

REVOCABLE PERMIT

100 Park Avenue and 101 N. Broadway Avenue – Metro-Conncourse

This Revocable Permit (“PERMIT”) is entered this ~~30TH~~ day of JULY , 2024, by and between The Harlow, LLC, an Oklahoma limited liability company (hereinafter referred to as “OWNER”); The City of Oklahoma City, a municipal corporation and charter city (hereinafter referred to as “CITY”); the Oklahoma City Public Property Authority, a public trust (hereinafter referred to as “OCPPA”); and Oklahoma Industries Authority, a public trust (hereinafter referred to as “OIA”).

WITNESSETH:

WHEREAS, the CITY regulates use of public street rights-of-way (“ROW”) and dedicated public streets (“STREETS”) within its city limits; and

WHEREAS, the CITY regulates construction of improvements in ROW and STREETS; and

WHEREAS, the CITY regulates the use of the ROW and STREETS by public utilities and private entities; and

WHEREAS, 11 Okla. Stat. § 36-101(7) authorizes the CITY to regulate tunnels, walkways, and other structures for public travel under and above the ROW and STREETS; and

WHEREAS, a concourse tunnel known as the Metro-Conncourse presently exists within ROW, STREETS, and private property in certain areas of Downtown Oklahoma City, including property owned by OWNER in the vicinity of 100 Park Avenue in Oklahoma City Oklahoma; and

WHEREAS, OIA constructed the Metro-Conncourse, which is composed of a network of inner-connected pedestrian tunnels that link several significant public and private buildings in the Central Business District of Downtown Oklahoma City; and

WHEREAS, the Metro-Conncourse was constructed within and under various CITY ROW pursuant to a Revocable Permit granted to OIA by the CITY; and

WHEREAS, on December 19, 2023, OIA and OCPPA entered into a Lease Agreement by which OIA leased the Metro-Conncourse to OCPPA, and OCPPA agreed to operate, maintain, and improve the Metro-Conncourse through a contract with Downtown Oklahoma City, Inc. (“DOKC”); and

WHEREAS, the CITY may grant permits for reasonable uses of CITY ROW and STREETS that do not endanger or interfere with public use of ROW and STREETS; and

WHEREAS, OWNER proposes to modify and maintain at its sole expense a portion of the Metro-Conncourse in the vicinity of OWNER’s property located at 100 Park Avenue and 101

N. Broadway Avenue in Oklahoma City, Oklahoma, as more specifically identified in Exhibit “A”; and

WHEREAS, OWNER’s plans have been reviewed by the CITY’s Development Services Department and Public Works Department.

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

1. PERMIT TO CONSTRUCT

- A. The CITY hereby permits the OWNER to construct modifications (“MODIFICATIONS”) to a portion of the Metro-Conncourse in accordance with the approved plans and specification attached as Exhibit “A” (“PLANS” or “Metro-Conncourse Portion”) hereto and incorporated herein by reference. OWNER agrees that all construction will be in accordance with CITY applicable codes and that all disturbed areas, if any, will be restored to their original condition.
- B. MODIFICATIONS must be constructed in accordance with the PLANS. The responsibility for the design of the MODIFICATIONS shall be on the architectural/engineering firm contracted by the OWNER. Neither the CITY nor any CITY employee will be responsible for the design or construction of the MODIFICATIONS. In addition, issuance of this PERMIT shall not be deemed an assumption or transfer of any responsibility for the design or construction of the MODIFICATIONS by the CITY, the CITY Public Works Director (“DIRECTOR”), any CITY employee, OIA, or OCPPA.
- C. The OWNER or the contractor retained by the OWNER to construct the MODIFICATIONS (“CONTRACTOR”) must obtain all applicable CITY permits and licenses prior to commencing any construction activities. The CONTRACTOR must be a licensed and qualified contractor under applicable ordinances.
- D. The CITY permits the OWNER to temporarily redirect pedestrian traffic within the Metro-Conncourse Portion during construction as provided in Work Zone Permits issued by the DIRECTOR. As applicable, the OWNER must erect and maintain at its sole cost all warning signs, safety barriers, and traffic devices in accordance with the CITY’s Manual on Uniform Traffic Control Devices (“MUTCD”) during construction.

2. PERMIT TO MAINTAIN

- A. The CITY permits the OWNER to enter the Metro-Conncourse Portion for the additional purpose of maintaining MODIFICATIONS constructed hereunder.
- B. MODIFICATIONS must be maintained by OWNER throughout the term of this PERMIT in accordance with the PLANS, to the extent that such

MODIFICATIONS are not maintained by DOKC or a subsequent contractor of OCPPA. Neither the CITY, Public Works Director, nor any CITY employee will be responsible for the design or maintenance of the MODIFICATIONS. In addition, issuance of this PERMIT shall not be deemed an assumption or transfer of responsibility for the design or maintenance of MODIFICATIONS by the CITY, the DIRECTOR, any CITY employee, OIA, or OCPPA.

- C. The OWNER or its CONTRACTOR must obtain all applicable CITY permits and licenses prior to commencing any maintenance that might endanger the public. The CONTRACTOR performing maintenance must be licensed and qualified under applicable ordinances.
- D. The CITY permits the OWNER to temporarily redirect pedestrian traffic within the Metro-Conncourse Portion during maintenance as provided in Work Zone Permits issued by the DIRECTOR. As applicable, the OWNER must erect and maintain at its sole cost all warning signs, safety barriers, and traffic devices in accordance with MUTCD during maintenance.

3. PERMIT TO USE AFTER HOURS

- A. The CITY, OIA, and OCPPA permit OWNER to access and use the Metro-Conncourse Portion after hours of operation for the general public.
- B. OWNER is responsible for any and all damage which occurs to the Metro-Conncourse Portion after its normal hours of operation.
- C. OWNER must work with DOKC, or a subsequent contractor of OCPPA, to ensure that OWNER's use does not negatively impact the Metro-Conncourse
- D. OWNER must provide a self-locking mechanism for the Metro-Conncourse Portion to ensure only OWNER's approved tenants and representatives are accessing the Metro-Conncourse Portion.

4. INDEMNIFICATION

The OWNER shall indemnify, defend, and hold harmless the CITY, OIA, and OCPPA, and their employees and representatives from all liability, claims, losses, expenses, and causes of action for injuries or death to persons, damage to or loss of property, legal expenses, court costs resulting or caused by the OWNER, its CONTRACTOR, agents, subcontractors, employees, or assignees regarding or related to this PERMIT or the design, construction, operation, maintenance, or use of the Metro-Conncourse Portion and MODIFICATIONS constructed hereunder. Further, the OWNER shall give the CITY timely notice of any claim or suit instituted which, in any way, affects the Metro-Conncourse Portion or the MODIFICATIONS.

5. INSURANCE

Prior to issuance of a work order/notice to proceed for the construction of the MODIFICATIONS, OWNER'S CONTRACTOR shall, during the period of construction and thereafter until termination or revocation of this PERMIT and for a period of two (2) years thereafter, carry Public Liability and Property Damage Insurance with responsible insurance underwriters which protects the CITY, OIA, and OCPPA from all claims for bodily injury, death, or property damage arising from acts or omissions by the OWNER, its CONTRACTOR, agents, subcontractors, employees, or assignees, (including, without limitation, insurance sufficient to meet the maximum cumulative liability of all parties to this PERMIT, including the CITY, under the Governmental Tort Claims Act, 51 O.S. § 151 *et seq.*, and any amendment or addition thereto). Prior to any transfer of ownership of this PERMIT, other than the FIRST ASSIGNMENT approved in Section 10 below, CITY shall have the right to make additional reasonable insurance requirements on the assignee. Upon written request, OWNER shall provide CITY written evidence of the described insurance.

6. ABIDE BY LAW

The OWNER shall abide by the conditions of this PERMIT and all applicable ordinances, laws, and regulations of the CITY, the State of Oklahoma, and the United States of America.

7. NOTICES

Communications from OWNER regarding this PERMIT shall be sufficient if sent by registered or certified mail, postage prepaid, to:

The City of Oklahoma City and Oklahoma City Public Property Authority
Attn: City Clerk
200 N. Walker Avenue, 2nd Floor
Oklahoma City, Oklahoma 73102

and

The City of Oklahoma City
Attn: Public Works Director
420 W. Main Street, Suite 700
Oklahoma City, Oklahoma 73102

and

Oklahoma Industries Authority
Attn: General Manager
105 N. Hudson Avenue, Suite 101
Oklahoma City, OK 73102

Communications to the OWNER regarding this PERMIT shall be sufficient if sent by registered or certified mail, postage prepaid, to:

The Harlow, LLC
Attn: Richard Tanenbaum
211 N. Robinson, Suite 1950
Oklahoma City, OK 73102

The OWNER must promptly notify the CITY, OIA, and OCCPA of any change of address, corporate name change, or other change in the name and phone number of the contact person. The CITY, OIA, and OCCPA shall not be liable for any damage or loss to OWNER's property that occurs as a result of the CITY's operations on ROW, OIA's ownership of the Metro-Conncourse, or OCCPA's operation and maintenance of the Metro-Conncourse resulting from inability to contact OWNER due to lack of current, correct contact information.

8. TERM

This PERMIT shall continue in force and effect until either (a) a material breach of this PERMIT by OWNER continues uncured for more than sixty (60) days after written notification thereof to OWNER, or (b) the permitted usage of the Metro-Conncourse Portion is permanently abandoned by OWNER, whichever comes first. Provided, however, nothing herein requires the City to wait sixty (60) days to cure or address an immediate threat to the public safety at OWNER's expense.

9. COMPLETE PERMIT

This PERMIT is subject to the rights of OIA, OCCPA, and DOKC per the 1973 Revocable Permit and Leases referenced herein. This document shall represent the complete agreement between the parties with respect to the PERMIT and no statements, representations, or discussions not set forth herein shall be binding upon the parties, and no party is or shall be bound by any statement or representation that does not conform with this document. No additions, amendments, or changes to this PERMIT shall be effective unless made in writing and signed by both parties. No agent or any party to this PERMIT has authority to alter, modify, or change this PERMIT except as expressly provided herein. A determination that any provision or application of any provision of this PERMIT to any party is prohibited or contrary to law shall be limited to the specific language and/or party so construed, and shall not affect the validity of the remaining provisions of the PERMIT or its binding effect on any other party or parties.

10. ASSIGNMENT

- A. Except as provided in subparagraph 10(B), this PERMIT may not be assigned, sub-contracted, or sub-leased by the OWNER or any successor or assignee without prior, written consent of the DIRECTOR, which consent to such assignment, sub-contract or sub-lease shall not be unreasonably withheld. The DIRECTOR may seek the review and approval of CITY, OIA, and OCPPA in granting consent.
- B. Provided, however, the Parties agree and consent in advance to one assignment (“FIRST ASSIGNMENT”) by OWNER to any of OWNER’s affiliates, successors or assigns (“ASSIGNEE”) upon OWNER providing the following:
1. Written Notice of Assignment to ASSIGNEE at the notice addresses listed in paragraph 8 herein; and
 2. Certificate of Insurance from ASSIGNEE that meets the requirements set forth in paragraph 6 herein; and
 3. Original signature of OWNER and ASSIGNEE on an Assignment of this PERMIT acknowledging that ASSIGNEE (i) accepts the MODIFICATIONS “as is” and (ii) assumes all duties and responsibilities of the OWNER under this PERMIT.

This FIRST ASSIGNMENT to ASSIGNEE will be effective upon issuance of a letter by the DIRECTOR to OWNER and ASSIGNEE acknowledging receipt of the written documents in subparagraph 10(B), above.

11. BREACH

A material breach of any portion of this PERMIT shall be a breach of the entire PERMIT, unless the non-breaching party waives that breach in writing. Provided, however, the failure of any party hereto to provide notice of such breach shall not be deemed a waiver of that breach or any subsequent material breach.

12. EFFECTIVE DATE

This PERMIT shall be effective on the date it is executed by the last party hereto.

13. RIGHTS AND INTERESTS

This PERMIT shall be construed and accepted to be a license to construct, maintain, and use the MODIFICATIONS within the Metro-Conncourse Portion. The parties hereto agree that it is not their intent to create any rights in or benefits to any third parties and that no third party beneficiaries shall be created or shall be deemed to be created by this PERMIT.

14. FUTURE USE OF STREETS AND RIGHTS-OF-WAY

OWNER acknowledges the CITY's, OIA's, and OCPPA's prior and superior rights to the Metro-Conncourse. Accordingly, OWNER (a) will not interfere with those rights to construct, maintain, or operate within the Metro-Conncourse, and will cooperate in any such undertaking.

15. PROVIDE AS-BUILT DRAWINGS

OWNER must provide to the CITY "as-built" drawings of the MODIFICATIONS, in either paper or electronic CAD files.

16. JURISDICTION

The parties agree that any action to enforce the provisions of this PERMIT or any dispute over the interpretation of this PERMIT shall be resolved in accordance with Oklahoma law in a state or federal court of competent jurisdiction in Oklahoma County, Oklahoma. The parties expressly waive any rights and claims to select forum or applicable law.

17. CAPTIONS AND WORDS

The captions, titles, and headings contained herein are for convenience of reference only and shall not control the interpretation of any provision hereof. When any word in this PERMIT is used in the singular number, it shall include the plural, except where contrary intention plainly appears.

18. TIME IS OF ESSENCE

For the purpose of this PERMIT, time shall be deemed to be of the essence.

19. REVOCATION

OWNER agrees that in the event of revocation of this PERMIT, OWNER will comply with the revocation order. It is expressly agreed and understood between parties hereto that, should it become necessary to remove the improvement(s) permitted herein in whole or in part, neither the CITY, OIA, or OCPPA, nor the DIRECTOR shall be deemed responsible for any loss suffered by reason of such removal. Further, OWNER agrees and understands that OWNER acts at OWNER's own risk in erecting or constructing the MODIFICATIONS.

20. EXISTING UTILITIES

- A. The OWNER must locate and protect all existing utilities and other improvements that may be impacted by the MODIFICATIONS.

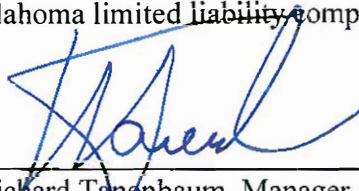
- B. In addition, the OWNER must contact OKIE at 840-5032 to locate utility improvements.
- C. Further the OWNER, at least two (2) business days prior to construction or maintenance activities, must contact (i) the CITY Utilities Department regarding Wastewater and Water facilities, and (ii) the Dispatch Office at 297-3334 Storm Sewer regarding storm water drainage facilities.

[The remainder of this page is intentionally blank. Signature pages follow.]

APPROVED and EXECUTED by OWNER this 18 day of July, 2024.

OWNER:

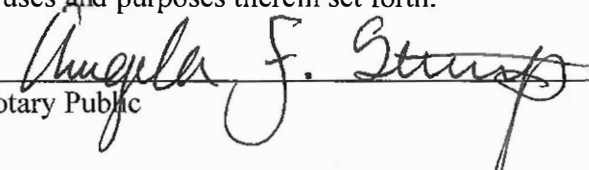
The Harlow, LLC,
an Oklahoma limited liability company

By: 
Richard Tanenbaum, Manager

Acknowledgment

STATE OF OKLAHOMA }
 }
OKLAHOMA COUNTY } SS.

Before me, the undersigned, a Notary Public in and for said State, on this 18 day of July, 2024, personally appeared Richard Tanenbaum, to me known to be the identical person who executed and acknowledged to me that he executed the same as his free and voluntary act and deed of said business, for the uses and purposes therein set forth.


Notary Public

My Commission Expires: 12/13/2025



APPROVED on behalf of Oklahoma Industries Authority this ___day of July, 2024.

OKLAHOMA INDUSTRIES AUTHORITY,
a public trust.

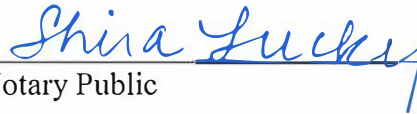


Kenton Tsoodle, General Manager

Acknowledgment

STATE OF OKLAHOMA }
 }
OKLAHOMA COUNTY } SS.

Before me, the undersigned, a Notary Public in and for said State, on this 19th day of July, 2024, personally appeared Kenton Tsoodle, to me known to be the identical person who executed and acknowledged to me that he executed the same as his free and voluntary act and deed of said business, for the uses and purposes therein set forth.



Notary Public

My Commission Expires: 1-3-2027



APPROVED by the Trustees of the Oklahoma City Public Property Authority and **SIGNED** by its Chairperson this 30TH day of JULY, 2024.

**OKLAHOMA CITY PUBLIC PROPERTY
AUTHORITY,**
a public trust.

ATTEST: (SEAL)

Amy K. Simpson
Secretary



David Holt

APPROVED by the Council and **SIGNED** by the Mayor of The City of Oklahoma City this 30TH day of JULY, 2024.

ATTEST: (SEAL)

Amy K. Simpson
City Clerk



David Holt

MAYOR

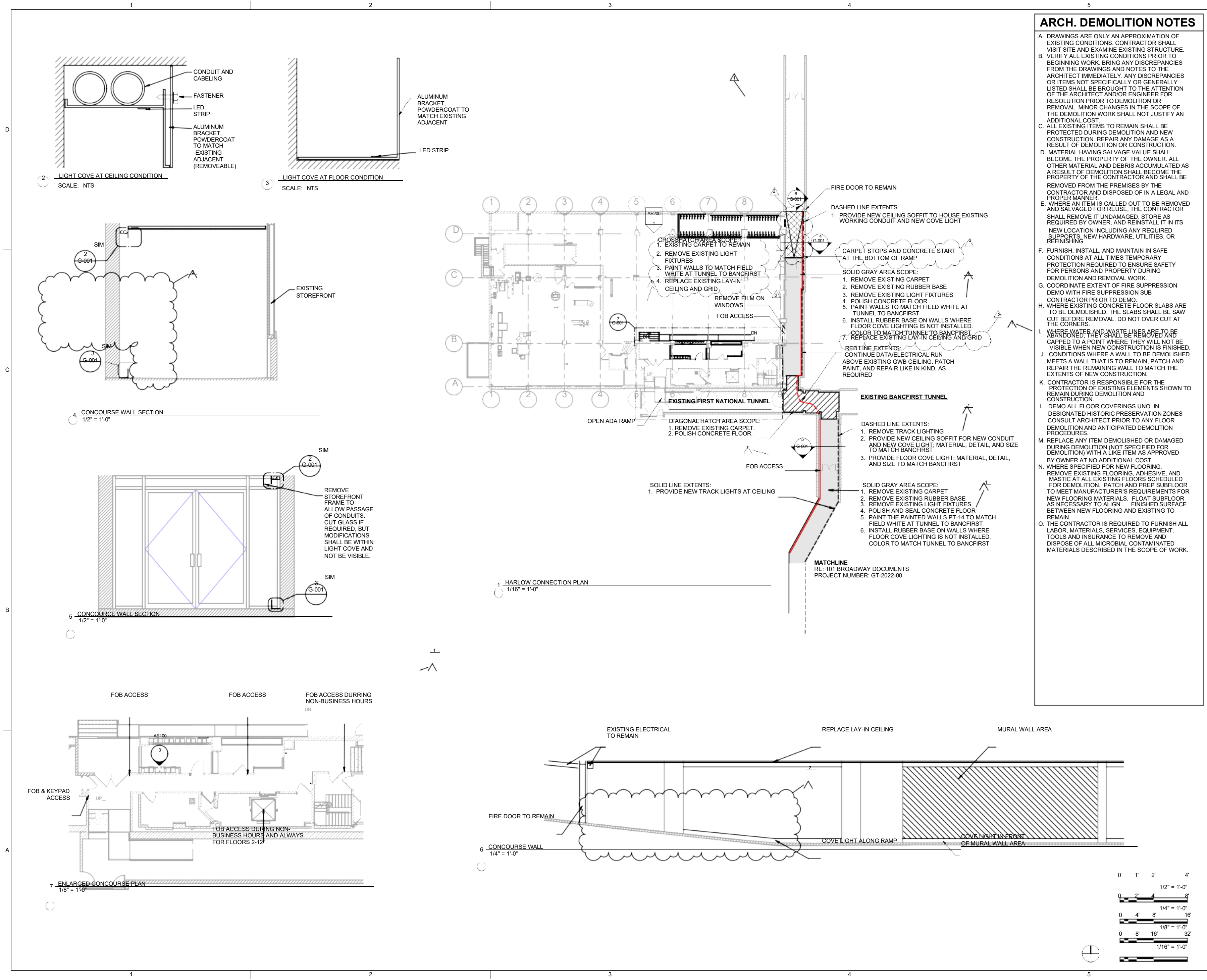
REVIEWED for form and legality.

Jonathan Garcia
Assistant Municipal Counselor

Exhibit “A”

PLANS

[See Attachment hereto.]



Gardner Tanenbaum Holdings
The Harlow | 100 Park
Oklahoma City, Oklahoma
TRADESMAN | architectural studios

REVISION HISTORY:		
NO.	DESCRIPTION	DATE
1	Addendum 04	01.09.2024
2	Addendum 05	01.09.2024

PROJECT NUMBER:
GT-2022-01

HARLOW CONNECTION PLAN

ISSUE DATE:
JANUARY 16, 2023

SHEET NUMBER:
G-001