REIMBURSEMENT AGREEMENT
UNIVERSITY PARK

This Agreement is made and entered into by and between the CITY OF STOCKTON, herein referred to as “CITY”, and GRUPE COMMERCIAL COMPANY, a California corporation, herein referred to as “DEVELOPER”.

RECITALS

The DEVELOPER is under contract with Stockton Center Site Authority, a Joint Powers Agreement (JPA) between the Trustees of the California State University and City of Stockton, to develop and lease approximately 102 acres of land, referred to as University Park. University Park is located in Central Stockton and owned by the State of California.

The DEVELOPER’s master plan for University Park is to create and construct a mixed-use project that emphasizes education, office, retail, medical, and residential uses (the “Project”). The master plan currently reflects a total projection of 500,000 s.f. of office and medical space, 50,000 s.f. of retail, 200 residential units, and a health and wellness community center, with the balance devoted to educational uses.

The Project will stimulate and encourage business and job growth, bring services to a lower income neighborhood, and aid in the revitalization of the Midtown area.

DEVELOPER requests that the CITY enter into this Agreement to reimburse it for the capital improvements located within University Park. These improvements are defined in Exhibit A, which is attached hereto and made a part hereof by this reference (the “Improvements”). The actual cost of the improvements may include additional items of work not included in Exhibit A, but which are necessary or desirable to the Project. The maximum amount to be reimbursed for the Improvements is $3.29 million (three million two hundred ninety thousand dollars).

CITY has identified the Improvements as being consistent with the Economic Development Strategic Plan (February 2015) goals and to be the type of Project that would encourage job growth and other development activities in the Midtown area.

DEVELOPER will secure all necessary permits and design and construct the Improvements in the manner required pursuant to applicable laws, including the City of Stockton Municipal Code and standards, all at DEVELOPER’S expense, subject to reimbursement as provided in this Agreement.

DEVELOPER will file a Notice of Completion upon completion of the Improvements, and obtain CITY approval of the Improvements.

For and in consideration of these promises, and for the mutual promises contained herein, the parties agree as follows:

1. RECITALS: The parties represent and warrant each to the other, that the above recitals are true and correct.

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2. REIMBURSEMENT:

A. Pursuant to the guidelines and regulations herein defined, CITY agrees to reimburse DEVELOPER for all or part of the Improvements, subject to the satisfaction of the following condition:

i. DEVELOPER shall provide CITY documentation that, to the reasonable satisfaction of CITY, substantiates the cost of the Improvements.

B. Once the above condition is satisfied, as determined by CITY, CITY shall provide reimbursement payments to DEVELOPER, in a total amount not to exceed $3.29 million, in progress payments, as follows:

i. The first payment shall be due upon CITY’s approval of plans and/or issuance of building permit(s) for the Improvements.

ii. Subsequent payments shall be paid in no less than thirty (30) day intervals.

iii. The CITY shall make final payment of the balance of the cost of Improvements (in an amount not to exceed $3.29 million), sixty (60) days after recordation of the Notice of Completion of the Improvements, providing there are no liens in place pertaining to the Improvements.

3. WAIVER OF INTEREST: DEVELOPER agrees to waive any and all claims regarding interest to which it may be eligible to receive on unreimbursed amounts.

4. ADDITIONAL PROVISIONS OF AGREEMENT:

A. DEVELOPER may, with CITY’S prior approval, assign the benefits of this Agreement and the receipt of payment to any successor in title provided DEVELOPER has fulfilled all dedication and construction obligations as set forth in this Agreement.

B. This Agreement shall be binding upon the heirs, executors, administrators, successors and assignees of the parties hereto.

C. This Agreement constitutes the entire agreement between the parties pertaining to the subject matters contained herein. No supplement, modification, or amendment of this Agreement shall be effective unless it is set out in writing by both parties.

D. The title given to the paragraphs of this Agreement is for the ease of reference only and shall not be relied upon or cited for any other purpose

5. NOTICES: All notices required shall be in writing and delivered in person or sent by registered mail, postage paid. Notices required to be given to CITY shall be addressed as follows:

City of Stockton
Economic Development Department
400 East Main Street, 4th Floor
Stockton, CA 95202
Attn: Director
And notices required to be given by DEVELOPER shall be addressed as follows:

Grupe Commercial Company
3255 West March Lane, Suite 400
Stockton, CA 95219
Attn: Kevin Huber, President

Each party may change its address by notice in writing to the other party, and thereafter, notices shall be addressed and transmitted to the new address.

6. AUDIT: CITY or its designee shall have the right, during normal business hours and upon the giving of reasonable notice to DEVELOPER, to inspect and copy all books, records, accounts, and other written material of DEVELOPER pertaining to costs and expenses incurred by DEVELOPER in constructing any of the Improvements. DEVELOPER further agrees to maintain such records for a period of three years after final payment under this Agreement. Upon request, DEVELOPER agrees to furnish CITY, or designated representative, with necessary information and assistance.

7. INDEMNIFICATION AND HOLD HARMLESS: Commencing with the start of work on the Improvements and continuing for a period of one-year following the CITY’S acceptance of the Improvements, DEVELOPER agrees to indemnify, save, hold harmless, and at City's request, defend the CITY, its officers, agents, and employees from any and all costs and expenses (including attorney and legal fees), damages, liabilities, claims, and losses occurring or resulting to the CITY in connection with the performance, or failure to perform, by DEVELOPER, its officers, agents, sub-contractors, employees, or anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable under this Agreement, and from any and all costs and expenses (including attorney and legal fees), damages, liabilities, claims, and losses occurring or resulting to any person, firm, or corporation who may be injured or damaged by the performance, or failure to perform, of DEVELOPER, its officers, agents, or employees under this Agreement. The duty to defend and the duty to indemnify are separate and distinct obligations.

8. RELATIONSHIP TO PUBLIC WORKS: The parties hereto agree that this Agreement is for the reimbursement to DEVELOPER by CITY for costs incurred to construct the Improvements and is not, nor is it intended to be a Public Works contract. In performing this Agreement, DEVELOPER is an independent contractor and not the agent of CITY. CITY shall not have the responsibility for payment to any contractor or supplier of DEVELOPER.

9. REQUIREMENTS OF LAW – PREVAILING WAGES: DEVELOPER shall construct the Improvements in all manner in accordance with applicable law, including the payment of prevailing wage. DEVELOPER and any subcontractor shall pay each employee engaged in the trade or occupation not less than the prevailing hourly wage rate. In accordance with the provisions of Section 1770 of the Labor Code, the California Department of Industrial Relations has determined the general prevailing wage rates and employer payments for health and welfare, pension, vacation, travel time, and subsistence pay as provided for in Section 1773.8, apprenticeship or other training programs. DEVELOPER shall obtain a copy of the current wage rate determination and shall distribute copies to each subcontractor. As the wage determination for each craft reflects an expiration date, it shall be the DEVELOPER and each subcontractor's responsibility to ensure that the prevailing wage rate of concern is current and paid to the employee.
10. GOVERNING LAW: This Agreement shall be governed by the laws of the State of California. Venue shall be in San Joaquin County, California.

11. SEVERABILITY: The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provisions.

12. NO WAIVER OF PERFORMANCE: The failure of either party to insist, in any one or more instances, on the performance of any of the terms, covenants, or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, condition, or right with respect to further performance.

13. EFFECTIVE DATE: This Agreement is effective on March ____, 2016.

14. RIGHTS AND REMEDIES CUMULATIVE: Except as otherwise provided, the rights and remedies of the parties are cumulative, and the exercise or failure to exercise any right or remedy shall not preclude the exercise, at the same time or different times, of any right or remedy for the same default or any other default.

15. TIME IS OF THE ESSENCE: It is understood and agreed by and between the parties hereto that time is of the essence of each and every term of this Agreement.

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

ATTEST:                              “CITY”

BONNIE PAIGE                        CITY OF STOCKTON, a municipal
CITY CLERK                          corporation

BY________________________________  BY________________________________
                                        CITY MANAGER

APPROVED AS TO FORM:               “DEVELOPER”

OFFICE OF THE CITY ATTORNEY         GRUPE COMMERCIAL COMPANY, a
                                     California corporation

BY________________________________  BY________________________________
                                        Kevin Huber, President

Approve by City Council Resolution No. _____________ on ________________, 2016.
EXHIBIT A

Grupe Commercial Company  
University Park  
Site Improvement / Underground Infrastructure Costs

Prepared 01/27/2016

<table>
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<tr>
<th>Proposed Costs</th>
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<td>Soils Engineer</td>
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<td>Civil Engineer</td>
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<td>Staking</td>
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<td>Cal Water - Engineering Review</td>
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<td>Permits &amp; Fees</td>
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<td>Water Truck</td>
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<td><strong>Total Soft Costs</strong></td>
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<td>SWPPP</td>
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<tr>
<td>Grading, Paving and Site Demo</td>
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<td>Site Utilities (Fire Hydrants, Storm Drain/Dr, Cal Water - Waterline, Gas, and Electrical (includes PG&amp;E Fees))</td>
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<td>Site Concrete</td>
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<td>Decorative Site Pavers</td>
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<td>Misc Labor Clean Up</td>
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<td><strong>Total Hard Costs</strong></td>
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<td>Overhead/General Conditions/Fees</td>
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<td><strong>Total Hard Cost and Overhead/GC/Fees</strong></td>
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