tax on such facilities, so this change in the Project parking program would have fiscal benefits to the City; RSG incorporated these revenues in our fiscal impact projection update below.

Additionally, the tenant roster has shifted several times over approximately 18-months. The tenant composition was reassessed in January 2014 and was reassessed as a part of this updated memorandum. In general, the following changes have been made to the tenant roster:

- Some large retailers with significant taxable sales have been removed from the tenant roster
- Many new small boutique specialty and apparel retailers have been added to the tenant roster
- Taxable sales of comparable malls have been compared to Westfield's reported sales
- Costco expects a 46% increase in taxable sales productivity at the new location, in addition to the increased sales attributed to the increased store size

The following table compares the 2013 Report projections and subvention amount to the projected revenues and subvention amounts revised in accordance with the aforementioned changes.

¹ Direct cap valuation incorporates a 6.6% capitalization rate on Costco ground lease income and a 7.1% capitalization rate on all other retail net operation income. See our May 2013 report for additional assumptions.

SUBVENTION AMOUNT SUMMARY

| Revenue Source | 25-Year Net New Fiscal Impact | |
|---|-------------------------------|----------------------------------|
| | 2013 Nominal Projections | 2014 Revised Nominal Projections |
| Sales Tax and In-Lieu Sales Tax | \$ 53,766,193 | \$ 46,248,265 |
| Transient Occupancy Tax | 34,467,738 | - |
| Property Tax | 34,161,928 | 25,610,298 |
| Gross Receipts Tax | 11,723,471 | 11,235,428 |
| Parking Tax | - | 8,180,181 |
| Motor Vehicle License Fees and Property Tax In-Lieu | 8,128,006 | 6,382,699 |
| Utility User's Tax | 4,015,935 | 3,166,905 |
| Gas Tax | - | - |
| Construction Materials Sales Tax | 391,240 | 351,606 |
| Construction Gross Receipts | 108,718 | 97,596 |
| City Service Costs | (5,840,258) | (5,840,258) |
| Total | \$ 140,922,971 | \$ 95,432,720 |
| Net Present Value (6%) | \$ 61,081,630 | \$ 41,908,907 |
| Subvention Amount (50% of NPV) | \$ 30,540,815 | \$ 20,954,453 |

ECONOMIC IMPACTS

The development program and operations of the Project drive the regional economic impacts. By changing the scope of the development program and changing the tenant composition of the Project, the economic impacts change concurrently. Further, RSG updated the economic impact analysis with current job and economic output multipliers according to MIG, Inc's IMPLAN Software. The following table illustrates the economic impacts resulting from the 2014 development programs and tenant rosters.

FULL AND PART TIME EMPLOYMENT, & ECONOMIC OUTPUT

| | Temporary (Construction) Jobs | | Permanent (Operations) Jobs | |
|------------------------|-------------------------------|--------------|-----------------------------|--------------|
| | Part Time | Full Time | Part Time | Full Time |
| Jobs | | | | |
| Direct | 190 | 912 | 500 | 1,177 |
| Indirect | 186 | 227 | 87 | 107 |
| Induced | 238 | 290 | 150 | 184 |
| Total Jobs | 614 | 1,429 | 738 | 1,467 |
| Economic Output | | | | |
| Direct | \$174,819,188 | | \$101,500,134 | |
| Indirect | \$59,609,847 | | \$24,488,667 | |
| Induced | \$60,809,456 | | \$36,990,491 | |
| Total Output | \$295,238,491 | | \$162,979,292 | |

Sources: Fiscal Feasibility Analysis, United States Bureau of Labor Statistics, and MIG, Inc.

Note: Analysis is based on full time equivalents.

DEMAND PROJECTIONS

The removal of the hotel component from the development program and changes to the retail tenant composition has impacts on the future supply and demand for retail in the Market Area. The following table identifies the net new retail demand and Project supply categories for 2017 and 2020.

| DEMAND PROJECTIONS | | | | | |
|--|-----------------------------|---------|--|-----------------------------|---------|
| Annual Sales in 2017 (Completion) | | | Annual Sales in 2020 (Post-Stabilization) | | |
| Net New Demand | Project Supply | Capture | Net New Demand | Project Supply | Capture |
| \$ 323,126,000 | \$ 187,420,826 \$637/ sf | 58% | \$ 540,924,000 | \$ 204,799,797 \$696/ sf | 38% |

CONCLUSIONS

Changes to the development program, including higher quality construction and removal of the hotel, have significant impacts on the development feasibility gap. The exclusion of the hotel results in significant decreases to potential tax revenues and slightly decreases demand for retail in the regional market area, which are only somewhat offset by additional revenues from the parking tax and higher-performing retailers.