RESOLUTION NO. OB-16-21

A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE PICO RIVERA REDEVELOPMENT AGENCY, APPROVING A PURCHASE AND SALE AGREEMENT BETWEEN THE SUCCESSOR AGENCY TO THE PICO RIVERA REDEVELOPMENT AGENCY AND BALDWIN PARK HOMES, LLC FOR THE PURCHASE AND DEVELOPMENT OF THE BURKE STREET PROPERTY

WHEREAS, pursuant to the dissolution of redevelopment agencies per Assembly Bill ("AB") ABX1 26 (Chapter 5, Statutes of 2011) and ABX1 27 (Chapter 6, Statutes of 2011), and subsequent amending legislation, including AB 1484 and Senate Bill 107 (altogether, "Dissolution Act"), the City of Pico Rivera ("City") adopted Resolution No. 6652 on January 10, 2012, electing to serve as Successor Agency to the Pico Rivera Redevelopment Agency ("Successor Agency"); and

WHEREAS, the Successor Agency's Long-Range Property Management Plan ("LRPMP") was prepared pursuant to the Dissolution Act and described the proposed plans for disposition of all six properties owned by the Pico Rivera Redevelopment Agency at the time of redevelopment dissolution; and

WHEREAS, the LRPMP was adopted via Oversight Board Resolution No. OB-13-17 on September 13, 2013, and after receiving comments from the California Department of Finance ("DOF") the LRPMP was revised and adopted by the Oversight Board on September 25, 2014; and

WHEREAS, the property located at the end of Burke Street, identified as Assessor Parcel Number 6384-004-900 ("Property"), was included as Property 4 (Burke Property) in the LRPMP; and

WHEREAS, the LRPMP's planning objective for the Property is to sell the Property pursuant to the Dissolution Act, remediate the Property and develop as a residential use that meets the character of the surrounding neighborhood; and

WHEREAS, on December 23, 2014, the City received notification from DOF approving the Successor Agency's LRPMP; and

WHEREAS, on July 13, 2015, the Successor Agency's real estate advisor RSG, Inc. ("RSG") distributed a Request for Proposals as outlined in the LRPMP and informed all parties who communicated interest in the sale of the properties that "best and final offers" were to be submitted by August 24, 2015; and

WHEREAS, the Successor Agency received five (5) separate purchase offers for the Property, which were evaluated by a subcommittee of the Successor Agency and

staff for responsiveness, terms, development program and price, after which the subcommittee concluded that the offer from Baldwin Park Homes, LLC ("Developer") most closely met the City's planning goals for the area and the requirements of the Dissolution Act; and

WHEREAS, on February 23, 2016, the Successor Agency approved an Exclusive Negotiation Agreement ("ENA") with the Developer which initiated a ninety (90) day negotiating period, which was subsequently extended as permitted by the ENA by the Executive Director on May 19, 2016; and

WHEREAS, the ENA required the Developer to provide an initial $10,000 deposit to the Successor Agency to cover the legal and other consultation costs incurred during the negotiation period; and

WHEREAS, as a result of the ENA negotiations, a Purchase and Sale Agreement for the Property ("PSA") has been prepared by the parties in the form attached herewith as Exhibit "A"; and

WHEREAS, the PSA establishes the intent of the Developer to purchase the Property from the Successor Agency at the proposed price of $1,800,000, subject to environmental remediation conditions among other contingencies, and develop an 18-unit market rate single family development project, subject to environmental review and the discretionary entitlement approvals by the City; and

WHEREAS, notice of the Oversight Board's consideration of this Resolution and all other legal perquisites to the adoption of this Resolution have occurred.

NOW THEREFORE, the Oversight Board of the Successor Agency to the Pico Rivera Redevelopment Agency does hereby resolve as follows:

SECTION 1. The Recitals set forth above are true and correct and incorporated herein by reference.

SECTION 2. The Oversight Board hereby approves the Purchase and Sale Agreement, in the form attached herewith as Exhibit A, between the Pico Rivera Successor Agency and Baldwin Park Homes LLC for the acquisition of the Burke Street Property.

SECTION 3. Staff is directed to take such necessary and future action(s) as necessary to finalize the PSA and carry out the purpose of this Resolution.

[SIGNATURES ON THE FOLLOWING PAGE]

APPROVED AND ADOPTED this 29TH DAY OF September 2016 by members of the Oversight Board of the Successor Agency to the Pico Rivera Redevelopment Agency, voting as follows:

OVERSIGHT BOARD

Belinda Faustinos

Belinda Faustinos, Chairperson

ATTEST:

Anna M. Jerome

Anna M. Jerome, City Clerk

APPROVED AS TO FORM:

Edward Z. Kotkin
Law Offices of Edward Edward Z. Kotkin
Board Counsel

AYES:	Bobadilla, Kreimann, Santana, ~~Tercero~~, Faustinos
NOES:	None
ABSENT:	Galindo, Moreno, Tercero
ABSTAIN:	None

PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS
Burke Street Property, Pico Rivera
Baldwin Park Homes, LLC, a California Limited Liability Corporation

This PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS ("Agreement"), dated for reference purposes only as of September 27, 2016, is made by and between the Successor Agency to the Pico Rivera Redevelopment Agency, a California successor agency created and existing pursuant to Health & Safety Code Section 34170 *et seq.* ("Successor Agency" or "Seller"), and Baldwin Park Homes, LLC, a California Limited Liability Corporation ("Purchaser"). Seller and Purchaser are referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS

A. Seller is the fee owner of approximately 2.63 acres of real property and improvements located approximately 0.9 miles east of Passons Boulevard on Burke Street in the City of Pico Rivera, Los Angeles County, California, specifically described as Assessor's Parcel Number 6384-004-900, and more particularly described in the Legal Description as Exhibit A, attached hereto and incorporated herein, including all improvements located thereon, and all rights, privileges, easements and appurtenances thereto, if any, and all rights, title and interest in and to all minerals, oil, gas and other hydrocarbon substances, development rights and water stock relating thereto (the "Property").

B. In December 2011, a California State Supreme Court ruling on the constitutional validity of two 2011 legislative budget trailer bills, Assembly Bill ("AB") 1X 26 (Chapter 5, Statutes of 2011) and AB1X 27 (Chapter 6, Statutes of 2011), resulted in the outright elimination of all 425 redevelopment agencies in the State of California. The dissolution procedures under AB1X 26, as subsequently amended by AB 1484 (Chapter 26, Statutes of 2012) and Senate Bill 107 (Chapter 325, Statutes of 2015) (hereinafter cumulatively the "Dissolution Law"), include a process for the disposition and/or transfer of assets, including real property holdings of former redevelopment agencies. The Property is a real property asset of the former Pico Rivera Redevelopment Agency and is therefore subject to the Dissolution Law's disposition and/or transfer procedures.

C. Under the Dissolution Law, the Successor Agency's disposition of real properties, including the Property, is subject to the California Department of Finance's ("DOF") approval of a Long-Range Property Management Plan ("PMP"), and the Pico Rivera Oversight Board's approval of a purchase and sale agreement implementing the PMP. On December 2014, DOF approved the Successor Agency's PMP, which directs the Successor Agency to dispose of the Property for development consistent with the Redevelopment Plan for the former Pico Rivera Redevelopment Project Area, as such was amended from time to time (the "Redevelopment Plan").

D. To effectuate the Redevelopment Plan by providing for the future development of the Property, the Successor Agency issued a Request for Qualifications on July 31, 2015 ("RFQ"). Purchaser, by way of its response to the RFQ dated August 24, 2015 (the "Proposal"),

proposed to acquire and develop the Property with approximately eighteen (18) single-family detached homes, as such development is further described in Exhibit B-1 and depicted in the Site Plan at Exhibit B-2, both of which are attached thereto and incorporated herein, and as such proposed development may be modified by mutual agreement of the parties, and as such proposed development is defined in the Approvals approved by the City of Pico Rivera in the exercise of its sole and absolute discretion ("Project").

E. Based on Purchaser's Proposal, Seller determined that Purchaser's offer provided a development proposal that best suits the needs and land use goals of the City of Pico Rivera ("City") for the Property, and furthered and was in compliance with the goals and objectives of the Redevelopment Plan.

F. Seller desires to sell, and Purchaser desires to purchase, the Property in accordance with the terms set forth below.

TERMS & CONDITIONS

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is acknowledged, Seller and Purchaser agree as follows:

1. **Sale**. On the terms contained herein, and subject to the conditions of this Agreement, Purchaser hereby agrees to purchase from Seller, and Seller agrees to sell to Purchaser, the Property on the Closing Date (defined in Section 11).

2. **Opening of Escrow**. Within three (3) Business Days of execution of this Agreement, the parties shall open an escrow ("Escrow") with by causing an executed copy of this Agreement to be deposited with Janette DeLap, Escrow Officer, Fidelity National Title, 3237 E Guasti Road, Suite 105, Ontario, CA 91761, Telephone: (909) 569-0225, Email: janette.delap@fnf.com ("Escrow Holder"). Escrow shall be deemed open on the date that a fully executed copy of this Agreement is delivered to and accepted by Escrow Holder as evidenced by Escrow Holder's execution of this Agreement ("Opening of Escrow").

3. **Purchase Price**. The purchase price for the Property ("Purchase Price") is One Million, Eight Hundred Thousand and 00/100 Dollars ($1,800,000.00), which the Seller and Purchaser agree to be the fair market value of the Property. The Purchase Price shall be paid as follows:

3.1 Deposit.

(a) Upon receipt by Purchaser of a fully executed copy of this Agreement from Escrow Holder, Purchaser shall, within five (5) Business Days thereafter, deposit the sum of Fifty Thousand and 00/100 Dollars ($50,000.00) ("Deposit") with the Escrow Holder, to be held in escrow for the benefit of the parties and applied against the Purchase Price at Closing (defined in Section 11), or to be refunded or forfeited in accordance with the terms of this Agreement.

(b) Purchaser has heretofore also deposited, and Seller has received, a total of Ten Thousand Dollars ($10,000.00) with Seller under the exclusive negotiating agreement

between the Parties dated February 23, 2016 ("ENA"), which amount shall be used by the Seller toward the cost of negotiating and preparing this Agreement pursuant to the terms of the ENA, and shall not be used or credited toward the payment of the Purchase Price.

(c) The Deposit shall be held by Escrow Holder in an interest-bearing account and such interest, when received by Seller, shall become part of the Deposit. The Deposit shall be fully refundable to Purchaser on or before the expiration of the Contingency Period (as defined below in Section 8). In the event Purchaser expressly waives contingencies in writing and elects to continue and does not terminate this Agreement on or prior to the expiration of the Contingency Period, the Deposit shall become immediately non-refundable and held in Escrow except in the event of a Seller default, a failure of a condition precedent in favor of Purchaser (other than contingency items required to be approved during the Contingency Period), or as otherwise specifically set forth in this Agreement; but unless the purchase and sale of the Property is not consummated for any reason, shall be applied to the Purchase Price. If the purchase and sale of the Property is not consummated because of a default under this Agreement on the part of Purchaser after the expiration of the Contingency Period, the Escrow Holder shall disburse the Deposit to Seller as liquidated damages pursuant to Section 10.1 below.

3.2 Cash at Closing. Upon the Escrow Holder's receipt of all Closing Items (defined in Section 4 below), Purchaser shall deposit with the Escrow Holder, in cash, by certified check or by wire transfer of immediately available funds, the balance of the Purchase Price less the Deposit and plus or minus closing pro-rations, adjustments, and costs related to the Closing as described in this Agreement. Purchaser understands and agrees that the aggregate reduction in the Purchase Price arising from all closing pro-rations, adjustments, and costs related to Closing shall under no circumstances result in any sum owed by Seller to Purchaser. The Purchase Price shall be disbursed to Seller by the Escrow Holder upon confirmation of the recordation of the Deed (as defined in Section 4.1.1) in the Official Records of Los Angeles County.

4. **Closing Deliveries to Escrow Holder**.

4.1 By Seller. Seller hereby covenants and agrees to deliver or cause to be delivered to Escrow Holder, no later than one (1) Business Day prior to the Closing Date, the following instruments and documents, the delivery of each of which shall be a condition precedent to the Closing for the benefit of Purchaser.

4.1.1 Deed. An executed grant deed in the form attached hereto as Exhibit C ("Deed").

4.1.2 Non-Foreign Certification. A certification, duly executed by Seller under penalty of perjury in the form of, and upon the terms set forth in, the Transferor's Certification of Non-Foreign Status ("FIRPTA Certificate"), setting forth Seller's address and federal tax identification number and certifying that Seller is a "United States Person" and that Seller is not a "foreign person" in accordance with and/or for the purpose of the provisions of Sections 7701 and 1445 (as may be amended) of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder.

4.1.3 Closing Statement. An executed settlement statement reflecting the pro-rations and adjustments required under Section 9.

4.1.4 Closing Documents. Any additional tax forms, recordation forms, 1099s, or other documents or instruments as may be reasonably required by the Escrow Holder or the Title Company to consummate the transaction contemplated by this Agreement.

4.2 By Purchaser. Purchaser hereby covenants and agrees to deliver, or cause to be delivered, to Escrow Holder on or prior to the Closing Date the following instruments and documents, the delivery of each of which shall be a condition precedent to the Closing for the benefit of Seller.

4.2.1 Purchase Price. Purchaser shall deliver to Escrow Holder the Purchase Price in accordance with Section 3.

4.2.2 Preliminary Change of Ownership Statement. Purchaser shall deliver to Escrow Holder a Preliminary Change of Ownership Statement completed in the manner required in Los Angeles County.

4.3 Additional Closing Items. Each party shall also execute and deliver to the Escrow Holder such documents, certificates and instruments as may customarily be required in transactions of this type. The items required to be submitted to the Escrow Holder pursuant to this Section and Sections 4.1 and 4.2 above are referred to herein collectively as the "Closing Items."

5. **Title**.

5.1 Title Insurance. As evidence of title, within five (5) days of the Opening of Escrow, or as soon thereafter as is reasonably practical, the Seller shall deliver to the Purchaser a commitment for an owner's policy of title insurance with standard exceptions ("Title Insurance Commitment") issued by Fidelity National Title (Ms. Janette DeLap, Title Officer, Fidelity National Title, 3237 E Guasti Rd, Suite 105, Ontario, CA 91761, Telephone: (909) 569-0225, Email: janette.delap@fnf.com) ("Title Company"), in the amount of the Purchase Price (or such amount as required by Purchaser), dated later than the Opening of Escrow, and guaranteeing the title in the condition required for performance of this Agreement, together with copies of all documents shown in the commitment as affecting title ("Title Documents") and a scaled and dimensioned plot showing the location of any easements on the Property. At Closing, the Seller shall pay the premium for a CLTA standard coverage owner's policy.

5.2 Title Objections. The Purchaser shall have thirty (30) days from receipt of the Title Insurance Commitment and Title Documents to inspect the state of the title and matters affecting title, and to object to the matters shown thereby. Failure to object in writing within the above period shall constitute a waiver of the Purchaser's objections to title. If the Purchaser objects to any matter disclosed by the Title Insurance Commitment or Title Documents, then the Seller shall have ten (10) Business Days from the date it is notified in writing of the particular defects claimed, to elect, in its reasonable discretion, either: (1) to remedy the title defect that is the subject of the Purchaser's objection, or (2) not remedy the title defect that is the subject of

the Purchaser's objection, at Seller's option: Seller's election shall be communicated in writing to Purchaser. If Seller elects not to remedy such title defect, then Purchaser shall have two (2) Business Days following receipt of Seller's notification under the preceding sentence to elect to either: (a) waive its title objection and accept title subject to the alleged title defect, or (b) terminate this Agreement and receive a refund of the Deposit.

5.3 Cure by Seller. Seller may cure any title objection that may be cured by the payment of a sum certain (such as existing mortgages, land contracts and other liens) by paying or depositing that sum at Closing.

5.4 Purchaser's Objection to Encumbrances. Notwithstanding the foregoing, Purchaser hereby objects to all liens evidencing monetary encumbrances (other than liens for non-delinquent general real property taxes to be paid by Purchaser under this Agreement) and Seller agrees to cause all such liens to be eliminated at Seller's sole cost (including all prepayment penalties and charges) prior to the Closing Date. At the Closing, Seller will provide the Title Company with a commercially reasonable owner's affidavit, which will include a representation by the Seller (if accurate as of the Closing) that will allow the Title Company to issue an endorsement to Purchaser's title policy against potential mechanic's and materialmen's liens; provided, however that if such representation is not accurate, Seller will work with the Title Company to provide alternative assurances to allow the Title Company to issue to Purchaser such lien endorsement at the Closing.

5.5 Updates to Condition of Title. Notwithstanding anything to the contrary contained in this Agreement, if, at any time prior to the Closing, any updates to the Title Insurance Commitment are received by Purchaser, Purchaser shall have ten (10) business days (regardless of the date) following Purchaser's receipt of such update and legible copies of all underlying documents referenced therein (that were not referenced in the Title Documents previously provided to Purchaser) to notify Seller of objections to items on any such updates ("Title Updates"). Purchaser, at its sole election, may hire a land surveyor for the purpose of preparing an ALTA survey for the Property (the "Survey"). Notwithstanding the foregoing, Purchaser shall have ten (10) business days after receipt of the Survey to object to any matters of survey in writing to Seller, in which event the procedure set forth in Section 5 above shall apply to such Survey objections.

6. **Possession**. Unless this Agreement is earlier terminated pursuant to the terms hereof, the Seller shall deliver and the Purchaser shall accept possession of the Property on the Closing Date.

7. **Conditions to Closing**. Seller's obligation to sell and Purchaser's obligation to purchase the Property shall be subject to and expressly conditioned upon satisfaction (or waiver) of the following conditions precedent to the Closing set forth in Sections 7.1 through 7.7 below, which shall be exclusively for the benefit of Seller and Purchaser.

7.1 Oversight Board Approval. Purchaser acknowledges that this Agreement shall be expressly contingent upon and subject to the approval by the Pico Rivera Oversight Board of the sale of the Property. The Parties shall work cooperatively and in good faith to obtain the Oversight Board's approval of this Agreement.

7.2 Approvals. On the later of the expiration of the Contingency Period or consistent with the Schedule of Performance, Purchaser shall have obtained any and all discretionary land use and other entitlements required for the Project, including without limitation (but only as applicable), tentative tract map approval, site plan and design review, environmental assessment, and CEQA approval and associated mitigation measures for the Project (collectively, the "Approvals") from the City of Pico Rivera and all other governmental authorities with jurisdiction over the Property (collectively the "Governmental Authorities"), sufficient to allow Purchaser to develop the Project after the Closing. Purchaser may obtain ministerial permits, including without limitation (but only as applicable), demolition and building permits, following the Closing. Purchaser may not waive the condition without the written consent of Seller, which consent may be withheld in Seller's sole discretion. Purchaser shall bear the expense of obtaining any such Approvals.

7.3 Site Plan and Architectural Renderings.

(a) The Approvals shall require Purchaser to provide a site plan and basic architectural renderings of the Project. The site plan and basic architectural renderings shall be consistent with the Description of the Project and Conceptual Site Plans attached hereto at **Exhibits B1-B2** and shall include a well-defined architectural concept for the Project showing vehicular circulation and access points, amounts and location of parking, location and size of all buildings (including height and perimeter dimensions) pedestrian circulation, landscaping and architectural character of the Project. Notwithstanding the foregoing, no Approvals shall be deemed final until approved by the City in its sole and absolute discretion, and nothing in this Agreement is intended to nor shall be construed as limiting the City's discretion to modify and/or rejected Purchaser's application(s) for the Approvals.

(b) Seller, in its capacity as owner of the Property, agrees to promptly cooperate with Purchaser, at no cost to Seller, in all reasonable respects in obtaining the Approvals, provided that in no event shall the Approvals bind the Property or the Seller prior to the Closing. Seller's cooperation shall include without limitation, executing and joining in any applications or submissions made by Purchaser which require the consent or joinder of the record owner of the Property. Additionally, Seller hereby grants to Purchaser the right to negotiate directly with any Governmental Authorities having jurisdiction over the Property and/or the development thereof, provided that such negotiations do not bind Seller or the Property prior to the Closing.

7.4 CEQA.

7.4.1 The development of the Project shall be subject to, and processed in accordance with the California Environmental Quality Act, at California Public Resources Code Section 21000 *et seq.* and regulations promulgated pursuant thereto ("CEQA"), which requires the Project to be reviewed by the City for its potential environmental impacts.

7.4.2 The approval of this Agreement shall not commit the City to the approval of the Project or any iteration thereof, and shall not limit the scope of CEQA analysis, including but not limited to project mitigation measures and the consideration of project

alternatives, including a no-project alternative. The provisions of this Agreement shall not in any way limit, hinder or affect the discretion of the City to review CEQA documents and impose mitigation measures, alter the Project or deny the Project in consideration of adverse environmental impacts. All costs associated with the CEQA process shall be paid by Purchaser.

7.5 Financial Information.

7.5.1 During the Contingency Period, Purchaser shall provide Seller with a letter evidencing a commitment ("Commitment Letter") from such lender(s) (in form and substance reasonably acceptable to Seller), indicating that such lender(s), has a definitive interest in financing the acquisition, construction and/or development of the Project by Purchaser. The Commitment Letter shall also outline the financial terms for any proposed financing for the Project. Purchaser shall also identify the sources of all equity financing ("Equity Commitment") to be used by Purchaser in the development of the Project. In the event the Project is to be financed exclusively by equity financing, the Equity Commitment shall evidence an amount sufficient to provide for the net acquisition costs of the Property and development of the Project by Purchaser. The Equity Commitment may be in the form of letters of intent from credit worthy investors.

7.5.2 To the extent Purchaser wants such Commitment Letter or Equity Commitment or financial terms or financial statements to remain confidential, they shall be supplied to and maintained by the Seller in confidence to the extent permitted by law. Purchaser acknowledges that it may be requested to make certain confidential financial disclosures to the Seller, its staff or legal counsel, as part of the financial due diligence investigations of the Seller relating to the potential development of the Project. The parties recognize that such financial disclosures may contain sensitive information relating to other business transactions of the Purchaser, that the disclosure of such information to third parties could impose commercially unreasonable and/or anti-competitive burdens on the Purchaser. Accordingly, the Seller agrees to maintain the confidentiality of any business records described in Government Code Section 6254.15, as may be provided by the Purchaser to the Seller or its consultants, as permitted by law. The Seller shall advise the Purchaser of any Public Records Act requests for such business records, and the proposed response of the Seller thereto, a reasonable time prior to the Seller's delivery of such response and, if the Seller proposes to disclose any such business records, the Seller shall first agree to confer with the Purchaser to consider any objections that the Purchaser may have to such disclosure and allow Purchaser reasonable time to seek judicial relief to prevent such disclosure.

7.7 Schedule of Performance. It is the intention of Seller and Purchaser that the development of the Property be completed in a timely and an expeditious manner. Accordingly, the Parties agree to improvement of the Property in accordance with the times set in the Schedule of Performance attached hereto as Exhibit D.

8. **Purchaser's Contingencies, Contingency Period, Survey and Development Approvals**. Within ninety (90) calendar days following the Opening of Escrow (the "Contingency Period"), Purchaser shall have the right to perform and to seek any and all

necessary investigations, inspections and approvals necessary to develop and operate the Project at the Property, as described in Sections 8.1 and 8.2 below:

8.1 Review and Approval of Documents and Materials. Within ten (10) days of the Opening of Escrow, Seller shall deliver to Purchaser any and all documents, reports, surveys, environmental assessments, engineering reports for the Property and other materials in Seller's possession or under its control or that of its agents, respecting the Property, including any Hazardous Substance Conditions Report concerning the Property, any Natural Hazard Zone Disclosure Report, and all lease agreements relating to any tenant or occupant then occupying the Property (collectively, "Materials"). During the Contingency Period, Purchaser may review and evaluate the Materials to determine whether the Property is appropriate for Purchaser's proposed use, in its sole discretion.

8.2 Purchaser's Due Diligence & Survey. During the Contingency Period, the Purchaser and its agents may, at the Purchaser's sole expense, conduct tests and physical inspections of the property, including building inspections and environmental site assessments desired by the Purchaser. Purchaser shall also conduct such investigations with regard to zoning, building codes, and availability of permits and approvals for its intended construction and use of the Property, as it deems prudent in its sole discretion. Seller shall grant Purchaser with reasonably regular access to the interior and exterior of the premises with forty-eight (48) hours advanced notice from Purchaser. Purchaser shall restore the Property to the condition that it was in prior to those tests and inspections and shall indemnify, defend and hold Seller harmless from all damages, costs, loss, expense (including attorney fees) and liability resulting from Purchaser's activities, acts and omissions on the Property. Notwithstanding anything to the contrary contained in this Agreement, (i) the defense, indemnity and hold harmless provision contained in this Section shall not apply to the extent such liabilities arise in connection with the sole negligence or willful misconduct of Seller, its employees, agents, contractors, licensees or invitees and (ii) provided further that Purchaser shall have no liability to Seller or to its employees, agents or contractors by reason of, nor shall Purchaser have any duty to indemnify, defend or hold any person or entity harmless from or against, any liabilities, including, without limitation, any claim for diminution in value of the Property or for environmental remediation or clean-up costs, resulting directly from Purchaser having merely discovered and/or reported (to the extent required by applicable law) any adverse physical condition, title condition, environmental condition or other defect with respect to the Property. The foregoing provisions shall survive the Closing or any termination of this Agreement. Purchaser shall notify Seller in advance of its desire to conduct any inspections at the Property to give Seller adequate opportunity to make reasonable arrangements with the tenant in possession (if any). During the Contingency Period, the Purchaser shall have the right, but not the obligation, to cause a Survey of the Property at its own expense. The Survey report shall also: (1) be certified to the Purchaser and (2) be prepared and sealed by a registered California Property Surveyor. Copies of any final non-privileged, non-attorney-client work product reports and/or surveys prepared pursuant to this Agreement shall be delivered to Seller. Purchaser shall not be liable for reports/Survey and said reports/Survey is provided to the Seller for reference purposes only.

8.3 Purchaser's Termination Rights. Purchaser shall have the right at any time on or before the expiration of the Contingency Period to terminate this Agreement if, during the course of Purchaser's due diligence investigations of the Property and in connection with its

obtaining of the Approvals, Purchaser determines in its sole and absolute discretion that the Property is not acceptable to Purchaser.

8.4 Termination Notice. Purchaser may exercise Purchaser's termination rights pursuant to Section 8.3 by delivering written notice of termination to Seller and Escrow Agent (a "Termination Notice") on or before the expiration of the Contingency Period. Upon the timely delivery of such Termination Notice, (i) Escrow Agent shall immediately return the Deposit and any Additional Deposit to Purchaser without the need for further instruction or approval of the parties, and (ii) this Agreement shall automatically terminate and be of no further force or effect and neither party shall have any further rights or obligations hereunder. Notwithstanding anything contained herein to the contrary, if Purchaser fails to provide a Termination Notice or waiver of contingencies on or prior to the expiration of the Contingency Period in accordance with the provisions of this Section 8, then Purchaser shall be deemed to have elected to terminate this Agreement and the Deposit shall be promptly returned to Purchaser without need for further instruction or approval of the Parties.

8.5 Disclaimer of Warranties.

8.5.1 Purchaser shall acquire the Property in its "AS IS" condition and shall be responsible for any and all 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, wells, or other structures located on, under or about the Property. Except as expressly set forth in this Agreement, Seller makes no representation or warranty concerning: the physical, environmental, geotechnical or other condition of the Property; the quality, nature, adequacy, and physical condition of soils, geology, and any groundwater; the existence, quality, adequacy, and physical condition of utilities serving the Property; the development potential of the Property, and the Property's use, habitability, merchantability, or fitness, or the suitability, value, or adequacy of the Property for any particular purpose; the zoning or other legal status of the Property or any other public or private restrictions on use of the Property; the compliance of the Property with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions and restrictions of any governmental or quasi-governmental entity, or of any other person or entity (including, without limitation, the Americans with Disabilities Act); the presence of hazardous materials on, under, or about the Property or the adjoining or neighboring Property; the quality of any labor and materials used in any improvements on the Property; or the economics of the operation of the Property.

8.5.2 As described further below in this Agreement, Purchaser acknowledges that once Purchaser obtains title to the Property, any liability of the Seller for the environmental condition of the Property shall be extinguished, and that Seller shall have no liability for remediating any environmental condition of the Property. Purchaser shall indemnify Seller against any claim or liability relating to the environmental condition of the Property; provided, however, that Seller shall remain liable for (1) any hazardous materials released from the Property while Seller owned the Property, (2) any third party claim that arose during Seller's ownership of the Property; (3) Seller's fraud or willful

misconduct in connection with this Agreement; and (4) breach of Seller's Representation and Warranties. The foregoing indemnity obligation shall survive the Closing.

(c) Seller is not in any way responsible for any demolition of physical site clearance of the Property. Purchaser is solely responsible for the relocation of utilities and easements as necessary on any part of the Property; however Seller agrees to fully cooperate with Purchaser to locate the same.

8.6 Purchaser's Improvements to Property. As material consideration or the Seller entering into this Agreement, Seller represents and warrants that, within the times set forth in the Schedule of Performance, Purchaser shall complete all improvements listed in such Schedule, which improvements shall require site work and new construction of the improvements at the Property to upgrade the aesthetic appeal from Arrow Highway, the public right-of-way abutting the Property.

9. Insurance; Indemnity

9.1 Prior to the commencement or continuation of any construction of the Project, the Purchaser shall obtain a general liability insurance policy and maintain such policy in effect until the completion of all of the Project (as reasonably determined by the Seller) providing coverage for bodily injury and property damage in the minimum amount of One Million Dollars ($1,000,000.00) per occurrence. The policy shall name, as additionally assureds, the Seller, and its officers and employees in their official capacity and while acting within the scope of their duties, against all claims, suits, or other actions of any nature brought for or on account of any deaths, injuries, damage or loss, arising out of or connected with the work of Purchaser in completing the Project.

9.2 Insurance coverage furnished by Purchaser, pursuant to this Section, may be submitted as one or more policies or part of a blanket policy, but coverage shall conform to this Section and shall pertain to all activities on the Property and shall require approval by the Seller.

9.3 Purchaser shall furnish Seller a certificate of insurance from its insurer evidencing compliance with this Section with the provision that the insurer shall endeavor not to cancel or modify the policy without thirty (30) days written notice to Seller. Purchaser shall give Seller prompt and timely notice of any claim made or suit instituted. Seller and its officers and employees, in their official capacity and while acting within the scope of their duties, shall also be named as additionally insured in any policies of Purchaser's contractors covering work under this Agreement; and such policies shall comply with this Section. Coverage shall be primary and not contributing with any policy or coverage maintained by or obtained by the Seller, and shall include an appropriate endorsement and waiver of subrogation.

9.4 Purchaser shall comply with all of the provisions of the Workers' Compensation Insurance and Safety Acts of the State of California, the applicable provisions of Division 4 and 5 of the California Labor Code, and all amendments thereto, and all similar State or Federal acts or laws applicable, and arising thereunder. Purchaser shall furnish to Seller a certificate of Worker's Compensation insurance providing that the insurer shall endeavor not to

cancel or modify the policy without thirty (30) days prior written notice to Seller. As an alternative, Purchaser may show proof of a certificate of consent to self-insure issued by the Director of Industrial Relations, pursuant to California Labor Code § 3800.

9.5 Purchaser agrees to and shall indemnify, defend and hold harmless the Seller and its officers, agents and employees from and against all claims, demands, liabilities, losses, damages, costs, mechanics' liens, or expenses (including reasonable attorneys' fees and court costs) arising from or relating to the death of any person or any accident, injury, loss, or damage whatsoever to person or property which shall occur on the Property and which shall be directly or indirectly caused by any acts, errors or omissions of Purchaser or its agents, servants, employees, tenants, or contractors. Purchaser shall not be responsible for, and this indemnity shall not apply to, such matters to the extent caused by any willful or negligent conduct of the Seller or its respective agents, servants, employees, or contractors.

9.6 Purchaser shall indemnify, hold harmless and defend the Seller, its agents, officers, and employees from any claim, action, proceeding or damages against Seller, its agents, officers, or employees to attack, set aside, void, or annul the approval by the Seller of this Agreement. Further, the Purchaser shall indemnify, hold harmless and defend the Seller, its agents, officers, and employees from any claim, action, proceeding or damages against the Seller, its agents, officers, or employees arising out of the action, inaction or negligence of the Purchaser, its employees, officers, agents, contractors, subcontractors, successors or assigns in planning, engineering, constructing or in any manner carrying out the Project or any improvements required for the Project. Purchaser shall not be responsible for, and this indemnity shall not apply to, any of the foregoing matters to the extent caused by any willful or negligent conduct of the Seller or its agents, servants, employees, or contractors.

9.7 Further, Purchaser shall defend at its sole expense any action brought against the Seller, its agents, officers, or employees, because of the approval of this Agreement. Purchaser shall reimburse the Seller, its agents, officers, or employees, for any Court costs and attorney's fees which the Seller, its agents, officers, or employees may be required by a court to pay as a result of such action. The Seller may, at its sole discretion, participate at its own expense in the defense of any such action but such participation shall not relieve Purchaser of its indemnity obligations under this Agreement. Purchaser shall not be responsible for, and this indemnity shall not apply to, such matters to the extent caused by any willful or negligent conduct of the Seller or its agents, servants, employees, or contractors

9.8 In the case of any such defense by Purchaser, Seller shall cooperate in the choice of defense counsel, but in the case of disagreement, Seller shall have the choice of choosing independent defense counsel at the cost of Purchaser, or in the alternative to defend itself, at the cost of Purchaser.

9.9 Each and all of Purchaser's duties to indemnify, defend and hold Seller harmless shall also extend to the Oversight Board referenced above in Recital C and Section 7.1, together with said Oversight Board's officials in their respective capacities as such (in the aggregate, the "Oversight Board"). Furthermore, in recognition of the limited role of the Oversight Board with respect to the transaction by and between the Parties reflected in this

Agreement, and the Oversight Board's non-involvement in the development of the Property, Purchaser's duty to indemnify, defend and hold the Oversight Board and its officials harmless shall be absolute, and shall not be eliminated or limited under any circumstances, even in the event that one or more liabilities arise in connection with the sole negligence or willful misconduct of Seller, its employees, agents, contractors, licensees or invitees. Purchaser's duty to indemnify, defend and hold the Oversight Board harmless pursuant to this Section 9.9 is a material term of this Agreement that Seller has required Purchaser to provide as consideration for Seller's decision to enter into this Agreement.

10. Environmental Indemnity

10.1 Environmental Release

10.1.1 Purchaser, for itself and its successors and assigns, unconditionally releases Seller and the Oversight Board from and against any and all liability to Purchaser, both known and unknown, present and future, for Environmental Damages to Purchaser arising out of any violation of Environmental Requirements or the presence of Hazardous Material on, under or about the Property (the "Environmental Release"), except to the extent of a breach by Seller of its representations and warranties set forth in this Agreement.

10.1.2 With respect to the Environmental Release, Purchaser, after consultation with legal counsel and with full knowledge of the consequences of its actions, waives the provisions of California Civil Code Section 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT BY THE DEBTOR.

Purchaser's Initials_____

10.2 Environmental Indemnity

10.2.1 Except for a breach of Seller's representation or warranties under this Agreement, Purchaser shall indemnify, defend, and hold Seller harmless from and against all Environmental Damages arising from the presence of any Hazardous Material at, in, on, or under the Property, or migrating off the Property (including groundwater), if such Hazardous Material was first introduced to the Property at any time, including without limitation:

10.2.2 all claims, lawsuits, demands, obligations, investigations, damages, penalties, fines or actions by any federal, state, or local governmental agency (collectively, "Government Claims") based upon Purchaser's or Seller's failure to remediate the Property;

10.2.3 all claims, lawsuits, demands, obligations, investigations, damages

(including but not limited to diminution in value of property and related stigma damages, lost profits and consequential damages), penalties, fines or actions by owners and operators of adjacent and nearby properties or any other persons (collectively, "Third-Party Claims");

10.2.4 all claims, lawsuits, demands, liabilities, damages, losses or judgments for personal injury or for injury to real or personal property;

10.2.5 all claims, lawsuits, demands, obligations, investigations, damages, penalties, fines or actions by subsequent owners and operators of the Property or any lenders providing financing with respect to the Property arising from any underlying Government Claims under Section 305.2(1)(a), Third-Party Claims under Section 305.2(b); and/or any other claims under Section 305.2(c); and

10.2.6 Purchaser's obligations under this Section are collectively referred to in this Agreement as "Purchaser's Indemnity Obligations".

10.3 Defense of Claims

Provided that Purchaser accepts any tender of any reasonable expense or reasonable claim by Seller without any reservation, Purchaser shall have the right, in consultation with Seller, to control on behalf of Seller any and all negotiations, settlement discussions, investigations, testing, defenses, trials, actions, proceedings, hearings, additional remediation obligations, and other resolutions with all Agencies and third parties arising out of, incidental to, or in connection with Purchaser's performance of Purchaser's Indemnity Obligations. If Purchaser does not accept a tender of any reasonable expense or reasonable claim by Seller without reservation, (except for a breach of Seller's representation on warranties under this Agreement), Seller shall be entitled to engage in all such matters described in the preceding sentence on its own account, and shall be entitled to recover from Purchaser the costs of engaging in such matters (including consultants' fees and reasonable attorneys' fees), provided Purchaser's denial of liability is adjudicated to be in violation of the terms hereof. Without limiting Purchaser's rights as described above, Purchaser shall undertake reasonable consultation with Seller with respect to matters materially involving the Property or Seller.

10.4 Definitions

For purposes of this Section 10 the following terms have the meanings indicated.

10.4.1 "Environmental Damages" means all claims, judgments, damages, losses, penalties, fines, liabilities (including strict liability), encumbrances, liens, costs, and expenses of investigation and defense of any claim, whether or not such claim is ultimately defeated, and of any good faith settlement of judgment, of whatever kind or nature, contingent or otherwise, matured or unmatured, foreseeable or unforeseeable, including without limitation reasonable attorneys' fees and disbursements and consultants' fees, any of which are incurred at any time as a result of the existence of Hazardous Material, prior to the Closing, upon, about, beneath the Property or migrating

or threatening to migrate to or from the Property, or the existence of a violation of Environmental Requirements pertaining to the Property, regardless of whether the existence of such Hazardous Material or the violation of Environmental Requirements arose prior to the present ownership or operation of the Property, and including without limitation:

b. Damages for personal injury, or injury to property or natural resources occurring upon or off the Property, foreseeable or unforeseeable, including, without limitation, lost profits, consequential damages, the cost of demolition and rebuilding of any improvements on real property, interest and penalties;

a. Fees incurred for the services of attorneys, consultants, contractors, experts, laboratories and all other costs incurred in connection with the investigation or remediation of such Hazardous Materials or violation of Environmental Requirements including, but not limited to, the preparation of any feasibility studies or reports or the performance of any cleanup, remediation, removal, response, abatement, containment, closure, restoration or monitoring work required by any federal, state or local government agency or economic use of the Property or any other property in a manner consistent with its current use or otherwise expended in connection with such conditions, and including without limitation any attorneys' fees, costs and expenses incurred in enforcing this agreement or collecting any sums due hereunder;

c. Liability to any third person or governmental agency to indemnify such person or agency for costs expended in connection with the items referenced in subparagraph (ii) herein; and

d. Diminution in the value of the Property, and damages for the loss of business and restriction on the use of or adverse impact on the marketing of rentable or usable space or of any amenity of the Property.

10.4.2 "Environmental Requirements" means all applicable present and future statutes regulations, rules, ordinances, codes, licenses, permits, orders, approvals, plans, authorizations, concessions, franchises, and similar items, of all governmental agencies, departments, commissions, boards, bureaus, or instrumentalities of the United States, states and political subdivisions thereof and all applicable judicial, administrative, and regulatory decrees, judgments, and orders relating to the protection of human health or the environment, including, without limitation:

a. All requirements, including but not limited to those pertaining to reporting, licensing, permitting, investigation, and remediation of emissions, discharges, releases, or threatened releases of Hazardous Materials, chemical substances, pollutants, contaminants, or hazardous or toxic substances, materials or wastes whether solid, liquid, or gaseous in nature, into the air, surface water, groundwater, or land, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of chemical substances, pollutants, contaminants, or hazardous or toxic substances, materials or wastes, whether solid, liquid, or gaseous in nature; and

b. All requirements pertaining to the protection of the health and safety of employees or the public.

10.4.3 "Hazardous Material" means any substance:

a. The presence of which requires investigation or remediation under any federal, state or local statute, regulation, ordinance, order, action, policy or common law; or

b. Which is or becomes defined as a "hazardous waste," "hazardous substances," pollutant or contaminant under any federal, state or local statute, regulation, rule or ordinance or amendments thereto including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 *et seq.*); and/or the Resource Conservation and Recovery Act (42 U.S.C. Section 6901 *et seq.*); or

c. Which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous and is or becomes regulated by any governmental authority, agency, department, commission, board, agency or instrumentality of the United States, the State of California or any political subdivision thereof; or

d. The presence of which on the Property poses or threatens to pose a hazard to the health or safety of persons on or about the Property; or

e. Which contains petroleum, petroleum products or other hydrocarbon substances; or

f. Which contains polychlorinated biphenyls (PCB's), asbestos, urea formaldehyde foam insulation or radon gas.

11. **Prorated and Adjusted Items**. The following items shall be prorated and/or adjusted as follows:

11.1 Taxes. Escrow is not to be concerned with proration of Seller's taxes for the current fiscal year. Seller is a public agency and therefore exempt from the payment of property taxes. Purchaser shall be responsible for all applicable prorated taxes once Purchaser obtains title to the Property.

11.2 Other Costs. Seller shall pay all water, sewer, telephone, and all other utility charges incurred on or before the Closing Date with respect to the Property. After the Closing, Purchaser shall pay all such charges. Seller shall pay the applicable transfer taxes, the cost of recording any curative instruments and the cost of a CLTA standard coverage owner's title policy. Purchaser shall pay the cost of recording the Deed conveying title to the Property, the costs associated with Purchaser's financing, the cost of any extended coverage or ALTA

owner's title policy and the cost of any title endorsements. Escrow fees shall be shared equally by the parties. Each party shall pay its own legal fees.

12. **Default**.

12.1 PURCHASER'S DEFAULT. IF PURCHASER FAILS TO COMPLETE THE PURCHASE OF THE PROPERTY AS PROVIDED IN THIS AGREEMENT BY REASON OF ANY UNCURED MATERIAL DEFAULT OF PURCHASER (AND NOT DUE TO A FAILURE OF A CONDITION PRECEDENT), SELLER SHALL BE RELEASED FROM ITS OBLIGATION TO SELL THE PROPERTY TO PURCHASER. PURCHASER AND SELLER HEREBY ACKNOWLEDGE AND AGREE THAT IT WOULD BE IMPRACTICAL AND/OR EXTREMELY DIFFICULT TO FIX OR ESTABLISH THE ACTUAL DAMAGE SUSTAINED BY SELLER AS A RESULT OF SUCH DEFAULT BY PURCHASER, AND AGREE THAT THE DEPOSIT (INCLUDING ALL INTEREST ACCRUED THEREON) IS A REASONABLE APPROXIMATION THEREOF. ACCORDINGLY, IN THE EVENT THAT PURCHASER BREACHES THIS AGREEMENT BY DEFAULTING IN THE COMPLETION OF THE PURCHASE, THE DEPOSIT (INCLUDING ALL INTEREST ACCRUED THEREON) SHALL CONSTITUTE AND BE DEEMED TO BE THE AGREED AND LIQUIDATED DAMAGES OF SELLER, AND SHALL BE PAID BY PURCHASER TO SELLER AS SELLER'S SOLE AND EXCLUSIVE REMEDY. EXCEPT FOR ATTORNEYS' AND OTHER FEES RECOVERABLE PURSUANT TO SECTION 23 BELOW AND ITS RIGHTS TO BE INDEMNIFIED AS PROVIDED IN THIS AGREEMENT, SELLER AGREES TO AND DOES HEREBY WAIVE ALL OTHER REMEDIES AGAINST PURCHASER WHICH SELLER MIGHT OTHERWISE HAVE AT LAW OR IN EQUITY BY REASON OF SUCH DEFAULT BY PURCHASER. THE PAYMENT OF THE DEPOSIT (INCLUDING ALL INTEREST ACCRUED THEREON) AS LIQUIDATED DAMAGES IS NOT INTENDED TO BE A FORFEITURE OR PENALTY, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO SELLER PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677.

SELLER'S INITIALS: _____ PURCHASER'S INITIALS: _____

12.2 SELLER'S DEFAULT. IF SELLER FAILS TO COMPLETE THE SALE OF THE PROPERTY AS PROVIDED IN THIS AGREEMENT BY REASON OF ANY MATERIAL DEFAULT OF SELLER (AND NOT DUE TO A FAILURE OF A CONDITION PRECEDENT), PURCHASER MAY EITHER (I) PROCEED AGAINST SELLER BY BRINGING AN ACTION FOR SPECIFIC PERFORMANCE UNDER THIS AGREEMENT WITHOUT ANY RIGHT TO SEEK DAMAGES OF ANY KIND OR NATURE, OR (II) TERMINATE THIS AGREEMENT IN WHICH EVENT THE DEPOSIT HEREIN AND DEPOSIT PER THE ENA SHALL BE RETURNED TO PURCHASER AND SELLER SHALL BE SOLELY RESPONSIBLE FOR PAYING ALL OF ITS COSTS IN PREPARING THIS AGREEMENT. PURCHASER AND SELLER HEREBY ACKNOWLEDGE AND AGREE THAT IT WOULD BE IMPRACTICAL AND/OR EXTREMELY DIFFICULT TO FIX OR ESTABLISH THE ACTUAL DAMAGE SUSTAINED BY PURCHASER AS A RESULT OF SUCH MATERIAL DEFAULT BY SELLER AND AGREE THAT THE REMEDY SET FORTH IN CLAUSE (II) ABOVE IS A REASONABLE APPROXIMATION THEREOF. ACCORDINGLY, IN THE EVENT THAT SELLER BREACHES THIS AGREEMENT BY

MATERIALLY DEFAULTING IN THE COMPLETION OF THE SALE, AND PURCHASER ELECTS NOT TO EXERCISE THE REMEDY SET FORTH IN CLAUSE (I) ABOVE BUT INSTEAD ELECTS THE REMEDY SET FORTH IN CLAUSE (II) ABOVE, SUCH SUMS SHALL CONSTITUTE AND BE DEEMED TO BE THE AGREED AND LIQUIDATED DAMAGES OF PURCHASER WHICH IS NOT INTENDED TO BE A FORFEITURE OR PENALTY, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO PURCHASER PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677. EXCEPT FOR ATTORNEYS' AND OTHER FEES RECOVERABLE PURSUANT TO SECTION 23 BELOW AND ITS RIGHTS TO BE INDEMNIFIED AS PROVIDED IN THIS AGREEMENT, PURCHASER AGREES TO AND DOES HEREBY WAIVE ALL OTHER REMEDIES AGAINST SELLER WHICH PURCHASER MIGHT OTHERWISE HAVE AT LAW OR IN EQUITY BY REASON OF SUCH DEFAULT BY SELLER.

SELLER'S INITIALS: _____ PURCHASER'S INITIALS: _____

13. **Time and Place of Closing**. Consummation of this sale and purchase ("Closing") shall take place within thirty (30) days following the expiration of the Contingency Period, at which time Purchaser shall provide a written waiver to Seller ("Purchaser's Closing Notice") of all conditions to Purchaser's obligation to proceed to Closing, unless this Agreement has been duly and timely terminated pursuant to the provisions of this Agreement. Closing shall take place at the offices of the Escrow Holder and coordinated through their affiliate offices. As used herein, "Closing Date" means the date and time on which the Deed is recorded in the Official Records of the County.

13.1 Outside Closing Date. In no event shall the Closing occur later than six hundred (600) days following the Opening of Escrow (the "Outside Closing Date").

14. **Pre-Closing Covenants**. Seller shall between the date hereof and the Closing Date, unless otherwise consented to in writing by Purchaser:

14.1 Maintain the Property in compliance with all applicable laws and in its present condition, reasonable wear and use excepted.

14.2 Not suffer or permit any new easements, encumbrances, liens or security interests to attach to the Property, or transfer or convey the Property or any portion or portions of the Property.

14.3 Not enter into or amend any contracts or agreements pertaining to the Property, which would survive the Closing and be binding upon Purchaser.

14.4 Maintain hazard and liability insurance with respect to the Property, in amounts determined to be appropriate by Seller, in Seller's reasonable discretion.

15. **Risk of Loss**.

15.1 Condemnation. If before the Closing Date any action or proceeding is commenced for the condemnation or exercise of the rights of eminent domain with respect to the Property or any portion of the Property, or if Seller is notified by the duly authorized officer of a

duly empowered condemning authority of the intent to commence such action or proceeding ("Condemnation") and if such Condemnation would materially and adversely affect the use or operation of the Property, have the effect of decreasing the square footage of the buildable area at the Property, or reduce or eliminate access to the Property, then Purchaser may either (a) terminate this Agreement, or (b) proceed with the Closing without modifying the terms of this Agreement and without reducing the Purchase Price, on the condition that Seller must assign and turn over, and Purchaser will be entitled to keep, all awards for the Condemnation that accrue to Seller; provided, however, if any award is rendered specifically to compensate Seller for Seller's lost goodwill, such an award shall belong to Seller. Seller may not negotiate, resist, or stipulate to any Condemnation without Purchaser's written consent. Seller must notify Purchaser of any notice of Condemnation of all or any portion of the Property within five (5) days after the receipt of such notice, and Purchaser must exercise its option(s) as provided in this Section 13.1 within fifteen (15) days after receipt of such notice. If necessary, the Closing Date will be extended to give Purchaser the full 15-day period to make such election. Notwithstanding the foregoing, if any condemnation action is commenced prior to the Closing Date, Purchaser shall have the right to terminate this Agreement and to receive the return of the Deposit, as well as a sum equal to Purchaser's out-of-pocket costs incurred in connection with this transaction.

15.2 Damage and Destruction. If before the Closing Date any damage or destruction of the Property, or any portion of it, occurs that is greater than $20,000, which would be the responsibility of Seller to cure, then within three (3) days after determination of the amount of the Insurance Proceeds (defined below) to be received with respect to such loss, Purchaser must elect, by written notice to Seller, either to: (a) terminate this Agreement (in which event the Deposit, and all accrued interest thereon, shall forthwith be returned to Purchaser and thereupon neither party shall have any further rights or obligations hereunder); or (b) receive an assignment of the Insurance Proceeds with respect to such loss and proceed to Closing without any reduction in the Purchase Price (in which event the Closing shall occur within thirty (30) days after such election). If Purchaser shall fail to provide such written notice of election within ten (10) days after determination of the amount of the Insurance Proceeds to be received with respect to such loss, then Purchaser shall be deemed to have elected to terminate this Agreement. As used herein, "Insurance Proceeds" means the proceeds from any and all insurance maintained by Seller with respect to the Property and/or to such loss, including without limitation fire and casualty and liability insurance.

16. **Representations and Warranties of Seller**. Seller represents and warrants to Purchaser that, to Seller's actual knowledge, except as set forth or otherwise disclosed in this Agreement, or in any exhibit to this Agreement, or in any schedule of exceptions attached to this Agreement:

16.1 This Agreement has been duly authorized and executed on behalf of Seller. As of the Opening of Escrow, this Agreement constitutes a valid and binding agreement, enforceable in accordance with its terms. As of the Opening of Escrow, Seller has obtained all consents, releases and permissions and has given all required notifications related to the transaction herein contemplated and required under any covenant, agreement, encumbrance, law or regulation to which Seller is a party or by which Seller is bound.

16.2 Seller is the fee simple owner of the Property. Seller is not a party to any contract, agreement or commitment to sell, convey, assign, transfer or otherwise dispose of any portion or portions of the Property.

16.3 Seller has not received notice of violation of any applicable law, ordinance, regulation, order or requirement relating to Seller's operation or use of the Property.

16.4 The Seller is in possession of, and has prior to the date of this Agreement provided to the Buyer completed copies of, prior environmental studies pertaining to the Property that indicate prior its use as a landfill and evidence of soil and groundwater contamination, primarily due to the presence of lead, toluene, ethylbenzene, and xylenes. These reports include: (i) the Limited Phase II Environmental Site Assessment dated November 19, 2003, prepared by Ami Adini & Associates, Inc.; (ii) the Phase I Environmental Site Assessment, dated October 2, 2008, prepared by AEI Consultants; and (iii) the Draft Preliminary Remedial Action Plan, dated October 16, 2008, prepared by AEI Consultants (collectively the "Environmental Studies"). The Seller is not aware of any remediation of the conditions noted in the Environmental Studies. The Buyer is hereby encouraged by the Seller to completely review the contents of the Environmental Studies, evaluate the recommended remedial action plans, and coordinate with responsible agencies to ensure that the remediation of the Property is feasible and not prohibitive to the ultimate development of the Property, to the satisfaction of any and all applicable federal, state, and local laws and codes and regulations. Notwithstanding the foregoing, the Buyer acknowledges and agrees that the Seller makes no representation or warranty as to the environmental condition of the Property or any portion thereof, or the adequacy of accuracy of the Environmental Studies or any environmental report that has been rendered. Upon the Close of Escrow, the Buyer shall be responsible for any and all ongoing environmental monitoring or further environmental remediation costs after the Close of Escrow.

16.5 There is no litigation pending or to the actual knowledge of Seller, threatened, against or by Seller or the Property which relates to, or if decided adversely, could have a material adverse effect upon, the Property (including condemnation or similar proceedings).

16.6 Except as disclosed in writing to Purchaser by Seller as part of the Materials, there are no leases, licenses or other occupancy or use agreements, written or oral, in effect in which Seller has granted any party rights to possession or use of the Property or any portion thereof, nor has Seller given any party an option or right of first refusal to purchase any portion of the Property.

16.7 Except as disclosed in writing to Purchaser by Seller as part of the Materials, the Property is not subject to any operating, maintenance or repair contract or other agreements that will bind the Property or Purchaser after the Closing ("Service Contracts").

16.8 Except as disclosed in the Materials and this Agreement, Seller has no actual knowledge of any violations of health, environmental or other applicable law, ordinance, code, order or regulation in any respect with regard to the Property.

16.9 Seller is not aware of any inaccuracy or incompleteness of any of the documents, materials or reports contained in the Materials.

16.10 To Seller's actual knowledge and except for matters of record as of the date hereof, there are no bonds or assessments or charges for any public improvements or utilities made against the Property which remain unpaid (or which will remain unpaid by Seller as of the Closing Date).

16.11 No representation, statement or warranty by Seller contained in this Agreement or in any exhibit attached hereto contains or will contain any untrue statements or omits, or will omit, a material fact necessary to make the statement of fact therein recited not misleading. If, after Seller's execution hereof and prior to the Closing, any event occurs or condition exists of which Seller becomes aware which renders any of the representations contained herein untrue or misleading, Seller shall promptly notify Purchaser in writing.

16.12 All representations and warranties contained in this Agreement shall be deemed remade as of the Closing Date, except in the event of a change in circumstances not within the control of Seller affecting any representations or warranties set forth herein, in which case Seller shall provide written notice to Purchaser regarding such changed circumstances within a reasonable time following such change (not to exceed five (5) Business Days following the date the City's Director of Community & Economic Development obtains actual knowledge of the changed circumstance), and prior to the Closing. As used herein, "actual knowledge" of Seller refers to the actual knowledge of Seller's employees and agents directly involved in the negotiation and/or drafting of this Agreement, those responsible for the acquisition or maintenance of the Property, the City Attorney and the City Clerk.

16.13 Both parties to this Agreement understand and agree that the Oversight Board makes no representations or warranties whatsoever, and that the only Oversight Board action arising from or related to this Agreement is the approval referenced in Section 7.1 above.

17. **Assignment**. This Agreement shall not be assigned by any party hereto to any person or entity without the express written consent of Seller; provided, however, that Purchaser may assign the Agreement without Seller's consent as follows: (a) to a California qualified business entity that is formed for the purpose of carrying out the Project and for which Purchaser is a member or the manager or affiliated with; or (b) for the sale or transfer of 25% or more of ownership or control interest between members of the same family; or transfers to a trust, testamentary or otherwise, in which the beneficiaries consist of solely of members of the trustor's family; or transfers to a corporation or partnership or other legal entity in which the members of the transferor's family have a controlling majority interest of 51% or more; or (c) for the sale or transfer to an end user and/or to a tenant so long as Purchaser or its affiliate remains the developer of the Property. Any assignment does not release Purchaser from any of its obligations hereunder.

18. **Business Days**. As used herein, the term "Business Days" refers to Monday through Thursday, excluding holidays on which the City of Irwindale or Seller are closed for business.

19. **Binding Effect**. The covenants herein shall bind and inure to the benefit of the executors, administrators, successors and assigns of the respective parties.

20. **Broker's Commission; Indemnity**. Neither party has had any contact or dealings regarding the Property, or any communication in connection with the subject matter of this transaction, through any licensed real estate broker or person who can claim a sales or brokerage commission, finder's fee or other commissions as a procuring cause of the sale contemplated in this Agreement. Should any broker or other person seek payment for any sales or brokerage commission, finder's fee or other commission, then the party for whom such broker or person seeking payment shall indemnify, defend, and hold the other party harmless from all costs and expenses (including reasonable attorney fees, court costs, litigation expenses and costs of defense) incurred by the Other Party in connection with such claim.

21. **Integration; Merger; Amendment; Survival of Representations**. Seller and Purchaser have not made any covenants, warranties or representations not set forth in this Agreement. This Agreement constitutes the entire Agreement between the parties. Except as otherwise provided herein, all representations, warranties and covenants set forth in this Agreement shall survive closing. This instrument shall as to all prior drafts or forms exchanged between the parties or executed by the parties, be the sole effective instrument between them as to the provisions set forth in this Agreement. None of the terms and provisions hereof shall be altered or amended unless in writing and signed by the parties.

22. **Execution in Counterparts and by Fax/Email**. This document may be validly executed and delivered by facsimile transfer/e-mail and/or portable document format (collectively, "Electronic Copy"). Any signer who executes this document and transmits this document by Electronic Copy intends that the Electronic Copy of their signature is to be deemed an original signature for all purposes. Any such Electronic Copy printout and any complete photocopy of such Electronic Copy printout are hereby deemed to be an original counterpart of this document. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

23. **Notices**. All notices shall be in writing and delivered personally, by overnight air courier service, by facsimile transmission or email, or by U.S. certified or registered mail, return receipt requested, postage prepaid, to the parties at their respective addresses set forth below, and the same shall be effective upon receipt if delivered personally, one (1) Business Day after depositing with an overnight air courier, or two (2) Business Days after depositing in the mail immediately, upon transmission (as confirmed by electronic confirmation of transmission generated by the sender's machine) for any notice given by facsimile or email:

If to Seller: City of Pico Rivera Successor Agency
6615 Passons Boulevard
Pico Rivera, CA 90660
Attn: City Manager

With a copy to: Alvarez-Glasman & Colvin
13181 Crossroads Parkway North, Suite 400 West
City of Industry, CA 91746
Attn: Christopher Cardinale, City Attorney
Email: ccardinale@agclawfirm.com

If to Purchaser: Baldwin Park Homes, LLC
2222 Loma Vista Street
Pasadena, CA 91104
Attn: Craig Cook

24. **Governing Law**. This Agreement shall be construed according to the laws of the State of California.

25. **Attorney's Fees**. In the event any action or suit is brought by a party hereto against another party hereunder by reason of any breach of any of the covenants, agreements or provisions on the part of the other party arising out of this Agreement, then in that event the prevailing party shall be entitled to have and recover from the other party all costs and expenses of the action or suit, including actual attorneys' fees, expert witness fees, accounting and engineering fees, and any other professional fees resulting therefrom.

26. **Expenses**. Seller and Purchaser shall pay their respective expenses and costs in connection with the preparation of this Agreement and other agreements and documents related to this Agreement and the transactions contemplated herein.

27. **Severability**. If any term of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then this Agreement, including all of the remaining terms, will remain in full force and effect as if such invalid or unenforceable term had never been included.

28. **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.

29. **Qualification; Authority**. Each individual executing this Agreement on behalf of a party which is an entity, represents, warrants and covenants to the other party that (a) such person is duly authorized to execute and deliver this Agreement on behalf of such entity in accordance with authority granted under the organizational documents of such entity, and (b) such entity is bound under the terms of this Agreement.

30. **No Waiver**. The failure of either party to enforce any term, covenant, or condition of this Agreement on the date it is to be performed shall not be construed as a waiver

of that party's right to enforce this, or any other, term, covenant, or condition of this Agreement at any later date or as a waiver of any term, covenant, or condition of this Agreement.

31. **Counterparts**. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which shall be deemed but one and the same instrument, and a facsimile or e-mailed PDF copy of such execution shall be deemed an original.

32. **Miscellaneous**.

32.1 Execution of Documents. The parties agree to execute such instructions to Title Company and such other instruments and to do such further acts as may be reasonably necessary to carry out the provisions of this Agreement.

32.2 Inducement. The making, execution and delivery of this Agreement by the parties hereto have been induced by no representations, statements, warranties or agreements other than those expressly set forth herein.

32.3 Incorporation of Exhibits. The exhibits attached hereto are incorporated herein by reference.

32.4 Relationship of Parties. Notwithstanding anything to the contrary contained herein, this Agreement shall not be deemed or construed to make the parties hereto partners or joint ventures', or to render either party liable for any of the debts or obligations of the other, it being the intention of the parties to merely create the relationship of Seller and Purchaser with respect to the Property to be conveyed as contemplated hereby.

32.5 Survival of Warranties. It is the express intention and agreement of the parties to this Agreement that all covenants, representations and warranties made by Seller in this Agreement shall survive this Agreement, the recordation of the Deed and the Closing for a period of twelve (12) months.

32.6 Limitation of Liability. The parties agree that neither the holders of beneficial interests nor the trustees, officers, members, employees or agents of either party or any assignee or affiliate of either party shall be personally liable under the Agreement and all parties hereto shall look solely to the assets of the entity, for the payment of any claim or the performance of any obligation of either under this Agreement.

32.7 Force Majeure. If either Party is delayed or prevented from performing any act required in this Agreement by reason of any event beyond the reasonable control of either Party, including without limitation, by labor disputes, fire, unusual delay in deliveries, weather or acts of God, terrorism, delay in the issuance of permits or approvals, acts of governmental entities, unavoidable casualties or any other such causes beyond such Party's control, then the time herein fixed for completion of such obligation(s) shall be extended by the number of days that such Party has been delayed.

33. **Waiver of Jury Trial**. THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING INVOLVING THE PROPERTY OR ARISING OUT OF THIS AGREEMENT.

34. **1031 Exchange**. Both Seller and Purchaser agree to reasonably cooperate with each other in the event that either or both wish to participate in a 1031 exchange. Any party initiating an exchange shall bear all costs of such exchange.

35. **Representation by Counsel**. Each party hereto represents and agrees with each other that it has been represented by or had the opportunity to be represented by, independent counsel of its own choosing, and that it has had the full right and opportunity to consult with its respective attorney(s), that to the extent, if any, that it desired, it availed itself of this right and opportunity, that it or its authorized officers (as the case may be) have carefully read and fully understand this Agreement in its entirety and have had it fully explained to them by such party's respective counsel, that each is fully aware of the contents thereof and its meaning, intent and legal effect, and that it or its authorized officer (as the case may be) is competent to execute this Agreement and has executed this Agreement free from coercion, duress or undue influence.

36. **Interpretation**. The parties to this Agreement participated jointly in the negotiation and drafting of this Agreement. If an ambiguity or question of intent or interpretation arises, then this Agreement will be construed as if drafted jointly by the parties to this Agreement, and no presumption or burden of proof will arise favoring or disfavoring any party to this Agreement by virtue of the authorship of any of the provisions of this Agreement.

[Signatures appear on following page]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

SELLER:

CITY OF PICO RIVERA,
a California municipal corporation, as Successor Agency to the Pico Rivera Community Redevelopment Agency

_____
David W. Armenta, Mayor

ATTEST:

_____
Anna M. Jerome, CMC, City Clerk

APPROVED AS TO FORM:
ALVAREZ-GLASMAN & COLVIN

_____
Christopher Cardinale, Successor Agency Counsel

PURCHASER:

Baldwin Park Homes, LLC
a California Limited Liability Corporation

By:_____
David Cook, Managing Member

EXHIBIT A

DESCRIPTION OF SITE

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

THAT PORTION OF THE RANCHO SANTA GERTRUDES, IN THE CITY OF PICO RIVERA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 1, PAGE 502 OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, BOUNDED AS FOLLOWS:
BOUNDED SOUTHERLY BY THE NORTHERLY LINE OF THE 300 FOOT STRIP OF LAND DESCRIBED IN DEED RECORDED IN BOOK 1829 PAGE 66 OF DEEDS, IN SAID OFFICE OF THE COUNTY RECORDER,
BOUNDED WESTERLY BY THE EASTERLY LINE OF TRACT NO. 17270, IN SAID CITY, COUNTY AND STATE, AS SHOWN ON MAP RECORDED IN BOOK 420 PAGES 25 AND 26 OF MAPS, IN SAID OFFICE OF THE COUNTY RECORDER AND BY THE EASTERLY LINE OF TRACT NO. 16806, IN SAID CITY, COUNTY AND STATE, AS SHOWN ON MAP RECORDED IN BOOK 394, PAGES 39 THROUGH 41 INCLUSIVE OF MAPS, IN SAID OFFICE OF THE COUNTY RECORDER,
BOUNDED NORTHERLY BY THE SOUTHERLY LINE OF THE LAND DESCRIBED IN DEED TO SOPHIA CASTEEL, RECORDED IN BOOK 1040, PAGE 136 OF OFFICIAL RECORDS, IN SAID OFFICE OF THE COUNTY RECORDER, AND
BOUNDED EASTERLY BY THE WESTERLY LINE OF THAT CERTAIN STRIP OF LAND, 400 FEET WIDE DESCRIBED IN DEED TO LOS ANGELES COUNTY FLOOD CONTROL DISTRICT, RECORDED IN BOOK 7439, PAGE 44 OF SAID OFFICIAL RECORDS.

EXCEPT 51 PERCENT OF ALL SUBTERRANEAN OIL, GAS, MINERAL AND HYDROCARBON SUBSTANCES IN AND UNDER SAID LAND 500 FEET BENEATH THE SURFACE THEREOF, BUT WITHOUT THE RIGHT OF SURFACE ENTRY THERETO AS RESERVED BY BARTLETT J. VANDERBY AND ISABELLA C. VANDERBY, HIS WIFE, AS JOINT TENANTS, IN THE DEED RECORDED NOVEMBER 7, 1963 AS INSTRUMENT NO. 50 OF OFFICIAL RECORDS.

APN: 6384-004-900

EXHIBIT B-1

DESCRIPTION OF PROJECT

The proposed development of a +/-2.63 acre vacant parcel at the eastern-most end of Burke Street will contain 18 single family, detached homes ranging in size from 1,600 to 2,500 square feet. The initial two homes on Burke Street will be designed as one story homes to transition from original scale and architecture to the two story homes that will make up the remaining 16 units of the project. All homes will be 4 bedrooms.

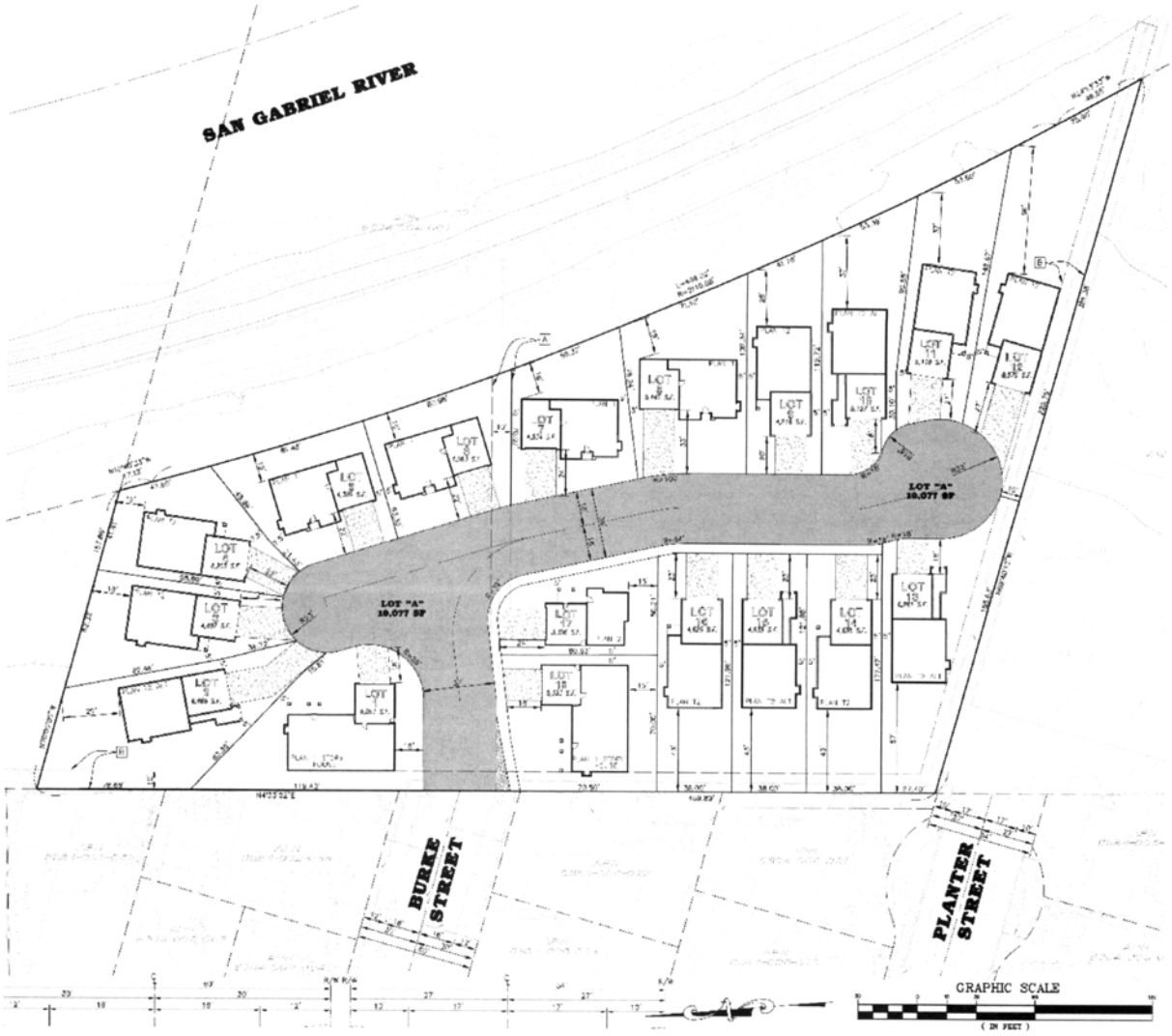
Site improvements will include the following:

- Continuation of the existing sidewalk and landscape design from the adjacent neighborhood transitioning into a private street (smaller road) with sidewalk on one side of the street.
- Emergency vehicle access from Burke Street.
- Pedestrian and vehicle access to Burke Street with potential accessibility to Planter street.
- Pedestrian access to the adjacent San Gabriel River Trail.
- New landscaping and irrigation throughout entire site.

Schematic site plan is included to indicate proposed locations of buildings, parking and landscaping. Purchaser acknowledges that the location of buildings and circulation shall be designed and situated on the Property so as to cause the least amount of impacts to adjacent residential uses as possible and will work with the City during the entitlement process to achieve this goal.

EXIIBHT B-2

CONCEPTUAL SITE PLAN



01005.0012/276364.1

EXHIBIT C

Deed

FREE RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City Clerk
City of Pico Rivera
6615 Passons Blvd.
Pico Rivera, CA 90660

SPACE ABOVE THIS LINE FOR RECORDER'S USE
EXEMPT FROM RECORDING FEE PER GOV. CODE § 27383

GRANT DEED

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, the CITY OF PICO RIVERA, a California municipal corporation as Successor Agency to the Pico Rivera Community Redevelopment Agency ("Grantor"), hereby grants to Baldwin Park Homes, LLC, a California Limited Liability Corporation ("Grantee"), all of its respective rights, title, and interest in the real property hereinafter referred to as the "Property" in the City of Pico Rivera, County of Los Angeles, State of California, as more particularly described in Attachment 1 attached hereto and incorporated herein by this reference.

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

CITY OF PICO RIVERA,
a California municipal corporation,
Successor Agency to the Pico Rivera Community
Redevelopment Agency

_____
David W. Armenta, Mayor

ATTEST:

_____
Anna M. Jerome, CMC, City Clerk

APPROVED AS TO FORM:
ALVAREZ-GLASMAN & COLVIN

_____
Christopher Cardinale, City Attorney

Attachment 1 to Grant Deed

Legal Description of the Property

The Site is that certain real property located in the City of Pico Rivera, County of Los Angeles, State of California, and is described as follows:

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

THAT PORTION OF THE RANCHO SANTA GERTRUDES, IN THE CITY OF PICO RIVERA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 1, PAGE 502 OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, BOUNDED AS FOLLOWS:
BOUNDED SOUTHERLY BY THE NORTHERLY LINE OF THE 300 FOOT STRIP OF LAND DESCRIBED IN DEED RECORDED IN BOOK 1829 PAGE 66 OF DEEDS, IN SAID OFFICE OF THE COUNTY RECORDER,
BOUNDED WESTERLY BY THE EASTERLY LINE OF TRACT NO. 17270, IN SAID CITY, COUNTY AND STATE, AS SHOWN ON MAP RECORDED IN BOOK 420 PAGES 25 AND 26 OF MAPS, IN SAID OFFICE OF THE COUNTY RECORDER AND BY THE EASTERLY LINE OF TRACT NO. 16806, IN SAID CITY, COUNTY AND STATE, AS SHOWN ON MAP RECORDED IN BOOK 394, PAGES 39 THROUGH 41 INCLUSIVE OF MAPS, IN SAID OFFICE OF THE COUNTY RECORDER,
BOUNDED NORTHERLY BY THE SOUTHERLY LINE OF THE LAND DESCRIBED IN DEED TO SOPHIA CASTEEL, RECORDED IN BOOK 1040, PAGE 136 OF OFFICIAL RECORDS, IN SAID OFFICE OF THE COUNTY RECORDER, AND
BOUNDED EASTERLY BY THE WESTERLY LINE OF THAT CERTAIN STRIP OF LAND, 400 FEET WIDE DESCRIBED IN DEED TO LOS ANGELES COUNTY FLOOD CONTROL DISTRICT, RECORDED IN BOOK 7439, PAGE 44 OF SAID OFFICIAL RECORDS.

EXCEPT 51 PERCENT OF ALL SUBTERRANEAN OIL, GAS, MINERAL AND HYDROCARBON SUBSTANCES IN AND UNDER SAID LAND 500 FEET BENEATH THE SURFACE THEREOF, BUT WITHOUT THE RIGHT OF SURFACE ENTRY THERETO AS RESERVED BY BARTLETT J. VANDERBY AND ISABELLA C. VANDERBY, HIS WIFE, AS JOINT TENANTS, IN THE DEED RECORDED NOVEMBER 7, 1963 AS INSTRUMENT NO. 50 OF OFFICIAL RECORDS.

APN: 6384-004-900

EXHIBIT D

SCHEDULE OF PERFORMANCE

	Item To Be Performed	Time For Performance	Agreement Reference
1.	Purchaser executes and delivers Purchase and Sale Agreement ("PSA") to Seller		
2.	Seller approves or disapproves PSA and, if approves, executes PSA		
3.	Open Escrow	Within 3 days after execution of PSA by Seller	2
4.	Seller delivers to Purchaser Preliminary Title Report	Within 5 days after Seller execution of PSA	5
5.	Seller makes Property available to Purchaser for inspection	Within 10 days after receipt of Purchaser's notice	5
6.	Purchaser provides Seller with financial commitments to finance for Project	During Contingency Period	7.5
7.	Purchaser approves or disapproves title exceptions	Within 30 days after delivery to Purchaser of Preliminary Title Report, all documents listed in the Preliminary Title Report	5
8.	Seller delivers notice to Purchaser as to whether it will cure disapproved exceptions	Within 10 days after receipt of Purchaser's notice	5
9.	Purchaser approves or disapproves the environmental and physical condition of the Property or waives condition	Within 90 days after Opening of Escrow	8
10.	Escrow Agent gives notice of fees, charges, and costs to close escrow	One (1) week prior to Closing	
11.	Deposits into escrow by Seller:		
	a) Executed Deed	On or before 1:00 p.m. on the business day preceding the Closing Date	4.1.1

	Item To Be Performed	Time For Performance	Agreement Reference
	b) Payment of Seller's Share of Escrow Costs	On or before 1:00 p.m. on the business day preceding the Closing Date	4.1.5; 9
	c) Taxpayer ID Certificate	On or before 1:00 p.m. on the business day preceding the Closing Date	4.1.2
	d) FIRPTA Certificate	On or before 1:00 p.m. on the business day preceding the Closing Date	4.1.2
12.	Deposits into escrow by Purchaser:		
	a) The Purchase Price required by Section 3.2.	On or before 1:00 p.m. on the business day preceding the Closing Date	3.2
	b) Payment of Purchaser's Share of Escrow Costs	On or before 1:00 p.m. on the business day preceding the Closing Date	4.3; 9
	c) Preliminary Change of Ownership Statement	Prior to Closing Date	4.2.2
13.	Seller or Purchaser, as case may be, may cure any condition to closing disapproved or waived; or may cure any default	Within 30 days after date established therefore, or date of breach, as the case may be	
14.	Remediation plan and schedule	Within 30 days after approval by Purchaser of environmental and physical condition	
15.	Zone change, general plan amendment, tentative tract map, planned unit development zoning, and mitigated negative declaration of environmental impact	Within 60 days after the expiration of the environmental contingency period.	

	Item To Be Performed	Time For Performance	Agreement Reference
16.	Close of escrow; recordation and delivery of documents	No sooner than 30 days after CEQA legal challenge period expires and within 30 days after Expiration of Contingency Period	7.2; 11
17.	Purchaser pulls necessary grading permits and commences site work, including soil and groundwater remediation as necessary	Within 120 days after the Closing	
18.	Building Permits		
19.	Purchaser commences construction of Project	Within 30 days after commencement of improvements.	
20.	Purchaser completes construction of Project	Within 12 months after commencement of construction.	

It is understood that the foregoing Schedule of Performance is subject to all of the terms and conditions set forth in the text of the Agreement. The summary of the items of performance in this Schedule of Performance is not intended to supersede or modify the more complete description in the text; in the event of any conflict or inconsistency between this Schedule of Performance and the text of the Agreement, the text shall govern.

The time periods set forth in this Schedule of Performance may be altered or amended only by written agreement signed by both Purchaser and Seller. A failure by either party to enforce a breach of any particular time provision shall not be construed as a waiver of any other time provision. The Executive Director of Seller shall have the authority to approve extensions of time without Successor Agency action not to exceed a cumulative total of 180 days.

OVERSIGHT BOARD OF SUCCESSOR AGENCY AGENDA

To: Oversight Board of the Successor Agency to the Pico Rivera Redevelopment Agency

From: Director of Community & Economic Development

Meeting Date: September 29, 2016

Subject: PURCHASE AND SALE AGREEMENT FOR THE BURKE STREET PROPERTY (APN 6384-004-900) BETWEEN THE SUCCESSOR AGENCY TO THE PICO RIVERA REDEVELOPMENT AGENCY AND BALDWIN PARK HOMES, LLC

Recommendation:

Consider adoption of the attached resolution approving a purchase and sale agreement ("PSA") with Baldwin Park Homes, LLC ("Purchaser") prepared pursuant to the Successor Agency's Long Range Property Management Plan ("LRPMP") for the Burke Street Property, Property No. 4 ("Property") of the Successor Agency to the Pico Rivera Redevelopment Agency, ("Seller").

Fiscal Impact:

In accordance with the terms and conditions of the PSA, the Purchaser would acquire the Property for $1,800,000. Proceeds from the sale of the property will be disbursed by the Los Angeles County Auditor Controller to the various affected taxing entities (ATEs) within the boundaries of the former Pico Rivera Redevelopment Agency (PRRA). The Pico Rivera Successor Agency would receive a portion of the proceeds based on the share of property tax the City of Pico Rivera receives – approximately six and a half cents of every dollar.

Discussion:

Successor Agency staff worked with RSG, Inc. to identify qualified residential developers to build a Planned Unit Development on the Property per the planned use in the LRPMP for the Property. In July 2015 an offering memorandum was distributed to 45 developers who were determined to have experience with environmental remediation. The offering memorandum was also placed on the City's website, RSG's website, listed on LoopNet, and listed on CoStar. In August 2015 proposals were received and three (3) developers were invited to be interviewed by the City Council

Economic Development Ad Hoc. The proposals, the financial wherewithal and reference checks for the three (3) developers were reviewed by RSG prior to the interviews. Baldwin Park Homes LLC was selected based on their plan to build single family detached housing (which fits with the surrounding neighborhood), their soil remediation plan and their approach with public outreach. RSG was asked to prepare an Exclusive Negotiation Agreement ("ENA") for Successor Agency review and negotiate the terms and conditions of the PSA.

The full summary of the results of the Economic Development Ad Hoc interviews, the vetting process for Baldwin Park Homes, and selection as most compatible development plan was reviewed in closed session with the Successor Agency on February 9, 2016. The ENA with Baldwin Park Homes was approved by the Successor Agency on February 23, 2016.

The Oversight Board previously reviewed the PSA at the meeting on July 28, 2016, and the Oversight Board's legal counsel made changes to the PSA to incorporating comments made by the Oversight Board. The changes to the PSA were subsequently approved by Oversight Board Chair Faustinos.

This PSA was approved by the Successor Agency on September 27, 2016 and pursuant to Health and Safety Code Section 34181(f), the transfer of the Property must be approved by the Oversight Board. The Oversight Board resolution approving the transfer must be adopted at a public meeting after 10 days' notice to the public. The notice of this public meeting was posted at City Hall and published in the Whittier Daily News on September 16, 2016.

Background:

The Property consists of 2.63-acres and is presently a vacant site located at the east end of the existing terminus of Burke Street. Based on City records and environmental studies conducted on behalf of the former Redevelopment Agency, the Property was historically used for agricultural purposes and was the location of an unlicensed landfill between approximately 1947 and at least 1956. The City acquired the Property in 1963, and transferred ownership to the Redevelopment Agency in 1998. The Redevelopment Agency held the Property until dissolution in 2012, when it was transferred to the Successor Agency along with 5 other properties.

The most recent environmental study for the Property was the Phase I Environmental Site Assessment completed by AEI Consultants dated October 2, 2008, who also prepared a Draft Preliminary Remedial Action Report at that time. Staff is of the understanding that these studies were never submitted for review to the County Fire Department, so the scope of clean-up and remediation, which is typically funded by the seller from sales proceeds, is unknown at this time.

The Successor Agency approved the LRPMP and the Oversight Board adopted the LRPMP via Resolution No. OB-13-17 on September 13, 2013. After receiving comments from the California Department of Finance ("DOF"), the LRPMP was revised

and approved by the Successor Agency and adopted by the Oversight Board again on September 25, 2014. The DOF gave final approval of the LRPMP on December 23, 2014. As documented in the LRPMP, the Property has unmitigated soil and groundwater contamination, and as a result, development/use of the Property requires approval and execution of a remedial action plan to clean up the contamination.

The Property was the subject of various unsolicited developer/purchaser inquiries received by City staff over the past several years. At one time, the former Redevelopment Agency solicited proposals for 87 affordable housing units, and had a Disposition and Development Agreement with Maywood Partners for residential development. Since that time, redevelopment dissolution has made it impossible for the City to pursue affordable housing due to a lack of local funding, as well as the more recent desire to focus on lower density, market rate housing in this neighborhood.

Baldwin Park Homes proposes to acquire the Property for $1.8 million, and develop 18 single family homes on the Property for sale. Compared to other offers for densities of up to 51 homes, staff and the Subcommittee felt this density would be most compatible with the adjacent neighborhood and represented the best planned development. Baldwin Park Homes and its leading principal Don Cook demonstrated significant experience entitling and developing market rate single family projects in Baldwin Park, South El Monte, El Monte, West Covina and Pomona, as well as other communities. During the interview, Baldwin Park Homes demonstrated a hands-on approach with neighborhoods in the design and conceptual planning stage that the Subcommittee felt was especially important given the infill location of the Property.

During the ENA period, Baldwin Park Homes was able to confirm the need to work with CalRecycle, the Department of Toxic Substances Control, the Regional Water Quality Control Board, and the South Coast Air Quality Management District to clean up the Property, with the City of Pico Rivera serving as the lead agency. The ENA also established the outlined terms of the PSA which have been reviewed and confirmed by City staff and Baldwin Park Homes, LLC.

As part of their due diligence, the Baldwin Park Homes will be pursuing a remediation program for the Property after conducting additional site studies and analysis. The cost of the clean-up work is not known at this time, but estimates suggest clean up may be close to One Million Dollars or more. Baldwin Park Homes is proposing to close upon receipt of entitlements, and specifically no sooner than the 30-day California Environmental Quality Act (CEQA) challenge period. The nature and scope of Property development is contingent on CEQA approval and the entitlements approved by the Planning Commission and the City Council. The PSA contains a schedule of performance that identifies milestones in the entitlement process to guide the parties; the schedule of performance may be amended by the Executive Director of the Successor Agency, but any material change to the PSA terms would be subject to Successor Agency and Oversight Board approval.

The attached resolution approves the PSA with Baldwin Park Homes LLC for $1,800,000, and within five (5) business days after opening escrow, Baldwin Park

Homes is to deposit $50,000 into escrow. The deposit shall be applied to the purchase price, and become non-refundable after the 90-day contingency period. In the event that escrow is terminated prior to the end of the contingency period, the deposit is fully refunded to Baldwin Park Homes. Alternatively, if the escrow is terminated after the contingency period, the PSA stipulates that the deposit shall be wired to the Successor Agency. In this case, proceeds from a canceled escrow would be available for enforceable obligations on a future ROPS.

Any sales proceeds would not be received until after escrow is closed. At the conclusion of closing, proceeds from the sale would be wired from escrow to the Successor Agency for payment of enforceable obligations and distribution to the affected taxing agencies consistent with the approved LRPMP. If any residual distributions are made by the County Auditor Controller from sales proceeds, each affected taxing agency would collect their corresponding share of the residual directly from the Auditor-Controller, who is responsible for making such distributions

The PSA is in the same format, which was reviewed by the Oversight Board on July 28, 2016. The Oversight Board legal counsel added language to the PSA regarding indemnification and clarifying language regarding pro rata shares included in the PSA. These changes were reviewed and approved by Chair Faustinos. The Successor Agency approved this version of the PSA at their regularly scheduled meeting held on September 27, 2016.

Conclusion:

Staff recommends that the Oversight Board of the Successor Agency to the Pico Rivera Redevelopment Agency adopt the resolution approving a purchase and sale agreement between the Successor Agency and Baldwin Park Homes, LLC.

Benjamin Martinez
Director of Community & Economic Development

BM:MG:em

Enclosure: 1) Resolution