

CONTRACT SUMMARY SHEET

TO: THE OFFICE OF THE CITY CLERK,
COUNCIL/PUBLIC SERVICES DIVISION
ROOM 395, CITY HALL

DATE: July 31, 2020

(PLEASE DO NOT STAPLE THE CONTRACT FOR THE CLERK'S FILE)

FORM MUST BE TYPEWRITTEN

FROM (DEPARTMENT): General Services, Real Estate Services Division

CONTACT PERSON: Paul A. Burke PHONE: 213-922-8554

CONTRACT NO.: C-136291 COUNCIL FILE NO.: _____

ADOPTED BY COUNCIL: _____
DATE _____

APPROVED BY BPW: _____
DATE _____

NEW CONTRACT X
AMENDED AND RESTATED _____
ADDENDUM NO. _____
SUPPLEMENTAL NO. _____
CHANGE ORDER NO. _____
AMENDMENT _____

CONTRACTOR NAME: Sportsman's Lodge Owner LLC

TERM OF CONTRACT: 90 days THROUGH: _____

TOTAL AMOUNT: _____

PURPOSE OF CONTRACT:

Project-Room-key is a collaborative effort by the State, County and the Los Angeles Homeless Services Authority (LAHSA) to secure hotel and motel rooms for individuals experiencing homelessness. This program is in response to preventing/limiting the spread of COVID-19.

General terms of the Occupancy Agreement are for a 90 day term period for use of 148 room with possibly two-month extensions while Los Angeles County's 'Safer-At-Home Order' is in effect. Once the 'Safer-At-Home' order is lifted, the City has 30 day termination right.

NOTE: CONTRACTS ARE PUBLIC RECORDS - SCANNED AND UPLOADED TO THE INTERNET

CITY OF LOS ANGELES

EMERGENCY OCCUPANCY AGREEMENT

OCCUPANCY AGREEMENT COVERING PREMISES

LOCATED AT:

SPORTSMEN'S LODGE HOTEL
12825 VENTURA BOULEVARD
LOS ANGELES, CA 91604

OWNER'S FED. TAX. I.D., NO. OR SOCIAL SECURITY NO.:

82-1959598

Contract No:

TENANT AGENCY:

CITY OF LOS ANGELES

Preamble

THIS OCCUPANCY AGREEMENT (this "Agreement"), is made and entered into this ____ day of _____, 2020 ("Effective Date") by and between

SPORTSMEN'S LODGE OWNER LLC,
a Delaware limited liability company

hereinafter called the "Owner," without distinction as to number or gender, and the City of Los Angeles, a municipal corporation, acting by and through its Department of General Services, hereinafter called the "City." **This Agreement is entered into pursuant to the Governor's State of Emergency Proclamation dated March 4, 2020 and Executive Order N-25-20, in response to COVID-19, and is directly related to that emergency and necessary for the preservation of public health and safety.**

RECITALS

A. **WHEREAS**, on March 4, 2020, the Governor of California declared a State of Emergency pursuant to the California Emergency Services Act due to the novel coronavirus ("COVID-19") outbreak; and

B. **WHEREAS**, on March 4, 2020, the Mayor of the City of Los Angeles declared a local emergency ("Declaration of Local Emergency") pursuant to the Los Angeles City Charter and the Los Angeles Administrative Code due to the COVID-19 outbreak; and

C. **WHEREAS**, the Los Angeles City Council approved a resolution ratifying the Declaration of Local Emergency; and

D. **WHEREAS**, on March 19, 2020, the Mayor of the City of Los Angeles issued the Safer at Home Order under the Declaration of Local Emergency, under which residents were instructed to isolate themselves in their residences, subject to certain exceptions, such as to engage in specified essential activities; and

E. **WHEREAS**, on April 3, 2020, the Governor of California announced "Project Roomkey", an initiative to secure hotel and motel rooms to protect homeless individuals from COVID-19 ("Project Roomkey"); and

F. **WHEREAS**, implementation of Project Roomkey requires a coordinated effort between City, the County of Los Angeles ("County"), the State of California ("State"), the Los Angeles Homeless Services Authority, hotel/motel owners, and various non-profit service providers; and

G. **WHEREAS**, each of Owner and City has an interest in participating in Project Roomkey.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, Owner and City hereby agree as follows:

WITNESSETH

Description

1. The Owner hereby grants the City, and the City hereby hires from the Owner, the use and occupancy of those certain premises (the "Premises"), "AS IS" with appurtenances, situated in the City of Los Angeles, County of Los Angeles, State of California, and more particularly described as follows:

The Sportsmen's Lodge Hotel located at 12825 Ventura Boulevard, Los Angeles, CA, as depicted on the site plan and floor plans attached hereto as Exhibit "A", said Exhibit "A" hereby being incorporated into this Agreement, and including the use of up to thirty (30) designated parking spaces in the parking lot contiguous to the subject hotel building, and unlimited use of the building's common facilities (including without limitation all conference rooms and meeting rooms, as depicted on Exhibit "A"), except as specifically and expressly excluded herein. The City shall have the right to occupy a fluctuating number of rooms, up to 148 rooms, and pay for rooms based on the actual daily occupancy, subject to the terms of this Agreement. The City shall not be responsible to pay for any unoccupied rooms, except as otherwise may be expressly required under Section 4 of this Agreement. The City shall have exclusive access to and use of the Premises set forth in this Agreement twenty-four (24) hours per day, seven (7) days per week, subject to the terms of this Agreement.

Term

2. The term of this Agreement shall commence ten (10) days after the Effective Date ("Occupancy Date") and shall terminate three (3) months after the Occupancy Date ("Term"), with such rights to extend or of termination as may be hereinafter expressly set forth. City is hereby granted by Owner, three consecutive 1-month option(s) to extend the term. To elect an applicable option to extend, City shall notify Owner no later than ten (10) days prior to expiration of the then applicable term.

Early Termination

3. The City may terminate this Agreement at any time by giving written notice to the Owner at least thirty (30) days prior to the date when such termination shall become effective. Notwithstanding anything to the contrary in this Agreement, Owner may terminate this Agreement at any time after the third (3rd) month of the Term by giving written notice to the City at least thirty (30) days prior to the date when such termination shall become effective (the "Owner Termination Notice"). For the avoidance of doubt, the Owner Termination Notice may not be delivered by Owner to the City prior to the end of the third (3rd) month of the Term.

Rent

4. Rental payments shall be paid by the City, from legally available funds, in arrears within 30 days from receipt of a monthly invoice during said term as follows:

THE ALL-INCLUSIVE DAILY ROOM RATE SHALL BE ONE HUNDRED TWENTY AND 00/100 DOLLARS (\$120.00) DURING THE TERM OF THIS AGREEMENT.

Owner acknowledges and agrees that the City shall require a two (2) week period to ramp-up occupancy at the Premises.

Commencing on the eighth (8th) day after the Occupancy Date and concluding on the fourteenth (14th) day after the Occupancy Date (such period, the "Ramp-Up Second Week"), with respect to the portion of the Ramp-Up Second Week covered by a monthly invoice (the "Ramp-Up Second Week Invoice Period"), City shall be required to pay for the greater of (a) fifty percent (50%) of the total rooms allocated and available to the City, excluding any Uninhabitable Rooms (as defined in Section 12 below), as a minimum average throughout the Ramp-Up Second Week Invoice Period (as opposed to a daily minimum) or (b) the actual number of rooms occupied by the City throughout the Ramp-Up Second Week Invoice Period, in accordance with the terms of this Agreement. For the avoidance of doubt, assuming there are no Uninhabitable Rooms and all 148 rooms are available for occupancy throughout the Ramp-Up Second Week, City shall be required to guaranty payment for an accumulated minimum total of 518 room nights throughout the Ramp-Up Second Week.

Commencing on the fifteenth (15th) day after the Occupancy Date and concluding on the fifteenth (15th) day prior to the termination of the Term (as the Term may be extended pursuant to the terms of this Agreement) (such period, the "Mid-Term Period"), with respect to each portion of the Mid-Term Period covered by a monthly invoice (each, a "Mid-Term Invoice Period"), City shall be required to pay for the greater of (x) seventy percent (70%) of the total rooms allocated and available to the City, excluding any Uninhabitable Rooms, as a minimum average throughout the applicable Mid-Term Invoice Period (as opposed to a daily minimum) or (y) the actual number of rooms occupied by the City throughout the applicable Mid-Term Invoice Period, in accordance with the terms of this Agreement. For the avoidance of doubt, assuming there are no Uninhabitable Rooms and all 148 rooms are available for occupancy throughout the applicable Mid-Term Invoice Period, City shall be required to guaranty payment for an accumulated minimum total of 3180 room nights throughout a Mid-Term Invoice Period that consists of 30 days and 3212 room nights throughout a Mid-Term Invoice Period that consists of 31 days.

At no time shall the City be responsible to pay for any room occupied by anyone not placed in that room by the City.

Owner shall provide a monthly invoice to the City at the address below citing each room occupied, multiplied by the number of days actually occupied in that month, and then multiplied by the daily room rate, subject to any minimum payment obligation set forth in this Section 4. Rental shall be paid to Owner at the address specified in Paragraph 5 or to such other address as the Owner may designate by a notice in writing.

Invoices to City shall be sent to:

City of Los Angeles
c/o Department of General Services
Real Estate Services Division
Suite 201, City Hall South
111 East First Street
Los Angeles, CA 90012
Attention: Director of Real Estate Services

Notices

5. All notices and correspondence herein provided to be given, or which may be given by either party to the other, shall be deemed to have been fully given when made in writing and either: 1) deposited in the United States Mail, certified and postage prepaid; 2) sent via an alternate commercial overnight delivery service (i.e. FedEx or similar) with receiver's signature required; or 3) sent by e-mail transmission (with a hard copy deposited in the United States Mail, certified and postage prepaid, or sent via an alternate commercial overnight delivery service); provided that if sent by e-mail transmission notice shall be deemed effective on receipt when using software that provides proof (x) that the message was sent, (y) that the message was delivered to the recipient's information processing system, and (z) of the time and date the message was delivered to the recipient along with a verifiable electronic record of the exact content of the message sent; and addressed as follows:

To the Owner:

SPORTSMEN'S LODGE OWNER LLC
430 Park Avenue, Suite 201
New York, NY 10022
Phone No.: (212) 682-9595
Attention: Michael Gurary
Email: mgurary@midwoodid.com

with a copy to:

SPORTSMEN'S LODGE OWNER LLC
12825 Ventura Blvd.
Los Angeles, CA 91604
Phone No.: (310) 403-3515
Attention: Ben Besley
Email: bbesley@midwoodid.com

and

Elkins Kalt Weintraub Reuben Gartside LLP
10345 W. Olympic Boulevard
Los Angeles, CA 90064
Attention: Scott M. Kalt
Email: skalt@elkinskalt.com

To the City:

City of Los Angeles
c/o Department of General Services
Real Estate Services Division
Suite 201, City Hall South
111 East First Street
Los Angeles, CA 90012
Attention: Director of Real Estate Services
Email: melody.mccormick@lacity.org

with a copy to:

Office of the City Attorney
Real Property/Environment Division
700 City Hall East
200 North Main Street
Los Angeles, CA 90012
Attention: Sean T. Torres
Email: sean.torres@lacity.org

ALL NOTICES AND CORRESPONDENCE MUST REFERENCE
CITY AND PREMISES ADDRESS

Rental warrants shall be made payable to: SPORTSMEN'S LODGE OWNER
LLC

and mailed to:

SPORTSMEN'S LODGE OWNER LLC
Attn: Michael Gurary
430 Park Avenue, Suite 201
New York, NY 10022

Nothing herein contained shall preclude the giving of any such written notice by personal service. The address to which notices and correspondence shall be mailed to either party may be changed by giving written notice to the other party.

Parking

6. City will have use at all times of up to thirty (30) designated parking spaces in the parking lot contiguous to the hotel building at no additional charge. Such parking spaces, commencing as of the Effective Date and continuing throughout the Term, shall be unobstructed and completely accessible for City's use. The location of such parking spaces may be relocated from time to time within the parking lot contiguous to the hotel building upon 24 hours advance notice from Owner to City.

**Services,
Utilities, and
Supplies**

7. Owner, at Owner's sole cost and expense, shall furnish normal and standard hotel operation functions including but not limited to the following services, utilities, and supplies to the area occupied by the City, and also to the "common" building areas (if any) such as lobbies, elevators, stairways, corridors, etc., if any:

- A. Sewer, trash disposal, and water service, including both hot and cold water to the lavatories.
- B. Elevator (if any) service.
- C. Electricity and/or gas as necessary to provide power for heating, ventilating, and air conditioning, and electrical or gas service as needed for the operations of the Premises.
- D. If there is a pool, a gym or bar/restaurant, Owner should still maintain those areas but close off those areas from use by occupants. Notwithstanding the foregoing or anything to the contrary in this Agreement, in support of City's operations at the Premises, City and/or its service provider shall have the right to access and use, at no additional charge, (i) all conference rooms and meeting rooms at the Premises and (ii) all refrigerators and freezers at the Premises. The conference and meeting rooms shall be maintained by Owner consistent with its standard hotel housekeeping/janitorial services, including vacuuming and trash removal not less than every 3 days.
- E. Linen/terry and laundry services not less than every 3 days, including but not limited to any mattress covers procured by the City or its service provider.
- F. Standard hotel housekeeping/janitorial services, not less than every 3 days, including but not limited to changing linens, cleaning the floors, dusting surfaces, cleaning the bathrooms, and replacing all soaps, shampoos, lotions and towels.
- G. Maintenance and operation of building mechanical, electrical and HVAC system.
- H. Landscaping services, if applicable.
- I. Regular maintenance and upkeep of the rooms, including handling routine maintenance calls including repair of plumbing, television and HVAC.
- J. Placing on beds any mattress covers procured by the City or its service provider.
- K. Provision and maintenance of access to the Premises in accordance with all applicable laws, rules and regulations, including fire safety regulations, such that the Premises are in compliance at all times with such laws, rules and regulations.
- L. Provision and maintenance of commercially reasonable fencing, barriers and other safeguards of a quality and in a manner that can be reasonably expected to (i) protect and prevent injury to all occupants and personnel of City and its service provider and agents from or as a result of any construction activity being performed by or on behalf of Owner at or adjacent to the Premises, (ii) secure any and all construction equipment and tools from being accessible to any occupants and personnel of City and its service provider and agents, and (iii) ensure safe access to the Premises, including without limitation all rooms that the City has a right to occupy pursuant to this Agreement. Subject to any more restrictive requirements imposed by applicable law or governmental approvals, Owner shall not permit or perform any noise-generating construction activity at or adjacent to the Premises between the hours of 7 p.m. and 7 a.m. daily, except in the event of an emergency threatening the health or safety of individuals.

All housekeeping/janitorial services (including, without limitation, such services provided for guest rooms, common areas and conference rooms), as well as linen/terry and laundry services, shall be provided by Owner in accordance with any applicable, current health and safety protocols established by public health officials.

In the event of a failure by the Owner to furnish any of the above services or utilities in a satisfactory manner, and such failure continues for a period of three (3) days after the City notifies Owner of such failure, the City may furnish the same at its own cost; and, in addition to any other remedy the City may have, may deduct the amount thereof, including City's administrative costs, from the rent that may then be, or thereafter become due hereunder.

Notwithstanding the foregoing or any language to the contrary contained within this Agreement, Owner acknowledges that Owner shall not be required to provide optional room amenities that Owner may typically offer under Owner's normal business practices which Owner typically charges to the room as an additional charge. Owner acknowledges that City shall solely be responsible to Owner for the daily room rate set forth in Section 4 above, excluding any additional room charges, and City shall not be subject to, or responsible to reimburse to Owner, any additional charges to the room for any amenities, services, or expenses billed to the room. Owner shall solely be responsible for the removal, prohibition, or blocking, of any room amenities or services which would subject the City to an additional charge including but not limited to the following:

- i. Occupant's use room mini-bar.
- ii. Occupant's use of room pay-per-view services.
- iii. Occupant's use of room service.
- iv. Occupant's Audio/Visual Equipment Rental.
- v. Occupant's use of room phone or fax.
- vi. Occupant's use of non-complimentary internet or cable use.
- vii. Occupant's use of any pool, gym, or other common area amenities.

**Furniture
Include**

8. Each room will be provided in its "As-Is" condition, including any furniture and personal property that is normally provided at the Premises and in its regular course of business, except to the extent otherwise requested by City or its service provider or otherwise permitted for removal pursuant to Section 7 of this Agreement.

**Repair and
Maintenance**

9. During the term of this Agreement, the Owner at its sole cost and expense shall maintain the Premises in good repair and tenantable condition. Except as expressly set forth in Section 23 of this Agreement, the City shall not have any maintenance or repair obligations.

Assignment

10. In furtherance of Project Roomkey, the City shall have the right to assign this Agreement to another governmental entity, including the County, upon notice to Owner. Owner shall have the right to assign this Agreement to an affiliate entity that is the successor fee owner of the entire Premises upon transfer of fee ownership to such affiliate entity and upon notice to the City. Except as set forth in this Section 10, neither party shall have the right to assign this Agreement without the other party's prior written consent. Notwithstanding anything to the contrary in this Agreement, the City may allow City's service providers, designees and contractors to work on the Premises to provide services necessary and customary for Project Roomkey.

**Quiet
Possession**

11. The Owner agrees that the City, while keeping and performing the covenants herein contained, shall at all times during the existence of this Agreement, peaceably and quietly have, hold, and enjoy the occupied Premises without suit, trouble, or hindrance from the Owner or any person claiming under Owner.

Destruction

12. If the Premises is totally destroyed by fire or other casualty, this Agreement shall automatically terminate without the further need of any action by the City or Owner. If such casualty shall render ten percent (10%) or more of the floor space of the Premises unusable for the purpose intended, then, without limitation of any other rights of the City pursuant to this Agreement, the City shall have the right to terminate this Agreement. If the City does not elect to terminate this Agreement or if such casualty renders less than ten percent (10%) of the Premises unusable for the purpose intended, then Owner shall have no obligation to repair the damage to the Premises, except to the extent necessary to (i) make the Premises safe for employees, occupants, and City's personnel and agents, (ii) permit the City and its permitted occupants and agents to gain entry to and continual access to and use of (A) the inhabitable rooms and (B) other areas of the Premises and parking necessary to support the continued use of the inhabitable rooms, in accordance with the terms of this Agreement, and (iii) otherwise perform and fulfill Owner's obligations pursuant to this Agreement. Neither the City nor any occupants shall be permitted to use any rooms that Owner or the City, in their respective good faith discretion and as reasonably confirmed by the other party, deems to be uninhabitable due to damage arising from the underlying casualty or no longer safely accessible (any such rooms, the "Uninhabitable Rooms"). Notwithstanding anything to the contrary in this Agreement, for purposes of determining the minimum number of rooms that the City is required to pay for pursuant to Section 4 above, the Uninhabitable Rooms will not be included in any such determination.

It is understood and agreed that the City or its agent has the right to enter the destroyed or partially destroyed Premises no matter what the condition if necessary to preserve life and/or prevent injury. At the City's request, the Owner shall immediately identify an appropriate route through the Premises to access the rooms occupied by City's occupants. If the Owner cannot identify an appropriate access route, it is agreed that the City may use any and all means of access at its discretion in order to access such occupied rooms.

**Check In /
Check Out /
Related
Services**

13. To the level customarily performed by City or the County, or their respective service providers, at similar hotels utilized for similar purposes for Project Roomkey, City, or its service provider, shall at no cost to Owner: (a) check-in and check-out all occupants participating in Project Roomkey at the Premises, (b) retain possession of any room keys for guest rooms occupied by occupants and not provide such room keys to such occupants, (c) provide private security services twenty-four (24) hours per day, seven (7) days per week, (d) provide on-site client service coordinators twenty-four (24) hours per day, seven (7) days per week, (e) use commercially reasonable efforts to ensure that occupants participating in Project Roomkey follow all social distancing recommendations established by public health officials at all times while on the Premises, and (f) screen for COVID-19 symptoms for all occupants of guest rooms participating in Project Roomkey. Any occupant that tests positive for COVID-19 shall be relocated, and City shall, at its sole cost and expense, clean the guest room in which such occupant was staying per the current health and safety protocols established by public health officials for potential COVID-19 exposure (and which cleaning protocols City shall have reviewed by a certified safety professional) prior to arranging for another occupant of such room.

**Prevailing
Wage
Provisions**

14. To the extent any restoration work performed pursuant to Section 23 of this Agreement is defined as a "public works" project pursuant to Labor Code §§1720 et seq., the following shall apply:

- A. Owner/contractor shall comply with prevailing wage requirements and be subject to restrictions and penalties in accordance with §1770 et seq. of the Labor Code which requires prevailing wages be paid to appropriate work classifications in all bid specifications and subcontracts.
- B. The Owner/contractor shall furnish all subcontractors/employees a copy of the Department of Industrial Relations prevailing wage rates which Owner will post at the job site. All prevailing wage rates shall be obtained by the Owner/contractor from:

Department of Industrial Relations
 Division of Labor Statistics and Research
 455 Golden Gate Avenue, 8th Floor
 San Francisco, California 94102
 Phone: (415) 703-4774
 Fax: (415) 703-4771

For further information on prevailing wage:

http://www.dir.ca.gov/dlsr/statistics_research.html

- C. Owner/contractor shall comply with the payroll record keeping and availability requirement of §1776 of the Labor Code.
- D. Owner/contractor shall make travel and subsistence payments to workers needed for performance of work in accordance with the Labor Code.
- E. Prior to commencement of work, Owner/contractor shall contact the Division of Apprenticeship Standards and comply with §1777.5, §1777.6, and §1777.7 of the Labor Code and Applicable Regulations.

**Fair
Employment
Practices**

15. During the performance of this Agreement, the Owner shall not deny benefits to any person on the basis of religion, color, ethnic group identification, sex, age, physical or mental disability, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, marital status, age, or sex. Owner shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.

Owner shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.), the regulations promulgated thereunder (California Code of Regulations, Title 2, Section 11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Government Code, Sections 11135-11139.8), and the regulations or standards adopted by the awarding City to implement such article.

**Representation
and Warranty**

16. Owner represents and warrants to City that Owner is the owner of the Premises and there are no guests or occupants at the Premises as of the Effective Date. Each of Owner and City represents and warrants to the other that, as to itself, (i) it has the full right and authority to enter into this Agreement and to consummate the transaction contemplated by this Agreement, and (ii) this Agreement and all instruments, documents and agreements to be executed by such party in connection herewith are, or when delivered shall be, duly authorized, executed and delivered by it and are, or when delivered shall be, valid and enforceable obligations of such party.

Holding Over

17. City has no right to occupy the Premises, or any part thereof, beyond the expiration or earlier termination of this Agreement; provided, however, if Owner consents in writing to City remaining in possession of the Premises after the expiration or earlier termination of this Agreement, City's occupancy shall be on a month-to-month term, subject to City's right to terminate upon thirty day (30) days' notice and subject to Owner's termination right set forth in Section 3 of this Agreement, and otherwise on the terms and conditions herein specified, so far as applicable.

Surrender of Possession

18. Upon termination or expiration of this Agreement, the City will peacefully surrender to the Owner the occupied Premises in as good order and condition as when received, except for reasonable use and wear thereof and damage by earthquake, fire, public calamity, the elements, acts of God, or circumstances over which City has no control or for which Owner is responsible pursuant to this Agreement (collectively, the "Excepted Conditions"). The City and Owner shall document the condition of the Premises, including the rooms to be occupied, prior to the Occupancy Date and on or around the date of termination or expiration of this Agreement. The City and Owner shall document the condition of the room at check-in and check-out. Damage and/or vandalism to the room caused by the City or City's occupant will be repaired by Owner at the City's sole cost and expense in accordance with Section 23 of this Agreement. The City shall clean the Premises per the current health and safety protocols established by public health officials immediately prior to vacating the Premises.

Time of Essence Binding Upon Successors

19. Time is of the essence of this Agreement, and the terms and provisions of this Agreement shall extend to and be binding upon and inure to the benefit of the heirs, executors, administrators, successors, and assigns to the respective parties hereto. All of the parties hereto shall be jointly and severally liable hereunder.

No Oral Agreements

20. It is mutually understood and agreed that no alterations or variations of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto, and that no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.

Insurance

21. Owner understands and agrees to the following:

The City has elected to be self-insured for liability exposures. Under this form of insurance, the City and its employees acting in the course and scope of their employment are insured for tort liability arising out of official City business.

The City has also elected to be self-insured for its motor vehicle liability exposures.

The City has elected to self-insure its workers' compensation obligations for all City employees.

Owner Requirements:

- A. Owner shall provide and maintain Commercial General Liability insurance covering its interests in the Premises written on a form equivalent to ISO policy form CG 00 01; Owner's insurance companies shall have an acceptable rating equivalent to A.M. Best rating of not less than A:VII. City shall be included as an additional insured in all general liability insurance, but only with respect to the Owner's indemnification

obligations under this Agreement. For the avoidance of doubt, the parties specifically acknowledge and agree that occupants participating in Project Roomkey shall not be additional insureds on any insurance policy carried by Owner.

B. Evidence of Coverage and Notice to City

- Owner shall provide, prior to the Effective Date, certificate(s) of insurance coverage ("Certificate") to City evidencing the coverage required in this Section 21.
- A renewal Certificate shall be provided to City promptly upon renewal of coverage and no later than Owner's policy expiration date. The City reserves the right to obtain complete, certified copies of any required Owner insurance policies at any time, provided that Owner may redact any privileged and confidential information of Owner.
- Certificates shall evidence all insurance coverage types and limits required in this Section 21 and shall be signed by an authorized representative of the insurer(s) or, if acceptable to the City, Owner's insurance broker. The 'Named Insured' on the Certificate shall match the name of the Owner identified in this Agreement. Certificates shall include the full name of each insurer providing coverage, its NAIC (National Association of Insurance Commissioners) identification number, its financial rating, the amounts of any policy deductibles or self-insured retentions exceeding twenty five thousand (\$25,000.00) dollars.
- Neither the City's failure to obtain, nor the City's receipt of, or failure to object to a non-complying insurance certificate, or any other insurance documentation or information provided by the Owner, its insurance broker(s) and/or insurer(s), shall be construed as a waiver of any of the provisions of this Section 21.
- Certificates, including any notices of cancellation, shall be delivered to:

City of Los Angeles
c/o Department of General Services
Real Estate Services Division
Suite 201, City Hall South
111 East First Street
Los Angeles, CA 90012
Attention: Director of Real Estate Services
Email: melody.mccormick@lacity.org

Owner also shall promptly notify City of any third party claim or suit filed against Owner which arises from or relates to this Agreement, and could result in the filing of a claim or lawsuit against Owner and/or City.

**Hazardous
Substances**

22. City agrees that it will comply with all applicable laws existing during the term of this Agreement pertaining to the use, storage, transportation, and disposal of any hazardous substance as that term is defined in such applicable law. In the event a government order is issued naming the City or the City incurs any liability during or after the Term of this Agreement in connection with contamination which pre-existed the City's obligations and occupancy under this Agreement or which were not caused by the City, Owner shall hold harmless, indemnify, and defend

the City in connection therewith and shall be solely responsible as between City and Owner for all efforts and expenses thereto.

Restoration of Premises

23. Upon termination of this Agreement, Owner agrees that the equipment installed or brought onto the Premises by the City (including without limitation any microwaves and mattress covers) shall be and remain the property of the City, and City shall remove such property when vacating the Premises. To the extent the Premises (including any of Owner's furniture, fixtures, and equipment ("FF&E") within the Premises) requires restoration or repair due to damage caused by City's use of the Premises pursuant to this Agreement, excluding the Excepted Conditions, City shall reimburse Owner for all reasonable costs of Owner to perform such restoration or repair such that the Premises (including any of Owner's FF&E within the Premises) are restored to the condition existing prior to such damage. Such restoration or repair shall include, to the extent applicable, restoring all surfaces, including floors and walls, to the condition existing prior to such damage, including repair of damaged floor tile and patching and repainting damaged wall surfaces to match adjacent existing surfaces. All costs shall be pre-approved by City based on reasonable commercial standard work estimates or replacement costs, as applicable, and City shall endeavor to respond to Owner within five (5) business days of City's receipt from Owner of Owner's request for pre-approval of costs together with any supporting back-up documentation reasonably required by City. City shall reimburse Owner for such reasonable repair costs incurred by Owner pursuant to this Section 23 within thirty (30) days of City's receipt from Owner of the applicable invoice together with any supporting back-up documentation reasonably required by City.

Access

24. At no cost to City, commencing as of the Effective Date, Owner shall allow City or its agents to enter the Premises to stage and prepare the Premises for occupants, or other parties, or for any other purpose City deems necessary in connection with City's rights and obligations under this Agreement.

Indemnification

25. To the fullest extent permitted by law, the City shall defend, indemnify and hold harmless the Owner, its officers, directors, shareholders, employees and agents (individually and collectively, the "Owner Indemnitees") from any claims, liabilities, suits, judgments, damages, costs and expenses (including, without limitation, reasonable attorney's fees) ("Claims") to the extent arising from the City's use of the Premises pursuant to this Agreement; provided such indemnity shall exclude any Claims to the extent they result from the negligence or wrongful acts of any Owner Indemnitee, the repair of any pre-existing conditions of the Premises or COVID-19.

To the fullest extent permitted by law, Owner shall defend, indemnify and hold harmless the City, its officers, directors, employees, agents, elected or appointed officials and representatives, and contractors (individually and collectively, the "City Indemnitees") from any Claims to the extent arising from the negligence or willful misconduct of any Owner Indemnitee in connection with Owner Indemnitee's use, maintenance, renovation or operation of the Premises during the Term of this Agreement; provided such indemnity shall exclude any Claims to the extent they result from the negligence or wrongful acts of any City Indemnitee or COVID-19.

Taxes

26. Owner is solely responsible for all tax liabilities, including property taxes, relating to the Premises, other than any applicable Transient Occupancy Tax relating to the occupancy of hotel guest rooms pursuant to this Agreement that is levied and charged, which Transient Occupancy Tax shall be the sole responsibility of the City.

Exclusive Use	27. Owner shall not rent or allow occupancy of any vacant rooms or facilities in the hotel during the term of the City's occupancy of the Premises.
Occupancy of Premises	28. Owner and City understand that they shall not receive rent, fees, or any other form of payments or consideration, or gifts from occupants of hotel rooms in exchange for access to or use of the Premises. Owner and City also understand that neither has entered into any contract with the occupants of the hotel rooms related to the use of the Premises within the meaning of California Civil Code section 1925. The occupants of the hotel rooms are not persons who hire any dwelling unit from Owner or City within the meaning of California Civil Code section 1940 and are not subject to the benefits of the California Civil Code or any other state statutes, rules, or regulations or local government rules, regulations or ordinances, that confer tenancy rights on the occupants.
Owner Information	29. Prior to City making a payment to Owner, Owner shall provide such reasonable and necessary information and documents as City may require from Owner in order for City to process such payment.
Limitation of Liability	<p>30. Except for any of its liability under the indemnification section of this Agreement and except to the extent of City's obligations under Section 23 above, City shall not be liable to Owner for damages of any kind in any amount in excess of the amount payable under this Agreement to Owner by City. Except for any of its liability under the indemnification section of this Agreement and except to the extent of Owner's obligations under Section 22 above, Owner shall not be liable to City for damages of any kind in any amount in excess of the amount payable under this Agreement to Owner by City.</p> <p>Notwithstanding anything to the contrary in this Agreement, the parties shall not be liable for special, indirect, incidental, punitive, or consequential damages of any kind including, but not limited to, loss of business, any lost or anticipated profits or cost, revenue, reputation, or good will, arising from any failure or matter under this Agreement.</p> <p>Notwithstanding anything to the contrary in this Agreement, it is specifically understood and agreed that the obligations of Owner under this Agreement do not constitute personal obligations of the individual partners, directors, officers or shareholders of Owner, and City shall not seek recourse against the individual partners, directors, officers or shareholders of Owner or any of their personal assets for satisfaction of any liability in respect of this Agreement. Any liability of Owner under this Agreement shall be limited to Owner's interest in the Premises and Owner's insurance.</p>
Remedies	31. In the event of a breach by either party of any term or provision of this Agreement, the other party shall have the right to pursue all available remedies at law or equity, including recovery of damages and specific performance of this Agreement. The parties hereto agree that monetary damages would not provide adequate compensation for any losses incurred by reason of a breach by it of any of the provisions of this Agreement and hereby further agrees that, in the event of any action for specific performance in respect of such breach, it shall waive the defense that a remedy at law would be adequate. Except as expressly provided elsewhere in this Agreement, each party's rights and remedies under this Agreement are cumulative and in addition to, not exclusive of or in substitution for, any rights or remedies otherwise available to that party.

Force Majeure

32. Notwithstanding anything to the contrary contained in this Agreement and except with respect to any payment obligation of either party in connection with this Agreement (including, without limitation, the City's obligation to pay any rental payments hereunder pursuant to the terms of this Agreement), whenever a day is established in this Agreement on which, or a period of time is designated within which, either party is required to do or complete any act, matter or thing, the time for the doing or completion thereof shall be extended by a period of time equal to the number of days on or during which such party is prevented from the doing or completion of such act, matter or thing because of strikes, lockouts, embargoes, disruption of service from utilities not due to the action or inaction of Owner, wars, insurrections, rebellions, civil disorder, acts of God, or other causes beyond such party's reasonable control (financial inability excepted) (collectively, "Force Majeure", and any such delay caused by Force Majeure, a "Force Majeure Delay"); provided, however, the parties expressly acknowledge and agree that (a) COVID-19 and any event or circumstance related to COVID-19 shall not constitute Force Majeure or permit a Force Majeure Delay, (b) in the event multiple Force Majeure events occur on a given day, the party affected may claim only one day of Force Majeure Delay for that day, (c) the party claiming any Force Majeure Delay shall at all times use commercially reasonable efforts to minimize and mitigate the duration and severity of the Force Majeure Delay, and (d) no Force Majeure Delay shall be deemed to have occurred unless and until the party claiming such Force Majeure Delay has provided written notice to the other party specifying the activity that such notifying party contends is hindered or delayed due to Force Majeure and the details of such Force Majeure.

**Counterparts,
Electronic
Signature**

33. This Agreement and any other document necessary for the consummation of the transaction contemplated by this Agreement may be executed in counterparts, including both counterparts that are executed on paper and counterparts that are in the form of electronic records and are executed electronically. An electronic signature means any electronic sound, symbol or process attached to or logically associated with a record and executed and adopted by a party with the intent to sign such record, including facsimile or e-mail electronic signatures. All executed counterparts shall constitute one agreement, and each counterpart shall be deemed an original. The parties hereby acknowledge and agree that electronic records and electronic signatures, as well as facsimile signatures, may be used in connection with the execution of this Agreement and electronic signatures, facsimile signatures or signatures transmitted by electronic mail in so-called pdf format shall be legal and binding and shall have the same full force and effect as if a paper original of this Agreement had been delivered and had been signed using a handwritten signature. Owner and City (i) agree that an electronic signature, whether digital or encrypted, of a party to this Agreement is intended to authenticate this writing and to have the same force and effect as a manual signature, (ii) intended to be bound by the signatures (whether original, faxed or electronic) on any document sent or delivered by facsimile or, electronic mail, or other electronic means, (iii) are aware that the other party will rely on such signatures, and (iv) hereby waive any defenses to the enforcement of the terms of this Agreement based on the foregoing forms of signature. If this Agreement has been executed by electronic signature, all parties executing this document are expressly consenting under the United States Federal Electronic Signatures in Global and National Commerce Act of 2000 ("E-SIGN") and California Uniform Electronic Transactions Act ("UETA")(Cal. Civ. Code § 1633.1, et seq.), that a signature by fax, email or other electronic means shall constitute an Electronic Signature to an Electronic Record under both E-SIGN and UETA with respect to this specific transaction.

FEDERAL PROVISIONS

Clean Air Act

34. The Owner agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. Section 7401 et seq.

35. The Owner agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the California Governor's Office of Emergency Services, Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency (EPA) Regional Office.

36. The Owner agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

37. The Owner agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. Sections 1251 et seq.

38. The Owner agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.

39. The Owner agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Debarment and Suspension Clause

40. This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Owner is required to verify that none of the Owner, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

41. The Owner must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

42. This certification is a material representation of fact relied upon by the City. If it is later determined that the Owner did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

43. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

Procurement of Recovered Materials

44. Owners who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the City. As required under this section, Owner shall execute the attached Appendix A, attached hereto and incorporated herein by this reference.

45. In the performance of this Agreement, the Owner shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—

- i. Competitively within a timeframe providing for compliance with the contract performance schedule;
- ii. Meeting contract performance requirements; or
- iii. At a reasonable price.

46. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site,

<https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>

47. The Owner also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

48. The following access to records requirements apply to this Agreement:

- i. The Owner agrees to provide the City, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Owner which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions.
- ii. The Owner agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- iii. The Owner agrees to provide the FEMA Administrator or his or her authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
- iv. In compliance with the Disaster Recovery Act of 2018, the City and the Owner acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

**Department of
Homeland
Security Seal,
Logo, Flags**

49. The Owner shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

**Compliance
with Federal
Law,
Regulations,
and Executive
Orders**

50. This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The Owner will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

**No Obligation
By Federal
Government**

51. The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

**Program Fraud
and False or
Fraudulent
Statements or
Related Acts**

52. The Owner acknowledges that 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Agreement.

[Signature Page Immediately Follows]

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of the dates written below.

CITY:

CITY OF LOS ANGELES, a municipal corporation, acting by and through its Department of General Services

By: [Signature]
Name: Tony M. Royster
Title: General Manager
Date: 7/31/2020

APPROVED AS TO FORM:

MICHAEL N. FEUER, City Attorney

By: [Signature]
Name: Sean T. Torres
Title: Deputy City Attorney
Date: 7/30/2020

ATTEST:

HOLLY L. WOLCOTT, City Clerk

By: [Signature]
Deputy
Date: 07/31/2020

C-136291

[signature of Owner on following page]



DATE:

5/27/2020

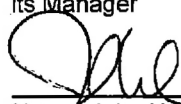
OWNER:

SPORTSMEN'S LODGE OWNER LLC,
a Delaware limited liability company

By: SPORTSMEN'S LODGE JV LLC
a Delaware limited liability company,
its sole member

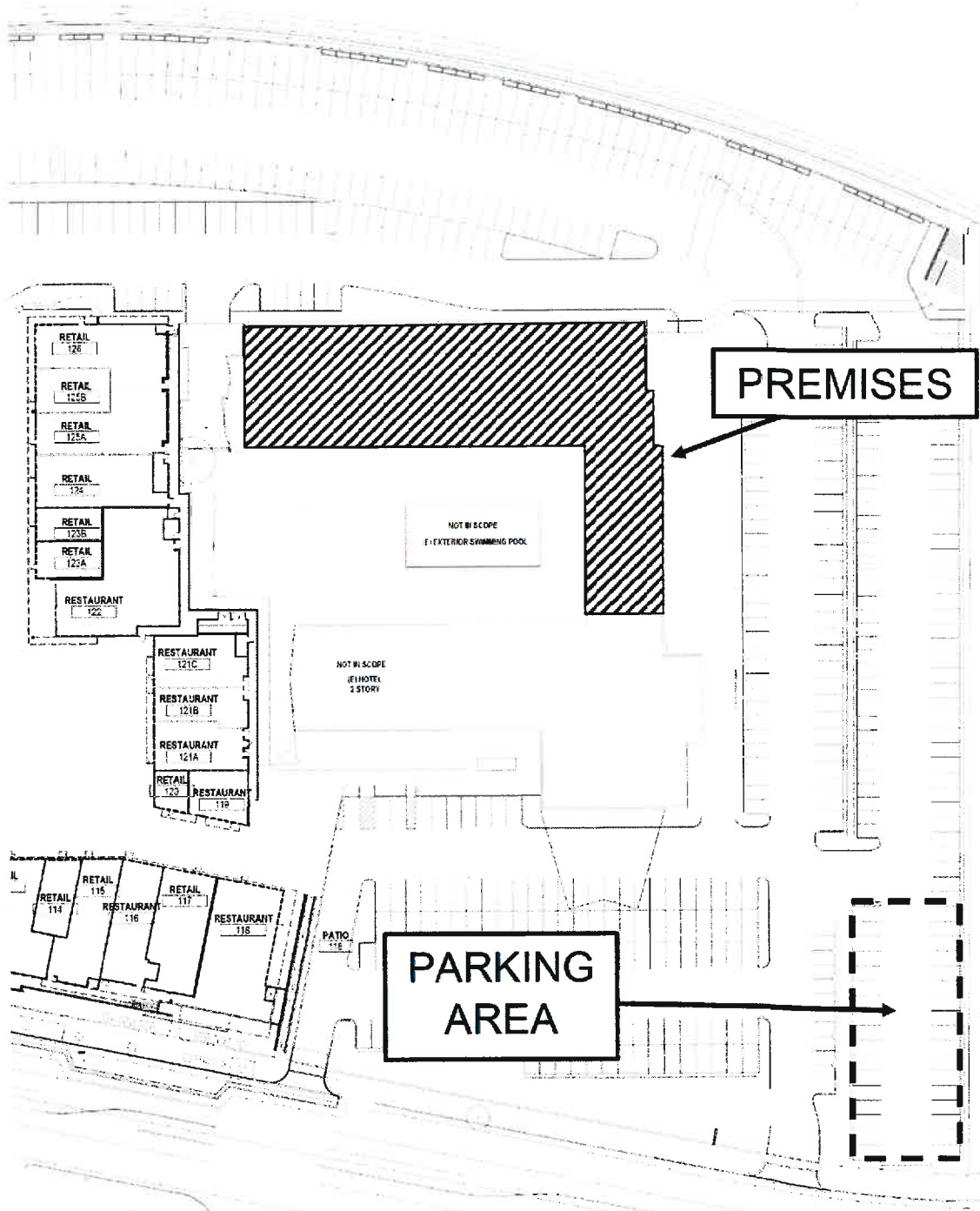
By: Ventura Blvd. Associates LLC,
a Delaware limited liability company,
its managing member

By: Midwood VBA Manager LLC,
a Delaware limited liability company
its Manager


Name: John Usdan
Title: Sole Member

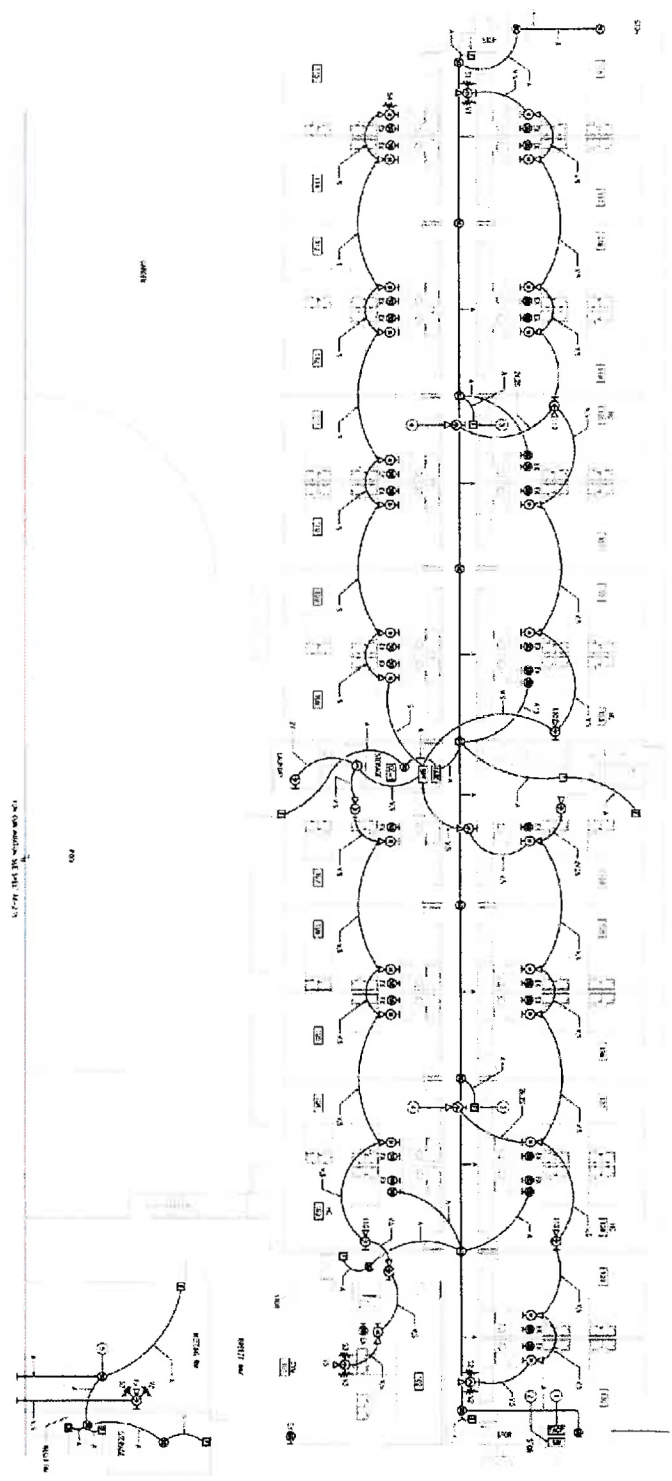
[end of signatures]

EXHIBIT A
SITE PLAN AND FLOOR PLANS



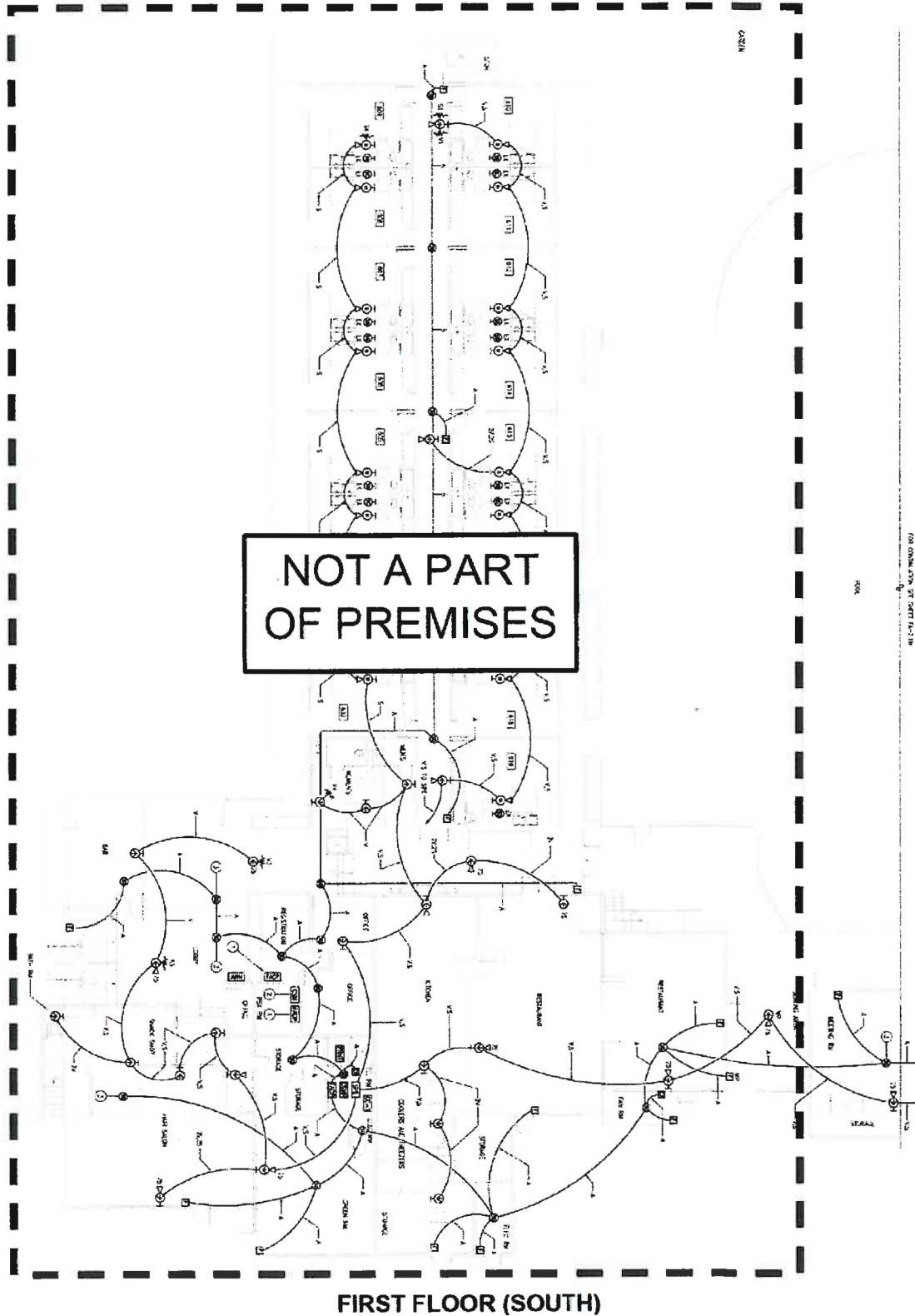
July 21, 2020

ROOM PLANS

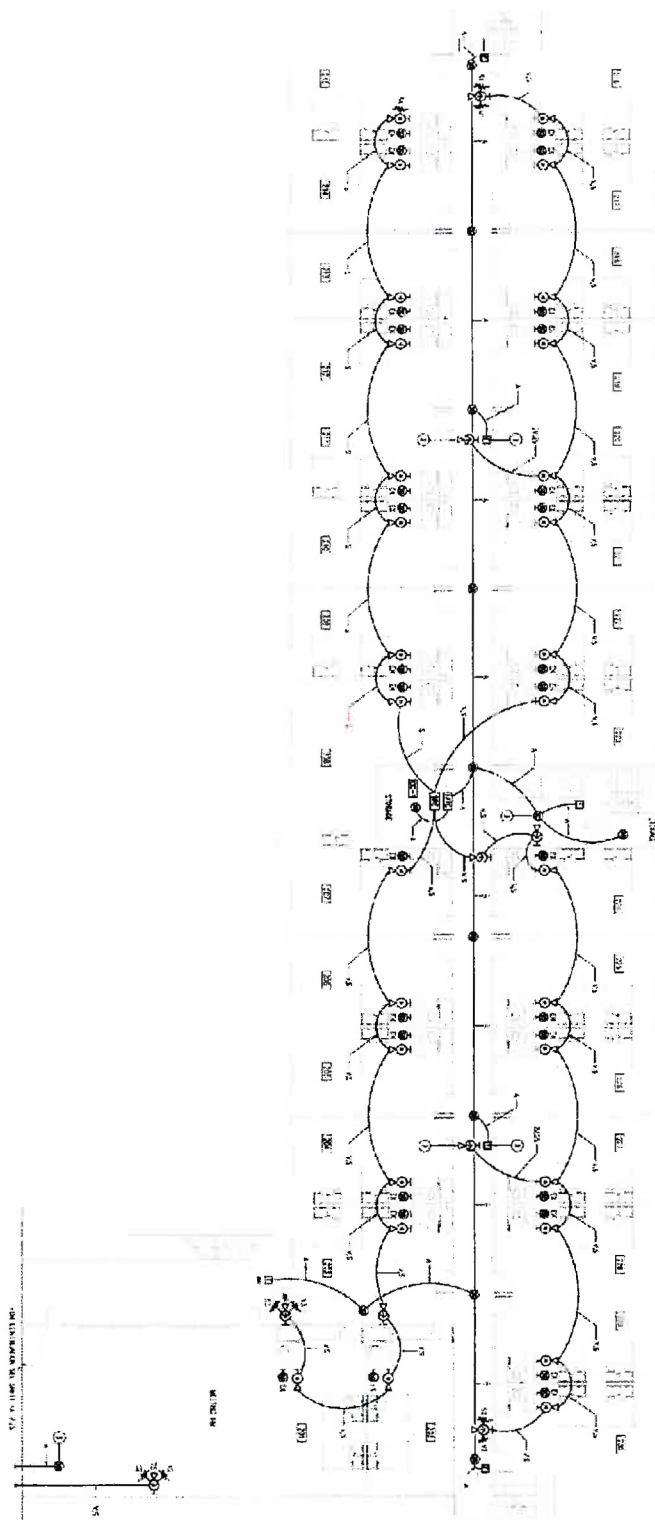


FIRST FLOOR (NORTH)

ROOM PLANS

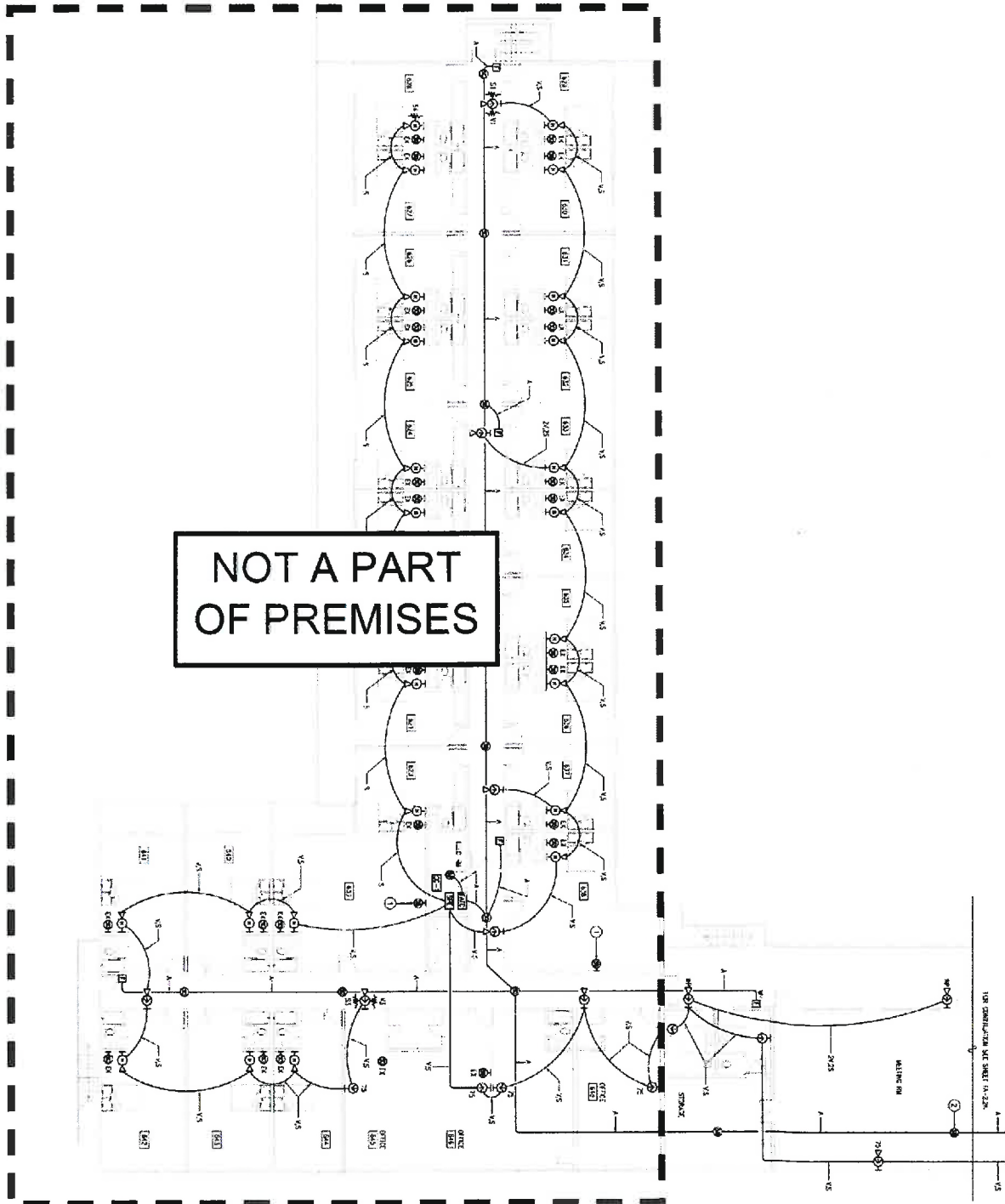


ROOM PLANS



SECOND FLOOR (NORTH) – REPEATS THROUGH FIFTH FLOOR

ROOM PLANS



SECOND FLOOR (SOUTH)

APPENDIX A, 44 C.F.R. PART 18- CERTIFICATION REGARDING LOBBYING
Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned Owner certifies, to the best of his or her knowledge, that:

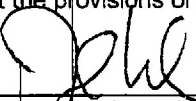
A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

C. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Owner, SPORTSMEN'S LODGE OWNER LLC, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Owner understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.



Signature of Owner's Authorized Official

John Usdan, Sole Member
Name and Title of Owner's Authorized Official

July 30, 2020
Date

IRAN CONTRACTING ACT OF 2010 COMPLIANCE AFFIDAVIT

(California Public Contract Code Sections 2200-2208)

The California Legislature adopted the Iran Contracting Act of 2010 to respond to policies of Iran in a uniform fashion (PCC § 2201(q)). The Iran Contracting Act prohibits bidders engaged in investment activities in Iran from bidding on, submitting proposals for, or entering into or renewing contracts with public entities for goods and services of one million dollars (\$1,000,000) or more (PCC § 2203(a)). A bidder who "engages in investment activities in Iran" is defined as either:

1. A bidder providing goods or services of twenty million dollars (\$20,000,000) or more in the energy sector of Iran, including provision of oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran; or
2. A bidder that is a financial institution (as that term is defined in 50 U.S.C. § 1701) that extends twenty million dollars (\$20,000,000) or more in credit to another person, for 45 days or more, if that person will use the credit to provide goods or services in the energy sector in Iran and is identified on a list created by the California Department of General Services (DGS) pursuant to PCC § 2203(b) as a person engaging in the investment activities in Iran.

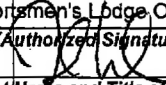
The bidder shall certify that at the time of submitting a bid for new contract or renewal of an existing contract, the bidder is **not** identified on the DGS list of ineligible businesses or persons and that the bidder is **not** engaged in investment activities in Iran in violation of the Iran Contracting Act of 2010.

California law establishes penalties for providing false certifications, including civil penalties equal to the greater of \$250,000 or twice the amount of the contract for which the false certification was made; contract termination; and three-year ineligibility to bid on contracts (PCC § 2205).

To comply with the Iran Contracting Act of 2010, the bidder shall provide its vendor or financial institution name, and City Business Tax Registration Certificate (BTRC) if available, in completing ONE of the options shown below.

OPTION #1: CERTIFICATION

I, the official named below, certify that I am duly authorized to execute this certification on behalf of the bidder or financial institution identified below, and that the bidder or financial institution identified below is **not** on the current DGS list of persons engaged in investment activities in Iran and is **not** a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person or vendor, for 45 days or more, if that other person or vendor will use the credit to provide goods or services in the energy sector in Iran and is identified on the current DGS list of persons engaged in investment activities in Iran.

Vendor Name/Financial Institution (printed) Sportsmen's Lodge Owner, LLC		BTRC (or n/a) n/a
By (Authorized Signature) 		
Print Name and Title of Person Signing John Usdan, sole member		
Date Executed 7/29/2020	City Approval (Signature)	(Print Name) John Usdan

OPTION #2: EXEMPTION

Pursuant to PCC § 2203(c) and (d), a public entity may permit a bidder or financial institution engaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit a proposal for, or enter into, or renew, a contract for goods and services. If the bidder or financial institution identified below has obtained an exemption from the certification requirement under the Iran Contracting Act of 2010, the bidder or financial institution shall complete and sign below and attach documentation demonstrating the exemption approval.

Vendor Name/Financial Institution (printed)		BTRC (or n/a)
By (Authorized Signature)		
Print Name and Title of Person Signing		
Date Executed	City Approval (Signature)	(Print Name)