

RESOLUTION NO. 22

A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE DISSOLVED SHAFTER COMMUNITY DEVELOPMENT AGENCY, APPROVING AND ADOPTING A REVISED LONG RANGE PROPERTY MANAGEMENT PLAN PURSUANT TO HEALTH AND SAFETY CODE SECTION 34191.5

WHEREAS, pursuant to Health and Safety Code Section 34173(d), the City of Shafter is the successor agency to the Shafter Community Development Agency (“Successor Agency”); and

WHEREAS, pursuant to Health and Safety Code Section 34173(g), the Successor Agency is now a separate legal entity from the City; and

WHEREAS, Health and Safety Code Section 34191.5(b) requires the Successor Agency to prepare a Long Range Property Management Plan (“Property Management Plan”) that addresses the disposition and use of the real properties of the former redevelopment agency; and

WHEREAS, Health and Safety Code Section 34191.5(b) also requires the Successor Agency to submit the Property Management Plan to the Successor Agency’s oversight board and the Department of Finance for approval no later than six months following the issuance to the Successor Agency of the finding of completion pursuant to Health and Safety Code Section 34179.7; and

WHEREAS, the Successor Agency approved a Property Management Plan that contains all the information required under Health and Safety Code Section 34191.5 on April 16, 2013 by way of Resolution No.2268; and

WHEREAS, the Oversight Board of the Successor Agency approved the Property Management Plan on April 23, 2013 by way of Resolution No.8; and

WHEREAS, the California Department of Finance reviewed and commented on the Property Management Plan which required some changes to be made to that Plan; and

WHEREAS, the Oversight Board of the Successor Agency approved a revised Property Management Plan on November 21, 2013 by way of Resolution No.12; and

WHEREAS, the California Department of Finance reviewed and approved the revised Property Management Plan on November 22, 2013; and

WHEREAS, on March 17, 2014 it was discovered that Assessor Parcel Number 028-180-47, a public Skate Park, had been owned by the former Shafter Community Development Agency and was inadvertently omitted from the Property Management Plan; and

WHEREAS, the Property Management Plan has been revised to include Assessor Parcel Number 028-180-47; and

WHEREAS, the Successor Agency approved this revised Property Management Plan on April 11, 2014 by way of Resolution No.22; and

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

NOW, THEREFORE, THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE DISOLVED SHAFTER COMMUNITY DEVELOPMENT AGENCY, DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. CEQA Compliance. The approval of the Property Management Plan through this Resolution does not commit the Successor Agency to any action that may have a significant effect on the environment. As a result, such action does not constitute a project subject to the requirements of the California Environmental Quality Act. The City Clerk is authorized and directed to file a Notice of Exemption with the appropriate official of the County of Kern, California, within five (5) days following the date of adoption of this Resolution.

Section 3. Approval of the revised Long Range Property Management Plan. The Oversight Board of the Successor Agency hereby approves the revised Long Range Property Management Plan, in substantially the form attached.

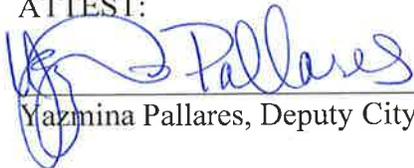
Section 4. Transmittal of revised Long Range Property Management Plan. The City Manager and Administrative Service Director are hereby authorized and directed to take any action necessary to carry out the purposes of this Resolution and comply with applicable law regarding the revised Long Range Property Management Plan, including submitting the revised Long Range Property Management Plan to the State of California Department of Finance, and posting the approved revised Long Range Property Management Plan on the Successor Agency's website.

Section 5. Effectiveness. This Resolution shall take effect immediately upon its adoption.

PASSED, APPROVED AND ADOPTED at a special meeting of the Oversight Board of the Successor Agency to the dissolved Shafter Community Development Agency on the 2nd day of April, 2014, by the following vote:



Scott Hurlbert, Chairman

ATTEST:


Yazmina Pallares, Deputy City Clerk

**Successor Agency to the
Dissolved Shafter Community Development Agency**

Long Range Property Management Plan



**April 16, 2013
1st Revision, November 19, 2013
2nd Revision, April 1, 2014**

Prepared By:

The Successor Agency to the Dissolved Shafter Community Development Agency

c/o City of Shafter
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Shafter, CA 93263

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**Successor Agency to the Dissolved Shafter Community Development Agency
Long Range Property Management Plan
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Successor Agency to the Dissolved Shafter Community Development Agency Long Range Property Management Plan

This Long Range Property Management Plan (the “Plan”) has been developed pursuant to State Legislation ABx1 26 (the “Dissolution Act”) and Assembly Bill No. 1484 (“AB 1484”). The Plan sets forth the process by which the City of Shafter as the Successor Agency to the Dissolved Shafter Community Development Agency (“Successor Agency”) may utilize or dispose of the real property assets of the former Shafter Community Development Agency (the “Assets”) which pursuant to AB 1484 are held in the Community Redevelopment Property Trust Fund (“Trust”). The goal of this plan is to efficiently dispose of or utilize the Assets in a manner that will maximize value to the community and the taxing agencies.

I. Components of This Plan

This Plan includes all of the following required components, pursuant to Health and Safety Code Section 34191.5 et seq.

- 1) An Inventory of all properties in the Trust including;
 - a) The date of acquisition of the property and the value of the property at that time, and an estimate of the current value of the property.
 - b) The purpose of which the property was acquired.
 - c) Parcel data, including address, lot size, and current zoning in the former agency redevelopment plan or specific, community, or general plan.
 - d) An estimate of the current value of the parcel including, if available, any appraisal information.
 - e) An estimate of any lease, rental, or any other revenues generated by the property, and a description of the contractual requirements for the disposition of those funds.
 - f) The history of environmental contamination, including designation as a brownfield site, any related environmental studies, and history of any remediation efforts.
 - g) A description of the property’s potential for transit-oriented development and the advancement of the planning objectives of the successor agency.
 - h) A brief history of previous development proposals and activity, including the rental or lease of property.

- 2) Address the use or disposition of all of the properties in the Trust. Permissible uses include;
 - a) The retention of the property for governmental use pursuant to subdivision (a) of Section 34181.
 - b) The retention of the property for future development.

- c) The sale of the property.
 - d) The use of the property to fulfill an enforceable obligation
- 3) The plan shall separately identify and list properties in the Trust dedicated to governmental use purposes and properties retained for purposes of fulfilling an enforceable obligation. With respect to the use or disposition of all other properties, all of the following shall apply:
- a) If the plan directs the use or liquidation of the property for a project identified in an approved redevelopment plan, the property shall transfer to the city, county, or city and county.
 - b) If the plan directs the liquidation of the property or the use of revenues generated from the property, such as lease or parking revenues, for any purpose other than to fulfill an enforceable obligation or other than that specified in subparagraph (a) of Section 34181, the proceeds from the sale shall be distributed as property tax to the taxing entities.
 - c) Property shall not be transferred to a Successor Agency, City, County, or City and County, unless the long-range property management plan has been approved by the Oversight Board and the California Department of Finance.

Within the body of this Plan, the detailed information required in Sections 1 and 2 above is provided for each separate parcel on a two-page worksheet identified by Assessor Parcel Numbers (“APN”s). Following each two-page worksheet is one page containing current photos of the subject property. These photos are provided as evidence of the current use and state of each parcel.

Immediately following this narrative is a summary of all properties included within this Plan. This summary provides all information require pursuant to Section 3 above. A summary map has also been included to assist the reader in understanding where these properties are located.

II. Implementation of this Plan

This Plan shall be implemented as described below or as otherwise amended prior to approval by the Oversight Board or the California Department of Finance.

- 1) Approval of this Plan.
 - a) Present this plan to the Successor Agency for review and approval.
 - b) Present this plan to the Oversight Board for review and approval.
 - c) Submit the Plan, as may be amended by the Successor Agency or Oversight Board, to the California Department of Finance for approval.
- 2) Transfer of properties. – This step only applies to properties identified within this Plan as to be retained for governmental use.

- a) Through the approval of this plan, the Successor Agency hereby approves the transfer of properties identified herein for governmental purposes to the City of Shafter.
 - b) Through the approval of this plan, the Oversight Board hereby approves transfer of properties identified herein for governmental purposes to the City of Shafter.
 - c) Successor Agency Staff shall prepare and record any necessary deeds of trust to transfer the ownership of the parcels to be retained for governmental purposes to the City of Shafter.
- 3) Sale of properties. – These general steps apply to properties identified within this Plan as to be sold at market value and without specific disposition described plans below.
- a) Successor Agency shall order current appraisals of all properties.
 - b) Successor Agency shall identify and communicate with parties that may have an interest in purchasing the properties.
 - c) If deemed necessary by the Successor Agency, a real estate broker may be hired to list any or all of the properties for sale.
 - d) Successor Agency shall meet and negotiate the sale of the property
 - i) In Closed Session until the price and terms of the sale are negotiated.
 - ii) In Open Session, with a public hearing notice once the negotiations over the price and terms of the sale have been completed.
 - e) Oversight Board shall meet to review and consider approval of the sale.
 - i) In Closed Session until the price and terms of the sale are negotiated.
 - ii) In Open Session, after at least 10 days' public notice of the proposed action pursuant to Health and Safety Code Section 34181(f), after the negotiations over the price and terms of the sale have been completed.
 - f) Once the sale is concluded, the Successor Agency shall transfer the proceeds from the sale to the Kern County Auditor Controller for distribution to taxing agencies.
 - g) APN 028-180-71 was sold by the City of Shafter to Helena Chemical in December 2012 at appraised value of \$382,460. Upon approval of this plan the City of Shafter shall transfer the proceeds from this sale to the Successor Agency for distribution to taxing agencies through the Kern County Auditor Controller.
 - h) APN 089-230-43 will be sold to the City of Shafter at a current appraised value. The proceeds from this sale shall be remitted to the Kern County Auditor Controller for distribution to other taxing agencies.
 - i) APN 091-180-18 is currently subject to a 20 year lease. The following two options are available under this plan;
 - i) The City of Shafter may purchase the property at a current appraised value and receive an assignment of the lease from the Successor Agency. The proceeds from this sale shall be remitted to the Kern County Auditor Controller for distribution to other taxing agencies.
 - ii) If not sold, the ongoing lease payments will be used to pay other Enforceable Obligations of the Successor Agency until such time as the lease terminates.

Upon termination, the property will be sold under the process contained above. The proceeds from this sale shall be remitted to the Kern County Auditor Controller for distribution to other taxing agencies.

III. Successor Agency Staff Contacts

Please direct any questions regarding this Plan or the Successor Agency to the following:

John D. Guinn
City Manager
(661)746-5000
jguinn@shafter.com

Jim Zervis
Administrative Services Director
(661)746-5043
jzervis@shafter.com

**Successor Agency to the Dissolved Shafter Community Development Agency
Long Range Property Management Plan
Summary of All Properties by Planned Use or Disposition Category**

I. Properties to be retained for governmental use:

Assessor Parcel Number (APN)	Address	Current Use of Property	Long Range Property Management Plan for use or disposition of the property
089-230-18	Address Not Assigned	Sump	Approve the transfer of this property to the City of Shafter to be retained for governmental use, as a City sump, pursuant to subdivision (a) of
027-240-14	336 Central Ave., Shafter CA 93263	Park	Approve the transfer of this property to the City of Shafter to be retained for governmental use, as a City park, pursuant to subdivision (a) of Section 34181.
027-360-07	Address Not Assigned	Park	Approve the transfer of this property to the City of Shafter to be retained for governmental use, as a City park, pursuant to subdivision (a) of Section 34181.
027-370-05	Address Not Assigned	Park	Approve the transfer of this property to the City of Shafter to be retained for governmental use, as a City park, pursuant to subdivision (a) of Section 34181.
028-180-70	301 S Beech Ave., Shafter CA, 93260	Sump	Approve the transfer this property to the City of Shafter to be retained for governmental use, as a City sump, pursuant to subdivision (a) of Section 34181.
028-180-47	460 E. Ash Ave., Shafter CA, 93260	Skate Park	Approve the transfer this property to the City of Shafter to be retained for governmental use, as a City skate park, pursuant to subdivision (a) of Section 34181.

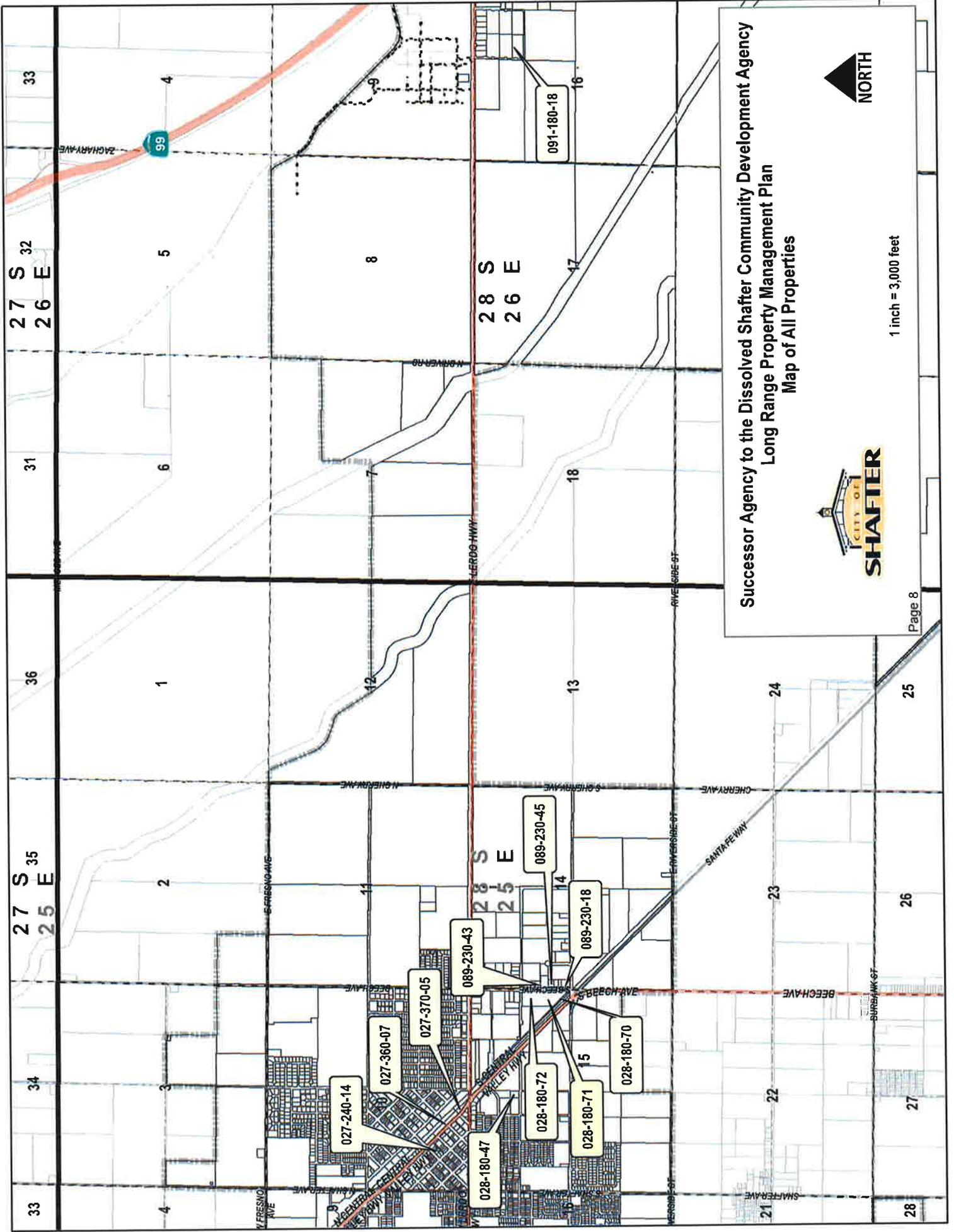
**Successor Agency to the Dissolved Shafter Community Development Agency
Long Range Property Management Plan
Summary of All Properties by Planned Use or Disposition Category**

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II. Properties to be sold:

Assessor Parcel Number (APN)	Address	Current Use of Property	Long Range Property Management Plan for use or disposition of the property
028-180-71	231 S Beech Ave., Shafter CA, 93260	Vacant Lot	This property has already been sold at market value. Once this Plan is approved the proceeds from that sale will be distributed as property tax to the taxing entities by way of the Kern County Auditor Controller.
028-180-72	951 E Ash Ave., Shafter CA, 93260	Vacant Lot	Dispose of this property through a sale at market value with the proceeds from that sale to be distributed as property tax to the taxing entities by way of the Kern County Auditor Controller.
089-230-45	Address Not Assigned	Vacant Lot	Dispose of this property through a sale at market value with the proceeds from that sale to be distributed as property tax to the taxing entities by way of the Kern County Auditor Controller.
089-230-43	210 South Beach Ave., Shafter CA 93263	Vacant Lot	This property is to be sold to the City of Shafter at the current appraised value with the proceeds from that sale to be distributed as property tax to the taxing entities by way of the Kern County Auditor Controller.
091-180-18	250 Carver St., Shafter CA 93263	Vacant Lot	<u>This property is subject to a 20 year lease.</u> The plan for this property includes both of the following options: 1) sell the property to the City of Shafter at the current appraised value and assign the lease to the City, or 2) Use all lease payment received to pay other Enforceable Obligations and upon the termination of the lease sell the property through a sale at market value. In either case the proceeds from the final sale of the property shall be distributed as property tax to the taxing entities by way of the Kern County Auditor Controller.

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**Successor Agency to the Dissolved Shafter Community Development Agency
Long Range Property Management Plan**

Property Identification

Assessor Parcel Number:	089-230-18	Page 1 of 3
Property Address:	Address Not Assigned	

Property Description

Lot Size:	1.058
Current Zoning	Industrial
Property Use:	Sump
Acquisition Date:	January 16, 1990
Original Seller:	Lowell Bergman and Venon Isaac
Purchase Price:	\$21,079
Estimated Current Value:	\$0
Basis for Current Value Estimate:	In use as a City sump and cannot be developed.



Property History & Reason for Acquisition

Parcels 2,3 & 5 of Parcel Map 9177, roughly 20 acres, were original acquired for the purpose of developing a Community Correctional Facility (CCF) to be operated under contract with the State of California. Parcel 3, roughly 4.98 acres, was developed into the CCF. The Balance of the property was subdivided into parcels to be developed for industrial use and supporting governmental infrastructure.

Prior to being subdivided, APN 089-230-18 was included in Parcel 2 of Parcel Map 9177. This particular area was under an easement to the City of Shafter for water retention (a Sump). When Parcel Map 9177 was subdivided with Parcel Map 9800 a separate parcel, Parcel Number 1, was created including only that property within the water retention easement. This property has remained in use at all times, even prior to acquisition as a City of Shafter Sump.

This parcel was transferred to the City of Shafter on March 15, 2011.

Future use or Disposition of Subject Property

Approve the transfer of this property to the City of Shafter to be retained for governmental use, as a City sump, pursuant to subdivision (a) of Section 34181.

Property Identification	
Assessor Parcel Number:	089-230-18 Page 2 of 3
Property Address:	Address Not Assigned

Appraisal Information	
Has an appraisal been conducted on the subject property?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>
If Yes, briefly describe the appraisal engagement and the reason for the appraisal:	
If Yes, indicate the appraised value, the basis for that value, and the date of the valuation:	Appraised Value: _____ Valuation Basis: _____ Date of Valuation: _____

Agency Revenue	
Is the Agency receiving lease or rental income from the Property?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>
If Yes, indicate the terms of the lease or rental agreement:	
If Yes, indicate the amount of the annual lease or rental income:	_____ Per year
If Yes, describe any contractual requirements for the disposition of the lease or rental proceeds:	

Environmental Information	
Have any environmental tests or assessments been performed on the property?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>
If Yes, describe the work performed (Phase 2, Phase 2, Phase 3, Other Testing, Ect)	
If Yes, indicate any significant findings from the work performed:	
If significant findings were indicated, describe any remediation work performed:	
Has the site been designated as a Brownfield site?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>

History of Development Proposals and Activity	
Discuss any history of development proposals or activity related to the subject property:	There have been no proposals for development or development activity for the subject property as this property has at all times been in use as a City sump.

Transit-Oriented Development	
Describe the properties potential for transit-oriented development:	There is no potential for this property to be included in a transit-oriented development.

Advancement of Planning Objectives	
Describe the properties potential for being developed to advance the planning objectives of the Successor Agency:	This property is not suitable for development as it is a necessary City sump.

Property Identification

Assessor Parcel Number:

089-230-18

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Property Address:

Address Not Assigned

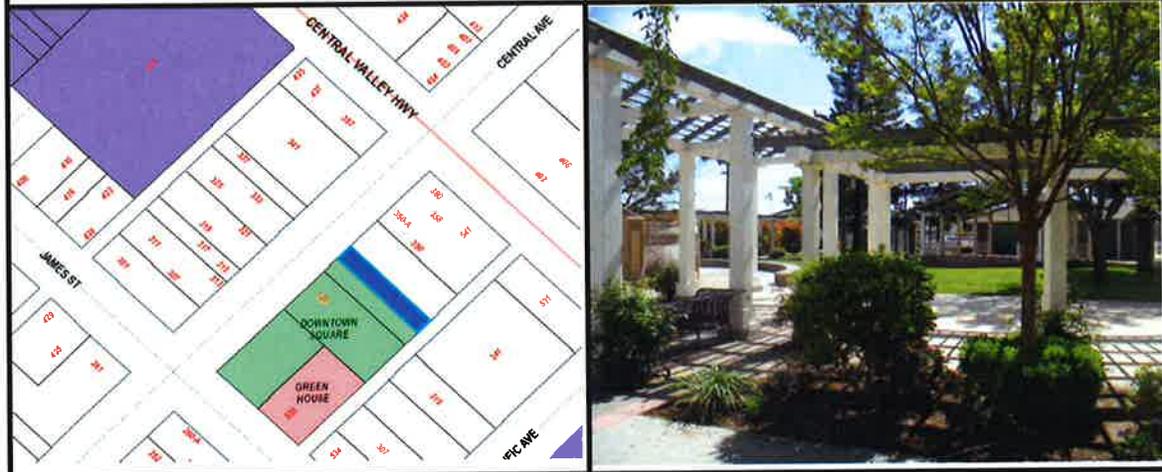


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**Successor Agency to the Dissolved Shafter Community Development Agency
Long Range Property Management Plan**

Property Identification	
Assessor Parcel Number:	027-240-14 Page 1 of 3
Property Address:	336 Central Ave., Shafter CA 93263

Property Description	
Lot Size:	0.0861
Current Zoning	Downtown Commercial
Property Use:	Park
Acquisition Date:	December 13, 1999
Original Seller:	Jose Velazquez Villagrana
Purchase Price:	\$80,403
Estimated Current Value:	\$0
Basis for Current Value Estimate:	The Downtown Park and cannot be developed



Property History & Reason for Acquisition

This parcel contained a dilapidated bar in the center of downtown Shafter. The Community Development Agency acquired the property in 1999 and demolished the structure. Once demolished this property along with a larger adjoining parcel was developed into the Downtown Park including flower beds, green space, a fountain, parking area, and outdoor stage. The park project was mostly constructed in fall and winter of 2000 and completed around June of 2001.

This parcel was transferred to the City of Shafter on March 15, 2011.

Future use or Disposition of Subject Property

Approve the transfer of this property to the City of Shafter to be retained for governmental use, as a City park, pursuant to subdivision (a) of Section 34181.

Property Identification		
Assessor Parcel Number:	027-240-14	Page 2 of 3
Property Address:	336 Central Ave., Shafter CA 93263	

Appraisal Information	
Has an appraisal been conducted on the subject property?	Yes: <input checked="" type="checkbox"/> No: <input type="checkbox"/>
If Yes, briefly describe the appraisal engagement and the reason for the appraisal:	
If Yes, indicate the appraised value, the basis for that value, and the date of the valuation:	Appraised Value: \$ 56,000 Valuation Basis: Market Value for Purchase Date of Valuation: 9/10/1999

Agency Revenue	
Is the Agency receiving lease or rental income from the Property?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>
If Yes, indicate the terms of the lease or rental agreement:	
If Yes, indicate the amount of the annual lease or rental income:	_____ Per year
If Yes, describe any contractual requirements for the disposition of the lease or rental proceeds:	

Environmental Information	
Have any environmental tests or assessments been performed on the property?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>
If Yes, describe the work performed (Phase 2, Phase 2, Phase 3, Other Testing, Ect)	
If Yes, indicate any significant findings from the work performed:	
If significant findings were indicated, describe any remediation work performed:	
Has the site been designated as a Brownfield site?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>

History of Development Proposals and Activity	
Discuss any history of development proposals or activity related to the subject property:	There have been no proposals for development or development activity for the subject property was developed into a park in 2000-2001.

Transit-Oriented Development	
Describe the properties potential for transit-oriented development:	There is no potential for this property to be included in a transit-oriented development.

Advancement of Planning Objectives	
Describe the properties potential for being developed to advance the planning objectives of the Successor Agency:	This property is not suitable for development as it is a park.

Property Identification

Assessor Parcel Number:

027-240-14

Page 2 of 3

Property Address:

336 Central Ave., Shafter CA 93263



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**Successor Agency to the Dissolved Shafter Community Development Agency
Long Range Property Management Plan**

Property Identification

Assessor Parcel Number:	027-360-07	Page 1 of 3
Property Address:	Address Not Assigned	

Property Description

Lot Size:	1.9286
Current Zoning	Business Park
Property Use:	Park
Acquisition Date:	September 13, 2002
Original Seller:	The BNSF Railway Company
Purchase Price:	\$93,485
Estimated Current Value:	\$0
Basis for Current Value Estimate:	Park along side of rail not suitable for development



Property History & Reason for Acquisition

This parcel was an undeveloped and blighted strip running along side the BNSF Rail Road in the heart of the City of Shafter. The Shafter Community Development Agency purchased this property, along with parcel 027-370-05 immediately south for a total of \$141,000, and developed the two parcels into a strip Park and walkway. The park and walkway construction was completed around October of 2003.

This parcel was transferred to the City of Shafter on March 15, 2011.

Future use or Disposition of Subject Property

Approve the transfer of this property to the City of Shafter to be retained for governmental use, as a City park, pursuant to subdivision (a) of Section 34181.

Property Identification	
Assessor Parcel Number:	027-360-07 Page 2 of 3
Property Address:	Address Not Assigned

Appraisal Information	
Has an appraisal been conducted on the subject property?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>
If Yes, briefly describe the appraisal engagement and the reason for the appraisal:	
If Yes, indicate the appraised value, the basis for that value, and the date of the valuation:	Appraised Value: _____ Valuation Basis: _____ Date of Valuation: _____

Agency Revenue	
Is the Agency receiving lease or rental income from the Property?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>
If Yes, indicate the terms of the lease or rental agreement:	
If Yes, indicate the amount of the annual lease or rental income:	_____ Per year
If Yes, describe any contractual requirements for the disposition of the lease or rental proceeds:	

Environmental Information	
Have any environmental tests or assessments been performed on the property?	Yes: <input checked="" type="checkbox"/> No: <input type="checkbox"/>
If Yes, describe the work performed (Phase 2, Phase 3, Other Testing, Ect)	Phase I completed prior to purchase
If Yes, indicate any significant findings from the work performed:	No significant findings were noted.
If significant findings were indicated, describe any remediation work performed:	None.
Has the site been designated as a Brownfield site?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>

History of Development Proposals and Activity	
Discuss any history of development proposals or activity related to the subject property:	There have been no proposals for development or development activity for the subject property was developed into a park in 2003

Transit-Oriented Development	
Describe the properties potential for transit-oriented development:	There is no potential for this property to be included in a transit-oriented development.

Advancement of Planning Objectives	
Describe the properties potential for being developed to advance the planning objectives of the Successor Agency:	This property is not suitable for development as it is a park.

Property Identification

Assessor Parcel Number:

027-360-07

Page 2 of 3

Property Address:

Address Not Assigned



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**Successor Agency to the Dissolved Shafter Community Development Agency
Long Range Property Management Plan**

Property Identification

Assessor Parcel Number:	027-370-05	Page 1 of 3
Property Address:	Address Not Assigned	

Property Description

Lot Size:	0.716
Current Zoning	Business Park
Property Use:	Park
Acquisition Date:	September 13, 2002
Original Seller:	The BNSF Railway Company
Purchase Price:	\$47,515
Estimated Current Value:	\$0
Basis for Current Value Estimate:	Park along side of rail not suitable for development



Property History & Reason for Acquisition

This parcel was an undeveloped and blighted strip running along side the BNSF Rail Road in the heart of the City of Shafter. The Shafter Community Development Agency purchased this property, along with parcel 027-360-07 immediately north for a total of \$141,000, and developed the two parcels into a strip Park and walkway. The park and walkway construction was completed around October of 2003.

Future use or Disposition of Subject Property

Transfer this property to the City of Shafter to be retained for governmental use, as a City park, pursuant to subdivision (a) of Section 34181.

Property Identification	
Assessor Parcel Number:	027-370-05 Page 2 of 3
Property Address:	Address Not Assigned

Appraisal Information	
Has an appraisal been conducted on the subject property?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>
If Yes, briefly describe the appraisal engagement and the reason for the appraisal:	
If Yes, indicate the appraised value, the basis for that value, and the date of the valuation:	Appraised Value: _____ Valuation Basis: _____ Date of Valuation: _____

Agency Revenue	
Is the Agency receiving lease or rental income from the Property?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>
If Yes, indicate the terms of the lease or rental agreement:	
If Yes, indicate the amount of the annual lease or rental income:	_____ Per year
If Yes, describe any contractual requirements for the disposition of the lease or rental proceeds:	

Environmental Information	
Have any environmental tests or assessments been performed on the property?	Yes: <input checked="" type="checkbox"/> No: <input type="checkbox"/>
If Yes, describe the work performed (Phase 2, Phase 2, Phase 3, Other Testing, Ect)	Phase I completed prior to purchase
If Yes, indicate any significant findings from the work performed:	No significant findings were noted.
If significant findings were indicated, describe any remediation work performed:	None.
Has the site been designated as a Brownfield site?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>

History of Development Proposals and Activity	
Discuss any history of development proposals or activity related to the subject property:	There have been no proposals for development or development activity for the subject property was developed into a park in 2003

Transit-Oriented Development	
Describe the properties potential for transit-oriented development:	There is no potential for this property to be included in a transit-oriented development.

Advancement of Planning Objectives	
Describe the properties potential for being developed to advance the planning objectives of the Successor Agency:	This property is not suitable for development as it is a park.

Property Identification

Assessor Parcel Number:

027-370-05

Page 2 of 3

Property Address:

Address Not Assigned



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**Successor Agency to the Dissolved Shafter Community Development Agency
Long Range Property Management Plan**

Property Identification

Assessor Parcel Number:	028-180-70	Page 1 of 3
Property Address:	301 S Beech Ave., Shafter CA, 93260	

Property Description

Lot Size:	1.93
Current Zoning	Industrial
Property Use:	Sump
Acquisition Date:	January 2, 1996
Original Seller:	Dargatz Revocable Trust of 1990
Purchase Price:	\$57,807
Estimated Current Value:	\$0
Basis for Current Value Estimate:	In use as a City sump and cannot be developed.



Property History & Reason for Acquisition

The Shafter Community Development Agency originally acquired APN 028-180-03, roughly 19.67 gross acres for the purpose of subdividing it into APN 028-180-37 and 028-180-38, consisting of 7.28 and 10.39 net acres respectively, so that APN 028-180-37 could be sold to Helena Chemical to facilitate their location to the City of Shafter. APN 028-180-38 was retained by the Shafter Community Development Agency.

APN 028-180-38 was transferred to the City of Shafter on March 15, 2011.

In June of 2012, APN 028-180-38 was split into three parcels, Parcels APNs 028-180-72, 028-180-71, and 028-180-70 consisting of 3.00, 4.45, and 1.93 net acres respectively. This split was to facilitate the sale of 028-180-71 to Helena Chemical for \$382,459.58, for future expansion of their operations. APN 028-180-72 was retained by the City for future industrial development. APN 028-180-70 is an existing City sump and was retained by the City for that governmental purpose.

Future use or Disposition of Subject Property

Approve the transfer this property to the City of Shafter to be retained for governmental use, as a City sump, pursuant to subdivision (a) of Section 34181.

Property Identification	
Assessor Parcel Number:	028-180-70 Page 2 of 3
Property Address:	301 S Beech Ave., Shafter CA, 93260

Appraisal Information	
Has an appraisal been conducted on the subject property?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>
If Yes, briefly describe the appraisal engagement and the reason for the appraisal:	
If Yes, indicate the appraised value, the basis for that value, and the date of the valuation:	Appraised Value: _____ Valuation Basis: _____ Date of Valuation: _____

Agency Revenue	
Is the Agency receiving lease or rental income from the Property?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>
If Yes, indicate the terms of the lease or rental agreement:	
If Yes, indicate the amount of the annual lease or rental income:	_____ Per year
If Yes, describe any contractual requirements for the disposition of the lease or rental proceeds:	

Environmental Information	
Have any environmental tests or assessments been performed on the property?	Yes: <input checked="" type="checkbox"/> No: <input type="checkbox"/>
If Yes, describe the work performed (Phase 2, Phase 2, Phase 3, Other Testing, Ect)	Phase I completed prior to purchase
If Yes, indicate any significant findings from the work performed:	Above ground storage tanks and hydraulic oil drums on site were noted.
If significant findings were indicated, describe any remediation work performed:	Storage tanks and oil drums were properly removed from the site.
Has the site been designated as a Brownfield site?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>

History of Development Proposals and Activity	
Discuss any history of development proposals or activity related to the subject property:	There have been no proposals for development or development activity for this property as it is needed for water retention.

Transit-Oriented Development	
Describe the properties potential for transit-oriented development:	There is no potential for this property to be included in a transit-oriented development.

Advancement of Planning Objectives	
Describe the properties potential for being developed to advance the planning objectives of the Successor Agency:	This property is not suitable for development as it is a sump.

Property Identification

Assessor Parcel Number:

028-180-70

Page 2 of 3

Property Address:

301 S Beech Ave., Shafter CA, 93260



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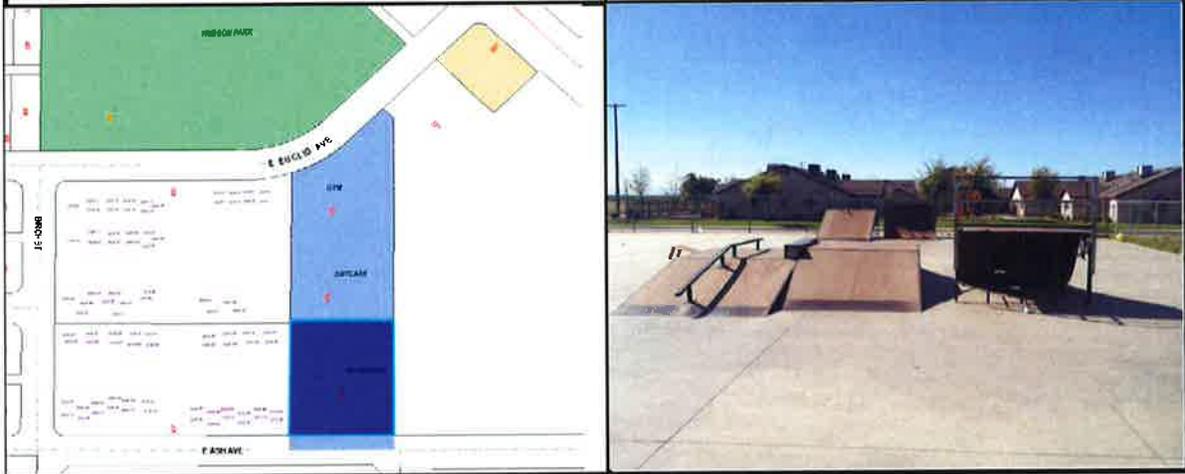
**Successor Agency to the Dissolved Shafter Community Development Agency
Long Range Property Management Plan**

Property Identification

Assessor Parcel Number:	028-180-47	Page 1 of 3
Property Address:	460 E. Ash Ave., Shafter CA, 93260	

Property Description

Lot Size:	0.98
Current Zoning	General Commercial
Property Use:	Skate Park
Acquisition Date:	March 7, 2001
Original Seller:	Britz Agricultural Finance Co., Inc.
Purchase Price:	\$39,676
Estimated Current Value:	\$170,796
Basis for Current Value Estimate:	est. at \$4/sq. ft. based on other recent appraisals



Property History & Reason for Acquisition

The Shafter Community Development Agency originally acquired APN 028-180-32, roughly 2.47 net acres for the purpose of subdividing it into APN 028-180-47 and 028-180-48, consisting of .98 and 1.49 net acres respectively, so that APN 028-180-48 could be given to the Kern County Economic Opportunity Corporation ("KCEOC") for the construction of a Youth Activity Center. 028-180-48 was deeded to KCEOC in July of 2001. The Shafter Youth Center was constructed shortly thereafter and remains in operation through a partnership between the City of Shafter and the Community Action Partnership of Kern County.

Concurrently with the development of the Shafter Youth Center on APN 028-180-48, The Shafter Community Development Agency developed APN 028-180-47 into a Skate Park. The location of the Skate Park was ideal as it sits adjacent to, and can be used in conjunction with, the Shafter Youth Center. Since development, APN 028-180-47 has remained in constant use as a Skate Park, a governmental purpose serving the general public.

Future use or Disposition of Subject Property

Approve the transfer this property to the City of Shafter to be retained for governmental use, as a City Skate Park, pursuant to subdivision (a) of Section 34181.

Property Identification	
Assessor Parcel Number:	028-180-47 Page 2 of 3
Property Address:	460 E. Ash Ave., Shafter CA, 93260

Appraisal Information	
Has an appraisal been conducted on the subject property?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>
If Yes, briefly describe the appraisal engagement and the reason for the appraisal:	
If Yes, indicate the appraised value, the basis for that value, and the date of the valuation:	Appraised Value: _____ Valuation Basis: _____ Date of Valuation: _____

Agency Revenue	
Is the Agency receiving lease or rental income from the Property?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>
If Yes, indicate the terms of the lease or rental agreement:	
If Yes, indicate the amount of the annual lease or rental income:	_____ Per year
If Yes, describe any contractual requirements for the disposition of the lease or rental proceeds:	

Environmental Information	
Have any environmental tests or assessments been performed on the property?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>
If Yes, describe the work performed (Phase 2, Phase 3, Other Testing, Ect)	
If Yes, indicate any significant findings from the work performed:	
If significant findings were indicated, describe any remediation work performed:	
Has the site been designated as a Brownfield site?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>

History of Development Proposals and Activity	
Discuss any history of development proposals or activity related to the subject property:	There have been no proposals for development or development activity for this property as it is in use as a public skate park.

Transit-Oriented Development	
Describe the properties potential for transit-oriented development:	There is no potential for this property to be included in a transit-oriented development as it is already developed.

Advancement of Planning Objectives	
Describe the properties potential for being developed to advance the planning objectives of the Successor Agency:	This property has already been developed into a public skate park, advancing the planning objectives of the City and Shafter Community Development Agency.

Property Identification

Assessor Parcel Number:

028-180-47

Page 2 of 3

Property Address:

460 E. Ash Ave., Shafter CA, 93260



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**Successor Agency to the Dissolved Shafter Community Development Agency
Long Range Property Management Plan**

Property Identification

Assessor Parcel Number:	028-180-71	Page 1 of 3
Property Address:	231 S Beech Ave., Shafter CA, 93260	

Property Description

Lot Size:	4.45
Current Zoning	Industrial
Property Use:	Vacant Lot
Acquisition Date:	January 2, 1996
Original Seller:	Dargatz Revocable Trust of 1990
Purchase Price:	\$133,286
Estimated Current Value:	\$382,460
Basis for Current Value Estimate:	Appraisal and Actual Sales Price in Dec.2012.



Property History & Reason for Acquisition

The Shafter Community Development Agency originally acquired APN 028-180-03, roughly 19.67 gross acres for the purpose of subdividing it into APN 028-180-37 and 028-180-38, consisting of 7.28 and 10.39 net acres respectively, so that APN 028-180-37 could be sold to Helena Chemical to facilitate their location to the City of Shafter. APN 028-180-38 was retained by the Shafter Community Development Agency.

APN 028-180-38 was transferred to the City of Shafter on March 15, 2011.

In June of 2012, APN 028-180-38 was split into three parcels, APNs 028-180-72, 028-180-71, and 028-180-70, consisting of 3.00, 4.45, and 1.93 net acres respectively. This split was to facilitate the sale of 028-180-71 to Helena Chemical for \$382,459.58, for future expansion of their operations. This sale was closed and the City of Shafter is retaining the proceeds from this sale with the intent to remit those proceeds to the Successor Agency upon approval of the Long Range Property Management Plan.

Future use or Disposition of Subject Property

This property has already been sold at market value. Once this Plan is approved the proceeds from that sale will be distributed as property tax to the taxing entities by way of the Kern County Auditor Controller.

Property Identification	
Assessor Parcel Number:	028-180-71 Page 2 of 3
Property Address:	231 S Beech Ave., Shafter CA, 93260

Appraisal Information	
Has an appraisal been conducted on the subject property?	Yes: <input checked="" type="checkbox"/> No: <input type="checkbox"/>
If Yes, briefly describe the appraisal engagement and the reason for the appraisal:	
If Yes, indicate the appraised value, the basis for that value, and the date of the valuation:	Appraised Value: \$ 382,460 Valuation Basis: Market Value Date of Valuation: 6/12/2011

Agency Revenue	
Is the Agency receiving lease or rental income from the Property?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>
If Yes, indicate the terms of the lease or rental agreement:	
If Yes, indicate the amount of the annual lease or rental income:	_____ Per year
If Yes, describe any contractual requirements for the disposition of the lease or rental proceeds:	

Environmental Information	
Have any environmental tests or assessments been performed on the property?	Yes: <input checked="" type="checkbox"/> No: <input type="checkbox"/>
If Yes, describe the work performed (Phase 2, Phase 2, Phase 3, Other Testing, Ect)	Phase I completed prior to purchase
If Yes, indicate any significant findings from the work performed:	Above ground storage tanks and hydraulic oil drums on site were noted.
If significant findings were indicated, describe any remediation work performed:	Storage tanks and oil drums were properly removed from the site.
Has the site been designated as a Brownfield site?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>

History of Development Proposals and Activity	
Discuss any history of development proposals or activity related to the subject property:	Helena Chemical Company purchasud this property for the purpose of exanding their operations from a neighboring parcel.

Transit-Oriented Development	
Describe the properties potential for transit-oriented development:	Due to the location of this property in an industrial park it is not suitable for future transit-oriented development.

Advancement of Planning Objectives	
Describe the properties potential for being developed to advance the planning objectives of the Successor Agency:	Development of the site will eliminate blighted conditions that otherwise prevent proper utilization which causes a physical, social, and economic liability to the entire Shafter community.

Property Identification

Assessor Parcel Number:

028-180-71

Page 3 of 3

Property Address:

231 S Beech Ave., Shafter CA, 93260



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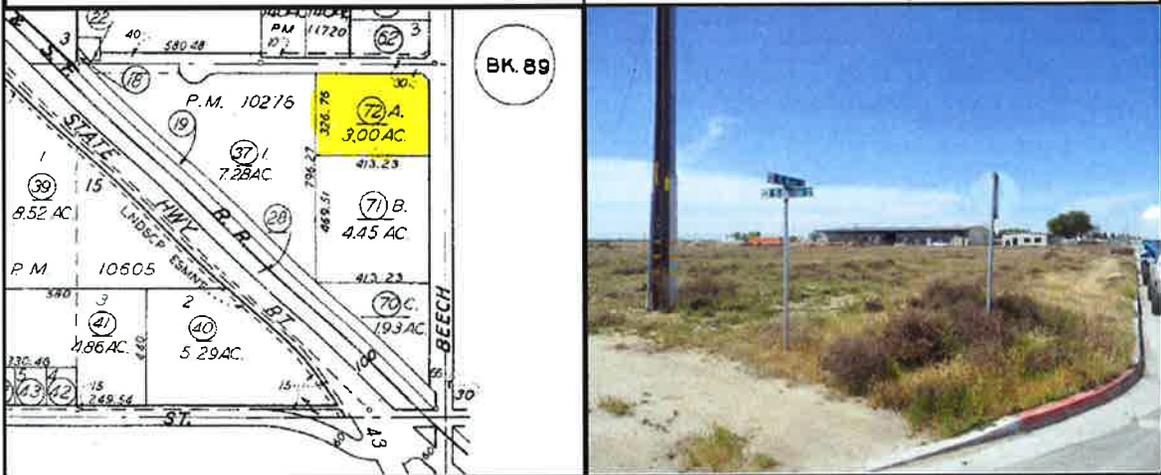
**Successor Agency to the Dissolved Shafter Community Development Agency
Long Range Property Management Plan**

Property Identification

Assessor Parcel Number:	028-180-72	Page 1 of 3
Property Address:	951 E Ash Ave., Shafter CA, 93260	

Property Description

Lot Size:	3
Current Zoning	Industrial
Property Use:	Vacant Lot
Acquisition Date:	January 2, 1996
Original Seller:	Dargatz Revocable Trust of 1990
Purchase Price:	\$89,855
Estimated Current Value:	\$260,000
Basis for Current Value Estimate:	Market estimate on the sale price of 028-180-71



Property History & Reason for Acquisition

The Shafter Community Development Agency originally acquired APN 028-180-03, roughly 19.67 gross acres for the purpose of subdividing it into APN 028-180-37 and 028-180-38, consisting of 7.28 and 10.39 net acres respectively, so that APN 028-180-37 could be sold to Helena Chemical to facilitate their location to the City of Shafter. APN 028-180-38 was retained by the Shafter Community Development Agency.

APN 028-180-38 was transferred to the City of Shafter on March 15, 2011.

In June of 2012, APN 028-180-38 was split into three parcels, APNs 028-180-72, 028-180-71, and 028-180-70, consisting of 3.00, 4.45, and 1.93 net acres respectively. This split was to facilitate the sale of 028-180-71 to Helena Chemical for \$382,459.58, for future expansion of their operations. APN 028-180-70 was an existing City sump and was retained by the City for that governmental purpose. APN 028-180-72 was retained by the City for future industrial development.

Future use or Disposition of Subject Property

Dispose of this property through a sale at market value with the proceeds from that sale to be distributed as property tax to the taxing entities by way of the Kern County Auditor Controller.

Property Identification	
Assessor Parcel Number:	028-180-72 Page 2 of 3
Property Address:	951 E Ash Ave., Shafter CA, 93260

Appraisal Information	
Has an appraisal been conducted on the subject property?	Yes: <input checked="" type="checkbox"/> No: <input type="checkbox"/>
If Yes, briefly describe the appraisal engagement and the reason for the appraisal:	
If Yes, indicate the appraised value, the basis for that value, and the date of the valuation:	Appraised Value: \$ 260,000 Valuation Basis: Market Value Date of Valuation: 6/12/2011

Agency Revenue	
Is the Agency receiving lease or rental income from the Property?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>
If Yes, indicate the terms of the lease or rental agreement:	
If Yes, indicate the amount of the annual lease or rental income:	_____ Per year
If Yes, describe any contractual requirements for the disposition of the lease or rental proceeds:	

Environmental Information	
Have any environmental tests or assessments been performed on the property?	Yes: <input checked="" type="checkbox"/> No: <input type="checkbox"/>
If Yes, describe the work performed (Phase 2, Phase 2, Phase 3, Other Testing, Ect)	Phase I completed prior to purchase
If Yes, indicate any significant findings from the work performed:	Above ground storage tanks and hydraulic oil drums on site were noted.
If significant findings were indicated, describe any remediation work performed:	Storage tanks and oil drums were properly removed from the site.
Has the site been designated as a Brownfield site?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>

History of Development Proposals and Activity	
Discuss any history of development proposals or activity related to the subject property:	There have been no proposals for development or development activity for APN 028-180-70.

Transit-Oriented Development	
Describe the properties potential for transit-oriented development:	Due to the location of this property in an industrial park it is not suitable for future transit-oriented development.

Advancement of Planning Objectives	
Describe the properties potential for being developed to advance the planning objectives of the Successor Agency:	Development of the site will eliminate blighted conditions that otherwise prevent proper utilization which causes a physical, social, and economic liability to the entire Shafter community.

Property Identification

Assessor Parcel Number:

028-180-72

Page 3 of 3

Property Address:

951 E Ash Ave., Shafter CA, 93260



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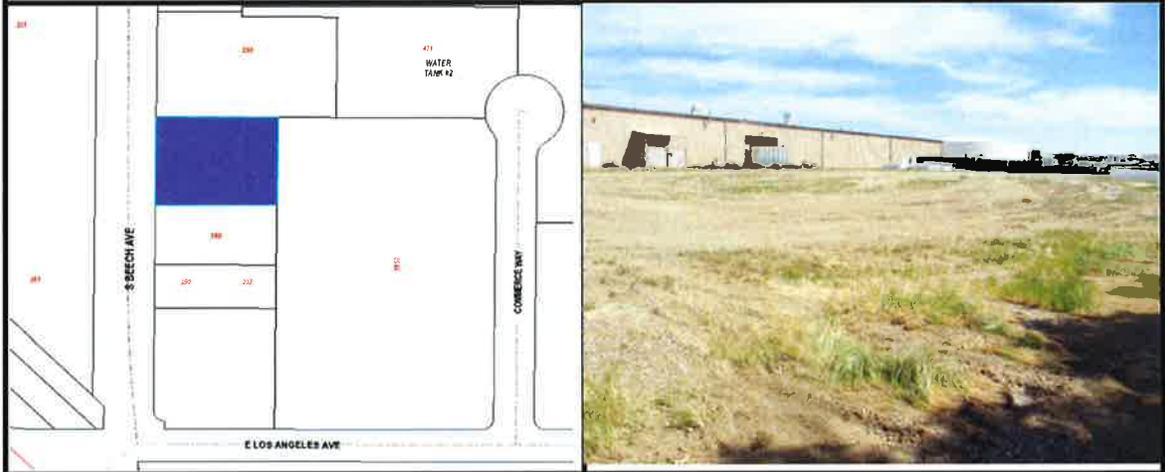
**Successor Agency to the Dissolved Shafter Community Development Agency
Long Range Property Management Plan**

Property Identification

Assessor Parcel Number:	089-230-45	Page 1 of 3
Property Address:	Address Not Assigned	

Property Description

Lot Size:	0.7767
Current Zoning	Industrial
Property Use:	Vacant Lot
Acquisition Date:	January 16, 1990
Original Seller:	Lowell Bergman and Venon Isaac
Purchase Price:	\$12,611
Estimated Current Value:	\$67,314
Basis for Current Value Estimate:	Market estimate on the sale price of 028-180-71



Property History & Reason for Acquisition

Parcels 2, 3 & 5 of Parcel Map 9177, roughly 20 acres, were original acquired for the purpose of developing a Community Correctional Facility (CCF) to be operated under contract with the State of California. Parcel 3, roughly 4.98 acres, was developed into the CCF. The Balance of the property was subdivided into parcels to be developed for industrial use and supporting governmental infrastructure.

Prior to being subdivided, APN 089-230-45 was included in Parcel 2 of Parcel Map 9177. When Parcel Map 9177 was subdivided with Parcel Map 9901 four separate parcels were created along with a designated remainder, the property included in APN 089-230-45 was included in Parcel 3 of Parcel map 9901. Through a series of subsequent lot line adjustments the boundaries of these parcels were adjusted to facilitate the industrial development of individual parcels, ultimately resulting in the current configuration of APN 089-230-45.

During the recording of the lot line adjustments above title to this parcel was inadvertently transferred into the name of the City of Shafter. On March 15, 2011 this property was transferred in the financial records to the City of Shafter.

Future use or Disposition of Subject Property

Dispose of this property through a sale at market value with the proceeds from that sale to be distributed as property tax to the taxing entities by way of the Kern County Auditor Controller.

Property Identification	
Assessor Parcel Number:	089-230-45 Page 2 of 3
Property Address:	Address Not Assigned

Appraisal Information	
Has an appraisal been conducted on the subject property?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>
If Yes, briefly describe the appraisal engagement and the reason for the appraisal:	
If Yes, indicate the appraised value, the basis for that value, and the date of the valuation:	Appraised Value: _____ Valuation Basis: _____ Date of Valuation: _____

Agency Revenue	
Is the Agency receiving lease or rental income from the Property?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>
If Yes, indicate the terms of the lease or rental agreement:	
If Yes, indicate the amount of the annual lease or rental income:	_____ Per year
If Yes, describe any contractual requirements for the disposition of the lease or rental proceeds:	

Environmental Information	
Have any environmental tests or assessments been performed on the property?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>
If Yes, describe the work performed (Phase 2, Phase 2, Phase 3, Other Testing, Ect)	
If Yes, indicate any significant findings from the work performed:	
If significant findings were indicated, describe any remediation work performed:	
Has the site been designated as a Brownfield site?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>

History of Development Proposals and Activity	
Discuss any history of development proposals or activity related to the subject property:	There have been no proposals for development or development activity on the subject property.

Transit-Oriented Development	
Describe the properties potential for transit-oriented development:	Due to the location of this property in an industrial park it is not suitable for future transit-oriented development.

Advancement of Planning Objectives	
Describe the properties potential for being developed to advance the planning objectives of the Successor Agency:	Development of the site will eliminate blighted conditions that otherwise prevent proper utilization which causes a physical, social, and economic liability to the entire Shafter community.

Property Identification

Assessor Parcel Number:

089-230-45

Page 3 of 3

Property Address:

Address Not Assigned



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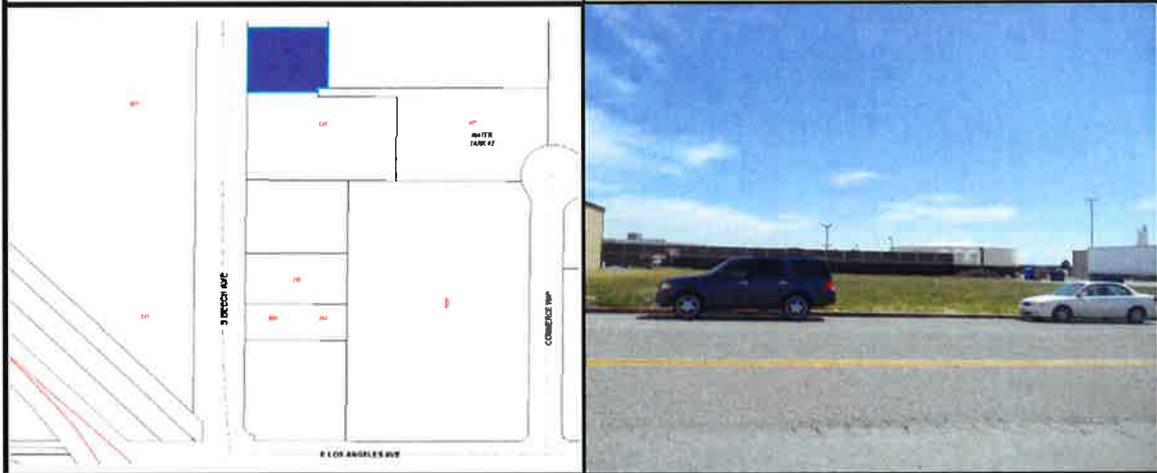
**Successor Agency to the Dissolved Shafter Community Development Agency
Long Range Property Management Plan**

Property Identification

Assessor Parcel Number:	089-230-43	Page 1 of 3
Property Address:	210 South Beach Ave., Shafter CA 93263	

Property Description

Lot Size:	0.5342
Current Zoning	Business Park
Property Use:	Vacant Lot
Acquisition Date:	January 16, 1990
Original Seller:	Lowell Bergman and Venon Isaac
Purchase Price:	\$22,772
Estimated Current Value:	\$46,297
Basis for Current Value Estimate:	Market estimate on the sale price of 028-180-71



Property History & Reason for Acquisition

Parcels 2, 3 & 5 of Parcel Map 9177, roughly 20 acres, were original acquired for the purpose of developing a Community Correctional Facility (CCF) to be operated under contract with the State of California. Parcel 3, roughly 4.98 acres, was developed into the CCF. The Balance of the property was subdivided into parcels to be developed for industrial use and supporting governmental infrastructure.

Prior to being subdivided, APN 089-230-45 was included in Parcel 2 of Parcel Map 9177. When Parcel Map 9177 was subdivided with Parcel Map 9901 four separate parcels were created along with a designated remainder, the property included in APN 089-230-45 was included in Parcel 2 of Parcel map 9901. Through a series of subsequent lot line adjustments the boundaries of these parcels were adjusted to facilitate the industrial development of individual parcels, ultimately resulting in the current configuration of APN 089-230-43.

During the recording of the lot line adjustments above title to this parcel was inadvertently transferred into the name of the City of Shafter. On March 15, 2011 this property was transferred in the financial records to the City of Shafter.

Future use or Disposition of Subject Property

Sell this property to the City of Shafter at the current appraised value with the proceeds from that sale to be distributed as property tax to the taxing entities by way of the Kern County Auditor Controller.

Property Identification	
Assessor Parcel Number:	089-230-43 Page 2 of 3
Property Address:	210 South Beach Ave., Shafter CA 93263

Appraisal Information	
Has an appraisal been conducted on the subject property?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>
If Yes, briefly describe the appraisal engagement and the reason for the appraisal:	
If Yes, indicate the appraised value, the basis for that value, and the date of the valuation:	Appraised Value: _____ Valuation Basis: _____ Date of Valuation: _____

Agency Revenue	
Is the Agency receiving lease or rental income from the Property?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>
If Yes, indicate the terms of the lease or rental agreement:	
If Yes, indicate the amount of the annual lease or rental income:	_____ Per year
If Yes, describe any contractual requirements for the disposition of the lease or rental proceeds:	

Environmental Information	
Have any environmental tests or assessments been performed on the property?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>
If Yes, describe the work performed (Phase 2, Phase 2, Phase 3, Other Testing, Ect)	
If Yes, indicate any significant findings from the work performed:	
If significant findings were indicated, describe any remediation work performed:	
Has the site been designated as a Brownfield site?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>

History of Development Proposals and Activity	
Discuss any history of development proposals or activity related to the subject property:	This property is needed by the City of Shafter to allow for the construction of security improvements needed at the neighboring City owned Community Correctional Facility pursuant to a contract with the California Department of Corrections and Rehabilitation.

Transit-Oriented Development	
Describe the properties potential for transit-oriented development:	Due to the location of this property in an industrial park it is not suitable for future transit-oriented development.

Advancement of Planning Objectives	
Describe the properties potential for being developed to advance the planning objectives of the Successor Agency:	Development of the site will eliminate blighted conditions that otherwise prevent proper utilization which causes a physical, social, and economic liability to the entire Shafter community.

Property Identification

Assessor Parcel Number:

089-230-43

Page 3 of 3

Property Address:

210 South Beach Ave., Shafter CA 93263



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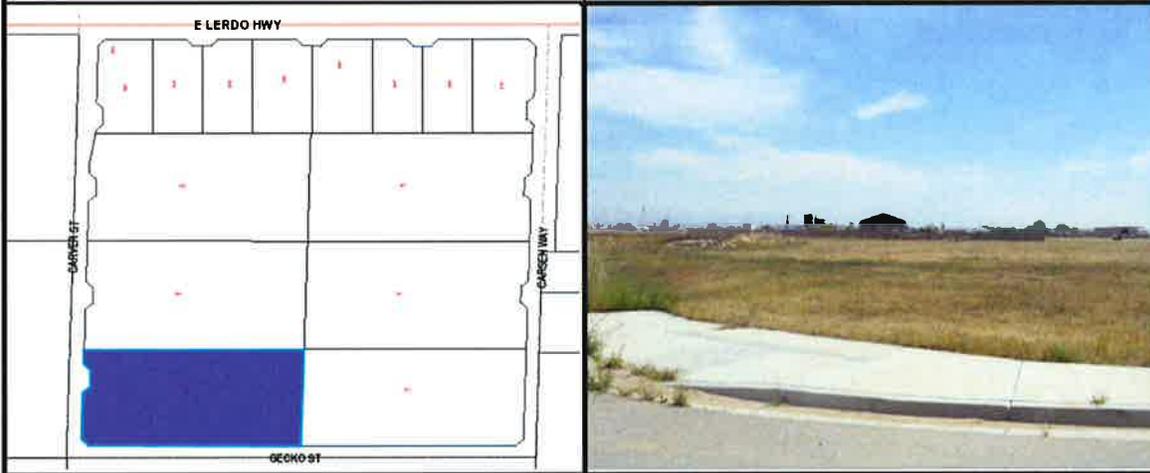
**Successor Agency to the Dissolved Shafter Community Development Agency
Long Range Property Management Plan**

Property Identification

Assessor Parcel Number:	091-180-18	Page 1 of 3
Property Address:	250 Carver St., Shafter CA 93263	

Property Description

Lot Size:	4.1522
Current Zoning	Industrial
Property Use:	Vacant Lot
Acquisition Date:	April 17, 2008
Original Seller:	JDC Lerdo LLC
Purchase Price:	\$625,478
Estimated Current Value:	\$359,857
Basis for Current Value Estimate:	Market estimate on the sale price of 028-180-71



Property History & Reason for Acquisition

APN 091-180-18 was purchased for the purpose of leasing the property to Cemex Construction Materials L.P. as a part of recruiting this business to locating in the City of Shafter. The purchase was completed and a 20 year lease was entered into between the Shafter Community Development Agency and Cemex on April 7, 2008.

Future use or Disposition of Subject Property

This property is subject to a 20 year lease. This plan allows for both of the following options. 1) The City of Shafter may purchase the property at a current appraised value and receive an assignment of the lease from the Successor Agency, or 2) All lease payments received shall be used to pay other Enforceable Obligations. Upon termination of the lease the property will be marketed and sold at the then current appraised value. In either case proceeds from that sale of the property will be distributed as property tax to the taxing entities by way of the Kern County Auditor Controller.

Property Identification		
Assessor Parcel Number:	091-180-18	Page 2 of 3
Property Address:	250 Carver St., Shafter CA 93263	

Appraisal Information	
Has an appraisal been conducted on the subject property?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>
If Yes, briefly describe the appraisal engagement and the reason for the appraisal:	
If Yes, indicate the appraised value, the basis for that value, and the date of the valuation:	Appraised Value: _____ Valuation Basis: _____ Date of Valuation: _____

Agency Revenue	
Is the Agency receiving lease or rental income from the Property?	Yes: <input checked="" type="checkbox"/> No: <input type="checkbox"/>
If Yes, indicate the terms of the lease or rental agreement:	20 year triple-net lease effective 4/14/2008 through 4/13/2028. CPI adjustment every 3 years.
If Yes, indicate the amount of the annual lease or rental income:	\$ <u>60,000</u> Per year
If Yes, describe any contractual requirements for the disposition of the lease or rental proceeds:	None.

Environmental Information	
Have any environmental tests or assessments been performed on the property?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>
If Yes, describe the work performed (Phase 2, Phase 2, Phase 3, Other Testing, Ect)	
If Yes, indicate any significant findings from the work performed:	
If significant findings were indicated, describe any remediation work performed:	
Has the site been designated as a Brownfield site?	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>

History of Development Proposals and Activity	
Discuss any history of development proposals or activity related to the subject property:	The property is currently under lease to Cemex. Cemex planned to use the facility as a manufacturing distribution facility for concrete.

Transit-Oriented Development	
Describe the properties potential for transit-oriented development:	None. The property is already obligated pursuant to the lease terms and is not available for additional development.

Advancement of Planning Objectives	
Describe the properties potential for being developed to advance the planning objectives of the Successor Agency:	None. The property is already obligated pursuant to the lease terms and is not available for additional development.

Property Identification

Assessor Parcel Number:

091-180-18

Page 2 of 3

Property Address:

250 Carver St., Shafter CA 93263



Exhibit A

California Department of Finance
Long-Range Property Management Plan Checklist
(Attached)



LONG-RANGE PROPERTY MANAGEMENT PLAN CHECKLIST

Instructions: Please use this checklist as a guide to ensure you have completed all the required components of your Long-Range Property Management Plan. Upon completion of your Long-Range Property Management Plan, email a PDF version of this document and your plan to:

Redevelopment_Administration@dof.ca.gov

The subject line should state "[Agency Name] Long-Range Property Management Plan". The Department of Finance (Finance) will contact the requesting agency for any additional information that may be necessary during our review of your Long-Range Property Management Plan. Questions related to the Long-Range Property Management Plan process should be directed to (916) 445-1546 or by email to Redevelopment_Administration@dof.ca.gov.

Pursuant to Health and Safety Code 34191.5, within six months after receiving a Finding of Completion from Finance, the Successor Agency is required to submit for approval to the Oversight Board and Finance a Long-Range Property Management Plan that addresses the disposition and use of the real properties of the former redevelopment agency.

GENERAL INFORMATION:

Agency Name: **Shafter Community Development Agency**

Date Finding of Completion Received: March 21, 2013

Date Oversight Board Approved LRPMP: April __, 2014

Long-Range Property Management Plan Requirements

For each property the plan includes the date of acquisition, value of property at time of acquisition, and an estimate of the current value.

Yes No

For each property the plan includes the purpose for which the property was acquired.

Yes No

For each property the plan includes the parcel data, including address, lot size, and current zoning in the former agency redevelopment plan or specific, community, or general plan.

Yes No

For each property the plan includes an estimate of the current value of the parcel including, if available, any appraisal information.

Yes No

For each property the plan includes an estimate of any lease, rental, or any other revenues generated by the property, and a description of the contractual requirements for the disposition of those funds.

Yes No

For each property the plan includes the history of environmental contamination, including designation as a brownfield site, any related environmental studies, and history of any remediation efforts.

Yes No

For each property the plan includes a description of the property's potential for transit-oriented development and the advancement of the planning objectives of the successor agency.

Yes No

For each property the plan includes a brief history of previous development proposals and activity, including the rental or lease of the property.

Yes No

For each property the plan identifies the use or disposition of the property, which could include 1) the retention of the property for governmental use, 2) the retention of the property for future development, 3) the sale of the property, or 4) the use of the property to fulfill an enforceable obligation.

Yes No

The plan separately identifies and list properties dedicated to governmental use purposes and properties retained for purposes of fulfilling an enforceable obligation.

Yes No

ADDITIONAL INFORMATION

- If applicable, please provide any additional pertinent information that we should be aware of during our review of your Long-Range Property Management Plan.
The first draft of the Long-Range Property Management Plan (Plan) was approved by the Oversight Board on April 16, 2013. The Plan was then revised to address certain feedback from the Department of Finance and reapproved by the Oversight Board on November 19, 2013. It was subsequently discovered at APN 028-180-47 had been owned by the redevelopment agency and was inadvertently omitted from the Plan. The second revision to the Plan added 028-180-47 to the Plan and left the balance of the Plan unchanged.

Agency Contact Information

Name:	James L. Zervis	Name:	Scott Hurlbert
Title:	Administrative Services Director	Title:	City Manager
Phone:	(661) 746-5043	Phone:	(661) 746-5000
Email:	jzervis@shafter.com	Email:	shurlbert@shafter.com
Date:	April 1, 2014	Date:	April 1, 2014

Department of Finance Local Government Unit Use Only

DETERMINATION ON LRPMP: APPROVED DENIED

APPROVED/DENIED BY: _____ DATE: _____

APPROVAL OR DENIAL LETTER PROVIDED: YES DATE AGENCY NOTIFIED: _____

Exhibit B

California Department of Finance
Long-Range Property Management Plan Tracking Worksheet
(Attached)

LONG RANGE PROPERTY MANAGEMENT PLAN: PROPERTY INVENTORY DATA

No.	Property Type	HSC 34191.5 (c)(2)		HSC 34191.5 (c)(1)(A)			Value Basis	Date of Estimated Current Value	SALE OF PROPERTY		HSC 34191.5 (c)(1)(B)
		Permissible Use	Permissible Use Detail	Acquisition Date	Value at Time of Purchase	Estimated Current Value			Proposed Sale Value	Proposed Sale Date	Purpose for which property was acquired
1	Other	Governmental Use	City Sump	1/16/1990	\$ 21,078.64	-	Market	4/16/2013	Not Applicable	Not Applicable	A 20 acre parcel was purchased and subdivided so a large portion could be sold and developed into the CCF. The remaining land was to be developed as an industrial park and necessary public infrastructure including roads, water well/tanks, and a sump.
2	Park	Governmental Use	City Downtown Park	12/13/1999	\$ 80,403.23	-	Market	4/16/2013	Not Applicable	Not Applicable	Blight Removal, demo old bar, and develop into a portion of a larger downtown public park.
3	Park	Governmental Use	Railroad Strip Park	9/13/2002	\$ 102,825.61	-	Market	4/16/2013	Not Applicable	Not Applicable	Blight Removal and Develop into beltway public park.
4	Park	Governmental Use	Railroad Strip Park	9/13/2002	\$ 38,174.39	-	Market	4/16/2013	Not Applicable	Not Applicable	Blight Removal and Develop into beltway public park.
5	Other	Governmental Use	City Sump	1/2/1996	\$ 57,906.98	-	Market	4/16/2013	Not Available	Not Available	Part of a larger parcel that was purchased so a portion could be sold to Helena Chemical. The remaining property was retained for future industrial development and a necessary City Sump.
6	Park	Governmental Use	City Skate Park	3/7/2001	\$ 39,676.00	170,796	Market	3/20/2014	Not Available	Not Available	Part of a larger parcel that was purchased so a portion could be Given to the Kern County Economic Opportunity Corporation to be developed into a Youth Activity Center. The remaining parcel was developed by the agency into a public Skate Park.
7	Vacant Lot/Land	Sale of Property	Vacant Lot	1/2/1996	\$ 133,286.00	382,460	Market	12/15/2013	Not Available	Not Available	Part of a larger parcel that was purchased so a portion could be sold to Helena Chemical. The remaining property was retained for future industrial development and a necessary City Sump.
8	Vacant Lot/Land	Sale of Property	Vacant Lot	1/2/1996	\$ 89,855.41	260,000	Market	4/16/2013	Not Available	Not Available	Part of a larger parcel that was purchased so a portion could be sold to Helena Chemical. The remaining property was retained for future industrial development and a necessary City Sump.
9	Vacant Lot/Land	Sale of Property	Vacant Lot	1/16/1990	\$ 12,610.54	67,314	Market	4/16/2013	Not Available	Not Available	A 20 acre parcel was purchased and subdivided so a large portion could be sold and developed into the CCF. The remaining land was to be developed as an industrial park and necessary public infrastructure including roads, water well/tanks, and a sump.
10	Vacant Lot/Land	Sale of Property	Vacant Lot	1/16/1990	\$ 22,772.45	46,297	Market	4/16/2013	Not Available	Not Available	A 20 acre parcel was purchased and subdivided so a large portion could be sold and developed into the CCF. The remaining land was to be developed as an industrial park and necessary public infrastructure including roads, water well/tanks, and a sump.
11	Vacant Lot/Land	Sale of Property	Property subject to a 20yr	4/17/2008	\$ 625,478.13	359,857	Market	4/16/2013	Not Available	Not Available	Property was purchased so it could be leased to CEMEX who was interested in locating in Shafter, which they did.

LONG RANGE PROPERTY MANAGEMENT PLAN: PROPERTY INVENTORY DATA

No.	Address	HSC 34191.5 (c)(1)(C)			34191.5 (c)(1)	HSC 34191.5 (c)(1)(E)		HSC 34191.5 (c)(1)(F)	HSC 34191.5 (c)(1)(G)		HSC 34191.5 (c)(1)(H)
		APN #	Lot Size	Current Zoning	Estimate of Current Parcel Value	Estimate of Income/Revenue	Contractual requirements for use of income/revenue	History of environmental contamination, studies, and/or remediation, and designation as a brownfield site	Description of property's potential for transit oriented development	Advancement of planning objectives of the successor agency	History of previous development proposals and activity
1	None	089-230-18	1.05800	Industrial	-	-	Not Applicable	None	None	None	There have been no proposals for development or development activity for the subject property because it has been in all times used as a City sump.
2	336 Central Ave.	027-240-14	0.08610	Downtown Commercial	-	-	Not Applicable	None	None	None	There have been no proposals for development or development activity for the subject property because it was developed into a park in 200-2001.
3	None	027-360-07	1.92860	Business Park	-	-	Not Applicable	Phase I done upon purchase, No problems noted.	None	None	Property acquired from BNSF Railroad and developed into a park in 2003.
4	None	027-370-05	0.71600	Business Park	-	-	Not Applicable	Phase I done upon purchase, No problems noted.	None	None	Property acquired from BNSF Railroad and developed into a park in 2003.
5	301 S. Beech Ave.	028-180-70	1.93000	Industrial	-	-	Not Applicable	Phase I done upon purchase. No problems but needed to remove above ground tank and drums of oil and hydraulic fluid.	None	None	APN 028-180-38 was split into three pieces so that the center 4.45 Acres in APN 028-180-71 could be sold to Helena Chemical in December 2012. APN 028-180-70 remains a City sump. The Third Parcel APN 028-180-72 is available for future development.
6	460 E. Ash Ave.	028-180-47	0.98000	General Commercial	170,796	-	Not Applicable	None	None	None	APN 028-180-32 was purchased in 2001 and split into two parcels, APN 028-180-47 and APN 028-180-48, .98 acres and 1.49 acres respectively. APN 028-180-48 was transferred to the Kern County Economic Opportunity Corporation and developed into the Shafter Youth Center. The redevelopment agency then developed APN 028-180-47 into a public skate park.
7	231 S. Beech Ave.	028-180-71	4.45000	Industrial	382,460	-	Not Applicable	Phase I done upon purchase. No problems but needed to remove above ground tank and drums of oil and hydraulic fluid.	None	None	APN 028-180-38 was split into three pieces so that the center 4.45 Acres in APN 028-180-71 could be sold to Helena Chemical in December 2012. APN 028-180-70 remains a City sump. The Third Parcel APN 028-180-72 is available for future development.
8	951 E. Ash Ave.	028-180-72	3.00000	Industrial	260,000	-	Not Applicable	Phase I done upon purchase. No problems but needed to remove above ground tank and drums of oil and hydraulic fluid.	None	None	APN 028-180-38 was split into three pieces so that the center 4.45 Acres in APN 028-180-71 could be sold to Helena Chemical in December 2012. APN 028-180-70 remains a City sump. The Third Parcel APN 028-180-72 is available for future development.
9	None	089-230-45	0.77670	Industrial	67,314	-	Not Applicable	None	None	None	There have been no proposals for development or development activity for the subject property.
10	None	089-230-43	0.53420	Business Park	46,297	-	Not Applicable	None	None	None	There have been no proposals for development or development activity for the subject property.
11	250 Carver St.	091-180-18	4.15220	Industrial	359,857	60,000	None	None	None	None	Property is being leased to CEMEX with a 20 year term

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Exhibit C

Lease of APN 091-180-18
By and between the Shafter Community Development Agency
and Cemex Construction Materials L.P.
(Attached)

GROUND LEASE

(Cemex Construction Materials)

by and between the

SHAFTER COMMUNITY DEVELOPMENT AGENCY,

a public body, corporate and politic,

and

CEMEX CONSTRUCTION MATERIALS L.P.,

a Texas limited partnership

Dated as of April 7, 2008

SHAFTER COMMUNITY DEVELOPMENT AGENCY

GROUND LEASE

(Cemex Construction Materials)

This GROUND LEASE (Cemex Construction Materials) (this "Lease") is entered into as of April 7, 2008 (the "Reference Date"), for reference purposes only, between the SHAFTER COMMUNITY DEVELOPMENT AGENCY, a public body, corporate and politic, ("Landlord"), and CEMEX CONSTRUCTION MATERIALS, L.P., a Texas limited partnership ("Tenant"), with reference to the following recited facts (each, a "Recital"):

RECITALS

A. Landlord has or will have fee title to that certain real property specifically described in **Exhibit "B"** attached to this Lease on or before the Commencement Date (the "Land");

B. Landlord desires to lease the Land to Tenant and Tenant desires to lease the Land from Landlord, upon the occurrence of the Commencement Date;

C. Landlord and Tenant desire to enter into this Lease to set forth their rights and obligations to each other relating to the Land, if and when the Commencement Date occurs;

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, LANDLORD LEASES THE LAND TO TENANT AND TENANT LEASES THE LAND FROM LANDLORD, SUBJECT ONLY TO THE PERMITTED EXCEPTIONS, FOR THE TERM, UPON THE TERMS AND CONDITIONS OF THIS LEASE.

1. **DEFINITIONS.** The following definitions apply in this Lease:

1.1 "**Additional Rent**" means all sums that this Lease requires Tenant to pay Landlord or any other Person, whether or not expressly called Additional Rent, except Fixed Rent.

1.2 "**Affiliate**" of any specified Person means any other Person Controlling or Controlled by or under common Control with such specified Person. "**Affiliated**" shall have the correlative meaning.

1.3 "**Application**" means any agreement, application, certificate, document, or submission (or amendment of any of the foregoing): (a) necessary or appropriate for any Construction this Lease allows, including any application for any building permit, certificate of occupancy, utility service or hookup, easement, covenant, condition, restriction, or such other

instrument as Tenant may from time to time reasonably request for such Construction; or (b) to enable Tenant from time to time to seek any Approval or to use and operate the Premises in accordance with this Lease.

1.4 “Appraiser” means an MAI appraiser, with an office in the County and at least ten (10) years of experience in appraising commercial real estate.

1.5 “Approvals” means any and all licenses, permits (including building, demolition, alteration, use, and special permits), approvals, consents, certificates (including certificate(s) of occupancy), rulings, variances, authorizations, or amendments to any of the foregoing as shall be necessary or appropriate under any Law to commence, perform, or complete any Construction, or for the use, occupancy, maintenance, or operation of the Premises.

1.6 “Automobile Liability Insurance” means insurance coverage against claims of personal injury (including bodily injury and death) and property damage covering all owned, leased, hired and non-owned vehicles used by Tenant, with minimum limits for bodily injury and property damage of ONE MILLION DOLLARS (\$1,000,000) each occurrence and TWO MILLION DOLLARS (\$2,000,000) aggregate. Such insurance shall be provided by a business or commercial vehicle policy.

1.7 “Bankruptcy Law” means Title 11, United States Code, and any other or successor state or federal statute relating to assignment for the benefit of creditors, appointment of a receiver or trustee, bankruptcy, composition, insolvency, moratorium, reorganization, or similar matters.

1.8 “Bankruptcy Proceeding” means any proceeding, whether voluntary or involuntary, under any Bankruptcy Law.

1.9 “Bankruptcy Sale” means a sale of any property, or any interest in any property, under 11 U.S.C. §363 or otherwise in any Bankruptcy Proceeding affecting the owner of such property.

1.10 “Batch Plant Development” means Tenant’s first Major Construction undertaken under this Lease, consisting of improvements to the Premises for purposes of a concrete “Batch Plant” as that term is commonly used in the cement/concrete/aggregate industry.

1.11 “Building” means all improvements located or to be located on the Premises, from time to time.

1.12 “Building Equipment” means all fixtures incorporated in the Premises owned by Tenant and used, useful, or necessary to operate any Building as such (including boilers; compactors; compressors; conduits; ducts; elevators; engines; equipment; escalators; fittings; heating, ventilating and air conditioning systems; machinery; and pipes) as opposed to trade fixtures of any business operating in any Building. The Parties anticipate that Landlord will not own any Building Equipment.

1.13 “Builder’s Risk Insurance” means “all risk” builder’s risk insurance on a completed value (non-reporting) basis, in an amount sufficient to prevent coinsurance, but in any

event not less than one hundred percent (100%) of replacement value, including cost of debris removal, but excluding foundation and excavations, naming Landlord and Tenant as additional insured, as their interests may appear. Such insurance shall also: (a) state that "permission is granted to complete and occupy"; and (b) cover, for replacement value, all materials and equipment on or about any offsite storage location intended for use for the Premises.

1.14 "Business Day" means any weekday on which the City is open to conduct regular municipal functions with City personnel.

1.15 "Casualty" means any damage or destruction of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, affecting any or all Building, whether or not insured or insurable.

1.16 "Casualty Termination" means a termination of this Lease because of a Substantial Casualty, when and as this Lease expressly allows such a termination.

1.17 "Certifying Party" shall have the meaning ascribed to the term in Section 27.1.

1.18 "City" means the City of Shafter, County of Kern, State of California.

1.19 "Claim" means any claim, loss, cost, damage, expense, liability, lien, action, cause of action (whether in tort, contract, under statute, at law, in equity or otherwise), charge, award, assessment, fine or penalty of any kind (including consultant and expert fees and expenses, Legal Costs of counsel retained by the Indemnitee, costs of staff time and investigation costs of whatever kind or nature), and any judgment, including any such matter relating to or arising from: (i) injury to any Person (including death at any time resulting from that injury); (ii) loss of, injury or damage to, or destruction of property (including all loss of use resulting from that loss, injury, damage, or destruction) regardless of where located, including the property of the Indemnitee; or (iii) enforcement of any indemnity obligation under this Agreement.

1.20 "Commencement Date" means April 14, 2008

1.21 "Condemnation" means: (a) any temporary or permanent taking of (or of the right to use or occupy) any Premises by condemnation, eminent domain, or any similar proceeding; or (b) any action by any Government not resulting in an actual transfer of an interest in (or of the right to use or occupy) any part of the Premises, but creating a right to compensation, such as a change in grade of any street upon which the Premises abut.

1.22 "Condemnation Award" means any award(s) paid or payable (whether or not in a separate award) to either Party or a Mortgagee, after the Commencement Date, because of or as compensation for any Condemnation, including: (1) any award made for any Building that is the subject of the Condemnation; (2) the full amount paid or payable by the condemning authority for the estate that is the subject of the Condemnation, as determined in the Condemnation; (3) any interest on such award; and (4) any other sums payable on account of such Condemnation, including for any prepayment premium under any Mortgage.

1.23 "Condemnation Effective Date" means for any Condemnation, the first date when the condemning authority has acquired title to or possession of any part of the Premises subject to the Condemnation.

1.24 Intentionally Deleted.

1.25 "Construction" means any alteration, construction, demolition, excavation, development, expansion, reconstruction, redevelopment, repair, Restoration, installation or other work affecting any Building, including new construction. Construction consists of Minor Construction and Major Construction.

1.26 "Contest" shall have the meaning ascribed to the term in Section 13.

1.27 "Contest Conditions" shall have the meaning ascribed to the term in Section 13.

1.28 "Contractor's Insurance" means contractor's commercial general liability and automobile liability insurance with liability limits of not less than Four Million Dollars (\$4,000,000.00) for personal injury and Two Million Dollars (\$2,000,000.00) for broad form property damage, including premises-operations liability, contractor's protective liability for all subcontractors' operations, completed operations, contractual liability (referring to the indemnity provisions of the applicable construction contract(s)), and automobile liability (owned and non-owned), and for any foundation, excavation, or demolition work, an endorsement that such operations are covered and that the "XCU Exclusions" have been deleted, which insurance may be in the form of a single limit policy or policies.

1.29 "Control" means possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether by ownership of Equity Interests, by contract, or otherwise.

1.30 "Controlling" and "Controlled" mean and refer to exercising or having Control.

1.31 "County" means the County of Kern, California.

1.32 "CPI" means the United States Department of Labor, Bureau of Labor Statistics "Consumer Price Index" for All Urban Consumers (CPI-U) published for the Los Angeles-Riverside-Orange County, CA, Metropolitan Statistical Area, with a base of 1982-1984 = 100. If the CPI ceases to be published, with no successor index, then the Parties shall reasonably agree upon a reasonable substitute index. The CPI for any date means the CPI last published before the calendar month that includes such date.

1.33 "CPI Adjustment Factor" means, as of any date, the greater of (a) 1.00 or (b) the CPI for such date divided by the CPI for the Commencement Date.

1.34 "Default" means any Monetary Default or Non-Monetary Default.

1.35 "Default Interest" means interest at an annual rate equal to the lesser of: (a) the Prime Rate plus two percent (2%) per annum; or (b) the Usury Limit.

1.36 “Environmental Claim” means any and all claims, demands, damages, losses, liabilities, obligations, penalties, fines, actions, causes of action, judgments, suits, proceedings, costs, disbursements and expenses, including Legal Costs and fees and costs of environmental consultants and other experts, and all foreseeable and unforeseeable damages or costs of any kind or of any nature whatsoever, directly or indirectly, relating to or arising from any actual violation of any Environmental Law or Hazardous Substance Discharge occurring during or arising from Tenant’s due diligence investigations, Tenant’s ownership, use or occupancy of the Premises, Tenant’s construction, installation or operation of the Patch Plant Development or any other actions of or attributable to Tenant regarding the Premises.

1.37 “Environmental Law” means any Law regarding the following at, in, under, above, or upon the Premises: (a) air, environmental, ground water, or soil conditions; or (b) clean-up, control, disposal, generation, storage, release, transportation, or use of, or liability or standards of conduct concerning, Hazardous Substances.

1.38 “Equity Interest” means all or any part of any direct or indirect equity or ownership interest(s) (whether stock, partnership interest, beneficial interest in a trust, membership interest, or other interest of an ownership or equity nature) in any entity at any tier of ownership that directly or indirectly owns or holds any ownership or equity interest in a Person.

1.39 “Estoppel Certificate” means a certification of each of the following:

1.39.1 **Existing Lease.** This Lease is unmodified and in full force and effect, or, if there have been modifications, that this Lease is in full force and effect, as modified, in the manner specified in the certification;

1.39.2 **Defaults.** There are no uncured breaches, defaults or failures to perform any covenant or provision of this Lease on the part of the Requesting Party or specifying any such breaches, defaults or failures that are claimed to exist;

1.39.3 **Prepaid Rent.** The dates to which any amounts of Rent have been paid to the Requesting Party in advance; and

1.39.4 **Other Reasonable Matters.** Any other matters reasonably requested by the Requesting Party.

1.40 “Event of Default” means the occurrence of any one or more of the following events:

1.40.1 **Monetary Default.** A Monetary Default that continues for seven (7) Business Days after Notice from Landlord, specifying in reasonable detail the amount of money not paid and the nature and calculation of each such amount.

1.40.2 **Prohibited Liens.** Any failure of Tenant to comply with any obligation regarding Prohibited Liens and Tenant does not remedy such failure within fifteen (15) Business Days after Notice from Landlord.

1.40.3 **Intentionally Deleted.**

1.40.4 **Insurance Maintenance Default.** Landlord gives Tenant Notice of an Insurance Maintenance Default and Tenant does not remedy such Default within fifteen (15) Business Days after the date of Landlord's Notice. The Parties acknowledge that Tenant expects to self insure with respect to property damage coverage.

1.40.5 **Non-Monetary Default.** Any Non-Monetary Default, other than those specifically addressed in Sections 1.40.2 or 1.40.4, occurs and Tenant does not cure it within thirty (30) Business days after Notice from Landlord describing the Non-Monetary Default in reasonable detail, or, in the case of a Non-Monetary Default that cannot with due diligence be cured within thirty (30) Business days from the date of such Notice, if Tenant shall not (a) within thirty (30) Business days from the date of Landlord's Notice advise Landlord of Tenant's intention to take all reasonable steps to cure such Non-Monetary Default; (b) duly commence such cure within such period, and then diligently prosecute such cure to completion; and (c) complete such cure within a reasonable time under the circumstances (not necessarily limited to thirty (30) Business days).

1.41 "Executive Director" means the Executive Director, from time to time, of the Shafter Community Development Agency, or such Person's designee or successor in function or, if the Fee Estate is transferred to a Person other than the Landlord named in this Lease, then such future owner's designated representative.

1.42 "Expiration Date" means the date when this Lease terminates or expires in accordance with its terms, whether on the Scheduled Expiration Date, by Landlord's exercise of remedies for an Event of Default, Tenant's exercise of remedies for an breach of this Agreement or otherwise.

1.43 "Fee Estate" means Landlord's fee estate in the Premises, including Landlord's reversionary interest in the Premises after the Expiration Date.

1.44 "Mortgage" means any Mortgage: (a) that encumbers all or part of the Fee Estate; (b) that complies with this Lease; (c) a copy of which (recorded or unrecorded) is promptly after execution delivered to Tenant, with a certification by the Mortgagee that the copy is accurate and stating the Mortgagee's name and Notice address; and (d) that is held by a Mortgagee that is subject to the jurisdiction of the courts of the State and not immune from suit.

1.45 "Mortgagee" means any holder of a Mortgage. Any participant or partial assignee holding any direct or indirect interest in a Mortgage shall not be deemed a Mortgagee or affect Tenant in any way.

1.46 "FF&E" means all movable equipment and personal property of Tenant or anyone claiming through Tenant (excluding Building Equipment) that may be removed, without material damage to the Premises, and without adversely affecting: (a) the structural integrity of the Premises; (b) any electrical, plumbing, mechanical, or other system in the Premises; (c) the present or future operation of any such system; or (d) the present or future provision of any utility service to the Premises. FF&E includes items such as movable equipment, telephone,

telecommunications and point of sale equipment, televisions, radios, network racks, and computer systems, peripherals, and any personal property of the Tenant.

1.47 "Fixed Rent" shall have the meaning ascribed to the term in Section 4.1.

1.48 "Foreclosure Event" means any transfer of title to any estate through any: (1) judicial or non-judicial foreclosure; (2) trustee's sale; (3) deed, transfer, assignment, or other conveyance in lieu of foreclosure; (4) other similar exercise of rights or remedies under any Mortgage; or (5) transfer by operation of or through any Bankruptcy Proceeding (including an auction or plan of reorganization in any Bankruptcy Proceeding and any Bankruptcy Sale), in each case ("1" through "5") whether the transferee is a Mortgagee, a Person claiming through a Mortgagee, or a Third Person.

1.49 "Government" means each and every governmental agency, authority, bureau, department, quasi-governmental body, or other entity or instrumentality having or claiming jurisdiction over the Premises (or any activity this Lease allows), including the United States government, the State and County governments and their subdivisions and municipalities, the City and all other applicable governmental agencies, authorities, and subdivisions thereof. "Government" shall also include any planning commission, board of standards and appeals, department of buildings, city council, zoning board of appeals, design review board or committee or similar body having or claiming jurisdiction over the Premises or any activities on or at the Premises.

1.50 "Hazardous Substances" means flammable substances, explosives, radioactive materials, asbestos, asbestos-containing materials, polychlorinated biphenyls, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, medical wastes, toxic substances or related materials, explosives, petroleum, petroleum products, and any "hazardous" or "toxic" material, substance or waste that is defined by those or similar terms or is regulated as such under any Law, including any material, substance or waste that is: (i) defined as a "hazardous substance" under Section 311 of the Water Pollution Control Act (33 U.S.C. § 1317), as amended; (ii) substances designated as "hazardous substances" pursuant to 33 U.S.C. § 1321; (iii) defined as a "hazardous waste" under Section 1004 of the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901, *et seq.*, as amended; (iv) defined as a "hazardous substance" or "hazardous waste" under Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Reauthorization Act of 1986, 42 U.S.C. § 9601, *et seq.*, or any so-called "superfund" or "superlien" law; (v) defined as a "pollutant" or "contaminant" under 42 U.S.C.A. § 9601(33); (vi) defined as "hazardous waste" under 40 C.F.R. Part 260; (vii) defined as a "hazardous chemical" under 29 C.F.R. Part 1910; any matter within the definition of "hazardous substance" set forth in 15 U.S.C. § 1262; (viii) any matter, waste or substance regulated under the Toxic Substances Control Act ("TSCA") [15 U.S.C. §§ 2601, *et seq.*]; (ix) any matter, waste or substance regulated under the Hazardous Materials Transportation Act, 49 U.S.C. §§ 1801, *et seq.*; (x) those substances listed in the United States Department of Transportation (DOT) Table [49 CFR 172.101]; (xi) any matter, waste or substances designated by the EPA, or any successor authority, as a hazardous substance [40 CFR Part 302]; (xii) any matter, waste or substances defined as "hazardous waste" in Section 25117 of the California Health and Safety Code; (xiii) any substance defined as a "hazardous substance" in Section 25316 of the California Health and

Safety Code; (xiv) any matter, waste, or substance that is subject to any other Law regulating, relating to or imposing obligations, liability or standards of conduct concerning protection of human health, plant life, animal life, natural resources, property or the enjoyment of life or property free from the presence in the environment of any solid, liquid, gas, odor or any form of energy from whatever source; or (xv) other substances, materials, and wastes that are, or become, regulated or classified as hazardous or toxic under any Laws or the regulations adopted pursuant to any Laws, including manure, asbestos, polychlorinated biphenyl, flammable explosives and radioactive material.

1.51 “Hazardous Substance Discharge” means any deposit, discharge, generation, release, or spill of a Hazardous Substance that occurs at, on, under, into or from the Premises, or into the Land, or during transportation of any Hazardous Substance to or from the Premises (whether on its own or contained in other material or property), or that arises at any time from the use, occupancy, or operation of the Premises or any activities conducted at, on, under or in the Premises or any adjacent or nearby real property, or resulting from seepage, leakage, or other transmission of a Hazardous Substance from other real property to the Land, whether or not caused by a Party to this Lease and whether occurring before or after the Commencement Date.

1.52 “Immaterial Loss” means a Casualty or Condemnation that results in a loss of Twenty-Five Thousand Dollars (\$25,000) or less.

1.53 “Indemnify” means, where this Lease states that any Indemnitor shall “Indemnify” any Indemnitee from, against, or for a particular matter (the “Indemnified Risk”), that the Indemnitor shall indemnify the Indemnitee and defend and hold the Indemnitee harmless from and against any and all loss, cost, claims, liability, penalties, judgments, damages, and other injury, detriment, or expense (including Legal Costs, interest and penalties) that the Indemnitee suffers or incurs: (a) from, as a result of, or on account of the Indemnified Risk; or (b) in enforcing the Indemnitor’s indemnity. “Indemnified” shall have the correlative meaning.

1.54 “Indemnitee” means any Person entitled to be Indemnified under this Lease.

1.55 “Indemnitor” means a Person that agrees to Indemnify any other Person pursuant to this Lease.

1.56 “Indemnity Matter” means any matter regarding which a Party is required to Indemnify another Person.

1.57 “Insubstantial Condemnation” means any Condemnation, except a Substantial Condemnation, a Temporary Condemnation, or an Immaterial Loss.

1.58 “Insurance Maintenance Default” means Tenant’s failure to maintain or pay premiums for (or give Landlord evidence of) any insurance, when and as this Lease requires.

1.59 “Insurance Premiums” means the dollar amount required to be paid by Tenant to obtain or maintain any and all insurance coverage required by this Lease.

1.60 “Land” means the real property of the Premises, exclusive of any private commercial Building constructed by Tenant.

1.61 “Landlord” initially means the Landlord named in the opening paragraph of this Lease. After every transfer of the Fee Estate, “Landlord” means only the owner(s) of the Fee Estate at the time in question. If any former Landlord no longer has any interest in the Fee Estate or a Transfer of the Fee Estate occurs (in all cases in compliance with this Lease, including requirements regarding any Trust Funds), the transferor (including a Mortgagee, or anyone acting for a Mortgagee, that has acquired and then disposed of the Fee Estate) shall be and hereby is entirely freed and relieved of all obligations of Landlord under this Lease after the date of such Transfer. It shall be deemed and construed, without further agreement between the Parties or their successors in interest or between the Parties and the Person who acquires or owns the Premises, including the transferee (including a Mortgagee taking title to the Fee Estate or a Person taking title to the Fee Estate from a Mortgagee) on any such Transfer, that such Person has assumed and agreed to carry out any and all agreements, covenants, and obligations of Landlord under this Lease accruing from and after the date of such Transfer.

1.62 “Laws” means all laws, ordinances, requirements, orders, proclamations, directives, rules, and regulations of any Government (including prevailing wage laws) affecting the Premises, this Lease, or any Construction in any way, including any use, maintenance, taxation, operation, or occupancy of, or environmental conditions affecting, the Premises, or relating to any Real Estate Taxes, or otherwise relating to this Lease or any Party’s rights or remedies under this Lease, or any Transfer of any of the foregoing, whether in force at the Commencement Date or passed, enacted, or imposed at some later time, subject in all cases, however, to any applicable waiver, variance, or exemption.

1.63 “Lease Memorandum” means a memorandum of this Lease, in recordable form, setting forth the following provisions of this Lease: (a) all information any Law requires; (b) restrictions on Transfers and Mortgages; (c) provisions required to be (or deemed) contained in Transfers or Mortgages; (d) Landlord’s non-responsibility for costs of improvement; (e) covenants regarding real property other than the Premises; (f) any grant of a power of attorney; and (g) such other provisions, except the amount or means of determining Rent, as either Party reasonably requests. The form of the Lease Memorandum will be as set forth in Exhibit “D” attached hereto.

1.64 “Lease Year” means: (a) the twelve calendar months starting on the first day of the first full calendar month after the Commencement Date; and (b) every subsequent period of twelve (12) calendar months during the Term. Each Lease Year is referred to in this Lease in consecutive chronological order, starting with “Lease Year 1” and continuing with “Lease Year 2,” “Lease Year 3,” etc.

1.65 “Leasehold Estate” means Tenant’s leasehold estate, and all of Tenant’s rights and privileges under this Lease, upon and subject to all the terms and conditions of this Lease, and any direct or indirect interest in such Leasehold Estate.

1.66 “Legal Costs” of any Person means all reasonable costs and expenses such Person incurs in any legal proceeding (or other matter for which such Person is entitled to be reimbursed for its Legal Costs), including reasonable attorneys’ fees, court costs, and expenses, and in or as a result of any Bankruptcy Proceeding.

1.67 “Liability Insurance” means commercial general liability insurance against claims for personal injury, death, or property damage occurring upon, in, or about the Premises or adjoining streets and passageways, providing coverage for a combined single limit of Two Million Dollars (\$2,000,000) for any one occurrence. Landlord may increase such limit up to once every three years, upon at least 180 days’ Notice to Tenant, provided that any increased limit: (a) does not exceed the limit initially set forth times the CPI Adjustment Factor, rounded to the nearest multiple of One Hundred Thousand Dollars (\$100,000); and (b) generally conforms to the limits customarily required by prudent landlords for similar properties in the County.

1.68 “Loss” means any Casualty or Condemnation.

1.69 “Loss Proceeds” means Condemnation Award(s) and/or Property Insurance Proceeds.

1.70 “Lower-Risk Restoration” means any Restoration after an Immaterial Loss or that meets all of the following conditions: (a) Restoration Funds equal or exceed the reasonably estimated cost of Restoration; (b) Tenant has agreed that Tenant shall not, in such Restoration, change the use of any material portion of any Building; and (c) such Restoration contemplates Restoration generally comparable (in size, structure, configuration, use, and quality) to the Building as it existed before the Loss, to the extent Law permits.

1.71 “Major Construction” means the Batch Plant Development or any other Construction (including any coordinated series of related projects) whose estimated cost exceeds One Hundred Thousand Dollars (\$100,000) times the CPI Adjustment Factor.

1.72 “Market Value” of the Fee Estate or the Leasehold Estate means, as of any date of determination, the present fair market value of such estate (including the fair market value of the rights of the holder of such estate in and to any Building) as of such date, considered: (a) as if no Loss had occurred; (b) without adjusting for any expectation of any Loss; (c) as if the Leasehold Estate had not been terminated; (d) taking into account the benefits and burdens of this Lease, the remaining Term, all Permitted Exceptions and all other matters affecting such estate and its valuation; and (e) discounting to present value all the obligations and benefits associated with such estate (including, in the case of the Fee Estate, the Rent and Landlord’s reversion). The Market Value shall be determined as if the Term were to continue until the Scheduled Expiration Date. Market Value shall be determined independently of, and without regard to, any valuation established in a Condemnation.

1.73 “Minor Construction” means any Construction that Tenant elects in its discretion, or this Lease requires Tenant, to undertake from time to time, except Major Construction.

1.74 “Modification” means any abandonment, amendment, cancellation, discharge, extension, modification, rejection, renewal, replacement, restatement, substitution, supplement, surrender, termination, or waiver of a specified agreement or document, or of any of its terms or provisions, or the acceptance of any cancellation, rejection, surrender, or termination of such agreement, document, or terms.

1.75 “Modify” means agree to, cause, make, or permit any Modification.

1.76 “Monetary Default” means any failure by Tenant to: (1) pay, when and as this Lease requires, any Rent, including Additional Rent, whether to Landlord or to a Third Person, subject in all applicable cases to Tenant’s Right of Contest; (2) pay as they become due any Insurance Premiums that this Lease requires Tenant to pay; or (3) properly apply any Loss Proceeds or other money, if any, that this Lease requires Tenant to apply in a particular manner or for a particular purpose.

1.77 “Mortgage” means any mortgage, deed of trust, security deed, contract for deed, deed to secure debt, or other voluntary real property security instrument(s) or agreement(s) intended to grant real property security for any obligation (including a purchase-money or other promissory note) encumbering the Fee Estate, as entered into, renewed, modified, consolidated, increased, decreased, amended, extended, restated, assigned (wholly or partially), collaterally assigned, or supplemented from time to time, unless and until paid, satisfied, and discharged of record. If two or more such mortgages are consolidated or restated as a single lien or held by the same Mortgagee, then all such mortgages so consolidated or restated shall constitute a single Mortgage. A participation interest in a Mortgage (or partial assignment of the secured loan) does not itself constitute a Mortgage.

1.78 “Mortgagee” means a holder of any Mortgage and its successors and assigns.

1.79 “Non-Monetary Default” means occurrence of any of the following, except to the extent constituting a Monetary Default: (1) any material breach by Tenant of its obligations under this Lease; (2) Tenant’s failure to comply with any material restriction or prohibition in this Lease; or (3) any other event or circumstance that, with passage of time or giving of Notice, or both, or neither, would constitute an Event of Default.

1.80 “Non-Recourse Clause” shall have the meaning ascribed to the term in Section 26.

1.81 “Notice” means any approval, consent, demand, designation, election, notice, or request relating to this Lease, including any Notice of Default or termination of this Lease. Notices shall be delivered, and shall become effective, only in accordance with Section 24. All Notices shall be in writing.

1.82 “Notice of Completion” shall have the meaning ascribed to the term in California Civil Code Section 3093.

1.83 “Notice of Default” means any Notice claiming or giving Notice of a Default or alleged Default.

1.84 “Notify” means give a Notice.

1.85 “Parties” means, collectively, Landlord and Tenant.

1.86 “Party” means, individually, Landlord or Tenant, as applicable.

1.87 “Permitted Exceptions” means only: (1) the recorded title exceptions affecting the Fee Estate and prior to this Lease, as of the Commencement Date.

1.88 “Permitted Transferee” means any Affiliate of Tenant that (i) agrees to the terms and conditions of this Lease; (ii) is not (or cannot elect to be) immune from civil process; and (iii) is subject to personal jurisdiction in the State.

1.89 “Permitted Use” shall have the meaning ascribed to the term in Section 6.1.

1.90 “Person” means any association, corporation, Government, individual, joint venture, joint-stock company, limited liability company, partnership, trust, unincorporated organization, or other entity of any kind.

1.91 “Premises” means the Land and all Building located on the Land on or after the Commencement Date.

1.92 “Prime Rate” means the prime rate or equivalent “base” or “reference” rate for corporate loans that is from time to time: (a) published in the Wall Street Journal; or (b) if such rate is no longer so published or announced, then a reasonably equivalent rate published by an authoritative Third Person that Landlord reasonably designates.

1.93 “Prohibited Lien” means any mechanic’s, vendor’s, laborer’s, or material supplier’s statutory lien or other similar lien or claim for payment arising from work, labor, services, equipment, or materials supplied, or claimed to have been supplied, to Tenant (or anyone claiming through Tenant).

1.94 “Property Insurance” means insurance providing coverage for the Premises, all Building, and all Building Equipment, against loss, damage, or destruction by fire and other hazards encompassed under the broadest form of property insurance coverage then customarily used for like properties in the County, from time to time during the Term, in an amount equal to one hundred percent (100%) of the replacement value (without deduction for depreciation) of all Building and all Building Equipment (excluding excavations and foundations) and in any event sufficient to avoid co-insurance, with “ordinance or law” coverage to the extent customary for like properties in the County at the time, such insurance shall include coverage for explosion of steam and pressure boilers and similar apparatus located on the Premises; coverage for terrorism; an “increased cost of construction” endorsement; and an endorsement covering demolition and cost of debris removal. Property Insurance shall also include rental or business interruption insurance in an amount, at least, equal to three (3) times the sum of the maximum annual Fixed Rent, Real Estate Taxes and Insurance Premiums and providing for a 12-month extended period of indemnity.

1.95 “Property Insurance Proceeds” means net proceeds (after reasonable costs of adjustment and collection, including Legal Costs) of Property Insurance, when and as received by Landlord, Tenant, or any Mortgagee, excluding proceeds of Tenant’s business interruption insurance in excess of Rent.

1.96 “Real Estate Taxes” means all general and special real estate taxes (including taxes on FF&E, sales taxes, use taxes, and the like), possessory interest taxes, taxes payable pursuant to California Health and Safety Code Section 33673, special taxes imposed pursuant to the Mello-Roos Community Facilities District Act, assessments, municipal water and sewer rents, rates and charges, excises, levies, license and permit fees, fines, penalties and other

governmental charges and any interest or costs with respect thereto, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever that at any time before or during the Term and applicable to the Term or any part of it may be assessed, levied, imposed upon, or become due and payable out of or in respect of, or charged with respect to or become a lien on, the Premises, or any vault, passageway or space in, over or under any street, or any other appurtenances of the Premises, or any FF&E, Building Equipment or other facility used in the operation of the Premises, or the Rent or income received from the Premises, or any use or occupancy of the Premises. If at any time during the Term the method of taxation prevailing at the Commencement Date shall be altered so that any new tax, assessment, levy (including any municipal, State or federal levy), imposition, or charge, or any part thereof, shall be measured by or be based in whole or in part upon the Premises and imposed upon Landlord, then all such new taxes, assessments, levies, real estate taxes, or charges, or the part thereof to the extent that they are so measured or based, shall be deemed to be included within the term "Real Estate Taxes," to the extent that such Real Estate Taxes would be payable, if the Premises were the only property of Landlord subject to such Real Estate Taxes.

1.97 "Rent" means Fixed Rent and Additional Rent.

1.98 "Requesting Party" shall have the meaning ascribed to the term in Section 27.1.

1.99 "Restoration" means, after a Loss, the alteration, clearing, rebuilding, reconstruction, repair, replacement, restoration, and safeguarding of the damaged or remaining Building, substantially consistent with its condition before the Loss, subject to such Construction as Tenant shall perform in conformity with this Lease, subject to any changes in Law that would limit the foregoing.

1.100 "Restoration Funds" means any Loss Proceeds (and deposits by Tenant) to be applied to Restoration.

1.101 "Restore" means accomplish a Restoration.

1.102 Intentionally Deleted.

1.103 "Scheduled Expiration Date" means 11:59 p.m. on February 29, 2028.

1.104 "Senior" when referring to multiple Mortgage(s), means the Mortgage that is most senior in lien. Where "Senior" is used as a comparative term as against any specified Mortgage, such term refers to any Mortgage that is senior in lien to such specified Mortgage. If only one Mortgage exists, then it shall be deemed the "Senior" Mortgage.

1.105 "State" means the State of California.

1.106 "Structure" means only the concrete floors, footings, foundation, load-bearing walls, roof, roof support system, and structural steel or other structural support system of all Building on the Premises.

1.107 "Substantial Casualty" means a Casualty that: (a) renders fifty percent (50%) or more of the Premises incapable of being used or occupied; (b) occurs less than two (2) years

before the end of the Term and renders thirty-five percent (35%) or more of the Premises not capable of being used or occupied; (c) requires Restoration whose cost Tenant reasonably estimates in writing would exceed Five Hundred Thousand Dollars (\$500,000) times the CPI Adjustment Factor; or (d) pursuant to Law, prevents the Premises from being Restored to the same bulk, and for the same use(s), as before the Casualty.

1.108 "Substantial Condemnation" means any Condemnation that (a) takes the entire Premises or (b) in Tenant's reasonable determination renders the remaining Premises Uneconomic.

1.109 "Temporary Condemnation" means a Condemnation of the temporary right to use or occupy all or part of the Premises.**

1.110 "Tenant" initially means the Tenant named in the opening paragraph of this Lease. It shall be deemed and construed, without further agreement between the Parties or their successors in interest or between the Parties and the permitted transferee (such as an Affiliate of Tenant) on any such Transfer, that such Person has assumed and agreed to carry out any and all agreements, covenants, and obligations of Tenant under this Lease accruing from and after the date of such Transfer.

1.111 "Tenant Improvements" means those minor improvements made by the Tenant that are not contemplated by this Lease, but which Tenant voluntarily installs, with Landlord's approval, on the Land, in addition to the Batch Plant Development.

1.112 "Term" shall have the meaning ascribed to the term in Section 2.

1.113 "Third Person" means any Person that is not a Party.

1.114 "Transfer" of any property means any of the following, whether by operation of law or otherwise, whether voluntary or involuntary, and whether direct or indirect: (a) any assignment, conveyance, grant, hypothecation, mortgage, pledge, sale, or other transfer, whether direct or indirect, of all or any part of such property, or of any legal, beneficial, or equitable interest or estate in such property or any part of it (including the grant of any easement, lien, or other encumbrance); (b) any conversion, exchange, issuance, modification, reallocation, sale, or other transfer of any direct or indirect Equity Interest(s) in the owner of such property by the holders of such Equity Interest(s); (c) any transaction described in "b" affecting any Equity Interest(s) or any other interest in such property or in any such owner (or in any other direct or indirect owner at any higher tier of ownership) through any manner or means whatsoever; or (d) any transaction that is in substance equivalent to any of the foregoing. A transaction affecting Equity Interests, as referred to in clauses "b" through "d," shall be deemed a Transfer by Tenant even though Tenant is not technically the transferor. A "Transfer" shall not, however, include any of the foregoing (provided that the other Party to this Lease has received Notice thereof) relating to any Equity Interest: (a) that constitutes a mere change in form of ownership with no material change in beneficial ownership and constitutes a tax-free transaction under federal income tax law and the State real estate transfer tax; (b) to member(s) of the immediate family(ies) of the transferor(s) or trusts for their benefit; or (c) to any Person that, as of the

Commencement Date, holds an Equity Interest in the entity whose Equity Interest is being transferred.

1.115 "Trust Funds" means any funds that this Lease requires or allows Landlord (or anyone acting for Landlord) to hold, and in which Tenant has an interest.

1.116 "Unavoidable Delay" means and refers to a delay in either Party performing any obligation under this Lease, except payment of money, arising from or on account of any cause whatsoever beyond the Party's reasonable control, despite such Party's reasonable diligent efforts, including industry-wide strikes, labor troubles or other union activities (but only to the extent such actions do not result from the willful misconduct or negligence of the Party), casualty, war, acts of terrorism, riots, litigation, governmental action or refusal to act when or as required by Law or inability to obtain materials. Unavoidable Delay shall not include delay caused by a Party's financial condition, illiquidity, or insolvency.

1.117 "Uneconomic" means that the Premises or any substantial part of the Premises: (1) is subject to material impairment of access to, parking facilities benefiting, or any material service(s) necessary or appropriate for economic operation; (2) requires Restoration whose cost Tenant reasonably estimates in writing would exceed 1.5 times the then-current aggregate Market Value of the Fee Estate and the Leasehold Estate; (3) does not comply with any operating requirements under any license or franchise held by Tenant; or (4) cannot reasonably be operated as the Batch Plant Development, whether in a manner substantially consistent with past practice or on a scale that is smaller, but nevertheless profitable (after taking into account the payment of all expenses, including Rent, as adjusted after any Condemnation) and reasonably feasible.

1.118 "Usury Limit" means the highest rate of interest, if any, that Law allows under the circumstances.

1.119 "Workers' Compensation Insurance" means worker's compensation insurance complying with the provisions of State Law and an employer's liability insurance endorsement, with commercially standard limits, covering all employees of Tenant, its contractors and vendors.

2. **TERM.** The initial term of this Lease shall be for Twenty (20) years commencing on the Commencement Date and ending on the Scheduled Expiration Date (the "Term")

3. **PREMISES DELIVERY CONDITION.**

3.1 As-Is Condition; No Representations or Warranties. Landlord shall deliver possession of the Premises to Tenant on the Commencement Date free of any tenancies. Except as expressly set forth in this Lease, Landlord has made no representations or warranties, express or implied, with respect to the Premises, except that: (1) Landlord owns the Premises, (2) Landlord has full authority to execute and enter into this Lease and consummate the transaction contemplated herein; (3) there are no leases, licenses or occupancy agreements binding upon the Land; (4) the Land is not subject to any pending litigation nor has the Landlord received notice of any threatened litigation, environmental or condemnation proceeding which would adversely affect the Land or the transaction contemplated here; and (5) the Land is free from all Environment Hazards, as indicated by a current Phase I Environmental Assessment which has

been or will be provided to Tenant prior to the Commencement Date. Tenant accepts the Premises in their "AS IS/WHERE IS" condition, without warranty of any kind, express or implied, including the existence or absence of Hazardous Substances. TENANT ACKNOWLEDGES, AGREES AND REPRESENTS TO LANDLORD THAT TENANT HAS HAD AMPLE OPPORTUNITY TO INSPECT AND EVALUATE THE PREMISES AND THE FEASIBILITY OF THE USES AND ACTIVITIES TENANT IS ENTITLED TO CONDUCT ON THE PREMISES; THAT TENANT IS EXPERIENCED IN REAL ESTATE DEVELOPMENT; THAT TENANT IS RELYING ENTIRELY ON TENANT'S EXPERIENCE AND THE REPRESENTATIONS AND WARRANTIES PROVIDED BY LANDLORD, EXPERTISE AND ITS OWN INSPECTION OF THE PREMISES IN THEIR CURRENT STATE IN PROCEEDING WITH THIS LEASE; THAT TENANT ACCEPTS THE PREMISES IN THEIR PRESENT CONDITION; AND THAT, TO THE EXTENT THAT TENANT'S OWN EXPERTISE WITH RESPECT TO ANY OF THE FOREGOING MATTERS IS INSUFFICIENT TO ENABLE TENANT TO REACH AN INFORMED CONCLUSION, TENANT HAS ENGAGED THE SERVICES OF PERSONS QUALIFIED TO ADVISE TENANT WITH RESPECT TO SUCH MATTERS. TENANT IS NOT RELYING ON ANY EXPRESS OR IMPLIED, ORAL OR WRITTEN REPRESENTATIONS OR WARRANTIES MADE BY LANDLORD OR ITS REPRESENTATIVES, OTHER THAN THOSE EXPRESSLY SET FORTH IN THIS LEASE. LANDLORD SHALL NOT BE RESPONSIBLE FOR ANY LATENT OR PATENT DEFECT IN, OR THE EXISTENCE OF ANY CONDITION ON, THE PREMISES, AND NO RENT SHALL BE WITHHELD OR DIMINISHED ON ACCOUNT OF ANY DEFECT IN THE PREMISES OR BECAUSE OF THE EXISTENCE OF ANY CONDITION IN, ON OR UNDER THE PREMISES, OR FOR ANY DAMAGE OCCURRING TO THE PREMISES.

3.2 Successors and Assigns. ALL PERSONS ACQUIRING ANY INTEREST IN THE PREMISES FROM OR THROUGH TENANT, BY ACCEPTING SUCH INTEREST, SHALL BE DEEMED TO HAVE AGREED TO THE PROVISIONS OF THIS SECTION 3.

4. RENT

4.1 Fixed Rent. Starting on the Commencement Date, Tenant shall pay a net annual fixed rent of Sixty Thousand Dollars (\$60,000.00) to Landlord, in equal monthly installments, as adjusted per Section 4.2 (the "Fixed Rent").

4.2 Periodic Increases in Fixed Rent. On the first day of Lease Year 3 (the first adjustment occurring on such date) and on the first day of every third (3rd) Lease Year, thereafter, Fixed Rent shall be increased to the amount equal to the Fixed Rent in effect during the immediately preceding Lease Year increased by the cumulative percentage increase in the CPI since the later of: (i) the Commencement Date or (ii) the date of the most recent increase in Fixed Rent pursuant to this Section 4.2.

4.3 Payment. Tenant shall pay all Rent payable to Landlord in lawful money of the United States of America by good and sufficient check payable to Landlord or by wire transfer to Landlord, at such address as Landlord shall designate from time to time. Checks shall only constitute payment when collected.

4.4 Additional Rent. In addition to Fixed Rent, Tenant shall pay to Landlord (or the appropriate Third Person, as applicable) all Additional Rent. Except where this Lease expressly provides otherwise, Tenant shall pay all Additional Rent prior to delinquency.

4.5 No Allocation to FF&E, Construction or Tenant Improvements. No Rent is allocable to any FF&E, Construction or Tenant Improvements.

4.6 No Offsets. Tenant shall pay all Rent, without offset, defense, claim, counterclaim, reduction, or deduction of any kind whatsoever.

5. **ADDITIONAL PAYMENTS BY TENANT; REAL ESTATE TAXES**

5.1 Landlord's Net Return. This Lease shall constitute an absolutely "net" lease. The Rent shall give Landlord an absolutely "net" return for the Term, free of any expenses or charges for the Premises, except as this Lease expressly provides. Accordingly, and in addition to other specific provisions of this Lease, as additional rent hereunder, Tenant shall pay during the Lease Term all Real Estate Taxes, assessments and other governmental charges; public utilities and related costs and expenses; expenses of occupying, operating, altering, maintaining and preparing the Premises; and any expenses, charges and impositions which during the term of the Lease shall be levied, assessed or imposed by any governmental authority upon or with respect to or incurred in connection with, the ownership, possession, occupation, alteration, maintenance, repair, and use of the Premises. It is intended by the Parties that the Minimum Rent to be paid to Landlord shall be without additional cost or diminution to Landlord (except to the extent necessitated by the negligence or willful misconduct of Landlord or its representatives). Notwithstanding the foregoing, Tenant shall not be responsible for any supplemental assessment or increase in Real Estate Taxes resulting from a conveyance by Landlord of fee title to the Property or other action by Landlord constituting a "change in ownership" under applicable provisions of the California Revenue and Taxation Code.

5.2 Personal Property Taxes. Tenant shall pay and discharge all personal property taxes payable or accruing for all period(s) within the Term relating to any personal property stored at, used in the operation of or otherwise relating to the Premises, before delinquency of any such tax. Tenant shall also pay all interest and penalties any Government assesses for late payment of any such personal property tax.

5.3 Documentary Transfer Tax. Tenant will pay all documentary transfer taxes imposed by the State, the County, the City or other Government pursuant to California Revenue and Taxation Code Sections 11911, *et seq.*, with respect to this Lease, any Lease Memorandum, any amendment or Modification to this Lease, any extension of this Lease, or any Transfer of this Lease.

5.4 Utilities. Tenant shall arrange and pay for all fuel, gas, light, power, water, sewage, garbage disposal, telephone, and other telecommunication, and other utility charges, and the expenses of installation, maintenance, use, and service in connection with any and all of the foregoing, for the Premises during the Term. Landlord shall have absolutely no liability or responsibility for any utilities or other services to the Premises during the Term.

Notwithstanding the foregoing, Landlord shall not interfere with the installation, connection, maintenance, use and service of the Utilities.

6. USE

6.1 Permitted Use. Tenant shall only use the Premises during the Term for the Construction and operation of the Batch Plant Development and for the purpose of producing, manufacturing, selling or distributing ready-mix concrete, cement or aggregates, masonry products or any activity directly related to the concrete, cement or aggregates industries in accordance with the Law and this Lease (the "Permitted Use").

6.2 Covenant To Operate. If the Tenant elects to use and operate the entirety of the Premises during the Term, such use is limited to the Permitted Use. Notwithstanding the foregoing, nothing in this Lease shall obligate Tenant to use or operate the Premises for any purpose after a Loss (other than an Immaterial Loss), until Tenant has completed Restoration. If Tenant fails to cause the Premises to be used and operated as this Section 6 requires, then Landlord may give Tenant Notice of such failure. If, thirty (30) days after receipt of such Notice, Tenant has not remedied such failure, then and only then shall such failure constitute a Default.

6.3 Reserved Rights. The "Reserved Rights" means the following rights relating to the Premises, to the extent permitted by Law: **[RESERVED.]**

6.4 Operation Costs. Tenant shall timely pay and discharge all fees, costs, and expenses related to or arising from the management or operation of the Premises and the provision of services to the Premises.

6.5 Abandonment. Tenant shall not abandon, vacate or surrender the Leasehold Estate created by this Lease or any portion of the Batch Plant Development during the Term.

6.6 Nuisance. Tenant shall not itself and shall not allow any other Person to use all or any portion of the Premises for any unlawful purpose and shall not itself and shall not allow any other Person to perform, permit or suffer any act or omission upon or about all or any portion of the Premises that would result in a nuisance or a violation of any applicable Law.

6.7 Exterior Signs. All exterior signs will comply with sign requirements imposed by the City. All signs will be maintained by Tenant in good, clean and operating condition during the Term. Tenant will remove all signs on or before the Expiration Date and repair and restore any damage caused by installation or removal of signs, all at Tenant's sole cost and expense.

6.8 No Discrimination or Segregation. There shall be no discrimination against or segregation of any Person, or group of Persons, on account of sex, marital status, age, race, color, religion, creed, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of all or any portion of the Premises, and Tenant (or any Person claiming under or through Tenant) shall not establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of transferees or vendees of all or any portion of the Premises.

6.9 Form of Non-Discrimination and Non-Segregation Clauses. The Tenant herein covenants by and for itself, its heirs, executors, administrators, and assigns, and all persons claiming under or through it, and this Lease is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons, on account of any 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, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the Premises herein leased nor shall the Tenant itself, or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessee, subtenants, or vendees in the Premises herein leased as required by California Health and Safety Code § 33436:

6.9.1 **In leases:** "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons, on account of any 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, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessee, subtenants, or vendees in the premises herein leased."

6.9.2 **In contracts:** "That there shall be no discrimination against or segregation of any person or group of persons, on account of any 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, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessee, subtenants, or vendees in the premises herein leased."

7. COMPLIANCE

7.1 Generally. Tenant shall, during the Term, at Tenant's sole cost and expense, in all material respects: (a) comply with all Laws and Permitted Exceptions; and (b) procure and comply with all Approvals required by Law.

7.2 Copies of Notices. Landlord shall promptly give Tenant a copy of any notice of any kind regarding the Premises, and any notice of non-renewal or threatened non-renewal of any Approval that Landlord receives from any Government or utility company regarding the Premises.

8. MAINTENANCE

8.1 Obligation to Maintain. Except to the extent that: (i) this Lease otherwise expressly provides or allows or (ii) Tenant is performing Construction in compliance with this Lease, Tenant shall during the Term keep and maintain the Premises in good order, condition, and repair, subject to Loss (governed by other provisions of this Lease), reasonable wear and tear, and any other condition that this Lease does not require Tenant to repair or Restore. Tenant's obligation to maintain the Premises includes an obligation to make all repairs that the Premises may require by Law from time to time during the Term. Tenant shall remove graffiti, trash, and debris from the Premises and maintain it in a reasonably clean condition.

9. BATCH PLANT DEVELOPMENT AND MAJOR CONSTRUCTION

9.1 Batch Plant Development. Tenant agrees that it will commence constructing the Batch Plant Development prior to the expiration of Lease Year 3 and will complete such construction within a commercially reasonable time thereafter. If Tenant fails to commence such construction as set forth in the preceding sentence, Landlord will have the right (but not the obligation) to terminate this Lease, all as set forth in Section 30 below.

9.2 Major Construction. Tenant shall not commence demolition of any existing Building, excavation, grading or any other substantial on-site physical element of any Major Construction, without Landlord's consent, which will not be unreasonably withheld or delayed.

9.3 Subsequent Construction Rights. Tenant shall not construct or materially alter any Building on the Premises, without prior written approval from Landlord, which approval shall not be unreasonably withheld or delayed; provided, however, Tenant shall have the right to make the following alterations to any Building on the Premises, without the approval of Landlord: (a) alterations required by applicable Laws, or; (b) alterations reasonably required to Restore or repair any Building on the Premises after a Casualty or Condemnation; or (c) any alterations reasonably required to implement the Batch Plant Development. All Construction on the Premises by Tenant shall comply with all applicable Laws.

9.4 Prosecution and Completion. If Tenant starts any demolition, grading, excavation or other Construction on the Premises, then Tenant shall prosecute such work to completion, with reasonable diligence. Tenant shall with reasonable promptness and reasonable diligence commence, prosecute, and complete Tenant's Major Construction in a good and workerlike manner in compliance with Law and this Lease.

9.5 Approvals; Cooperation. Tenant shall apply to each applicable Government for all Approvals required for any Construction. Landlord shall reasonably cooperate with Tenant in obtaining such Approvals, at no cost or expense to Landlord. Landlord shall otherwise cooperate with Tenant's Construction as Tenant shall reasonably request. Landlord assumes no liability by cooperating with any Construction unless such liability arises as a result of Landlord's negligence or willful misconduct. Tenant shall Indemnify Landlord regarding any such cooperation.

9.6 Insurance During Major Construction. Before Tenant commences (and at all times during) any Major Construction or any related excavation or demolition, in addition to all

other insurance this Lease requires, Tenant shall, at its expense, procure and maintain, or cause to be procured and maintained, the following insurance coverage (by separate policy or endorsement(s) to other policies), all in compliance with the requirements of this Lease on insurance: (a) Builder's Risk Insurance; and (b) Contractor's Insurance.

9.6.1 **Workers' Compensation Insurance.** Workers' compensation and disability benefits insurance covering all Persons employed for such Major Construction Work in accordance with law.

9.6.2 **Demolition.** During any demolition or excavation, such additional liability insurance as shall be reasonably customary to cover the added risks of such demolition or excavation.

9.7 Increases in Insurance. To the extent that the insurance required pursuant to Section 9.6 provides less coverage than that normally and customarily maintained for properties similar to the Premises during similar Major Construction, Landlord may, from time to time, increase such coverage, upon at least sixty (60) days' prior Notice to Tenant, but Landlord shall not require such increases more than once per Lease Year and such increases shall not in the aggregate exceed the CPI Adjustment Factor.

9.8 Notice of Completion. Promptly following completion of any Major Construction, Tenant shall file or cause to be filed in the official records of the County a Notice of Completion with respect to such Major Construction.

10. PROHIBITED LIENS

10.1 Tenant's Covenant. Following Notice of a Prohibited Lien, Tenant shall, within fifteen (15) Business days after receiving such Notice, commence appropriate action to cause such Prohibited Lien to be paid or discharged. Tenant shall, thereafter, prosecute such action with reasonable diligence and continuity. If Landlord receives notice of any Prohibited Lien, then Landlord shall promptly Notify Tenant.

10.2 Protection of Landlord. LANDLORD SHALL NOT BE LIABLE FOR ANY LABOR OR MATERIALS FURNISHED OR TO BE FURNISHED TO TENANT UPON CREDIT, AND THAT NO MECHANIC'S OR OTHER LIEN OR CLAIM FOR ANY SUCH LABOR OR MATERIALS SHALL ATTACH TO OR AFFECT THE FEE ESTATE. NOTHING IN THIS LEASE SHALL BE DEEMED OR CONSTRUED IN ANY WAY TO CONSTITUTE LANDLORD'S CONSENT OR REQUEST, EXPRESS OR IMPLIED, BY INFERENCE OR OTHERWISE, TO ANY CONTRACTOR, SUBCONTRACTOR, LABORER, EQUIPMENT OR MATERIAL SUPPLIER FOR THE PERFORMANCE OF ANY LABOR OR THE FURNISHING OF ANY MATERIALS OR EQUIPMENT FOR ANY CONSTRUCTION, NOR AS GIVING TENANT ANY RIGHT, POWER OR AUTHORITY TO CONTRACT FOR, OR PERMIT THE RENDERING OF, ANY SERVICES, OR THE FURNISHING OF ANY MATERIALS THAT WOULD GIVE RISE TO THE FILING OF ANY LIENS OR CLAIMS AGAINST THE FEE ESTATE. TENANT SHALL INDEMNIFY LANDLORD AGAINST ANY CONSTRUCTION UNDERTAKEN BY TENANT OR

ANYONE CLAIMING THROUGH TENANT, EXCEPT THE NEGLIGENCE OR WILLFUL MISCONDUCT OF THE LANDLORD, AND AGAINST ALL PROHIBITED LIENS.

10.3 No Liens Against Public Property. TENANT ACKNOWLEDGES AND AGREES THAT, ON THE COMMENCEMENT DATE, THE FEE ESTATE IS OWNED BY LANDLORD, WHICH IS A PUBLIC ENTITY, AND THAT THE FEE ESTATE IS NOT SUBJECT TO THE IMPOSITION OF MECHANIC'S LIENS OR ANY OTHER LIENS IN FAVOR OF PROVIDERS OF LABOR, MATERIAL OR SERVICES. TENANT FURTHER AGREES TO INFORM EACH PROVIDER OF LABOR, MATERIAL OR SERVICES ON OR TO THE PREMISES OR TENANT OF SUCH FACT AND THAT LANDLORD AND THE FEE ESTATE ARE NOT RESPONSIBLE FOR PAYMENT OF ANY CLAIMS BY ANY SUCH PROVIDERS OF LABOR, MATERIAL OR SERVICES. LANDLORD SHALL HAVE THE RIGHT AT ALL REASONABLE TIMES TO POST AND KEEP POSTED ON THE PREMISES ANY NOTICES THAT LANDLORD MAY DEEM NECESSARY FOR THE PROTECTION OF LANDLORD OR THE FEE ESTATE FROM ANY LIEN OR OTHER CLAIM.

11. HAZARDOUS SUBSTANCES

11.1 Restrictions. Tenant shall not cause or permit to occur on, under or at the Premises during the Term: (a) any violation of any Environmental Law; or (b) the use, generation, release, manufacture, refining, production, processing, storage, or disposal of any Hazardous Substance, or transportation to or from the Premises of any Hazardous Substance, unless both: (i) reasonably necessary and customary to conduct any legal business in the Premises that is a Permitted Use under this Lease, in accordance with customary standards in such business, and (ii) in compliance with all Environmental Laws.

11.2 Compliance; Clean-Up. Tenant shall, at Tenant's expense: (a) comply with Environmental Law and, to the extent Environmental Law requires, clean up any Hazardous Substance Discharge caused by Tenant; (b) make all submissions to, deliver all information required by, and otherwise fully comply with all requirements of any Government under Environmental Laws; (c) if any Government requires any clean-up plan or clean-up because of a Hazardous Substance Discharge caused by Tenant, prepare and submit the required plans and all related bonds and other financial assurances; (d) promptly and diligently carry out all such clean-up plans; and (e) Indemnify Landlord against any Hazardous Substance Discharge or violation of Environmental Law. Landlord shall indemnify Tenant, officers, agents, and employees harmless from and against any claims, judgments, damages, punitive damages, penalties, fines, costs that arise directly or indirectly in connection with the presence, release of any Hazardous Materials in or into the air, soil, ground water, surface water or improvements with respect to the Landlord's use of the Land.

12. INDEMNIFICATION; LIMITATION ON LIABILITY OF LANDLORD

12.1 Landlord Indemnity Obligations. The Landlord shall Indemnify the Tenant Parties against any Claim, to the extent arising from a wrongful intentional act, willful misconduct, or the negligence of the Landlord Parties, but only to the extent that Landlord may be held liable under applicable law for such wrongful intentional act, willful misconduct, or

negligence and exclusive of any violation of law (including the State Constitution) relating to Landlord's approval, entry into or performance of this Lease. Nothing in this Lease is intended nor shall be interpreted to waive any limitation on Landlord's liability, any exemption from liability in favor of Landlord, any claim presentment requirement for bringing an action regarding any liability of Landlord or any limitations period applicable to liability of Landlord, as set forth in Government Code Sections 800, *et seq.*, Sections 900, *et seq.*, or in any other law or require Landlord to Indemnify any Person beyond such limitations on Landlord's liability.

12.2 Tenant Indemnity Obligations. Tenant shall Indemnify the Landlord Parties against any Claim, to the extent arising from a wrongful intentional act or the negligence of the Tenant Parties. Tenant shall also Indemnify the Landlord Parties against any and all of the following: (i) any Application made at Tenant's request; (ii) any agreements that Tenant (or anyone claiming by or through Tenant) makes with a Third Person regarding this Lease, the Premises or any Construction; or (iii) any legal actions related to Landlord's approval of this Lease or actions brought against Landlord or the City based upon Tenant's proposed use of the Premises, including claims under the California Environmental Quality Act; (iv) any Tenant's workers' compensation claim or determination; (v) the alleged violation by the Tenant Parties of any law; and (vi) any Environmental Claim (as defined in Section 1.36 above).

12.3 Independent of Insurance Obligations. Tenant's indemnification obligations under this Lease shall not be construed or interpreted as in any way restricting, limiting, or modifying Tenant's insurance or other obligations under this Lease. Tenant's obligation to Indemnify the Landlord Parties under this Lease is independent of Tenant's insurance and other obligations under this Lease. Tenant's compliance with its insurance obligations and other obligations under this Lease shall not in any way restrict, limit, or modify Tenant's indemnification obligations under this Lease and are independent of Tenant's indemnification and other obligations under this Lease.

12.4 Survival of Indemnification and Defense Obligations. The indemnity and defense obligations of the Parties under this Lease shall survive the expiration or earlier termination of this Lease until the later of (i) any pending claim or action has been fully and finally resolved; or (ii) one (1) year following the expiration or sooner termination of this Lease..

12.5 Landlord Termination Right. Notwithstanding any other provision of this Lease, if a legal action related to the Landlord's approval of this Lease or the pursuit of the activities contemplated by this Lease is commenced by a Third Person in which Tenant has agreed to indemnify the Landlord and Tenant does not acknowledge its obligation to Indemnify the Landlord Parties regarding such action in writing within fifteen (15) Business days following Notice from Landlord, then, Landlord shall have the right, in its sole and absolute discretion, to terminate this Lease with fifteen (15) days Notice of termination to Tenant.

12.6 Limitation on Liability of Landlord. During the Term: (a) Tenant is and shall be in exclusive control and possession of the Premises and (b) Landlord shall not be liable for any injury or damage to any property (of Tenant or any other Person) or to any Person occurring on or about the Premises, except to the extent caused by Landlord's willful misconduct or negligence. Landlord's right to enter and inspect the Premises is intended solely to allow Landlord to ascertain whether Tenant is complying with this Lease and (to the extent this Lease

allows) to cure any Default. Such provisions shall not impose upon Landlord any liability to Third Persons.

12.7 Indemnification Procedures. Wherever this Lease requires any Indemnitor to Indemnify any Indemnitee:

12.7.1 **Prompt Notice.** The Indemnitee shall promptly Notify the Indemnitor of any Indemnity Matter. To the extent, and only to the extent, that the Indemnitee fails to give prompt Notice of an Indemnity Matter and such failure materially prejudices the Indemnitor in providing indemnity for such Indemnity Matter, the Indemnitor shall be relieved of its indemnity obligations for such Indemnity Matter.

12.7.2 **Selection of Counsel.** The Indemnitor shall select counsel reasonably acceptable to the Indemnitee. Counsel to Indemnitor's insurance carrier that is providing coverage for an Indemnity Matter shall be deemed reasonably satisfactory. Even though the Indemnitor shall defend the Indemnity Matter, Indemnitee may, at its option and its own expense, engage separate counsel to advise it regarding the Indemnity Matter and its defense. The Indemnitee's separate counsel may attend all proceedings and meetings. The Indemnitor's counsel shall actively consult with the Indemnitee's separate counsel. The Indemnitor and its counsel shall, however, fully control the defense, except to the extent that the Indemnitee waives its rights to indemnity and defense for such Indemnity Matter.

12.7.3 **Cooperation.** The Indemnitee shall reasonably cooperate with the Indemnitor's defense of the Indemnitee, provided the Indemnitor reimburses the Indemnitee's actual out of pocket expenses (including Legal Costs) of such cooperation.

12.7.4 **Settlement.** The Indemnitor may, with the Indemnitee's consent, not to be unreasonably withheld, settle an Indemnity Matter. The Indemnitee's consent shall not be required for any settlement by which all of the following occur: (i) the Indemnitor procures (by payment, settlement, or otherwise) a release of the Indemnitee from the subject Indemnity Matter(s) by which the Indemnitee need not make any payment to the claimant; (ii) neither the Indemnitee nor the Indemnitor on behalf of the Indemnitee admits liability; (iii) the continued effectiveness of this Lease is not jeopardized in any way; and (iv) the Indemnitee's interest in this Lease is not jeopardized in any way.

12.7.5 **Insurance Proceeds.** An Indemnitor's obligations shall be reduced by net insurance proceeds the Indemnitee actually receives for the Indemnity Matter giving rise to indemnification.

13. **RIGHT OF CONTEST**

13.1 Tenant's Right; Contest Conditions. Notwithstanding anything to the contrary in this Lease, Tenant shall have the exclusive right to contest, at its sole cost, by appropriate legal proceedings diligently conducted in good faith, the amount or validity of any Prohibited Lien; the validity of any Law or its application to the Premises; the terms or conditions of, or requirements for, any Approval; or the validity or merit of any Indemnity Matter against which this Lease requires Tenant to Indemnify Landlord (any of the foregoing, a "Contest"). Tenant may defer payment or performance of the contested obligation pending outcome of the Contest,

provided that Tenant causes the following conditions (collectively, the “Contest Conditions”) to remain satisfied:

13.1.1 **No Criminal Act.** Such deferral or non-compliance shall not constitute a criminal act by Landlord or Tenant or subject Landlord to a material risk of any fine or penalty.

13.1.2 **No Liability.** Such deferral or non-compliance creates no material risk of a lien, charge, or other liability of any kind against the Fee Estate.

13.1.3 **No Forfeiture.** Such deferral or non-compliance will not place the Fee Estate in any danger of being forfeited or lost.

13.1.4 **No Cost to Landlord.** Such Contest shall be without cost, liability, or expense to Landlord.

13.1.5 **Diligence.** Tenant shall prosecute such Contest with reasonable diligence and in good faith.

13.1.6 **Payment.** If required for such Contest, Tenant shall have paid any required amount.

13.1.7 **No Event of Default.** No uncured Event of Default shall exist under this Lease at any time during such Contest.

13.1.8 **Named Parties.** If Landlord has been named as a party in any Contest action or proceeding, then Tenant shall cause, subject to the sole discretion of a court of competent jurisdiction, tribunal or other hearing officer, Landlord to be removed as a party to such action or proceeding and Tenant substituted in Landlord’s place.

13.2 **Landlord Obligations and Protections.** Landlord need not join in any Contest. Tenant shall pay all reasonable costs and expenses, including Legal Costs, of any Contest, of any Contest and Indemnify Landlord against such costs and expenses.

13.3 **Miscellaneous.** Upon final determination of Tenant’s Contest, Tenant shall comply with such final determination. So long as the Contest Conditions remain satisfied, Landlord shall enter no objection to any Contest. Landlord may contest any matter for which Tenant is entitled to (but does not) prosecute a Contest, but only if: (a) Landlord Notifies Tenant of Landlord’s intention to do so; (b) Tenant fails to commence such Contest within fifteen (15) days after receipt of such Notice; and (c) Landlord’s Contest complies with all conditions and covenants that would apply to a Contest by Tenant, transposing references to the Parties and their interests, as appropriate.

14. **INSURANCE**

14.1 **Tenant to Insure.** Tenant shall, at its sole expense, during the Term, maintain the following insurance (or its then reasonably available equivalent): (a) Property Insurance; (b)

Liability Insurance; (c) Automobile Liability Insurance; and (d) Worker's Compensation Insurance.

14.2 Nature of Insurance Program. All insurance policies this Lease requires shall be issued by carriers that: (a) are listed in the then current "Bests Key Rating Guide – Property/Casualty – United States & Canada" publication (or its equivalent, if such publication ceases to be published) with a minimum financial strength rating of "A" and a minimum financial size category rating of "V"; and (b) are admitted to do business in the State by the State Department of Insurance. Tenant may provide any insurance under a "blanket" or "umbrella" insurance policy, provided that: (i) such policy shall specify the liability coverage amount(s) of the total insurance

14.3 Policy Requirements and Endorsements. All insurance policies this Lease requires shall contain (by endorsement or otherwise) the following provisions:

14.3.1 **Insureds.** Liability Insurance, Automobile Liability Insurance, Contractor's Insurance and Builder's Risk Insurance policies shall name Landlord and all Mortgagees this Lease allows as "additional insured." Property Insurance policies shall name Landlord as a "loss payee," as its interest may appear, and each Mortgagee this Lease allows, under a standard non-contributing mortgagee clause. Notwithstanding anything to the contrary in this Section 14.3, all Property Insurance Proceeds shall be paid and applied as this Lease provides. The coverage afforded to the Landlord under any insurance policy required by this Lease shall be at least as broad as that afforded to Tenant and may not contain any terms, conditions, exclusions or limitations applicable to Landlord that do not apply to Tenant.

14.3.2 **Primary Coverage.** All insurance policies shall be written as primary policies not contributing to or in excess of any insurance coverage that Landlord may carry.

14.3.3 **Contractual Liability.** Liability Insurance policies shall contain contractual liability coverage, for Tenant's indemnity obligations under this Lease. Tenant's obtaining or failure to obtain any such contractual liability coverage shall not relieve Tenant from nor satisfy any indemnity obligation of Tenant under this Lease.

14.3.4 **Notice to Landlord.** Each insurance carrier shall give Landlord at least thirty (30) days' prior notice of cancellation, non-renewal or material change in coverage or available limits of liability regarding any insurance policy required by this Lease. Phrases such as "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company" shall not be included in the cancellation wording of any policies of insurance applicable to Landlord pursuant to this Lease.

14.4 Deliveries to Landlord. On the Commencement Date, and no later than ten (10) days before any insurance policy required by this Lease expires, is cancelled or its liability limits are materially reduced or exhausted, Tenant shall deliver to Landlord certified copies of insurance policies evidencing Tenant's maintenance of all insurance this Lease requires, in each case providing coverage for at least one (1) year from the date the insurance policy is delivered.

14.5 Waiver of Certain Claims. Tenant shall cause each insurance carrier providing any insurance policy under this Lease to agree to a Waiver of Subrogation, if not already in the

policy. The Parties release each other, and their respective authorized representatives, from any claims for damage to any Person or the Premises that are caused by or result from risks actually insured against under insurance policies obtained pursuant to this Lease.

14.6 No Representation. Neither Party makes any representation that the limits, scope, or forms of insurance coverage this Lease requires are adequate or sufficient.

14.7 Landlord Option to Obtain Coverage. During the continuance of an Insurance Maintenance Default, Landlord may, at its sole option, purchase any required insurance coverage and Landlord shall be entitled to immediate payment from Tenant of any premiums and associated costs paid by Landlord to obtain such insurance coverage. Any amount becoming due and payable to Landlord under this Section 14.9 that is not paid within thirty (30) calendar days after written Notice from Landlord requesting payment of such amount, will bear Default Interest from the date of the Notice. Any election by Landlord to purchase or not to purchase insurance required by this Lease to be carried by Tenant shall not relieve Tenant of its obligation to obtain and maintain any insurance coverage required by this Lease.

14.8 Cross-Liability; Severability of Interests. All Liability Insurance shall be endorsed to provide cross-liability coverage for Tenant and Landlord Parties and to provide severability of interests.

14.9 Deductibles and Self-Insured Retentions. Tenant shall pay or cause to be paid any and all deductibles and self-insured retentions under all insurance policies issued in satisfaction of the terms of this Lease regarding any claims relating to Landlord Parties.

14.10 Insurance Independent of Indemnification. The insurance requirements of this Lease are independent of Tenant's indemnification and other obligations under this Lease and shall not be construed or interpreted in any way to satisfy, restrict, limit, or modify Tenant's indemnification or other obligations or to limit Tenant's liability under this Lease, whether within, outside, or in excess of such coverage, and regardless of solvency or insolvency of the insurer that issues the coverage; nor shall the provision of such insurance preclude Landlord from taking such other actions as are available to it under any other provision of this Lease or otherwise at law or in equity.

15. **LOSSES AND LOSS PROCEEDS**

15.1 Prompt Notice. If either Party becomes aware of any Casualty or actual, contemplated, or threatened Condemnation, then such Party shall promptly Notify the other Party and any Mortgagees of such matter.

15.2 Casualty. If any Casualty occurs after the Commencement Date, then no Rent shall abate. Tenant shall, except as otherwise provided in this Section 15.2, Restore with reasonable promptness. If the Casualty is a Substantial Casualty, then Tenant may, by Notice to Landlord, given within sixty (60) days after the Casualty, elect a Casualty Termination, effective thirty (30) days after the effective date of such Notice. Upon any Casualty Termination, Tenant shall assign and transfer to Landlord (subject to the rights of Mortgagee(s)) all of Tenant's rights to Property Insurance Proceeds Tenant received, or is entitled to receive, because of the Casualty. Unless Tenant has validly elected a Casualty Termination: (a) this Lease shall not

terminate; and (b) Tenant shall be solely responsible for negotiating and adjusting any Property Insurance Proceeds.

15.3 Substantial Condemnation. If a Substantial Condemnation occurs after the Commencement Date, then as of the Condemnation Effective Date, the Expiration Date shall occur and the Parties shall apportion Rent. Landlord shall not settle or compromise any Condemnation Award without Tenant's consent. Any Condemnation Award shall be paid to Landlord. Landlord (subject to the rights of any Mortgagee(s)) and Tenant shall allocate the Condemnation Award as follows and in the following order of priority, without duplication, until exhausted:

15.3.1 **Tenant's Expenses**. To reimburse Tenant's actual costs and expenses, including Legal Costs, incurred in the Substantial Condemnation and determining and collecting the Condemnation Award.

15.3.2 **Landlord's Expenses**. To reimburse Landlord's actual costs and expenses, including Legal Costs, incurred in the Substantial Condemnation and determining and collecting the Condemnation Award.

15.3.3 **Tenant's Claim**. Tenant shall receive such portion of the Condemnation Award as shall equal the Market Value of the Leasehold Estate, at the Condemnation Effective Date.

15.3.4 **Landlord's Claim**. Landlord shall, subject to the rights of any Mortgagees, receive such portion of the Condemnation Award as shall equal the Market Value of the Fee Estate, at the Condemnation Effective Date.

15.3.5 **Tenant's Residual Claim**. Tenant shall receive the entire remaining Condemnation Award, if any.

15.4 Insubstantial Condemnation. If an Insubstantial Condemnation occurs after the Commencement Date, then any Condemnation Award(s) shall be paid to Tenant and applied first toward Restoration, in the same manner as Restoration after Casualty. Whether or not the Condemnation Award is adequate, Tenant shall, at its expense, Restore in compliance with this Lease. After Tenant has completed and fully paid for Restoration, any remaining Condemnation Award shall be distributed to Landlord and Tenant, as if it arose from a Substantial Condemnation that affected only the part of the Premises taken, with an equitable allocation of all elements taken into account in determining such distribution, pursuant to Section 15.3.

15.5 Condemnation Near End of Term. If an Insubstantial Condemnation occurs during the last two (2) years of the Term, then Tenant, upon ninety (90) days' prior Notice to Landlord, given at any time within thirty (30) days after such Insubstantial Condemnation, may terminate this Lease. Upon such termination, the Rent shall be apportioned as of the date of termination, and Tenant need not Restore. Upon any such termination, the balance of the Condemnation Award, less any reasonable amounts expended by Tenant to the date of termination to safeguard, clear, or make emergency repairs to the Premises (the costs of which shall be reimbursed to Tenant from the Condemnation Award), shall belong to Landlord, free of any claim by Tenant.

15.6 Temporary Condemnation. If a Temporary Condemnation occurs after the Commencement Date that would be a Substantial Condemnation, but for its limited duration, and such Temporary Condemnation relates to a period longer than 90 days, then Tenant may terminate this Lease, effective as of the Condemnation Effective Date. Upon such termination, and to the extent that the period of such Temporary Condemnation otherwise includes any period outside the Term, the Condemnation Award from such Temporary Condemnation shall belong to Landlord. If the Temporary Condemnation relates to a period of 90 days or less, or if Tenant does not terminate this Lease because of the Temporary Condemnation, then Tenant shall receive the Condemnation Award (to the extent attributable to periods within the Term) and this Lease shall not be affected in any way and no Rent shall abate. Landlord shall have no right to participate in any Temporary Condemnation proceedings, unless either: (a) Tenant elects to terminate this Lease because of the Temporary Condemnation; (b) Tenant may not legally participate in such proceedings; or (c) the duration of the Temporary Condemnation extends beyond the end of the Term.

15.7 Use of Loss Proceeds. Landlord assigns to Tenant the right to receive all Loss Proceeds. All Loss Proceeds shall be paid to Tenant, subject to the terms of this Lease. If Landlord receives any Loss Proceeds, Landlord shall promptly remit them to Tenant. If a Loss is an Immaterial Loss, then Tenant shall apply the Loss Proceeds first to Restoration. If a Loss is not an Immaterial Loss, then Tenant shall first reimburse Landlord and Tenant from such Loss Proceeds for their actual, necessary, and proper costs and expenses in collecting such Loss Proceeds. Then Tenant shall disburse the Loss Proceeds, from time to time, in proportion to the percentage of completion of the Construction constituting the Restoration. Until Tenant has completed and paid for Restoration, Tenant shall hold all Loss Proceeds in trust for the benefit of Landlord to be used first to Restore and for no other purpose. When Tenant has completed and paid for Restoration, Tenant may retain any remaining Loss Proceeds. If Restoration Funds are insufficient to Restore, then Tenant shall nevertheless Restore at Tenant's sole cost and expense. Tenant shall not release any Loss Proceeds, unless and until Tenant has expended its own funds (not Loss Proceeds) in an amount equal to any such insufficiency of funds on such Restoration.

15.8 Continuation of Lease. Except as this Lease otherwise expressly provides, this Lease shall not terminate, be forfeited, or be affected in any other manner, and Tenant waives any right to quit or surrender the Premises or any part of the Premises, because of any Loss or any resulting untenability. Unless and until this Lease has been validly terminated, Tenant's obligations under this Lease, including the obligation to pay Rent, shall continue unabated, subject to the Non-Recourse Clause.

15.9 Tenant Obligation to Clear Site. If Tenant elects a Casualty Termination, then Landlord may, by Notice to Tenant within thirty (30) days after receiving Tenant's Notice of Casualty Termination, require Tenant, to cause any and all remaining Building on or to the Premises to be demolished and the debris removed and any substantial excavations filled in and compacted, so that Tenant returns the Premises to Landlord as vacant and compacted land, free of any Building, demolition debris, and substantial excavations and reasonably level. The Parties shall cooperate to make available for such work, in installments as the work proceeds, all available Loss Proceeds, substantially in accordance with the disbursement procedures that would govern use of Loss Proceeds to Restore. Tenant shall perform such work with reasonable

promptness, but its completion shall not be a condition to any Casualty Termination. The provisions of this Section 15.9 shall survive any expiration or earlier termination of this Lease.

16. LANDLORD'S TRANSFERS

16.1 Landlord's Right to Convey. Landlord may Transfer the Fee Estate from time to time. Landlord shall promptly Notify Tenant of any such Transfer.

16.2 Release of Landlord. If Landlord assigns its interest in this Lease in accordance with the terms of this agreement, then Landlord shall be and hereby is entirely freed and relieved from all obligations of Landlord under this Lease that take effect after the date of such Transfer.

17. FEE MORTGAGES

17.1 Landlord's Rights. Landlord may execute and deliver Mortgage(s) encumbering the Fee Estate at any time and from time to time during the Term, provided that each such Mortgage complies with the definition of "Mortgage." Any Mortgage made by Landlord that encumbers the Fee Estate, but violates the definition of "Mortgage", shall be null and void. Tenant need not join in, or subordinate this Lease to, any Mortgage. As a condition to any Mortgage made by Landlord encumbering the Fee Estate, Landlord will obtain from the Mortgagee a Non-Disturbance Agreement, confirming that in the event of a foreclosure, Tenant's possession of the Property will be undisturbed and this Lease will remain in full force and effect, in accordance with its terms.

17.2 Mortgage Foreclosure. Upon a Foreclosure Event under a Mortgage, this Lease shall continue in full force and effect. Tenant shall attorn to the successor holder of the Fee Estate, as successor Landlord, provided that such successor holder has assumed in writing all obligations of Landlord under this Lease, subject to the Non-Recourse Clause. Such attornment shall in no way diminish or impair Tenant's rights and remedies against Landlord (all of which Tenant may continue to assert against the successor Landlord), or require Tenant to waive any Default by Landlord.

17.3 Delegation of Rights. Notwithstanding anything to the contrary in this Lease, Landlord may delegate to any Mortgagee any or all of Landlord's rights under this Lease.

17.4 Priorities of Multiple Mortgagees. If more than one Mortgagee desires to exercise any rights under this Lease, then Tenant shall be required to recognize either: (1) only the Mortgagee that desires to exercise such right and whose Mortgage is most Senior; or (2) such other Mortgagee as all Mortgagees have designated in writing to exercise such right. Priority of Mortgages shall be conclusively evidenced by (in order of precedence of application): (y) written agreement (or joint written instructions) by all Mortgagees; or (z) a report or certificate of a title insurance company licensed to do business in the State. Neither Tenant nor Landlord shall be obligated to determine the relative priorities of any Mortgages.

17.5 No Merger. Without the written consent of Landlord, Tenant and all Mortgagees, the Fee Estate and the Leasehold Estate shall at all times remain distinct and separate estates. They shall not merge, notwithstanding any acquisition by any means of both the Fee Estate and the Leasehold Estate by Landlord, Tenant, any Mortgagee or a Third Person.

17.6 No Landlord's Lien. Landlord has no lien or security interest in any personal property of Tenant located in, on, or at the Premises. Such personal property shall not secure payment of any Rent. If, at any time, any statute or principle of Law would grant Landlord any such lien or security interest, then Landlord waives the benefit of any such statute or principle and such lien.

18. TENANT'S TRANSFERS

18.1 Tenant's Limited Right. Tenant may only Transfer this Lease or the Leasehold Estate to a Permitted Transferee or Affiliate or subsidiary of Tenant, with Landlord's prior written consent, except as provided for in Section 19.1. To the extent that such Permitted Transferee is not an Affiliate or subsidiary of Tenant, the Permitted Transferee is subject to the following conditions precedent:

18.1.1 Tenant gives Notice to Landlord of the proposed Transfer, accompanied by all of the following:

(a) A current financial statement of the proposed transferee prepared by a certified public accountant in accordance with generally accepted accounting principles and sufficiently detailed to allow Landlord to evaluate the proposed transferee's current assets, liabilities and net worth. "Net worth" shall mean the amount by which the total of all assets shall exceed the total of all liabilities, as determined by an independent certified public accountant in accordance with generally accepted accounting principles;

(b) A description of the interest proposed to be transferred;

(c) The proposed effective date of such Transfer;

(d) A certified copy of an assignment and assumption agreement between Tenant and the proposed transferee effectuating such Transfer, in which Tenant assigns all of its rights under this Lease to the transferee and the transferee assumes all of Tenant's obligations under this Lease, as of the effective date of such Transfer, conditioned only on Landlord's approval of such Transfer;

(e) A brief description of all properties owned or operated by the proposed transferee that are similar to the Premises; and

(f) Any other information reasonably requested by Landlord, within ten (10) days following the receipt of all of the information described in the preceding (a) through (e), for Landlord to make an informed decision whether or not to approve or disapprove the Transfer.

18.1.2 Approval by Landlord. Within fifteen (15) days following receipt of all of the information referred to in Section 18.1.1, Landlord shall approve or disapprove a proposed Transfer, with respect to the information supplied. If Landlord fails to give Tenant written notice of its approval or disapproval of a proposed Transfer within this period, it shall be deemed to have approved the Transfer. Landlord shall include in any response disapproving a Transfer a reasonable statement of the reasons for its disapproval.

18.2 Bonus Rent. With respect to any Transfer by Tenant for which Landlord's consent is required hereunder, Tenant shall pay to Landlord as Additional Rent the Profit (defined below) on such transaction as and when received by Tenant unless Landlord gives notice to Tenant and the assignee or subtenant that such Profit shall be paid by the assignee or subtenant to Landlord directly. The "Profit" means (a) all amounts paid to Tenant for such assignment or sublease, including "key" money, monthly rent in excess of the monthly rent payable under the Lease and all fee and other consideration paid for the assignment or sublease, including fees under any collateral agreements, less (b) costs and expenses directly incurred by Tenant in connection with the execution and performance of such assignment or sublease for brokerage commissions, costs of renovation or construction of tenant improvements required under such assignment or sublease. Tenant is entitled to recover such costs and expenses before Tenant is obligated to pay the Profit to Landlord. The Profit in the case of a sublease of less than all of the Premises is the rent allocable to the subleased space as a percentage on a square footage basis. Landlord's receipt of the Profit shall not be a consent to any further assignment or subletting. The breach of Tenant's obligation under this Section 18.2 shall be an Event of Default under the Lease.

18.3 Obligations of Transferee. Each transferee of Tenant shall assume all obligations and liabilities of Tenant under this Lease. Tenant shall pay all transfer and other taxes payable on account of any Transfer by Tenant or any holder of any Equity Interest in Tenant. Tenant shall promptly Notify Landlord of the effective date of the Transfer. After Tenant Transfers this Lease and the transferee assumes it, the transferor shall have no obligation or liability under this Lease, except: (a) any obligation to hold and apply Restoration Funds held by the transferor at the date of the Transfer (unless transferred to the transferee); and (b) any unperformed obligations that arose before the Transfer (unless assumed in writing, in recordable form, by the transferee). If Tenant Transfers this Lease, then as between Landlord and Tenant the transferee shall be deemed, by assuming this Lease, to have assumed all liabilities and obligations of Tenant then existing or thereafter arising under this Lease (except as this Lease otherwise expressly states).

19. SUBLEASES

19.1 No Subleases. Tenant shall have the right to sublease all or any part of the Land, the Premises or any Building to an Affiliate without Landlord's prior written consent. Any other sublease will require Landlord's prior written consent, which consent shall be in Landlord's sole discretion.

20. LEASEHOLD MORTGAGES

20.1 No Leasehold Encumbrance. Tenant shall have no right to: (a) encumber the Leasehold Estate by executing any Mortgage; (b) grant any property interest of any type; or (c) place any similar encumbrance upon the Leasehold Estate.

21. QUIET ENJOYMENT; TITLE TO CERTAIN PREMISES; CERTAIN AGREEMENTS

21.1 Quiet Enjoyment. So long as this Lease has not been terminated, Landlord covenants that Tenant shall and may peaceably and quietly enjoy the Premises for the Term, subject to the terms and conditions of this Lease, without molestation, hindrance, or disturbance by or from Landlord or anyone claiming by or through Landlord and free of any encumbrance created or suffered by Landlord, except the Permitted Exceptions.

21.2 Access and Inspection. Notwithstanding anything to the contrary in this Lease, Landlord and its agents, representatives, and designees may enter the Premises upon reasonable Notice during regular business hours, solely to: (a) ascertain whether Tenant is complying with this Lease; (b) cure Tenant's Defaults; (c) inspect the Premises and any Construction; or (d) show the Premises to a prospective transferee or Mortgagee. In entering the Premises, Landlord and its designees shall not unreasonably interfere with operations on the Premises and shall comply with Tenant's reasonable instructions. Landlord shall Indemnify Tenant against any Claims arising from Landlord's entry upon the Premises.

21.3 Title to Building and Personal Property. Notwithstanding anything to the contrary in this Lease, all Building, Building Equipment, and FF&E located in, on, or at the Premises or otherwise constituting part of the Premises shall during the Term be owned by, and belong to, Tenant. All benefits and burdens of ownership of the foregoing, including title, depreciation, tax credits, and all other tax items, shall be and remain in Tenant during the Term, to the extent allowed by Law. Any environmental credits, emissions credits that Tenant shall accumulate while occupying the Land shall be owned by, and belong to, Tenant.

21.4 Waste. Subject to the provisions of this Lease concerning Condemnation, alterations, and damage and destruction, Tenant shall not commit or suffer to be committed any waste of all or any portion of the Land, the Batch Plant Development, any Building or any Building Equipment. Tenant agrees to keep the Land, the Batch Plant Development, all Building and all Building Equipment clean and clear of refuse and obstructions, to promptly dispose of all garbage, trash and rubbish and to pay all taxes, fees and other charges levied regarding this Lease, the Leasehold Estate created by this Lease, the Batch Plant Development, all Building, all Building Equipment and all FF&E.

22. EVENTS OF DEFAULT; REMEDIES

22.1 Landlord Remedies. If an Event of Default occurs, then Landlord shall, at Landlord's option, have any or all of the following remedies, all cumulative (so exercise of one remedy shall not preclude exercise of another remedy), in addition to such other remedies as may be available at law or in equity or under any other terms of this Lease. Landlord's remedies include:

22.1.1 **Termination of Tenant's Rights**. Landlord may have the right to terminate Tenant's right to possess the Premises as a remedy for the uncured, continued Default of Tenant, in which case this Lease and the Term shall terminate, such date of termination shall

be the Expiration Date, and Tenant shall immediately surrender possession of the Premises to Landlord.

22.1.2 Recovery of Damages Following Termination.

(a) Except as otherwise provided in California Civil Code Section 1951.4, if Tenant's right to possession of the Premises is terminated by Landlord because of the occurrence of an Event of Default, this Lease terminates. Upon any such termination of this Lease, Landlord may recover from Tenant:

(i) The worth at the time of award of the unpaid Rent which had been earned at time of termination;

(ii) The worth at the time of award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; and

(iii) Any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom.

(b) The "worth at the time of award" of the amounts referred to in Section (a)(i) and (a)(ii) is computed by accruing Default Interest on such amounts. The worth at the time of award of the amount referred to in Section (a)(iii) is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award, plus one percent (1%).

(c) All of the provisions of this Section 22.1.2 and the terminology described herein (including references to the "worth at the time of award" and similar provisions) will be interpreted in accordance with California statutory and case law Interpretations of California Civil Code § 1951.2.

22.1.3 Taking Possession. Landlord may re-enter and take possession of the Premises with process of law, whether by summary proceedings or otherwise, and remove Tenant, with or without having terminated this Lease, and without thereby being liable for damages or guilty of trespass. This Section 22.1.3 is intended to constitute an express right of re-entry in favor of Landlord by Court order. Except as expressly provided otherwise in this Lease or prohibited by Law, Tenant, for and on behalf of itself and all Persons claiming by, through or under Tenant, expressly waives any right to service of Notice of Landlord's intention to re-enter provided in any Law and any and all right of redemption provided by any Law, or re-entry or repossession or to restore the operation of this Lease, if Tenant is dispossessed by a judgment or by warrant of any court or judge or in case of re-entry or repossession by Landlord or any expiration or termination of this Lease. No re-entry by Landlord, whether had or taken under summary proceedings or otherwise, shall absolve or discharge Tenant from liability under this Lease. The terms "enter," "re-enter," "entry," and "re-entry," as used in this Lease, are not restricted to their technical legal meanings.

22.1.4 **Receipt of Money.** No receipt of money by Landlord from Tenant after termination of this Lease, or after the giving of any Notice of termination of this Lease, shall reinstate, continue, or extend this Lease or affect any Notice previously given to Tenant, or waive Landlord's right to enforce payment of any Rent payable or later falling due, or Landlord's right to recover possession of the Premises by proper remedy, except as this Lease expressly states otherwise, it being agreed that after service of Notice to terminate this Lease or the commencement of suit or summary proceedings, or after final order or judgment for possession, Landlord may demand, receive, and collect any moneys due or thereafter falling due, without in any manner affecting such Notice, proceeding, order, suit or judgment, all such money collected being deemed payments on account of use and occupation or, at Landlord's election, on account of Tenant's liability.

22.1.5 **No Waiver.** No failure by Landlord to insist upon strict performance of any covenant, agreement, term, condition or restriction of this Lease or to exercise any right or remedy upon a Default, and no acceptance of full or partial Rent during continuance of any such Default or Event of Default, shall waive any such Default, Event of Default or such covenant, agreement, term, condition or restriction. No covenant, agreement, term, condition or restriction of this Lease to be performed or complied with by Tenant, and no Default, shall be Modified, except by a written instrument executed by Landlord. No waiver of any Default or Event of Default shall Modify this Lease. Each and every covenant, agreement, term, condition and restriction of this Lease shall continue in full force and effect with respect to any other then-existing or subsequent Default of such covenant, agreement, term, condition or restriction of this Lease or Event of Default.

22.1.6 **Conditional Limitation.** Landlord may serve upon Tenant a written 30-day notice of cancellation and termination of this Lease. Upon the expiration of such 30-day period, this Lease and the Term shall automatically and without any action by anyone terminate, expire, and come to an end, by the mere lapse of time, as fully and completely as if the expiration of such 30-day period were the Expiration Date. The passage of such 30-day period constitutes the limit beyond which Tenant's tenancy no longer exists. Tenant shall then quit and surrender the Premises to Landlord, but remain liable as this Lease provides. It is a conditional limitation of this Lease that the Term shall terminate and expire as set forth in this Section 22.1.6. This Section 22.1.6 is intended to establish a conditional limitation and not a condition subsequent.

22.1.7 **Damages.** Landlord may recover from Tenant all damages Landlord incurs by reason of Tenant's Default, including reasonable costs of recovering possession, reletting the Premises, and any and all other damages legally recoverable by Landlord, and reimbursement of Landlord's reasonable out of pocket costs, including Legal Costs and bank fees for dishonored checks. Landlord may recover such damages at any time after Tenant's Default, including after expiration of the Term. Notwithstanding any Law to the contrary, (x) Landlord need not commence separate actions to enforce Tenant's obligations for each month's Rent not paid, or each month's accrual of damages for Tenant's Default, but may bring and prosecute a single combined action for all such Rent and damages; and (y) Landlord may not recover any consequential damages for Tenant's Default.

22.1.8 **Injunction of Breaches.** Whether or not an Event of Default has occurred, Landlord may obtain a court order enjoining Tenant from continuing any Default or

from committing any threatened Default. Tenant specifically and expressly acknowledges that damages would not constitute an adequate remedy for any Non-Monetary Default.

22.1.9 **Continue Lease.** Landlord may, at Landlord's option, maintain Tenant's right to possession of the Premises. In that case, this Lease shall continue and Landlord may continue to enforce it, including the right to collect Rent when due and any remedies for non-payment of Rent.

22.1.10 **Tenant's Right to Cure.** No remedy shall be effected without Tenant receiving an appropriate period to cure its default. If a specific cure period is not set forth above, Tenant shall have a minimum of 30 days after receipt of notice to cure its default.

22.2 **Landlord Default.** If Landlord defaults in its obligations under this Lease and fails to timely remedy such default (in accordance with the provisions of Section 22.4), Tenant shall have the following rights:

22.2.1 **All Legal Remedies.** Tenant may pursue all remedies against Landlord available under California law, including (i) a suit for damages; (ii) termination of the Lease; (iii) specific performance; and (iv) Tenant may seek a court order enjoining Landlord from continuing any default or from committing any threatened default in the event that damages would not constitute an adequate remedy for a Non-Monetary Default.

22.2.2 **No Waiver.** No failure by Tenant to insist upon strict performance by Landlord of any covenant, agreement, term, condition or restriction of this Lease or to exercise any right or remedy upon a Default by Landlord shall waive any such Default, Event of Default or such covenant, agreement, term, condition or restriction. No covenant, agreement, term, condition or restriction of this Lease to be performed or complied with by Landlord, and no Default by Landlord shall be Modified, except by a written instrument executed by Tenant. No waiver of any Default or Event of Default shall Modify this Lease. Each and every covenant, agreement, term, condition and restriction of this Lease shall continue in full force and effect with respect to any other then-existing or subsequent Default of such covenant, agreement, term, condition or restriction of this Lease or Event of Default.

22.3 **Tenant's Late Payments; Late Charges.** Notwithstanding any provision to the contrary, if Tenant fails to make any payment to Landlord required under this Lease within the cure period applicable to such payment, then in addition to any other remedies of Landlord, and without reducing or adversely affecting any of Landlord's other rights or remedies, Tenant shall pay Landlord, within ten (10) Business Days after Notice, Default Interest on such late payment, beginning on the date such payment was first due and payable and continuing until the date when Tenant actually makes such payment in full. In addition, and without limiting any other rights or remedies of Landlord, Tenant shall pay Landlord, as Additional Rent, an administrative charge equal to five percent (5%) of any payment that Tenant fails to pay within the cure period applicable to such payment. Such administrative charge is intended to compensate Landlord for the inconvenience and staff time incurred by Landlord to handle the late or missed payment, shall not be deemed a penalty or compensation for use of funds, and shall not be credited against any other obligations of Tenant under this Lease.

22.4 Landlord's Right to Cure. If Tenant, at any time, fails to make any payment or take any action this Lease requires, then Landlord, after twenty (20) Business Days' Notice to Tenant, or in an emergency with such notice (if any) as is reasonably practicable under the circumstances, and without waiving or releasing Tenant from any obligation or Default and without waiving Landlord's right to take such action as this Lease may permit as a result of such Default, may (but need not) make such payment or take such action. Tenant shall reimburse Landlord, as Additional Rent, within ten (10) Business Days' after Notice, an amount equal to: (a) all reasonable sums paid, and reasonable costs and expenses (including Legal Costs) incurred, by Landlord in exercising its cure rights under this Section 22.4; and (b) Default Interest on "a."

22.5 Holding Over. If for any reason or no reason Tenant remains in the Premises after the Expiration Date, then Landlord will suffer injury that is substantial, difficult, or impossible to measure accurately. Therefore, if Tenant remains in the Premises after the Expiration Date, for any reason or no reason, then in addition to any other rights or remedies of Landlord, Tenant shall pay to Landlord, as liquidated damages and not as a penalty, for each month (prorated daily for partial months) during which Tenant holds over after the Expiration Date, an amount equal to one hundred fifty percent (150%) of the current rent.

22.6 Accord and Satisfaction; Partial Payments. No payment by Tenant or receipt by Landlord of a lesser amount than the amount owed under this Lease shall be deemed to be other than a part payment on account by Tenant. Any endorsement or statement on any check or letter accompanying any check or payment of Rent shall not be deemed an accord or satisfaction. Landlord may accept any such check or payment without prejudice to Landlord's right to recover the balance of such Rent or pursue any other remedy.

22.7 Miscellaneous. Landlord and Tenant further agree as follows, with respect to any Defaults and Landlord's rights and remedies.

22.7.1 **Survival.** No termination of this Lease and no taking possession of or reletting the Premises shall relieve Tenant of its liabilities and obligations under this Lease, all of which shall survive such expiration, termination, repossession, or reletting, but subject to any limitations on personal liability or recourse expressly set forth in this Lease.

22.7.2 **Multiple Suits.** Landlord may sue to recover damages, or amount equal to any installment(s) of Rent payable by Tenant, from time to time, at Landlord's election. Nothing in this Lease requires Landlord to await the date when this Lease or the Term would have expired, absent an Event of Default, and a resulting termination of this Lease.

22.7.3 **No Double Recovery.** In no event shall Landlord be entitled, directly or indirectly, to recover twice for the same element of Landlord's damages.

22.7.4 **Landlord's Notice and Opportunity to Cure.** Notwithstanding anything to the contrary in this Lease, before exercising any right to terminate this Lease because of Landlord's Default (including any such termination right expressly provided for, or implied, under applicable law) or to claim a partial or total eviction (actual or constructive) because of Landlord's alleged Default, or to exercise any other rights or remedies against Landlord, Tenant shall give Landlord Notice of Landlord's alleged Default. Landlord shall then have thirty (30)

days following the effective date of such Notice following the effective date of such Notice to cure such alleged Default before Tenant starts to exercise any such rights or remedies against Landlord. This Section 22.7.4 does not apply to any Landlord Default for which this Lease already gives Landlord the rights to Notice and opportunity to cure.

23. END OF TERM

23.1 Orderly Transition. Upon any Expiration Date: (a) Tenant shall deliver to Landlord possession of the Premises, in the condition this Lease requires, subject to normal wear and tear and any Loss that this Lease does not require Tenant to Restore and subject to Landlord's election under Section 23.2; (b) Tenant shall surrender any right, title, or interest in and to the Premises and deliver such evidence and confirmation thereof as Landlord reasonably requires; (c) Tenant shall deliver the Premises free and clear of all: (i) Subleases, and (ii) liens, except (1) Permitted Exceptions and (2) liens that Landlord or any of its agents caused; (d) the Parties shall cooperate to achieve an orderly transition of the Premises from Tenant to Landlord, without interruptions; (e) the Parties shall adjust for all expenses and income of the Premises and any prepaid Rent and shall make such payments as shall be appropriate on account of such adjustment (but any sums otherwise payable to Tenant shall first be applied to cure any Default); and (f) the Parties shall terminate the Lease Memorandum. Notwithstanding anything to the contrary in this Section 23, Tenant may remove from the Premises any FF&E, fixtures, and other personal property owned by Tenant, but Tenant must do so, if at all, within sixty (60) days after the Expiration Date. During such sixty (60) day period, Tenant will continue in effect all previously required insurance coverage with respect to the Premises and will defend, indemnify and hold Landlord free and harmless with respect to claims or damages arising during such period and not the result of Landlords' gross negligence or intentional misconduct. Tenant shall repair any material damage to the Premises from any such FF&E removal. Tenant's FF&E not removed within sixty (60) days after the Expiration Date shall be deemed abandoned.

23.2 Removal of Building. Within sixty (60) days following any Expiration Date, Landlord may elect to require Tenant, by Notice to Tenant, to: (a) demolish all Building on the Premises; (b) remove all debris resulting from "a"; (c) return the Land to Landlord as vacant and compacted land free of all Building, free of significant excavations, and reasonably level; (d) pay all costs arising from "a" through "c"; and (e) surrender to Landlord all rights under this Lease.

24. NOTICES

24.1 Notices. All Notices shall be in writing and shall be addressed to Landlord and Tenant (with copies to their designated copy recipients) as set forth in Exhibit "A." Notices (including any required copies as set forth in Exhibit "A") shall be delivered by Federal Express, United Parcel Service, or other nationally recognized overnight (one-night) courier service to the addresses set forth in Exhibit "A." A Notice shall be deemed delivered on the date of delivery (or when delivery has been attempted twice, as evidenced by the written report of the courier service) to the address(es) set forth in Exhibit "A." No Notice shall be effective, unless and until a copy of such Notice has been delivered to all Mortgagee(s), if Landlord is the intended recipient of the Notice. Either Party may change its address or the name and address of its designated copy recipients by giving Notice in compliance with this Lease. Notice of such a change shall be effective only upon receipt or deemed receipt. Any Party giving a Notice may

request that the recipient acknowledge receipt of such Notice. The recipient shall promptly comply with any such acknowledgment request, but failure to do so shall not limit the effectiveness of any Notice. Notice given for a Party by any attorney who represents such Party shall constitute Notice by such Party. Notwithstanding the foregoing, Notices regarding the regular payment of Rent under this Lease (as opposed to a Default, for example) may be sent by first class mail, in which case they shall be deemed delivered three (3) Business Days after deposit with the United States Postal Service, postage prepaid, provided that no postal strike (or other event likely to disrupt postal service) is then in effect.

24.2 Replacement of Statutory Notice Requirements. When this Lease requires service of a Notice, that Notice shall replace, rather than supplement, any equivalent or similar Notice required by Law, including any Notices required by Code of Civil Procedure Section 1161 or any similar or successor Law. When a Law requires service of a Notice in a particular manner, service of that Notice (or a similar Notice required by this Lease) in the manner required by this Section 24 shall replace and satisfy the service-of-notice procedures of such Law, including those required by Code of Civil Procedure Section 1162 or any similar or successor Law.

24.3 Refused, Unclaimed, or Undeliverable Notices. Any correctly addressed Notice that is refused, unclaimed, or undeliverable because of an act or omission of the Party to be notified shall be considered to be effective as of the first date that the Notice was refused, unclaimed, or considered undeliverable by the postal authorities, messenger, or overnight courier service.

25. **NO BROKER.** Each Party: (a) represents and warrants that it did not engage or deal with any broker or finder in connection with this Lease and no Person is entitled to any commission or finder's fee regarding this Lease on account of any agreement or arrangement made by such Party; and (b) shall Indemnify the other Party against any breach of such representation and warranty.

26. **NON-RECOURSE.** Notwithstanding anything to the contrary in this Lease, the liability under this Lease of Landlord and Tenant and each of their parent(s), subsidiary(ies), Affiliates or other entities, and any of their constituent partners, joint venturers, or tenants-in-common, for damages or otherwise, shall be enforceable against, and shall not extend beyond, their interests in the Leasehold Estate (including the proceeds of the Leasehold Estate). No property or assets whatsoever, except Landlord's or Tenant's (as applicable) interest in the Premises (including the proceeds of the Leasehold Estate), shall be subject to levy, execution or any other enforcement procedure for the satisfaction of any remedies (monetary or otherwise) of the other Party arising under or in connection with this Lease. (This Lease sometimes refers to this Section 26 as the "Non-Recourse Clause.")

27. **ADDITIONAL DELIVERIES; THIRD PARTIES**

27.1 Estoppel Certificates. Up to twice each Lease Year, each Party to this Lease (a "Requesting Party") may require, by Notice, the other Party (a "Certifying Party") to execute, acknowledge, and deliver to the Requesting Party (or directly to a designated Third Person) up to four (4) original counterparts of an Estoppel Certificate. The Certifying Party shall sign, acknowledge, and return the Estoppel Certificate, within fifteen (15) Business Days after the

effective date of the Notice requesting the Estoppel Certificate, even if the Requesting Party is in Default. Any Estoppel Certificate signed and delivered by a Certifying Party shall bind that Certifying Party.

27.2 Further Assurances. Each Party shall execute and deliver such further documents, and perform such further acts, as may be reasonably necessary to achieve the Parties' intent in entering into this Lease.

27.3 Lease Memorandum. Within thirty (30) days following the Commencement Date, Landlord shall file the Lease Memorandum with the County Recorder for recording in the official records of the County and pay all taxes, fees and other charges regarding such recording. Upon any amendment or modification of this Lease and request by either Party, the Parties shall promptly execute, acknowledge, and deliver duplicate originals of a memorandum of such amendment or modification. Either Party may record such additional memorandum. Any taxes, fees and other charges imposed upon the recording of any memorandum shall be paid by the Party that caused such recording to occur.

27.4 Third-Party Beneficiaries. There are no third-party beneficiaries of this Lease, except Mortgagees. Nothing in this Lease is intended or shall be deemed to confer upon any Person (except Landlord, Tenant and Mortgagees) any right to enforce this Lease.

27.5 Amendment. Any Modification of this Lease must be in a writing signed by the Party to be charged.

27.6 Successors and Assigns. This Lease shall bind and benefit Landlord and Tenant and their successors and assigns, but this Section 27.6 shall not limit or supersede any Transfer restrictions in this Lease.

28. MISCELLANEOUS

28.1 City Not A Party. The City is not a Party to this Lease, as of the Commencement Date. Nothing express or implied in this Lease shall be construed or interpreted to limit, restrict, waive or vary any required consent, approval or permit from the City or to constitute an approval by the City under any of its land use regulatory or other police powers. Tenant is required to apply to the City and proceed through the City's standard process for any Approval related to any use or development of the Land or any Building by Tenant or otherwise.

28.2 Withholding of Consent. If it is determined that Landlord withheld or delayed any consent unreasonably, in violation of an agreement to act reasonably, then the consent shall then be deemed granted. Tenant reserves the right to pursue damages of any kind from Landlord for any such unreasonable withholding of consent.

28.3 Costs and Expenses; Legal Costs. In the event of any litigation or dispute between the Parties, or claim made by either Party against the other, arising from this Lease or the landlord-tenant relationship under this Lease, or Landlord's enforcement of this Lease upon a Default, Tenant's enforcement of this Lease upon a Default, or to enforce or interpret this Lease or seek declaratory or injunctive relief in connection with this Lease, or to exercise any right or remedy under or arising from this Lease, or to regain or attempt to regain possession of the

Premises or terminate this Lease, or in any Bankruptcy Proceeding affecting the other Party to this Lease, the prevailing Party shall be entitled to reimbursement of its Legal Costs, with Default Interest, and all other reasonable costs and expenses incurred in enforcing this Lease or curing the other Party's Default.

28.4 No Consequential Damages. Whenever either Party may seek or claim damages against the other Party (whether by reason of a breach of this Lease by such Party, in enforcement of any indemnity obligation, for misrepresentation or breach of warranty, or otherwise), neither Landlord nor Tenant shall seek, nor shall there be awarded or granted by any court, arbitrator, or other adjudicator, any speculative, consequential, collateral, special, punitive, or indirect damages, whether such breach shall be willful, knowing, intentional, deliberate, or otherwise. The Parties intend that any damages awarded to either Party shall be limited to actual, direct damages sustained by the aggrieved Party. Neither Party shall be liable for any loss of profits suffered or claimed to have been suffered by the other.

28.5 No Waiver by Silence. Failure of either Party to complain of any act or omission of the other Party shall not be deemed a waiver by the non-complaining Party of any of its rights under this Lease. No waiver by either Party, at any time, express or implied, of any Default of this Lease shall waive such Default or any other Default.

28.6 Performance Under Protest. If a dispute arises about performance of any obligation under this Lease, the Party against which such obligation is asserted shall have the right to perform it under protest, which shall not be regarded as voluntary performance. A Party that has performed under protest may institute appropriate proceedings to recover any amount paid or the reasonable cost of otherwise complying with any such obligation, with interest at the Prime Rate.

28.7 Survival. All rights and obligations that by their nature are to be performed after any termination of this Lease shall survive any such termination for a period of one (1) year.

28.8 Unavoidable Delay; Extension of Time of Performance. Subject to any specific provisions of this Lease stating that they are not subject to Unavoidable Delay or otherwise limiting or restricting the effects of an Unavoidable Delay, performance by either Party under this Lease shall not be deemed, or considered to be in Default, where any such Default is due to the occurrence of an Unavoidable Delay. Any Party claiming an Unavoidable Delay shall Notify the other Party: (i) within ten (10) days after such Party knows of any such Unavoidable Delay; and (ii) within five (5) days after such Unavoidable Delay ceases to exist. To be effective, any Notice of an Unavoidable Delay must describe the Unavoidable Delay in reasonable detail. The extension of time for an Unavoidable Delay shall commence on the date of receipt of written Notice of the occurrence of the Unavoidable Delay by the Party not claiming an extension of time to perform due to such Unavoidable Delay and shall continue until the end of the condition causing the Unavoidable Delay. The Party claiming an extension of time to perform due to an Unavoidable Delay shall exercise its commercially reasonable efforts to cure the condition causing the Unavoidable Delay, within a reasonable time.

29. INTERPRETATION, EXECUTION, AND APPLICATION OF LEASE

29.1 Captions. The captions of this Lease are for convenience of reference only and, in no way, affect this Lease.

29.2 Counterparts. This Lease may be executed in counterparts.

29.3 Delivery of Drafts. Neither Party shall be bound by this Lease, unless and until such Party shall have executed and delivered, at least, one (1) counterpart of this Lease. The submission of draft(s) or comment(s) on drafts shall not bind either Party, in any way. Such draft(s) and comment(s) shall not be considered in interpreting this Lease.

29.4 Entire Agreement. This Lease contains all terms, provisions, covenants, conditions, restrictions and agreements between Landlord and Tenant about the Premises. The Parties have no other understandings or agreements, oral or written, about the Premises or Tenant's use or occupancy of, or any interest of Tenant in, the Premises.

29.5 Governing Law. This Lease, its interpretation and performance, the relationship between the Parties, and any disputes arising from or relating to any of the foregoing, shall be governed, construed, interpreted, and regulated under the laws of the State, without regard to or application of principles of conflicts of laws.

29.6 Partial Invalidity. If any term or provision of this Lease or its application to any Person or circumstance shall to any extent be invalid or unenforceable, then the remainder of this Lease, or the application of such term or provision to Persons or circumstances, except those as to which it is invalid or unenforceable, shall not be affected by such invalidity. All remaining provisions of this Lease shall be valid and be enforced to the fullest extent Law allows.

29.7 Principles of Interpretation. No inference in favor of or against any Party shall be drawn from the fact that such Party has drafted any part of this Lease. The Parties have both participated substantially in negotiation, drafting, and revision of this Lease, with advice from legal counsel and other advisers of their own selection. A term defined in the singular in this Lease may be used in the plural, and vice versa, all in accordance with ordinary principles of English grammar, which also govern all other language in this Lease. The words "include" and "including" shall be construed to be followed by the words: "without limitation." Each of these terms shall be interpreted as if followed by the words "(or any part of it)" except where the context clearly requires otherwise: Building Equipment; FF&E; Fee Estate; Land; Leasehold Estate; Premises; Structure; and any other similar collective noun. Every reference to any document, including this Lease, refers to such document as Modified from time to time (except, at Landlord's option, any Modification that violates this Lease), and includes all exhibits, schedules, and riders to such document. The word "or" includes the word "and." Every reference to a law, statute, regulation, order, form or similar governmental requirement refers to each such requirement as amended, modified, renumbered, superseded or succeeded, from time to time.

29.8 Reasonableness. Wherever this Lease states that a Party shall not unreasonably withhold approval: (a) such approval shall not be unreasonably delayed or conditioned; (b) no withholding of approval shall be deemed reasonable, unless withheld by Notice specifying

reasonable grounds, in reasonable detail, for such withholding, and indicating specific reasonable changes in the proposal under consideration that would make it acceptable; and (c) if a Party grants its consent (or fails to object) to any matter, this shall not waive its rights to require such consent for any further or similar matter.

30. OPTION TO PURCHASE; RIGHT TO TERMINATE.

30.1 Option to Purchase. Landlord hereby grants to Tenant the option to purchase the Premises, exercisable as set forth below in such a manner that escrow must close, if at all, not later than the end of Lease Year 3. The Purchase Price for the Premises will be the same purchase price paid by Landlord in its acquisition of the Land immediately prior to the commencement of the Term of this Lease. Tenant may exercise this option by giving written notice to Landlord, with escrow to close not more than sixty (60) days thereafter, and in no event later than the expiration of Lease Year 3. Escrow closing costs will be allocated between the parties in accordance with Escrow Holder's standard practices. Title will be insured as good and marketable and subject to no monetary liens or encumbrances other than current, non-delinquent real property taxes and assessments.

30.2 Option to Terminate. If, as set forth in Section 9.1 above, Tenant has not commenced construction of the Batch Plant Development prior to the expiration of Lease Year 3, Landlord may elect to terminate this Lease. The period during which Landlord may exercise its right to terminate will commence on the calendar day following the expiration of Lease Year 3 and will continue until such time as Tenant shall have commenced construction of the Batch Plant Development, at which time Landlord's right to terminate this Lease will expire. If Tenant has exercised its option to purchase the Premises prior to the expiration of Lease Year 3 and prior to the commencement of construction of the Batch Plant Development, the right described in this Section will instead be an option to repurchase the Premises at the same purchase price paid by Tenant. Such option may be exercised by written notice from Landlord to Tenant given within sixty (60) days following the expiration of Lease Year 3; provided, however, that if during such sixty (60) day period, Tenant commences construction of the Batch Plant Development, Landlord's option as described herein will be of no force or effect. If Landlord exercises this option within the sixty (60) day period, Escrow will close within sixty (60) days thereafter. Escrow closing costs will be allocated between the parties in accordance with Escrow Holder's standard practices. Title will be insured as good and marketable and subject to no monetary liens or encumbrances other than current, non-delinquent real property taxes and assessments. Any termination of the Lease or repurchase of the Premises will terminate the rights of any tenant, subtenant or assignee under the Lease.

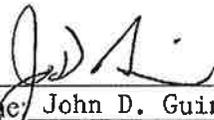
[Signatures on following page]

**SIGNATURE PAGE
TO
GROUND LEASE
(Cemex Construction Materials, L.P.)**

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease, as of the Reference Date, by and through the signatures of their authorized representatives, as set forth below:

LANDLORD:

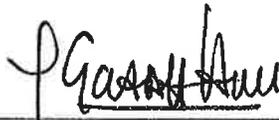
SHAFTER COMMUNITY
DEVELOPMENT AGENCY, a public body,
corporate and politic

By: 
Name: John D. Guinn
Executive Director

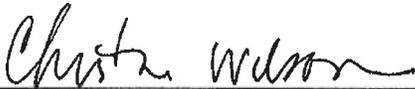
TENANT:

CEMEX CONSTRUCTION MATERIALS,
L.P., a Texas limited partnership,

by its general partner, Cemex, Inc

By: 
Name: JESUS GONZALEZ HERRERA
Its: EVP - PLANNING

ATTEST:

By: 
Agency Secretary

APPROVED AS TO FORM:

Best Best & Krieger, LLP

By: _____
Agency General Counsel

**SIGNATURE PAGE
TO
GROUND LEASE
(Cemex Construction Materials, L.P.)**

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease, as of the Reference Date, by and through the signatures of their authorized representatives, as set forth below:

LANDLORD:

SHAFTER COMMUNITY
DEVELOPMENT AGENCY, a public body,
corporate and politic

By: _____
Name: _____
Executive Director

TENANT:

CEMEX CONSTRUCTION MATERIALS,
L.P., a Texas limited partnership

By: _____
Name: _____
Its: _____

ATTEST:

By: _____
Agency Secretary

APPROVED AS TO FORM:

Best Best & Krieger, LLP

By:  _____
Agency General Counsel

EXHIBIT "A"
TO GROUND LEASE
(Cemex Construction Materials L.P.)

NOTICE ADDRESSES

TO DEVELOPER:

Cemex Construction Materials L.P.
840 Gessner, Suite 1400
Houston, Texas 77024
Attn: _____

COURTESY COPY TO:

TO AGENCY:

Shafter Community Development Agency
336 Pacific Avenue.
Shafter, California 93263
Attn: Executive Director

COURTESY COPY TO:

Best Best & Krieger LLP
3750 University Avenue, Suite 400
Riverside, California 92501
Attn: Michael Grant, Esq.

EXHIBIT "B"
TO GROUND LEASE
(Cemex Construction Materials, L.P.)

LAND LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SHAFTER, COUNTY OF KERN, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 4 OF PARCEL MAP NO. 11468, PHASE 3, IN THE CITY OF SHAFTER, COUNTY OF KERN, STATE OF CALIFORNIA, AS PER MAP RECORDED NOVEMBER 13, 2007 IN BOOK 56, PAGE 28 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING THEREFROM ALL OIL, GAS, AND OTHER MINERALS, WITHIN OR UNDERLYING SAID LAND, OR THAT MAY BE PRODUCED AND SAVED THEREFROM, PROVIDING, HOWEVER, GRANTOR, HIS SUCCESSORS AND ASSIGNS, SHALL NOT CONDUCT DRILLING OR OTHER OPERATIONS UPON THE SURFACE OF SAID LAND, BUT NOTHING HEREIN CONTAINED SHALL BE DEEMED TO PREVENT THE GRANTOR, HIS SUCCESSORS AND ASSIGNS, FROM EXTRACTING OR CAPTURING SAID MINERALS BY DRILLING ON ADJACENT OR NEIGHBORING LANDS AND/OR FROM CONDUCTING SUB-SURFACE DRILLING OPERATIONS UNDER SAID LANDS AT A DEPTH OF 500 FEET BELOW THE SURFACE OF SAID LAND, SO AS NOT TO DISTURB THE SURFACE OF SAID LAND OR ANY IMPROVEMENTS THEREON, AS RESERVED BY, KERN COUNTY LAND COMPANY IN DEED RECORDED MAY 20, 1954 IN BOOK 2235, PAGE 104 OF OFFICIAL RECORDS.

APN: 091-171-14-01-1, 091-180-01-00-0

EXHIBIT "C"
TO
GROUND LEASE
(Cemex Construction Materials, L.P.)

ADDITIONAL PERMITTED EXCEPTIONS

Permitted Exceptions shall include all of the following, as they existed on the Commencement Date:

1. All leases, subleases, tenancies and rights of occupancy affecting the Premises caused or permitted by Tenant or by anyone claiming by, through, or under Tenant;
2. All rights, if any, for electricity, gas, telephone, water, cable television, and any other utilities to maintain and operate lines, cables, poles, and distribution boxes in, over, and upon the Premises;
3. Possible projections or encroachments of retaining walls, foundations, stoops, areas, steps, sills, trim, cornices, standpipes, fire escapes, coal chutes, casings, ledges, water tables, lintels, porticos, keystones, windows, hedges, copings, cellar doors, sidewalk elevators, fences, fire escapes, and the like, or similar projections or objects upon, under, or above any adjoining buildings or streets or avenues or those belonging to adjoining premises which encroach upon the Premises or within any set-back areas, and variations between the lines of record title and fences, retaining walls, hedges, and the like;
4. Variations between the tax diagram or the tax map and the record description;
5. Zoning, environmental, municipal, building, and all other laws, regulations or similar matters imposed by any federal, state, municipal, or local government or any public or quasi-public board, authority, or similar agency having jurisdiction over the Premises or any portion thereof;
6. All notes or notices of any violation of law or municipal ordinances, orders, or requirements noted in or issued by any governmental or quasi-governmental authority or departments having or asserting jurisdiction, now or hereafter affecting the Premises;
7. The lien for all taxes, charges, rents, assessments, and any other governmental charges which are not yet due and payable;
8. Any Fee Mortgage.

**EXHIBIT "D"
TO
GROUND LEASE
(Cemex Construction Materials, L.P.)**

MEMORANDUM OF LEASE

(SEE ATTACHED)

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Shafter Community Development Agency
336 Pacific Avenue.
Shafter, California 93263
Attn: Executive Director

Space above this line for Recorder's Use
No Recording Fee Pursuant to Gov't Code §27383

MEMORANDUM OF LEASE
(Including Option to Purchase/Option to Re-Purchase)

SHAFTER COMMUNITY DEVELOPMENT AGENCY, a public body, corporate and politic ("Landlord") hereby leases to CEMEX CONSTRUCTION MATERIALS L.P., a Texas limited partnership ("Tenant") that certain real property located in the City of Shafter, County of Kern, State of California, more particularly described in Exhibit "1" attached hereto (the "Premises"), in accordance with the terms of that certain unrecorded Ground Lease dated as of April 7, 2008 (the "Lease"). The term of the Lease is twenty (20) years, as described in the Lease.

Landlord hereby grants to Tenant an option to purchase the Premises, such right being exercisable on or before the expiration of the Lease Year 3, as described in the Lease. Landlord reserves the right to terminate the Lease or to repurchase the Premises, with such right being exercisable as set forth in the Lease.

LANDLORD:

SHAFTER COMMUNITY DEVELOPMENT
AGENCY, a public body, corporate and politic

By: _____
Name: _____
Executive Director

TENANT:

CEMEX CONSTRUCTION MATERIALS L.P.,
a Texas limited partnership

By: _____
Name: _____
Its: _____

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Shafter Community Development Agency
336 Pacific Avenue.
Shafter, California 93263
Attn: Executive Director

Space above this line for Recorder's Use
No Recording Fee Pursuant to Gov't Code §27383

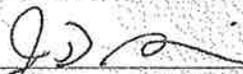
MEMORANDUM OF LEASE
(Including Option to Purchase/Option to Re-Purchase)

SHAFTER COMMUNITY DEVELOPMENT AGENCY, a public body, corporate and politic ("Landlord") hereby leases to CEMEX CONSTRUCTION MATERIALS L.P., a Texas limited partnership ("Tenant") that certain real property located in the City of Shafter, County of Kern, State of California, more particularly described in Exhibit "1" attached hereto (the "Premises"), in accordance with the terms of that certain unrecorded Ground Lease dated as of March 27, 2008 (the "Lease"). The term of the Lease is twenty (20) years, as described in the Lease.

Landlord hereby grants to Tenant an option to purchase the Premises, such right being exercisable on or before the expiration of the Lease Year 3, as described in the Lease. Landlord reserves the right to terminate the Lease or to repurchase the Premises, with such right being exercisable as set forth in the Lease.

LANDLORD:

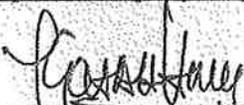
SHAFTER COMMUNITY DEVELOPMENT
AGENCY, a public body, corporate and politic

By: 
Name: John D. Guinn

Executive Director

TENANT:

CEMEX CONSTRUCTION MATERIALS L.P.,
a Texas limited partnership, by its general partner,
CEMEX, Inc.

By: 
Name: JESUS GONZALEZ HERRERA
Its: EVP-PLANNING

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