

## **LICENSE AND HOLD HARMLESS AGREEMENT**

This License and Hold Harmless Agreement ("Agreement") is entered into this 21<sup>st</sup> day of March, 2017, by and between the City of Commerce ("Licensor"), and Craig Realty Group Citadel, LLC, California Limited Liability Company ("Licensee").

### **R E C I T A L S**

WHEREAS, Licensor owns 10.62 acres of partially improved real property located in the City of Commerce and more particularly described in the Certificates of Compliance recorded February 3, 2012, as Instrument No. 2012018998, Exhibits "A-2" and "B" (the "Premises"); and

WHEREAS, Licensor is currently the owner of record of the Premises, but pursuant to AB 26 and AB 1484, is holding the Premises in trust for the Successor Agency to the Commerce Community Development Commission ("Successor Agency"); and

WHEREAS, the Successor Agency and Licensee have agreed upon a price for the purchase of the Premises and are currently working on the completion of a Purchase and Sell Agreement for the Premises. Licensee desires to have access to the Premises at this time in order to conduct certain geotechnical/geological testing that will be necessary to evaluate the condition and usability of the Premises for Licensee's intended purposes; and

WHEREAS, the scope of work will consist of a feasibility investigation including a site reconnaissance and limited subsurface exploration. Licensee's contractor will perform Cone Penetration Tests (CPTs) to evaluate the existing subsurface conditions. The location of the CPTs are shown on Exhibit "A" which is attached hereto and incorporated herein by reference. Licensee's contractor will also perform percolation/infiltration testing to determine the feasibility of storm water disposal; and

WHEREAS, Licensor desires to license the Premises for access by Licensee and its employees, its contractor, subcontractors and their employees in connection with such due diligence investigation.

NOW, THEREFORE, in consideration of the foregoing recitals, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Licensor and Licensee hereby agree as follows:

### **AGREEMENT**

#### **SECTION 1. LICENSE OF THE LICENSED AREA**

Licensor grants to Licensee, for the sole benefit of Licensee, an exclusive, non-assignable license to enter upon the Premises for the sole purpose of completing certain preliminary due diligence investigation to determine the suitability of the Premises for Licensee's desired use(s), or portion thereof, which preliminary due diligence efforts shall include CPTs to evaluate the existing subsurface conditions and percolation/infiltration testing to determine the feasibility of storm water disposal (the "Permitted Use"). The work will be completed within three days. Prior to any of the work being started, a subsurface utility survey will be performed by a geophysical consultant to evaluate for the presence of subsurface utilities at the proposed work locations.

Licensee shall (i) conduct all tests and studies in a diligent, expeditious and safe manner and not allow any dangerous or hazardous conditions to occur on the Premises; (ii) comply with all applicable laws and governmental regulations; (iii) keep the Premises free and clear of all materialmen's liens, lis pendens and other liens arising out of the entry and work performed under this paragraph; and (iv) return the Premises to its original condition following Licensee's entry.

The Premises are located at the northwest corner of Washington Boulevard and Telegraph Road, Commerce, California, and is depicted in the map attached hereto as Exhibit "A."

## SECTION 2. TERM

The term ("Term") of this License to use the Licensed Area shall commence on March 22, 2017 ("Commencement Date") and, unless earlier terminated by Licensor for Licensee's default hereunder, shall automatically terminate on April 22, 2017 ("Expiration Date").

## SECTION 3. INDEMNIFICATION

Licensee agrees and acknowledges that its use of the Licensed Area is at its sole risk, and Licensee hereby waives, releases and absolves Licensor, its officers, agents and employees (the "Licensor Parties") from any and all cost, loss, damage, expense, and liability, whether foreseeable or not, from any cause whatsoever, that Licensee may suffer to its personal property located anywhere in the Licensed Area or that it or its agents, employees, principals, and invitees may suffer as a direct or indirect consequence of Licensee's use of the Licensed Area or access areas to the Licensed Area or for any other reason arising from or related to this Agreement. In addition, Licensee hereby agrees to indemnify, defend, protect, and hold Licensor and the Licensor Parties harmless from and against any loss, cost (including, but not limited to, attorneys' fees), damage, liability, expense, claim, or action or cause of action of any third party (including, but not limited to, employees, agents, contractors, invitees and licensees of Licensee), whether foreseeable or not, resulting as a direct or indirect consequence of or use of the Licensed Area or access areas to the Licensed Area or for any other reason arising from or related to the Agreement. Licensee's indemnification obligations hereunder shall survive the expiration or earlier termination of this Agreement.

## SECTION 4. INSURANCE

Licensee shall (i) maintain or assure maintenance of workers' compensation insurance (or state approved self-insurance) on all persons entering the Premises in the amounts required by the State of California; (ii) provide to Licensor prior to initial entry a certificate of insurance evidencing that Licensee has procured and paid premiums for an all-risk public liability insurance policy written on a per occurrence and not claims made basis in a combined single limit of not less than Two Million Dollars (\$2,000,000.00) which insurance names Licensor as additional insured entitled to not less than thirty (30) days cancellation notice and is primary and non-contributing with insurance carried by Licensor.

## SECTION 5. MISCELLANEOUS

- (a) Time is of the essence of this Agreement and each of its provisions.
- (b) This Agreement shall be construed and enforced in accordance with the laws of the State of California.
- (c) In the event of any litigation between the parties respecting this Agreement, the prevailing party shall be entitled to recover from the unsuccessful party its reasonable attorneys' fees and costs as part of the judgment.
- (d) This License is not to be construed as in any way granting to Licensee any leasehold or other real property interest in the Licensed Area, it being intended that this Agreement merely grants to Licensee this License to enter upon and use the Licensed Area during the Term in accordance with the terms and conditions hereof and shall not be deemed to grant to Licensee a leasehold or other real property interest in the Licensed Area.

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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by duly authorized individuals effective as of the date first written above.

**LICENSOR:**

CITY OF COMMERCE

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Ivan Altamirano, Mayor

By: \_\_\_\_\_  
Eduardo Olivo, City Attorney

**LICENSEE:**

CRAIG REALTY GROUP CITADEL, LLC,  
a California limited liability company

By: Citadel SPE, Inc.  
a Delaware corporation,  
its Manager

By: \_\_\_\_\_  
Steven L. Craig  
President

EXHIBIT A



