

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into by and between Plaintiff Northern California River Watch (hereinafter, “River Watch”) and Defendants GGP, Inc., Bay Shore Mall, LP, and Rouse Properties (collectively referred to the “Parties”). The Parties intend by this Agreement to conclude the matters between them in the case entitled Northern California River Watch v. General Growth Properties, Inc.; Bay Shore Mall, LP; et al, Humboldt County Superior Court Case No. DR120060.

RECITALS

- A. On or about September 26, 1985 the California Coastal Commission approved a Coastal Development Permit (CDP 1-85-83) for the Bayshore Mall, located at 3300 Broadway in the City of Eureka, California (the “Bayshore Mall”). CDP 1-85-83 allowed for the filling of approximately 4.3 acres of on-site wetlands in connection with the development of the Bayshore Mall, and required the restoration of approximately 5.1 acres of wetlands in then-existing upland areas and the enhancement of an additional 9.7 acres of existing wetlands. These wetland restoration areas are currently known and described as Restoration Areas “A” and “B.”
- B. The Bayshore Mall (including Restoration Areas “A” and “B”) is currently owned by Defendant Bay Shore Mall, L.P, which as of January 12, 2012 is an affiliate entity of Defendant Rouse Properties, Inc. (“Rouse”). Prior to this date, Defendant Bay Shore Mall, L.P was an affiliate entity of Defendant GGP, Inc. (“General Growth”).
- C. Since 2007, the City of Eureka has held a conservation and open space easement over Restoration Areas “A” and “B”
- D. On November 29, 2011, River Watch served Defendants Bayshore Mall L.P. and General Growth with a written “Notice of Violations and Intent to File Suit.” On January 26, 2012 River Watch filed a complaint against Defendants Bayshore Mall L.P. and General Growth alleging violations of the California Coastal Act, *Public Resources Code* §30000 et seq. in regard to an alleged failure by Defendants to comply with the conditions of approval adopted in CDP 1-85-83. River Watch filed a First Amended Complaint on or about August 22, 2012, specifying similar allegations and adding Rouse as a defendant to the case.
- E. Defendants deny any and all allegations set forth in the First Amended Complaint.
- F. The Parties believe it is in their mutual interest, and have chosen, without either adjudication of River Watch’s claims or admission by Defendants of any alleged violation or other wrongdoing, to resolve in full the allegations and claims as set forth in the First Amended Complaint through settlement, to avoid the cost and uncertainties of litigation;

NOW THEREFORE, the Parties hereby agree as follows:

1. Commitments of Defendant Rouse.

For the duration of this Agreement, Rouse agrees to perform the following:

- a. Maintenance of Vegetation. Rouse agrees to work with the City of Eureka to perform joint maintenance of vegetation in Restoration Areas "A" and "B," subject to and consistent with the continuing regulation and oversight by the California Coastal Commission.
- b. Repair of Existing Fences. Rouse will repair all existing fences abutting portions of Restoration Areas "A" and "B" as soon as practicable upon the discovery of a breach.
- c. Guidelines for Wetland Maintenance. Rouse will use continue to use best efforts to perform the activities described in the perform the activities described in the *Guidelines for Wetland Maintenance* dated February 23, 1989, as follows: (1) weekly inspection for trash and debris, (2) monitoring of water flow during high tides and rainy season, (3) periodic checking of storm drains, (4) watering of plant restoration area as needed, (5) inspect weekly for damaging foot and vehicle traffic, and (6) keep Mill Street (now Bay Shore Way) entrance free from debris.
- d. Cooperation with City of Eureka Law Enforcement. Rouse agrees to cooperate with City of Eureka law enforcement personnel to address the use of Restoration Areas "A" and "B" as homeless encampment areas. Rouse agrees to promptly notify law enforcement of any homeless encampments that Rouse discovers, and agrees to cooperate with law enforcement to remove them and/or minimize damage to Restoration Areas "A" and "B."
- e. Contract with New Directions for Wetlands Maintenance. Rouse shall continue to engage the services of New Directions with respect to the maintenance of Restoration Areas "A" and "B," to perform the duties identified in the Scope of Work attached as Exhibit A (the "Scope of Work"). In the event that New Directions ceases operations, Rouse shall use best efforts to retain the services of a similar organization to perform the duties identified in the Scope of Work, to the extent that these duties cannot be performed by Rouse employees.

2. Release of Defendant GGP, Inc. The Parties recognize that Defendant GGP, Inc. transferred and released all interest in the Property on January 12, 2012. River Watch agrees to release Defendant GGP, Inc. from any and all obligations under this Agreement.

3. Attorneys' Fees and Costs. Within fifteen (15) days after the Effective Date of this Agreement, Rouse shall pay River Watch the sum of Twenty Seven Thousand Five Hundred Dollars (\$27,500.00) as reimbursement for River Watch's investigative, expert and attorneys' fees and costs and any other costs that have or could have been claimed in connection with River Watch's allegations set forth in its First Amended Complaint. Payment

shall be made by a single check payable to “The Law Office of David J. Weinsoff Attorney Client Trust Account” and mailed to River Watch’s counsel David Weinsoff, Esq. at 138 Ridgeway Avenue, Fairfax, California 94930. Such payment shall constitute full and complete satisfaction of any and all claims by River Watch for attorneys' fees and costs in connection with this matter up to and including the Termination Date of this Agreement.

4. Dismissal of Litigation. River Watch will dismiss the above-referenced litigation with prejudice as to all Defendants within five business (5) days after the settlement payment referenced in Paragraph 3 clears, and will provide Defendants with a conformed copy of the dismissal. The dismissal with prejudice will constitute a final judgment for all purposes with respect to the matters set forth in the First Amended Complaint. For the term of this Agreement, the Superior Court will retain jurisdiction pursuant to *Code of Civil Procedure* § 664.6 to enforce the terms of this Settlement.

5. Release of Claims. Upon the Effective Date of this Agreement, River Watch, on behalf of itself, its officers, members, agents, successors and assigns, and any other person acting under its direction and control with respect to this matter, agrees that it releases, acquits and forever discharges the Defendants, its officers, employees, agents, attorneys, legal successors and assigns, and any other person acting on the Defendants’ behalf, from any and all claims and demands of any kind, nature, or description whatsoever, and from any and all liabilities, damages, injuries, actions or causes of action, either at law or in equity, whether known or unknown (collectively "Claims") arising from or related to the violations alleged in the First Amended Complaint, including but not limited to, any and all Claims for violations of the California Coastal Act, which occurred at any time up to the Effective Date of this Agreement.

Upon the Effective Date of this Agreement, the Defendants, on behalf of themselves, their officers, members, agents, successors and assigns, and any other person acting under their direction and control with respect to this matter, agrees that they release, acquit and forever discharge River Watch, its officers, employees, agents, attorneys, legal successors and assigns, and any other person acting on River Watch’s behalf, from any and all claims and demands of any kind, nature, or description whatsoever, and from any and all liabilities, damages, injuries, actions or causes of action, either at law or in equity, whether known or unknown (collectively "Claims") arising from or related to the violations alleged in the First Amended Complaint.

The foregoing releases are intended to extend up to the Effective Date of this Agreement. The Parties to this Agreement acknowledge they are familiar with Section 1542 of the *California Civil Code*, which provides:

“§1542. A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.”

The Parties hereby waive and relinquish any rights or benefits they may have under *California Civil Code* §1542 with respect to any other claims under the California Coastal Act or any other statute of the State of California against each other, known or unknown, suspected or unsuspected.

Except as otherwise expressly represented, warranted or provided in this Agreement, each Party assumes the risks that (i) it may hereafter discover facts in addition to or contrary to those it believed to exist or relied upon in entering into this Agreement, including, without limitation, unknown or unanticipated claims which, if known by such Party on the Effective Date may have materially affected such Party's decision to execute this Agreement, (ii) it may have mistakenly understood matters relevant to entering into this Agreement and (iii) another Party may have negligently misrepresented or negligently failed to disclose facts in connection with the entering into of this Agreement. Notwithstanding any such unknown or unanticipated claims, misunderstandings, mistakes, negligent misrepresentations or negligent nondisclosures, each Party intends that this Agreement thereafter shall continue in full force and effect and shall not be subject to rejection or rescission for any reason, provided that such Party reserves all rights provided for in this Agreement

Each Party is aware that it may hereafter discover claims or facts in addition to or different from those it now knows or believes to be true with respect to the matters related herein. Nevertheless, it is the intention of the Parties to assume the risk that claims or facts now known or thought to be true may later be found to be different and to fully, finally and forever settle and release all claims, unless as otherwise specifically set forth in this Agreement. In furtherance of such intention, the releases given herein shall be and remain in effect as full and complete mutual releases of all such matters unless as otherwise specifically set forth in this Agreement, notwithstanding the discovery or existence of any additional or different claims or facts relative thereto. This settlement shall not be subject to termination, rescission or modification by reason of any such change in claims or facts or knowledge of claims or facts.

6. Covenant Not to Sue or Pursue Administrative Relief. For a period of five (5) years following the Effective Date of this Agreement, River Watch agrees that neither River Watch, nor any of its officers, executive staff, members of its governing board, nor any organization under the control of River Watch, its officers, executive staff, and members of its governing board, will file or serve any lawsuit against the Defendants seeking relief for alleged violations of the California Coastal Act or any other federal or state statute.

For a period of five (5) years following the Effective Date of this Agreement, River Watch agrees that neither River Watch, nor any of its officers, executive staff, members of its governing board, nor any organization under the control of River Watch, its officers, executive staff, and members of its governing board, shall take any action whatsoever, in whatever shape or form, to challenge, appeal or otherwise seek to influence in any respect, the consideration or approval of any discretionary permit (or permit exemption) that may be required for future development at the Bayshore Mall, including but not limited to permits from the California Coastal Commission and the City of Eureka.

For a period of five (5) years following the Effective Date of this Agreement, River Watch agrees that it will neither initiate nor support such lawsuits against the Defendants brought by other groups or individuals by providing financial assistance, personnel time, or any other affirmative actions.

7. No Admission of Liability. Neither this Agreement nor any payment pursuant to this Agreement shall constitute or be construed as a finding, adjudication or acknowledgment of any fact, law, or liability, nor shall it be construed as an admission of violation of any law, rule, regulation or permit. Defendants maintain and reserve all defenses

it may have to any alleged violations that may be raised in the future. This Agreement may be pleaded as a complete defense to any claims alleged in this litigation, or any other claims encompassed by this Agreement.

8. Limitations. River Watch agrees that Defendants' performance of its commitments as defined in Section 1 of this Agreement shall be undertaken through the exercise of Defendants' best efforts, as are commercially reasonable under the circumstances.

The Parties recognize that Defendants contend that the use of Restoration Areas "A" and "B" for encampment by the homeless population has been ongoing for many years, despite the combined efforts of the Defendants, the City of Eureka and other public agencies, and social services organizations. River Watch agrees that Defendants shall not be required, as a condition of this Agreement, to exercise law enforcement duties or "self-help" in the removal of homeless persons or their possessions from Restoration Areas "A" and "B." In addition, the presence of non-authorized persons, or litter or debris associated therewith, in Restoration Areas "A" and "B" shall not be deemed to constitute a breach or violation of Defendants' obligations under this Agreement.

The Parties recognize that Defendants' activities in Restoration Areas "A" and "B" are subject to the continuing jurisdiction of the California Coastal Commission, the City of Eureka, and other public agencies. Defendants shall not be liable under the terms of this Agreement for actions or omissions undertaken at the direction of any public agency with jurisdiction over Restoration Areas "A" and "B." Moreover, nothing in this Agreement shall require the Defendants to apply for or obtain permit approval to implement any of the commitments identified in Section 1, unless permit approval is required as a result of a formal determination by a public agency.

9. Effective Date. The Effective Date of this Agreement shall be the date that the Agreement is executed by all Parties.

10 Termination Date. This Agreement shall terminate ten (10) years from the Effective Date of this Agreement ("Termination Date").

11. Dispute Resolution Procedures. The Parties have entered into this Agreement for the purpose of avoiding further litigation. Enforcement of this Agreement is to be brought solely through the procedures set forth in this section, which are designed to avoid resorting to court enforcement in the first instance, and, if resort to court is necessary, to provide simple, straightforward and predictable relief. Any disputes with respect to any of the provisions of this Agreement shall be resolved through the following procedure:

- a. The Parties covenant and agree that, if either Party believes the other is in violation of one or more terms of the Agreement, the Party shall provide notice to the other in writing of what specific actions or inactions they deem to be in violation of this Agreement.
- b. Within thirty (30) days of receipt of such notice; the Party receiving the notice shall respond to the notice in writing.
- c. If the Parties still dispute compliance with this Agreement, within an additional thirty (30) days, the Parties will meet and confer in a good faith attempt to resolve

their dispute.

- d. If the Parties cannot informally resolve the dispute, either Party can invoke formal dispute resolution by filing a motion with the court.
- e. Each Party agrees to bear its own costs (including attorneys fees) incurred in connection with informal resolution of future disputes (as set forth in subparagraphs (a-c) above. If a motion is filed or any court action is necessary to enforce this settlement, the prevailing party shall be entitled to recover its reasonable attorneys' fees only upon a court determination or finding of bad faith on the part of the non-prevailing party.

12. Force Majeure. Separate from, and in addition to any other limitations on the Defendants' obligations under this Agreement, the Defendants' obligations to comply with any provision of this Agreement shall be excused or deferred if compliance, or a delay in compliance, is caused by an event or circumstance beyond the reasonable control of the Defendants or any entity controlled by the Defendants, including contractors, in which event or circumstance could not have been reasonably foreseen and prevented by the exercise of due diligence by the Defendants.

13. Construction. The language in all parts of this Agreement shall be construed according to its plain and ordinary meaning, except as to those terms defined by law or specifically herein. The captions and paragraph headings used in this Agreement are for reference only and shall not affect the construction of this Agreement.

14. Entire Agreement and Amendments. This Agreement constitutes the entire agreement between the Parties concerning the subject matter hereof, and shall not be modified except by a writing executed by the Party to be bound thereby. This Agreement supersedes any written or oral agreement(s) or representations(s) that preceded or may have preceded execution of this Agreement. The Parties have not relied upon any oral representation(s) in deciding whether to enter into this Agreement.

15. Successors and Assigns. This Agreement is binding upon and inures to the benefit of the Parties and their heirs, executors, administrators, trustors, trustees, beneficiaries, predecessors, successors, and assigns. All benefits and protections provided to Defendants pursuant to the Agreement will extend as well to all persons and entities related to or affiliated with Defendants, including, but not limited to, its officers, employees, contractors and successors-in-interest.

16. Choice of Law and Venue; Continuing Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of California and, where applicable, the laws of the United States of America. The venue for any disputes concerning this Agreement shall be in Humboldt County, California, whether in state or federal court. The Parties stipulate that the Superior Court, in and for the County of Humboldt, shall retain jurisdiction to enforce the terms and conditions of this Agreement and to resolve disputes arising hereunder as may be necessary or appropriate for the construction or execution of this Agreement up to and including the Termination Date.

17. Counterparts and Facsimile Signatures. This Agreement may be executed in counterparts which, taken together, shall constitute one and the same agreement. Further,

signatures transmitted and memorialized by facsimile shall be deemed to have the same weight and affect as an original signature.

18. Full Settlement. This Agreement constitutes a full and final settlement of the claims and allegations contained in the First Amended Complaint. It is expressly understood and agreed that the Agreement has been freely and voluntarily entered into by the Parties with and upon advice of the Parties' respective counsel.

19. Integration. This is an integrated Agreement. This Agreement is intended to be a full and complete statement of the terms of the agreement between the Parties and expressly supersedes any and all prior oral or written agreements covenants, representations, and warranties (express or implied) concerning the subject matter of this Agreement.

20. Negotiated Agreement. The Parties have negotiated this Agreement and agree that it shall not be construed against the party preparing it, but shall be construed as if the Parties jointly prepared this Agreement and any uncertainty and ambiguity shall not be interpreted against any one party.

21. No Third Party Beneficiaries. This Agreement is not intended to confer any rights or obligations on any third party and no third party shall have any right of action under this Agreement for any cause whatsoever.

22. Severability. If any provision, clause or part of this Agreement is adjudged illegal, invalid or unenforceable, the balance of this Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective as of the Effective Date.

The Parties:


NORTHERN CALIFORNIA RIVER WATCH


By: Margaret Bacigalupi
Board President

Date: 10-11-2013


BAY SHORE MALL, LP

By: Bay Shore GP, LLC, its general partner

By: 
Susan Elman
Vice President and General Counsel

Date: 10/11/13

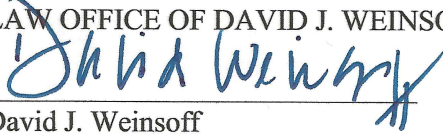
ROUSE PROPERTIES, INC.

By: 
Susan Elman
Vice President and General Counsel

Date: 10/11/13

Approved as to form:

LAW OFFICE OF DAVID J. WEINSOFF



David J. Weinsoff

Attorney for Northern California River Watch

Date: 10.11.13

GORDON KEMPER LLP



Kevin M. Kemper

Attorneys for Defendants GGP, Inc., Rouse Properties, Inc. and Bay Shore Mall, LP.

Date: October 10, 2013

EXTERIOR LANDSCAPE MAINTENANCE AGREEMENT

This Exterior Landscape Maintenance Agreement ("Agreement") is made as of August 1, 2013 by and between Bay Shore Mall, LP, ("Owner") and New Directions ("Service Provider").

WHEREAS, Owner owns a property currently known as Bayshore Mall ("Property"), located at 3300 Broadway, Eureka, CA 95501; and

WHEREAS, Owner desires to engage Service Provider to perform certain Landscape Maintenance services ("Services") for the Property, and Service Provider desires to perform such Services, all as further provided below and in Exhibit A.

NOW THEREFORE, in consideration of the mutual agreements contained herein, the parties hereto agree as follows:

1. AGREEMENT TERM. The term of this Agreement shall begin on August 1, 2013 ("Commencement Date") and end on July 31, 2014 ("Expiration Date"). If this Agreement has not otherwise been terminated by the then scheduled Expiration Date, this Agreement shall be automatically extended on a month-to-month basis until either party terminates by giving the other party at least thirty (30) days written notice.

2. PAYMENT AMOUNTS. Owner shall pay the payment amounts to Service Provider as set forth on Exhibit A, payable within thirty (30) days of receipt of Service Provider's invoice, with any partial periods pro rated, and with all taxes included in such amounts. Owner's payments for the Services in this Agreement are all-inclusive; Service Provider shall not be entitled to any reimbursement of costs and expenses.

3. PERFORMANCE OF SERVICES. Service Provider shall provide the Services in accordance with Exhibit A and Exhibit C, if attached, all to the satisfaction of Owner and in strict accordance with this Agreement. Service Provider agrees to: (i) perform the Services in a professional workmanlike manner, (ii) dedicate a sufficient number of qualified employees, including supervisory personnel to perform the Services, (iii) maintain good order among its employees performing the Services and remove any employee if Owner requests, (iv) comply with all rules, requirements and programs of the Owner concerning the Services, including any limitations on hours of operations, (v) be completely responsible for all safety precautions and requirements relative to the Services, (vi) coordinate and cooperate with other contractors who are performing services and work at the Property, (vii) perform dangerous or disruptive Services only as scheduled with Owner's consent, which will usually be before or after the hours when the Property is open, (viii) provide all materials, equipment, machinery and tools necessary to perform the Services, (ix) comply with Owners clean-up requirements relating to the Services, and (x) perform the Services in accordance with applicable manufacturers' instructions, specifications, and warranties.

4. SERVICE PROVIDER COVENANTS.

A. Employees. Service Provider shall be considered the sole employer of all employees providing the Services and shall have sole: (i) responsibility for their hiring, supervision, safety, health, compensation, benefits, taxes and other withholding

requirements, promotion, discipline, discharge, and all other employer-employee matters, and (ii) liability for all claims arising from such matters.

B. Other Service Provider Parties. Without Owner's express written approval, Service Provider shall not engage any party to perform the Services other than Service Provider's own employees.

C. Insurance. Service Provider shall provide the insurance coverage set forth on Exhibit B attached hereto and deliver to Owner a certificate of insurance described therein prior to commencement of the Services.

D. Permits and Taxes. Service Provider shall (i) procure and keep in full force and effect, licenses, permits, bonds or other authorizations necessary to provide the Services, and (ii) unless expressly provided otherwise in Exhibit A, pay all sales, use, service, gross receipts, and other excises and taxes on or respecting the Services, any materials included therein, or otherwise relating to this Agreement.

E. Compliance With Laws. Service Provider agrees to perform the Services and all of its obligations under this Agreement in compliance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, codes and other governmental requirements ("Laws").

F. No Use of Property Name or Picture. Service Provider shall not, while this Agreement is in effect or thereafter, use or permit the use of Owner's name or the name of any affiliate of Owner, or the name, address or any picture or likeness of or reference to the Property, without the written consent of Owner.

5. SERVICE PROVIDER REPRESENTATIONS. Service Provider and all persons signing for Service Provider below hereby represent and warrant that: (i) this Agreement has been fully authorized, no further approvals are required, and Service Provider is legally authorized to do business in the State in which the Property is located, and (ii) this Agreement is binding on and enforceable against Service Provider in accordance with its terms.

6. INDEMNIFICATION.

A. Service Provider shall, to the fullest extent permitted by law, indemnify, hold harmless, defend and reimburse Owner, the property management company for the Property (if any), and all of their direct and indirect parents and subsidiaries, any of their affiliated entities, successors and assigns and any current or future director, officer, employee, partner, member, lender or tenant of any of them ("Indemnified Parties") from and against any and all claims, damages, losses, liabilities, suits, expenses, citations and fines (including attorneys' fees and legal expenses) (collectively, "Claims") which arise out of or are in any way connected with: (i) the Services performed under this Agreement, (ii) any negligence or intentional misconduct or other action or omission of Service Provider or its employees, agents, affiliates or suppliers, directly or indirectly involved in the Services ("Service Provider-Parties"), or (iii) any violation of this Agreement by Service Provider Parties.

B. Without limiting the generality of the foregoing provisions, Service Provider's obligations to indemnify, hold harmless, defend and reimburse under this Section include any and all Claims arising or alleged to arise wholly or partly

out of or in any way connected with the Services, regardless of whether or not such Claims are caused or alleged to have been caused in whole or in part by any negligent act or omission of any Indemnified Party; provided, however, to the extent prohibited by applicable law, Service Provider's indemnification and hold harmless obligations herein shall not apply to any such Claim to the extent determined to be actually caused by the negligence of the party seeking to be indemnified.

C. Service Provider's liability under this Agreement shall not be limited to the insurance coverage required to be carried by Service Provider. The indemnification obligation under this Section shall not be limited by any limitation on the amount or type of damages, compensation or benefits payable by or for Service Provider or a subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

D. Owner may set off against any payments under this Agreement any amounts which Owner determines in good faith are reasonably necessary to protect the Indemnified Parties from any Claims which are made under this Section. This Section shall survive the expiration or earlier termination of this Agreement.

7. TERMINATION

A. **Termination for Cause.** Owner shall have the right to terminate this Agreement, by giving Service Provider at least five (5) days written notice, if Owner determines that Service Provider has failed to perform any provision of this Agreement. Whether Service Provider cures such performance, during such five (5) day period, shall be determined by Owner in Owner's sole discretion.

B. **Termination Without Cause.** Notwithstanding anything to the contrary contained in this Agreement, Owner may terminate this Agreement at any time, without cause, by giving Service Provider at least thirty (30) days' written notice. Alternatively, Owner may elect in writing to discontinue the Services immediately, in which case, Owner shall pay any amount required under this Agreement for the thirty (30) day period following the date of such notice.

C. **Actions Upon Termination.** Upon termination, Service Provider shall: (i) prorate Owner's payments pursuant to Section; (ii) do all other things reasonably necessary to cause an orderly cessation, or at Owner's option, transition of the Services to Owner or another service provider designated by Owner, without detriment to the continued operation of the Property, and (iii) turn over to Owner all reports, data, service manuals, records, and other materials respecting the Services. Termination of this Agreement shall not affect Owner's right to recover damages for violations of this Agreement or any other rights or remedies of Owner under this Agreement or applicable Laws (all of which shall be cumulative).

D. **Other Remedies.** If Service Provider fails to comply fully with any obligations promptly and properly in accordance with this Agreement: (i) Service Provider shall, to the extent required by Owner, re-perform such Services immediately and without additional charge, and (ii) if such failure continues for twenty-four (24) hours after Owner's written request (except that no request shall be required in an emergency), Owner may perform or arrange for another party to perform such obligations, deduct the

cost from amounts owing Service Provider, and hold Service Provider liable for any additional costs incurred.

8. GENERAL PROVISIONS

A. Entire Agreement. This Agreement, which includes the exhibits referenced herein and attached hereto, sets forth the entire understanding and agreement of the parties with respect to the Property and the subject matter of this Agreement and supersedes all prior agreements, representations, warranties, understandings and commitments of the parties, whether oral or written, with respect thereto (except for any Service Provider indemnities, warranties and other provisions of any prior agreements which survive termination of such other agreements).

B. Modifications and Amendments. No modification or amendment of any term or condition of this Agreement shall be valid or of any force or effect unless made in writing, signed by the parties hereto or their duly authorized representatives, and specifying with particularity the nature and extent of such modification or amendment.

C. Assignment. This Agreement may not be assigned, in whole or in part, by Service Provider without the prior written consent of Owner. Owner may freely assign this Agreement to any affiliate or to any other assignee, provided that any such assignee (other than an affiliate) agrees in writing to fulfill all obligations of Owner under this Agreement.

D. Governing Law; Disputes. This Agreement shall be governed by, construed and enforced in accordance with the laws of the state in which the Property is located, without regard to choice of law or conflicts of laws provisions. THE PARTIES HEREBY WAIVE TRIAL BY JURY. If either party institutes any action or proceeding against the other relating to this Agreement or the Services, the prevailing party shall be entitled to recover all reasonable costs and attorneys' fees from the unsuccessful party.

E. Reformation and Severability. If any provision or term of this Agreement shall, to any extent, be held invalid, illegal or unenforceable by a court of competent jurisdiction, that provision shall, to the extent possible, be modified in such a manner as to be valid, legal and enforceable but so as to most nearly retain the intent of the parties as expressed herein, and if such a modification is not possible, that provision shall be severed from this Agreement, and in either case the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

F. Waivers. No waiver of any term or condition of this Agreement shall be valid or of any force or effect unless made in writing, signed by the parties hereto or their duly authorized representatives, and specifying with particularity the nature and extent of such waiver. The failure of a party at any time to exercise any of its rights or options under this Agreement shall not be construed to be a waiver of such rights or options or prevent such party from subsequently asserting or exercising such rights or options, nor shall it be construed, deemed or interpreted as a waiver of, or acquiescence in, any such breach or default or of any similar breach or default occurring later.

G. Independent Contractor. The parties are independent contractors with respect to one another and to this Agreement and shall not be construed to be the agent of the other under any circumstances. Neither party shall make any express or implied

agreements, warranties, guarantees or representations or incur any debt in the name of, or on behalf of, the other or be obligated by or have any liability under any agreement or representations made by the other that are not expressly authorized in writing.

H. Force Majeure Delays. Neither party shall be liable for any delay or failure to perform its obligations under this Agreement, if such delay or failure is caused by a force beyond such party's control, which forces shall include, but not be limited to, casualty damage, terrorism and bomb threats.

I. Counterparts. This Agreement may be executed in any number of counterparts and by the parties on separate counterparts, each of which, when executed and delivered, shall be deemed to be an original and all of which, when taken together, shall constitute one and the same Agreement. Delivery of an executed counterpart of this Agreement by electronic mail or facsimile shall be equally as effective as delivery of a manually executed counterpart of this Agreement. Any party delivering an executed counterpart of this Agreement electronically or by facsimile shall also deliver a manually executed counterpart of this Agreement; provided, however, the failure to deliver a manually executed counterpart shall not affect the validity, enforceability and binding effect of this Agreement.

J. Inconsistency Within Agreement. Owner's policy prohibits attaching Service Provider's proposal or agreement form as an exhibit or other attachment to this Agreement. If for any reason Service Provider's proposal or agreement form is so attached, the parties hereby mutually agree that: (i) such item was attached only as a convenience and to expedite the preparation of this Agreement; and (ii) only the portions of such attachment which describe the details, specifications, performance times, and pricing, for the Services shall be deemed to be incorporated into this Agreement, and only to the extent consistent with the other provisions of this Agreement.

K. Notices. All notices, requests and approvals required under this Agreement must be in writing and addressed to the other party's designated contact(s) for notices as set forth below, or to such other address as such party designates in writing. All such notices, requests and approvals will be deemed to have been delivered either when personally delivered, or upon delivery by either registered or certified mail, postage prepaid with return receipt requested, or by a recognized commercial courier service providing proof of delivery on the date of mailing. The provisions of this Section shall survive termination of this Agreement. The parties' initial addresses for notices, requests and approvals as described herein are as follows:

To Owner:

Bay Shore Mall, LP
3300 Broadway
Eureka, CA 95501

Kirk White, CSM
Attn: General Manager

With a copy to:

c/o Rouse Properties, Inc.
1114 Avenue of the Americas, Suite 2800
New York, NY 10036
Attn: Legal Department

To Service Provider:

New Directions
1626 Myrtle Avenue Suite B
Eureka, CA 95501
phone: 707-616-1182

With a copy to:

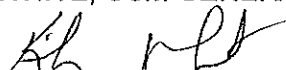
Mitch Metheny, Operations Manager
Bayshore Mall

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Agreement as of the day and year first above written.

OWNER:

BAY SHORE MALL, LP
3300 BROADWAY
EUREKA, CA 95501

KIRK WHITE, CSM GENERAL MANAGER

BY: 
Authorized Signatory

SERVICE PROVIDER:

NEW DIRECTIONS
ATTN: JOHN SHELTER
1626 MYRTLE AVE SUITE B
EUREKA, CA 95501

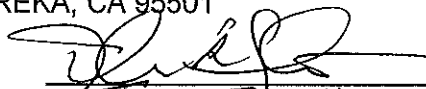
BY: 
NAME: John Shelter
TITLE: owner
TAXPAYER NUMBER (FEIN): 61-1584338

EXHIBIT A

WETLANDS MAINTENANCE SERVICES

Contractor: New Directions

General Wetlands Maintenance Scope of Work for Bayshore Mall Restoration Areas "A" and "B."

Continued implementation of the February 23, 1989 *Guidelines for Wetland Maintenance* (attached), which identify the following:

1. Weekly inspection for trash and debris
2. Monitoring of Water Flow during high tides and rainy season.
3. Periodic checking of storm drains
4. Watering of plant restoration area as needed
5. Inspect weekly for damaging foot and vehicle traffic; and
6. Keep Mill Street (now Bay Shore Way) entrance free from debris

Additional Wetlands-specific Scope of Work

- A) Weekly: Check and trim as needed all shrubs that are outlined in Blue on map, remove trash and debris and deposit in designated local dumpster locations.
- B) Monthly: Check and trim as needed all Escalonia that are outlined in Green on map.
- C) Quarterly: Clean and cut back Blackberries and other non-native vegetation as needed, as outlined in Orange on map.
- D) As Needed: Communicate to Bayshore Mall management any water flow, drainage, drought conditions, fencing damage or damages caused by foot or vehicle traffic.
- E) As Needed: Check for abandoned campsites and remove abandoned materials, trash and debris for disposal.

All work is to be completed in a safe manner using all required safety equipment.

Nothing in this Scope of Work shall be interpreted to either require or allow New Directions (or any of its employees) to violate or infringe the civil or legal rights of third parties (either to their persons or possessions).

All workers are to be safety trained in the work that they perform and a safety meeting is to be performed before the start of each task.

All supervisors will need to check in with the mall's security office, either in person or by calling 707.498.1989 before the start of each day.

City-owned PALCO and Maurer Marsh Areas:, Parcel 4. Assist and coordinate continuing work on Bayshore Restoration Areas “A” and “B” wetlands parcels under this Scope of Work with adjacent wetland preserve areas owned by or overseen by the Coastal Conservancy, the City of Eureka, or other groups and organizations.

Compensation for Wetlands maintenance work under this Agreement: \$ 1,670.00 per month for a total of \$ 20,040.00 per year.

For Insurance Requirements: see “Standard Certificate Requirements” for Bayshore Mall, LP.

EXHIBIT B

INSURANCE REQUIREMENTS

REQUIRED INSURANCE.

Service Provider shall furnish and maintain in effect during the term of the Agreement the insurance coverage described below:

Commercial General Liability	\$1,000,000 Occurrence/\$2,000,000 Aggregate
Contractors Pollution Liability	\$2,000,000 Occurrence
Commercial Automobile Liability	\$1,000,000 Combined Single Limit
Workers' Compensation Employers' Liability	Statutory \$500,000 Each Accident \$500,000 Disease, Policy Limit \$500,000 Disease, Each Employee
OR	
(for Monopolistic States) Workers' Compensation Stop Gap Employers' Liability	Evidence of Monopolistic State Coverage \$500,000 Occurrence/Aggregate

POLICY REQUIREMENTS.

The insurance required of Service Provider shall be issued by an insurer or insurers lawfully authorized to do business in the jurisdiction in which the Property is located, and maintaining an AM Best rating of at least A- VII.

The Commercial General Liability Insurance required shall name, as "**Additional Insureds**", "Owner, the property management company for the Property, (if any) and their respective direct and indirect parents and subsidiaries, any of their affiliated entities, successors and assigns and any current or future director, officer, employee, partner, member or agent of any of them". The Commercial General Liability Insurance shall include a Pesticide and Herbicide Endorsement using the ISO CG 28 12 10 01 form or a similar type of endorsement forms.

All Insurance policies shall contain waivers of any and all rights of subrogation against the Additional Insureds, and shall contain either a cross-liability endorsement or separation of insureds provision, which provision shall permit the limits of liability under Service Provider's policies to apply separately to each Additional Insured.

All Insurance policies required by this Agreement shall state that they are primary and not additional to, or contributing with, any other insurance carried by, or for the benefit of the Additional Insureds with respect to the negligence of Service Provider, its employees, agents, contractors and/or subcontractors.

Before the commencement of any Services, the Property shall be furnished valid and original certificate(s) of insurance evidencing that all required insurance coverages are in force. All insurance policies required by this Agreement shall bear an endorsement prohibiting such policy from being canceled, allowed to lapse or substantially modified without thirty (30) days prior written notice to Owner, except for non-payment of premium for which ten (10) days notice shall be provided.

Compliance with the insurance requirements of this Agreement shall not be relieved by Owner's, or any Property's, receipt or review of any insurance certificates.

EXHIBIT C

SUPPLEMENTAL TERMS AND PROVISIONS

1. HAZARDOUS MATERIALS AND WASTE

A. Service Provider warrants that (a) the materials to be supplied shall not contain asbestos, polychlorinated biphenyls (PCB's), waste oils, creosote, or banned refrigerants, (b) paint shall not contain lead, and (c) any pesticides shall be registered in compliance with the Federal Insecticide, Fungicide and Rodenticide Act, and the registration shall not have expired.

B. Service Provider shall not conduct, allow, or authorize the handling of any hazardous materials or materials banned or regulated under environmental, health, or safety laws on the Property. If any of the materials it uses or applies require labeling, posting of warning signs, limitation of access to the work area or the area where the materials are stored, or other precautions, Service Provider shall inform Owner in advance and Service Provider shall be solely responsible at its cost for taking appropriate precautions. All signage to be posted on the Property shall be subject to Owner's approval as to content, design and location. Such approval shall not be unreasonably withheld.

C. Service Provider shall not take any action that would subject the Property to permit requirements for the storage, treatment, or disposal of hazardous wastes or petroleum or petroleum by-products including, but not limited to, requirements under the Federal Resource Conservation and Recovery Act or state or local laws and regulations.

D. Service Provider shall not cause or allow the release, disposal of, or abandonment of any hazardous substances on the Property so as to subject the Property to the Federal Comprehensive Environmental Response, Compensation, and Liability Act or equivalent state laws.

E. Service Provider shall not cause or allow the release or discharge of any hazardous wastes or substances, nuclear or radioactive materials, refrigerants, or petroleum or petroleum by-products into the ambient air, drains, sewers, sumps, wells, underground storage tanks, wetlands, ditches, soils, retention or detention ponds, surface waters, or ground water on or under the Property, provided, however, that if by their nature Service Provider's services reasonably include the application of pesticides, herbicides, rodenticides, fungicides, fertilizers, road salt, deicers, wood preservatives, sealants, paint, plaster, joint compound, roofing compounds, tar, asphalt, surfactants, refrigerants, cleaning compounds, caustics, acids, abrasives, adhesives, solder, or other such materials reasonably necessary for the performance of the Service, Service Provider shall use only lawful materials and shall apply such materials using the amounts, concentrations, and methods recommended by the manufacturer and shall take all reasonable precautions against creating a nuisance, causing an unlawful discharge, or harming people, property, or the environment.

F. Service Provider shall not disturb any asbestos containing materials (ACM) in or near the work area. In the event Service Provider suspects that any ACM are located in or around the area(s) in which Service Provider is rendering services, Service Provider shall advise the Owner of the suspected ACM before beginning to render the Services.

G. Service Provider shall not dispose of any containers, raw materials, residue, off-specification materials, or wastes into any dumpsters or trash containers that may be located on the Property for the use of Owner or its tenants or other contractors. Instead, Service Provider shall place them in appropriately labeled, covered, and secured dumpsters or containers provided for the specific purpose by Service Provider and Service Provider shall remove them at the conclusion of the Services. No temporary storage of wastes in Service Providers' dumpsters or containers shall exceed 30 days, even if Service Provider's services at the Property require more than 30 days.

H. At its sole cost, Service Provider shall arrange for the lawful transportation and off-site disposal of all hazardous substances, residues, materials, and wastes that it generates but does not use or apply in the performance of the Services and that cannot be placed in Owner's dumpsters or containers. This paragraph shall survive the expiration or termination of this Agreement.

2. RECYCLABLE MATERIALS

A. Service Provider shall, at its sole cost, recycle any and all waste collected or generated in the performance of the Services that is capable of being recycled including, without limitation, foliage, trees, leaves, grass clippings, weeds, mulch or any portion thereof (collectively "**Recyclable Materials**"). For purposes of this Agreement, to "recycle" means to convert Recyclable Materials into compost, mulch or similar materials for later use by Service Provider. Incineration shall not be an acceptable method of recycling. Owner shall have the right, in its reasonable discretion, to approve Service Provider's method of recycling the Recyclable Materials.

B. Within thirty (30) days after the end of each calendar quarter during the term of this Agreement, Service Provider shall provide to Owner a report (substantially in the form attached to this Agreement as Schedule 1) detailing the amount and type of Recyclable Materials recycled during the previous calendar quarter.

SCHEDULE 1

RECYCLING REPORT

FOR TIME PERIOD:

BEGINNING: _____

ENDING: _____

Property Name: _____

City: _____

State: _____

Service Provider: _____

Service Provider's Telephone Number: _____

MATERIAL

WEIGHT RECYCLED
(IN CUBIC YARDS)

GRASS CLIPPINGS	_____
TREES, BRANCHES	_____
LEAVES	_____
MULCH	_____
FOLIAGE	_____
OTHER	_____

TOTAL _____

I hereby certify that, to the best of my knowledge and belief, the information contained in this report for the reporting period specified above is accurate, complete and verifiable.

Signature: _____

Name: _____

Date: _____