



ART WALL AGREEMENT

1 Steelcase Road West, City of Markham, (the Property")

THIS AGREEMENT DATED AS OF APRIL , 2024 IS MADE BETWEEN:

Parties:

STEELCASE ROAD WEST HOLDINGS INC. (the "Owner")

Address: 199 Bay Street, Suite 49, City of Toronto, M5L 1L5

-and-

THE CORPORATION OF THE CITY OF MARKHAM (the "City")

Address: 101 Town Centre Boulevard, Markham, ON L3R 9W3

Recitals:

- A. A site plan control agreement (the "**SPCA**") dated January 8, 2024 entered into by the Owner and the City was registered on title to the Property on February 1, 2024 as instrument No. YR3643476 (in LRO #65). and states at Section 16(pp):

"The owner agrees as follows:

To design and construct a screen wall, in consultation with the City's Public Art Group a decorative screen wall, approximately 33 metres x 5 metres in size, to be constructed and installed in the location shown on the Site Plan, to the satisfaction of the Director of Planning and Urban Design. The Owner shall provide a letter of credit in the amount of \$294,800 to secure the installation of the decorative screen wall. The letter of credit may be reduced when the base wall has been constructed to the satisfaction of the Director of Planning and Urban Design, provided that the letter of credit shall not be reduced below the cost of completing the balance of the installation, plus a 10% contingency, all in the discretion of the Director of Planning and Urban Design."

- B. The purpose of this agreement (the "**Agreement**") is to ensure that Section 16(pp) of the SPCA is satisfied and outline the mutual understanding and collaboration between the Parties for the construction and management of an art wall as a distinctive component of the 1 Steelcase Road West industrial development. A letter of credit (the "**LC**") in the amount of \$294,800 has been posted in accordance with Schedule D of the SPCA.
- C. The site is approximately 12.1 ha (29.9 bound by Steelcase Road West to the North, Woodbine Avenue to the East and Idema Road to the South and West. The project consists of 3 industrial buildings on the site, one existing 2-storey building that is being renovated and two (2) new single-storey industrial distribution buildings to be constructed (the "**Project**"). The artwork shall be located on the large cast in place concrete wall (the "**Screen Wall**") that is located on the eastern portion of the site facing Woodbine Avenue and screening the truck court between Building 2 & Building 3, as seen on the attached plan attached as **Schedule "A"**. The Screen Wall is approximately 108 ft (33m) in length and 16 ft (5m) in height. The proposed artwork (the "**Art**") will be printed on a canvas



base, or similar type of material, and installed on a mounting system (the “Hanger”) will be approximately 80ft. in length and 10 ft in height. The surrounding landscape features have been designed in conjunction with the Screen Wall to ensure visibility from Woodbine Avenue and highlight the art wall as an entrance feature to the City of Markham.

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, this Agreement is entered into by and between the Owner and the City, collectively referred to as the “Parties” and the Parties hereby covenant and agree as follows:

1. Term and Termination

The term of this Agreement shall be ten (10) years (the “Term”) from the date of substantial completion of the Project or April 10, 2026, whichever comes first. The Owner shall provide to the City evidence of the date of substantial completion of the Project so that the commencement date of the Term can be determined. It is the intent that the Art to be presented on the Hanger will be changed on a 3 to 3.5-year basis with consideration of the condition of piece. The Term may be extended or renewed provided by Agreement executed by the Parties each having sole and independent discretion as to whether to so extend or renew.

2. Material

The Art will take the form of a printed screen, which will be affixed to or suspended from the Screen Wall using a commercially available hanger system. The art installation will span as one expansive, continuous piece, or give the appearance of a singular installation, creating a unified presentation.

3. Installation

The Owner will be responsible for cost of the initial installation and maintenance of the Art on the Hanger system. The cost of removing any then existing Art and the installation and maintenance of new Art for each of two subsequent 3.5-year periods, shall be the sole responsibility of the City, with any replacement Art requiring the prior approval of the Owner.

4. Artistic Goals

It is the intent that the Art shall:

- Command a prominent presence visible from Woodbine Avenue.
- Align with QuadReal’s placemaking principals and contribute to the objectives of the City of Markham Gateway Master Plan and Public Art Master Plan
- Complement the immediate surroundings and fit within the context of the proposed development.
- Originate from Canadian artists with a priority given to those originally from or working or residing in Markham, and with a focus on those from marginalized communities.

In respect of the Art to be installed for the initial three-year period of the Term, the Owner shall engage a cultural heritage consultant to provide a desktop cultural heritage report. This report will delineate the historical indigenous context of the area, shaping the artistic expression of the Art and identify a list of appropriate indigenous or other artists that may be commissioned to create the Art. The Art should reflect the indigenous relationship to/with the surrounding area, celebrate diversity and be inclusive and



welcoming. No hate speech or content that would offend a group of community members shall be permitted so as to ensure that the Art resonates positively with all members of the community.

5. Procurement

The commissioning process for the initial three-year period of the Term will be facilitated through a direct and collaborative approach, overseen by the Owner, in conjunction with the City. A request for proposals (“RFP”) will be orchestrated to invite submissions, utilizing the insights gleaned from the cultural heritage report to guide the selection of participating artists and, ultimately, the chosen Art, with valuable input from the City. The aspirations and objectives articulated in this Agreement will be integral components of the RFP, ensuring integration of the outlined goals into the selection process.

Following the initial three-year period, for the remainder of the Term the City retains the flexibility to employ any procurement method deemed most suitable for its specific requirements but will maintain the intended agreed upon goals. This provision allows for adaptability to the evolving needs and circumstances over the Term.

6. Approval Process

The City and the Owner are responsible for maintaining an open and active relationship throughout the Term and while selecting the chosen Art.

The Owner retains the right to exercise final control over the ultimate selections of any Art chosen during the Term to safeguard the business interests of the Owner and its tenants. This provision is integral to fostering a collaborative partnership that respects both artistic expression, strategic and community considerations of the Owner.

The initial Art project commissioned by the Owner will be reviewed by the City’s public art curator and the Markham Public Art Advisory Committee (“MPAAC”) to ensure that the Art project meets the City’s Public Art Community Guidelines as outlined in the MPAAC Terms of Reference, and appended here as **Schedule “B”** and will be conducted in accordance with the City’s normal public art acquisitions process for temporary projects. The City will ensure that the Art is reviewed by MPAAC to ensure that the Art meets the public art community guidelines attached as **Schedule “B”** hereto and that the Art is approved by the Owner in writing.



7. Financial Arrangements:

Financial responsibilities of each party, including budget allocation for the Screen Wall shall be as set out below:

a) Screen Wall

The Owner shall bear exclusive responsibility for the expenses associated with the design, construction, maintenance/repair and ownership of the Screen Wall. To secure the costs of the Screen Wall, an LC has been posted as security as set out in the SPCA. The anticipated cost of the Screen Wall is approximately \$208,000. This financial commitment is part of the Owner's dedicated investment in the successful implementation of the Screen Wall. The LC shall be released back to the Owner in full, once the initial Art has been installed on the Screen Wall.

b) Hanger

The Owner shall be responsible for the expenses associated with the design, construction, and ownership of the Hanger. To secure the costs of the Hanger, an LC has been posted as security as set out in the SPCA. The anticipated cost of the Hanger is approximately \$25,000. This financial commitment is part of the Owner's dedicated investment in the successful implementation of the Screen Wall. The LC shall be released back to the Owner in full, once the initial Art has been installed on the Screen Wall.

c) Commissioning Process

The Owner shall be responsible for the cost of the initial Cultural Heritage Report and any costs related to the proposed RFP (artist selection process) associated with the initial three-year period of the Term, provided that the Owner's contribution to this portion of the process shall not exceed \$5,000.00. Any excess costs above this cost cap, shall be the responsibility of the City.

d) Further Contributions

The Owner shall contribute additional funds of up to \$40,000 as a one-time contribution toward commissioning, artist fees and printing of the Art for the initial three-year period of the Term. Any financial obligations beyond this period will be the responsibility of the City, with the exception of maintenance/repair of the Screen Wall, and Hanger, which will continue to be the Owner's ongoing responsibility for the Term. Any unspent funds are to be retained by the Owner. The Owner reserves the right to request that the City take steps that the Art be removed from the Hanger should the Art be damaged or vandalized in any significant way, provided that if the City does not do so after receiving a written request of the Owner to do so, the Owner may do so acting on its own.

8. Ownership of Art:

The City shall ensure that:

- a) All municipal by-laws and signage regulations of the City are complied with in connection with the installation and maintenance of the Art on the Hanger and the Screen Wall;



- b) The City ensures it has legal title to the Art before it is installed on the Property; and
- c) That the artist producing the Art (who retains copyright in the Art) agrees that the Owner may use photographs and other representations of the Art, the Screen Wall and the Property in connection with marketing, promotions and communications by the Owner and its tenants.

9. General Provisions:

- a) Notices, requests or other communications under this Agreement must be in writing and either delivered or sent by registered mail, postage prepaid to: (i) the Owner at the address of the Owner shown on the first page of this Agreement; and (ii) the City at the address of the City shown on the first page of this Agreement. Notices will be considered to be effectively given on the date delivered. Telefacsimile, electronic mail or any other electronic communications between the parties shall not be considered proper notice under this Agreement.
- b) Nothing in this Agreement or resulting from any acts of the Parties will be deemed to create any relationship between the Parties of licensor and licensee or landlord and tenant or to give the City any real property interest or other estate in the Property. The City acknowledges that the Owner at all times has the legal possession and control of the Property.
- c) If any provision of this Agreement is illegal or unenforceable it shall be considered severable from the remaining provisions of this Agreement, which shall remain in force.

~~e) Neither Party will register this Agreement or any notice of it against all or any part of the title to the lands comprising the Property.~~

e)d) This Agreement will be governed by the laws of the Province of Ontario and the laws of Canada applicable therein.

f)e) Time is of the essence of this Agreement.

g)f) This Agreement applies to and enures to the Parties and their successors and assigns.

h)g) This Agreement together with the SPCA contains all the representations, warranties, covenants, agreements, conditions and understandings between the parties concerning the Art, the Hanger and the Screen Wall and may be amended only by an agreement in writing signed by the Parties.

i)h) This Agreement may be executed by the Parties in separate counterparts all of which, when taken together, will constitute a single agreement among the Parties. Execution of this Agreement by a party may be evidenced by way of electronic transmission of such party's signature.

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Execution:

This Agreement is executed by the authorized signing officers of both Parties.

STEELCASE ROAD WEST HOLDINGS INC.

By: _____
Authorized Signatory

By: _____
Authorized Signatory

THE CORPORATION OF THE CITY OF MARKHAM

By: _____
Authorized Signatory

By: _____
Authorized Signatory

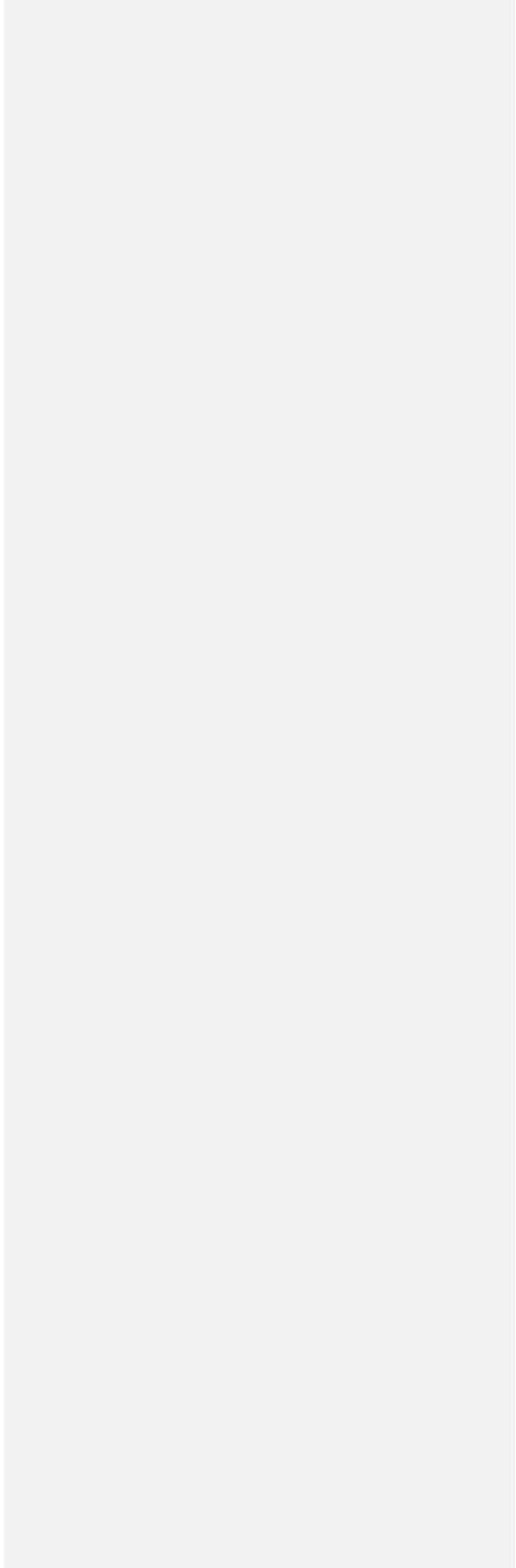
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SCHEDULE "A"

Plan of Screen Wall Location

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SCHEDULE "B"

Public Art Community Guidelines

It is recognized that public art may be distasteful without necessarily conflicting with the provisions of these guidelines and the fact that a particular artwork, image, event or activity may be offensive to some people is not sufficient grounds for objecting to an artwork, image event or activity.

Public art shall not:

- (a) condone any form of personal discrimination, including discrimination based upon race, national or ethnic origin, religion, gender identity, sex or sexual orientation, age or disability;___
- (b) appear in a realistic manner to exploit, condone or incite violence; nor appear to condone, or directly encourage, bullying; nor directly encourage, or exhibit obvious indifference to, unlawful behaviour;
- (c) demean, denigrate or disparage one or more identifiable persons, group of persons, firms, organizations, industrial or commercial activities, professions, entities, products or services, or attempt to bring it or them into public contempt or ridicule;
- (d) undermine human dignity; or display obvious indifference to, or encourage, gratuitously and without merit, conduct or attitudes that offend the standards of public decency prevailing among a significant segment of the population.