

Attachment E

Agreement with Macerich Victor Valley, LP

**AGREEMENT BETWEEN THE CITY OF VICTORVILLE AND
MACERICH VICTOR VALLEY, LP PERTAINING TO THE FUNDING OF
A SHERIFF’S DEPUTY TO BE ASSIGNED TO THE MALL OF VICTOR
VALLEY**

This Sheriff’s Deputy Agreement (the “Agreement”) is entered into as of this __ day of __ 2023, by and between Macerich Victor Valley, LP, a Delaware limited partnership (hereinafter referred to as “Macerich”), and the City of Victorville (hereinafter referred to as the “City”), based on the following facts and circumstances.

- A. Macerich is the managing agent on behalf of the owner(s) of the shopping center located at 14400 Bear Valley Rd., Victorville, CA 92392, and commonly known as The Mall of Victor Valley (hereinafter referred to as the “Mall”); and
- B. City provides law enforcement services for the City of Victorville through the San Bernardino County Sheriff’s Department pursuant to a separate agreement between the City and the County of San Bernardino; and
- C. The Mall has experienced an increase in crime on and about the Mall property and Macerich has requested that the City assign a Sheriff’s Deputy (“Deputy”) to provide law enforcement and security services to the Mall and adjacent properties; and
- D. The Deputy will be responsible for enforcement of all criminal law violations on and in proximity to Mall as well as enforcement of all traffic laws on and in proximity to Mall and shall provide such services 9 hours a day between the hours of 12:30 and 21:30 Wednesday through Sunday, or as otherwise agreed to by the parties; and

- E. Macerich is prepared to pay the costs of the Deputy along with the vehicle required to perform certain law enforcement activities as contemplated herein; and
- F. The Parties agree that the assignment of a Deputy to the Mall would provide a significant benefit to help ensure a safe and crime free environment. The position will also be beneficial to the Police Department.

NOW, therefore, for and in consideration of the mutual covenants contained in this Agreement, and other good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, Macerich and the City agreed as follows;

Section 1

The City, through its Police Department will assign one full-time sworn Deputy to the Mall. The sworn Deputy will be fully trained and certified prior to being assigned to the Mall. The Deputy will spend 100% of their time working in and in proximity to the Mall. The daily hours of such assignment shall be 12:30 – 21:30 Wednesday through Sunday, including holidays, or as otherwise agreed to by the parties.

Section 2

Macerich will pay the City 100% of the cost to provide one San Bernardino County Sheriff's Deputy, one marked unit (vehicle), HT Radio, dispatch services, maintenance, administrative support, and supplies (collectively, the "Equipment") during the Term (as defined below) of this Agreement, as hereinafter defined. The Parties understand and acknowledge that the Personnel costs of the San Bernardino County Sheriff's Deputy include salary and benefits and are set and may be changed from time to time by the County of San Bernardino Board of Supervisors.

Accordingly, Macerich agrees to pay any increases in the Personnel costs as may be changed by

the County Board of Supervisors during the term of this Agreement with a cap not to exceed 6% of the agreed upon costs. Any overtime incurred will be billed, subject to Macerich's prior approval, and Macerich will pay the City the cost of those expenses. Macerich will pay the City, within 30 days of receipt of an invoice from City.

Section 3

The Deputy assigned will have primary responsibility to investigate and respond to all crimes within the Mall and areas within the City adjacent and in proximity to the Mall.

Section 4

With respect to the activities at the Mall, the Deputy's duties shall include, but are not limited to, the following;

1. Enforcement of criminal law violations on or around the Mall; and
2. Respond to retail calls for service in and around the Mall; and
3. Enforcement of appropriate traffic laws on and around the Mall; and
4. Facilitate and attend retail theft meetings at the Mall; and
5. Upon request, assist the Mall with education and prevention programs; and
6. Assist Mall security as needed and when available; provided, however, Macerich shall exercise its own discretion and control over its Mall security personnel.

Section 5

The Deputy that provides law enforcement services described herein is required to observe the City's and County's standards of conduct and shall not be required to perform tasks that are outside the routine services provided by the City to the general public. Any discipline for

deputies that provide law enforcement services will be initiated by the City and County only and Macerich shall have no liability with respect to any disciplinary action taken against a deputy. It is understood by the parties that the City and Macerich do not owe a greater level of police services for protection under this Agreement than that which is owed to the public generally.

Section 6

The Deputy will keep the Mall property manager as well as the designated security contact apprised of activities within and around the Mall.

Section 7

The Term of this Agreement shall commence on July 1, 2023, and shall expire on June 30, 2024, unless sooner terminated as provided for herein. This Agreement will be automatically extended for an additional 12 month term unless either party gives 60 days advance written notice to the other party of its desire to terminate this Agreement prior to the expiration of the then applicable term. Notwithstanding the foregoing, either party may terminate this Agreement at any time without cause upon 30 days prior written notice.

Section 8

Provided City is discharging its obligations hereunder, as full payment for all services rendered under this Agreement, Macerich agrees to pay the costs of one Deputy in an amount equal to the amount paid by the City to the County as determined by the City and County budgets. In addition, the costs of the one vehicle and Equipment listed above shall be equal to \$25,358 per month.

Section 9

All notices, demands, requests and other communications hereunder shall be in writing either personally delivered or mailed, via certified mail, return receipt requested, or sent by reputable overnight courier to the following addresses:

If to Macerich, to: c/o The Macerich Company
401 Wilshire Boulevard, Suite 700
Santa Monica, CA 90401
Attn: Legal Department

If to City, to: c/o City of Victorville
14343 Civic Drive
Victorville, CA 92392
Attn: John Wickum/Police Captain

With a copy to: Keith C. Metzler, City Manager
c/o City of Victorville
14343 Civic Drive,
Victorville, CA 92392

or such to other address as either party may direct by notice given to the other as hereinabove provided. Notices will be deemed to have been given upon either receipt or rejection. For notices to be delivered to Macerich, a copy shall also be sent to the property manager for the Mall.

Section 10

- A. If any term of this Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of this Agreement, which shall continue in full force and effect.
- B. This Agreement shall be governed by and construed in accordance with the laws of the State of California.
- C. In the event of any dispute or legal proceeding between the parties arising out of or relating to this Agreement or its breach, the prevailing party shall be entitled to recover

from the non-prevailing party all fees, costs and expenses, including but not limited to attorneys' and expert witness fees, incurred in connection with such dispute or legal proceeding.

- D. Except as the parties may specify in writing, neither party shall have the authority, express or implied, to act on behalf of the other party in any capacity whatsoever as an agent. Neither party shall have any authority, express or implied, pursuant to this Agreement to bind the other to any obligation whatsoever.
- E. City's relationship to Macerich shall be that of an independent contractor. All deputies furnished by City will be employees of City and/or County only, and will at all times be subject to the direct supervision and control of City and/or County. City shall have sole responsibility of paying the salaries, statutory benefits (including Worker's Compensation), insurance, taxes (including but not limited to, Federal Social Security Taxes and Federal and State Unemployment Taxes) and all other expenses relating to each such employee, as applicable.
- F. Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition present or any other right thereunder.
- G. This Agreement constitutes the entire agreement and understanding of the parties and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind not set forth herein. Any amendment to this Agreement must be in writing and executed by both parties.

////SIGNATURE PAGE TO FOLLOW////

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the
date aforesaid.

THE CITY OF VICTORVILLE,
a municipal corporation

MACERICH VICTOR VALLEY LP,
a Delaware limited partnership

By: Macerich Victor Valley GP LLC,
a Delaware limited liability company

By: _____
Keith C. Metzler,
City Manager

By: _____

Dated: _____

Dated: _____

APPROVED AS TO STANDARD FORM:

By: _____
Andre de Bortnowsky,
City Attorney

Dated: _____

THE CITY OF VICTORVILLE

By: _____
Sandra Bostick,
Risk Manager

Dated: _____