

**RESOLUTION CC 2024-\_\_\_**

**A RESOLUTION OF THE GLENDORA CITY COUNCIL AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE AND SALE AGREEMENT WITH OLSON URBAN HOUSING, LLC WITH RESPECT TO THAT CERTAIN PROPERTY IDENTIFIED BY ASSESSOR'S PARCEL NUMBERS 8655-007-900, 8655-007-901, 8655-007-902, AND 8655-021-900 AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH**

**THE CITY COUNCIL  
City of Glendora, California**

**WHEREAS**, the City of Glendora (“**Seller**” / “**City**”) is the owner in fee simple of certain vacant real property totaling approximately 5.8 acres and located in the City of Glendora, County of Los Angeles, State of California, at the southern terminus of Woodland Lane, extending easterly to San Jose Drive and southerly to Big Dalton Wash, comprised of the following lots identified by Assessor’s Parcel Numbers 8655-007-900, 8655-007-901, 8655-007-902, and 8655-021-900 (“**Property**”); and,

**WHEREAS**, on December 13, 2022, the City declared the Property as Surplus Land, subject to the Surplus Land Act, Government Code §§ 54220-54233 (“**Act**”); and,

**WHEREAS**, the City complied with the requirements of the Act, including a 60 day Notice of Availability period and 90 Day Negotiating period, and has received a letter from the California Department of Community and Housing Development (“**HCD**”), dated September 20, 2023, confirming the authority of the City to proceed with the sale / disposition of the Property provided that an affordability covenant (the “**HCD Affordability Covenant**”) is first recorded against the Property ensuring that fifteen percent (15%) of the residences developed on the Property will be reserved for moderate income residential housing; and

**WHEREAS**, Olson Urban Housing, LLC, a Delaware limited liability company (“**Buyer**”), wishes to develop the Property with ownership residences in accordance with the Act and the City of Glendora’s General Plan; and

**WHEREAS**, Seller desires to sell to Buyer and Buyer agrees to buy the Property for a mutually agreed upon purchase price of Four Million Dollars (\$4,000,000) along with other terms and conditions set forth in that certain Purchase and Sale Agreement for the transfer of fee title of the Property from the Seller to the Buyer as show in Exhibit “A” attached hereto and incorporated herein by this reference, which will potentially allow for the development of a residential project upon the Property in accordance with the City’s General Plan designations for the Property and in accordance with the HCD Affordability Covenant (the “**Project**”); and

**WHEREAS**, the Purchase and Sale Agreement includes, as exhibits, the form of the Grant Deed for the transfer of the Property, the form of the HCD Affordability Covenant to be recorded against the Property prior to the sale of the Property to Buyer, and the terms to be set forth in an Affordability Regulatory Agreement and Covenant Agreement, which agreements shall be recorded against the Property prior to the closing of the sale of the Property to Buyer (such agreements are collectively referenced herein as the “**Project Agreements**”); and

**WHEREAS**, upon the approval of this Resolution by the City Council of the Purchase and Sale Agreement, the City Manager will be authorized to execute said Purchase and Sale Agreement and all necessary transaction documents in connection therewith, including the Project Agreements.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GLENDORA, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:**

**SECTION 1.** The City Council hereby finds and determines that the foregoing recitals are true and correct and are incorporated herein as if set forth in full. In particular, the City Council specifically finds that the disposition of Property as described in the foregoing portion of this Resolution is in compliance with the Act.

**SECTION 2.** The Purchase and Sale Agreement, in the form attached hereto as Exhibit “A,” is hereby approved. The City Manager is hereby authorized, on behalf of the City, to execute and deliver, for and in the name of the City of Glendora, the Purchase and Sale Agreement and all necessary transaction / closing documents referenced therein, including the Project Agreements, with such non-substantive changes therein as the City Manager and the City Attorney may approve (such approval to be conclusively evidenced by the execution and delivery thereof).

**SECTION 3.** The act of authorizing the execution of the Purchase and Sale Agreement does not approve any new development or construction of any new buildings, nor does it authorize any new land uses. The City has not determined the full scope or scale of the environmental review that will be required for the Project pursuant to California Environmental Quality Act (“**CEQA**”). The City shall have full discretionary approval over the Project including its required entitlements and any environmental review required pursuant to CEQA as a condition precedent to the consummation of the transfer of the Property to the Buyer. For this reason, it can be seen with certainty that authorizing the execution of the Purchase and Sale Agreement will not result in any significant adverse impact on the environment. Accordingly, this authorization is exempt from the CEQA environmental review requirements pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations. City staff are hereby directed to prepare and post a notice of exemption pursuant to Guidelines Section 15062.

**SECTION 4.** The City Manager is hereby authorized, to take such action(s) (including but not limited to the execution of any certificates or other instruments) which the City Manager may deem necessary or proper to effectuate the purposes of this Resolution, and any such actions previously taken are hereby ratified and confirmed.

**SECTION 5.** The City Clerk shall certify to the passage and adoption of this resolution and shall enter the same in the Book of Original Resolutions.

**APPROVED** and **PASSED** this \_\_\_ day of \_\_\_\_\_, 2024.

City Council of Glendora, California

BY: \_\_\_\_\_  
MENDELL L. THOMPSON  
Mayor

APPROVED AS TO FORM:  
Aleshire & Wynder, LLP

---

DANNY ALESHIRE  
City Attorney

**CERTIFICATION**

I, Kathleen R. Sessman, City Clerk/Communications Director of the City of Glendora, do hereby certify that the foregoing Resolution was duly adopted by the City Council of the City of Glendora at a regular meeting held on the \_\_\_ day of \_\_\_\_\_, 2024, by the following vote:

AYES: MEMBERS:  
NOES: MEMBERS:  
ABSENT: MEMBERS:  
ABSTAIN: MEMBERS:

Dated:

---

KATHLEEN R. SESSMAN  
City Clerk/Communications Director

## EXHIBIT "A"

### AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY AND JOINT ESCROW INSTRUCTIONS

THIS AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY AND JOINT ESCROW INSTRUCTIONS ("**Agreement**") is dated, for identification purposes only, as of \_\_\_\_\_, 2024 ("**Agreement Date**") and is made by and between OLSON URBAN HOUSING, LLC, a Delaware limited liability company ("**Buyer**"), and CITY OF GLENDORA, a municipal corporation ("**Seller**"). Fidelity National Title Insurance Company, a California corporation, shall act as escrow ("**Escrow Holder**") for the transaction(s) set forth herein.

#### RECITALS:

**A.** Seller is the owner of that certain real property in the City of Glendora ("**City**"), County of Los Angeles, State of California legally described on attached Exhibit A ("**Property**") and depicted on Exhibit A-1 ("**Property Depiction**") and which totals approximately 5.8 acres, and is comprised of the following lots identified by Assessor's Parcel Numbers ("**APN**"): 8655-007-900, 8655-007-901, 8655-007-902, and 8655-021-900. The Property is currently vacant land.

**B.** Buyer wishes to develop the Property with ownership residences in accordance with State law and the City of Glendora's ("**City**") General Plan ("**General Plan**") designations for the Property ("**Project**"). Fifteen percent (15%) of the residences developed upon the Property by the Project will be reserved for moderate income residential housing units (each, an "**Affordable Unit**" and collectively, the "**Affordable Units**").

**C.** Seller has complied with the requirements of the Surplus Land Act (Govt. Code Sections 54220-54232) and has received a letter from the California Department of Community and Housing Development ("**HCD**"), dated September 20, 2023, confirming the authority of Seller to proceed with the sale / disposition of the Property; provided, however, that HCD requires an affordability covenant be recorded against the Property, in the form of Exhibit C, attached hereto prior to any sale or disposition of the Property by the Seller (the "**HCD Affordability Covenant**").

**D.** Seller desires to sell to Buyer and Buyer agrees to buy, the Property, upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and incorporating the Recitals set forth above, the parties hereto agree as follows:

#### TERMS AND CONDITIONS:

**1. PURCHASE AND SALE OF PROPERTY.** Pursuant to the terms and subject to the conditions of this Agreement, Buyer agrees to purchase from Seller and Seller agrees to sell to Buyer, the Property in its AS-IS condition without representations or warranties on behalf of Seller.

**2. Entitlements; CEQA Approvals; and Project Agreements.**

**2.1 Entitlements and CEQA Approvals for the Project.** Prior to the Close of Escrow (as defined below), Buyer shall process and receive all applicable governmental approvals required for the Project, including a tentative subdivision map ("**Tentative Map**"), density bonus application, development plan review approval, and all environmental approvals required for the Project pursuant to the California Environmental Quality Act (Public Resources Code §§ 21000 *et seq.*, "**CEQA**"), and all other entitlements and/or approvals of any kind required for the Project

and/or necessary to allow for the subdivision and development of the Property for residential purposes in accordance with State law, the City's Municipal Code ("**GMC**"), and the General Plan (collectively, the "**Entitlements**"). The City shall have all rights to inspect the Property and Project to ensure compliance with this Agreement including, without limitation, the Schedule of Performance.

**2.2 Project Agreements.** In connection with the Project, and as a condition to the Close of Escrow, Seller and Buyer shall negotiate in good faith the forms of the covenants and agreements described in Exhibit D, attached hereto and incorporated herein (the "**Project Agreements**"), for approval by the City Council of the City in accordance with the Schedule of Performance (as defined below).

**2.3 Unavoidable Delay.** Notwithstanding the foregoing or any other provision of this Agreement to the contrary and regardless of whether this Section 2.3 is referenced, a party shall not be deemed to be in default under this Agreement including, without limitation the Schedule of Performance, where the delay or default is due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; supernatural causes; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; an amount of rainy weather that continues for a consecutive period of five (5) days or more; and/or any other causes beyond the reasonable control of the party claiming an extension of time to perform (each, an "**Unavoidable Delay**"). In the event of an Unavoidable Delay, (i) the party delayed shall continue to exercise reasonable diligence to minimize the period of the delay, and (ii) any time for performance under this Agreement shall be extended by the period of the Unavoidable Delay which shall commence to run from the time of the commencement of the Unavoidable Delay. The following shall not be considered as events or Unavoidable Delay: (i) Buyer's failure to obtain financing for the Property, and (ii) absence of favorable market conditions for the sale of residences.

### **3. EFFECTIVE DATE; OPENING OF ESCROW; SCHEDULE OF PERFORMANCE.**

**3.1 Effective Date.** This Agreement shall be deemed effective on the date ("**Effective Date**") on which this Agreement has been executed by Buyer and Seller following the approval of this Agreement by the City Council.

**3.2 Opening of Escrow.** Within three (3) days after the Effective Date, the parties shall open an escrow ("**Escrow**") with Jessica Avila, Escrow Officer at Fidelity National Title Insurance Company, 555 South Flower Street, Suite 4420, Los Angeles, CA 90071, (213) 452-7132; [jessica.avila@fnf](mailto:jessica.avila@fnf) ("**Escrow Holder**") by causing an executed copy of this Agreement to be deposited with Escrow Holder which Escrow Holder shall sign and accept. Escrow shall be deemed opened upon Escrow Holder's receipt of both (i) the executed copy of this Agreement; and (ii) the Deposit (defined in Section 4.2.a) from Buyer ("**Opening of Escrow**"). If Escrow is not opened within ten (10) days after the Agreement Date, Seller shall have the right to terminate this Agreement upon written notice to Buyer and Escrow Holder.

**3.3 Schedule of Performance.** The Schedule of Performance set forth in Exhibit E, attached hereto (the "**Schedule of Performance**") contains the timeframes for the performance of Buyer's (and Seller's, to the extent applicable) obligations with respect to the transactions described herein.

#### 4. **CONSIDERATION; PURCHASE PRICE; PAYMENT OF PURCHASE PRICE.**

**4.1 Consideration.** In addition to the matters specified in this Agreement, all of the following are specifically noted as material consideration to Seller for the sale of the Property to Buyer: (i) payment of the Purchase Price (defined in Section 4.1.a); (ii) Buyer's execution of all documents and agreements that are required under Section 4.1.b; and (iii) Buyer's obligation to provide copies of the Work Product documents (defined in Section 4.1.c).

- a. **Purchase Price.** Subject to the terms and conditions contained herein, Buyer shall pay the sum of Four Million Dollars (\$4,000,000) ("**Purchase Price**") for the Property.
- b. **Project Agreements.** In connection with Seller's processing and approval of the Entitlements, and as condition to Closing, Buyer shall execute and deliver to the Seller the Project Agreements described in Exhibit E, attached hereto, and, which shall be recorded in the Official Records of Los Angeles County ("**Official Records**") concurrently with the Closing.
- c. **Buyer Work Product.** As additional consideration to Seller and except as otherwise provided below, if Buyer does not acquire the Property for any reason other than a default by the Seller, then all studies and reports relating to the Property and prepared by third parties at the request of Buyer and within Buyer's possession, including, without limitation, those studies and reports obtained by Buyer pursuant to Buyer's diligence of the Property as set forth in Section 8.3 below (collectively, the "**Work Product**") will be delivered by Buyer to Seller without recourse, representation or warranty. Notwithstanding the foregoing, Work Product shall not include, and Buyer shall not be required to deliver to Seller, any information, documents or data produced by or on behalf of Buyer internally, containing any privileged or confidential material or financial information related to the Project. The Work Product may be delivered to Seller with the signature or seal of the third- party consultant or design professional removed if such removal is required by the applicable third-party consultant or design professional. Notwithstanding anything to the contrary contained in this Agreement, Buyer's delivery of the Work Product to Seller shall be expressly subject to the rights of any engineer, design professional or other consultant preparing the same, and any limitations on use imposed by them, including the right of such parties to charge "reuse" or similar fees for the use of the Work Product. Seller acknowledges that the delivery of the Work Product shall be subject to the rights and requirements of the third party preparing same. Seller acknowledges that Buyer shall make no warranties or representations regarding the completeness or adequacy of the Work Product, that Buyer expressly disclaims any liability for any and all defects or deficiencies contained in the Work Product and Seller shall accept the Work Product in their "AS IS" condition. Buyer's and Seller's obligations under this Section shall survive the Close of Escrow.

#### **4.2 Payment of Purchase Price.**

- a. **Deposit.** Within seven (7) days following the Agreement Date, Buyer shall deliver the sum of Fifty Thousand Dollars (\$50,000) to Escrow Holder ("**Deposit**"). The Deposit shall be held and disbursed by Escrow Holder in accordance with the terms and conditions of this Agreement.

- b. **Balance of Purchase Price.** Buyer shall deposit the balance of the Purchase Price with Escrow Holder in Good Funds (as defined below), at least one (1) business day prior to the Closing Date.

**4.3 Good Funds.** All funds deposited in Escrow shall be in “**Good Funds**” which means a wire transfer of funds, cashier's or certified check drawn on or issued by the offices of a financial institution located in the State of California.

## **5. FUNDS AND DOCUMENTS REQUIRED FROM BUYER AND SELLER.**

**5.1 Seller.** Seller agrees that on or before 12:00 noon at least one (1) business day prior to the Closing Date, Seller will deposit with Escrow Holder such funds and other items and instruments (executed and acknowledged, if appropriate) as may be necessary in order for the Escrow Holder to comply with this Agreement, including without limitation:

- i. An executed and acknowledged Grant Deed in the form of Exhibit B (“**Grant Deed**”).
- ii. Two (2) executed and acknowledged copies of the Project Agreements which were not previously executed and delivered by Seller.
- iii. A Non-Foreign Affidavit as required by federal law.
- iv. An Owner’s Affidavit in a form acceptable to the Title Company.
- v. Such funds and other items and instruments due from Seller as may be necessary in order for Escrow Holder to comply with this Agreement, which may include an executed certificate (“**Taxpayer ID Certificate**”) in such form as may be required by the IRS pursuant to Section 6045 of the Internal Revenue Code.

**5.2 Buyer.** Buyer agrees that on or before 12:00 noon at least one (1) business day prior to the Closing Date, Buyer will deposit with Escrow Holder all additional funds and/or documents (executed and acknowledged, if appropriate) which are necessary to comply with the terms of this Agreement, including without limitation:

- i. Two (2) executed and acknowledged copies of the Project Agreements which were not previously executed and delivered by Buyer.
- ii. A Preliminary Change of Ownership Statement completed in the manner required in Los Angeles County (“**PCOR**”).
- iii. Such funds and other items and instruments due from Buyer as may be necessary in order for Escrow Holder to comply with this Agreement, which may include an executed Taxpayer ID Certificate in such form as may be required by the IRS pursuant to Section 6045 of the Internal Revenue Code.

**5.3 Recordation, Filing, Completion and Distribution of Document.** Escrow Holder shall confirm that any documents signed in counterpart are matching documents and shall combine the signature pages thereof so as to create fully executed documents. Escrow Holder will cause (i) the HCD Affordability Covenant, (ii) the Grant Deed, and (iii) the Project Agreements, in that order (collectively “**Recordable Documents**”) so it can issue the Title Policy in accordance with Section 7.2. Escrow Holder shall assemble full counterpart copies of each of the Recordable Documents, and after Closing, promptly deliver a fully executed original to each party. Promptly following the Close of Escrow, Escrow Holder shall distribute Escrow Holder's final closing statement and conformed copies of all recorded documents to the parties.

## 6. CLOSING DATE; TIME IS OF ESSENCE.

**6.1 Closing Date.** Escrow shall close on the date (“**Closing Date**”) which is the earlier to occur of the following: (a) six (6) months following the final approval of all required Entitlements for the Project by the City, and the expiration of all applicable administrative and judicial appeal or challenge periods with respect to the Entitlements and/or any CEQA approvals issued for the Project, with no appeal or application for referendum or challenge having been filed, or if filed, any such appeal, referendum or challenge shall have been resolved or settled; or (b) within three (3) days following the date the Final Tentative Map for the Project is approved by the City Council. The terms “**Close of Escrow**” and/or “**Closing**” are used herein to mean the time the Recordable Documents are filed for recording by the Escrow Holder in the Official Records.

**6.2 Outside Closing Date.** Notwithstanding the foregoing, while the date of Closing may be extended, in no event, shall the Closing Date take place later than the date which is eighteen months following the Effective Date (the “**Outside Closing Date**”). Furthermore, and notwithstanding anything to the contrary herein, the City Manager may, in his/her reasonable discretion grant additional extensions to the Closing Date of up to ninety (90) days.

**6.3 Possession.** Upon the Close of Escrow, Seller shall deliver exclusive possession of the Property to Buyer only subject to the Permitted Exceptions, as defined below, and free and clear of any tenancies and/or occupants.

**6.4 Time is of Essence.** Buyer and Seller specifically agree that time is of the essence under this Agreement.

**6.5 City Manager Authority.** By execution of this Agreement, Seller agrees that the City Manager of the City or his/her designee (who has been designated by City Manager’s written notice delivered to Buyer and Escrow Holder) shall have the authority to execute documents on behalf of Seller including, but not limited to, issuing approvals, disapprovals and extensions. Any such approval, disapproval or extension executed by the City Manager or his designee shall be binding on Seller.

**6.6 Ancillary Rights.** Effective as of the Close of Escrow, without the need for any additional documentation, Seller assigns, transfers and conveys to Buyer all of Seller’s right, title and interest in the following (if any): All tangible and intangible items related in any way to the acquisition, use, development, design, construction, permitting and entitlement of the Property for the residential development or otherwise, including without limitation, the following: any and all permits, licenses and authorizations of any kind, whether approved or in process; all studies, tests, contracts, plans and specifications (including grading, architectural designs, drawings and plans) relating to the Property; all rights under recorded covenants, conditions and restrictions and all proceeds of, additions and accretions to, substitutions and replacements for, and changes in any of the foregoing. The foregoing assignment is without representation or warranty. Seller shall execute and deliver all additional documentation reasonably necessary to evidence the foregoing assignments as reasonably required by Buyer and/or any governmental authority or applicable third party.

## 7. TITLE POLICY.

**7.1 Approval of Title.** Promptly upon Opening of Escrow, a preliminary title report shall be issued by Fidelity National Title Insurance Company (“**Title Company**”), describing the state of title of the Property, together with copies of all exceptions listed therein and a map plotting all easements specified therein (“**Preliminary Title Report**”). Within thirty (30) days after Buyer’s receipt of the Preliminary Title Report, Buyer shall notify Seller in writing (“**Buyer’s Title Notice**”) of Buyer’s disapproval of any matters contained in the Preliminary Title Report (except that Buyer may not disapprove any title exceptions caused by Buyer’s entry onto the Property pursuant to



Section 8.3) (“**Disapproved Exceptions**”) Buyer shall not be obligated to accept any of the Must Remove Exceptions (as defined below), which must be removed from title by Seller prior to the Closing at Seller’s sole cost and expense.

In the event Buyer delivers Buyer’s Title Notice within said period, Seller shall have a period of thirty (30) days after receipt of Buyer’s Title Notice in which to notify Buyer of Seller’s election to either (i) remove the Disapproved Exceptions prior to the Close of Escrow at Seller’s cost and expense; or (ii) decline to remove any such Disapproved Exceptions (“**Seller’s Notice**”). If Seller notifies Buyer of its election to decline to remove the Disapproved Exceptions, or if Seller does not provide a Seller’s Notice (which shall be deemed an election by Seller not to remove the Disapproved Exceptions) within ten (10) days after receipt of Buyer’s Title Notice, Buyer may elect either (x) to terminate this Agreement and the Escrow or (y) to accept title to the Property subject to the applicable Disapproved Exception(s). If Buyer delivers a Notice of Approval, as defined below, Buyer shall be deemed to have agreed to accept title subject to the Disapproved Exceptions. Upon the issuance of any amendment or supplement to the Preliminary Title Report which adds additional exceptions (other than Must Remove Exceptions which must be removed by Seller), the foregoing right of review and approval shall also apply to said amendment or supplement, provided, however, that Buyer’s initial period of review and approval or disapproval of any such additional exceptions shall be limited to five (5) days following receipt of notice of such additional exceptions and Seller’s response to same shall be five (5) days after receipt of the notice of Buyer’s objection to such matters.

**7.2 Title Policy.** At the Close of Escrow, Escrow Holder shall issue to Buyer an ALTA owner’s standard coverage Policy of Title Insurance insuring title to the Property vested in Buyer with coverage in the amount of the Purchase Price subject only to the following (“**Permitted Exceptions**”) (a) the Grant Deed; (b) non-delinquent real property taxes and assessments, if any; (c) items and exceptions caused, created by or with the written consent of Buyer, including documents to be recorded pursuant to this Agreement, including, without limitation, the Recordable Documents as set forth in Section 5.3; (d) the title exceptions shown on the Preliminary Title Report; and (e) any title exceptions caused by Buyer’s entry onto the Property pursuant to Section 8.3; but excluding any (i) Disapproved Exceptions that Seller, in its sole discretion, agrees to remove prior to the Close of Escrow as provided in Section 7.1 above; (ii) title exceptions created by or with the consent of Seller and not reflected in the Preliminary Title Report, and (iii) all monetary liens and monetary encumbrances on the Property other than non-delinquent real property taxes and assessments (collectively “**Must Remove Exceptions**”), all of which must be removed (meaning removal from title and not the issuance of an endorsement in connection therewith by the Title Company) from title by Seller at its sole cost and expense prior to the Close of Escrow regardless of whether Buyer objects to same (“**Title Policy**”). The cost of the CLTA portion of the Title Policy shall be paid by Seller. Buyer shall be entitled to request that the Title Policy be ALTA extended coverage with any available endorsements, however, the cost of any extended coverage and endorsements shall be the responsibility of Buyer and obtaining such extended coverage and endorsements shall not be a condition to Buyer’s obligations under this Agreement. If Buyer desires to obtain an ALTA extended coverage owner’s title policy, Buyer shall deliver an ALTA survey, at Buyer’s cost, to Title Company sufficiently prior to the Closing Date so as to allow the Title Company to issue same on the Closing Date and Buyer shall pay the additional cost for the extended coverage.

## **8. DUE DILIGENCE.**

**8.1 Due Diligence.** Seller has provided Buyer with any and all documents and information in Seller’s possession and control concerning the Property including, contracts and reports. For a period of ninety (90) from the Effective Date of this Agreement (“**Due Diligence Period**”), Buyer shall have the right, subject to the terms and conditions set forth in Section 8.3 and Section 8.4 below, to obtain, procure, and conduct, at its cost, such engineering, feasibility studies, soils tests, surveys, environmental studies and other investigations as Buyer may desire,

to permit Buyer to determine the suitability of the Property for Buyer's contemplated uses and to conduct such other review and investigation which Buyer deems appropriate to satisfy itself to acquire the Property, including Buyer's right to conduct any required market study, community outreach, meetings with Seller staff and other applicable governmental agencies (as necessary) in connection with Buyer's proposed Project, in Buyer's sole discretion.

**8.2 Disapproval of Due Diligence Matters.** Prior to the expiration of the Due Diligence Period, Buyer may, in its sole discretion, notify Seller in writing (with a copy to Escrow Holder) of (i) its disapproval of the due diligence matters and its election to terminate this Agreement and the Escrow ("**Disapproval and Termination Notice**") or (ii) its approval of its due diligence matters and election to move forward with the purchase of the Property ("**Notice of Approval**"). If Buyer sends the Disapproval and Termination Notice this Agreement shall terminate and Escrow Holder shall return the Deposit (less any applicable cancellation charges) to Buyer and the parties shall execute any documents required by Escrow Holder. If Buyer does not deliver the Disapproval and Termination Notice or a Notice of Approval in the time and manner specified above, Buyer shall conclusively be deemed to have delivered a Disapproval and Termination Notice in which case this Agreement shall terminate and the Deposit shall be promptly refunded to Buyer.

**8.3 Right to Enter the Property.** Commencing upon the Opening of Escrow, Seller grants Buyer, its agents, consultants, representatives, and employees ("**Buyer Representatives**") a limited license to enter upon the Property for the purpose of conducting engineering surveys, soil tests, investigations or other studies reasonably necessary to evaluate the condition of the Property, which studies, surveys, reports, investigations and tests shall be done at Buyer's sole cost and expense, and which are subject to the terms and conditions of this Section 8.3 and Section 8.4 below.

Prior to entry onto the Property, Buyer shall provide to Seller prior to initial entry a certificate of insurance evidencing that Buyer has procured and paid premiums for a general liability insurance policy written on a per occurrence and not claims made basis in a combined single limit of not less than TWO MILLION DOLLARS (\$2,000,000) which insurance names Seller as additional insured, and (b) documentation showing the Seller as a named additional insured on Buyer's Pollution and Remediation Legal Liability Policy of insurance which is applicable to the Property and is in the amount of not less than ONE MILLION DOLLARS (\$1,000,000). Buyer and, as applicable, all Buyer Representatives shall be obligated to comply with the following terms and conditions with respect to the license granted hereunder with respect to the Project: (i) conduct all studies in a diligent, expeditious and safe manner and not allow any dangerous or hazardous conditions to occur on the Property during or after such investigation; (ii) comply with all applicable laws and governmental regulations; (iii) allow an employee of Seller to be present at Seller's election; (iv) keep the Property free and clear of all materialmen's liens, and other liens arising out of the entry and work performed by Buyer; (v) Buyer maintain or assure the maintenance of workers' compensation insurance (or state approved self-insurance) on all persons/entities entering upon the Property in the amounts required by the State of California; (vi) repair any damage or physical disruption of the Property to substantially its original condition following Buyer's or any Buyer Representatives' entry upon the Property. Notwithstanding anything to contrary hereunder, Buyer shall be obligated to take the Property at Closing subject to any title exceptions caused by Buyer or any Buyer Representatives exercising this right to enter.

Buyer agrees to indemnify, and hold Seller free and harmless from and against any and all losses, damages (whether general, punitive or otherwise), liabilities, claims, causes of action (whether legal, equitable or administrative), judgments, court costs and legal or other expenses (including reasonable attorneys' fees) which Seller may suffer or incur as a consequence of Buyer's exercise of the license granted pursuant to this Section 8.3 or any act or omission by Buyer, any Buyer Representative or other person or entity acting by or under Buyer (except Seller

and its agents) with respect to the Property, excepting any and all losses, damages (whether general, punitive or otherwise), liabilities, claims, causes of action (whether legal, equitable or administrative), judgments, court costs and legal or other expenses (including reasonable attorneys' fees) arising from (a) the mere discovery by Buyer of any Hazardous Materials (as defined below) or other condition on the Property and/or (b) the gross negligence or willful misconduct of the Seller or any of its employees, agents or representatives upon or within the Property. Buyer's obligations under this Section 8.3 shall survive termination of this Agreement for any reason.

The parties agree that breach of any Property entry or restoration conditions in this Section 8.3 shall constitute a material breach of this Agreement.

**8.4 Conditions to Buyer's Right of Entry Upon the Property.** Buyer shall provide Seller with not less than two (2) business days written notice, prior to Buyer's or any Buyer Representatives entry onto the Property, which notice shall include a general description of the diligence proposed to be performed, the areas of the Property upon which such diligence shall be performed, the equipment proposed to be used for any testing or investigations of the Property, and the primary contact person for Seller to contact regarding such diligence activities performed by Buyer and any Buyer Representatives (the "**Access Notice**"). Seller shall be entitled to object to any terms contained in such Access Notice and any access upon the Property by Buyer or any Buyer Representatives if Seller deems, in its reasonable discretion, that such proposed access would violate the terms of this Agreement, which objection shall be provided by notice to Seller. Buyer shall not be entitled to conduct any invasive testing or investigations or perform any work that would cause a detrimental impact to any portion of Property.

Buyer and Seller agree to meet and coordinate frequently during the Due Diligence Period to confirm the nature of the work performed (or expected to be performed) by Buyer and the Buyer Representatives.

## **9. CEQA; ENTITLEMENT PROCESS; AND PROJECT AGREEMENTS.**

### **9.1 Acknowledgments of Buyer Regarding the Project, CEQA Approvals and the Entitlement Process.**

a. Buyer acknowledges and agrees that its proposed Project shall be subject to discretionary review and formal approval by the City in accordance with all applicable City ordinances and State laws (including, without limitation, any required approvals pursuant to CEQA, as well as all Entitlements, and Conditions of Approval imposed by the City in connection with the Project, and any mitigation measures imposed for the Project in connection with any CEQA approvals). Notwithstanding anything to the contrary hereunder, the execution of this Agreement does not constitute an "approval" of a "project," as those terms are defined in CEQA. Furthermore, nothing in this Agreement shall preclude Buyer from applying for a density bonus or other benefits for the development of the Property pursuant to State density bonus law (Gov. Code §§65915 -. 65918; as amended from time to time, the "**State Density Bonus Law**") and/or the City's GMC provisions regarding density bonuses and other applicable State and local laws.

b. City shall prepare all environmental documentation required for the processing of the Project in accordance with CEQA, which shall be subject to reimbursement pursuant to the terms and conditions of the Reimbursement Agreement. Upon City's request, Buyer agrees to supply information and otherwise assist City to determine the environmental impact of the Project and to allow City to prepare and process all environmental documentation, as may be needed to be completed for the Project pursuant to the requirements of CEQA. Upon Buyer's request from time to time, Seller shall keep Buyer informed as to the CEQA process. Without limitation of the foregoing, Buyer specifically acknowledges and agrees that if Buyer elects to proceed with the development of the Property and complete its purchase of the Property,

Buyer shall be required to satisfy all Conditions of Approval and mitigation measures issued / imposed by the City to ensure that the Project conforms to all applicable CEQA requirements and any Entitlements approved by the City in accordance with the GMC and State law.

c. Buyer acknowledges and agrees that the City has not determined the full scope or scale of the environmental review that will be required for the Project pursuant to CEQA. The City shall have full discretionary approval over the Project as the development plan evolves, its required Entitlements, and any environmental review required pursuant to CEQA as a condition precedent to the consummation of the transfer of the Property to Developer. As to any matter which the City is legally entitled to exercise its discretion with respect to the proposed Project, nothing herein shall obligate the City to exercise its discretion in any particular manner, and any exercise of discretion reserved hereunder or required by law is not a waiver of the City's police powers and shall not be deemed to constitute a breach or default by the City under this Agreement. Buyer understands that City is not making any assurance to Buyer regarding issuance of the Entitlements or other approvals required for the Project. Buyer is aware that, notwithstanding current zoning for the Property, zoning and other laws can change in the future. Buyer acknowledges that it is entering into this Agreement with full knowledge that (i) the Project will be subject to the standard approval process as required by the GMC and applicable laws; and (ii) as a governmental agency, City cannot bind itself with respect to discretionary actions or approvals required for the Project in this Agreement. Buyer expressly acknowledges that it understands and, if it elects to purchase the Property, is knowingly accepting the foregoing risks.

d. Buyer acknowledges and agrees that the City and its officials, officers, employees and agents shall not be responsible in any way for any delays or liabilities of any type whatsoever resulting from any legal challenges to the Project or the fact that any required Entitlements or CEQA approvals are not issued by the City or any other agency in accordance with applicable law.

## **9.2 Entitlement Process.**

a. **Commencement; Processing.** Within thirty (30) days after the Effective Date, Buyer shall submit a concept review application to the City with respect to the Project and, thereafter, within sixty (60) days following the expiration of the Due Diligence Period, Buyer shall submit a formal application to the Seller for all Entitlements. Buyer acknowledges that the approval of the Entitlements shall be subject to certain conditions of approval for the Project imposed by the City Council / Planning Commission in its discretionary review authority of the Project but subject to State Law and the City's General Plan and the Entitlements ("**Conditions to Approval**"). Buyer shall diligently prosecute and pursue all Entitlements, and shall promptly respond to any requests and modifications from the City regarding same during the processing of the Entitlements and CEQA approvals. Buyer shall pay all applicable fees to secure all Entitlements for the Project.

b. **Buyer Approvals.** Upon issuance of the Entitlements and the final Conditions of Approvals for the Project by the City, Buyer shall have the right to disapprove same by issuing a written notice to Seller within ten (10) days following receipt thereof, which shall also include Buyer's election to terminate this Agreement and the Escrow ("**Termination Notice**"). If Buyer delivers a Termination Notice in the time and manner specified, this Agreement shall be terminated, in which case, the Escrow shall be cancelled and the Deposit (less cancellation charges) shall be retained by the Seller. If Buyer fails to deliver the Termination Notice in the time and manner specified, Buyer shall be deemed to have approved all Conditions of Approval and the Entitlements approved by the City.

c. **Entitlement Period.** Buyer shall use commercially reasonable efforts to obtain all Entitlements by the date set forth in the Schedule of Performance, as it may

be extended as provided above. City will also exercise commercially reasonable efforts in the processing timeframe of all applications pursuant to the GMC and State Law.

**9.3 Project Agreements.** The final form of the Project Agreements shall be negotiated in good faith between the parties during Buyer's processing of the Entitlements in accordance with the Schedule of Performance and shall be in accordance with State Surplus Land Act and State Density Bonus Law.

**9.4 Natural Hazard Disclosure Report.** Upon Opening of Escrow, Escrow Holder shall order a commercial Natural Hazards Disclosure report for the Property by Disclosure Source ("**NHD Report**") to be delivered to Buyer by Escrow Holder. Buyer shall have ten (10) days from receipt of the NHD Report, to review and approve NHD Report. If Buyer disapproves the NHD Report within the ten (10) day period, it shall do so in writing which shall concurrently terminate this Agreement and the Escrow and receive a full refund of its Deposit (less cancellation charges). If Buyer fails to disapprove the NHD Report in accordance with the foregoing requirements, Buyer shall be conclusively deemed to have approved the NHD Report.

## **10. CONDITIONS PRECEDENT TO CLOSE OF ESCROW.**

**10.1 Conditions to Buyer's Obligations.** The obligations of Buyer under this Agreement are subject to the satisfaction or written waiver, in whole or in part, by Buyer of each of the following conditions precedent:

- i. Title Company will issue the Title Policy as specified in Section 7.2.
- ii. Buyer has approved the NHD Report pursuant to Section 9.4.
- iii. Seller has provided to Escrow Holder all the documents required under Section 5.1.
- iv. Escrow Holder holds and will deliver to Buyer the instruments and funds, if any, accruing to Buyer pursuant to this Agreement.
- v. Buyer has not issued or deemed to have issued the Disapproval and Termination Notice pursuant to Section 8.2, or the Termination Notice pursuant to Section 9.1(b).
- vi. Seller is not in default of its obligations under this Agreement.

**10.2 Conditions to Seller's Obligations.** The obligations of Seller under this Agreement are subject to the satisfaction or written waiver, in whole or in part, by Seller of the following conditions precedent:

- i. Buyer has delivered the balance of the Purchase Price, subject to the terms and conditions of Section 4.2(c).
- ii. Buyer has provided to Escrow Holder all the documents required under Section 4.2.
- iii. Buyer has not issued or deemed to have issued the Disapproval and Termination Notice pursuant to Section 8.2 or the Termination Notice pursuant to Section 9.1(b).
- iv. The City has issued all discretionary approvals required for the implementation of the Project including all required Entitlements and CEQA approvals.
- v. Escrow Holder holds and will deliver to Seller the instruments and funds accruing to Seller pursuant to this Agreement.
- vi. Buyer is not in default of its obligations under this Agreement.

11. **DAMAGES.**

**11.1 LIQUIDATED DAMAGES FOR BUYER'S BREACH.** IF BUYER SHOULD DEFAULT UNDER THIS AGREEMENT, THEN BUYER AND SELLER AGREE THAT SELLER WILL INCUR DAMAGES BY REASON OF SUCH DEFAULT BY BUYER OR FAILURE OF ESCROW TO CLOSE ON OR BEFORE THE CLOSING DATE, WHICH DAMAGES SHALL BE IMPRACTICAL AND EXTREMELY DIFFICULT, IF NOT IMPOSSIBLE, TO ASCERTAIN. BUYER AND SELLER, IN A REASONABLE EFFORT TO ASCERTAIN WHAT SELLER'S DAMAGES WOULD BE IN THE EVENT OF SUCH DEFAULT BY BUYER HAVE AGREED BY PLACING THEIR INITIALS BELOW THAT THE DEPOSIT SHALL BE DEEMED TO CONSTITUTE A REASONABLE ESTIMATE OF SELLER'S DAMAGES UNDER THE PROVISIONS OF SECTION 1671 OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. IN THE EVENT OF AND FOR SUCH DEFAULT BY BUYER, THE RETENTION OF THE DEPOSIT AS LIQUIDATED DAMAGES SHALL BE SELLER'S SOLE AND ONLY REMEDY AGAINST BUYER UNDER THIS AGREEMENT. THE FOREGOING LIMITATION OF DAMAGES SHALL NOT APPLY TO ANY OF BUYER'S INDEMNITY OBLIGATIONS SET FORTH IN THIS AGREEMENT NOR THE OBLIGATIONS OF BUYER TO DELIVER THE DOCUMENTS PURSUANT TO SECTION 4.1(c). THE LIQUIDATED DAMAGES ARE NOT INTENDED AS A PENALTY OR A FORFEITURE UNDER CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369. EXCEPT AS PROVIDED IN THE FOLLOWING SENTENCE, SELLER HEREBY WAIVES ALL OTHER CLAIMS, DAMAGES AND OTHER REMEDIES, INCLUDING THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTIONS 3384, 3387 AND 3389.

\_\_\_\_\_  
**Seller's Initials**

\_\_\_\_\_  
**Buyer's Initials**

**11.2. Limitation of Actions.** Notwithstanding any other provision contained herein, in no event shall Seller, or its officers, agents, attorneys, or employees, be liable in damages for any breach or violation of this Agreement, it being expressly understood and agreed that Buyer's sole legal remedy for a breach or violation of this Agreement by Seller shall be a legal action in mandamus, specific performance or other injunctive or declaratory relief to enforce the provisions of this Agreement.

**11.3 Non-Liability; Indemnification.** No official, officer, employee or agent of the Seller shall be personally liable hereunder to any extent. Seller agrees to indemnify, protect, defend, and hold harmless the Seller and its officials, officers, employees, agents, elected boards, commissions, departments, agencies, and instrumentalities thereof, from any and all actions, suits, claims, demands, writs of mandamus, liabilities, losses, damages, penalties, obligations, expenses, and any other actions or proceedings (whether legal, equitable, declaratory, administrative, or adjudicatory in nature), and alternative dispute resolution procedures (including, but not limited to, arbitrations, mediations, and other such procedures) asserted by third parties against the Seller that challenge, or seek to void, set aside, or otherwise modify or annul, the action of, or any approval by, the Seller for or concerning this Agreement, the Project, the Entitlements, or any CEQA approvals issued by the Seller, or any aspect or portion thereof (including, but not limited to, reasonable attorneys' fees and costs) (herein the "**Claims and Liabilities**"), whether such Claims and Liabilities arise under planning and zoning laws, the Subdivision Map Act, the California Environmental Quality Act, Code of Civil Procedure Sections 1085 or 1094.5, or any other federal, state, or local statute, law, ordinance, rule, regulation, or any decision of a court of competent jurisdiction. This indemnity shall survive the termination of this Agreement for any reason and the consummation of the transaction.

**11.4 Default; Right to Cure.** A party shall be deemed to be in default under this Agreement if it fails, for any reason other than the other party's default under this Agreement, to meet, comply with, or perform any material covenant, agreement, or obligation required on its part, including the Deposit or delivery of any funds, within the time limits and in the manner required in this Agreement; provided, however, that (i) upon or at any time following any default by a party to this Agreement the non-defaulting party shall be issue the defaulting Party written notice describing the nature of the default, and the defaulting party shall be deemed in default if it has failed to cure such default within five (5) days after the receipt of such notice; and/or (ii) if the default is the failure to deliver funds, documents, or other materials on the Closing Date then the foregoing five (5) day period shall be reduced to two (2) business days.

## **12. CONDITION OF THE PROPERTY.**

**12.1 Disclaimer of Warranties.** Upon the Close of Escrow, and excluding the "Excluded Claims" as defined below, Buyer shall acquire the Property in its "AS-IS" condition without any representations and warranties and Buyer shall be responsible for any defects in the Property, whether patent or latent, including, without limitation, the physical, environmental and geotechnical condition of the Property, and the existence of any contamination, Hazardous Materials, vaults, debris, pipelines, or other structures located on, under or about the Property, and Seller makes no other representation or warranty concerning the physical, environmental, geotechnical or other condition of the Property, and Seller specifically disclaims all representations or warranties of any nature concerning the Property made by it. The foregoing disclaimer includes, without limitation, topography, climate, air, water rights, utilities, soil, subsoil, existence of Hazardous Materials or similar substances, the purpose for which the Property is suited, or drainage.

**12.2 Hazardous Materials.** Buyer understands and agrees that, with the exception of the Excluded Claims, in the event Buyer incurs any loss or liability concerning Hazardous Materials (as hereinafter defined) and/or underground storage tanks attributable to events occurring following the Closing, Buyer shall assume such loss/liability. With the exception of the Excluded Claims, Buyer, from and after the Closing, hereby waives, releases, remises, acquits and forever discharges Seller, and each of the entities constituting Seller, if any, of and from any and all Environmental Claims, Environmental Cleanup Liability and Environmental Compliance Costs, as those terms are defined below, and from any and all actions, suits, legal or administrative orders or proceedings, demands, actual damages, punitive damages, loss, costs, liabilities and expenses, which concern or in any way relate to the physical or environmental conditions of the Property, the existence of any Hazardous Material thereon, or the release or threatened release of Hazardous Materials there from, whether existing prior to, at or after the Closing. It is the intention of the parties pursuant to this release that, excluding the Excluded Claims, any and all responsibilities and obligations of Seller, and any and all rights, claims, rights of action, causes of action, demands or legal rights of any kind of Buyer, its successors, assigns or any affiliated entity of Buyer, against the Seller, arising by virtue of the physical or environmental condition of the Property, the existence of any Hazardous Materials thereon, or any release or threatened release of Hazardous Material there from, whether existing prior to, at or after the Closing, are by this release provision declared null and void and of no present or future force and effect as to the parties; provided, however, that no parties other than the Indemnified Parties (defined below) shall be deemed third party beneficiaries of such release.

In connection therewith, Buyer and each of the entities constituting Buyer, expressly agree to waive any and all rights which said party may have with respect to such released claims under Section 1542 of the California Civil Code which provides as follows:

**"A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the**

**release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.”**

**Buyer Initials** \_\_\_\_\_

**Seller Initials** \_\_\_\_\_

With the exception of Excluded Claims, Buyer and each of the entities constituting Buyer, shall, from and after the Closing, defend, indemnify and hold harmless Seller and each of the entities constituting Seller (collectively, the “**Indemnified Parties**”) from and against any and all Environmental Claims, Environmental Cleanup Liability, Environmental Compliance Costs, and any other claims, actions, suits, legal or administrative orders or proceedings, demands or other liabilities resulting at any time from the physical and/or environmental conditions of the Property whether before or after the Closing or from the existence of any Hazardous Materials or the release or threatened release of any Hazardous Materials of any kind whatsoever, in, on or under the Property occurring at any time whether before or after the Closing, including, but not limited to, all foreseeable and unforeseeable damages, fees, costs, losses and expenses, including any and reasonable attorneys’ fees and environmental consultant fees and investigation costs and expenses, directly or indirectly arising therefrom, and including fines and penalties of any nature whatsoever, assessed, levied or asserted against any Indemnified Parties to the extent that the fines and/or penalties are the result of a violation or an alleged violation of any Environmental Law. Buyer further agrees that in the event Buyer obtains, from former owners of the Property or any other persons or entities, releases from liability, indemnities, or other forms of hold harmless relating to the subject matter of this Section, Buyer shall use its diligent efforts to obtain for Seller the same releases, indemnities and other comparable provisions.

For purposes of this Agreement, the following terms shall have the following meanings:

“**Environmental Claim**” means any claim for personal injury, death, and/or property damage made, asserted or prosecuted by or on behalf of any third party, including, without limitation, any governmental entity, relating to the Property or its operations and arising or alleged to arise under any Environmental Law.

“**Environmental Cleanup Liability**” means any cost or expense of any nature whatsoever incurred to contain, remove, remedy, clean up, or abate any contamination or any Hazardous Materials on or under all or any part of the Property, including the ground water thereunder, including, without limitation, (i) any direct costs or expenses for investigation, study, assessment, legal representation, cost recovery by governmental agencies, or ongoing monitoring in connection therewith and (ii) any cost, expense, loss or damage incurred with respect to the Property or its operation as a result of actions or measures necessary to implement or effectuate any such containment, removal, remediation, treatment, cleanup or abatement.

“**Environmental Compliance Cost**” means any cost or expense of any nature whatsoever necessary to enable the Property to comply with all applicable Environmental Laws in effect. The term Environmental Compliance Cost shall include all costs necessary to demonstrate that the Property is capable of such compliance.

“**Environmental Law**” means any federal, state or local statute, ordinance, rule, regulation, order, consent decree, judgment or common-law doctrine, and provisions and conditions of permits, licenses and other operating authorizations relating to (i) pollution or protection of the environment, including natural resources, (ii) exposure of persons, including employees, to Hazardous Materials or other products, raw materials, chemicals or other substances, (iii) protection of the public health or welfare from the effects of by-products, wastes, emissions, discharges or releases of chemical sub-stances from industrial or commercial activities, or (iv) regulation of the manufacture, use or introduction into commerce of chemical



substances, including, without limitation, their manufacture, formulation, labeling, distribution, transportation, handling, storage and disposal.

**“Hazardous Material(s)”** means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of California, or the United States Government. The term “Hazardous Material” includes, without limitation, any material or substance which is: (i) petroleum or oil or gas or any direct or derivate product or byproduct thereof; (ii) defined as a “hazardous waste,” “extremely hazardous waste” or “restricted hazardous waste” under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140, of the California Health and Safety Code; (iii) defined as a “hazardous substance” under Section 25316 of the California Health and Safety Code; (iv) defined as a “hazardous material,” “hazardous substance,” or “hazardous waste” under Sections 25501(o) and (p) and 25501.1 of the California Health and Safety Code (Hazardous Materials Release Response Plans and Inventory); (v) defined as a “hazardous substance” under Section 25281 of the California Health and Safety Code (Underground Storage of Hazardous Substances); (vi) “used oil” as defined under Section 25250.1 of the California Health and Safety Code; (vii) asbestos; (viii) listed under Article 9 or defined as hazardous or extremely hazardous pursuant to Article 1 of Title 22 of the California Code of Regulations, Division 4, Chapter 30; (ix) defined as “waste” or a “hazardous substance” pursuant to the Porter-Cologne Act, Section 13050 of the California Water Code; (x) designated as a “toxic pollutant” pursuant to the Federal Water Pollution Control Act, 33 U.S.C. §1317; (xi) defined as a “hazardous waste” pursuant to the Federal Resource Conservation and Recovery Act, 42 U.S.C. §6901, et seq. (42 U.S.C. §6903); (xii) defined as a “hazardous substance” pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601, et seq. (42 U.S.C. §9601); (xiii) defined as “Hazardous Material” or a “Hazardous Substance” pursuant to the Hazardous Materials Transportation Act, 49 U.S.C. §1801, et seq.; or (xiv) defined as such or regulated by any “Superfund” or “Superlien” law, or any other federal, state or local law, statute, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning Hazardous Materials, oil wells, underground storage tanks, and/or pipelines, as now, or at any time hereafter, in effect.

**“Excluded Claims”** means any claim of loss, damage or liability of any kind resulting from or arising in connection with any gross negligence and/or intentional act or omission of Seller or any employee, agent or representative of Seller.

Notwithstanding any other provision of this Agreement, Buyer’s release and indemnification as set forth in the provisions of this Section 12, as well as all other provisions of this Section, shall survive the termination of this Agreement as well as Close of Escrow and thereafter shall continue in perpetuity.

### **13. ESCROW PROVISIONS.**

**13.1 Escrow Instructions.** Sections 1 through 8, inclusive, 10, 11, this Section 13, 15 & 16 constitute the escrow instructions to Escrow Holder. If required by Escrow Holder, Buyer and Seller agree to execute Escrow Holder’s standard escrow instructions, provided that the same are consistent with and do not conflict with the provisions of this Agreement. In the event of any such conflict, the provisions of this Agreement shall prevail. The terms and conditions in sections of this Agreement not specifically referenced above are additional matters for information of Escrow Holder, but about which Escrow Holder need not be concerned. Buyer and Seller will receive Escrow Holder’s general provisions directly from Escrow Holder and will execute such provision upon Escrow Holder’s request. To the extent that the general provisions are inconsistent or conflict with this Agreement, the general provisions will control as to the duties and obligations of Escrow Holder only. Buyer and Seller agree to execute additional instructions, documents and forms provide by Escrow Holder that are reasonably necessary to close Escrow.

**13.2 General Escrow Provisions.** Escrow Holder shall deliver the Title Policy to the Buyer after recordation of the Grant Deed. All funds received in Escrow shall be deposited in one or more general escrow accounts of the Escrow Holder with any bank doing business in Southern California, and may be disbursed to any other general escrow account or accounts. All disbursements shall be according to that party's instructions, subject to the terms and conditions of this Agreement.

**13.3 Proration of Real Property Taxes.** As a public agency, Seller is not subject to real property taxes. Accordingly, Buyer shall take the Property subject to all taxes accruing from and after the Closing.

**13.4 Payment of Costs.**

- a. **Cost Allocation.** Seller shall pay the costs for the Title Policy (standard coverage ALTA owner's policy), any documentary transfer taxes and one-half (1/2) of the Escrow costs / fees. Buyer shall pay the cost of any additional endorsements to the Title Policy requested by Buyer and/or the additional cost (above the cost of the standard coverage ALTA owners title policy) for an ALTA extended coverage owner's policy (as provided in Section 7.1), one-half (1/2) of the Escrow costs / fees and any recording charges for the Grant Deed. All other costs of Escrow not otherwise specifically allocated by this Agreement shall be apportioned between the parties in a manner consistent with the custom and usage of Escrow Holder.

**NOTE:** As a public agency, Seller is exempt from recording fees under Govt. Code Section 6103. Accordingly, no recording fees are intended to be assessed against Buyer for the Grant Deed and/or for the Project Agreements.

- b. **Closing Statement.** At least three (3) business days prior to the Closing Date, Escrow Holder shall furnish Buyer and Seller with a preliminary Escrow closing statement which shall include each party's respective shares of costs. The preliminary closing statement shall be approved in writing by the applicable party. As soon as reasonably possible following the Close of Escrow, Escrow Holder shall deliver a copy of the final Escrow closing statement to each party.

**13.5 Termination and Cancellation of Escrow.** If Escrow fails to close due to a failure of a condition precedent as described in Section 10, then the party in whose favor the condition precedent runs may elect to cancel this Escrow upon written notice to the other party and Escrow Holder. Upon cancellation, Escrow Holder is instructed to return (i) the Deposit to the Seller, and any other funds provided herein in accordance with the foregoing provisions of this Agreement, and (ii) all documents then in Escrow to the respective depositor of the same with Escrow Holder. Notwithstanding the foregoing, in the event Escrow fails to close due to Seller's failure to deposit into Escrow the documents set forth in Section 5.1 despite all conditions to Closing having been achieved as set forth in Section 10, and following the notice and cure procedures set forth in Section 11.4 above, Seller has failed to cure such default, then Escrow Holder is instructed to return the Deposit to Buyer and this Agreement and the obligations of the parties pursuant to the terms and conditions of this Agreement shall terminate; provided, however, and notwithstanding the foregoing or anything to the contrary in this Agreement, in the event of a material uncured default by Seller of its obligations under this Agreement, Buyer may bring an action for specific performance of this Agreement due to such uncured default by Seller.

**13.6 Information Report.** Escrow Holder shall file and Buyer and Seller agree to cooperate with Escrow Holder and with each other in completing any report ("**Information Report**") and/or other information required to be delivered to the Internal Revenue Service pursuant to Internal Revenue Code Section 6045I regarding the real estate sales transaction contemplated by this Agreement, including without limitation, Internal Revenue Service Form

1099-B as such may be hereinafter modified or amended by the Internal Revenue Service, or as may be required pursuant to any regulation now or hereinafter promulgated by the Treasury Department with respect thereto. Buyer and Seller also agree that Buyer and Seller, their respective employees and attorneys, and escrow Holder and its employees, may disclose to the Internal Revenue Service, whether pursuant to such Information Report or otherwise, any information regarding this Agreement or the transactions contemplated herein as such party reasonably deems to be required to be disclosed to the Internal Revenue Service by such party pursuant to Internal Revenue Code Section 6045, and further agree that neither Buyer nor Seller shall seek to hold any such party liable for the disclosure to the Internal Revenue Service of any such information.

**13.7 No Withholding as Foreign Seller.** Seller represents and warrants to Buyer that Seller is not, and as of the Close of Escrow will not be, a foreign person within the meaning of Internal Revenue Code Section 1445 or an out-of-state seller under California Revenue and Tax Code Section 18805 and that it will deliver to Buyer on or before the Close of Escrow a non-foreign affidavit on Escrow Holder's standard form pursuant to Internal Revenue Code Section 1445(b)(2) and the Regulations promulgated thereunder and a California Form 590-RE.

**13.8 Brokerage Commissions.** Buyer and Seller each represent and warrant to the other that no third party is entitled to a broker's commission and/or finder's fee with respect to the transactions contemplated by this Agreement. Buyer and Seller each agree to indemnify and hold the other party harmless from and against all liabilities, costs, damages and expenses, including, without limitation, attorneys' fees, arising out of any action or proceedings which may be instituted by any broker, agent or finder, licensed or otherwise, claiming through, under or by reason of the conduct of the indemnifying party, respectively, in connection with this transaction.

**14. NON-COLLUSION.** Buyer represents and warrants to the Seller that no officer, official or employee of Seller has any financial interest direct or indirect, in this Agreement, nor shall any official, officer, or employee of the Seller participate in any decision relating to this Agreement which may affect his/her financial interest or the financial interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any state or municipal statute or regulation. The determination of "financial interest" shall be consistent with state law and shall not include interest found to be "remote" or "non-interest" pursuant to California Government Code Sections 1091 and 1091.5. In addition, the Seller warrants and represents that (s)he/it has not paid or given, and will not pay or give, to any third party including, but not limited to, any official, officer, or employee, any money, consideration, or other thing of value as a result or consequence of obtaining or being awarded this Agreement. Buyer further warrants and represents that (s)he/it has not engaged in any act(s), omission(s), or other conduct or collusion that would result in the payment of any money, consideration, or other thing of value to any official, officer, or employee of the Seller, as a result or consequence of obtaining or being awarded this Agreement. Buyer is aware of and understands that any such act(s), omission(s) or other conduct resulting in the payment of money, consideration, or other thing of value will render this Agreement void and of no force or effect.

**Buyer's Initials:** \_\_\_\_\_

**15. NOTICES.** All notices, demands, documents approvals or disapprovals given or sent under this Agreement from one party to another or to Escrow Holder (each a "Notice", and collectively, the "Notices") shall be given to the party entitled thereto at its address set forth below or at such other address as such party may provide to the other parties in writing. Any such Notice may be given (i) by personal delivery which will be deemed received on the day of delivery; (ii) by national overnight delivery service which shall be deemed received the following day; (iii)

by email, so long as written notice is concurrently provided by mail, overnight delivery, or personal delivery; or (iv) by mailing the same by registered or certified US mail, return receipt requested. A Notice shall be effective as follows: (a) if by personal delivery on the date of delivery if personally delivered before 5:00 p.m. prevailing local time, otherwise on the day following personal delivery; (b) if by e-mail on the date of delivery if delivered before 5:00 p.m. prevailing local time, otherwise on the day following delivery, (c) if mailed, two (2) business days following the date the notice is postmarked, or (d) if sent by overnight courier, on the day following delivery to the overnight courier.

**To Seller:** City of Glendora  
116 E. Foothill Blvd.  
Glendora, CA 91741  
Attention: Jeff Kugel, Community Development Director &  
Valerie Velasquez, Housing & Economic Development  
Manager  
Email: [jkugel@cityofglendora.org](mailto:jkugel@cityofglendora.org);  
[vvelasquez@cityofglendora.org](mailto:vvelasquez@cityofglendora.org)

**With a Copy to:** Aleshire & Wynder, LLP  
1 Park Plaza, Suite 1000  
Irvine, CA 92614  
Attn: Danny Aleshire  
City Attorney  
Email: [danny.aleshire@awattorneys.com](mailto:danny.aleshire@awattorneys.com)

**To Buyer:** OLSON URBAN HOUSING, LLC  
3010 Old Ranch Parkway, Ste. 100  
Seal Beach, CA 90740  
Attn: Todd Olson and John Reekstin  
E-Mail: [tolson@theolsonco.com](mailto:tolson@theolsonco.com) and [john@theolsonco.com](mailto:john@theolsonco.com)

**With a Copy to:** Dzida, Carey & Steinman  
3 Park Plaza, Suite 750  
Irvine, CA 92614  
Attn: Jay R. Steinman, Esq.  
E-Mail: [jsteinman@dcslaw.com](mailto:jsteinman@dcslaw.com)

**To Escrow Holder:** Fidelity National Title Insurance Company  
555 South Flower Street, Suite 4420  
Los Angeles, CA 90071  
Jessica Avila, Escrow Officer  
Email: [jessica.avila@fnf.com](mailto:jessica.avila@fnf.com)

## 16. GENERAL PROVISIONS.

**16.1 Assignment; Successors and Assigns.** Except as provided below, Buyer shall have no right to assign this Agreement without the prior written consent of Seller, in its sole and absolute discretion, as Seller is relying upon the integrity and expertise of Buyer. Notwithstanding the foregoing, Buyer may assign this Agreement (and its rights and obligations hereunder) without any prior written consent of Seller to (i) an entity wholly controlled and owned by Buyer, (ii) any entity that is affiliated with or related to Buyer, so long as Buyer has an ownership interest and is responsible for managing the day to day activities of such entity. In addition, Seller shall not unreasonably withhold its consent to an assignment by Buyer of its rights under this Agreement to an entity that: (a) acquires substantially all of the assets of Buyer or into which Buyer merges, or (b) is a partnership of which Buyer or an affiliate entity is the general partner, a limited liability

company of which Buyer or an affiliate entity is the managing member and which Buyer or an affiliate entity holds an ownership interest and any other entity in which Buyer has an ownership interest and is responsible for managing the day to day activities of such entity. Any permitted assignment shall be in a form approved by Seller (which shall include a written assignment, assumption and release agreement executed by Buyer, Seller and the assignee). This Agreement shall be binding upon and shall inure to the benefit of Buyer and Seller and their respective heirs, personal representatives, successors and assigns.

**16.2 Attorneys' Fees.** In any action between the parties hereto, seeking enforcement of any of the terms and provisions of this Agreement or the Escrow, or in connection with the Property, the prevailing party in such action shall be entitled, to have and to recover from the other party its reasonable attorneys' fees and other reasonable expenses in connection with such action or proceeding, in addition to its recoverable court costs.

**16.3 Interpretation; Governing Law; Venue.** This Agreement shall be construed in accordance with and governed by the laws of the State of California. Any legal action or proceeding brought to interpret or enforce this Agreement, or which in any way arises out of the parties' activities undertaken pursuant to this Agreement, shall be filed and prosecuted in the appropriate California State Court in the County of Los Angeles, California. Each party waives the benefit of any provision of state or federal law providing for a change of venue to any other court or jurisdiction including, without limitation, a change of venue based on the fact that a governmental entity is a party to the action or proceeding, or that a federal right or question is involved or alleged to be involved in the action or proceeding. Without limiting the generality of the foregoing waiver, Buyer expressly waives any right to have venue transferred pursuant to California Code of Civil Procedure Section 394.

**16.4 No Waiver.** No delay or omission by either party in exercising any right or power accruing upon the compliance or failure of performance by the other party under the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either party of a breach of any of the covenants, conditions or agreements hereof to be performed by the other party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions hereof.

**16.5 Modifications.** Any amendment, change, or modification of or to this Agreement, in order to become effective, shall be made by a written instrument executed by the parties to this Agreement.

**16.6 Severability.** If any term, provision, condition or covenant of this Agreement or the application thereof to any party or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this instrument, or the application of such term, provisions, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

**16.7 Incorporation; Merger.** This Agreement (together with the Recitals set forth herein) and other documents incorporated herein by reference contain the entire understanding between the parties relating to the transaction contemplated hereby and all prior to contemporaneous agreements, understandings, representations and statements, oral or written are merged herein and shall be of no further force or effect.

**16.8 Construction.** In determining the meaning of, or resolving any ambiguity with respect to, any word, phrase or provision of this Agreement, no uncertainty or ambiguity shall be construed or resolved against a party under any rule of construction, including the party primarily responsible for the drafting and preparation of this Agreement. Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent. As used

in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others wherever and whenever the context so dictates.

**16.9 Qualification and Authority.** The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other agreement to which said party is bound.

**16.10 No Third Party Beneficiaries.** This Agreement is only between the parties, and is not intended to be nor shall it be construed as being for the benefit of any third party.

**16.11 Execution in Counterparts.** This Agreement may be executed in several counterparts, and all so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all parties are not signatories to the original or the same counterpart.

**16.12 Time References.** Unless otherwise expressly provided in this Agreement, any reference in this Agreement to time for performance of obligations or to elapsed time shall mean Pacific Standard Time and time periods shall mean consecutive calendar days, months or years, as applicable. If the date ("**Performance Date**") on which any action is to be taken, any obligation is to be performed, or any notice is to be given under this Agreement falls on a Saturday, Sunday or federal holiday, then such Performance Date shall be automatically extended to the next business day. As used in this Agreement, "**business day**" means any calendar day that is not a Saturday, Sunday or federal holiday. The time for performance on any Performance Date shall be no later than 5:00 p.m. California time, unless otherwise provided in this Agreement.

**16.13 PDF Signatures.** In order to expedite execution of this Agreement, this Agreement may be executed by electronic signatures sent via DocuSign or similar protocol or sent in a PDF document via email and may be used in place of original signatures to this Agreement or any document delivered pursuant hereto (except for documents that are to be recorded in the Official Records of the County). Seller and Buyer intend to be bound by their signatures as provided herein, are aware that the other party will rely on such signatures, and hereby waive any defenses to the enforcement of the terms of this Agreement based on the form of signature.

**16.14 Exhibits.** Exhibits A, A-1, B, C, D, and E attached hereto are incorporated herein by reference summarized as follows:

Exhibit A	Legal Description of Property
Exhibit A-1	Depiction of Property
Exhibit B	Grant Deed
Exhibit C	HCD Affordability Covenant
Exhibit D	Summary of Terms to be Included in Project Agreements
Exhibit E	Schedule of Performance

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date first written above.

**BUYER:**

OLSON URBAN HOUSING, LLC,  
a Delaware limited liability company

By: In Town Living, Inc., a  
Delaware corporation  
Its: Managing Member

By: \_\_\_\_\_  
Todd Olson  
Its: President of Community  
Development

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**ACCEPTED AND AGREED TO BY:**

**Escrow Holder:**

By: \_\_\_\_\_  
\_\_\_\_\_, Escrow Officer

Dated: \_\_\_\_\_, 2024

**SELLER:**

CITY OF GLENDORA, a municipal  
corporation

By: \_\_\_\_\_  
Adam Raymond, City Manager

**ATTEST:**

\_\_\_\_\_  
Kathleen Sessman, City Clerk

**APPROVED AS TO FORM:**  
Aleshire & Wynder, LLP

By: \_\_\_\_\_  
Danny Aleshire, City Attorney

**EXHIBIT A**

**LEGAL DESCRIPTION OF PROPERTY**

That certain real property in the City of Glendora, County of Los Angeles, State of California, legally described as follows:

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF GLENDORA IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL A:

THE SOUTH 113 FEET OF THE WEST 197.255 FEET OF LOT 6 OF TRACT NO. 1233, IN THE CITY OF GLENDORA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN [BOOK 18, PAGE 120](#) OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

[APN 8655-007-901](#); [APN 8655-007-902](#)

PARCEL B:

THE SOUTH HALF OF THE EAST 5 ACRES OF LOT 9 OF TRACT NO. 1233, IN THE CITY OF GLENDORA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN [BOOK 18, PAGE 120](#) OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT THE WESTERLY 16 FEET THEREOF FOR ROAD PURPOSES.

[APN 8655-007-900](#)

PARCEL C:

THOSE PORTIONS OF LOTS 2 AND 5, OF TRACT NO. 1233, IN THE CITY OF GLENDORA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN [BOOK 18, PAGE 120](#) OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS A WHOLE AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTH LINE OF THE SOUTH 10.00 FEET OF SAID LOT 5 THAT IS DISTANT ALONG SAID NORTH LINE AND THE NORTH LINE OF THE SOUTH 10.00 FEET OF LOTS 3 AND 4 OF SAID TRACT NO. 1233 (AND THE EASTERLY PROLONGATION THEREOF), SOUTH 89°43' WEST 767.00 FEET FROM THE CENTER LINE OF VALLEY CENTER AVENUE, AS SHOWN ON SAID MAP, SAID POINT OF BEGINNING BEING THE NORTHWEST CORNER OF THE LAND DESCRIBED IN DEED TO CHARLES MORRIS JOHNSON AND EDA JOHNSTON, HUSBAND AND WIFE, RECORDED ON JUNE 14, 1945 AS INSTRUMENT NO. 875, IN [BOOK 22108, PAGE 20](#) OF OFFICIAL RECORDS, IN THE OFFICE OF SAID RECORDER; THENCE ALONG THE WEST LINE OF THE LAND DESCRIBED IN SAID DEED SOUTH 00°23' WEST 343.45 FEET TO THE SOUTH LINE OF SAID LOT 2; THENCE WESTERLY ALONG SAID SOUTH LINE 539.19 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF SAID LOT 2; THENCE NORTHERLY ALONG THE WEST LINE OF SAID LOT 2 TO THE NORTHWEST CORNER OF SAID LOT; THENCE EASTERLY ALONG THE NORTH LINE OF SAID LOT 2 TO A POINT THEREON DISTANT EASTERLY 94.00 FEET FROM THE SOUTHWEST CORNER OF SAID LOT 5; THENCE ALONG A STRAIGHT LINE WHICH PASSES THROUGH A POINT IN THE NORTH LINE OF SAID LOT 4 DISTANT EASTERLY 239.00 FEET FROM THE NORTHWEST CORNER OF SAID LOT 4, NORTHEASTERLY TO THE NORTH LINE OF THE SOUTH 10.00 FEET OF SAID LOT 5; THENCE EASTERLY ALONG THE LAST MENTIONED NORTH LINE TO THE POINT OF BEGINNING.

EXCEPT THEREFROM THAT PORTION GRANTED TO L. & M. BUILDERS RECORDED JANUARY 13, 1961 AS [INSTRUMENT NO. 815 OF OFFICIAL RECORDS](#).

[APN 8655-021-900](#)



EXHIBIT A-1

DEPICTION OF THE PROPERTY



**EXHIBIT B**

**FORM OF GRANT DEED**

[Attached]

Order No.  
Escrow No.

**WHEN RECORDED MAIL TO:**

**MAIL TAX STATEMENTS TO:**

APN No(s): 8655-007-900, 8655-007-901, 8655-007-902, and 8655-021-900

The Undersigned Grantor(s) Declare(s):  
DOCUMENTARY TRANSFER TAX  
\$ \_\_\_\_\_

CITY TRANSFER TAX \$ \_\_\_\_\_

[ X ] computed on the consideration or full value of property conveyed

SPACE ABOVE THIS LINE FOR  
RECORDER'S USE

(Exempt from Recording Fee per Gov. Code §6103)

**GRANT DEED**

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, the CITY OF GLENDORA, a municipal corporation ("**Grantor**" / "**City**"), does hereby grant to \_\_\_\_\_, a \_\_\_\_\_ ("**Grantee**"), that certain real property located in the City of Glendora, County of Los Angeles, State of California legally described on **Exhibit "1"** attached hereto and incorporated herein by this reference ("**Property**") and Grantee hereby accepts such Property from Grantor subject to the following terms and conditions:

1. General and special real property taxes for the current fiscal year.
2. All covenants, conditions, restrictions, easements, reservations, rights, and other matters of record including, without limitation, that certain Affordability Regulatory Agreement recorded concurrently herewith (the "**Regulatory Agreement**"), that certain Declaration of Restrictive Use Covenant, made by the City in favor of the California Department of Housing and Community Development, and that certain [Covenant Agreement], between the Grantor and Grantee, recorded concurrently herewith.
3. Items, exceptions, or conditions that could reasonably be discovered by a physical inspection and/or survey of the Property.
4. Grantee agrees, for itself and on behalf of its successors in interest in title to the Property, to refrain from restricting the rental, sale, or lease of any portion of the Property on the basis of race, color, creed, religion, sex, marital status, age, ancestry, or national origin of any

person. All such deeds, leases, or contracts shall contain or be subject to substantially the following nondiscrimination or non-segregation clauses:

(a) Deeds: In deeds the following language shall appear:

“The Grantee herein covenants by and for itself, its heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, age, ancestry, or national origin in the sale, lease, rental, sublease, transfer, use, occupancy, tenure, or enjoyment of the land herein conveyed, nor shall the Grantee itself, or any persons claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the land herein conveyed. The foregoing covenants shall run with the land.”

(b) Leases: In leases the following language shall appear: “The lessee herein covenants by and for itself, its heirs, executors, administrators, successors, and assigns, and all persons claiming under or through them, and this lease is made and accepted upon and subject to the following conditions:

“That there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, age, ancestry, or national origin in the leasing, subleasing, renting, transferring, use, occupancy, tenure, or enjoyment of the land herein leased nor shall the lessee itself, or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, sublessees, subtenants, or vendees in the land herein leased.”

(c) Contracts: In contracts pertaining to conveyance of the realty the following language shall appear:

“There shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, age, ancestry, or national origin in the sale, lease, rental, sublease, transfer, use, occupancy, tenure, or enjoyment of the land, nor shall the transferee itself, or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the land.”

The forgoing covenants shall remain in effect in perpetuity.

This Grant Deed may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

***[SIGNATURES AND NOTARY ACKNOWLEDGMENTS ON THE FOLLOWING PAGES]***

IN WITNESS WHEREOF, Grantor has caused this Grant Deed to be executed on its behalf as of the date written below.

**GRANTOR:**

CITY OF GLENDORA, a municipal corporation

By: \_\_\_\_\_  
Adam Raymond, City Manager

**ATTEST:**

By: \_\_\_\_\_  
Kathleen Sessman, City Clerk

**APPROVED AS TO FORM:**

ALESHIRE & WYNDER, LLP

By: \_\_\_\_\_  
Danny Aleshire, City Attorney

**ACKNOWLEDGMENT AND ACCEPTANCE OF THE TERMS AND COVENANTS OF THE GRANT DEED BY GRANTEE:**

**GRANTEE:**

[ \_\_\_\_\_ ]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA            )  
  )  
COUNTY OF LOS ANGELES        )

On \_\_\_\_\_, before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

(SEAL)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA                    )  
  )  
COUNTY OF LOS ANGELES            )

On \_\_\_\_\_, before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

(SEAL)

## EXHIBIT "1" TO GRANT DEED

### LEGAL DESCRIPTION OF PROPERTY

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF GLENDORA IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

#### PARCEL A:

THE SOUTH 113 FEET OF THE WEST 197.255 FEET OF LOT 6 OF TRACT NO. 1233, IN THE CITY OF GLENDORA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN [BOOK 18, PAGE 120](#) OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

[APN 8655-007-901](#); [APN 8655-007-902](#)

#### PARCEL B:

THE SOUTH HALF OF THE EAST 5 ACRES OF LOT 9 OF TRACT NO. 1233, IN THE CITY OF GLENDORA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN [BOOK 18, PAGE 120](#) OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT THE WESTERLY 16 FEET THEREOF FOR ROAD PURPOSES.

[APN 8655-007-900](#)

#### PARCEL C:

THOSE PORTIONS OF LOTS 2 AND 5, OF TRACT NO. 1233, IN THE CITY OF GLENDORA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN [BOOK 18, PAGE 120](#) OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS A WHOLE AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTH LINE OF THE SOUTH 10.00 FEET OF SAID LOT 5 THAT IS DISTANT ALONG SAID NORTH LINE AND THE NORTH LINE OF THE SOUTH 10.00 FEET OF LOTS 3 AND 4 OF SAID TRACT NO. 1233 (AND THE EASTERLY PROLONGATION THEREOF), SOUTH 89°43' WEST 767.00 FEET FROM THE CENTER LINE OF VALLEY CENTER AVENUE, AS SHOWN ON SAID MAP, SAID POINT OF BEGINNING BEING THE NORTHWEST CORNER OF THE LAND DESCRIBED IN DEED TO CHARLES MORRIS JOHNSON AND EDA JOHNSTON, HUSBAND AND WIFE, RECORDED ON JUNE 14, 1945 AS INSTRUMENT NO. 875, IN [BOOK 22108, PAGE 20](#) OF OFFICIAL RECORDS, IN THE OFFICE OF SAID RECORDER; THENCE ALONG THE WEST LINE OF THE LAND DESCRIBED IN SAID DEED SOUTH 00°23' WEST 343.45 FEET TO THE SOUTH LINE OF SAID LOT 2; THENCE WESTERLY ALONG SAID SOUTH LINE 539.19 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF SAID LOT 2; THENCE NORTHERLY ALONG THE WEST LINE OF SAID LOT 2 TO THE NORTHWEST CORNER OF SAID LOT; THENCE EASTERLY ALONG THE NORTH LINE OF SAID LOT 2 TO A POINT THEREON DISTANT EASTERLY 94.00 FEET FROM THE SOUTHWEST CORNER OF SAID LOT 5; THENCE ALONG A STRAIGHT LINE WHICH PASSES THROUGH A POINT IN THE NORTH LINE OF SAID LOT 4 DISTANT EASTERLY 239.00 FEET FROM THE NORTHWEST CORNER OF SAID LOT 4, NORTHEASTERLY TO THE NORTH LINE OF THE SOUTH 10.00 FEET OF SAID LOT 5; THENCE EASTERLY ALONG THE LAST MENTIONED NORTH LINE TO THE POINT OF BEGINNING.

EXCEPT THEREFROM THAT PORTION GRANTED TO L. & M. BUILDERS RECORDED JANUARY 13, 1961 AS [INSTRUMENT NO. 815 OF OFFICIAL RECORDS](#).

[APN 8655-021-900](#)



**EXHIBIT C**

**HCD AFFORDABILITY COVENANT**

[Attached]

**FREE RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:**

City of Glendora  
116 E. Foothill Blvd.  
Glendora, CA 90201  
Attn: Planning Division

APNs 8655-007-900, 8655-007-901, 8655-007-902 and 8655-021-900

(For Recorder's Use Only)

Exempt from filing fee per Gov Code 27383

**DECLARATION OF RESTRICTIVE USE COVENANT**

This DECLARATION OF RESTRICTIVE USE COVENANT ("**Covenant**") is made this \_\_\_\_ day of \_\_\_\_\_, 2024, by the City of Glendora, a municipal corporation ("**City**").

**RECITALS**

- A. The City is the owner of certain vacant real property constituting approximately 5.8 acres in the City of Glendora, County of Los Angeles, State of California, identified as APNs 8655-007-900, 8655-007-901, 8655-007-902 and 8655-021-900, as more particularly described on Exhibit "A" attached hereto ("**Property**").
- B. The City is recording this Covenant, in order to comply with the terms and conditions of the Surplus Land Act (Govt. Code Sections 54220-54232) and the Surplus Land Act Guidelines to ensure that any future residential uses consisting of 10 units or more upon the Property, are subject to the covenants, terms, and conditions contained herein.

NOW, THEREFORE, City declares, covenants, and agrees for itself, its successors and assigns that the Property shall hereafter be held, transferred, encumbered, used, sold, conveyed, leased and occupied, subject to the covenants and restrictions set forth herein.

**AGREEMENT:**

- 1. **Effective Date; Duration.** This Covenant shall be effective ("**Effective Date**") on the date it is recorded in the Official Records of Los Angeles County ("**Official Records**") and shall continue in full force and effect until terminated in accordance with Section 2 below.
- 2. **Covenants, Restrictions, and Obligations.** City covenants and agrees as follows:

(a) If ten (10) or more residential units are developed on the Property, not less than 15 percent of the total number of residential units developed on the Property shall be sold or rented at affordable housing cost to moderate-income households, as defined in Section 50052.5(b)(4) of the California Health and Safety Code (“HSC”), or affordable rent to moderate-income households, as defined in Section 50053(b)(5) of the HSC. Rental units shall remain affordable to and occupied by lower income households for a period of 55 years for rental housing and 45 years for ownership housing (as applicable, the “**Covenant Term**”). The initial occupants of all ownership units on the Property shall be moderate-income households, and the units shall be subject to an equity sharing agreement consistent with the provisions of Section 65915(c)(2)(A) of the California Government Code. These requirements shall be covenants or restrictions running with the land and shall be enforceable against any owner who violates a covenant or restriction and each successor-in-interest who continues the violation by any of the entities described in subdivisions (a) to (f), inclusive, of Section 54222.5 of the California Government Code.

(b) This Covenant shall terminate and shall be of no further force or effect following the expiration of the Covenant Term.

3. **Amendment or Modification.** This Covenant may not be amended or modified except following written approval from the California Department of Housing and Community Development (“HCD”) and otherwise in writing executed by the then current owner(s) of the Property and the City, which shall be required to be recorded in the Official Records.

**[SIGNATURE PAGE FOLLOWS]**

IN WITNESS WHEREOF, this Covenant is executed by the City as of the date first written above.

CITY OF GLENDORA,  
a municipal corporation

By: \_\_\_\_\_  
Name/Title: Jeff Kugel; Community  
Development Director

Attest:

\_\_\_\_\_  
Name/Title: Kathleen Sessman;  
City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

By: \_\_\_\_\_  
Danny Aleshire; City Attorney

## EXHIBIT A

### PROPERTY DESCRIPTION

That certain real property in City of Glendora, County of Los Angeles, State of California, legally described as follows:

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF GLENDORA IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

#### PARCEL A:

THE SOUTH 113 FEET OF THE WEST 197.255 FEET OF LOT 6 OF TRACT NO. 1233, IN THE CITY OF GLENDORA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN [BOOK 18, PAGE 120](#) OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

[APN 8655-007-901](#); [APN 8655-007-902](#)

#### PARCEL B:

THE SOUTH HALF OF THE EAST 5 ACRES OF LOT 9 OF TRACT NO. 1233, IN THE CITY OF GLENDORA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN [BOOK 18, PAGE 120](#) OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT THE WESTERLY 16 FEET THEREOF FOR ROAD PURPOSES.

[APN 8655-007-900](#)

#### PARCEL C:

THOSE PORTIONS OF LOTS 2 AND 5, OF TRACT NO. 1233, IN THE CITY OF GLENDORA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN [BOOK 18, PAGE 120](#) OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS A WHOLE AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTH LINE OF THE SOUTH 10.00 FEET OF SAID LOT 5 THAT IS DISTANT ALONG SAID NORTH LINE AND THE NORTH LINE OF THE SOUTH 10.00 FEET OF LOTS 3 AND 4 OF SAID TRACT NO. 1233 (AND THE EASTERLY PROLONGATION THEREOF), SOUTH 89°43' WEST 767.00 FEET FROM THE CENTER LINE OF VALLEY CENTER AVENUE, AS SHOWN ON SAID MAP, SAID POINT OF BEGINNING BEING THE NORTHWEST CORNER OF THE LAND DESCRIBED IN DEED TO CHARLES MORRIS JOHNSON AND EDA JOHNSTON, HUSBAND AND WIFE, RECORDED ON JUNE 14, 1945 AS INSTRUMENT NO. 875, IN [BOOK 22108, PAGE 20](#) OF OFFICIAL RECORDS, IN THE OFFICE OF SAID RECORDER; THENCE ALONG THE WEST LINE OF THE LAND DESCRIBED IN SAID DEED SOUTH 00°23' WEST 343.45 FEET TO THE SOUTH LINE OF SAID LOT 2; THENCE WESTERLY ALONG SAID SOUTH LINE 539.19 FEET, MORE OR LESS, TO THE SOUTHWEST CORNER OF SAID LOT 2; THENCE NORTHERLY ALONG THE WEST LINE OF SAID LOT 2 TO THE NORTHWEST CORNER OF SAID LOT; THENCE EASTERLY ALONG THE NORTH LINE OF SAID LOT 2 TO A POINT THEREON DISTANT EASTERLY 94.00 FEET FROM THE SOUTHWEST CORNER OF SAID LOT 5; THENCE ALONG A STRAIGHT LINE WHICH PASSES THROUGH A POINT IN THE NORTH LINE OF SAID LOT 4 DISTANT EASTERLY 239.00 FEET FROM THE NORTHWEST CORNER OF SAID LOT 4, NORTHEASTERLY TO THE NORTH LINE OF THE SOUTH 10.00 FEET OF SAID LOT 5; THENCE EASTERLY ALONG THE LAST MENTIONED NORTH LINE TO THE POINT OF BEGINNING.

EXCEPT THEREFROM THAT PORTION GRANTED TO L. & M. BUILDERS RECORDED JANUARY 13, 1961 AS [INSTRUMENT NO. 815 OF OFFICIAL RECORDS](#).

[APN 8655-021-900](#)



## EXHIBIT D

### SUMMARY OF TERMS FOR PROJECT AGREEMENTS

**1. The Affordability Regulatory Agreement**, which shall include the following terms and conditions (among others to be negotiated between the parties):

- (1) Each of the Affordable Units (i.e., fifteen percent (15%) of the total Project units constructed on the Property) must be sold by Developer to a moderate-income household (as defined in in Section 50053(b)(5) of the California Health and Safety Code (“HSC”)), and must be maintained as affordable for a moderate-income household for a term of forty-five (45) years commencing upon the date upon which each Affordable Unit is initially acquired by an owner.
- (2) All of the Affordable Units must be sold by Developer prior to the date on which 90% of the Market Rate Units are sold / transferred by Developer.
- (3) The purchase price for each of the Affordable Units shall not exceed a price which constitutes the Affordable Housing Cost (as such term is defined in Section 50052.5(b)(4) of the HSC (as applicable to a moderate-income household, and taking into account the price, term of any loan, interest rate, and amortization period)) for the initial purchaser of any Affordable Unit (and any future purchaser of such Affordable Unit), which shall be subject to review and confirmation by the City.
- (4) Terms and conditions regarding the right of the City to review and confirm the proposed purchase price and the qualification of the proposed buyer of any Affordable Unit as a moderate-income household, including all documentation and information reasonably requested by the City in connection therewith.
- (5) Terms and conditions such that the Affordable Units shall be occupied as a principal place of residence for the initial and future owner of such unit.
- (6) Annual certifications by each owner of an Affordable Unit as to their status and qualification as a moderate-income household.
- (7) Restrictions on transfer (including leases or other occupancy by third parties) of any Affordable Units to ensure that each Affordable Unit shall be owned and occupied by a moderate-income household for the entire term of the Affordability Regulatory Agreement as applicable to each Affordable Unit.
- (8) The terms and conditions on which the Associated Affordability Documentation shall be entered into / recorded in the Official Records prior to or upon any acquisition of an Affordable Unit by any proposed purchaser of such unit.
- (9) Terms such that the Affordable Units shall be located in disbursed locations within the Project and shall not be consolidated within a specific portion of the Project.

The Affordability Regulatory Agreement shall include as attachments the form of Deed of Trust and Promissory Note, securing the terms and obligations under the Affordability Regulatory Agreement, as set forth below:

- (1) The form of Deed of Trust shall be recorded against each Affordable Unit prior to the transfer of any such unit to any owner by Buyer, in accordance with the terms and conditions set forth in the Affordability Regulatory Agreement. The Deed of Trust shall secure the obligations of the buyer of any Affordable Unit under the Promissory Note, which obligations may be transferred / assigned to any subsequent buyer of such applicable Affordable Unit (provided that such buyer qualifies pursuant to the terms and conditions of the Affordability Regulatory Agreement) to ensure that each Affordable Unit remains affordable to and occupied by, a moderate income household for the entire 45 year term.
- (2) The form of Promissory Note shall include a term of forty-five (45) years, shall contain a principal loan amount of \$50 to the City, and shall not bear interest, unless a default occurs under the Promissory Note. The Promissory Note shall contain standard conditions regarding defaults.

**2. The Covenant Agreement**, which shall only include the following material and/or substantive terms and conditions:

- (i) The obligation to promptly and diligently pursue issuance of all permits required for the construction of the approved Project, including the following: (a) submission of an application for a Final Tentative Map within three (3) months after the Closing by Buyer to the City (if not already submitted by Buyer); and (b) submission of all applicable documentation for the issuance of construction permits (which may include grading permits) for the first phase of the Project within nine (9) months after the Closing by Buyer to the City.
- (ii) The obligation of Buyer to commence construction of the Project within six (6) months following the recordation of the Final Tentative Map.
- (iii) The obligation of Buyer to complete the entire Project (including all phases of construction, all public improvements, final inspections for all associated permits, and satisfaction of all land entitlement requirements) in accordance with the Phasing Plan reasonably approved by the City (as the same may be amended or modified from time to time), which shall include an expected outside date of forty (40) months from the Closing.
- (iv) The rights of City to inspect the Property and the Project to determine compliance.
- (v) Except as otherwise provided below, Buyer shall not transfer the Property or any portion thereof or any interest therein directly or indirectly, voluntarily or by operation of law, without the prior written approval of City, which shall be determined by the City in its sole and absolute discretion. The foregoing prohibitions on transfer shall not apply to any of the following, all of which shall not require the prior consent of City:
  - a. Any mortgage, deed of trust, or other documentation in connection with a Credit Facility (as defined below), provided that the loan to cost ("LTC") / loan to value ("LTV") ratio for same is equal to or less than the following: (i) 70% of LTC / 70% of LTV for land sale and/or site development; and (ii) 95% of LTC / 75% of LTV for vertical construction, as shown in the financing documentation for same, which shall be provided to City for its review (the foregoing documentation shall be referenced as the "Approved Financing").



- b. The granting of dedications, easements or licenses to any appropriate governmental agency; utility or permits to facilitate the development and/or operation of Project and/or creation of covenants, conditions and/or restrictions to facility development of the Project.
  - c. A transfer / assignment of direct or indirect interests in and to Olson Urban Housing, LLC of up to forty five percent (45%) of the ultimate ownership interests in and to Olson Urban Housing, LLC.
  - d. A transfer to a California limited partnership or limited liability company that is affiliated with or related to (by virtue of an ownership interest, management agreement) Olson Urban Housing, LLC, and which is sufficiently capitalized for the development and completion of the Project (provided, however, Buyer shall give written notice of such transfer to City).
  - e. The sale of residential units in accordance with this Agreement.
- (vi) The obligation of Buyer to ensure that the Property and all improvements constructed thereon are generally kept in a neat, sanitary and attractive condition (to the extent feasible during any construction activities taking place on the Property). In addition, Buyer shall be required to maintain the Property in such a manner as to avoid the reasonable determination of a duly authorized official of the City that a public nuisance has been created by the absence of adequate maintenance such as to be detrimental to the public health, safety or general welfare or that a condition of deterioration or disrepair could cause appreciable harm or may be materially detrimental to property or improvements in the area surrounding the Property. Such obligations to maintain and repair the Property during the development of the Project (including the obligation to repair and restore the Property due any casualty), may be released and terminated automatically upon the recordation of CC&Rs upon the Property, approved by the City.
- (vii) The Indemnification provisions set forth in Section 12.2 of the Agreement shall be included in the Covenant Agreement. In addition the Covenant Agreement shall require Buyer to maintain the following insurance policies: .
- a. Commercial General Liability Insurance. A policy of commercial general liability insurance written on a per occurrence basis in an amount not less than TWO MILLION DOLLARS (\$2,000,000) per occurrence and TWO MILLION DOLLARS (\$2,000,000) in the aggregate.
  - b. Worker's Compensation in such amount as will fully comply with the laws of the State of California as required by the State of California.
  - c. A policy of automobile liability insurance written on a per accident basis in an amount not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per accident for bodily injury and property damage covering owned (if applicable), leased, hired, and non-owned vehicles.
  - d. A policy of "Builder's Risk" insurance covering the full replacement value of all of the improvements to be constructed by Buyer pursuant to the Covenant Agreement plus Buyer's personal property and equipment. Buyer shall procure the Builder's Risk insurance policy prior to commencing construction.

e. A Pollution and Remediation Legal Liability Policy of insurance which is applicable to the Property and is in the amount of not less than ONE MILLION DOLLARS (\$1,000,000).

All of the above policies of insurance, except the Builder's Risk Insurance, shall be primary insurance and shall name City, and its officers, employees, and agents as additional insureds. Documentation showing the City, and its officers, employees, and agents as named additional insureds shall be provided to the City prior to the commencement of construction upon the Property. The insurer shall waive all rights of subrogation and contribution it may have against City and its officers, employees and agents and their respective insurers. No work on the Property shall commence until Buyer has provided City with Certificates of Insurance evidencing the above insurance coverages.

- (viii) Standard default and cure provisions, which are generally consistent with the terms set forth in Section 11.4 of the Agreement, shall be included in the Covenant Agreement. In addition, if Buyer fails to maintain or repair the Property, the City shall be entitled to provide written notice to Buyer which notice shall include a description of the maintenance deficiency. If Buyer fails to remedy the deficiency within ten (10) days after receipt of such notice (or with respect to deficiencies that cannot be reasonably remedied within such ten (10) day period, if Buyer has not begun to remedy such deficiency within the ten (10) day period and continues diligently to complete such remedy) then the City shall be entitled to remedy such deficiency and, within ten (10) days following delivery Buyer of written demand which shall include detailed third party invoices for such costs, Buyer shall reimburse the City, for one hundred ten percent (110%) of the third party cost of such work.
- (ix) The right of City to place a lien on, and re-acquire the Property, upon a material uncured default by Buyer or the failure of Buyer to complete the Project, or any portion thereof, or the abandonment or substantial suspension of construction of the Project for a three (3) month period (subject to Unavoidable Delay and following applicable notice and cure procedures), but subject to the rights of any mortgage holder, which terms shall generally include the following:

(A) The right to re-acquire the Property shall be subject to and be limited by and shall not defeat, render invalid, or limit (i) any mortgage, deed of trust, or other security interests permitted by the Covenant Agreement, including the Approved Financing; or (ii) the rights or interests which will be provided in the Covenant Agreement for the protection of the holders of such mortgages, deeds of trust, or other security interests.

(B) Notwithstanding anything to the contrary set forth above the City's right to reacquire the Property shall be subject to and conditioned upon (A) if the Approved Financing is a secured credit facility ("Credit Facility"), the City shall pay to the holders of such Credit Facility, the then current collateral value of the Property as reflected on the holders of such Credit Facility books and records pursuant to the Credit Facility loan documents, or (B) if the Approved Financing is project specific financing secured by a first in priority mortgage or deed of trust holder, payment by the City of the full amount of the unpaid debt, plus any accrued and unpaid interest, costs and expenses.

Upon the re-vesting in City of possession of the Property, or any part thereof, the City shall, pursuant to its responsibilities under state law, use its best efforts to release, or resell or re-grant the Property, as necessary and legally permitted, as soon and in such manner as City shall find feasible and consistent with the objectives of such law to a qualified and responsible party or parties (as determined by City), who will assume the obligation of making or completing the improvements upon the Property, or such other improvements in their stead, as shall be satisfactory to City and in accordance with the uses specified for the Property.

(C) In the event of a resale but subject to the provisions of (A) above, the proceeds thereof shall be applied as follows: (i) First, to reimburse City for all costs and expenses incurred by City, including but not limited to, salaries to personnel, legal costs and attorneys' fees, and all other contractual expenses in connection with the recapture, management, and resale of the Property; all taxes, assessments and water and sewer charges with respect to the Property; any payments made or necessary to be made to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations incurred with respect to the making or completion of the improvements or any part thereof on the Property, and amounts otherwise owed by Buyer, its successors, or assigns to City; and (ii) Second, to reimburse Buyer, its successors or transferees, up to the amount equal to (x) the costs actually incurred for the acquisition and development of the Property (but excluding amount obtained by Buyer from Approved Financing) and for the agreed development expenses and improvements existing on the Property at the time of the City's reacquisition, less (y) any gains or income withdrawn or made by Buyer from the Property or the improvements thereon; and (iii) any balance remaining after such reimbursements shall be retained by City as its property.

City agrees to subordinate the Covenant Agreement to the Approved Financing. The City Manager shall be authorized and directed to execute such subordination agreements, intercreditor agreements, tri-party agreement and stand-still agreements, as may be reasonably requested by a lender providing such Approved Financing ("Approved Lender"). However, City's obligation to subordinate the Covenant Agreement to the Approved Financing shall be subject to the following: (i) Buyer is not currently in default under the Covenant Agreement; (ii) the Approved Lender agrees to provide City with any notice of default which is provided by the Approved Lender to Buyer and provide City with the right (but not the obligation) to cure any such default and extend the time for such cure provided City is diligently processing the cure of such default, and (iii) a request for special notice and a request for notice of delinquency be recorded concurrently with the subordination agreement.

City's rights under this Section (ix) shall terminate and be of no further force or affect upon the conveyance of the final Affordable Unit in accordance with the Regulatory Agreement. In addition, notwithstanding anything to the contrary in the Covenant Agreement the provisions of the Covenant Agreement shall not apply to any (I) residence constructed on the Property and transferred to a home purchaser in accordance with a Final Subdivision Public Report issued by the California Department of Real Estate, and/or (II) any common area conveyed to a homeowners association formed in connection with the development of the Property, and/or (III) shall automatically terminate as to any such residence or common are concurrently with the conveyance thereof to a home purchaser or association, as applicable.

- (x) Terms such that the Buyer's obligation to pay City building permit fees for each residential unit constructed on the Property shall be deferred until a Certificate of Occupancy is issued for such residential unit.
- (xi) Terms such that the obligations set forth under the Covenant Agreement shall be released and deemed terminated with respect to any residential unit within the Project upon the close of escrow for such unit.

**EXHIBIT E**

**SCHEDULE OF PERFORMANCE**

1	Buyer submits Concept Review Application to City Staff	Within 30 days following the Effective Date
2	City Staff reviews and provides feedback to Buyer	Within 30 days following submission of the Concept Review Application
3	Buyer schedules a community meeting to present its development concept for the Project.	Within 30 days following submission of the Concept Review Application
4	Buyer submits formal application for land use Entitlements in order to commence with CEQA processing and Entitlement processing for the Project	Within 60 days after expiration of Due Diligence Period
5	Buyer and Seller execute the Reimbursement Agreement to cover the City's costs associated with the processing of the Entitlements and CEQA	Concurrent with Buyer's submittal of a formal application for land use Entitlements
6	Buyer and Seller commence negotiating the Project Agreements	Upon the expiration of the Due Diligence Period
7	Buyer submits evidence of its financing for the acquisition of the Property and the construction of the Project	Within 30 days prior to noticing for public hearings for the Entitlements and CEQA
8	Substantially final forms of the Project Agreements are finalized by Buyer and Seller	Prior to noticing for public hearings for the Entitlements and CEQA
9	Final approval of Entitlements, CEQA Approvals, and the Project generally by the City Council	12 months following the Effective Date
10	Outside Closing Date	18 months following the Effective Date

**Except as otherwise provided in this Schedule of Performance, all capitalized terms used in this Schedule of Performance shall have the same meanings given them in the Agreement for Purchase and Sale of Real Property and Joint Escrow Instructions to which this Exhibit is attached ("Agreement"). It is understood that the foregoing Schedule of Performance is subject to all of the terms and conditions set forth in the Agreement. In the event of any conflict or inconsistency between this Schedule of Performance and the text of the Agreement, the text of the Agreement shall govern.**

**The time periods set forth in this Schedule of Performance are subject to Unavoidable Delay and may be altered or amended only by written agreement signed by both Buyer and Seller. The City Manager of City shall have the ability, in his/her sole discretion, to approve extensions of the time for performance of each of the timeframes set forth above (without City Council action) not to exceed a cumulative total of ninety (90) days; provided, however, any such extension must be set forth in a written letter documenting such extension to be effective.**