

**Eckington Yards
Construction Management Agreement
Zoning Commission Case No. 15-15**

JBG/Boundary 1500 Harry Thomas Way, L.L.C. and JBG/Boundary Eckington Place, L.L.C. (collectively, the “**Applicant**”) proposes to perform the work described in Zoning Commission Case No. 15-15 (the “**Project**”) in accordance with the provisions of this Agreement, which outlines the steps and actions that the Applicant shall undertake to mitigate impacts on the adjacent community from noise, traffic, pollution, or other adverse effects of the Applicant’s construction or operational activities. The Applicant will comply with all applicable District of Columbia Municipal Regulations applicable to hours of work, noise, dirt, trash, and public health and safety. The Applicant, the contractors, subcontractors or its authorized agents, will secure all permits that are required to complete the Project. All plans and permits will be on-site as required under the DC Construction Code.

The provisions of this Agreement are contingent upon the Zoning Commission’s approval of the Applicant’s proposed modification to Zoning Commission Order No. 05-23A approved for the property located on Lot 815, Square 3576 at Eckington Place NE and Harry Thomas Way NE (“The Gale”). If the Applicant does not pursue the proposed modification, or receives a denial by the Zoning Commission of the Applicant’s proposed modification to Order No. 05-23A, this Agreement will nullify and require the development of a replacement Construction Management Agreement that accounts for the existing conditions under Order No. 05-23A. This agreement is contingent on the Zoning Commission’s approval of the Applicants proposed case No. 15-15.

The Applicant will engage a transportation consultant to conduct a transportation study to review the impact of the project within the 5E03 and 5E04 ANC boundaries. Such transportation study will be provided to the District of Columbia Department of Transportation (“DDOT”), the Eckington Civic Association (“ECA”), and the 5E03 ANC SMD to be further distributed by representatives of the ECA and the 5E03 ANC SMD to 5E03 and 5E04 Commissioners and residents. The results of said study will be utilized to inform discussions and decisions with regards to traffic, parking, motorized and pedal (bicycle) vehicular movements, and site access and operations.

1. Communication:

- a) The Applicant shall designate a representative (“**Representative**”), who is authorized to address complaints and will be the key contact for members of the community regarding construction activities. This Representative shall have a local office, phone, e-mail and voicemail, and be accessible during business hours. In addition, the Applicant will provide an emergency point of contact that can be reached 24 hours a day for construction concerns.
- b) Contact information for the representative and the emergency contact shall be posted at the construction trailer or a designated location.

- c) At least sixty (60) days prior to the commencement of construction of the Project, the Applicant shall hold a meeting with adjacent and nearby property owners to review the construction schedule, hours, and management plan provisions discussed herein. The minutes of the meeting shall be shared with the property owners within five (5) business days of the conclusion of the meeting.
- d) The Applicant shall provide a monthly update on the construction progress via website posting or via email distribution. The method and form of the monthly update will be determined at the Applicant's discretion. The monthly update shall include information on anticipated construction activities for the upcoming 30 days.
- e) The Applicant shall designate a representative who is authorized to address damage claims on adjacent property as a result of the construction. The designated representative may be the same individual identified as the representative referenced in Section 1 (a).

2. Construction Activity Hours:

- a) Construction Hours will be as follows:
 - i. 7:00 AM to 7:00 PM, Monday through Friday
 - ii. 8:00 AM to 7:00 PM on Saturday
 - iii. No hours on Sunday
- b) The Applicant shall not permit any noise-generating activity on the Project site outside of the stated construction hours without advance notice, which shall be provided no less than 48 hours in advance of the activity.
- c) The Applicant will adhere to District of Columbia noise regulations at all times.

3. Project Personnel:

- a) The Applicant shall require that vehicles used by contractors and employees relating to the Project construction will park on the Property, at The Gale or at other available private parking locations and shall not utilize neighborhood street parking. The Applicant and its invitees, employees, and contractors, including the general contractor shall have the right to purchase or rent parking at available neighborhood parking lots or garages for construction parking related to the Project.
- b) The Applicant will direct project personnel to avoid congregating in the public alley between the Project site and the adjacent properties to the north.
- c) The Applicant shall require that all contractors and subcontractors, and their agents and employees, be contractually required to follow the terms of and comply with this Agreement.

4. Construction Traffic:

- a) The Applicant shall use commercially reasonable efforts to ensure that construction trucks related to the Project shall access the Property from the south utilizing Florida Avenue NE, Eckington Place NE, and Harry Thomas Way NE, subject to DDOT approval. The Applicant shall work with DDOT and the Project's general contractor, with input from the community representatives, to finalize the Project's traffic control plan during construction.
- b) All construction vehicles shall comply with the approved construction routes as designated by the Applicant and DDOT.

- c) All vehicles for delivery of materials, construction or otherwise, will arrive, depart, and operate on the Project site within the designated construction hours set forth in Section 2.
- d) The Applicant shall not permit any construction related activity that requires the movement of heavy vehicle traffic outside of the construction hours set forth in Section 2 without advance notice, which shall be provided no less than 48 hours in advance of the activity.
- e) No queuing, idling, standing, or parking of construction vehicles shall be allowed on Quincy Street NE or R Street NE.
- f) Removal and replacement of construction dumpsters shall occur only during the construction hours set forth in Section 2.

5. Staging and Site Management:

- a) The Applicant shall erect and maintain construction fencing in order to screen and secure the site during construction. All construction materials and equipment, including construction trailers and portable toilets, will be located within the perimeter of the fencing for the duration of the Project. The Applicant shall maintain the fences in good order and repair.
- b) The Applicant shall not permit the use of the east portion of the site, also referred to as Lot 814, Square 3576, as a staging area for construction materials used in the construction of the west portion of the site, also referred to as Lot 805, Square 3576. The Applicant shall be permitted to utilize Lot 814, Square 3576 for parking and/or office use during the construction of Lot 805, Square 3576.
- c) The Applicant shall install temporary lighting, if required, sufficient for safety and security during construction. Any temporary lighting shall be directed at the construction site and away from neighboring properties. The Applicant shall maintain current lighting in the public space surrounding the Project site at all times, subject to temporary construction needs or permanent replacement of adjacent streetlights..
- d) The Applicant shall work with all relevant utilities, including those providing water, sewer, electric, gas, telecommunications, and other services, to prevent or minimize the interruption or disruption of such services to the neighboring community. When interruptions or disruptions must occur, the Applicant will provide a minimum of 48 hours notice to impacted residents for any utility outages or inconveniences to daily home operations as a result of the construction.
- e) The Applicant shall not permit any planned utility outages to exceed 12 consecutive hours. The restoration of interrupted or disrupted services will occur at no cost to the affected property owners, if such interruption or disruption is caused by the Applicant, its agents or affiliates.
- f) The Applicant will develop and implement (after approval by DDOT) a plan for temporary pedestrian circulation around the Project site during the construction of the Project.
- g) The Applicant shall develop and implement a substantive rodent and pest abatement/control program (to include rats, mice, snakes, and other wildlife commonly considered to be pests) thirty (30) days prior to the start of land disturbing activities on the Project site and continuing at least ninety (90) days post issuance of the final base building certificate of occupancy for the Project. Non-toxic, chemical-free pest control measures will be used as appropriate. Such

- measures shall also be extended to the exterior of adjacent properties.
- h) The Applicant shall maintain the Project site free of mosquito breeding grounds beginning at the start of land disturbing activities on the Project site and until issuance of the final base building certificate of occupancy for the Project. Measures shall include routine inspection for and elimination of mosquito breeding in places including discarded receptacles and building waste on the Project site, building materials, equipment and machinery, puddles, water storage drums or containers, dumpsters, trenches, drains or channels temporarily constructed to drain off water, or any other water-bearing receptacles.
 - i) The Applicant shall follow all District of Columbia regulations throughout the razing of the existing structures, excavation of the foundation, and during the construction phase for items such as dust, dirt, and debris, including glass, nails, bricks, metal, roofing, insulation, pipes, or concrete rubbish.
 - j) Existing structures on the Project site shall go through a full remediation and removal of all hazardous materials prior to being razed.
 - k) The Applicant shall use commercially reasonable efforts to minimize dust on the surrounding properties and streets as required by DC law.
 - l) The Applicant will undertake commercially reasonable efforts to ensure that trucks carrying dust, dirt, debris, or other excavation materials or fill minimize the spillage of dirt on public streets and will be covered both entering and exiting the construction site, to the extent required by DC law, and they shall be cleaned (if necessary) prior to exiting the site so as to minimize any demolition items on the roadways.
 - m) The Applicant shall require removal of excess and loose rubbish, food and drink debris and other debris resulting from the construction site during the normal construction workday and during any other periods of work.
 - n) The Applicant shall use commercially reasonable efforts to ensure that any streets that surround the construction area and/or serve as construction routes are kept clean of dirt, any trash and debris resulting from construction activities or workers.
 - o) Upon notification from a neighboring property owner, the Applicant shall promptly clear from their yard any substantial debris, or materials caused as a result of the proposed construction.
 - p) The Applicant shall maintain temporary water and stormwater management systems throughout the Project's construction until such time as the permanent facilities are constructed, approved, and functioning such that there shall be no adverse water impacts on the surrounding neighborhood.

6. Public Alley:

- a) The Applicant shall maintain access to the public alley located northeast of the Property in the rear of the 200 block of R Street NE (the "**Alley**") in accordance with, and subject to, all DDOT requirements. This includes maintaining access to parking spaces, trash removal services, and service truck access to the residential properties adjacent to, and to the north of, the Alley.
- b) The Alley will not be closed off or obstructed without advance notice to the impacted residents. The Applicant will notify the R Street owners of scheduled Alley closures at least five (5) days in advance of the closure with the details of the work to be performed including start and end times for the closure. If a closure lasts more than

12 consecutive hours for any one resident or more, alternative parking arrangements within .25 miles of the Alley will be made at no cost to the impacted residents. Reasonable expenses incurred by R Street Owner/Residents as a result of parking in the alternative parking arrangements provided by the Applicant shall be paid by the Applicant. The Applicant shall not be responsible for expenses incurred by R Street Owner/Residents should they choose not to utilize the alternative parking arrangements or abide by the rules, laws and regulations governing the locations and use of the alternative parking arrangements.

- c) Should the Alley be utilized for the Projects's loading area during the construction phase, the entrance will be set back from the Alley to allow sufficient space to ensure trucks are able to enter and exit without backing into the alley upon entry or exit. The Construction Site's loading area will be of a depth that accommodates full extension of any construction vehicle(s) parked in the loading area so that there is no part of the vehicle(s) protrude into the Alley when parked. There will be no restriction of the ability of adjacent property owners or residents to use the Alley or to enter and exit their parking spaces.

7. Personal and Property Damage

- a) In addition to complying with all required environmental rules and regulations, the Applicant shall consider additional environmental monitoring measures that may be necessary to protect the public health and property of the surrounding community. Such measures may include on-site screening of excavated soils or monitoring air conditions in the work area and vicinity during excavation and construction periods.
- b) The Applicant shall take commercially reasonable measures to avoid substantial adverse noise and vibration impacts on surrounding properties. These efforts may include provisions for pile driving, vibratory hammers, or acoustic insulation for perimeter fencing.
- c) The Applicant shall monitor construction dewatering during excavation of the below-grade levels and the installation of building foundations and below-grade walls.
- d) The Applicant shall make commercially reasonable attempts and abide by DC law to enter into agreements with each property owner should there be crane swings above that property owner's property.
- e) The Applicant shall hire an independent testing and inspection firm to conduct a thorough pre-construction survey (including, but not limited to, photographic and video documentation) of adjacent properties. The pre-construction survey will be used to document the condition of existing properties, to monitor conditions as issues are raised by adjacent property owners, and to serve as a basis for insurance claims and maintenance claims for those properties. A copy of such report will be provided to the owner of the adjacent property subject to such report. If the Applicant is not permitted access to an adjacent property to conduct the survey, the Applicant is not required to perform the survey of that property and will not be liable for any damaged caused to said property.
- f) The Applicant shall hire an independent consultant to monitor and measure vibrations during the demolition and construction of the Project. The equipment shall be placed in locations as recommended by the independent consultant and shall be used to prevent potentially damaging vibrations and noise from extending

into the adjacent properties. These include waves induced by drilling, pile driving, motorized vehicles, hammering due to building construction materials (steel, concrete, etc.), and generator/motorized site construction and maintenance equipment.

- g) The Applicant will conduct periodic visual assessments of the exterior of adjacent properties throughout construction.
- h) The Applicant agrees to repair, at its own expense and within 3 business days, any loss or damage to the adjacent property caused by or resulting from the Applicant's construction activity. If a repair is required that cannot be completed promptly, the Applicant will take the necessary steps to complete a temporary repair in order to secure and protect the damaged area until a permanent repair can be made.
- i) The Applicant, its agent, or its general contractor shall procure, or cause to be procured, and maintain at its own cost commercial general liability insurance covering the Property for the duration of the Project and for three years after the issuance of the final base building certificate of occupancy for the Project.
- j) The Applicant will make commercially reasonable efforts to limit damage, as a result of the construction, to adjacent properties.

8. Post-Construction

- a) At the appropriate time during the construction phase, the Applicant will repave the entirety of the Alley with the approved design as agreed upon by DDOT with input from the R Street owners.
- b) The Applicant shall coordinate with adjoining property owners the installation of any lighting in the Alley space required by DDOT.
- c) The Applicant shall install mirrors on the Property, to the extent permitted by DDOT, in the Alley to assist drivers in seeing oncoming traffic and traffic entering or exiting the Alley.
- d) The Applicant shall assume responsibility for any Alley maintenance, including snow and ice removal, not provided by District of Columbia government agencies, in accordance with District of Columbia requirements of property owners.
- e) Any security cameras installed by the Applicant on the finished Project must not be pointed directly at adjacent property windows or in their backyards.
- f) The Applicant shall clean or arrange for the cleaning of the exterior windows of the residential properties adjacent to the Property, which are located on the 200 block of R Street NE, within 30 days after the completion of demolition work and within 30 days after the completion of all construction related to the Project.
- g) The Applicant shall change or arrange for the changing of the filters of the HVAC units in the residential properties adjacent to the Property, which are located on the 200 block of R Street NE, within 30 days after the completion of demolition work and within 30 days after the completion of all construction related to the Project.
- h) The Applicant shall develop a loading management plan for the Project that includes the following: designates a member of the on-site management team as a loading dock coordinator; restricts all tenants from using trucks larger than those that can be accommodated in the proposed loading docks, as shown on the approved PUD plans, for the Project for Eckington Place NE and Harry Thomas Way NE; requires the loading dock door to be closed whenever not in active use; prohibits truck idling on the Property or in the Alley or street segments

- surrounding the Property; and prohibits stopping or standing of trucks as required by DC law.
- i) Preferred truck routes for all deliveries and trash disposal services will be established in consultation with DDOT.
 - j) Trash, recycling, and used cooking oil receptacles or hazardous materials will not be left or stored outside at any point. All commercial garbage will be stored in a conditioned air trash room.
 - k) The loading dock and trash room will have ventilation extending upward and not directed toward the public alley. Reports of excessive trash odor may be directed to the loading dock coordinator.
 - l) The loading dock coordinator will notify the trash service provider that DC Municipal Regulations prohibit trash collection by private haulers between the hours of 9:00 PM and 7:00 AM.
 - m) The Applicant will ensure that residential move-in and move-outs will be limited to the hours of 7:00 AM to 10:00 PM, and that moving trucks will not block traffic in the Alley.
 - n) The loading dock coordinator will be responsible for disseminating information to residents, tenants, vendors, suppliers, and service providers of the Project regarding rules and regulations, preferred truck routes, and hours of operation. Dock management duties may be part of other duties assigned to the loading dock coordinator.
 - o) In the event of damage to adjacent property by a tenant (residential or commercial), owner, or customer of the Property, or a vehicle, company, or person providing services to a tenant, owner, or customer of the Property, the Applicant and loading dock coordinator shall provide all reasonable assistance to the owner of such adjacent damaged property in identifying the party or parties responsible for the damage. This includes access to security footage, delivery logs, loading dock records, and any other information that would identify the party or parties responsible for such damage. The Applicant agrees not to take any action that would prejudice any adjacent property owner's right to recovery for such damages.
 - p) The Applicant will provide assurance that a rodent/pest control program and a mosquito control program for the facilities will be established from the time of construction and maintained throughout the period of occupancy as a part of the management services of the complex.

If a majority vote of the ANC determines that the Applicant has not fulfilled its obligations under this Agreement, then any community member shall be permitted to take all necessary legal action to enforce this Agreement. The Applicant shall request that the Zoning Commission include this Agreement as part of the PUD order.