

OPTION AGREEMENT

(FRANKLIN STREET)

BY
AND
BETWEEN

PARK CENTRAL APARTMENTS, LP,
a California limited partnership
"Optionor"

AND

CITY OF SANTA CLARA,
a municipal corporation
"Optionee"

LIST OF EXHIBITS

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| Exhibit B | Memorandum of Option |
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| Exhibit H | Continued Use License Agreement |

OPTION AGREEMENT

(Franklin Street)

THIS OPTION AGREEMENT (this “**Agreement**”) is entered into by Park Central Apartments, LP, a California limited partnership (“**Optionor**”) and the City of Santa Clara, a California municipal corporation (“**Optionee**”) as of September 10, 2018 (the “**Effective Date**”).

RECITALS

A. Optionor owns certain real property commonly known as Park Central Apartments located at 1050 Benton Street, Santa Clara, California, APN 269-22-096 (the “**Park Central Property**”).

B. Optionee is engaged in an ongoing public planning process to redevelop certain real property in the historic downtown of the City of Santa Clara (“**City**”), referred to herein as the “**Downtown Project**,” which would include the Park Central Property. This potential redevelopment effort remains in conceptual planning stages and will require further study and approval by the City Council of the City. Prior to any such approval, pursuant to the California Environmental Quality Act (Section 21000 *et seq.* of the Public Resources Code, and the Guidelines set forth at 14 California Code of Regulations Section 15000 *et seq.*, “**CEQA**”), Optionee will prepare an environmental impact report (“**EIR**”) to evaluate the potential environmental impacts of the proposed Downtown Project.

C. In furtherance of the Downtown Project, Optionee desires the right to acquire a right-of-way easement (the “**ROW Easement**”), consisting of approximately 32,330 square feet, for the extension of Franklin Street, in the approximate location depicted on **Exhibit A** (the “**ROW Property**”). The precise location of the ROW Property is subject to Section 5.1 below.

D. Optionor and Optionee desire to enter into this Agreement to set forth the terms and conditions pursuant to which Optionor would convey to Optionee, and Optionee would purchase, the ROW Easement.

E. The ROW Easement will provide in perpetuity public pedestrian, bicycle, and vehicular access and allow for any required appurtenances such as lighting, public and private utilities, traffic control and signal equipment. Optionee will be required to fund all costs relating to construction, maintenance, operations, and enforcement in, on, over, under and relating to the ROW Easement and any improvements located thereon.

IN CONSIDERATION of the respective agreements hereinafter set forth, Optionor and Optionee agree as follows:

1. Grant of Option.

1.1 Option. Subject to the terms and conditions set forth herein, Optionor hereby grants to Optionee an option to purchase the ROW Easement (the “**Option**”).

1.2 Option Consideration. Within two (2) business days after the Effective Date, and as consideration for this Option, Optionee shall deposit with First American Title Company, 1850 Mt. Diablo Blvd., Suite 300, Walnut Creek, CA 94596, Attn: Roni Sloan-Loftin (the “**Title Company**”), the amount of Seventy-Nine Thousand Dollars (\$79,000.00) in good and same day funds (the “**Option Consideration**”). The Option Consideration shall be immediately released to Optionor and shall be non-refundable except in the event of an Optionor Default (as defined in Section 12.1 below).

1.3 Memorandum of Option. Within two (2) business days after the Effective Date, the parties shall execute and deliver to Escrow Holder for recordation in the office of the Santa Clara County recorder (the “**Recorder**”), a Memorandum of Option in the form attached hereto as **Exhibit B** referring to this Agreement (“**Memorandum of Option**”). Escrow Holder shall not record the Memorandum of Option until receipt of the Option Consideration and the Quitclaim Deed (defined below).

1.4 Quitclaim Deed. Within two (2) business days after the Effective Date, Optionee shall deposit with the Escrow Holder a duly executed and notarized quitclaim deed in the form attached hereto as **Exhibit C** (the “**Quitclaim Deed**”). The Quitclaim Deed shall be held by the Escrow Holder and (i) returned to Optionee upon closing of the transaction contemplated hereunder (the “**Closing**”), or (ii) delivered to the Recorder for recordation upon submission of a written declaration from Optionor (with a copy to Optionee) that an Optionee Default (as defined below) has occurred, that Optionor has provided Optionee with notice of said Optionee Default and an opportunity to cure in accordance with Section 12.2 below, and that Optionee has failed to cure said Optionee Default. The foregoing notwithstanding, nothing in this Section 1.4 shall be deemed a waiver by Optionee of its rights to pursue the remedies afforded it under Section 12.1 in the event of an Optionor Default. In the event Optionee fails to exercise the Option before the Termination Date (as defined below), the Quitclaim Deed shall be immediately delivered by the Escrow Holder to the Recorder for recordation. Optionee shall execute and deliver to Escrow Holder replacement Quitclaim Deeds reflecting updated Optionor or property information, upon Optionor’s request from time to time.

2. Option Term; Purchase Price.

2.1 Term. The term of the Option (“**Option Term**”) shall be for a period of ten (10) years, commencing on the Effective Date of this Agreement (the “**Commencement Date**”) and terminating at 11:59 pm on the last business day before the tenth (10th) anniversary of the Effective Date (the “**Termination Date**”).

2.2 Purchase Price. The purchase price for the ROW Easement (the “**Purchase Price**”) shall equal the sum of (a) the fair market value of the fee interest in the ROW Property (“**Easement Value**”), (b) rent concessions granted to existing and future tenants of the Park Central Property due to noise, disturbance, and inconvenience caused by demolition and

construction (and preparation for the same) and loss of revenue due to increased vacancies arising out of the same (collectively, “**Lost Rents**”) and (c) the diminution in the value of the Park Central Property due to the removal of parking spaces which are not relocated pursuant to Section 5.2 of this Agreement (including loss of ongoing revenue therefrom) (collectively, “**Lost Parking**”), as determined as follows:

(a) Easement Value.

(i) If Optionee exercises the Option prior to the fourth (4th) anniversary of the Commencement Date, the Easement Value will equal One Million Five Hundred Eighty-Seven Thousand Eight Hundred Thirty-One Dollars (\$1,587,831.00).

(ii) If Optionee exercises the Option on or after the fourth (4th) anniversary of the Commencement Date, the Easement Value shall be determined in accordance with **Exhibit D**.

(b) Lost Rents and Lost Parking.

(i) If Optionee (x) exercises the Option prior to the fourth (4th) anniversary of the Commencement Date and (y) takes possession of the ROW Easement at Closing, then Lost Rents shall be valued at Two Hundred Thousand Dollars (\$200,000.00) and Lost Parking shall be valued at Five Hundred Thousand Dollars (\$500,000.00).

(ii) If Optionee does not (x) exercise the Option prior to the fourth (4th) anniversary of the Commencement Date and (y) take possession of the ROW Easement at Closing, then Lost Rents and Lost Parking shall each be increased (from \$200,000.00 and \$500,000.00, respectively) by one-hundred percent (100%) of the percentage of increase, if any, shown by the Consumer Price Index for All Urban Consumers, San Francisco-Oakland-San Jose, CA, All Items (base years 1982-1984 = 100), published by the United States Department of Labor, Bureau of Labor Statistics (“**Index**”), for the month immediately preceding the Closing Date (if Optionee takes possession of the ROW Easement at Closing) or the date that the Continued Use License (as defined herein) is terminated pursuant to Section 15.2 (if Optionee does not take possession of the ROW Easement at Closing), as compared with the Index for the month immediately preceding the Effective Date. If the Index is changed so that the base year differs from that in effect on the date the Lost Rents and Lost Parking are determined in accordance with this Section 2.2(b)(ii), the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised during the term of the Agreement, the government index or computation with which it is replaced shall be used to obtain substantially the same result as if the Index had not been discontinued or revised. Notwithstanding anything to the contrary contained in this Agreement, in no event shall Lost Rents be valued at less than \$200,000.00 or Lost Parking be valued at less than \$500,000.00.

3. Exercise of Option.

3.1. Notice. Provided that Optionee is not in default under this Agreement and has satisfied the Legal Description Condition as provided in Section 5.1, this Option may be exercised by Optionee at any time during the Option Term. The Option shall be exercised by

written notice (the “**Option Notice**”) delivered by Optionee to Optionor on or before the Termination Date, unconditionally stating Optionee’s exercise of the Option. The Option Notice shall identify a date of Closing (“**Closing Date**”) and state whether Optionee elects to take possession of the ROW Easement at Closing. If Optionee elects to take possession of the ROW Easement at Closing, then the Closing Date shall be a date which is not less than one hundred eighty (180) nor more than two hundred seventy (270) days from and after the delivery of the Option Notice unless the parties agree in writing to a different Closing Date. If Optionee elects not to take possession of the ROW Easement at Closing, then the Closing Date shall be a date which is not less than ninety (90) nor more than one hundred and eighty (180) days from and after the delivery of the Option Notice unless the parties agree in writing to a different Closing Date. The Option Notice shall be delivered to Optionor in the manner provided for in Section 17.1 below. Optionee shall deliver a copy of the Option Notice to the Title Company concurrently with the delivery of the Option Notice to Optionor.

3.2. Binding Agreement. Upon due and timely delivery of the Option Notice, Optionee shall become obligated to buy and Optionor shall become obligated to sell, the ROW Easement, upon and subject to the terms and conditions of this Agreement.

4. Representations and Warranties.

4.1 Representations of Optionor. As an inducement to Optionee to enter into this Agreement, Optionor represents, warrants and covenants as follows:

(a) Due Authority. Optionor has the requisite power and authority to: (i) enter into this Agreement as of the Effective Date and (ii) sell the ROW Easement as of the Closing Date. As of the Effective Date, the individual(s) executing this Agreement on behalf of Optionor is/are duly authorized to sign on Optionor’s behalf and bind Optionor to the obligations created herein.

(b) Binding Obligation. As of the Effective Date and the Closing Date, this Agreement is a valid and binding obligation of Optionor, subject only to applicable bankruptcy insolvency, reorganization or other similar laws affecting the rights of creditors generally.

(c) Deed of Trust. As of the Effective Date and the Closing Date, Optionor has obtained consent for this conveyance from any beneficiary under a deed of trust or mortgage encumbering the ROW Property.

(d) Leases. As of the Closing Date, there will be no leases, subleases, tenancy or occupancy agreements, or other rights of possession, whether written or unwritten, covering or affecting the ROW Property which would be binding on Optionee after Closing, except for the Permitted Exceptions (as defined in Section 7 below).

(e) Hazardous Materials. As of the Effective Date, Optionor has received no written notice from any governmental authority or agency having jurisdiction over the Property of the existence of Hazardous Materials (as defined in Section 11) on or beneath the ROW Property in violation of any applicable federal, state, local or administrative agency ordinance, law, rule, regulation, or order, including, without limitation, any environmental laws.

At or before Closing, at Optionee's request from time to time, Optionor shall disclose any such written notices that Optionor has received after the Effective Date.

4.2 Representations Of Optionee. As an inducement to Optionor to enter into this Agreement, Optionee represents, warrants and covenants as of the Effective Date and as of the Closing Date as follows:

(a) Due Authority. Optionee has obtained approval of the City Council of the City of Santa Clara authorizing the City Manager to execute this Option Agreement on its behalf, and approving the recordation of the Memorandum of Option.

(b) Binding Obligation. This Agreement is a valid and binding obligation of Optionee.

4.3 Survival. All representations and warranties set forth in this Sections 4 shall survive Closing for a period of one year (the "**Survival Period**"). Optionee and Optionor (each an "**Indemnitor Party**") agree to indemnify, defend, and hold harmless the other party (the "**Indemnitee Party**") from any claim, demand, liability, loss or cost (including reasonable attorneys' fees and costs) (collectively, "**Claims**") which the Indemnitee Party may sustain because of any material breach of or inaccuracy in the representations, warranties and covenants of Indemnitor Party set forth in this Section 4, provided that written notice of any such Claim is given by the Indemnitee Party to the Indemnitor Party in the manner provided for in Section 17.1 below prior to the end of the Survival Period.

5. Optionor's Conditions Precedent. Notwithstanding anything to the contrary contained herein, the Closing shall not occur until all of the following conditions are satisfied (the "**Optionor's Conditions Precedent**"):

5.1 Legal Description of ROW Property. Optionor acknowledges that elements of the Downtown Project remain subject to CEQA review. Promptly after completion of the CEQA review process and final approval by the City Council, Optionee shall have prepared a metes and bounds legal description of the final approved ROW Property, which shall have been approved by Optionor for consistency with Exhibit A, in Optionor's reasonable discretion (the "**Legal Description Condition**").

5.2 Parking Condition. Not less than sixty (60) days before the Closing Date, Optionee shall have delivered to Optionor for review and approval a license agreement for the parking of thirty-three (33) cars by Optionor and the residents and guests of the Park Central Property free of charge (the "**Parking License**") substantially in the form of Exhibit E attached hereto. The specific area subject to the Parking License shall have been designated by Optionee and approved by Optionor, in their respective reasonable discretion, within the area generally depicted on Schedule 1 to Exhibit E (the "**Parking License Area**"). The Parking License shall provide that upon Optionor's request, the Parking License Area shall be designated for exclusive use by Optionor and the residents and guests of the Park Central Property. Optionee shall not be liable for: (a) loss or damage to any vehicle or other personal property parked or located upon or within the Parking License Area, whether pursuant to the Parking License or otherwise or whether caused by fire, theft, explosions, strikes, riots, or any other cause whatsoever; or (b)

injury to or death of any person in, about or around any parking spaces, drive aisles or any portion of the Parking License Area or any vehicles parked thereon, whether caused by fire, theft, assault, explosion, riot or other cause and Optionor shall agree to waive any claims for, or in respect to, the above. The term of the Parking License shall commence on the Closing Date (if Optionee takes possession of the ROW Easement at Closing) or upon termination of the Continued Use License (if Optionee does not take possession of the ROW Easement at Closing) and shall expire upon the issuance of the first certificate of occupancy for a building or unit constructed as a part of a Redevelopment (as defined below) of the Park Central Property. A **“Redevelopment”** of the Park Central Property occurs when Optionor submits an application to demolish 75% or more (by square footage) of the existing buildings containing residential units at the Park Central Property and thereafter proceeds with the Redevelopment of the Park Central Property. Notwithstanding anything to the contrary contained herein, (i) any renovation of all or any portion of the Park Central Property which does not require new entitlements and (ii) any repair or reconstruction of all or any portion of the Park Central Property following a casualty or condemnation shall not constitute a Redevelopment.

5.3 Exercise of Option. Optionee shall have exercised the Option as provided in Section 3.1 above prior to the end of the Option Term.

5.4 Optionee’s Representations. All of Optionee’s representations and warranties contained herein shall be true and correct in all material respects as of the date when made and as of the Closing.

5.5 Optionee’s Covenants. Optionee shall have timely performed all of its covenants and obligations contained in this Agreement.

5.6 Certificate of Acceptance. Optionee shall have obtained all necessary authorization of the City of Santa Clara City Council for the recordation of the Grant of Easement and has deposited a properly executed Certificate of Acceptance into escrow.

The Optionor’s Conditions Precedent are intended solely for the benefit of Optionor. If, by the Closing Date, the Optionor’s Conditions Precedent have not all been satisfied or waived in writing, in Optionor’s sole and absolute discretion, then this Agreement shall automatically terminate (and Optionor shall retain the Option Consideration).

6. Optionee’s Conditions Precedent. After Optionee’s due and timely exercise of the Option, Optionee’s obligation to purchase the ROW Easement is expressly subject to fulfillment (or waiver) of each of the following conditions precedent at the Closing or at such other time set forth herein:

6.1 Subordination of Deed of Trust. Any beneficiary under a deed of trust or mortgage encumbering the ROW Property shall have agreed to subordinate such deed of trust or mortgage to the ROW Easement by means of a subordination agreement reasonably acceptable to Optionee (**“Subordination Agreement”**).

6.2 Title. At Closing, Optionor shall convey the ROW Easement to Optionee subject only to a lien for real estate taxes and assessments not delinquent, the Permitted

Exceptions, and such other encumbrances, easements, restrictions, rights and conditions of record approved by Optionee as provided in Section 7.

6.3 Optionor's Representations. All of Optionor's representations and warranties contained herein shall be true and correct in all material respects as of the date when made and as of the Closing.

6.4 Optionor's Covenants. Optionor shall have timely performed all of its covenants and obligations contained in this Agreement.

Notwithstanding anything to the contrary contained in this Agreement, if Optionee elects to close, notwithstanding the nonsatisfaction of any condition set forth above, there shall be no liability on the part of Optionor for breaches of representations and warranties of which Optionee had knowledge as of the Closing.

7. Title. Optionee has obtained from the Title Company a preliminary title report dated June 7, 2018 (the "**Preliminary Title Report**") covering the Park Central Property, a copy of which is attached hereto as **Exhibit G**. Exceptions Nos. 1-16, 21 and 22, together with any new exceptions which post-date the Preliminary Title Report and which do not preclude Optionee's intended use of the ROW Easement for public street purposes and the relocation of utilities as described in Section 17.11 below, are deemed to be "**Permitted Exceptions**." At the time Optionee delivers the Option Notice, and at any time and from time to time thereafter and prior to Closing, Optionee may give written objections to matters of title first appearing in any updated title commitment issued after the Preliminary Title Report and which (x) would not have appeared in accurate examinations of the title conducted on the effective date of the Preliminary Title Report and (y) do not constitute Permitted Exceptions (collectively "**Subsequent Title Exceptions**"). If Optionee notifies Optionor in writing of any disapproved Subsequent Title Exception, Optionor shall have thirty (30) days (the "**Cure Period**") after the receipt of such notice in which to correct, cure or eliminate such disapproved Subsequent Title Exception. If, by the end of such Cure Period, Optionor notifies Optionee in writing that Optionor is unable or unwilling to remove or cure each such disapproved Subsequent Title Exception to Optionee's reasonable satisfaction, then Optionee shall, within ten (10) days after the end of such Cure Period, notify Optionor in writing either (i) that Optionee agrees to waive such disapproved Subsequent Title Exception(s), at which point such exception(s) shall be deemed a Permitted Exception, or (ii) that Optionee grants Optionor an additional Cure Period for the length of time Optionee reasonably determines it will take Optionor to cure ("**Additional Cure Period**"), and the Closing Date shall be extended by a commensurate period of time. If Optionor fails to cure within said Additional Cure Period, if any, the rights and obligations of the parties shall thereafter be governed by Section 12.1 below.

8. Closing and Escrow.

8.1 Escrow. This Agreement shall serve as instructions to Title Company as the escrow holder for consummation of the transaction contemplated hereby. Optionor and Optionee shall execute such additional escrow instructions as may be appropriate to enable the Title Company to comply with the terms of this Agreement. The parties shall conduct an escrow Closing through the Title Company. In the event the Closing does not occur on or before the

scheduled Closing Date, the Title Company shall, unless it is notified by both parties to the contrary within five (5) days after the Closing Date, return to the depositor thereof items which were deposited hereunder. Any such return shall not, however, relieve either party of any liability it may have for its wrongful failure to close.

8.2 Deposits By Optionor. At or before the Closing, Optionor shall deliver to the Title Company the following:

(a) Grant of Easement. One (1) executed and acknowledged grant of easement in the form attached hereto as **Exhibit F** (the “**Grant of Easement**”);

(b) Parking License. One (1) executed and acknowledged Parking License;

(c) Continued Use License. One (1) executed and acknowledged Continued Use License (if Optionee will not take possession of the ROW Easement at Closing);

(d) Termination of Memorandum of Option. One (1) duly executed and acknowledged termination of the Memorandum of Option in a form reasonably approved by Optionor (the “**Termination of Memorandum of Option**”);

(e) Authorization. Such resolutions, authorizations, bylaws or other corporate and/or partnership documents or agreements relating to Optionor as shall be reasonably required by Title Company; and

(f) Closing Statement. A duly executed counterpart of a closing statement in form and content satisfactory to Optionee and Optionor (the “**Closing Statement**”).

8.3 Deposits by Optionee. At or before the Closing, Optionee shall deliver to the Title Company the following:

(a) Parking License. One (1) executed and acknowledged Parking License;

(b) Continued Use License. One (1) executed and acknowledged Continued Use License (if Optionee will not take possession of the ROW Easement at Closing);

(c) Subordination Agreement. One (1) duly executed and acknowledged Subordination Agreement in accordance with Section 6.1 above;

(d) Certificates of Acceptance. Two (2) duly executed certificates of acceptance, one for each Grant of Easement;

(e) Apportionment Letter. An original executed letter to the Santa Clara County Tax Assessor, pursuant to Revenue and Taxation Code Section 5082.1 providing notification of the apportionment date and requesting cancellation of taxes pursuant to Revenue and Taxation Code Section 5086.1 (the “**Apportionment Letter**”);

(f) Termination of Memorandum of Option. One (1) duly executed and acknowledged Termination of Memorandum of Option;

(g) Closing Statement. A duly executed counterpart of the Closing Statement; and

(h) Closing Payment. The “**Closing Payment**”, which shall mean the sum of Optionee’s share of closing costs and prorations as required by this Agreement and (x) the Purchase Price, less a credit in the amount of the Option Consideration paid by Optionee (if Optionee will take possession of the ROW Easement at Closing) or (y) the portion of the Purchase Price allocated to the Easement Value (if Optionee will not take possession of the ROW Easement at Closing).

8.4 Other Deposits. Optionor and Optionee shall each deposit such other instruments or money as are reasonably required by the Title Company or otherwise required to close the escrow and consummate the purchase of the ROW Easement in accordance with the terms hereof. Optionor and Optionee hereby designate Title Company as the “Real Estate Reporting Person” for the transaction pursuant to Section 6045(e) of the Code and the regulations promulgated thereunder.

9. Closing. The parties shall give joint escrow instructions to the Title Company which are not inconsistent with the following:

9.1 Termination of Memorandum of Option. Date and record the Termination of Memorandum of Option;

9.2 Record Grant of Easement. Date and record the Grant of Easement conveying the ROW Easement to Optionee;

9.3 Record Subordination Agreement. Date and record the Subordination Agreement.

9.4 Record License. Either date and record the Parking License against the Park Central Property and the Parking License Area (if Optionee will take possession of the ROW Easement at Closing) or date and record the Continued Use License against the Park Central Property (if Optionee will not take possession of the ROW Easement at Closing);

9.5 Pay Closing Payment. Pay the Closing Payment to Optionor, less Optionor’s share of closing costs and prorations as required by this Agreement;

9.6 Deliver Apportionment Letter. Deliver Apportionment Letter to the Santa Clara County Tax Assessor, with a copy to Optionor and Optionee;

9.7 Deliver Copies of Recorded Documents. Deliver to Optionor and Optionee certified copies of the recorded Grant of Easement and Parking License or Continued Use License (as applicable);

9.8 Closing Statements. Prepare and deliver to Optionor and Optionee one signed copy of the closing statements showing all receipts and disbursements from the escrow;

9.9 Return Quitclaim. Return to Optionee the unrecorded Quitclaim Deed;

9.10 Title Policies. Issue and deliver such title policy as may be requested by Optionee; and

9.11 Parking License. Deliver to Optionor the fully executed and acknowledged original of the Parking License (if the Parking License was not required to be recorded as provided above), which shall be held by Optionor until it is recorded pursuant to Section 15.2.

10. Prorations, Charges and Taxes. With respect to the ROW Property,

10.1 Taxes. Taxes for the year in which the Closing occurs shall be cleared and paid in the manner required in Section 5088 of the Revenue and Taxation Code, if unpaid as of Closing. All taxes attributable to the ROW Property shall be cancelled by the Optionee effective as of the Closing Date;

10.2 Title Insurance. Optionee shall pay the premium on any title insurance policies;

10.3 Transfer Taxes. Optionee shall pay all transfer taxes, if any;

10.4 Escrow Fees. Optionee and Optionor shall each pay 50% of all customary escrow fees; and

10.5 Legal Fees. Each party shall be responsible for its own legal fees.

11. AS-IS. Optionor is selling and, by delivering the Option Notice, Optionee agrees that it (a) is purchasing the ROW Easement on an “as is with all faults” basis, (b) except as otherwise expressly set forth herein, is not relying on any representations or warranties of any kind whatsoever, express or implied, from Optionor, its agents, or brokers as to, and (c) assumes the risk of, any matters concerning the ROW Property. Except as otherwise expressly set forth herein, by delivering the Option Notice, Optionee on behalf of itself and its successors and assigns waives its right to recover from, and forever releases and discharges, Optionor, Optionor’s affiliates, Optionor’s investment manager, the partners, trustees, shareholders, directors, officers, employees and agents of each of them, and their respective heirs, successors, personal representatives and assigns, from any and all demands, claims, legal or administrative proceedings, losses, liabilities, damages, penalties, fines, liens, judgments, costs or expenses whatsoever (including, without limitation, attorneys’ fees and costs), whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way be connected with the physical condition of the ROW Property or any law or regulation applicable thereto, including, without limitation, the presence of hazardous materials (“**Hazardous Materials**”) as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9601 et seq.), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.), the Clean Water Act (33 U.S.C. Section 1251 et seq.), the Safe Drinking Water Act (42 U.S.C. Section 300f et seq.), the

Hazardous Materials Transportation Act (49 U.S.C. Section 1801 et seq.), the Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.), the California Hazardous Waste Control Law (California Health and Safety Code Sections 25100-25600), the Porter-Cologne Water Quality Control Act (California Water Code Section 13000 et seq.), and the Safe Drinking Water and Toxic Enforcement Act (California Health and Safety Code Section 25249.5 et seq.).

Optionee expressly waives the benefits of Section 1542 of the California Civil Code, which provides as follows: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

OPTIONEE'S INITIALS: djr

12. Default/Remedies.

12.1 Optionor Default. In the event Optionor fails to perform in a timely manner any obligation under this Agreement, Optionee shall give written notice thereof stating with specificity the nature of the default. If Optionor fails to cure such default within five (5) business days after receipt of such notice, or in the event of a default that is not capable of cure within such five (5) business day period, commences cure within said five (5) business day period and completes the same within thirty (30) days thereafter, Optionee may declare Optionor to be in default under this agreement ("**Optionor Default**"). In the event of an Optionor Default prior to Closing, Optionee shall have the right to elect either (a) to terminate this Agreement by delivery of written notice of termination to Optionor, in which event Optionee shall be entitled to a refund of the Option Consideration and all other amounts deposited by Optionee into escrow and neither party shall have any further rights or obligations hereunder except any which expressly survive a termination of this Agreement, or (b) to pursue an action for specific performance (which shall be limited solely to Optionor's obligation to convey the ROW Easement to Optionee in accordance with the terms and conditions of this Agreement and/or cure any disapproved Subsequent Title Exceptions which can be cured by the payment of money); provided that any suit for specific performance must be brought within ninety (90) days after the Optionor Default.

12.2 Optionee Default. In the event Optionee fails to perform in a timely manner any material obligation under this Agreement, Optionor shall give written notice thereof stating with specificity the nature of the default. If Optionee fails to cure such default within five (5) business days after receipt of such notice, or in the event of a default that is not capable of cure within such five (5) business day period, commences cure within five (5) business day period and completes the same within thirty (30) days thereafter, Optionor may declare Optionee to be in default under this Agreement ("**Optionee Default**"). In the event of an Optionee Default prior to Closing, Optionor's sole and exclusive remedy shall be to elect in writing to terminate this Agreement and to retain the Option Consideration paid by Optionee as full liquidated damages for such Optionee Default, whereupon neither party shall have any further rights or obligations hereunder except any which expressly survive a termination of this Agreement.

LIQUIDATED DAMAGES: BY PLACING THEIR INITIALS IMMEDIATELY BELOW, OPTIONOR AND OPTIONEE AGREE THAT IF CLOSING DOES NOT OCCUR BY REASON OF ANY DEFAULT OF OPTIONEE, IT WOULD BE IMPRACTICAL AND EXTREMELY DIFFICULT TO FIX OPTIONOR'S ACTUAL DAMAGES, THAT THE AMOUNT OF THE OPTION CONSIDERATION IS A REASONABLE ESTIMATE OF SUCH DAMAGES, AND THAT OPTIONOR SHALL RETAIN THE OPTION CONSIDERATION AS LIQUIDATED DAMAGES. OPTIONOR AGREES TO WAIVE ALL OTHER REMEDIES IT OTHERWISE MAY HAVE AGAINST OPTIONEE IN LAW OR EQUITY BY REASON OF ANY DEFAULT OF OPTIONEE.

OPTIONOR  OPTIONEE _____ (initial)

13. Optionor Release of Optionee. From and after the Closing Date, except as expressly set forth herein (including, without limitation, in Section 17.11) or in the Grant of Easement, Optionor, for itself, its agents, heirs, assigns, successors in interest, and any related or affiliated entities, hereby fully releases and discharges Optionee, its agents, employees, officers, directors, divisions, attorneys, accountants, insurers, successors, and other representatives, and any and all related or affiliated private or public agencies or entities, from any and all causes of action, actions, judgments, liens, indebtedness, obligations, losses, claims, damages, expenses, liabilities and demands for inverse condemnation, nuisance, severance damages, relocation benefits, reestablishment benefits, the cost or value of any equipment or fixtures, loss of goodwill, construction-related dust, noise, traffic and other related construction activity, associated with the acquisition or use of the ROW Easement in accordance with the terms of this Agreement and/or the construction of any improvements within the ROW Property in accordance with the terms of the Grant of Easement. Optionor acknowledges that it may hereafter discover facts or law different from, or in addition to that which it now believes to be true with respect to its release of claims as set forth in this Agreement, and understands that by executing this Agreement it is waiving any rights of claims for any other or future benefits or damages to which it might be entitled which are not specifically exempted herein. In giving this release, Optionor expressly waives the protection of Civil Code Section 1542, which statute provides as follows:

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

OPTIONOR  (initial)

14. Condemnation. If all or any portion of the ROW Property is taken pursuant to condemnation or eminent domain proceedings or by a settlement in lieu of any such proceedings, then at Optionor's election, this Agreement shall terminate, the Option Consideration shall be returned to Optionee and Optionor shall retain all condemnation awards and payments.

15. Operations and Possession

LIQUIDATED DAMAGES: BY PLACING THEIR INITIALS IMMEDIATELY BELOW, OPTIONOR AND OPTIONEE AGREE THAT IF CLOSING DOES NOT OCCUR BY REASON OF ANY DEFAULT OF OPTIONEE, IT WOULD BE IMPRACTICAL AND EXTREMELY DIFFICULT TO FIX OPTIONOR'S ACTUAL DAMAGES, THAT THE AMOUNT OF THE OPTION CONSIDERATION IS A REASONABLE ESTIMATE OF SUCH DAMAGES, AND THAT OPTIONOR SHALL RETAIN THE OPTION CONSIDERATION AS LIQUIDATED DAMAGES. OPTIONOR AGREES TO WAIVE ALL OTHER REMEDIES IT OTHERWISE MAY HAVE AGAINST OPTIONEE IN LAW OR EQUITY BY REASON OF ANY DEFAULT OF OPTIONEE.

OPTIONOR _____ OPTIONEE dji (initial)

13. Optionor Release of Optionee. From and after the Closing Date, except as expressly set forth herein (including, without limitation, in Section 17.11) or in the Grant of Easement, Optionor, for itself, its agents, heirs, assigns, successors in interest, and any related or affiliated entities, hereby fully releases and discharges Optionee, its agents, employees, officers, directors, divisions, attorneys, accountants, insurers, successors, and other representatives, and any and all related or affiliated private or public agencies or entities, from any and all causes of action, actions, judgments, liens, indebtedness, obligations, losses, claims, damages, expenses, liabilities and demands for inverse condemnation, nuisance, severance damages, relocation benefits, reestablishment benefits, the cost or value of any equipment or fixtures, loss of goodwill, construction-related dust, noise, traffic and other related construction activity, associated with the acquisition or use of the ROW Easement in accordance with the terms of this Agreement and/or the construction of any improvements within the ROW Property in accordance with the terms of the Grant of Easement. Optionor acknowledges that it may hereafter discover facts or law different from, or in addition to that which it now believes to be true with respect to its release of claims as set forth in this Agreement, and understands that by executing this Agreement it is waiving any rights of claims for any other or future benefits or damages to which it might be entitled which are not specifically exempted herein. In giving this release, Optionor expressly waives the protection of Civil Code Section 1542, which statute provides as follows:

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

OPTIONOR _____ (initial)

14. Condemnation. If all or any portion of the ROW Property is taken pursuant to condemnation or eminent domain proceedings or by a settlement in lieu of any such proceedings, then at Optionor's election, this Agreement shall terminate, the Option Consideration shall be returned to Optionee and Optionor shall retain all condemnation awards and payments.

15. Operations and Possession

15.1 Operations. Prior to Closing, Optionor shall have the right to operate and maintain the ROW Property in Optionor's sole and absolute discretion, including, without limitation, developing, redeveloping, leasing, financing, refinancing and selling the ROW Property, constructing, demolishing, repairing, replacing or altering any improvements thereon, and encumbering the ROW Property with easements and other encumbrances which do not preclude Optionee's intended use of the ROW Easement for public street purposes and the relocation of utilities as described in Section 17.11 below.

15.2 Possession. If Optionee states in the Option Notice that it elects not to take possession of the ROW Easement at Closing, then Optionee will grant Optionor a personal, revocable license in the form of **Exhibit H** ("**Continued Use License**") allowing Optionor to remain in possession of the ROW Property, for no rent or fee, until the latest of (x) the date that Optionee designated, by written notice to Optionor, as the date that Optionee shall take possession of the ROW Easement (which designated date of possession shall be not less than one hundred eighty (180) days after the date of delivery of such notice), (y) the date that Optionee pays the Lost Rents and Lost Parking to Optionor (less a credit in the amount of the Option Consideration paid by Optionee) and (z) the date that Optionee causes the Parking License to be properly recorded against the Parking License Area and the Park Central Property at Optionee's cost. Upon the latest date described in clauses (x), (y) and (z) above, the Continued Use License shall terminate and possession of the ROW Easement shall immediately vest with Optionee.

16. Future Redevelopment. Any portion of the Park Central Property encumbered by the ROW Easement shall be included in calculations of lot area for purposes of determining the density or floor area ratio for any proposed construction on or redevelopment of the Park Central Property. The provisions of this Section 16 shall survive Closing.

17. Miscellaneous.

17.1 Notices. Any notices required or permitted to be given hereunder shall be given in writing and shall be delivered (a) in person, (b) by certified mail, postage prepaid, return receipt requested, (c) by Federal Express or another reputable commercial overnight courier that guarantees next day delivery and provides a receipt, or (d) by electronic mail, and such notices shall be addressed as follows:

If to Optionor: c/o Prometheus Real Estate Group, Inc.
1900 South Norfolk St., Ste. 150
San Mateo, CA 94403
Attention: Mr. John Millham and Ms. Jaclyn Safier
Telephone: (925) 938-4165 and (650) 931-3431
E-mail: jsafier@prometheusreg.com and
jmillham@prometheusreg.com

With a copy to: Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, California 94304-1018
Attention: Philip J. Levine, Esq.
Telephone: (650) 813-5613
E-mail: plevine@mofo.com

If to Optionee: City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050
Attention: City Manager
Telephone: (408) 615-2210
Email: Manager@santaclaraca.gov

With a copy to: Santa Clara City Attorney
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2234

or to such other address as either party may from time to time specify in writing to the other party. Any notice shall be deemed delivered when actually delivered, if such delivery is in person, upon deposit with the U.S. Postal Service, if such delivery is by certified mail, upon deposit with the overnight courier service, if such delivery is by an overnight courier service, and upon successful transmission, if such delivery is by electronic mail.

17.2 Brokers and Finders. Each party represents and warrants to the other that no broker or finder was instrumental in arranging or bringing about this transaction and that there are no claims or rights for brokerage commissions or finder's fees in connection with the transactions contemplated by this Agreement. In the event that any broker or finder perfects a claim for commission or finder's fee based upon such contact, dealings or communication, the party through whom such broker or finder makes a claim shall indemnify, save harmless and defend the other party from said claim and all costs and expenses (including reasonable attorneys' fees) incurred by the other party in defending against the same. The provisions of this Section 17.2 shall survive the Closing.

17.3 Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, administrators and assigns. Notwithstanding the foregoing, this Agreement may not be assigned by Optionee.

17.4 Amendments. Except as otherwise provided herein, this Agreement may be amended or modified only by a written instrument executed by Optionor and Optionee.

17.5 Deadlines on Non-Business Days. In the event any deadline specified herein falls on a day which is not a regular business day, then the deadline shall be extended to the end of the next following regular business day.

17.6 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

17.7 Merger of Prior Agreements. This Agreement and the exhibits hereto constitute the entire agreement between the parties and supersede all prior agreements and understandings between the parties relating to the subject matter hereof.

17.8 Attorneys' Fees. If any litigation, judicial reference or arbitration proceeding is commenced between the parties hereto concerning this Agreement and/or the rights and obligations of either party in relation herewith (including, but not limited to, claims in contract, tort or equity), the party prevailing in such litigation or arbitration proceeding, or the non-dismissing party in the event of a dismissal, with or without prejudice, shall be entitled, in addition to such other relief as may be granted, to a reasonable sum for any and all costs and expenses, including, without limitation, attorneys' fees, expert witness fees, consultants' fees, court costs, cost of paralegals, accounts, business office expenses of any kind or nature, including, but not limited to, staff, traveling expenses, telephone expenses, internal bookkeeping and accounting and any and all other costs and expenses of defense or prosecution incurred in connection therewith, whether specified herein or not. Any such attorneys' fees and other costs and expenses incurred by the prevailing or non-dismissing party in enforcing a judgment in its favor under this Agreement, whether or not suit is filed, shall be recoverable separately from and in addition to any other amount included in such judgment or award, and such obligation is intended to be severable from the other provisions of this Agreement and to survive and not be merged into any such judgment or award.

17.9 Time of the Essence. Time is of the essence of this Agreement.

17.10 Recitals. Optionor and Optionee agree that the recitals are true and correct and are hereby incorporated herein by this reference as though fully set forth in full.

17.11 Cooperation. The parties agree to reasonably cooperate with each other in the taking such steps and executing such additional documents or instruments as may be reasonably required to consummate the transactions contemplated herein. Optionee shall cooperate with Optionor to minimize the impacts of the demolition and construction on the ROW Property on Optionor and current and future tenants of the Park Central Property. If utilities or other facilities need to be relocated from or other work needs to be done on the ROW Property for Optionor's benefit, Optionee shall do so at Optionee's cost and in a manner which is subject to Optionor's reasonable approval. Without limiting the foregoing, Optionee shall perform the following at Optionee's cost and in a manner which is subject to Optionor's reasonable approval: (i) demolition of existing improvements on the ROW Property and reconstruction and/or relocation (to an area on Optionor's remaining property designated by Optionor) of trash enclosures, carports, mailboxes, and stairways (if applicable), in compliance with any applicable laws (including, without limitation, building codes and ADA) existing at the time of such relocation or reconstruction (provided; that Optionee may elect that Optionor perform the work described in this clause (i), in which event Optionee shall promptly reimburse Optionor for Optionor's reasonable costs for so doing); (ii) relocation of utilities and facilities from the ROW Property (including irrigation lines, stormwater inlets, fire hydrants, fire department connection, stand pipes (if applicable), and transformers) from the ROW Property to a location on Optionor's remaining property designated by Optionor and for which Optionor will demand no lease payments or easement fees; and (iii) engineering, planning, supervision and management of the foregoing. All of the work to be performed by Optionee under this Section 17.11 and all of

Optionee's improvements on the ROW Property shall be performed or constructed, as applicable, in compliance with all applicable laws, including, without limitation, building codes and ADA. In addition, if any of Optionee's work or improvements on the ROW Property causes any portion of the remaining Park Central Property which is contiguous to the ROW Property to be non-compliant with applicable laws, including, without limitation, building codes and ADA, then Optionee shall remedy such non-compliance at Optionee's cost (in a manner reasonably acceptable to Optionor). The provisions of this Section 17.11 shall survive Closing.

17.12 Severability. If any provision of this Agreement, or the application thereof to any person, place, or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable or void, the remainder of this Agreement and such provisions as applied to other persons, places and circumstances shall remain in full force and effect.

17.13 Incorporation of Exhibits. Exhibits A through H attached hereto, are incorporated herein by this reference.

17.14 Counterparts. This Agreement may be signed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall constitute one and the same instrument. The parties contemplate that they may be executing counterparts of this Agreement transmitted by digital or electronic means and agree and intend that a signature by digital or electronic means shall bind the party so signing with the same effect as though the signature were an original signature.


17.15 Drafts Not an Offer to Enter Into a Legally Binding Contract. The parties hereto agree that the submission of a draft of this Agreement by one party to another is not intended by either party to be an offer to enter into a legally binding contract with respect to the purchase and sale of the ROW Easement. The parties shall be legally bound with respect to the purchase and sale of the ROW Easement pursuant to the terms of this Agreement only if and when the parties have been able to negotiate all of the terms and provisions of this Agreement in a manner acceptable to each of the parties in their respective sole discretion, all conditions precedent to each party's willingness to enter into this Agreement have been satisfied in each party's respective sole discretion, and both Optionor and Optionee have fully executed and delivered to each other a counterpart of this Agreement.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, Optionor and Optionee have executed this Agreement as of the Effective Date.

Optionee:

City of Santa Clara,
a California municipal corporation

By: 
Name: DEANNA J. SANTANA
Title: CITY MANAGER

Optionor:

Park Central Apartments, LP,
a California limited partnership

By: Sunset Ridge Development Co., Inc.
a California corporation
its general partner

By: _____

Name: _____

Title: _____

Approved as to form:


Brian Doyle
City Attorney

IN WITNESS WHEREOF, Optionor and Optionee have executed this Agreement as of the Effective Date.

Optionee:

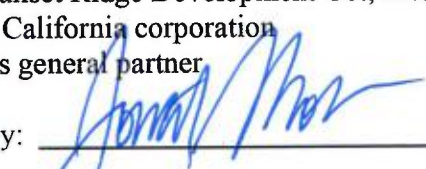
City of Santa Clara,
a California municipal corporation

By: _____
Name: _____
Title: _____

Optionor:

Park Central Apartments, LP,
a California limited partnership

By: Sunset Ridge Development Co., Inc.
a California corporation
its general partner

By:  _____
Name: Jonathan Moss
Title: Vice President

Approved as to form:

Brian Doyle
City Attorney

DESCRIPTION OF ROW PROPERTY



EXHIBIT B

FORM OF MEMORANDUM OF OPTION

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050

Attn: City Manager

SPACE ABOVE THIS LINE FOR RECORDER'S USE
Exempt from recording fee per Gov. Code § 273.83

MEMORANDUM OF OPTION

APN 269-22-096

(Franklin Street)

This Memorandum of Option is effective upon recordation and is entered into by and between PARK CENTRAL APARTMENTS, LP, a California limited partnership ("Optionor"), and the CITY OF SANTA CLARA, a municipal corporation, ("Optionee"), who agree as follows:

1. Optionor hereby grants to Optionee the option to purchase that certain right-of way easement over that certain parcel of real property depicted on Exhibit A attached hereto, which is a part of that certain larger parcel of real property commonly known as 1050 Benton Street, Santa Clara, California, as more particularly described in Exhibit B attached hereto, pursuant to the terms and conditions of that certain Option Agreement (Franklin Street) (the "Option Agreement") entered into effective as of September 10, 2018 by Optionor and Optionee, which is hereby incorporated by reference herein.

2. Unless earlier terminated in accordance with the terms of the Option Agreement, if not previously exercised by Optionee, said option to purchase shall expire at 11:59 pm, on September 8, 2028.

3. This Memorandum of Option is prepared for the purpose of imparting constructive notice of the Option Agreement and in no way modifies the provisions of the Option Agreement.

///

IN WITNESS WHEREOF, Optionor and Optionee have duly executed this Memorandum of Option on this 9 day of ~~September~~ October, 2018.

OPTIONOR:

Park Central Apartments, LP,
a California limited partnership

By: Sunset Ridge Development Co., Inc.
a California corporation
its general partner

By: _____
Name: _____
Title: _____

OPTIONEE

CITY OF SANTA CLARA,
a municipal corporation

By: Deanna J. Santana
Deanna J. Santana
City Manager

Approved as to form:

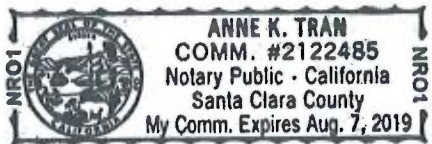
Brian Doyle
Brian Doyle
City Attorney

ACKNOWLEDGMENT

State of California)

County of Santa Clara)

On October 9, 2018, before me Anne K. Tran
Here Insert Name and Title of the Officer
personally appeared, Deanna J. Santana
Names(s) of Signers



who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Place Notary Seal Above


Signature: Anne K. Tran
Signature of Notary Public

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property created by the Memorandum of Option dated September ___, 2018, by Park Central Apartments, LP, a California limited partnership, as Optionor, to the City of Santa Clara, a municipal corporation as Optionee, is hereby accepted by the undersigned officer or agent on behalf of the City of Santa Clara, pursuant to authority conferred by the City Council at a public hearing on July 17, 2018, and the Optionee consents to recordation thereof by this duly authorized officer.

Dated: October 9
~~September~~ ___, 2018

CITY OF SANTA CLARA

By: 
Deanna J. Santana
Its: City Manager

APPROVED AS TO FORM:

By: 
Brian Doyle
City Attorney

EXHIBIT C

FORM OF QUITCLAIM DEED

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, California 94304-1018
Attention: Philip J. Levine, Esq.

SPACE ABOVE THIS LINE FOR RECORDER'S USE

QUITCLAIM DEED
APN 269-22-096

The City of Santa Clara, a municipal corporation, as Grantor, hereby QUITCLAIMS to Park Central Apartments, LP, a California limited partnership, as Grantee, all of Grantor's rights, title and interests in the following real property in the City of Santa Clara, County of Santa Clara, State of California, by virtue of the Option Agreement (Franklin Street) dated September ____, 2018 and the Memorandum of Option dated September ____, 2018, recorded on ____, 2018 as instrument number ____, in the Official Records of Santa Clara County, California:

SEE EXHIBIT A ATTACHED HERETO

Dated: October 9, 2018

CITY OF SANTA CLARA,
A municipal corporation

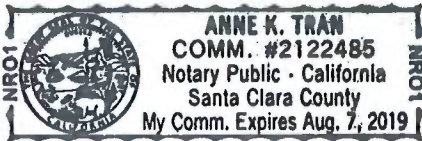
By: Deanna J. Santana
Deanna J. Santana
City Manager

ACKNOWLEDGMENT

State of California)

County of Santa Clara)

On October 9, 2018, before me, Anne K. Tran
Here Insert Name and Title of the Officer
personally appeared, Deanna J. Santana
Names(s) of Signers



who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Place Notary Seal Above

Signature: Anne K. Tran
Signature of Notary Public

EXHIBIT D

DETERMINATION OF EASEMENT VALUE

The Easement Value, notwithstanding that the interest being conveyed may be an easement and not fee, shall be determined by mutual agreement of Optionor and Optionee within thirty (30) calendar days after the date that Optionee delivers the Option Notice. If Optionor and Optionee do not agree on the Easement Value within such period, then each party, by giving written notice to the other party within ten (10) days after the expiration of such thirty (30) day period, shall appoint a MAI real estate appraiser with at least five years' full-time commercial appraisal experience in the area in which the ROW Property is located to appraise and set the Easement Value. If either party does not appoint an appraiser within such ten (10) day period, the single appraiser appointed shall be the sole appraiser and shall determine the Easement Value. If the two appraisers are appointed by the parties, they shall each prepare an independent complete appraisal of the ROW Property consistent with local standards and provide it to their client for review and comment within thirty (30) days after such appraiser is appointed. Each client shall complete their review within five (5) business days of receipt thereof. Following respective client review the two appraisers shall simultaneously exchange reports and meet promptly and attempt to agree upon the Easement Value within thirty (30) days after the exchange of the reports. If they are unable to agree within said thirty (30) days and the difference between the two appraisers' determination of the Easement Value is no greater than ten percent (10%) of the higher price, the Easement Value shall be equal to the average of the two appraisers' determinations. If they are unable to agree within said thirty (30) days and the difference between the two appraisers' determination of the Easement Value is greater than ten percent (10%) of the higher price, the two appraisers shall attempt to elect a third appraiser meeting the qualifications stated in this Exhibit D within thirty (30) days after the last day the two appraisers are given to set the Easement Value. If they are unable to agree on the third appraiser, either Optionor or Optionee by giving ten (10) days' written notice to the other party can apply to the presiding judge of the Superior Court of Santa Clara County for the selection of a third appraiser who meets the qualifications stated in this Exhibit D. Each of the parties shall bear one-half of the cost of appointing the third appraiser and of paying the third appraiser's fee. The third appraiser, however selected, shall be a person who has not previously acted in any capacity for either party or their affiliates, who in addition has not in the past or presently has any financial or other relationship with any appraiser representing any party and who completes the Appraisers' Questionnaire in substantially the form attached hereto as Exhibit D-1 (it being agreed that if a party reasonably believes that based on such appraiser's answers to the Appraisers' Questionnaire that such appraiser may be biased against such party, then such party shall have the right to veto such appraiser by written notice to the other party given within five (5) days after such appraiser is selected, in which event the process for selecting such third appraiser shall commence again). Within thirty (30) days after the selection of the third appraiser, the third appraiser shall provide his or her determination of the Land Value and the Easement Value shall be the average of the Easement Value determined by the third appraiser and the Easement Value (as determined by the first or second appraiser) which is closest in amount to the Easement Value determined by the third appraiser (provided, that if the Easement Value determined by the first and second appraisers each differ from the Easement Value determined by the third appraiser by the same amount, then the Land Value determined by the third appraiser shall be the Easement Value). The Easement Value determined pursuant to this

Exhibit D shall be conclusive and binding on the parties. After the Easement Value has been set, the appraisers shall immediately notify the parties. Notwithstanding anything to the contrary contained herein, in no event shall the Easement Value be less than One Million Five Hundred Eighty-Seven Thousand Eight Hundred Thirty-One Dollars (\$1,587,831.00).

EXHIBIT D-1

APPRAISERS' QUESTIONNAIRE

INTRODUCTION

Thank you for agreeing to serve as a potential appraiser. As a part of the process for selecting an appraiser, the parties jointly request that you take a few moments to complete this Appraisers' Questionnaire in order to ensure that you do not have any relationship to the parties that could disqualify you from being selected to serve as an appraiser. Once you have completed and submitted this Questionnaire, if at any time you become aware of any additional information or changed circumstances pertinent to your responses to any of the questions, we ask that you disclose any such information or circumstances to us immediately. Your cooperation is appreciated.

DEFINITIONS

- A. The terms "YOU" and "YOUR" include YOUR parents, children, siblings, and YOUR spouse or significant other.
- B. The term "PARTY" means and includes: (i) Prometheus Real Estate Group, Inc. or any of its affiliates, and/or (ii) _____, a _____.
- C. The term "OUTSIDE COUNSEL" means and includes any of the following law firms or attorneys: (i) Morrison & Foerster LLP; and/or (iii) _____.
- D. The term "APPRAISER" means one of the two appraisers selected by a PARTY.

QUESTIONS

1. Do YOU have any existing or prior legal, business, financial, or professional interest in a PARTY?
-- If YOUR response is "yes", please provide details, including the nature of YOUR interest in the PARTY and the dates relevant to YOUR interest.
2. Do YOU have any family or social relationship with any agent, employee, trustee or officer of a PARTY which is likely to affect YOUR impartiality or which might reasonably create an appearance of bias?
-- If YOUR response is "yes", please provide details, including the nature of the family or social relationship, the person or persons who have the relationship, and the dates relevant to the relationship.
3. Do YOU have any other connection with a PARTY?
-- If YOUR response is "yes", please provide details, including the nature of YOUR connection with the PARTY and the relevant dates.

4. Have YOU ever been represented by any attorney from OUTSIDE COUNSEL?
 - If YOUR response is "yes", please provide the name of the law firm and the attorney or attorneys from OUTSIDE COUNSEL who represented YOU, the dates of the representation, the transaction or legal proceeding in which the attorney or attorneys represented YOU, the date that the transaction or legal proceeding commenced, the date that it concluded, and how the transaction or legal proceeding was resolved.
5. Have YOU ever been a party to any proceeding where any attorney from OUTSIDE COUNSEL served as counsel for a party adverse to YOU?
 - If YOUR response is "yes", please provide the name of the law firm and the attorney or attorneys from OUTSIDE COUNSEL who served as counsel for the party adverse to YOU, the transaction or legal proceeding in which such representation occurred, the date that the transaction or legal proceeding commenced, the date that it concluded, and how the transaction or legal proceeding was resolved.
6. Have YOU ever been a party to any proceeding where any attorney from OUTSIDE COUNSEL served as counsel for one of YOUR co-parties?
 - If YOUR response is "yes", please provide the name of the law firm and the attorney or attorneys from OUTSIDE COUNSEL who served as counsel for the co-party, the name of the co-party, the transaction or legal proceeding in which such representation occurred, the date that the transaction or legal proceeding commenced, the date that it concluded, and how the transaction or legal proceeding was resolved.
7. Do YOU have any family or social or business relationship with any attorney from OUTSIDE COUNSEL or with an APPRAISER which is likely to affect your impartiality or which might reasonably create an appearance of bias?
 - If YOUR response is "yes", please provide details, including the nature of the family or social relationship, the person or persons who have the relationship, and the dates relevant to the relationship.
8. Do YOU have any other connection with OUTSIDE COUNSEL or an APPRAISER?
 - If YOUR response is "yes", please provide details.
9. Have YOU ever been involved in any lawsuit, arbitration, mediation, or other legal proceeding or alternative dispute resolution involving a PARTY?
 - If YOUR response is "yes", please provide details, including the title of the proceeding, the dates of YOUR involvement in the proceeding, a brief description of the proceeding, YOUR involvement in it, and how the proceeding was resolved.
10. Have YOU ever been involved in any other type of dispute, whether formal or informal, with a PARTY?
 - If YOUR response is "yes", please provide details, including the title of the dispute the dates of YOUR involvement in the dispute, a brief description of the dispute, YOUR involvement in it, and how the dispute was resolved.

11. Have YOU ever served as a judge, arbitrator, mediator, referee, or private judge in any lawsuit, arbitration, mediation, or other legal proceeding or alternative dispute resolution involving a PARTY?
- If YOUR response is "yes", please provide details, including the title of the proceeding, the dates of YOUR involvement in the proceeding, a brief description of the proceeding, YOUR involvement in it, and how the proceeding was resolved.
12. Have YOU ever served as a judge, arbitrator, mediator, referee, or private judge in any lawsuit, arbitration, mediation, or other legal proceeding or alternative dispute resolution where OUTSIDE COUNSEL served as attorneys for any party?
- If YOUR response is "yes", please provide details, including the title of the proceeding, the dates of YOUR involvement in the proceeding, the law firm and attorneys from OUTSIDE COUNSEL who served as attorneys, a brief description of the proceeding, YOUR involvement in it, and how the proceeding was resolved.
13. Have YOU ever served as a juror in any lawsuit or legal proceeding involving a PARTY?
- If YOUR response is "yes", please provide details, including the title of the proceeding, the dates of YOUR involvement in the proceeding, a brief description of the proceeding, YOUR involvement in it, and how the proceeding was resolved.
14. Have YOU ever served as a juror in any lawsuit or legal proceeding where OUTSIDE COUNSEL served as attorneys for any party?
- If YOUR response is "yes", please provide details, including the title of the proceeding, the dates of YOUR involvement in the proceeding, the law firm and attorneys from OUTSIDE COUNSEL who served as attorneys, a brief description of the proceeding, YOUR involvement in it, and how the proceeding was resolved.

[In responding to this Questionnaire, I have made a good faith and reasonable effort to obtain the requested information, and I have disclosed all such information within my knowledge or possession .]

Dated: October 9, 2008

DEANNA J. SANTANA

(Name typed or printed)(Signature)

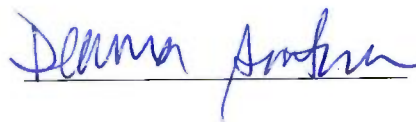


EXHIBIT E

FORM OF PARKING LICENSE

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, California 94304-1018
Attention: Philip J. Levine, Esq.

SPACE ABOVE THIS LINE FOR RECORDER'S USE
Exempt from recording fee per Gov. Code § 27383

PARKING LICENSE AGREEMENT

APN _____

THIS PARKING LICENSE AGREEMENT, entered into this ____ day of _____ 20____
("Parking License Agreement"), by and between the **CITY OF SANTA CLARA**, a municipal
corporation¹ (hereinafter referred to as "**Licensor**" or "**City**") and **PARK CENTRAL**
APARTMENTS, LP, a California limited partnership, (hereinafter referred to as "**Licensee**") is
made with reference to the following:

RECITALS

A. WHEREAS, Licensor has purchased a right-of-way easement for the extension of
Franklin Street, which will result in the loss of parking at the apartment project currently known
as "Park Central Apartments" and located at 1050 Benton Street, Santa Clara, which is owned by
Licensee and is described on Schedule 2 (the "**Park Central Property**").

B. WHEREAS, in partial consideration therefor, Licensor has agreed to grant
Licensee a license for the parking of thirty-three (33) cars by Licensee and the residents and
guests of the Park Central Property upon the terms and conditions set forth herein.

NOW THEREFORE for good and valuable consideration, the receipt and adequacy of
which are hereby acknowledged, the parties agree as follows:

1. GRANT OF LICENSE. In consideration of the stated conditions and agreements,
and for no additional monetary consideration from Licensee, Licensor hereby grants to Licensee
the right to use the parking area depicted in Schedule 1 (the "**Parking Area**"), for the Term (as
defined in Paragraph 3 below) and in accordance with terms and conditions of this Parking
License Agreement. Notwithstanding the foregoing, in the event of any loss of parking spaces
caused by damage, destruction or condemnation of all or any portion of the Parking Area,

¹ Parties to confirm that the City owns the Parking Area and that there are no encumbrances on the Parking Area.

Licensor shall provide alternate parking spaces to Licensee such that Licensee shall at all times have the right to use no less than thirty-three (33) parking spaces on property owned or controlled by Licensor located as close to the Park Central Property as reasonably possible.

2. PARKING. The license granted hereby is for the exclusive use of the Parking Area by Licensee and its employees, agents, tenants and guests for parking purposes (the “**License**”). Licensor shall not be required to enforce Licensee’s rights to use any parking spaces on the Parking Area; provided, that upon Licensee’s request, Licensor shall install signs or markers stating that the Parking Area is for the exclusive use of Licensee and the residents and guests of the Park Central Property (and Licensee shall also have the right to perform any of Licensor’s obligations hereunder, including, without limitation, installing such signs and markers, at Licensee’s cost and in Licensee’s sole and absolute discretion). Licensee may take reasonable measures to enforce its right to exclusive use of the Park Central Property, and Licensor shall reasonably cooperate therewith. Under no circumstances may the Parking Area be utilized for the storage (beyond 72 hours), repair or maintenance of any vehicles. Under no circumstances may trailers be parked or stored in the Parking Area. Should Licensee or its agents, employees or invitees use the Parking Area or any portion thereof in violation of this Section 2, Licensor shall have the right, without notice, in addition to such other rights and remedies that it may have, to tow away any vehicle or trailer involved and charge the cost of towing and storage to the vehicle owner.

3. TERM. The “**Term**” of the License is the period of time commencing upon the date this Parking License Agreement is recorded in the Official Records of Santa Clara County, California, and expiring upon the recording of a termination of this Parking License Agreement executed by Licensor and Licensee in the Official Records of Santa Clara County. Except as expressly provided herein to the contrary, the rights granted to Licensee hereunder shall be irrevocable. Licensor and Licensee agree to execute and return to each other a recordable termination of this Parking License Agreement (which either party may record) upon the issuance of the first certificate of occupancy for a building or unit constructed as part of a Redevelopment (as defined below) of the Park Central Property. A “**Redevelopment**” of the Park Central Property occurs when Licensee submits an application to demolish 75% or more (by square footage) of the existing buildings containing residential units at the Park Central Property and thereafter proceeds with the Redevelopment of the Park Central Property. Notwithstanding anything to the contrary contained herein, (i) any renovation of all or any portion of the Park Central Property which does not require new entitlements and (ii) any repair or reconstruction of all or any portion of the Park Central Property following a casualty or condemnation shall not constitute a Redevelopment.

4. MAINTENANCE. Licensor shall maintain the Parking Area in a good and serviceable condition. Licensor shall, as needed and based upon its reasonable discretion, make any necessary repairs to the Parking Area, including, from time to time, repairing potholes and, if necessary, applying a slurry seal and re-striping the Parking Area. The foregoing notwithstanding, Licensor shall have no obligation to repair any damages caused by the negligence of Licensee, its agents, invitees or tenants.

5. NO LICENSOR LIABILITY. Licensor shall not be liable for any: (a) loss or damage to any vehicle or other personal property parked or located upon or within the Parking

Area, whether pursuant to this license or otherwise and whether caused by fire, theft, explosions, strikes, riots, or any other cause whatsoever or (b) injury to or death of any person in, about or around any parking spaces or any portion of the Parking Area or any vehicles parked thereon whether caused by fire, theft, assault, explosion, riot or any other cause whatsoever and Licensee hereby waives any claims for, or in respect to, the above.

6. LICENSEE INDEMNIFICATION. Licensee shall indemnify, defend and hold Licensor and Licensor Related Parties (as defined herein) harmless against and from all third party liabilities, obligations, damages, penalties, claims, actions, costs, charges, judgment and expenses (including reasonable attorneys' fees, costs and disbursements) (collectively referred to as "**Losses**"), arising from (a) Licensee's use of or activities in or about the Parking Area (including, but not limited to, injuries suffered by Licensee's agents or employees), (b) any activities of Licensee or Licensee's agents or employees in or about the Parking Area during Licensee's possession and use of the Parking Area, (c) any misconduct or negligence of Licensee or Licensee's agents or employees in or about the Parking Area during Licensee's possession and use thereof, or (d) any breach or default in the terms of this Parking License Agreement by Licensee or Licensee's agents or employees, except to the extent such claims arise out of or relate to the gross negligence or willful misconduct of Licensor or another Licensor Related Party. If any action or proceeding is brought against Licensor by reason of any such claim, upon notice from Licensor, Licensee shall defend the same at Licensee's expense by Licensor's Office of the City Attorney or, at Licensor's election, other counsel reasonably satisfactory to Licensor. As a material part of the consideration to Licensor, Licensee releases Licensor and its trustees, members, principles, beneficiaries, partners, officers, directors, employees, and property managers ("**Licensor Related Parties**") from responsibility for, waives its entire claim of recovery for, and assumes all risks of damage to property or injury to person in or about the Parking Area from any cause whatsoever except to the extent caused by the gross negligence or willful misconduct of Licensor or Licensor Related Parties.

7. REVOCATION. In the event Licensee has materially breached this Parking License Agreement, Licensor shall give written notice to Licensee stating with specificity the nature of the breach. If Licensee fails to cure such alleged breach within thirty (30) days after receipt of said notice, Licensor may terminate the License by delivery of written notice to Licensee; provided, that if the nature of such breach cannot be reasonably cured within thirty (30) days, then Licensee shall have such longer period of time as is reasonably necessary, so long as Licensee commences to cure within thirty (30) days and thereafter diligently proceeds to complete such cure. A good faith and reasonable effort by Licensee to comply with its obligations will be considered in determining whether there is, in fact, a material breach. Licensor will not unreasonably seek to determine that a material breach has occurred, and will not unreasonably seek to revoke this License. Licensee reserves its rights to seek injunctive and/or all other appropriate relief in court if Licensee does not agree that a material breach has occurred.

8. MISCELLANEOUS.

8.1 Entire Agreement. This Parking License Agreement, including all exhibits hereto, constitutes all of the covenants, conditions and agreements between and among

the parties and shall supersede all prior correspondents, agreements and understandings, both verbal and written.

8.2 Amendments. This Parking License Agreement may be amended or modified only by a written instrument executed by Licensors and Licensee.

8.3 Severability. If any provision of this Parking License Agreement, or its application to any person or circumstance, is held invalid by any court, the invalidity or inapplicability of such provision shall not affect any other provision of this Parking License Agreement or the application of such provision to any other person or circumstance, and the remaining portions of this Parking License Agreement shall continue in full force and effect, unless enforcement of this Parking License Agreement as so modified by and in response to such invalidation would be unreasonable or grossly inequitable under all of the circumstances or would frustrate the fundamental purposes of this Parking License Agreement. Without limiting the foregoing, if any applicable federal or state law prevents or precludes compliance with any material term of this Parking License Agreement, the parties shall promptly modify, amend, or suspend this Parking License Agreement, or any portions of this Parking License Agreement, to the extent necessary to comply with such provisions in a manner which preserves to the greatest extent possible the benefits to each of the parties to this Parking License Agreement before such conflict with federal or state law.

8.4 Incorporation of Exhibits and Recitals. The exhibits and recitals to this Parking License Agreement are incorporated into this Parking License Agreement by this reference.

8.5 Attorneys' Fees. If any litigation, judicial reference or arbitration proceeding is commenced between the parties hereto concerning this Parking License Agreement and/or the rights and obligations of either party in relation herewith (including, but not limited to, claims in contract, tort or equity), the party prevailing in such litigation or arbitration proceeding, or the non-dismissing party in the event of a dismissal, with or without prejudice, shall be entitled, in addition to such other relief as may be granted, to a reasonable sum for any and all costs and expenses, including, without limitation, attorneys' fees, expert witness fees, consultants' fees, court costs, cost of paralegals, accounts, business office expenses of any kind or nature, including, but not limited to, staff, traveling expenses, telephone expenses, internal bookkeeping and accounting and any and all other costs and expenses of defense or prosecution incurred in connection therewith, whether specified herein or not. Any such attorneys' fees and other costs and expenses incurred by the prevailing or non-dismissing party in enforcing a judgment in its favor under this Parking License Agreement, whether or not suit is filed, shall be recoverable separately from and in addition to any other amount included in such judgment or award, and such obligation is intended to be severable from the other provisions of this Parking License Agreement and to survive and not be merged into any such judgment or award.

8.6 Access by Licensors. In addition to access provided by this License, Licensors shall be allowed access to the Parking Area at all reasonable times throughout the Term of this License, for any reasonable purpose, so long as such access does not unreasonably interfere with Licensee's intended use of the Parking Area or Licensee's rights hereunder..

8.7 Further Assurances. All parties agree to cooperate fully and execute any and all supplementary documents and take all additional actions which may be necessary or appropriate to give full force and effect to the basic terms and intent of this Parking License Agreement.

8.8 Time. Time is of essence of every provision herein contained in this Parking License Agreement.

8.9 Captions. All captions and headings in this Parking License Agreement are for the purpose of reference and convenience and shall not limit or expand the provisions of this Parking License Agreement.

8.10 Governing Law. This Parking License Agreement shall be governed by, and construed in accordance with, the laws of the State of California. All actions or proceedings arising directly or indirectly under this Parking License Agreement shall be litigated in courts located within the County of Santa Clara, State of California.

8.11 Authority. Licensee represents that it has the requisite power and authority to enter into this Parking License Agreement and that the individual(s) executing this Parking License Agreement on behalf of Licensee is/are duly authorized to sign on Licensee's behalf and bind Licensee to the obligations created herein. Licensors represent that it has obtained approval of the City Council of the City of Santa Clara authorizing the City Manager to execute this Parking License Agreement on its behalf, and approving the recordation of this Parking License Agreement.

8.12 Counterparts. This Parking License Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

8.13 Non-Disturbance. Licensors shall cause the holder of any mortgage or deed of trust encumbering the Parking Area ("**Lender**") to execute, in recordable form, and record in the Official Records of Santa Clara County, a consent, attornment and nondisturbance agreement (the "**Non-Disturbance Agreement**") concurrently herewith. The Non-Disturbance Agreement shall provide that in the event the Lender succeeds to the interest of Licensors, this Parking License Agreement shall remain in full force and effect, enforceable in accordance with its terms, and shall not be terminated by reason of any foreclosure, deed in lieu of foreclosure or otherwise.

8.14 Successors and Assigns. This Parking License Agreement and all of the terms, conditions, limitations and covenants specified in this Parking License Agreement shall run with the Parking Area and shall be binding on and inure to the benefit or burden of all parties having any right, title, or interest in the Parking Area or the Park Central Property or any part thereof, including their heirs, successors, assigns, transferees and legal representatives.

8.15 Notices. Any notices required or permitted to be given hereunder shall be given in writing and shall be delivered (a) in person, (b) by certified mail, postage prepaid, return receipt requested, (c) by Federal Express or another reputable commercial overnight courier that

guarantees next day delivery and provides a receipt, or (d) by electronic mail, and such notices shall be addressed as follows:

If to Licensee: c/o Prometheus Real Estate Group, Inc.
1900 South Norfolk St., Ste. 150
San Mateo, CA 94403
Attention: Mr. John Millham and Ms. Jaclyn Safier
Telephone: (925) 938-4165 and (650) 931-3431
E-mail: jsafier@prometheusreg.com and
jmillham@prometheusreg.com

With a copy to: Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, California 94304-1018
Attention: Philip J. Levine, Esq.
Telephone: (650) 813-5613
E-mail: plevine@mofo.com

If to Licenser: City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050
Attention: City Manager
Telephone: (408) 615-2210
Email: Manager@santaclaraca.gov

With a copy to: Santa Clara City Attorney
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2234

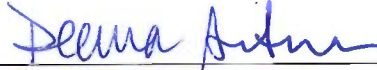
or to such other address as either party may from time to time specify in writing to the other party. Any notice shall be deemed delivered when actually delivered, if such delivery is in person, upon deposit with the U.S. Postal Service, if such delivery is by certified mail, upon deposit with the overnight courier service, if such delivery is by an overnight courier service, and upon successful transmission, if such delivery is by electronic mail.

[SIGNATURES FOLLOW]

IN WITNESS WHEREOF, Licensors and Licensee have respectively signed and sealed this Parking License Agreement as of the day and year first above written.

Licensors:

City of Santa Clara,
a California municipal corporation

By: 
Name: DEANNA J. SANTANA
Title: CITY MANAGER


Licensee:

Park Central Apartments, L. P.
a California limited partnership

By: Sunset Ridge Development Co., Inc.
a California corporation
its general partner

By: _____
Name: _____
Title: _____

Approved as to form:


Brian Doyle
City Attorney

SCHEDULE 1
General Depiction of Parking License Area



SCHEDULE 2

Description of Park Central Property

EXHIBIT F

FORM OF GRANT OF EASEMENT

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050
Attn: City Manager

(Space Above This Line For Recorder's Use Only)
[Exempt from recording fee per Gov. Code § 27383]

GRANT OF EASEMENT

(Public Right of Way Easement)

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged,

PARK CENTRAL APARTMENTS, LP, a California limited partnership ("Grantor") hereby grants, conveys and dedicates to the CITY OF SANTA CLARA, a Municipal Corporation (the "City") a perpetual and irrevocable easement for public street, utility purposes and ancillary uses in, on under and that certain real property in the City of Santa Clara, County of Santa Clara, State of California, as more particularly described as follows:

PER LEGAL DESCRIPTION SHOWN ON EXHIBIT "A", AND AS DELINEATED ON THE MAP ATTACHED AS EXHIBIT "B", BOTH OF WHICH ARE ATTACHED HERETO AND MADE A PART HEREOF

(the "Easement Area")

City shall repair and maintain the Easement Area in good order, consistent with the standards of other public streets in the City.

Executed this ____ day of _____, 20__ .

Park Central Apartments, LP,
a California limited partnership

By: Sunset Ridge Development Co., Inc. a
California corporation
its general partner

By: _____
Name: _____
Title: _____

EXHIBIT G

PRELIMINARY TITLE REPORT

[SEE ATTACHED]

**June 13, 2018
Update/revised**



**First American Title Insurance Company
National Commercial Services
1850 Mt. Diablo Blvd., Suite 300
Walnut Creek, CA 94596**

Tracy Hsu
Prometheus Real Estate Group, Inc.
1900 South Norfolk Street, Suite 150
San Mateo, CA 94403
Phone: (650)931-3543

Customer Reference: 1050 Benton Street

Escrow Officer: Roni Sloan Loftin
Phone: (925)927-2127
Email: rsloan@firstam.com

Borrower: Prometheus Partners - 86 Benton
Property: 1050 Benton Street, Santa Clara, CA

PRELIMINARY REPORT

In response to the above referenced application for a policy of title insurance, this company hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a Policy or Policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an Exception below or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations of said Policy forms.

The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said policy or policies are set forth in Exhibit A attached. *The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties.* Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Exhibit A. Copies of the policy forms should be read. They are available from the office which issued this report.

Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Exhibit A of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

Dated as of June 07, 2018 at 7:30 A.M.

The form of Policy of title insurance contemplated by this report is:

ALTA Extended Loan Policy

A specific request should be made if another form or additional coverage is desired.

Title to said estate or interest at the date hereof is vested in:

Park Central Apartments, LP, Formerly known as Prometheus Partners-86 Benton, a California limited partnership

The estate or interest in the land hereinafter described or referred to covered by this Report is:

FEE

The Land referred to herein is described as follows:

(See attached Legal Description)

At the date hereof exceptions to coverage in addition to the printed Exceptions and Exclusions in said policy form would be as follows:

1. General and special taxes and assessments for the fiscal year 2018-2019, a lien not yet due or payable.
2. The lien of supplemental taxes, if any, assessed pursuant to Chapter 3.5 commencing with Section 75 of the California Revenue and Taxation Code.
3. Resolution No. 1145 establishing certain set-back or plan lines in the City of Santa Clara, recorded May 24, 1962 in [Book 5587, Page 238](#) of Official Records of Santa Clara County.

Affects the area of the land described herein alongside Benton Street.
4. The fact that the land lies within the boundaries of the Project No. Calif. R-31 Redevelopment Project Area, as disclosed by the document recorded February 14, 1963 as [Book 5905, Page 337](#) of Official Records.
5. Declaration of Restrictions on Real Property within University Redevelopment Project Area, by the Redevelopment Agency of The City of Santa Clara, was recorded June 24, 1965 in [Book 7006, Page 282](#) of Official Records of Santa Clara County.
6. The effect, if any of Restrictive Conditions and/or Covenants contained in the following: Contract for Disposition of Land for Private Redevelopment, by The Redevelopment Agency of The City of Santa Clara, recorded July 2, 1965 in [Book 7017, Page 301](#), Official Records of Santa Clara County. Contract for Sale of Land for Redevelopment by a Public Body, by and between The

Redevelopment Agency of the City of Santa Clara, and the City of Santa Clara, recorded March 12, 1971 in [Book 9253, Page 270](#), Official Records of Santa Clara County. Grant Deed for Disposition of Land Between The Redevelopment Agency of the City of Santa Clara and the City of Santa Clara, recorded March 12, 1971 in [Book 9253, Page 280](#), Official Records of Santa Clara County. Grant Deed by the City of Santa Clara, to James J. Viso, recorded March 20, 1979 in [Book E358, Page 692](#), Official Records of Santa Clara County.

7. An easement for public utilities and incidental purposes, recorded October 20, 1970 and March 25, 1971 as [Book 9093, Page 358](#) and [Book 9268, Page 218](#), both of Official Records.
In Favor of: City of Santa Clara
Affects: As described therein
8. An easement shown or dedicated on the map of Parcel Map recorded March 19, 1979 and on file in [Book 437, Page 46](#), of Parcel Maps.
For: sanitary sewer, electric utilities and incidental purposes.
9. An easement for sanitary sewer, electric utilities and incidental purposes, recorded March 20, 1979 as [Book E358, Page 692](#) of Official Records.
In Favor of: City of Santa Clara, a municipal corporation of the State of California
Affects: As described therein
10. The terms and provisions contained in the document entitled "Agreement for the Maintenance of Landscape Improvements" recorded February 03, 1988 as [Book K840, Page 199](#) of Official Records.
11. An easement shown or dedicated on the map of Tract No. 7896 recorded February 25, 1988 and on file in [Book 583, Page 44 and 45](#), of Tract Maps.
For: public utilities and incidental purposes.
12. An easement for underground electrical distribution and/or communication systems and incidental purposes, recorded July 20, 1988 as [Book K610, Page 536](#) of Official Records.
In Favor of: City of Santa Clara, a California municipal corporation
Affects: As described therein
13. An easement for historical marker and incidental purposes, recorded December 13, 1988 as [Book K786, Page 855](#) of Official Records.
In Favor of: The City of Santa Clara, California, a municipal corporation
Affects: As described therein
14. An easement for underground communication facilities and incidental purposes, recorded December 22, 1988 as [Book K797, Page 659](#) of Official Records.
In Favor of: Pacific Bell
Affects: As described therein
15. An easement for underground gas pipes and incidental purposes, recorded November 27, 1989 as [Book L177, Page 575](#) of Official Records.
In Favor of: Pacific Gas and Electric Company, a California corporation
Affects: As described therein

16. An easement for broadband communications system and incidental purposes, recorded October 29, 2007 as Document No. [19632172](#) of Official Records.
In Favor of: Comcast of California/Colorado/Florida/Oregon, Inc., its successors and assigns
Affects: As described therein
17. This item has been intentionally deleted.
18. This item has been intentionally deleted.
19. This item has been intentionally deleted.
20. Rights of parties in possession.
21. A Deed of Trust to secure an original indebtedness of \$47,000,000.00 recorded March 02, 2018 as Document No. [23879359](#) of Official Records.
Dated: March 01, 2018
Trustor: Park Central Apartments, LP, Formerly known as Prometheus Partners-86 Benton, a California limited partnership
Trustee: First American Title Insurance Corporation, a California corporation
Beneficiary: Hartford Life Insurance Company, a Connecticut corporation
- A document entitled "Assignment of Leases and Rents" recorded March 02, 2018 as Document No. [23879360](#) of Official Records, as additional security for the payment of the indebtedness secured by the deed of trust.
22. A financing statement recorded March 02, 2018 as Document No. [23879361](#) of Official Records.
Debtor: Park Central Apartments, LP (Formerly known as Prometheus Partners - 86 Benton
Secured party: Hartford Life Insurance Company

INFORMATIONAL NOTES

ALERT - CA Senate Bill 2 imposes an additional fee of \$75 up to \$225 at the time of recording on certain transactions effective January 1, 2018. Please contact your First American Title representative for more information on how this may affect your closing.

NOTE to proposed insured lender only: No Private transfer fee covenant, as defined in Federal Housing Finance Agency Final Rule 12 CFR Part 1228, that was created and first appears in the Public Records on or after February 8, 2011, encumbers the Title except as follows: None

1. Taxes for proration purposes only for the fiscal year 2017-2018.
First Installment: \$156,408.62, PAID
Second Installment: \$156,408.62, PAID
Tax Rate Area: 007-098
APN: 269-22-096
2. According to the latest available equalized assessment roll in the office of the county tax assessor, there is located on the land a(n) Multiple Family Residence known as 1050 Benton Street, Santa Clara, CA.
3. According to the public records, there has been no conveyance of the land within a period of twenty-four months prior to the date of this report, except as follows:

None
4. This preliminary report/commitment was prepared based upon an application for a policy of title insurance that identified land by street address or assessor's parcel number only. It is the responsibility of the applicant to determine whether the land referred to herein is in fact the land that is to be described in the policy or policies to be issued.
5. Should this report be used to facilitate your transaction, we must be provided with the following prior to the issuance of the policy:
 - A. WITH RESPECT TO A CORPORATION:
 1. A certificate of good standing of recent date issued by the Secretary of State of the corporation's state of domicile.
 2. A certificate copy of a resolution of the Board of Directors authorizing the contemplated transaction and designating which corporate officers shall have the power to execute on behalf of the corporation.
 3. A certificate of revivor and a certificate of relief from contract voidability issued by the Franchise Tax Board of the State of California.
 4. Requirements which the Company may impose following its review of the above material and other information which the Company may require.
 - B. WITH RESPECT TO A CALIFORNIA LIMITED PARTNERSHIP:

1. A certified copy of the certificate of limited partnership (form LP-1) and any amendments thereto (form LP-2) to be recorded in the public records;
 2. A full copy of the partnership agreement and any amendments;
 3. Satisfactory evidence of the consent of a majority in interest of the limited partners to the contemplated transaction;
 4. A certificate of revivor and a certificate of relief from contract voidability issued by the Franchise Tax Board of the State of California.
 5. Requirements which the Company may impose following its review of the above material and other information which the Company may require.
- C. WITH RESPECT TO A FOREIGN LIMITED PARTNERSHIP:
1. A certified copy of the application for registration, foreign limited partnership (form LP-5) and any amendments thereto (form LP-6) to be recorded in the public records;
 2. A full copy of the partnership agreement and any amendment;
 3. Satisfactory evidence of the consent of a majority in interest of the limited partners to the contemplated transaction;
 4. A certificate of revivor and a certificate of relief from contract voidability issued by the Franchise Tax Board of the State of California.
 5. Requirements which the Company may impose following its review of the above material and other information which the Company may require.
- D. WITH RESPECT TO A GENERAL PARTNERSHIP:
1. A certified copy of a statement of partnership authority pursuant to Section 16303 of the California Corporation Code (form GP-I), executed by at least two partners, and a certified copy of any amendments to such statement (form GP-7), to be recorded in the public records;
 2. A full copy of the partnership agreement and any amendments;
 3. Requirements which the Company may impose following its review of the above material required herein and other information which the Company may require.
- E. WITH RESPECT TO A LIMITED LIABILITY COMPANY:
1. A copy of its operating agreement and any amendments thereto;
 2. If it is a California limited liability company, a certified copy of its articles of organization (LLC-1) and any certificate of correction (LLC-11), certificate of amendment (LLC-2), or restatement of articles of organization (LLC-10) to be recorded in the public records;
 3. If it is a foreign limited liability company, a certified copy of its application for registration (LLC-5) to be recorded in the public records;
 4. With respect to any deed, deed of trust, lease, subordination agreement or other document or instrument executed by such limited liability company and presented for recordation by the Company or upon which the Company is asked to rely, such document or instrument must be executed in accordance with one of the following, as appropriate:
 - (i) If the limited liability company properly operates through officers appointed or elected pursuant to the terms of a written operating agreement, such documents must be executed by at least two duly elected or appointed officers, as follows: the chairman of the board, the president or any vice president, and any secretary, assistant secretary, the chief financial officer or any assistant treasurer;
 - (ii) If the limited liability company properly operates through a manager or managers identified in the articles of organization and/or duly elected pursuant to the terms of a written operating agreement, such document must be executed by at least two such managers or by one manager if the limited liability company properly operates with the existence of only one manager.
 5. A certificate of revivor and a certificate of relief from contract voidability issued by the Franchise Tax Board of the State of California.

6. Requirements which the Company may impose following its review of the above material and other information which the Company may require.
- F. WITH RESPECT TO A TRUST:
1. A certification pursuant to Section 18100.5 of the California Probate Code in a form satisfactory to the Company.
 2. Copies of those excerpts from the original trust documents and amendments thereto which designate the trustee and confer upon the trustee the power to act in the pending transaction.
 3. Other requirements which the Company may impose following its review of the material require herein and other information which the Company may require.
- G. WITH RESPECT TO INDIVIDUALS:
1. A statement of information.

The map attached, if any, may or may not be a survey of the land depicted hereon. First American Title Insurance Company expressly disclaims any liability for loss or damage which may result from reliance on this map except to the extent coverage for such loss or damage is expressly provided by the terms and provisions of the title insurance policy, if any, to which this map is attached.

LEGAL DESCRIPTION

Real property in the City of Santa Clara, County of Santa Clara, State of California, described as follows:

ALL OF PARCEL A, SO DESIGNATED AND DELINEATED ON THE PARCEL MAP RECORDED MAY 15, 1986 IN [BOOK 559 OF MAPS, PAGE 38](#), ALSO DELINEATED ON THE MAP OF TRACT NO. 7896, RECORDED FEBRUARY 25, 1988 IN [BOOK 583 OF MAPS, PAGES 44 AND 45](#), SANTA CLARA COUNTY RECORDS.

APN: 269-22-096

NOTICE I

Section 12413.1 of the California Insurance Code, effective January 1, 1990, requires that any title insurance company, underwritten title company, or controlled escrow company handling funds in an escrow or sub-escrow capacity, wait a specified number of days after depositing funds, before recording any documents in connection with the transaction or disbursing funds. This statute allows for funds deposited by wire transfer to be disbursed the same day as deposit. In the case of cashier's checks or certified checks, funds may be disbursed the next day after deposit. In order to avoid unnecessary delays of three to seven days, or more, please use wire transfer, cashier's checks, or certified checks whenever possible.

If you have any questions about the effect of this new law, please contact your local First American Office for more details.

NOTICE II

As of January 1, 1991, if the transaction which is the subject of this report will be a sale, you as a party to the transaction, may have certain tax reporting and withholding obligations pursuant to the state law referred to below:

In accordance with Sections 18662 and 18668 of the Revenue and Taxation Code, a buyer may be required to withhold an amount equal to three and one-third percent of the sales price in the case of the disposition of California real property interest by either:

1. A seller who is an individual with a last known street address outside of California or when the disbursement instructions authorize the proceeds be sent to a financial intermediary of the seller, OR
2. A corporate seller which has no permanent place of business in California.

The buyer may become subject to penalty for failure to withhold an amount equal to the greater of 10 percent of the amount required to be withheld or five hundred dollars (\$500).

However, notwithstanding any other provision included in the California statutes referenced above, no buyer will be required to withhold any amount or be subject to penalty for failure to withhold if:

1. The sales price of the California real property conveyed does not exceed one hundred thousand dollars (\$100,000), OR
2. The seller executes a written certificate, under the penalty of perjury, certifying that the seller is a resident of California, or if a corporation, has a permanent place of business in California, OR
3. The seller, who is an individual, executes a written certificate, under the penalty of perjury, that the California real property being conveyed is the seller's principal residence (as defined in Section 1034 of the Internal Revenue Code).

The seller is subject to penalty for knowingly filing a fraudulent certificate for the purpose of avoiding the withholding requirement.

The California statutes referenced above include provisions which authorize the Franchise Tax Board to grant reduced withholding and waivers from withholding on a case-by-case basis.

The parties to this transaction should seek an attorney's, accountant's, or other tax specialist's opinion concerning the effect of this law on this transaction and should not act on any statements made or omitted by the escrow or closing officer.

The Seller May Request a Waiver by Contacting:
Franchise Tax Board
Withhold at Source Unit
P.O. Box 651
Sacramento, CA 95812-0651
(916) 845-4900

Privacy Policy

We Are Committed to Safeguarding Customer Information

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information - particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, together with our parent company, The First American Corporation, we have adopted this Privacy Policy to govern the use and handling of your personal information.

Applicability

This Privacy Policy governs our use of the information which you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record or from another person or entity. First American has also adopted broader guidelines that govern our use of personal information regardless of its source. First American calls these guidelines its *Fair Information Values*, a copy of which can be found on our website at www.firstam.com.

Types of Information

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means;
- Information about your transactions with us, our affiliated companies, or others; and
- Information we receive from a consumer reporting agency.

Use of Information

We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial service providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies, and escrow companies. Furthermore, we may also provide all the information we collect, as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies, or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

Former Customers

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

Confidentiality and Security

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy and First American's *Fair Information Values*. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

CLTA/ALTA HOMEOWNER'S POLICY OF TITLE INSURANCE (02-03-10)
EXCLUSIONS

In addition to the Exceptions in Schedule B, You are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of those portions of any law or government regulation concerning:
 - (a) building;
 - (b) zoning;
 - (c) land use;
 - (d) improvements on the Land;
 - (e) land division; and
 - (f) environmental protection.

This Exclusion does not limit the coverage described in Covered Risk 8.a., 14, 15, 16, 18, 19, 20, 23 or 27.

2. The failure of Your existing structures, or any part of them, to be constructed in accordance with applicable building codes. This Exclusion does not limit the coverage described in Covered Risk 14 or 15.
3. The right to take the Land by condemning it. This Exclusion does not limit the coverage described in Covered Risk 17.
4. Risks:
 - (a) that are created, allowed, or agreed to by You, whether or not they are recorded in the Public Records;
 - (b) that are Known to You at the Policy Date, but not to Us, unless they are recorded in the Public Records at the Policy Date;
 - (c) that result in no loss to You; or
 - (d) that first occur after the Policy Date - this does not limit the coverage described in Covered Risk 7, 8.e., 25, 26, 27 or 28.
5. Failure to pay value for Your Title.
6. Lack of a right:
 - (a) to any land outside the area specifically described and referred to in paragraph 3 of Schedule A; and
 - (b) in streets, alleys, or waterways that touch the Land.This Exclusion does not limit the coverage described in Covered Risk 11 or 21.
7. The transfer of the Title to You is invalid as a preferential transfer or as a fraudulent transfer or conveyance under federal bankruptcy, state insolvency, or similar creditors' rights laws.

LIMITATIONS ON COVERED RISKS

Your insurance for the following Covered Risks is limited on the Owner's Coverage Statement as follows: For Covered Risk 16, 18, 19, and 21 Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.

Your Deductible Amount

**Our Maximum Dollar
Limit of Liability**

| | |
|------------------------------------------------------------------------|-------------|
| Covered Risk 16: 1% of Policy Amount or \$2,500.00 (whichever is less) | \$10,000.00 |
| Covered Risk 18: 1% of Policy Amount or \$5,000.00 (whichever is less) | \$25,000.00 |
| Covered Risk 19: 1% of Policy Amount or \$5,000.00 (whichever is less) | \$25,000.00 |
| Covered Risk 21: 1% of Policy Amount or \$2,500.00 (whichever is less) | \$5,000.00 |

ALTA RESIDENTIAL TITLE INSURANCE POLICY (6-1-87)
EXCLUSIONS

In addition to the Exceptions in Schedule B, you are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes building and zoning ordinances and also laws and regulations concerning:
 - (a) and use
 - (b) improvements on the land
 - (c) and division
 - (d) environmental protection

This exclusion does not apply to violations or the enforcement of these matters which appear in the public records at Policy Date.

This exclusion does not limit the zoning coverage described in Items 12 and 13 of Covered Title Risks.

2. The right to take the land by condemning it, unless:
 - (a) a notice of exercising the right appears in the public records on the Policy Date

- (b) the taking happened prior to the Policy Date and is binding on you if you bought the land without knowing of the taking
3. Title Risks:
 - (a) that are created, allowed, or agreed to by you
 - (b) that are known to you, but not to us, on the Policy Date -- unless they appeared in the public records
 - (c) that result in no loss to you
 - (d) that first affect your title after the Policy Date -- this does not limit the labor and material lien coverage in Item 8 of Covered Title Risks
 4. Failure to pay value for your title.
 5. Lack of a right:
 - (a) to any land outside the area specifically described and referred to in Item 3 of Schedule A OR
 - (b) in streets, alleys, or waterways that touch your land

This exclusion does not limit the access coverage in Item 5 of Covered Title Risks.

2006 ALTA LOAN POLICY (06-17-06)
EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. a. Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - i. the occupancy, use, or enjoyment of the Land;
 - ii. the character, dimensions, or location of any improvement erected on the Land;
 - iii. the subdivision of land; or
 - iv. environmental protection;

or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- b. Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
 - a. created, suffered, assumed, or agreed to by the Insured Claimant;
 - b. not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - c. resulting in no loss or damage to the Insured Claimant;
 - d. attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 13, or 14); or
 - e. resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.
5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.
6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
 - a. a fraudulent conveyance or fraudulent transfer, or
 - b. a preferential transfer for any reason not stated in Covered Risk 13(b) of this policy.
7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records. This Exclusion does not modify or limit the coverage provided under Covered Risk 11(b).

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) that arise by reason of:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
6. Any lien or right to a lien for services, labor or material not shown by the public records.

2006 ALTA OWNER'S POLICY (06-17-06)
EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. a. Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - i. the occupancy, use, or enjoyment of the Land;
 - ii. the character, dimensions, or location of any improvement erected on the Land;
 - iii. the subdivision of land; or
 - iv. environmental protection;
 or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
 b. Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
 - a. created, suffered, assumed, or agreed to by the Insured Claimant;
 - b. not known to the Company, not recorded in the Public Records at Date of Policy, but known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - c. resulting in no loss or damage to the Insured Claimant;
 - d. attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10); or
 - e. resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
 - a. a fraudulent conveyance or fraudulent transfer; or
 - b. a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) that arise by reason of:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
6. Any lien or right to a lien for services, labor or material not shown by the public records.

ALTA EXPANDED COVERAGE RESIDENTIAL LOAN POLICY (07-26-10)
EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. a. Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - i. the occupancy, use, or enjoyment of the Land;
 - ii. the character, dimensions, or location of any improvement erected on the Land;
 - iii. the subdivision of land; or
 - iv. environmental protection;
 or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5, 6, 13(c), 13(d), 14 or 16.

b. Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 5, 6, 13(c), 13(d), 14 or 16.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
 - a. created, suffered, assumed, or agreed to by the Insured Claimant;
 - b. not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - c. resulting in no loss or damage to the Insured Claimant;
 - d. attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 16, 17, 18, 19, 20, 21, 22, 23, 24, 27 or 28); or
 - e. resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.
5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or any consumer credit protection or truth-in-lending law. This Exclusion does not modify or limit the coverage provided in Covered Risk 26.
6. Any claim of invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as to Advances or modifications made after the Insured has Knowledge that the vestee shown in Schedule A is no longer the owner of the estate or interest covered by this policy. This Exclusion does not modify or limit the coverage provided in Covered Risk 11.
7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching subsequent to Date of Policy. This Exclusion does not modify or limit the coverage provided in Covered Risk 11(b) or 25.
8. The failure of the residential structure, or any portion of it, to have been constructed before, on or after Date of Policy in accordance with applicable building codes. This Exclusion does not modify or limit the coverage provided in Covered Risk 5 or 6.
9. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
 - a. a fraudulent conveyance or fraudulent transfer, or
 - b. a preferential transfer for any reason not stated in Covered Risk 27(b) of this policy.

EXHIBIT H

FORM OF CONTINUED USE LICENSE

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, California 94304-1018
Attention: Philip J. Levine, Esq.

SPACE ABOVE THIS LINE FOR RECORDER'S USE
Exempt from recording fee per Gov. Code § 27383

CONTINUED USE LICENSE AGREEMENT

APN _____

THIS CONTINUED USE LICENSE AGREEMENT, entered into this ____ day of _____ 20__ (“**Continued Use Agreement**”), by and between the **CITY OF SANTA CLARA**, a municipal corporation (hereinafter referred to as “**Licensor**” or “**City**”) and **PARK CENTRAL APARTMENTS, LP**, a California limited partnership (hereinafter referred to as “**Licensee**”) is made with reference to the following:

RECITALS

A. WHEREAS, Licensor has purchased a right-of-way easement (the “**ROW Easement**”) for the extension of Franklin Street over the land described and depicted on Schedule 1 (the “**ROW Property**”) pursuant to that certain unrecorded Option Agreement dated September 10, 2018 by and between Licensee, as Optionor, and Licensor, as Optionee (the “**Option Agreement**”).

B. WHEREAS, Licensor has determined that it does not require immediate possession of the ROW Easement and has instead agreed to grant a license to Licensee for its continued use and occupancy of the ROW Property upon the terms and conditions set forth herein.

NOW THEREFORE for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. GRANT OF LICENSE. In consideration of the stated conditions and agreements, and for no additional monetary consideration from Licensee, Licensor hereby grants to Licensee the right to remain in exclusive possession of, and continue its use of, the ROW Property, in its AS-IS, WHERE-IS condition and with no representations or warranties whatsoever, for the Term (as defined in Paragraph 3 below) and in accordance with terms and conditions of this Continued Use Agreement.

2. USE. The license granted hereby is for the continued use of the ROW Property by Licensee and its employees, agents, tenants and guests, and all improvements thereon, including, without limitation, landscaping, drive aisles, walkways, parking, and any and all uses (the "**License**"). Under no circumstances shall Licensee permit Hazardous Materials (as defined herein) to be introduced on, in, or beneath the ROW Property in violation of applicable laws during the Term (provided, that for the avoidance of doubt, Licensee shall not be responsible for migration of Hazardous Materials onto the ROW Property which originated from other property). For purposes of this paragraph "Hazardous Materials" as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9601 et seq.), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.), the Clean Water Act (33 U.S.C. Section 1251 et seq.), the Safe Drinking Water Act (42 U.S.C. Section 300f et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Section 1801 et seq.), the Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.), the California Hazardous Waste Control Law (California Health and Safety Code Sections 25100-25600), the Porter-Cologne Water Quality Control Act (California Water Code Section 13000 et seq.), and the Safe Drinking Water and Toxic Enforcement Act (California Health and Safety Code Section 25249.5 et seq.). Licensee shall not grant any right, title or interest in, or construct new improvements upon, the ROW Property that would materially interfere with Licensors' intended use of the ROW Property for public street purposes and the relocation of utilities as contemplated under Section 17.11 of the Option Agreement.

3. TERM. The "**Term**" of the License is the period of time commencing upon the date this Continued Use Agreement is recorded in the Official Records of Santa Clara County, California, and expiring upon the recording of a termination of this Continued Use Agreement executed by Licensors and Licensee in the Official Records of Santa Clara County. Except as expressly provided herein to the contrary, the rights granted to Licensee hereunder shall be irrevocable. Licensors and Licensee agree to execute and return to each other a recordable termination of this Continued Use Agreement (which either party may record) upon the latest of (x) the date that Licensors designates, by written notice to Licensee, as the date that Licensors intends to take possession of the ROW Easement (which designated date of possession shall be not less than one hundred eighty (180) days after the date of delivery of such notice), (y) the date that Licensors pays the Lost Rents and Lost Parking (as such terms are defined in the Option Agreement) to Licensee (less a credit in the amount of the Option Consideration paid by Licensors under the Option Agreement) and (z) the date that Licensors causes the Parking License (as defined in the Option Agreement) to be properly recorded against the Parking License Area and the Park Central Property (as such terms are defined in the Option Agreement) at Licensors' cost. At the expiration or earlier termination of the Term, Licensee shall deliver possession of the ROW Easement to Licensee in the condition required herein.

4. MAINTENANCE. During the Term, Licensee shall maintain the ROW Property, including making any repairs to the ROW Property or any existing improvements thereon, as Licensee elects, in its sole and absolute discretion.

5. NO LICENSOR LIABILITY. Licensors shall not be liable for any: (a) loss or damage to any real or personal property located upon or within the ROW Property during the Term or (b) injury to or death of any person in any portion of the ROW Property during the Term, except to the extent arising out of or relating to the gross negligence or willful misconduct

of Licensor or another Licensor Related Party (as defined herein). Licensee hereby waives any claims for, or in respect to, the above.

6. LICENSEE INDEMNIFICATION. Licensee shall indemnify, defend and hold Licensor and Licensor Related Parties (as defined herein) harmless against and from all third party liabilities, obligations, damages, penalties, claims, actions, costs, charges, judgment and expenses (including reasonable attorneys' fees, costs and disbursements), to the extent arising out of events occurring on the ROW Property during the Term (collectively referred to as "**Losses**"), and arising from (a) the use of, or any activity done, permitted or suffered in or about the ROW Property by Licensee (including, but not limited to, injuries suffered by Licensee's agents or employees), (b) any activity done, permitted or suffered by Licensee or Licensee's agents or employees in or about the ROW Property during Licensee's possession and use of the ROW Property, (c) any act, neglect, fault, willful misconduct of Licensee or Licensee's agents or employees in or about the ROW Property during Licensee's possession and use thereof, or (d) any breach or default in the terms of this Continued Use Agreement by Licensee or Licensee's agents or employees, except to the extent such claims arise out of or relate to the gross negligence or willful misconduct of Licensor or another Licensor Related Party. If any action or proceeding is brought against Licensor by reason of any such claim, upon notice from Licensor, Licensee shall defend the same at Licensee's expense by Licensor's Office of the City Attorney or, at Licensor's election, other counsel reasonably satisfactory to Licensor. As a material part of the consideration to Licensor, Licensee releases Licensor and its trustees, members, principles, beneficiaries, partners, officers, directors, employees, and property managers ("**Licensor Related Parties**") from responsibility for, waives its entire claim of recovery for, and assumes all risks of (i) damage to property or injury to person in or about the ROW Property from any cause whatsoever except to the extent caused by the gross negligence or willful misconduct of Licensor or Licensor Related Parties, or (ii) loss resulting from business interruption or loss of income at the ROW Property.

7. INTENTIONALLY DELETED.

8. MISCELLANEOUS.

8.1 Entire Agreement. This Continued Use Agreement, including all exhibits hereto, constitutes all of the covenants, conditions and agreements between and among the parties and shall supersede all prior correspondents, agreements and understandings, both verbal and written.

8.2 Amendments. This Continued Use Agreement may be amended or modified only by a written instrument executed by Licensor and Licensee.

8.3 Severability. If any provision of this Continued Use Agreement, or its application to any person or circumstance, is held invalid by any court, the invalidity or inapplicability of such provision shall not affect any other provision of this Continued Use Agreement or the application of such provision to any other person or circumstance, and the remaining portions of this Continued Use Agreement shall continue in full force and effect, unless enforcement of this Continued Use Agreement as so modified by and in response to such invalidation would be unreasonable or grossly inequitable under all of the circumstances or

would frustrate the fundamental purposes of this Continued Use Agreement. Without limiting the forgoing, if any applicable federal or state law prevents or precludes compliance with any material term of this Continued Use Agreement, the parties shall promptly modify, amend, or suspend this Continued Use Agreement, or any portions of this Continued Use Agreement, to the extent necessary to comply with such provisions in a manner which preserves to the greatest extent possible the benefits to each of the parties to this Continued Use Agreement before such conflict with federal or state law.

8.4 Incorporation of Exhibits and Recitals. The exhibits and recitals to this Continued Use Agreement are incorporated into this Continued Use Agreement by this reference.

8.5 Attorneys' Fees. If any litigation, judicial reference or arbitration proceeding is commenced between the parties hereto concerning this Continued Use Agreement and/or the rights and obligations of either party in relation herewith (including, but not limited to, claims in contract, tort or equity), the party prevailing in such litigation or arbitration proceeding, or the non-dismissing party in the event of a dismissal, with or without prejudice, shall be entitled, in addition to such other relief as may be granted, to a reasonable sum for any and all costs and expenses, including, without limitation, attorneys' fees, expert witness fees, consultants' fees, court costs, cost of paralegals, accounts, business office expenses of any kind or nature, including, but not limited to, staff, traveling expenses, telephone expenses, and any and all other costs and expenses of defense or prosecution incurred in connection therewith, whether specified herein or not. Any such attorneys' fees and other costs and expenses incurred by the prevailing or non-dismissing party in enforcing a judgment in its favor under this Continued Use Agreement, whether or not suit is filed, shall be recoverable separately from and in addition to any other amount included in such judgment or award, and such obligation is intended to be severable from the other provisions of this Continued Use Agreement and to survive and not be merged into any such judgment or award.

8.6 Intentionally Deleted.

8.7 Further Assurances. All parties agree to cooperate fully and execute any and all supplementary documents and take all additional actions which may be necessary or appropriate to give full force and effect to the basic terms and intent of this Continued Use Agreement.

8.8 Time. Time is of essence of every provision herein contained in this Continued Use Agreement.

8.9 Captions. All captions and headings in this Continued Use Agreement are for the purpose of reference and convenience and shall not limit or expand the provisions of this Continued Use Agreement.

8.10 Governing Law. This Continued Use Agreement shall be governed by, and construed in accordance with, the laws of the State of California. All actions or proceedings arising directly or indirectly under this Agreement shall be litigated in courts located within the County of Santa Clara, State of California.

8.11 Authority. Licensee represents that it has the requisite power and authority to enter into this Continued Use Agreement and that the individual(s) executing this Continued Use Agreement on behalf of Licensee is/are duly authorized to sign on Licensee's behalf and bind Licensee to the obligations created herein. Licensor represents that it has obtained approval of the City Council of the City of Santa Clara authorizing the City Manager to execute this Continued Use Agreement on its behalf, and approving the recordation of this Continued Use Agreement.

8.12 Counterparts. This Continued Use Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

8.14 Successors and Assigns. This Continued Use Agreement and all of the terms, conditions, limitations and covenants specified in this Continued Use Agreement shall run with the ROW Property and shall be binding on and inure to the benefit or burden of all parties having any right, title, or interest in the ROW Property or any part thereof, including their heirs, successors, assigns, transferees and legal representatives.

8.15 Notices. Any notices required or permitted to be given hereunder shall be given in writing and shall be delivered (a) in person, (b) by certified mail, postage prepaid, return receipt requested, (c) by Federal Express or another reputable commercial overnight courier that guarantees next day delivery and provides a receipt, or (d) by electronic mail, and such notices shall be addressed as follows:

If to Licensee: c/o Prometheus Real Estate Group, Inc.
1900 South Norfolk St., Ste. 150
San Mateo, CA 94403
Attention: Mr. John Millham and Ms. Jaclyn Safier
Telephone: (925) 938-4165 and (650) 931-3431
E-mail: jsafier@prometheusreg.com and
jmillham@prometheusreg.com

With a copy to: Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, California 94304-1018
Attention: Philip J. Levine, Esq.
Telephone: (650) 813-5613
E-mail: plevine@mof.com

If to Licensor: City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050
Attention: City Manager
Telephone: (408) 615-2210
Email: Manager@santaclaraca.gov

With a copy to:

Santa Clara City Attorney
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2234

or to such other address as either party may from time to time specify in writing to the other party. Any notice shall be deemed delivered when actually delivered, if such delivery is in person, upon deposit with the U.S. Postal Service, if such delivery is by certified mail, upon deposit with the overnight courier service, if such delivery is by an overnight courier service, and upon successful transmission, if such delivery is by electronic mail.

[SIGNATURES FOLLOW]

IN WITNESS WHEREOF, Licensors and Licensees have respectively signed and sealed this Continued Use Agreement as of the day and year first above written.

Licensors:

City of Santa Clara,
a California municipal corporation

By: Deanna J. Santana
Name: DEANNA J. SANTANA
Title: CITY MANAGER

Licensees:

Park Central Apartments, L. P.
a California limited partnership

By: Sunset Ridge Development Co., Inc.
a California corporation
its general partner

By: _____
Name: _____
Title: _____

Approved as to form:

Brian Doyle
Brian Doyle
City Attorney

SCHEDULE 1

ROW Property