

PURCHASE, SALE AND DEVELOPMENT AGREEMENT

CENTRAL 91, LP

Vacant Land, Riverside, 92506; Assessor Parcel Number 223-150-009

This Purchase, Sale and Development Agreement (“Agreement”) is entered into this ____ day of _____, 2022 (“Effective Date”), by and between the CITY OF RIVERSIDE, a California charter city and municipal corporation (“Seller”) and CENTRAL 91, LP, a limited partnership (“Buyer”). In consideration of the mutual covenants and agreements, the parties agree to the following terms and conditions:

ARTICLE I AGREEMENT OF SALE

1.1 **Property.** Seller owns in fee the vacant land in Riverside, California, bearing Riverside County Assessor Parcel Number 223-150-009 (“Property”), more particularly described in the legal description and plat attached hereto and marked as Exhibit “A” and incorporated herein by reference.

1.2 **Intention.** Buyer desires to purchase in fee the Property from Seller and desires to construct a commercial retail/restaurant project (the “Project”). Seller desires to sell and convey the Property to Buyer.

1.3 **Due Diligence.** Buyer shall have thirty (30) calendar days from the Effective Date (“Contingency Date”) to perform, in its sole discretion, its due diligence review of the condition of Property and all other matters concerning the Property, including without limitation, condition of title, economic, financial, and accounting matters relating to or affecting the Property or its value, and the physical and environmental condition of the Property. Prior to the Contingency Date, Buyer shall have made such inquiries, communicated with local, state and federal government agencies as it sees fit, retained such consultants, and taken such actions as Buyer deems necessary or appropriate to enter into this Agreement. Should Buyer, its contractors, consultants and agents require entry upon the Property for the purpose of surveying the same, making engineering and environmental tests and conducting such other investigations as approved by Seller, Buyer shall first obtain a Right of Entry from Seller and provide such insurance as Seller may require and hold Seller harmless from any liability which may arise due solely to such entry. Seller authorizes Buyer to make all inquiries of appropriate governmental authorities with respect to the Property, as Buyer, in its good faith and reasonable judgment deems necessary to satisfy itself as to the condition of title to the Property and the feasibility of any proposed development on the Property. On or before the Contingency Date, Buyer shall deliver written notice to Seller accepting the Property or terminating this Agreement. If Buyer fails to give such notice on or before the Contingency Date, Buyer shall be deemed to have accepted the Property and proceed with this Agreement.



Seller shall provide copies of any due-diligence items to Buyer within three (3) business days following the Effective Date of this Agreement.

1.4 **Assumption of the Risk.** Subject to the other provisions of this Agreement, Buyer agrees, that by its acceptance of the Property under Section 1.3, it assumes the risk that an adverse condition of the Property may not have been revealed by its own Due Diligence. On Buyer's acceptance, Seller shall have no obligation to repair, correct, or compensate Buyer for any condition of the Property, including defects in improvements, noncompliance with applicable laws and regulations, including without limitation zoning laws, building codes, and the Americans with Disabilities Act, whether or not such condition of the Property would have been disclosed by Buyer's Due Diligence.

1.5 **Incomplete Legal Description.** If the legal description of the Property is not complete or is inaccurate, this Agreement shall not be invalid and the legal description shall be completed or corrected to meet the requirements of the title company to issue a title policy hereinafter described.

ARTICLE II PURCHASE PRICE, ESCROW, DEPOSIT AND BUYER'S OBLIGATION

2.1 **Purchase Price.** The total purchase price to be paid by Buyer to Seller for the Property shall be the sum of One Hundred Fifty-Eight Thousand Dollars (\$158,000.00) ("Purchase Price"). The Purchase Price shall be payable by Buyer to Seller in immediately available funds in accordance with the provisions and requirements of this Agreement. The Purchase Price shall be the full fair market consideration for the Property.

2.2 **Escrow.** Within ten (10) calendar days following the Effective Date, Seller shall open an escrow ("Escrow") with an escrow company of Seller's choice ("Escrow Holder") as the escrow holder, for the purpose of consummating this Agreement. The parties hereto shall execute and deliver to Escrow Holder such escrow instructions prepared by Escrow Holder as may be required to complete this transaction. Any such instructions shall not conflict with, amend, or supersede any provision of this Agreement. If there is any inconsistency between such instructions and this Agreement, this Agreement shall control.

2.3 **Deposit.** Within three (3) calendar days following the Effective Date, Buyer shall deliver a deposit in the amount of Twenty-Five Thousand Dollars (\$25,000) ("Deposit") to the Escrow Holder which will be applied towards the Purchase Price at the Close of Escrow; subject, however, to the Seller's right to liquidated damages as set forth in Section 6.1 in the event of Buyer's default. After thirty (30) days following the Contingency Date, Buyer's Deposit shall become non-refundable but shall still be applied towards the Purchase Price at the Close of Escrow. If this Agreement is terminated after Buyer's Due Diligence Period, the Deposit shall be released to Seller unless the parties agree to further extend the Agreement.

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2.4 Buyer's Approval Period. Within ninety (90) days following the Effective Date, Buyer shall submit an application to the Planning Division of the City of Riverside's Community & Economic Development Department for:

- (a) Project Design Review of Buyer's proposed development of the Project including specific site plan and preliminary elevations ("Project Design");
- (b) Entitlements and environmental clearance for the Project including any anticipated conditional use permits and/or variances ("Project Entitlements"); and
- (c) Any other documents or applications required for the development of the Project.

ARTICLE III CLOSING

3.1 **Closing Date.** This transaction shall close within ninety (90) calendar days from the earlier of either the Contingency Date or when Buyer delivers written notice to Seller accepting the Property or terminating this Agreement ("Close of Escrow"). If the transaction is not in a condition to close by the Close of Escrow, any party who is not then in default, upon notice in writing to the other party, may demand the return of their documents and/or money and cancellation of the transaction. Unless objected to in writing within ten (10) days from the receipt of the notice of cancellation, the transaction will automatically be canceled. If no demand for cancellation is made, then the transaction will close as soon as possible. Notwithstanding the foregoing, the Close of Escrow may be extended by mutual agreement if the parties are diligently attempting to resolve the issue(s) that may be preventing or delaying the Close of Escrow.

3.2 **Closing Documents.**

3.2.1 Seller, prior to the Close of Escrow, shall deliver or execute to each of the following items, the delivery or execution of which shall be a condition to the performance by Buyer of its obligations under this Agreement:

- (a) a grant deed sufficient for recording, conveying the Property; and
- (b) all additional documents and instruments which may be reasonably necessary for the Close of Escrow and to consummate the sale of the Property in accordance with the terms of this Agreement.

3.2.2 Buyer, prior to the Close of Escrow, shall deliver each of the following items, the delivery of which shall be a condition to the performance by Seller of its obligations under this Agreement:

- (a) The Purchase Price and other cash charges provided for in this Agreement;

(b) Copies of Buyer's authority documents and/or such other documents evidencing Buyer's due existence and authority to enter into and consummate the transaction contemplated by this Agreement as Seller may require;

(c) Evidence of Project Entitlements;

(d) All additional documents and instruments which may be reasonably necessary for the Close of Escrow and to consummate the sale of the Property in accordance with the terms of this Agreement.

3.3 **Taxes.** Buyer understands and acknowledges that Seller, as a municipal corporation, is not being assessed for any real property taxes or for any special assessments. However, upon the Close of Escrow, Buyer understands and acknowledges that real property taxes and special assessments will be assessed against the Property and Buyer will be responsible for the same. Buyer agrees to hold Seller harmless for any and all real property taxes and/or special assessments on the Property assessed on and after Close of Escrow.

3.4 **Condition of Title.** Seller shall convey fee simple merchantable and insurable title of the Property to Buyer free and clear of all liens, restrictions, delinquent taxes and assessments, and encumbrances as evidenced by a CLTA Title Insurance Policy ("Title Policy") issued by a title insurance company to be selected by Buyer in an amount equal to the purchase price. The Title Policy shall show as exceptions with respect to the Property only matters approved in writing by Buyer. Any exceptions to title representing monetary liens or encumbrances may, at the discretion of Buyer, be disapproved by Buyer, and upon the direction of the Buyer, Escrow Holder is hereby authorized and instructed to cause the reconveyance or partial reconveyance, as the case may be, of any such monetary exceptions to Buyer's title to the Property at or prior to the Close of Escrow.

3.5 **Costs.**

3.5.1 At the Close of the Escrow, Seller shall be responsible for: (i) the cost for a CLTA Standard form policy of title insurance from **Escrow Holder**. At the Close of Escrow, Buyer shall be responsible for (i) the difference between the costs for a CLTA Standard form policy of title insurance and a an ALTA Extended Coverage Title Insurance policy, both from **Escrow Holder**, if such additional title insurance is requested by Buyer; (ii) all recording fees and any and all state, county, and local governmental transfer taxes, documentary or otherwise, and/or the cost of documentary stamps to be affixed to the instrument or instruments of conveyance; (iii) the cost of an extended ALTA owners title policy and associated costs; (iv) any taxes disclosed in Section 3.3 and (v) any other expenses customarily charged to Buyer in connection with similar transactions including its own attorney's fees.

3.6 **Brokerage Commissions.** The Parties each represent and warrant to the other that neither has dealt with any broker or finder in connection with this Agreement or execution hereof. If any broker or finder perfects a claim for a commission or finder's fee based on any contract, dealings, or communication with a party (Indemnifying Party), then the Indemnifying Party shall

indemnify, defend, and hold the other party (Non-indemnifying Party) harmless from all costs and expenses (including reasonable attorney fees and costs of defense) incurred by the Non-indemnifying Party in connection with such claim.

3.7 **Closing Conditions.** Buyer's obligation to consummate the transaction contemplated by this Agreement is subject to the satisfaction of the following conditions for Buyer's benefit (or Buyer's waiver thereof) on or prior to the Close of Escrow.

3.7.1 **Seller's Obligations.** As of the Close of Escrow, Seller shall have performed all of the obligations required to be performed by Seller under this Agreement and all of Seller's representations and warranties shall be true and correct when made and as of the Close of Escrow.

3.7.2 **Entitlements.** Buyer shall have obtained all final, non-appealable and non-discretionary entitlements required to develop the Project, as referenced herein.

3.7.3 **Title Policy.** Title Company shall be irrevocably committed to issue the Title Policy subject only to those exceptions approved in writing by Buyer pursuant to Section 3.4 herein.

ARTICLE IV "AS-IS" PURCHASE

4.1 **As-Is Information.** Buyer acknowledges, agrees, represents, and warrants that: (a) any information supplied or made available by Seller, whether written or oral, or in the form of maps, surveys, plats, soils reports, engineering studies, environmental studies, inspection reports, plans, specifications, or any other information whatsoever, without exception, pertaining to the Property, any and all records and other documents pertaining to the use of the Property, income thereof, the cost and expenses of maintenance thereof, and any and all other matters concerning the condition, suitability, integrity, marketability, compliance with law, or other attributes or aspects of the Property, or a part thereof, if furnished to Buyer, is furnished solely as a courtesy; (b) THE INFORMATION IS PROVIDED ON AN "AS-IS, WHERE-IS" BASIS AND SELLER MAKES NO REPRESENTATION, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING, BUT IN NO WAY LIMITED TO, ANY WARRANTY OF CONDITION, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, AS TO THE INFORMATION; and (c) no representations have been made by Seller, or its agents or employees, in order to induce Buyer to enter into this Agreement. Without limiting the generality of the foregoing, Buyer acknowledges, agrees, warrants and represents to Seller that neither the Seller nor its agents or employees have made any representations or statements to Buyer concerning the Property's investment potential or resale at any future date, at a profit or otherwise, nor has Seller or its agents or employees rendered any advice or expressed any opinion to Buyer regarding any tax consequences of ownership of the Property.

4.2 **As-Is Property.** On the Close of Escrow, Buyer will be familiar with the Property and will have made such independent investigations as Buyer deems necessary or appropriate concerning the Property. Seller makes no representations or warranties and specifically disclaims

any representation, warranty or guaranty, oral or written, past, present or future with respect to the use, physical condition or any other aspect of the Property, the conformity of the Property to past, current or future applicable zoning or building code requirements or the compliance with any other laws, rules, ordinances, or regulations of any government or other body, the financial earning capacity or expenses history of the operation of the Property, the nature and extent of any right-of-way, lease, possession, lien, encumbrance, license, reservation, condition, or otherwise, the existence of soil instability, past soil repairs, soil additions or conditions of soil fill, susceptibility to landslides, sufficiency of undershoring, sufficiency of drainage, whether the Property is located wholly or partially in a flood plain or a flood hazard boundary or similar area, the existence or nonexistence of hazardous waste or other toxic materials of any kind, whether known or unknown and whether or not regulated or governed by applicable laws (including, without limitation, hydrocarbons or asbestos), or any other matter affecting the condition, stability, suitability or integrity of the Property or portion thereof.

4.3 Negligence or Failure to Investigate. Seller shall not be responsible for any negligent misrepresentation or failure to investigate the Property on the part of Seller, any real estate broker or agent, or any other agent, contractor or employee of Seller or any third party.

4.4 As-Is. BUYER EXPRESSLY ACKNOWLEDGES AND AGREES THAT THE PROPERTY IS BEING SOLD AND ACCEPTED ON AN "AS-IS, WHERE-IS" BASIS, AND IS BEING ACCEPTED WITHOUT ANY REPRESENTATION OR WARRANTY. IF BUYER ELECTS TO PROCEED WITH THE PURCHASE OF THE PROPERTY, ANY OBJECTIONS WHICH BUYER MAY HAVE WITH RESPECT TO THE PROPERTY (INCLUDING, WITHOUT LIMITATION, ANY ENVIRONMENTAL MATTERS, HAZARDOUS SUBSTANCES, WASTES OR TOXIC MATERIALS THAT MAY BE LOCATED ON, UNDER OR ABOUT THE PROPERTY, WHETHER KNOWN OR UNKNOWN) SHALL BE WAIVED BY BUYER

4.5 Past Uses. BUYER EXPRESSLY ACKNOWLEDGES AND AGREES AS PART OF ITS ACCEPTANCE OF THE PROPERTY ON AN "AS-IS, WHERE-IS" BASIS THAT BUYER IS AWARE OF ALL PRIOR USES OF THE PROPERTY THAT MAY LEAD TO CONTAMINATION OF THE PROPERTY. BUYER HAS OBTAINED AND READ ALL ENVIRONMENTAL ASSESSMENTS REGARDING THE PROPERTY WHICH A REASONABLY DILIGENT BUYER WOULD HAVE OBTAINED PRIOR TO THE PURCHASE THEREOF. BUYER ASSUMES ALL RESPONSIBILITY FOR ANY CONTAMINATION THAT IS PRESENT ON THE PROPERTY DUE TO PRIOR AND/OR EXISTING USES OF THE PROPERTY.

4.6 Waivers. AS PART OF BUYER'S AGREEMENT TO PURCHASE AND ACCEPT THE PROPERTY "AS-IS, WHERE-IS", AND NOT AS A LIMITATION ON SUCH AGREEMENT, BUYER HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVES ANY AND ALL ACTUAL OR POTENTIAL RIGHTS BUYER MIGHT HAVE REGARDING ANY FORM OF WARRANTY, EXPRESS OR IMPLIED, OF ANY KIND OR TYPE, RELATING TO THE PROPERTY AND IT IMPROVEMENTS. SUCH WAIVER IS ABSOLUTE, COMPLETE, TOTAL AND UNLIMITED IN ANY WAY. SUCH WAIVER INCLUDES, BUT IS NOT LIMITED TO, A WAIVER OF EXPRESS

WARRANTIES, IMPLIED WARRANTIES, WARRANTIES OF FITNESS FOR A PARTICULAR USE, WARRANTIES OF MERCHANTABILITY, WARRANTIES OF HABITABILITY, STRICT LIABILITY RIGHTS AND CLAIMS OF EVERY KIND AND TYPE, INCLUDING, BUT NOT LIMITED TO, CLAIMS REGARDING DEFECTS WHICH WERE NOT OR ARE NOT DISCOVERABLE, ANY RIGHTS AND CLAIMS RELATING OR ATTRIBUTABLE TO ENVIRONMENTAL CONDITIONS, ALL OTHER ACTUAL OR LATER CREATED OR CONCEIVED OR STRICT LIABILITY OR STRICT LIABILITY TYPE CLAIMS AND RIGHTS.

BUYER HEREBY ACKNOWLEDGES THAT IT HAS READ AND IS FAMILIAR WITH THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 1542, WHICH IS SET FORTH BELOW:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.”

BY INITIALING BELOW, BUYER HEREBY WAIVES THE PROVISIONS OF SAID SECTION 1542 IN CONNECTION WITH THE MATTERS WHICH ARE THE SUBJECT OF THE FOREGOING ACKNOWLEDGMENTS, WAIVERS AND RELEASES SET FORTH IN THIS ARTICLE 4.


Buyer's Initials

ARTICLE V REPRESENTATIONS AND WARRANTIES

5.1 **Seller's Representations, Warranties and Covenants.** Seller hereby represents, warrants and covenants to Buyer as of the date of this Agreement, and upon the Close of Escrow, as follows, all of which shall survive the Close of Escrow:

5.1.1 Seller is a public body and has the full power and authority to enter into and carry out the agreements contained in, and transactions contemplated by, this Agreement. The person(s) signing this Agreement and any documents and instruments in connection herewith on behalf of Seller have full power and authority to do so. This Agreement has been duly authorized and executed by Buyer, and upon delivery to and execution by Seller shall be a valid and binding agreement of Seller.

5.1.2 There are no attachments, assignments for the benefit of creditors, receiverships, conservatorships or voluntary or involuntary proceedings in bankruptcy or any other debtor relief actions contemplated by Seller or filed by Seller, or to the best of Seller's knowledge, pending in any current judicial or administrative proceeding against Seller.

5.1.3 Seller has not entered into any other written contracts or agreements for the sale or transfer of any portion of the Property.

5.1.4 To Seller's knowledge, Seller has received no written notice of any hazardous materials located on, under, or about the Property, except as disclosed to Buyer prior to the Contingency Date.

The material truth and accuracy of the foregoing representations and warranties shall be a condition of Buyer's obligations hereunder. Prior to the Close of Escrow, Seller shall notify Buyer of any facts or circumstances which are contrary to the foregoing representations and warranties.

5.2 **Buyer's Representations and Warranties.** Buyer hereby represents, warrants and covenants to Seller as of the date of this Agreement, and upon the Close of Escrow, as follows, all of which shall survive the Close of Escrow:

5.2.1 Buyer has the full power and authority to enter into and carry out the agreements contained in, and the transactions contemplated by this Agreement. The person(s) signing this Agreement and any documents and instruments in connection herewith on behalf of Buyer have full power and authority to do so. This Agreement has been duly authorized and executed by Buyer, and upon delivery to and execution by Seller shall be a valid and binding agreement of Buyer.

5.2.2 There are no attachments, assignments for the benefit of creditors, receiverships, conservatorships or voluntary or involuntary proceedings in bankruptcy or any other debtor relief actions contemplated by Buyer or filed by Buyer, or to the best of Buyer's knowledge, pending in any current judicial or administrative proceeding against Buyer.

The material truth and accuracy of the foregoing representations and warranties shall be a condition of Seller's obligations hereunder. Prior to the Close of Escrow, Buyer shall notify Seller of any facts or circumstances which are contrary to the foregoing representations and warranties.

5.3 **No Warranties.** Except for those representations and warranties expressly set forth in this Agreement, the parties understand and acknowledge that no person acting on behalf of Seller is authorized to make, and by execution hereof Buyer acknowledges that no person has made any representations, agreement, statement, warranty, guaranty or promise regarding the Property or the transaction contemplated herein, or regarding the zoning, construction, development, physical condition or other status of the Property. Without limiting the generality of the foregoing, Seller makes no representation or warranties with respect to the amount or types of fees required to obtain building permits or otherwise to rezone and develop the Property.

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**ARTICLE VI
BUYER'S OBLIGATION AFTER CLOSE OF ESCROW**

6.1 Buyer's Obligations After Closing.

6.1.1 Buyer shall commence construction of the Project no later than two (2) years after Close of Escrow, subject to force majeure delays (including, without limitation, acts of destruction by nature). Failure to commence construction as required herein shall result in the payment of a Four Hundred Dollar (\$400.00) per diem penalty by Buyer to the Seller for failure to commence construction within two (2) years from the Close of Escrow. Notwithstanding the foregoing, upon mutual written agreement of the parties, the construction commencement deadline may be extended for up to three (3) months at Seller's sole discretion.

6.1.2 Buyer shall complete construction of the Project within eighteen (18) months following the commencement of construction, subject to force majeure delays. Failure to complete construction within the time required herein shall result in the payment of a Four Hundred Dollar (\$400.00) per diem penalty by Buyer to Seller for every day past the completion date. Notwithstanding the foregoing, upon mutual written agreement of the parties, the construction deadline may be extended for up to eighteen (18) months at Seller's sole discretion.

6.1.3 Force Majeure shall mean that schedules shall provide for extensions of time in performance for delays caused by reasons beyond the control of the parties, including without limitation: unavailable labor, material shortages, acts of destruction by nature or inclement weather, war or terrorism, riots, civil unrest, strikes, embargoes, damage to work in progress by reason of fire, theft, or other casualty or loss; entitlement challenges, loss of funding, severely adverse economic cycles or economic downturns, delays in receiving materials or unavailable materials, acts of God, discovery of new or unknown contaminants which prevent work, or unusual and unexpected delays in approval by any State or Federal agency. The time for performance as specified in this Agreement shall be appropriately and reasonably extended by the time of the delay resulting from such specific event and the time reasonably required to resume the work.

6.1.4. Buyer shall comply with all design standards, zoning, planning and building laws, regulations and review procedures imposed with respect to the Property, including Title 20 of the Riverside Municipal Code if applicable, by the City, and any other public and/or quasi-public entity having such jurisdiction regarding the development of the Property.

6.1.5 Local Hiring Compliance

6.1.5.1 Buyer shall comply with all provisions of City Council Resolution No. 23780 during construction of the Project. Buyer shall make good faith efforts to employ qualified local individuals in sufficient numbers so that no less than thirty (30) percent of the workforce, measured in labor hours, is comprised of local individuals for the construction of the Project.

6.1.5.2 "Local individual" shall mean an individual with a permanent residence within a 20-mile radius of the center of the City of Riverside.

6.1.5.3 "Good faith efforts" includes, but is not limited to: (1) Contacting and engaging local hiring halls and reputable recruitment sources, such as the American Jobs Center, to identify qualified local individuals; (2) Advertising available jobs in trade papers and newspapers of general circulation within the City of Riverside; (3) Providing ongoing assistance to local individuals in completing job application forms; (4) Conducting or participating in a job application workshop within the City of Riverside to assist the community in applying and interviewing for jobs in the contracting industry; (5) Conducting job interviews within 20 miles of the real property; and (6) Any other means of obtaining employees who are local individuals that are reasonably calculated to comply with the goals of this section.

6.1.5.4 Reports. No less than semi-annually, beginning upon the date of the issuance of the first building permit for construction, Buyer shall submit to the City's Community and Economic Development Department, reports showing that either the thirty (30) percent local individuals hiring goal has been met, or that Buyer has made good faith efforts to reach that goal during the period covered by the report. Reports shall include the total number of employees hired, the total number of labor hours for the Project to date, the number local individuals hired, as defined in section 6.1.2.3, the total number of labor hours completed by local individuals, the name and address of each local individual hired, and the occupation or trade of each local individual hired. All reports shall be signed by Buyer under penalty of perjury.

6.1.5.5 Buyer shall have the right to determine the competency of all individuals hired, the number of employees required, the duties of such employees within their occupation, and shall have the right to reject an applicant for any reason; however, Buyer shall exercise this right in good faith and not for the purpose of avoiding the provisions of this section. Buyer shall retain records documenting reasons for rejection of local applicants and make them available for review by the City upon request.

6.1.5.6 Nothing in this section shall preclude Buyer from advertising regionally or nationally for employees in addition to its local outreach efforts.

6.1.5.7 The provisions of this section shall apply to the construction of the Project until the final certificate of occupancy for the Project has been issued by the City.

ARTICLE VII DEFAULTS

7.1 **Default.** A party shall be deemed in default hereunder if any of the warranties or representations set forth herein are or become untrue or if it fails to meet, comply with, or perform any covenant, agreement, or obligation on its part required within the time limits and in the manner required in this Agreement for any reason other than a default by the other party hereunder or termination of this Agreement prior to Close of Escrow.

7.2 **Opportunity to Cure.** No act, failure to act, event or circumstance which might be deemed to be a default by either party shall be deemed to be a default under any of the provisions of this Agreement, unless and until, notice thereof is first given by the non-defaulting party to the

party alleged to be in default and said party fails to cure the alleged default within fifteen (15) days in the case of a non-monetary default, or five (5) days in the case of a monetary default.

7.3 **Remedies.** If Buyer is deemed to be in default hereunder, Seller shall be entitled to termination of this Agreement, at its discretion.

7.4 **Waiver of Right to Specific Performance.** If Seller fails to convey the Property to Buyer in accordance with the provisions of this Agreement, and such failure constitutes a default under this Agreement, Buyer hereby waives its right to receive any equitable relief, including without limitation the right to record a lis pendens against the Property under applicable law or to pursue the specific performance of this Agreement.

7.5 **Liquidated Damages.** THE PARTIES AGREE THAT AT THE TIME THIS AGREEMENT IS MADE AND ENTERED INTO, SELLER'S DAMAGES UPON DEFAULT BY BUYER UNDER THIS AGREEMENT ARE EXTREMELY DIFFICULT OR IMPOSSIBLE TO CALCULATE AND BUYER AND SELLER AGREE THAT THE AMOUNT OF LIQUIDATED DAMAGES SET FORTH HEREIN IS A REASONABLE ESTIMATE UNDER THE CIRCUMSTANCES EXISTING AT THE TIME THIS AGREEMENT IS MADE OF THE DAMAGES THE SELLER WOULD SUSTAIN BECAUSE OF SUCH DEFAULT BY BUYER UNDER THIS AGREEMENT. FURTHER, BUYER DESIRES TO HAVE A LIMIT PLACED ON THE AMOUNT OF DAMAGE TO BE PAID TO THE SELLER UPON BUYER'S DEFAULT. BUYER HEREBY AGREES THAT SHOULD BUYER DEFAULT IN THE PERFORMANCE OF BUYER'S OBLIGATION TO CLOSE THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT, OR TO PERFORM ANY OTHER OBLIGATIONS AFTER CLOSE OF ESCROW, THE SELLER SHALL BE ENTITLED TO COLLECT THE SUM REPRESENTING THE AMOUNT OF THE DEPOSIT AND REASONABLE ATTORNEY'S FEES INCURRED BY SELLER AS LIQUIDATED DAMAGES FROM BUYER. THE FOREGOING PROVISIONS OF THIS SECTION 7.5 CONSTITUTE THE SOLE AND EXCLUSIVE MONETARY REMEDY AVAILABLE TO SELLER AS A RESULT OF A DEFAULT BY BUYER OF ITS OBLIGATIONS UNDER THIS AGREEMENT. THE PROVISIONS OF THIS SECTION 7.5 DO NOT LIMIT ANY DAMAGES DUE SELLER BY REASON OF BUYER'S ENTRY ONTO THE PROPERTIES PRIOR TO CLOSE OF ESCROW OR SELLER'S RIGHT OF REPURCHASE. BUYER AGREES TO DELIVER, ON WRITTEN REQUEST OF SELLER, SUCH INSTRUCTIONS AS MAY BE REASONABLY NECESSARY TO CAUSE THE ESCROWHOLDER TO DELIVER THE DEPOSIT TO SELLER.

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Buyer's Initials

Seller's Initials

7.5.1 **Local Hiring Liquidated Damages.** Failure of Buyer to comply with the provisions of section 6.1.5 (Local Hiring Compliance) will result in damages being sustained by City. Such damages are, and will continue to be, impracticable and extremely difficult to determine. For each semi-annual report that Buyer fails to comply with sections 6.1.5, Buyer shall pay to City, the sum of Twenty-Five Thousand Dollars (\$25,000) for each violation of 6.1.5. Execution of this Agreement shall constitute agreement by City and Buyer that said sum is the minimum value of the costs and

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actual damage caused by the failure of Buyer to comply. Such sum is liquidated damages and shall not be construed as a penalty and will be owed to the City upon City's notice to Buyer.

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Buyer's Initials

Sellers Initials

**ARTICLE VIII
MISCELLANEOUS**

8.1 **CEQA Compliance.** Buyer and Seller understand, acknowledge and agree that the close of this escrow is contingent upon Seller's compliance with the California Environmental Quality Act ("CEQA"). Buyer must comply with CEQA prior to development of the Property.

8.2 **Exhibits.** All Exhibits annexed hereto are a part of this Agreement for all purposes.

8.3 **Assignability.** Buyer may, at any time prior to the Close of Escrow, assign all of its rights, title, and interest in and to this Agreement to any affiliate or any subsidiary with the consent of Seller, otherwise, this Agreement is not assignable. Seller's consent shall not be unreasonably withheld. As used herein, an "affiliate" or "subsidiary" shall mean any entity which is controlled by or is under common control with Buyer.

8.4 **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of Seller and Buyer, and their respective successors and permitted assigns.

8.5 **Captions.** The captions, headings, and arrangements used in this Agreement are for convenience only and do not in any way affect, limit, amplify, or modify the terms and provisions hereof.

8.6 **Number and Gender of Words.** Whenever herein the singular number is used, the same shall include the plural where appropriate, and words of any gender shall include each other gender where appropriate.

8.7 **Notices.** All notices, terminations, waivers and other communications hereunder shall be in writing and shall be delivered personally or shall be sent by registered or certified United States mail or a nationally recognized, overnight courier service, postage prepaid, and addressed as follows:

If to Seller: The City of Riverside
 Community Development Dept.-Real Property Services Division
 3900 Main Street
 Riverside, CA 92522
 Attn: Community & Economic Development Director

If to Buyer: Central 91, LP
 1964 W. Corporate Way

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Anaheim, California 92801

Any notice in accordance herewith shall be deemed received when delivery is received or refused, as the case may be. Additionally, notices may be given by telephone facsimile transmission, provided that an original of said transmission shall be delivered to the addressee by a nationally recognized overnight delivery service on the business day following such transmission. Telephone facsimiles shall be deemed delivered on the date of such transmission.

8.8 Governing Law and Venue. The laws of the State of California shall govern the validity, construction, enforcement, and interpretation of this Agreement. All claims, disputes and other matters in question arising out of or relating to this Agreement, or the breach thereof, shall be decided by proceedings instituted and litigated in the state court in the County of Riverside, and the parties hereby waive all provisions of law providing for a change of venue in such proceedings to any other county.

8.9 Entirety. This Agreement embodies the entire agreement between the parties and supersedes all prior written or oral agreements and understandings, if any, between them concerning the subject matter contained herein. There are no representations, agreements, arrangements, or understandings, oral or written, between the parties hereto, relating to the subject matter contained in this Agreement which are not fully expressed herein.

8.10 Amendments. This Agreement may be amended or supplemented only by written documents signed by the parties or their designated representatives as designated at the time of execution of this document.

8.11 Severability. If any of the provisions of this Agreement, or its application to any party or circumstance, is held to be illegal, invalid, or unenforceable under present or future laws, such provision shall be fully severable. This Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part of this Agreement and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement. In lieu of such illegal, invalid, or unenforceable provision, there shall be added automatically as a part of this Agreement, a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible to make such provision legal, valid, and enforceable.

8.12 Further Acts. In addition to the acts and deeds recited herein and contemplated and performed, executed and/or delivered by Seller and Buyer, Seller and Buyer agree to perform, execute and/or deliver or cause to be performed, executed and/or delivered at the Close of Escrow or after the Close of Escrow any and all such further acts, deeds, and assurances as may be necessary to consummate the transactions contemplated herein.

8.13 Construction. No provision of this Agreement shall be construed in favor of, or against, any particular party by reason of any presumption with respect to the drafting of this Agreement; both parties, being represented by counsel, having fully participated in the negotiation of this instrument.

8.14 **Time of the Essence.** It is expressly agreed by the parties hereto that time is of the essence with respect to each and every provision of this Agreement.

8.15 **Waiver of Covenants, Conditions or Remedies.** The waiver by one party of the performance of any covenant, condition or promise, or of the time for performing any act under this Agreement shall not invalidate this Agreement nor shall it be considered a waiver by such party of any other covenant, condition or promise, or of the time for performing any other act required under this Agreement. The exercise of any remedy provided in this Agreement shall not be a waiver of any other remedy provided by law, and the provisions of this Agreement for any remedy shall not exclude any other remedies unless they are expressly excluded.

8.16 **Nondiscrimination.** The parties shall not discriminate on the grounds of race, religious creed, color, national origin, ancestry, age, physical or mental disability, medical conditions, including the medical condition of Acquired Immune Deficiency Syndrome (AIDS) or any condition related thereto, marital status, genetic information, gender, gender identity, genetic expression, sex or sexual orientation, in connection with the performance of this Agreement. The parties further agree to conform to the requirements of the Americans with Disabilities Act in the performance of this Agreement.

8.17 **Ratification.** This Agreement may be subject to the approval and ratification by the City of Riverside. In the event the City fails to approve this Agreement, there shall be no liability on the part of the Seller and this Agreement shall become null and void and of no further force and effect.

8.18 **Counterparts.** This Agreement may be executed in a number of identical counterparts. If so executed, each of such counterparts shall, collectively, constitute one original agreement. In making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

8.19 **Days.** Unless otherwise specified, "days" shall mean calendar days.

(Signatures on following page.)

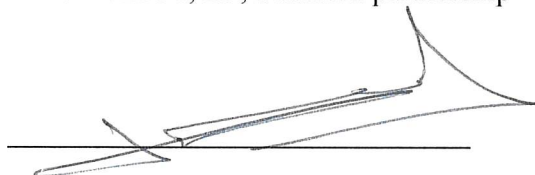
2 B

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

CITY OF RIVERSIDE, a California charter city and municipal corporation

CENTRAL 91, LP, a limited partnership

By: _____
City Manager



Name: Imad Boukai
Title: President
BK Real Estate Holdings, Inc
General Partner

Attest: _____
City Clerk

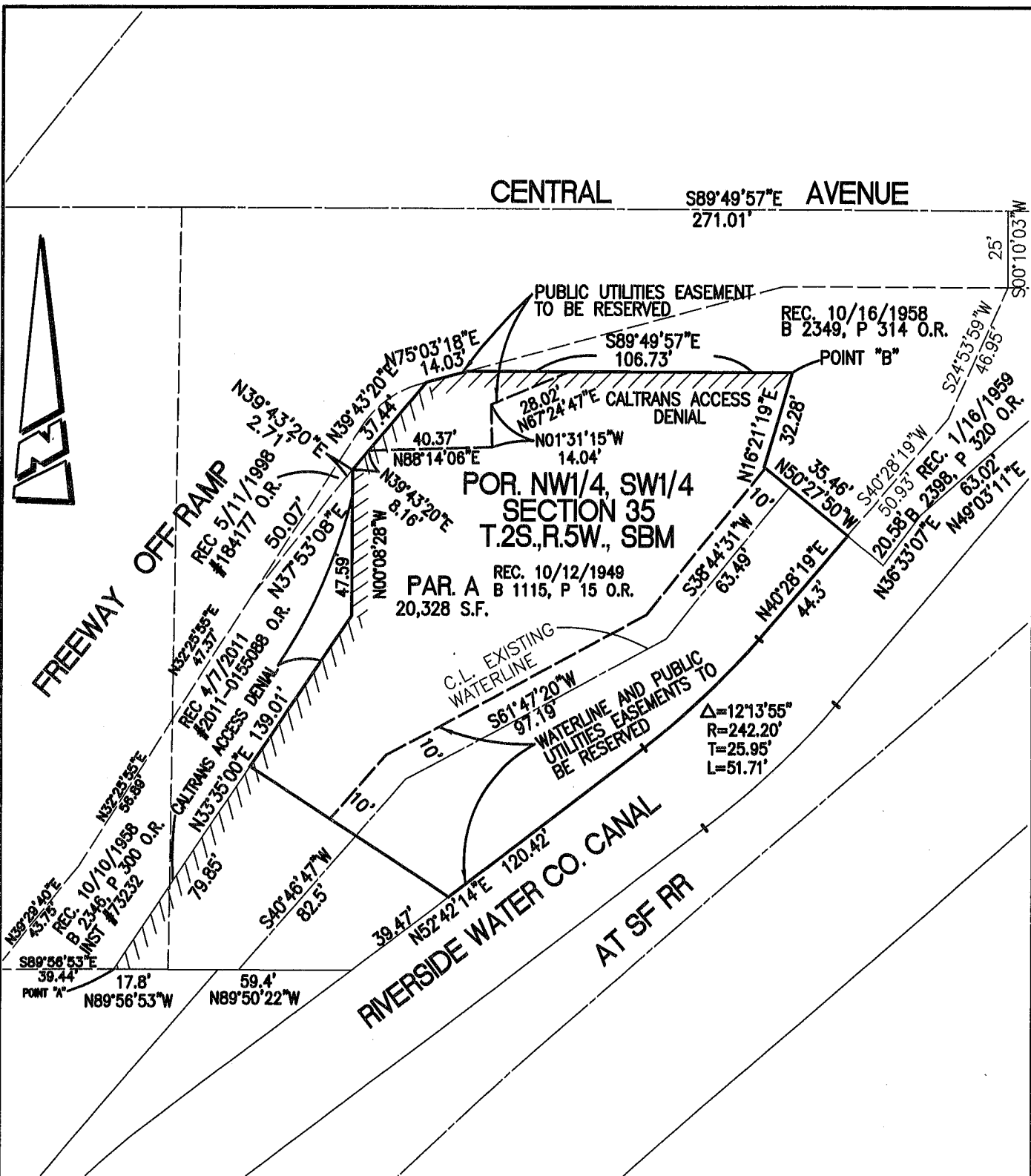
Name:
Title:

Approved as to Form:

By: 
Assistant City Attorney

EXHIBIT "A"

LEGAL DESCRIPTION AND PLAT



CENTRAL AVENUE
 S89°49'57"E 271.01'



POR. NW1/4, SW1/4
 SECTION 35
 T.2S., R.5W., SBM

PAR. A
 REC. 10/12/1949
 B 1115, P 15 O.R.
 20,328 S.F.

FREQUENCY OFF RAMP
 REC 5/11/1998
 #184177 O.R.

REC 10/10/1958
 B 2346, P 300 O.R.
 INST #175232

REC 4/7/2011
 #2011-0155088 O.R.
 CALTRANS ACCESS DENIAL

C.L. EXISTING WATERLINE
 WATERLINE AND PUBLIC UTILITIES EASEMENTS TO BE RESERVED

REC. 10/16/1958
 B 2349, P 314 O.R.
 POINT "B"

REC. 1/16/1959
 B 2398, P 320 O.R.

Δ=12°13'55"
 R=242.20'
 T=25.95'
 L=51.71'

• CITY OF RIVERSIDE, CALIFORNIA •

THIS PLAT IS SOLELY AN AID IN LOCATING THE PARCEL(S) DESCRIBED IN THE ATTACHED DOCUMENT. IT IS NOT A PART OF THE WRITTEN DESCRIPTION THEREIN.

SHEET 1 OF 1

SCALE: 1"=50'

DRAWN BY: CURT

DATE: 5/6/21

SUBJECT: MAGNOLIA SUBSTATION SURPLUS

DR