

RIGHT OF ENTRY/PUBLIC IMPROVEMENT/INDEMNITY AGREEMENT

This Right of Entry/Public Improvement/Indemnity Agreement ("Agreement") is made this 19th day of May, 2020 ("Effective Date"), by and between the City of Redlands, a municipal corporation ("City"), and Duke Realty Limited Partnership, a California limited partnership ("Duke"). City and Duke are sometimes individually referred to herein as a "Party" and, together, as the "Parties."

1. Consent. City hereby grants permission to Duke, and its agents, employees, consultants, contractors and representatives, for a period of one hundred twenty (120) calendar days from the Effective Date of this Agreement, to enter onto the property owned by City and described as 9180 Alabama in the city of Redlands (the "Property") for the purpose of performing grading and the construction of site walls (collectively, the "Permitted Activities"), at the sole cost of Duke. Duke shall provide City with three (3) days prior written notice specifying the anticipated dates on which Duke intends to enter upon the Property.

2. Term. The Agreement shall terminate one hundred twenty (120) calendar days after the Effective Date of this Agreement unless earlier terminated as provided for herein.

3. Consideration. In consideration of City's willingness to grant Duke this right of entry upon City's Property, Duke voluntarily offers, and City hereby accepts, Duke's (i) provision and installation of new perimeter fencing for City, (ii) removal of certain identified abandoned light poles, and (iii) removal of certain identified eucalyptus trees on City property, at Duke's sole cost.

4. Removal and Restoration. Duke shall remove all equipment and personal property brought onto the Property in connection with the Permitted Activities and shall restore the Property to its condition existing as of the Effective Date of this Agreement, and shall subsequently vacate the Property, ensuring that the Property is left in good and clean condition.

5. Indemnity. Duke shall be responsible for any damages caused by the acts and/or omissions of its employees, agents, representatives or contractors while on the Property in connection with the Permitted Activities. Duke shall defend, indemnify and hold City and its elected officials, officers, employees, agents, successors and assigns harmless from, and defend City against, any and all losses, damages, costs, penalties, expenses, liabilities, judgments, liens, suits, claims or demands relating to or arising out of the Permitted Activities conducted on the Property pursuant to this Agreement, except to the extent that the same are attributable to the sole active negligence or willful misconduct of City or its elected officials, officers, employees, agents, successors and assigns. This obligation shall survive the termination of this Agreement.

6. Insurance. Duke and its contractors, respectively, shall procure and maintain the following insurance coverage for all of Duke's employees and its contractors performing any Permitted Activities on the Property:

A. Workers' Compensation and Employer's Liability insurance pursuant to Labor Code sections 3700 and 1860 in an amount which meets statutory requirements.

B. Business automobile liability coverage, with minimum limits of One Million Dollars (\$1,000,000) per occurrence, combined single limit for bodily injury liability and property damage liability. This coverage shall include all owned vehicles used for the Permitted Activities, hired and non-owned vehicles, and employee non-ownership vehicles. City shall be named as an additional insured and the insurance policy shall include a provision requiring thirty (30) days prior written notification to City of any proposed lowering of coverage limits or cancellation of the policy. Such insurance shall be primary and non-contributing to any insurance or self-insurance maintained by City. A certificate of insurance and the corresponding blanket additional insured endorsements shall be delivered to City prior to commencement of any of the Permitted Activities.

C. Commercial general liability insurance with carriers rated at least A minus by AM Best. Minimum coverage of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate for public liability, property damage and personal injury is required. City shall be named as an additional insured and the insurance policy shall include a provision requiring thirty (30) days prior written notice to City of any proposed lowering of coverage limits or cancellation of the policy. Such insurance shall be primary and non-contributing to any insurance or self-insurance maintained by City. A certificate of insurance and the corresponding blanket additional insured endorsements shall be delivered to City prior to commencement of any of the Permitted Activities.

7. Entire Agreement. This Agreement contains the entire agreement of the Parties with respect to the Permitted Activities. No amendment of this Agreement shall be binding upon a Party unless made in writing and signed by the Parties.

8. Attorneys' Fees. In the event any action is commenced to enforce or interpret any of the terms or conditions of this Agreement the prevailing Party shall, in addition to any costs and other relief, be entitled to the recovery of its reasonable attorneys' fees, including fees for use of in-house counsel by a Party.

9. Termination. Either Party may terminate this Agreement upon five (5) calendar days prior written notice to the other Party specifying its intention to terminate this Agreement and setting forth the termination date; provided however, if City determines that Duke is in breach of any provision of this Agreement, or that the actions of Duke, or its employees, contractors, or agents jeopardize the public health, safety or welfare, City shall have the right to notify Duke in writing of City's immediate suspension or termination of this Agreement.

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

11. Notices. All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested or by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, addressed as follows (or any other address that the Party to be notified may have designated to

the sender by like notice):

CITY:

City Clerk
City of Redlands
35 Cajon Street
P.O. Box 3005 (mailing)
Redlands, CA 92373
jdonaldson@cityofredlands.org
(909) 798-7531

CONSULTANT:

Christian Cochrun, Sr Project Manager
Duke Realty Limited Partnership
200 Spectrum Center Drive Suite 1600
Irvine CA 92618
Christian.Cochrun@dukerealty.com
(949) 370-9470

IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their respective seals the day and year first above written.

CITY OF REDLANDS

DUKE REALTY LIMITED
PARTNERSHIP

By:



Paul W. Foster, Mayor

By:



Brian Knochenhauer, VP Operations,
Construction

ATTEST:

By:


Jeanne Donaldson, City Clerk



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
04/30/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER MARSH USA, INC. TWO ALLIANCE CENTER 3560 LENOX ROAD, SUITE 2400 ATLANTA, GA 30326 Attn: Fax: (212) 948-4321, Atlanta.certrequest@marsh.com CN102736346-GAWU-19-20 CONS SC		CONTACT NAME: PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL: ADDRESS:	
		INSURER(S) AFFORDING COVERAGE	
		INSURER A : Hartford Fire Insurance Co	
		INSURER B : N/A	
		INSURER C : N/A	
		INSURER D :	
		INSURER E :	
		INSURER F :	

COVERAGES

CERTIFICATE NUMBER:

ATL-005062036-01

REVISION NUMBER: 6

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PROJECT ☒ LOC OTHER:			20 CSE QU2161	07/01/2019	07/01/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	☐ AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	☐ UMBRELLA LIAB ☐ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☐ RETENTIONS						EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: Permit for Palmetto and Alabama (DUKEAN-981) located at 9180 Alabama St., Redlands, CA 92374

City of Redlands is included as additional insured where required by written contract with respect to General Liability.

CERTIFICATE HOLDER

CANCELLATION

City of Redlands Attn: Risk Management Division PO Box 3005 Redlands, CA 92373	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE of Marsh USA Inc. Manashi Mukherjee <i>Manashi Mukherjee</i>

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