

DA 717

APP NO 18-017

2SBK, INC.

UNCODIFIED ORDINANCE NO. _____

AN UNCODIFIED ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COMMERCE APPROVING AND ADOPTING FIRST AMENDMENT TO DEVELOPMENT AGREEMENT NO. 717 [ALSO IDENTIFIED AS COMMERCIAL CANNABIS PERMIT I.D. NO. 18-017] BETWEEN THE CITY OF COMMERCE AND 2SBK, INC. [A CALIFORNIA CORPORATION] FOR RELOCATION OF AN APPROVED COMMERCIAL CANNABIS BUSINESS TO 6445 BANDINI BOULEVARD; MAKING FINDINGS CONSISTENT WITH AND PURSUANT TO GOVERNMENT CODE SECTION 65867.5; AND MAKING FINDINGS OF A CEQA CATEGORICAL EXEMPTION

WHEREAS, the State of California enacted California Government Code Sections 65864 et seq. ("Development Agreement Statutes") to authorize municipalities to enter into development agreements with those having an interest in real property to strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development in connection with the development of real property within their jurisdiction;

WHEREAS, the purpose of the Development Agreement Statutes is to authorize municipalities, in their discretion, to establish certain development rights in real property for a period of years regardless of intervening changes in land use regulations, to vest certain rights in the Applicant, and to meet certain public purposes of the local government;

WHEREAS, as authorized by the Development Agreement Statutes, the City has adopted Resolution No. 18-50 ("A Resolution of the City Council of the City of Commerce Approving Procedures and Requirements for the Processing of Development Agreements") establishing the procedures and requirements for the consideration of development agreements with the City;

WHEREAS, on September 4 2018, City Council adopted Ordinance No. 700, concerning commercial cannabis regulations, which added new Chapter 5.61 "Commercial Cannabis Activities", of Title 5, "Business Regulations and Licensing", of the Commerce Municipal Code, and became effective October 4, 2018;

WHEREAS, the purpose and intent of Ordinance No. 700 is to regulate the cultivation, manufacturing, testing, distribution, non-storefront retailer-delivery only, and microbusinesses, of medicinal and adult-use cannabis and cannabis products, and the ancillary transportation and delivery of same, in a responsible manner to protect the health, safety, and welfare of the residents of the City of Commerce and to enforce rules and regulations consistent with the California Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), and related laws, regulations, and policies issued by the State of California;

WHEREAS, in October 2018, Owner 2SBK, Inc. (a California corporation) applied to this City for a Commercial Cannabis Permit (hereinafter "CCP") to conduct Commercial Cannabis Activities. No such activities are allowed or authorized without a Development Agreement, a Commercial Cannabis Permit, and all requirements pursuant to City Ordinance No. 700, including all requirements pursuant to Commerce Municipal Code Section 5.61.060, which includes all applicable local and State of California laws, regulations and policies;

WHEREAS, the definition of "Owner" hereunder shall mean and refer to the Development Agreement applicant, to the extent such person is a party to the Development Agreement, and will hold or be covered by a City of Commerce Commercial Cannabis Permit to operate a commercial cannabis business in the City of Commerce;

WHEREAS, Owner presently has a duly approved and executed Development Agreement with the City which allows for the operation of a commercial cannabis business for manufacturing and distribution at 5136 Triggs Street, in the City of Commerce, consistent with all applicable local and State of California laws, regulations and policies;

WHEREAS, a request was placed with CCP staff for the City to consent and agree to make modifications to the Development Agreement to change the location of the business from 5136 Triggs Street to 6445 Bandini Boulevard, in the City of Commerce, California ("Site");

WHEREAS, Article 21 of the Development Agreement requires that an Owner comply with all requirements proposing changes impacting a Development Agreement or a Commercial Cannabis Permit, as required pursuant to state law, City Resolution No. 18-50 regulating amendments to Development Agreements, and Ordinance No. 700, including Sections 5.61.150 through 5.61.210 thereof.

WHEREAS, in accordance with the terms of the Development Agreement, including Article 21, Owner has provided to the City of Commerce a written request to a modification to the Development Agreement for City's consent to a change of real property to relocate its business location. The City has received the application materials, information and requisite fees, and deems same to be sufficient, appropriate and complete for the purpose of determining that the proposed new business location meets the criteria as required in Ordinance No. 700 and the original Commercial Cannabis Permit application, for purposes of the foregoing terms of the Development Agreement;

WHEREAS, this First Amendment is intended to meet the requirements of Article 21 of the Development Agreement and Ordinance No. 700 for changes, amendments and modification to a Development Agreement, and is executed with the consent of City of Commerce as contemplated in the Development Agreement.

WHEREAS, this First Amendment is entered into pursuant to Government Code sections 65868 and 65867.5, which require that this Amendment be approved by City ordinance.

WHEREAS, all procedures of the California Environmental Quality Act ("CEQA"), California Public Resources Code §21000 et seq., and the CEQA guidelines, title 14 of the California Code of Regulations, chapter 3, §15000 et seq. have been satisfied;

WHEREAS, the City has found that the proposed Project is Categorically Exempt from California Environmental Quality Act (CEQA) requirements under provisions of CEQA Guidelines Section 15301 – Existing Facilities. This exemption applies to projects characterized as alterations to existing facilities meeting the conditions described in Section 15301;

WHEREAS, the City has given public notice of its intention to adopt this First Amendment to Development Agreement and has conducted a public hearing thereon pursuant to California Government Code §65867;

WHEREAS, the Planning Commission considered the provisions of the First Amendment to the Development Agreement at a duly noticed public hearing on November 26, 2019 wherein all interested parties were given an opportunity to be heard regarding the Agreement, and recommended approval of the First Amendment to the Development Agreement to the City Council, pursuant to an adopted Resolution, which is incorporated herein by this reference;

WHEREAS, Sections 65864-65859.5 of the California Government Code authorize the City to enter into development agreements and requires the planning agency of the City to find

the proposed Development Agreement to be consistent with the policies and programs of the General Plan and any applicable specific plan. Government Code Section 65865 authorizes the City to enter into development agreements with any person having a legal or equitable interest in real property, which interest Owner has in the Site, as evidenced by the information within the Development Agreement, and attachments thereto. Government Code Sections 65867.5 and 65868 further allow for amendments to a Development Agreement;

WHEREAS, after conducting a duly noticed hearing on December 17, 2019, in conjunction with the City's applicable ordinances and resolutions, and after independent review, consideration, analysis of staff's recommendations, oral and written testimony, and the record as a whole, the City Council approved the execution of this First Amendment to the Development Agreement, and made findings after due study, deliberation, and public hearing, the City Council found the Project: consistent with the goals, objectives, policies, general land uses and programs specified in the General Plan and any applicable special plan; compatible with the uses authorized in the City's standards, codes, and zoning laws; in conformity with the public necessity, public convenience, general welfare and good land use practices; in accordance with the Development Agreement Statutes, including Government Code Section 65864 through 65869.5; will not be detrimental to the health, safety and general welfare of the City; will not adversely affect the orderly development of property or the preservation of property values; will have a positive fiscal impact on the City; and is in the best interest of the City of Commerce and its residents;

WHEREAS, the City has given public notice of its intention to adopt this First Amendment to the Development Agreement and has conducted a public hearing thereon pursuant to California Government Code §65867; specifically, pursuant to California Government Code Sections 65867 and 65090, the City of Commerce, on December 5, 2019, published legal notice in the Los Angeles Wave News of City Council's consideration of this proposed First Amendment to the Development Agreement and mailed out notice to property owners located within 500 feet of the Site, indicating the public hearing to be held by the City of Commerce City of Council on December 17, 2019;

WHEREAS, all other legal prerequisites to the approval and adoption of this Ordinance approving and adopting this First Amendment to the Development Agreement have occurred.

NOW, THEREFORE, the City Council of the City of Commerce does ORDAIN as follows:

SECTION 1: RECITALS. That based upon staff reports, presentations, public testimony, and all other matters presented during the public hearing on this item, the City Council hereby finds and declares that the foregoing recitals are true and correct and incorporates them herein as findings and as a substantive part of this Ordinance.

SECTION 2: ADDITIONAL FINDINGS. Pursuant to the Government Section Code 65864 through 65869.5 and in light of the record before it including the staff report (and all attachments), and all evidence and testimony heard at the public hearing for this item, and in light of all evidence and testimony provided in connection with this Project, the City Council makes the following FINDINGS pertaining to the First Amendment to the Development Agreement as related to the proposed disposition of the Site for purposes of the Project:

FINDING 1: The proposed First Amendment to the Development Agreement is consistent with the goals and policies of the General Plan, its purposes and applicable Specific Plan(s).

Evidence: The proposed use is consistent with the objectives, policies, general uses, and programs of the Commerce General Plan. This project is consistent with the General Plan in that it contributes to help establish an orderly pattern of development, economic development, and a wide range of activities. The project will also improve an existing building that has been underutilized. It will improve upon that use and help compliment the general vicinity. As determined by staff, the use will promote the improvement of a location where reinvestment and revitalization is needed. Furthermore, the project will provide needed economic development to the community.

Evidence: The proposed use is one compatible and consistent within the subject zone and complies with the intent of all applicable provisions of this Title 19.

Evidence: The proposed use would not impair the integrity and character of the zone in which it is to be located. As proposed, the use will be complimentary to other uses in the immediate vicinity. As such, the proposed use will not impair the integrity of the area or its character. Appropriate conditions of approval have also been crafted in order to ensure the use operates in a manner so as not to impact the area in which it is located.

Evidence: The subject site is physically suitable for the type of land use being proposed. All proposals to accommodate the commercial cannabis use will occur within the existing footprint of the building.

Evidence: The proposed use would not be detrimental to the public interest, health, safety, convenience, or welfare. The proposed operation of the use will be conditioned to comply with all the applicable standards of the Zoning Ordinance, and with the conditions of approval, the project will not adversely impact the general welfare of the City. To the contrary, the proposed use will be complimentary to the existing operations currently occurring in the general vicinity and operated by the ownership group. Further, the proposed use will be maintained in a safe and efficient manner in accordance with the imposed conditions. The conditions imposed will serve the public interest, health, safety, convenience, and welfare. Therefore, the proposed use would not be detrimental to the public interest, health, safety, convenience, or welfare.

FINDING 2. All procedures of the California Environmental Quality Act (“CEQA”), California Public Resources Code §21000 et seq., and the CEQA guidelines, title 14 of the California Code of Regulations, chapter 3, §15000 et seq. have been satisfied and the City Council has found that the proposed Project is Categorically Exempt from California Environmental Quality Act (CEQA) requirements under provisions of CEQA Guidelines Section 15301 – Existing Facilities. This exemption applies to projects characterized as alterations to existing facilities meeting the conditions described in Section 15301;

Evidence: After a thorough examination of the Project application for the proposed Project and proposed Site, including, but not limited to, standard operating procedures (“SOPs”), security plan, site plan and environmental data form, staff determined that the approval of this First Amendment to the Development Agreement and the related commercial cannabis uses pursuant to this Project meet the provisions of CEQA categorical exemptions.

Evidence: Pursuant to CEQA, the City Council finds and determines there is no substantial evidence that the Project could have a significant effect on the environment. The Project is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment (CEQA Guidelines 15061(b)(3)). The City Council in its independent judgment finds that there is

no possible significant effect directly related to the Project because the Project consists of a small addition, expansion or alteration to an existing structure where there is negligible or no expansion of the use. The City Council finds that commercial cannabis uses will have similar impacts as the uses that have already been evaluated and are permitted by right in the applicable zone. The City Council finds that the Project will not cause any physical change in the environment, that the project is categorically exempt from CEQA under Administrative Code, Title 14, Chapter 3, § 15301(a), Class 1, Existing Facilities, and therefore no further action is required under CEQA.

SECTION 3: INCORPORATION, APPROVAL AND EXECUTION OF FIRST AMENDMENT TO DEVELOPMENT AGREEMENT. Based upon the findings outlined hereinabove, the City Council of the City of Commerce hereby approves a First Amendment to Development Agreement, and inclusive of exhibits thereof, [also identified as Commercial Cannabis Permit I.D. No. 18-017] between the City of Commerce and 2SBK, Inc. a California corporation), incorporated herein by this reference, and authorizes the Mayor to execute the First Amendment to Development Agreement subject to final and technical revisions as required and approved by the City Attorney.

SECTION 4: SEVERABILITY. If any section, subsection, line, sentence, clause, phrase, word, part, provision, or portion of this Ordinance, or its application to any individual, entity, or circumstance, for any reason, is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, and shall continue in full force and effect. To this end, any section, subsection, line, sentence, clause, phrase, word, part, provision, or portion of this Ordinance is severable. The City Council of the City of Commerce declares that this Ordinance would have been adopted by the City Council of the fact that any section, subsection, line, sentence, clause, phrase, word, part, provision, or portion thereof, might be declared to be invalid or unconstitutional.

SECTION 5: EFFECTIVE DATE. This Ordinance shall take effect on the thirty-first (31st) day after its adoption.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 20_____.

John Soria
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City

Attorney

RECORDING REQUESTED BY
City of Commerce
AND WHEN RECORDED MAIL TO:
City of Commerce
2535 Commerce Way
Commerce, CA 90040
Attention: City Manager

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SPACE ABOVE THIS LINE FOR RECORDER'S USE Recording
Fee Exempt per Government Code §6103

FIRST AMENDMENT TO
COMMERCIAL CANNABIS BUSINESS DEVELOPMENT AGREEMENT NO. 717

THIS FIRST AMENDMENT TO COMMERCIAL CANNABIS DEVELOPMENT AGREEMENT NO. 717 (the "First Amendment") is entered into this ____ day of December, 2019, by and between the CITY OF COMMERCE ("City"), a California municipal corporation, and 2SBK, INC. ("Owner"), a California corporation. In instances when a provision hereof applies to each of the Parties individually, either may be referenced as a "Party." The Parties hereby jointly render the following statement as to the background facts and circumstances underlying this Agreement:

RECITALS

A. WHEREAS, on May 7, 2019, the City adopted Ordinance No. 717, approving, "COMMERCIAL CANNABIS BUSINESS DEVELOPMENT AGREEMENT BETWEEN THE CITY OF COMMERCE AND 2SBK, INC., A CALIFORNIA CORPORATION" (the "Development Agreement").

B. WHEREAS, Article 21 of the Development Agreement requires that an Owner comply with all requirements proposing changes impacting a Development Agreement or a Commercial Cannabis Permit, as required pursuant to state law, City Resolution No. 18-50 regulating amendments to Development Agreements, and Ordinance No. 700, including Sections 5.61.150 through 5.61.210 thereof.

C. WHEREAS, in accordance with the terms of the Development Agreement, including Article 21, Owner has provided to the City of Commerce a written request to a modification to the Development Agreement for City's consent to a change of real property to relocate its business location. The City has received the application materials, information and requisite fees, and deems same to be sufficient, appropriate and complete for the purpose of determining that the proposed new business location meets the criteria as required in Ordinance No. 700 and the original Commercial Cannabis Permit application, for purposes of the foregoing terms of the Development Agreement.

D. WHEREAS, this First Amendment is intended to meet the requirements of Article 21 of the Development Agreement and Ordinance No. 700 for changes, amendments and modification to a Development Agreement, and is executed with the consent of City of Commerce as contemplated in the Development Agreement.

E. WHEREAS, this First Amendment is entered into pursuant to Government Code sections 65868 and 65867.5, which require that this Amendment be approved by City ordinance.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

Section 1: Recitals.

The Recitals above are true and correct and are hereby incorporated into and made a part of this First Amendment. In the event of any inconsistency between the Recitals and the provisions of this First Amendment, herein below, said provisions of this First Amendment shall prevail.

Section 2: Exhibits.

Owner has submitted new, applicable, and current Exhibits, or caused the re-execution of the following Exhibits, which are deleted in their entirety from the Development Agreement, and are incorporated herein by this reference and shall be inserted in lieu thereof.

- 2.6.a. Exhibit A: Legal Description
- 2.6.b. Exhibit B: Parcel Map
- 2.6.c. Exhibit C: Site and/or Floor Plans
- 2.6.d. Exhibit D: Recorded Grant Deed or Executed Lease Agreement
- 2.6.e. Exhibit E: Property Owner Signed and Notarized Consent Form
- 2.6.f. Exhibit F: Zoning Analysis
- 2.6.g. Exhibit H: Labor Peace Agreement or Notarized Statement of Intent

Section 3: Amendments to Development Agreement. The following articles, sections, paragraphs or portions of the Development Agreement are hereby amended to read as follows:

3.1. Recitals:

3.1.a. 4th Recital shall read:

WHEREAS, Owner currently holds a legal or equitable interest in real property considered in this Agreement which has a development area of approximately 45,470 square feet located at 6445 Bandini Boulevard, City of Commerce, State of California (the "Site"). The Site includes Assessor's Parcel Number: 6332-007-018, and is more fully described in the Legal Description in Exhibit A, and shown on the map in Exhibit B. Both exhibits being attached hereto, respectively, and incorporated herein by this reference;

3.1.a. 9th Recital shall read:

Whereas, the Project will consist of one industrial/warehouse building totaling approximately 45,470 square feet. The complex will employ approximately 10 employees per shift. The building will be divided into major spaces for cultivation, manufacturing, delivery and general business offices as follows:

Cultivation: The cultivation area includes 13 flowering rooms ranging from approximately 948 square feet to approximately 1,400 square feet. The building will also include a 2 - 683 square foot drying rooms and 1 - 545 square foot trimming room and 2 - 12,862 square foot vegetation rooms and an approximately 762 square foot cloning room. Total area of cultivation and

processing is approximately 18,800 square feet. Cultivation operations would occur 24-hours daily, subject to final approval pursuant to the City-issued regulatory Commercial Cannabis Cannabis Permit.

Manufacturing: The facility includes a 1,930 square foot manufacturing room that would be used initially for packaging products. Under the manufacturing license, the operator will conduct additional manufacturing activities including, volatile extraction (Type 7 Manufacturing). Manufacturing operations would occur 24-hours daily, (subject to final approval pursuant to the City-issued regulatory Commercial Cannabis Permit).

Non-storefront Retail Delivery: The 1st-party distribution (self-distribution) and retail delivery activities will occur within the 6,840 square foot distribution and delivery office located near the facility's main entry and second floor. All delivery activities will be conducted in accordance with state law, including, but not limited to specified hours of operation.

Proposed General Business Offices: (subject to final approval pursuant to the City-issued regulatory Commercial Cannabis Permit) – The facility will be open from 7:00 a.m. to 10:00 p.m., Monday through Friday, with 5-10 employees per shift.

Parking/Loading/Access: The proposed project provides approximately 74 parking spaces, including 2 accessible van space. Loading will take place on-site within an existing loading space accessed on the south side of the structure. In no event will loading occur within the public right-of-way. Vehicular access to the site will be through an existing driveway on Bandini Blvd. Within the site, access to the structures will be through the secured entrances. Pedestrian walkways within the structure and on the north and south sides of the structure allow pedestrian circulation throughout the site. The project complies with CALGreen Tier 1 by incorporating stormwater pollution prevention measures, installing energy- and water-efficient equipment, and planting native and drought-tolerant landscaping at the front of the property.

3.2. Section 2.a. Government Code and Municipal Code Required Elements, Description of Property.

Land situated in the City of Commerce, County of Los Angeles, State of California; whose street address is 6445 Bandini Blvd. City of Commerce, State of California (the "Site"). The Site includes Assessor's Parcel Number: 6332-007-018.

3.3. Section 2.b. Government Code and Municipal Code Required Elements, Owner and Other Person with Legal or Equitable Interest.

Owner: 2SBK, Inc.

Nature of Interest: *[Lease for 5 years with Option to Renew for an additional 5 years].*

A true and correct copy of a recorded grant deed, or executed lease agreement, is attached hereto as Exhibit D, and incorporated herein by this reference.

If Owner is not the fee simple owner of the Site, check box below:

[x] Owner represents and warrants that the property owner has consented in writing to the execution and recordation of this Agreement against the Site. [See

also attached Property Owner Signed and Notarized Consent Form wherein the property owner has acknowledged reading City of Commerce Ordinance No. 700, incorporated herein by this reference (Exhibit E).]

3.4. Section 6.b. Designation of Community Relations Liaison.

Pursuant to Ordinance No. 700, including, Commerce Municipal Code Section 5.61.300, at the time of this Agreement, Owner's day-to-day operations manager, Arian Boutehsaz, will be responsible for community inquiries and complaints and on-site management during normal business hours.

3.5. Section 6.h. Labor Peace Agreement.

If Owner has ten (10) or more employees at the time of this Agreement's signing, then Owner shall in good faith work with any labor organization for the purpose of collective bargaining and shall enter into and provide the City a copy of a labor peace agreement no later than one hundred and twenty (120) days after this Agreement's signing. Such Owner with ten (10) or more employees but without a labor peace agreement at the time of this Agreement's signing shall in good faith provide a notarized Statement of Intent to the City no later than this Agreement's signing, indicating that the Owner will enter into and abide by the terms of a labor peace agreement with any labor organization no later than one hundred and twenty (120) days after this Agreement's signing.

If Owner has less than ten (10) employees at the time of this Agreement's signing, such Owner shall in good faith provide a notarized Statement of Intent to the City no later than this Agreement's signing, indicating that the Owner will enter into and abide by the terms of a labor peace agreement with any labor organization if and when Owner has ten (10) or more employees at any time during the Term of this Agreement. Such Owner with less than ten (10) employees at the time of this Agreement's signing shall also provide the City a copy of the labor peace agreement no later than one hundred and twenty (120) days from hiring its tenth (10th) employee, if and when such event occurs during the Term of this Agreement. Attached as Exhibit H and incorporated herein is a true and correct copy of the actual Labor Peace Agreement; or applicable Notarized Statement of Intent. Owner shall abide by the terms of the labor peace agreement if and when so adopted in accordance with this Subsection. If Owner fails to comply with the labor peace agreement requirement in accordance with this Subsection, such failure shall constitute a default of this First Amendment and Development Agreement.

3.6. Section 8.c. Fees, Costs, and Future Taxes; Operating Fees.

As used herein, "**Premises**" means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the Commercial Cannabis Permittee applicant or Commercial Cannabis Permittee where the Commercial Cannabis Activity will be or is conducted. The parties stipulate and agree that the square footage for the **Premises** upon the Effective Date of this Agreement is and shall be during the term of this Agreement: **45,470** square feet.

As used herein, "**Commercial Cannabis Activities**" means all permitted activities: e.g., cultivation, possession, manufacture, processing, storing, laboratory testing, packaging,

labeling, transportation, delivery or distribution of Cannabis and/or Cannabis Products.

As used herein, "**Gross receipts**" shall mean the total amount actually received or receivable in the course of business in a calendar year or calendar month from sales or the performance of acts or services for which charge is made or credit allowed. "**Gross receipts**" include, without limitation, all receipts, cash, credit, property received in lieu of cash, and any other valuable consideration taken in exchange for goods, services or other valuable consideration.

As used herein, "**Production Space**" means the area on or within the **Premises** intended for **Commercial Cannabis Activities** excluding non-operational common areas such as restrooms, cafeterias, break rooms, hallways, corridors, vestibules, parking structures or surface street lots. The parties stipulate and agree that the square footage for the **Production Space** shall be determined by the City Administrator in his sole and complete discretion as the Project is completed.

The City Manager is specifically authorized to set and adjust the square footage for the Production Space and to determine the corresponding operating fee as the Project is completed.

Owner agrees to pay to City, in order to enable City to promote, protect, and enhance the healthy, safety, and welfare of the community and its residents and its quality of life, the **greater** operating fee of the following, as noted below.

Owner agrees to pay the following percentage of gross receipts for cannabis operations, if the requested and approved use is applicable, as follows, paid on a quarterly basis to the City:

<u> X </u>	Manufacturing: 3% of gross receipts
<u> </u>	Distribution: 3% of gross receipts
<u> </u>	Testing: 1.5% of gross receipts
<u> X </u>	Non-Storefront Retail, delivery: 5% of gross receipts
<u> </u>	Microbusiness: 4% of gross receipts
<u> X </u>	Cultivation: \$13 square foot for canopy space

But at no time, will Owner pay an annual operating fee less than \$91,218.00, which is the mandatory annual minimum operating fee for the first year in operations. If after a review of the Owner's records the City determines that Owner did not pay the City the annual minimum operating fee, Owner shall pay the City the remaining balance upon noticed written request.

The annual minimum operating fee for the years of operations thereafter shall be as follows:

Second year:	\$100,810	
Third year:	\$109,090	
Fourth year:	\$118,000	
Fifth year:	\$127,000	(Any subsequent years shall be as negotiated by the Parties).

Facilities with multiple licenses must not commingle respective sales proceeds, and blend percentage rate of **Gross Receipts**.

Operating Fees shall begin to accrue **ninety (90)** days after the end of month of the Effective Date of this Agreement. Notwithstanding, the first payment due and payable to the City shall be due one-hundred twenty (120) days from the date Owner secures a City of Commerce Commercial Cannabis Permit authorizing Owner to commence lawful operations (pursuant to all Ordinance No. 700 requirements to secure same).

Owner shall make payments to the City on a quarterly basis, within thirty (30) calendar days after the last day of each quarter. The first quarter is defined as January 1 through March 31, the second quarter as April 1 through June 30, the third quarter as July 1 through September 30, and the fourth quarter as October 1 through December 31. First payment to the City may be prorated, if applicable, to adhere to the latter, uniform quarterly payment schedule.

Failure to pay the fee within thirty (30) calendar days after the due date shall result in a penalty for nonpayment in a sum equal to 25% of the total amount due. Additional penalties will be assessed in the following manner: 10% shall be added to the first day of each calendar month following the month of the imposition of the 25% penalty if the fees remain unpaid in whole or in part – up to a maximum of 100% of the fee payable on the due date.

3.7. Section 23. Notice.

Any notice or communication required hereunder between City and Owner must be in writing, and may be given either personally, by registered or certified mail (return receipt requested), or by Federal Express, UPS or other similar couriers providing overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (ii) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered, as shown on a receipt issued by the courier. Any Party hereto may at any time, by giving ten (10) days written notice to the other Party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to City:	City of Commerce 2535 Commerce Way Commerce, CA 90040 Attention: City Manager
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and
City Attorney
13181 Crossroads Parkway North
Suite 400 – West Tower
City of Industry, California 91746

If to Owner:
2SBK, Inc.
c/o BABAK “BOBBY” ZARABIAN
6467 E. WASHINGTON BLVD.
COMMERCE CA 90040

If to Landlord:
Moussa Company, LLC.
7230 Coldwater Canyon,
North Hollywood, CA 91605

Section 4: Additional Provisions.

4.1. Indemnification and Hold Harmless. As a condition of the City processing, considering, approving, and executing the First Amendment, Owner has agreed to voluntarily fully execute the “Indemnification and Hold Harmless Agreement: Release of Liability, Assumption of Risk, and Waiver of Vested Rights” prior to City Council taking any action on this First Amendment, which is attached hereto and incorporated herein by this reference, as Exhibit J.

4.2. Effect of First Amendment and Continued Effectiveness of Development Agreement. Except as expressly modified herein, the Development Agreement shall remain in full force and effect, and all the terms and provisions of the Development Agreement are hereby reaffirmed. The provisions of this First Amendment are severable and separate, and should a legal challenge be brought challenging the First Amendment, including but not limited to, an action or proceeding – in equity or in law - initiated by any person, organization, or entity, including anyone who is not a Party to this First Amendment, to attack, review, set aside, void, or annul the decision of City Council to adopt an Ordinance approving and adopting this First Amendment, such challenge shall in no way affect or impact the continued validity and existence of the Development Agreement.

Section 5: Effective Date. “First Amendment Effective Date” means the date on which all of the following are true: (i) thirty (30) days have elapsed since the second reading of the Ordinance adopting and approving this First Amendment; (ii) this First Amendment has been signed by all Parties; and (iii) all Exhibits to this First Amendment are finalized, executed and notarized by all affected parties (if applicable) and attached hereto; provided, however, that if these conditions have not been fully satisfied by the Owner, the Effective Date may not thereafter occur and this First Amendment may not thereafter become effective.

IN WITNESS HEREOF, the Parties hereto have executed this First Amendment as of the dates herein below.

[Signatures on the following page]

CITY OF COMMERCE

2SBK, Inc. [OWNER]

Mayor

Babak "Bobby" Zarabian
Title: President/CEO

Date: _____

APPROVED AS TO FORM:

City Attorney
City of Commerce

Date: _____

EXHIBIT A

Legal Property Description

Address: 6445 Bandini Blvd, Commerce CA 90040

Zoning Description: M2, Commerce

APN/Parcel ID: 6332-007-018

Year Built: 1952

Property Type: Industrial

Property Sub-Type: Warehouse

Building Class: C

Building Size: 45,470 SF

Land Size: 2.53 AC

Power: 800 Amps, 277/480 Volt, 3 Phase Electrical Service

Access: 6 Ground Level Doors, 6 Dock High Position Via Exterior Platform

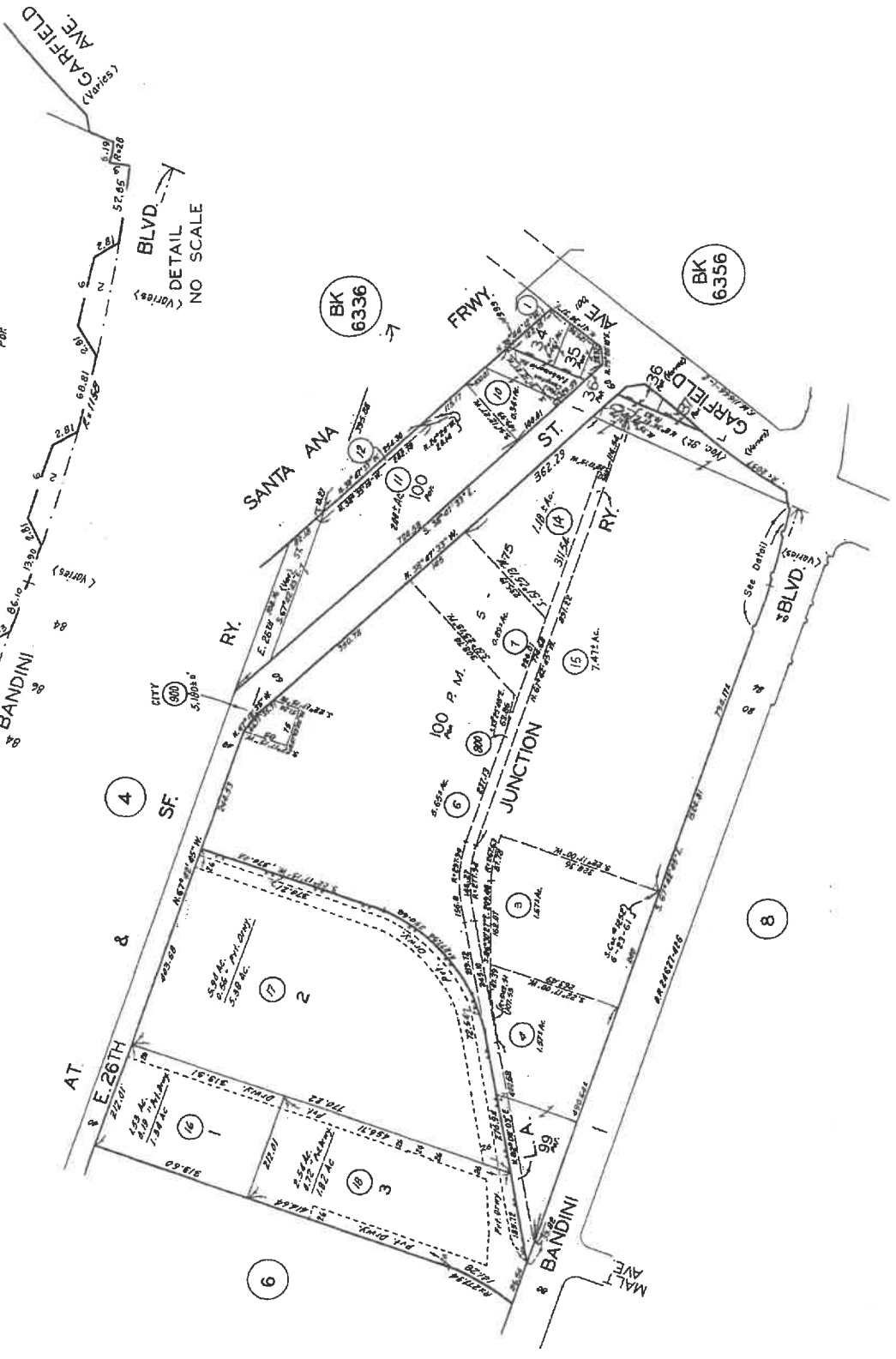
Parking: 60 Spaces

EXHIBIT B

6332 7
SCALE 1" = 200'

1999

02262552 770413912
95073105001001-27 800256256
3901028



CODE
12462

PARCEL MAP 268 - 20 - 21
RANCHO LAGUNA S.C.C. B-25296 C.F. 880
EAST LAGUNA - S.C.C. B-81961 C.F. 988

FOR PREV. ASSM'T SEE:
6333 - 6 TO 8

ASSESSOR'S MAP
COUNTY OF LOS ANGELES, CALIF.

EXHIBIT C

EXHIBIT D

EXHIBIT E

PROPERTY OWNER SIGNED AND NOTARIZED CONSENT FORM

Property Address: 6445 BANDINI Blvd, Commerce CA 90040

APN(s): 6332-007-018

Legal Property Owner Name: MOUSSA Company LLC

I, Stefan Kozlov, Manager
Authorized Person First and Last Name Title (owner, president, managing partner, managing member, trustee)

have read City of Commerce Ordinance No. 700 and consent to the operation of _____, a proposed commercial cannabis business, at the Primary Owner / Applicant Business Name

real property identified hereinabove.

Authorized Signature: [Signature] Date: 01/24/19

Commercial Cannabis Permit Primary Owner / Applicant Information:

Primary Owner / Applicant First and Last Name: Babak Zargobian
Applicant I.D. No.: 18-017
Phone Number: 213-798-0181 Email: BZ@Sewacpacking.com

Check all that apply:

- Property is leased to the Primary Applicant. Property is optioned by the Primary Applicant. Property is optioned to more than one entity. (List others, below.) Other (explain below)
- Property currently in lease

ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

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

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

WITNESS my hand and official seal.
Signature _____ (Notary Public)

(Seal) CALIFORNIA ACKNOWLEDGMENT ATTACHED

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

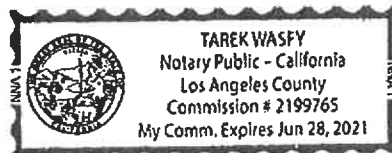
State of California
County of Los Angeles

On 01/22/2019 before me, Tarek Wasfy, A Notary Public
(Insert name and title of the officer)

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

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

WITNESS my hand and official seal.



Signature [Handwritten Signature] (Seal)

ATTACHED TO: PROPERTY OWNER SIGNED AND NOTARIZED CONSENT FORM

EXHIBIT F



ZONING ANALYSIS

#18-017

LAND USE, ZONING AND APPLICABLE REGULATIONS:

Project Site – 6445 Bandini Boulevard (18-017)	
General Plan Designation:	Industrial
Zoning:	M-2 (Heavy Manufacturing)
Applicable Zoning Regulations:	Commerce Municipal Code Chapter 19.11, Manufacturing Zones; CMC Chapter 19.19, Development Standards; CMC Chapter 19.21, Off-Street Parking; CMC Chapter 19.23, Landscaping; CMC Chapter 19.39 Division 10, Site Plan Review; CMC Section 19.39.680 Basis for Approval.

SURROUNDING ZONING AND LAND USES:

North	M-2	Heavy Industrial
South	M-2	Heavy Industrial
East	M-2	Heavy Industrial
West	M-2	Heavy Industrial

ENVIRONMENTAL ASSESSMENT:

A Notice of Exemption from CEQA was prepared by ejma Planning & Development pursuant to CEQA (Public Resources Code §21000 et seq.) and the State CEQA Guidelines (Title 14, California Code of Regulations, Division 6, Chapter 3, §15000 et seq.), the subject application is a “project” that is subject to environmental review.

The proposed project is exempt from CEQA pursuant to the CEQA Guidelines Section 15301. The proposed project does not include any new construction beyond interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances, in accordance with CEQA Section 15301(a).



PROPERTY DESCRIPTION:

The project site is currently developed with one industrial building measuring approximately 40,800 square feet. The building is currently occupied by Brooks Fabrics and Ribenks Corporation and is located on a lot measuring approximately 2.53 acres (110,248 square feet) located south of E. 26th Street and north of Bandini Boulevard. The lot is generally flat in nature and is situated in the City's Heavy Manufacturing Zone District (M-2), surrounded by industrial to the north, south, east and west. The proposed project includes a Commercial Cannabis Permit, which is a type of regulatory permit, to allow for a Commercial Cannabis Facility and a Development Agreement (DA) for commercial cannabis activities including cultivation, manufacturing, distribution, and non-storefront retail delivery.