

Redevelopment Agency of Sandy City



Chris McCandless	Chair
Linda Martinez Saville	Vice-Chair
Brooke Christensen	Board Member
Zach Robinson	Board Member
Kristin Coleman-Nicholl	Board Member
Maren Barker	Board Member
Steve Fairbanks	Board Member

Tuesday, October 22, 2019

Sandy City Hall
10000 Centennial Parkway, Sandy, Utah

Agenda

Meeting time: Approximately 5:15 p.m.

1. Motion to convene Redevelopment Agency meeting
2. Resolution RD 19-08. A Resolution of the Redevelopment Agency of Sandy City approving a Purchase Sale Agreement providing, generally, for the sale of certain vacant land located just north of the Shops At South Town along Monroe Street, to Raddon Summit, LLC.
3. Resolution RD 19-09. A Resolution of the Redevelopment Agency of Sandy City authorizing the execution of a Tax Increment Participation Agreement with Raddon Summit, LLC relating to the new commercial development within the Civic Center North Redevelopment Project Area.
4. Motion to adjourn Redevelopment Agency meeting.

In compliance with the Americans with Disabilities Act, reasonable accommodations for individuals with disabilities will be provided upon request. For assistance please call [\(801\) 568-7141](tel:8015687141).

Resolution No. RD 19-08

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF SANDY CITY APPROVING A PURCHASE AND SALE AGREEMENT PROVIDING, GENERALLY, FOR THE SALE OF CERTAIN VACANT LAND LOCATED JUST NORTH OF THE SHOPS AT SOUTH TOWN ALONG MONROE STREET, TO RADDON SUMMIT, LLC.

WHEREAS the Redevelopment Agency of Sandy City (the “Agency”) has been created by the Sandy City Council to transact the business and exercise all the powers provided for by Title 17C of the Utah Code Annotated, known as the “Limited Purpose Local Government Entities — Community Reinvestment Agency Act” (the “RDA Act”);

WHEREAS under the authority granted by, among other things, Section 17C-1-202(1)(d) of the Act, the Agency desires to enter into a Purchase and Sale Agreement and Escrow Instructions (the “Agreement”), substantially in the form attached hereto as **Exhibit A**, with Raddon Summit, LLC, relating to the sale by the Agency of certain unimproved and vacant real property located between just north of The Shops at South Town along the newly extended Monroe Street (the “Property”);

WHEREAS, the Agency presently owns a portion of the Property, and Sandy City owns the other portion of the Property; the Agency and Sandy City have entered into an Interlocal cooperation agreement (“ILA”), providing, in general, that Sandy City will convey the City land to the Agency at the time of closing under the Agreement, and then the Agency and Sandy City will proportionally split the net sales proceeds, all as provided in the ILA;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE REDEVELOPMENT AGENCY OF SANDY CITY:

1. The Agreement in substantially the form attached hereto and incorporated herein as **Exhibit A** is approved, and the Executive Director of the Agency is authorized and directed to execute the Agreement for and on behalf of the Agency. The Executive Director may approve any minor modifications, amendments, or revisions to the Agreement as may be in the Agency’s best interest and in harmony with the intent and purpose of the Agreement as substantially set forth in the attached **Exhibit A**.

2. This resolution takes effect upon adoption.

THIS RESOLUTION IS APPROVED AND ADOPTED on October 22, 2019.

Chris McCandless, *Chairman*

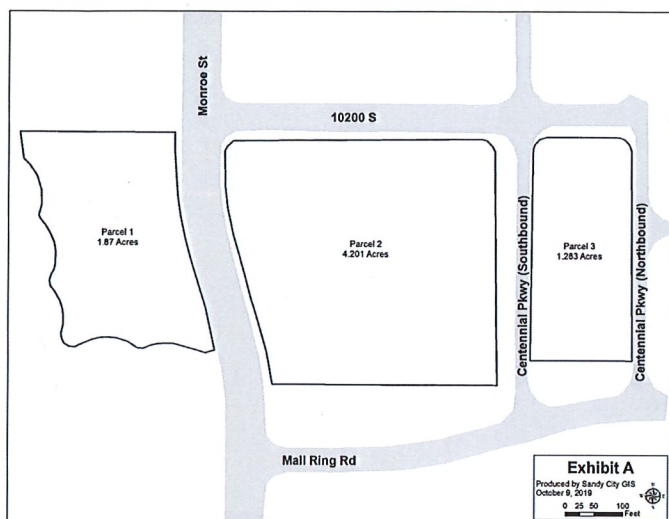
Attest:

Vickey Barrett, *Secretary*

Exhibit A
Form of Agreement

Summary of PSA b/w Sandy RDA and Raddon Summit re Cairns

Prepared by Kyle Fielding, McDonald Fielding, PLLC, on October 11, 2019



Parcel 1 and 2 Purchase Price

\$19.10/sf

Parcel 3 Purchase Price

\$15.05/sf

Three potential closings

- 1- 125K office building permit issued, or Oct. 22, 2020
- 2- w/in 3 years after first closing
- 3- w/in 4 years after first closing

Timeline of Critical PSA Dates

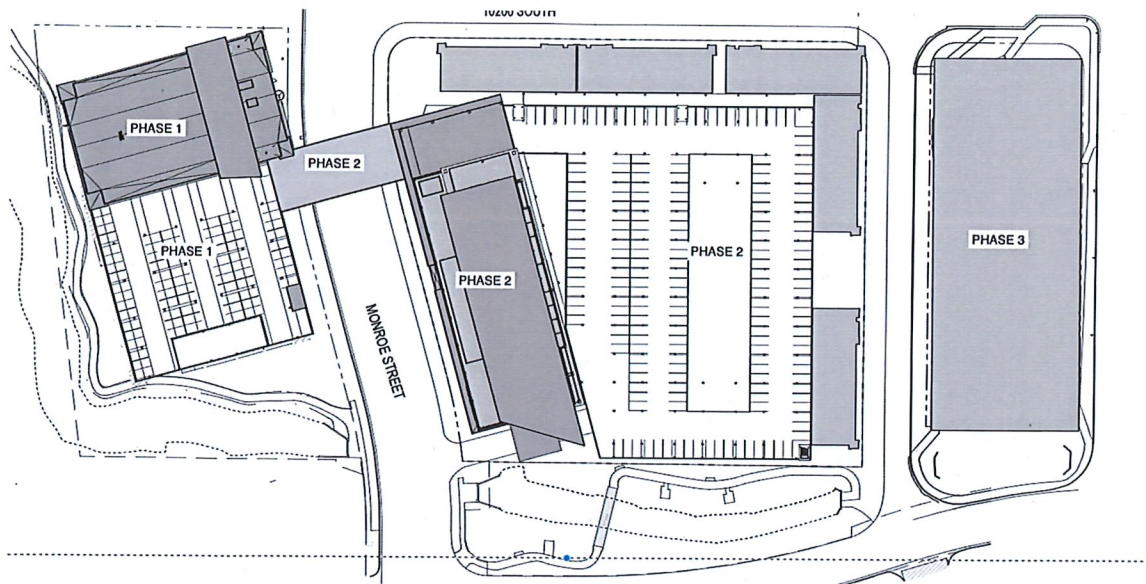
Event	Deadline	Notes
Effective Date	10/22/2019	Date of RDA Board approval (if given)
Earnest Money Deposit	10/25/2019	\$100,000, fully refundable until Inspection Period Deadline expires
Inspection Period Deadline	4/19/2019	Buyer may accelerate in Buyer's discretion
First Closing	10/22/2020	May be accelerated by Buyer

Construction Deadlines

Phase	*Deadline to commence construction of any improvement within the Phase	*Deadline to substantially complete construction of all improvements within the Phase
1	90 days after the first Closing	Two years after commencement
2	90 days after the second Closing	Three years after commencement
3	90 days after the third Closing	Three years after commencement

*All deadlines will be automatically extended by 18 months if Seller does not timely obtain wetland/pond relocation approval, in order to give Buyer time to redesign Phase 2. Phase 3 only applies if the Seller timely obtains wetland/pond relocation approval.

Phases of the Development



Other Significant Provisions

RDA will work on wetland/pond relocation. Site plan may be revised if such approval is not granted, but for now, the assumption is that approval will happen.

All construction timelines/performance deadlines are subject to a “market crash” safety clause. If the market turns down, as measured by an independent third-party index, the construction deadlines may be extended.

RDA remedies if Buyer does not meet construction deadlines (following a one-year cure period, which seems reasonable given the magnitude and complexity of the project): (1) liquidated damages on a daily basis until construction is back on schedule, (2) right to repurchase the land, with improvements, from the Buyer (and, RDA may assign this right to a third party)

PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS

THIS PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS (this “**Agreement**”) is made and entered into as of October 22, 2019, by and between the Redevelopment Agency of Sandy City, a Utah political subdivision (“**Seller**”), and Raddon Summit, LLC, a Utah limited liability company (“**Buyer**”). Buyer and Seller agree as follows:

1. **Definitions.** For the purpose of this Agreement, the following terms shall have the following definitions:

“**Affiliate**” means, with respect to any Person, a Person that directly or indirectly, through one or more intermediaries, has control of, is controlled by, or is under common control with, such Person. For these purposes, “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management of any Person, whether through the ownership of voting securities, by contract or otherwise.

“**Approved Plans**” means the Concept Plan and the Construction Schedule.

“**Breached Condition**” is defined in Section 3.4.

“**Buyer**” is defined in the opening paragraph of this Agreement, together with its permitted successors and assignors.

“**Cash Balance**” means, with respect to each Phase, an amount equal to the Purchase Price for that Phase minus the Deposit (Deposit applicable only for closing on the first Phase), plus all other costs required to be paid by Buyer hereunder prior to or at that Phase Closing.

“**Certification**” means a Certification of Non-Foreign Status.

“**Claims**” is defined in Section 28.

“**Closing**” means the consummation of the purchase and sale of a Phase of the Property, as evidenced by the delivery of all required funds and documents to Escrow Agent. The parties anticipate three separate Closings, one for each of the three Phases.

“**Closing Deadline**” (i) for the first Phase means the earlier of either (a) the date that is 30 days after Buyer has received from Sandy City a building permit for an office building of at least 125,000 square feet on the Property, or (b) exactly one year after the Effective Date; (ii) for the second Phase means the date that is three (3) years after the actual date of the Closing of first Phase; and (iii) for the third Phase means the date that is four (4) years after the actual date of the Closing of the first Phase; in each case, as such dates may be extended for Construction Delays.

“**Concept Plan**” means the site plan and elevations attached hereto as Exhibit “D” depicting the proposed conceptual design and layout of the Development Project, and also together with any modifications or amendments approved by the Seller’s Executive Director from time to time in the Executive Director’s sole discretion. There are two possible site plans,

depending on whether the Seller timely receives Pond Approval or not. If the Seller timely receives Pond Approval, then the applicable site plan is the site plan attached as Exhibit "D" and labeled as "Site Plan Option A." If the Seller does not timely receive Pond Approval, then the applicable site plan is the site plan attached as Exhibit "D" and labeled as "Site Plan Option B." Option A incorporates development on the Pond Property, while Option B does not.

"Condominium" is defined in Section 57-8-3(8) of the Utah Code.

"Construction Delays" means delays in the construction of the Development Project which are a result of (a) Force Majeure, and/or (b) Seller Delays, or (c) Delays as a result of failing to obtain the Pond Approval, including, without limitation, delays require to redesign and obtain all approvals from Seller for Phase 2.

"Construction Schedule" means the schedule attached hereto as Exhibit "E" specifying the commencement and completion dates of each Phase of the Project, each of which dates shall be subject to extension for Construction Delays, and also together with any modifications or amendments approved by the Mayor of Sandy City from time to time in the Mayor's sole discretion. There are two possible Construction Schedules, depending on whether the Seller timely receives Pond Approval or not. If the Seller timely receives Pond Approval, then the applicable Construction Schedule is the schedule attached as Exhibit "E" and labeled as "Construction Schedule Option A." If the Seller does not timely receive Pond Approval, then the applicable Construction Schedule is the schedule attached as Exhibit "E" and labeled as "Construction Schedule Option B." Option A incorporates development on the Pond Property, while Option B does not.

"Deed" means a special warranty deed in substantially the form attached hereto as Exhibit "A".

"Deposit" means \$100,000.00, to be deposited according to Section 2.2.1.

"Development Conditions" means the post-Closing obligations of Buyer to: (i) commence the construction of each Phase within the periods provided in the Construction Schedule, and (ii) after commencement, diligently prosecute and complete construction of each Phase substantially in accordance with the Approved Plans for such Phase, and (iii) achieve Substantial Completion of the Phase by or before the date shown in the Construction Schedule (as such dates may be extended for periods of Construction Delays) for such Phase.

"Development Project" has two alternate meanings, depending on whether the Seller receives Pond Approval or not. If the Seller timely receives Pond Approval, then the term "Development Project" means a mixed use development consisting of, at a minimum, all of the following components, substantially as depicted in the Concept Plan: (i) two office buildings collectively containing at least 375,000 square feet of Class A office space, (ii) at least 180 residential units, (iii) a full-service hotel with at least 180 guest rooms and at least 15,000 square feet of meeting space, (iv) at least 30,000 square feet of ground level retail/restaurant floor area which may be located in separate buildings or integrated as part of the other buildings, including, without limitation, included as part of a hotel, (v) at least 20' high (including 5' parapet) and 10,000 square feet of rentable floor area as a building over Monroe Street. If, however, the Seller

does not timely receive Pond Approval, then the term "Development Project" means a mixed use development consisting of, at a minimum, all of the following components, substantially as depicted in the Concept Plan: (i) two office buildings collectively containing at least 375,000 square feet of Class A office space, (ii) at least ten residential units, (iii) a full-service hotel with at least 180 guest rooms and at least 15,000 square feet of meeting space, (iv) at least 10,000 square feet of ground level retail or restaurant floor area which may be located in separate buildings or integrated as part of the other buildings, including, without limitation, as part of a hotel, (v) at least 20' high (including 5' parapet) and 10,000 square feet of rentable floor area as a building over Monroe Street.

"Economic Recession" means, if inflation-adjusted Gross Domestic Product measured by the Bureau of Economic Analysis (BEA) (or, alternatively, the closely related measure called Gross National Product) declines for two successive quarters (i.e., six months in a row), a recession has begun, and when inflation-adjusted GDP subsequently rises for two consecutive quarters, the recession has ended and recovery is under way). The period of an Economic Recession will be measured from the first day of such Economic Recession.

"Effective Date" means the date on which Seller delivers a copy of this Agreement to Escrow Holder executed by both Buyer and Seller, which shall not be later than fourteen (14) days after the date first shown above.

"Escrow Account" means an interest-bearing account with a federally insured state or national bank, held by Escrow Holder.

"Escrow Holder" means Metro National Title, 230 W Towne Ridge Parkway, Sandy, UT 84070, which is an affiliate/agent of the Title Company.

"Force Majeure" means acts beyond the reasonable control on the party claiming a delay, including war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, acts of God, acts of a public enemy, epidemics, quarantine restrictions, freight embargoes, Economic Recession, lack of transportation, newly enacted governmental restrictions, challenges to decisions of Seller including any public referendum, unusually severe weather, shortages in labor, materials or tools, acts or failure to act of the Seller (with respect to Buyer only) or any other public or governmental agency.

"Hard Costs" means all materials and labor related to construction including all soils, environmental, geotechnical and engineering (which engineering costs will be limited to those related solely to public improvements or the land, but shall not include engineering costs for buildings) costs and expenses (specifically excluding all other Soft Costs and specifically excluding, without limitation, architectural costs).

"Hazardous Substances" means any and all substances, materials and wastes which are regulated as hazardous or toxic under applicable local, state or federal law or which are classified as hazardous or toxic under local, state or federal laws or regulations, including, without limitation, (i) those substances included within the definitions of "hazardous substances," "hazardous materials," "toxic substances," "solid waste," "pollutant" or "contaminant" as such terms are defined by or listed in the Comprehensive Environmental

Response Compensation and Liability Act of 1980 (42 U.S.C. § 9601 et seq.) (“CERCLA”), as amended by Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99-499 100 Stat. 1613) (“SARA”), the Hazardous Materials Transportation Act (49 U.S.C. § 1801 et seq.), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6901 et seq.) (“RCRA”), the Toxic Substance Control Act (15 U.S.C. § 2601 et seq.), the Federal Insecticide, Fungicide and Rodenticide Control Act (7 U.S.C. § 136 et seq.), the Occupational Safety and Health Act of 1970 (29 U.S.C. § 651 et seq.), the Emergency Planning and Community Right to Know Act of 1986 (42 U.S.C. § 11001 et seq.), the Hazardous and Solid Waste Amendments of 1984 (Public Law 86-616 Nov. 9, 1984), the Federal Clean Air Act (42 U.S.C. § 7401 et seq.), and in the regulations promulgated pursuant to such laws, all as amended, (ii) those substances listed in the United States Department of Transportation Table (49 CFR 172.101) or 40 CFR Part 302, both as amended, and (iii) any material, waste or substance which is (A) oil, gas or any petroleum or petroleum by-product, (B) asbestos, in any form, (C) polychlorinated biphenyls, (D) designated as a “hazardous substance” pursuant to Section 311 of the Clean Water Act (33 U.S.C. § 1251 et seq.), as amended, (E) flammable explosives, or (F) radioactive materials.

“**Indemnified Parties**” is defined in Section 10.2(f).

“**Inspection Period**” means the period commencing on the Effective Date and expiring at 5:00 p.m. on the earlier to occur of (a) the date that is 180 days after the Effective Date, or (b) the date which is five (5) days after Buyer delivers written notice that the Buyer is terminating the Inspection Period.

“**Land**” means that certain vacant parcel of land located in Sandy City, Utah, and particularly described in the attached **Exhibit A-1**.

“**Land Use Approvals**” is defined in Section 26.

“**Lender**” is defined in Section 3.7.

“**Major Casualty**” means any damage or destruction to the Land where the cost of repair or replacement is estimated to be equal to or greater than twenty percent (20%) of the total value of the Land (as reasonably determined by Seller, but in no event shall there ever be any delay of the Closing Deadline as a result of this paragraph).

“**Mortgage**” is defined in Section 3.7.

“**New Title Exceptions**” is defined in Section 5.1.3.

“**Permitted Exceptions**” is defined in Section 5.1.1.

“**Permitted Recapture Encumbrances**” is defined in Section 3.4.

“**Person**” means and includes all natural persons, corporations, limited partnerships, general partnerships, limited liability companies, joint stock companies, joint ventures, associations, companies, trusts, banks, trust companies, land trusts, business trusts or other organizations, whether or not legal entities, and governments and branches agencies and political subdivisions thereof.

“Phase” means each phase of development of the Development Project, as described in the Construction Schedule. There are three (3) Phases, referred to respectively as Phase 1, Phase 2, and Phase 3. Notwithstanding the designation of the Phases as Phase 1, Phase 2 and Phase 3, a Phase may be purchased and/or developed in any order that Buyer may determine.

“Plat” means a subdivision plat incorporating all of the land parcels in Phases 1 and 2, and if, and only if, the Seller timely receives Pond Approval, Phase 3, and which dedicates all public right of way areas adjacent thereto.

“Pond Approval” means a formal approval from the U.S. Army Corps of Engineers permitting the relocation of the Pond Property by the Seller, as provided under the Pond PSA. The phrase “Pond Approval is timely received by the Seller” or any language of similar form or intent in this Agreement means the Seller receives the Pond Approval by December 31, 2020. The Seller understands that without the Pond Property, the architectural concept of Phase 2 will be substantially impacted and agrees to work in good faith with Buyer to re-design an economically feasible Phase 2.

“Pond Property” means the portion of the Land identified in the attached **Exhibit** as “Phase 3” on which currently is located a wetlands pond. The Pond Property is also legally described in the attached **Exhibit A-1**.

“Property” means the Land, all improvements on the Land (if any, it being acknowledged that Seller is not aware of any improvements on the Land), and all appurtenances relating to the Land, including, but not necessarily limited to, any assignable licenses, permits, mineral rights, easements, rights-of-way or other items, to the extent such items relate to and benefit the Land.

“Property Files” means copies of various documents and files materially relating to the Property in the possession of Seller, provided that the Property Files will exclude the following to the extent the same are not so made available: (i) internal memoranda, correspondence or analyses prepared by or for Seller, its property managers and/or advisors and/or any Affiliate(s) of any thereof, (ii) communications between or among any of Seller, its property managers and/or advisors and/or any Affiliate(s) of any thereof and their attorneys, and (iii) appraisals, assessments or other valuations of the Property. The only Property Files of which the Seller has knowledge are: (a) ALTA survey dated 3/29/1997, (b) Memorandum from Tyler Shelley to Nick Duerksen, dated October 29, 2018, regarding new FEMA flood plain map/LOMR (letter of map revision); and (c) nothing else.

“Property Studies” means any reports, investigations, studies or other materials prepared by or for Buyer relating to the Property.

“PTR” means a preliminary title report for title insurance to be issued by the Title Company with respect to the Property, together with copies of all underlying title documents described in such preliminary title report.

“Purchase Price” means the estimate total amount of \$5,892,697 broken down as follows for each Phase:

Phase 1 Purchase Price: \$19.10/SF based on actual square footage of Phase 1 according to the survey/Plat (currently estimated to be \$1,556,020 based on currently estimated 81,467 SF)

Phase 2 Purchase Price: \$19.10/SF based on actual square footage of Phase 2 according to the survey/Plat (currently estimated to be \$3,495,548 based on currently estimated 183,013 SF)

Phase 3 Purchase Price: \$15.05/SF based on actual square footage of Phase 3 according to the survey/Plat (currently estimated to be \$841,129 based on currently estimated 55,889 SF)

“Released Parties” is defined in Section 27.

“Seller” is defined in the opening paragraph of this Agreement.

“Seller Delays” means delays caused by the Seller arising out of (a) the Seller’s breach of this Agreement, (b) the Seller’s failure to grant Land Use Approvals for fully-submitted, complete, and compliant applications from Buyer, which are necessary to construct the Development Project or any Phase, or (c) the Seller’s failure to issue building permits for fully-submitted, complete, and compliant applications from Buyer, for Phases that have Approved Plans within 90 days following Buyer’s submission for such building permits.

“Seller Encumbrances” is defined in Section 5.1.1.

“Soft Costs” means all reasonably incurred financing, architectural and legal fees, and other pre and post-construction expenses but excludes soils, environmental, geotechnical and engineering (which engineering costs will be limited to those related solely to public improvements or the land, but shall not include engineering costs for buildings) costs and expenses.

“Substantial Completion” means, with respect to each Phase, that Buyer has received a temporary certificate of occupancy for each occupiable portion of the Phase, and that each component of the Phase has been constructed substantially according to the Approved Plans.

“Substantial Completion Deadline” means, with respect to each Phase, the date that Substantial Completion of the Phase is required to occur pursuant to the Construction Schedule.

“Survey” means an ALTA/ACSM Land Title Survey of the Property.

“Title Company” means any title insurance underwriter selected by Buyer in Buyer’s sole discretion.

“Title Policy” means an ALTA Standard Coverage Owner’s Policy of Title Insurance written with liability in the amount of the Purchase Price.

2. Sale of Property; Purchase Price; Pond PSA.

2.1. Sale of Property. Subject to the terms, covenants and conditions of this Agreement, on or, if mutually agreeable to the parties, before the Closing Deadline, Seller shall sell to Buyer, and Buyer shall purchase from Seller, all of Seller's right, title and interest in and to the Property.

2.2. Purchase Price. The Buyer will pay the Purchase Price as follows:

2.2.1. Deposit. Buyer must deliver the Deposit to Escrow Holder within three (3) business days after the Effective Date. The Deposit (and any portion paid) will be fully earned by Seller, and will not be refunded to Buyer for any reason, after the expiration of the Inspection Period Deadline except as otherwise provided in this Section 2.2.1. If Buyer has not made the Deposit in the timeframe set forth above, Seller may provide written notice to Buyer and if Buyer fails to make such Deposit within three (3) business days of such notice, at Seller's option, at any time prior to the time Buyer delivers such Deposit, elect to terminate this Agreement, in which case the Deposit already made will be returned to Buyer and the parties will have no further obligations under this Agreement except for any obligations which expressly survive termination. The Deposit must be in the form of immediately available United States federal funds and will be deposited by Escrow Holder pursuant to terms of this Agreement. The Deposit must be distributed to Seller pursuant to Section 10.1 without any further instructions by the parties if this Agreement is terminated or if the Closing does not occur by the Closing Deadline for any reason other than (a) upon the failure of a condition contained in Section 4.3 (Buyer's Conditions to Closing) other than through the fault of Buyer, or (b) if this Agreement is terminated by Buyer in accordance with any of Sections 5.1, 7.1, 7.2, 10.2, or 11.2. Upon the occurrence of an event described in clauses (a) and (b), the Deposit, less Buyer's share of any escrow cancellation fees, must be refunded to Buyer.

2.2.2. Balance of Purchase Price. Buyer must deposit into Escrow the Cash Balance in the form of immediately available United States federal funds no later than the Closing Deadline or such earlier date as may be required by the Escrow Holder so that Escrow Holder will be in a position to disburse the cash proceeds to Seller on the Closing Deadline. The Deposit will be credited against the Purchase Price of the Property.

2.3. Interest. All funds received from or for the account of Buyer must be deposited by Escrow Holder into the Escrow Account. All interest accrued on the Deposit will be deemed part of the Deposit and must be delivered to the party to which the Deposit is released per the terms of this Agreement.

3. Buyer's Post-Closing Obligations; Development Requirements; Seller's Re-Purchase Option. The provisions of this Section 3 will survive each Closing perpetually.

3.1. Buyer acknowledges that the Property is of unique and particular importance to the Seller, given, among other things, its location within the Seller's "Cairns District" and its location within the Civic Center North Redevelopment Project Area. To that end, Buyer acknowledges that the Seller is, as material consideration to this Agreement, significantly

interested in the construction of the Development Project substantially according to the Concept Plan and the Approved Plans (as such plans may be subject to modification in the event the Pond Approval is not given). Any failure of Buyer to complete the construction of the Development Project according to the Approved Plans would be significantly detrimental to the Seller. Upon Substantial Completion of each Phase (as evidenced by Buyer's receipt of a temporary certificate of occupancy for each occupiable portion of the Phase), Buyer will not be required to obtain Seller's approval for any additional improvements, or the removal, construction or alteration of any improvements, relating to such Phase; provided, the foregoing does not modify the obligation of the Buyer to obtain all approvals by Seller as required by applicable law.

3.2. If the Buyer fails to commence construction of any Phase within 90 days of the deadline required by the Construction Schedule for that particular Phase, as each such deadline may be extended for Construction Delays, then the Buyer must pay to the Seller damages in the amount of \$200.00 per day for each day that Buyer is delayed beyond that deadline until such time as Buyer has commenced construction of that Phase. The Seller's right to receive these damages is, despite anything else in this Agreement to the contrary, in addition to any and all other rights and remedies the Seller has under this Agreement or at law or in equity. If the Seller causes any such delay, the deadline will be automatically extended by an equivalent number of days equal to the days of delay caused by the Seller. For purposes of this Section 3, the phrase "commence construction" means a building permit has been obtained for such Phase and Buyer has driven foundation piles for such building.

3.3. In addition to the rights granted the Seller under Section 3.2, the Seller also has the option, but not the obligation, to re-purchase any Phase, or Phases, of the Property for which Buyer fails to timely satisfy each of the Development Conditions for such Phase(s). To clarify, the Seller will have no right to re-purchase any particular Phase for any reason if Buyer timely satisfies each of the Development Conditions for such Phase.

3.4. To exercise its conditional option to purchase any portion of the Property back from Buyer, the Seller must provide written notice of such intent to Buyer, which written notice must indicate which of the Development Conditions the Seller believes Buyer has not satisfied (each a "**Breached Condition**"). Buyer will then have twelve (12) calendar months from the date of receipt of the Seller's notice in which to satisfy the Breached Condition(s). If Buyer does not satisfy the Breached Condition(s) within that twelve (12) month period, then the closing of the Seller's purchase of the Property must occur within 28 days after the expiration of that twelve (12) month period, at a title or escrow company of the Seller's choosing. At that closing, each party will bear its own expenses relating in any way to the transaction and closing. At that closing, Buyer must provide a special warranty deed to the Seller, conveying good, marketable and indefeasible fee simple title to the Property, free and clear of any and all liens, encumbrances, conditions, easements, assessments, reservations and restrictions, other than (i) any liens, encumbrances, conditions, easements, assessments, reservations and restrictions that existed and/or encumbered the Property at the time of Buyer's acquisition of the Property from the Seller, and (ii) any covenants, conditions, easements and restrictions reasonably imposed on the Property as part of Buyer's development process for the Development Project (collectively, the "**Permitted Recapture Encumbrances**").

3.5. The purchase price to be paid by the Seller pursuant to this Section 3 will be an amount equal to (a) the Purchase Price paid by Buyer for the Property (on a per square foot basis), *plus* (b) (i) if Buyer has not commenced construction, all Hard Costs reasonably incurred by Buyer in constructing the Phase(s) of the Development Project being purchased, or (ii) if Buyer has commenced construction, all Hard Costs and Soft Costs incurred by Buyer in constructing Phases of the Development Project being purchased, *plus* (c) one-half of the amount of any damages paid by Buyer and received by the Seller under Section 3.4 for the Phase(s) of the Development Project being purchased, *less* (d) a reduction in the amount of any costs reasonably incurred by the Seller in order to clear any clouds, liens or encumbrances on title other than the Permitted Recapture Encumbrances. In no event will the recapture purchase price include any interest charges. Buyer must execute all instruments as are reasonably and customarily needed and requested to effectuate the conveyance of the Property and issuance of an owner's policy of title insurance with only the Permitted Recapture Encumbrances listed as exceptions to coverage. Buyer agrees to reasonably cooperate with Seller in effecting any subdivision plats, boundary adjustments, or other matters of title reasonably necessary to carry out the repurchase of any Phase(s) in a legal manner.

3.6. The Seller may, in its discretion and at its sole expense, record with the Salt Lake County Recorder's Office a Notice of Conditional Purchase Option in substantially the form attached hereto as Exhibit "B". Upon satisfaction of each of the Development Conditions for a particular Phase, Buyer may deliver a written request to the Seller for the Seller to record, and the Seller will record, with the Salt Lake County Recorder's Office a Release of Notice of Conditional Purchase Option, in substantially the form attached hereto as Exhibit "C" for such Phase.

3.7. All rights of the Seller under this Section 3 are and at all times will be subject and subordinate to any bona fide deeds of trust, mortgages or other instruments of security that now or hereinafter may cover all or any part of the Property (each a "**Mortgage**"), and all advances under any Mortgage. This provision is self-operative and no further instruments are required to effect such subordination. Seller hereby subordinates all of its interests under this Agreement to the holder/beneficiary of any Mortgage. The Seller shall, however, upon demand at any time or times execute, acknowledge and deliver to the any lender under a Mortgage (each a "**Lender**") any and all instruments and certificates that in the judgment of the Lender may be necessary or proper to confirm or evidence such subordination.

3.8. The Seller is currently considering promoting and/or establishing a downtown association, the purview of which will likely include the Property. Buyer agrees to participate in the downtown association if and when it is promoted or created, upon request from the Seller, provided the terms of such participation do not materially increase Buyer's obligations or decrease Buyer's rights with respect to the Property or otherwise.

3.9. The rights and obligations of the Seller and Buyer under this Section 3 will survive the Closing, and are a burden upon and will run with the Property, and all successors and assigns of the Property, until the termination of the Seller's rights according to the express terms of this Section 3.

4. Escrow; Obligations During Inspection Period; Closing Conditions and Other Closing Matters.

4.1. Escrow. Upon the execution of this Agreement by Buyer and Seller, and the acceptance of this Agreement by Escrow Holder in writing, this Agreement shall constitute the joint escrow instructions of Buyer and Seller to Escrow Holder to open the Escrow. Upon Escrow Holder's receipt of the Deposit and written acceptance of this Agreement, Escrow Holder is instructed to act in accordance with the terms of this Agreement. In connection with Closing, Buyer and Seller shall promptly execute general escrow instructions based upon this Agreement at the request of Escrow Holder; provided, however, that if there is any conflict or inconsistency between such general escrow instructions and this Agreement, this Agreement shall control. Upon the occurrence of Closing, Escrow Holder shall pay any sum owed to Seller with immediately available United States federal funds.

4.2. Closing Deadline. There will be three "Closings" under this Agreement, one for each of the three Phases. The Closing for each Phase must occur on or before the applicable Closing Deadline, but only if all conditions to the Closing set forth in this Agreement have been satisfied or waived in writing by the party intended to be benefited.

4.3. Buyer's Conditions to Closing. Each Closing is subject to and contingent on the satisfaction of only the following conditions or the waiver of the same by Buyer in writing:

4.3.1. Accuracy of Seller's Representations and Warranties. All of the representations and warranties of Seller contained in this Agreement shall be true and correct in all material respects as of the date made and as of the Closing.

4.3.2. Seller's Performance. Seller shall have performed, satisfied and complied in all material respects with all material covenants, agreements and conditions required by this Agreement to be performed or complied with by Seller on or before Closing.

4.3.3. Title Policy. The Title Company is willing to issue the Title Policy complying with the requirements of Section 5.2 upon the payment of the premium therefor and the provision of any information or assurances from Seller required by the Title Company.

4.3.4. De-Watering. In connection with the construction of a building or parking garage on a Phase, Buyer may be required to install a de-watering system which pumps underground water away from such building or parking garage. In connection therewith, Seller will cooperate in encouraging the City and such other entities as may have approval rights of such water, to enter into such agreements with Buyer prior to the expiration of the Inspection Period as are necessary to allow Buyer to pump such water and use the pumped water as a water feature which serves the Development Project, including, pumping such water into dry creek so that such creek bed will contain water through the entire year. Alternatively, at Buyer's election, such agreement will permit Buyer may discharge such water into the City's storm drain system. If a new water right is created or results from any of the foregoing, the water right will be owned by the City.

4.3.5. Monroe Street Easement. On or prior to the expiration of the Inspection Period, Seller and Buyer shall agree to (a) a form of a perpetual easement agreement or other mutually agreed upon conveyance structure that will grant Buyer the right to perpetual and free use as an appurtenant right to the Property and that allows the owner of the Property to construct a building extension over Monroe street, including rights to build support columns within Monroe street to support the building extension (the "Monroe Sky Floor Rights") and (b) the rights of Buyer to have full (right and left turns in and out) ingress and egress access to Monroe Street as shown on the Concept Plan (the "Monroe Access Rights"). The Monroe Sky Floor Rights and Monroe Access Rights will be subject to approval by each party each in their sole discretion. Buyer's obligation to close is conditional on Seller executing the final Monroe Sky Floor Rights and Monroe Access Rights document in favor of Buyer. Seller agrees to reasonably cooperate with any proposed lender of Buyer, regarding the final structure and terms of the Monroe Sky Floor Rights (such reasonable cooperation will not require Seller to waive any of the requirements of this Agreement or obligations of Buyer under this Agreement). The parties acknowledge that alignment of Monroe Street may be altered with prior approval of Sandy City to facilitate the Monroe Sky Floor aligning properly with Phase 1 and Phase 2.

4.3.6. Government Approvals. Buyer has obtained all governmental approvals that Buyer, in its sole discretion, believes to be necessary for Buyer's intended development of the Property, including, without limitation, those mentioned in Section 26 below.

If any of these conditions contained in subsections 4.3.1 thru 4.3.6 are not satisfied, as determined by Buyer, or waived in writing by Buyer, by the Closing Deadline, Buyer may at any time thereafter and until such time as such conditions are satisfied, terminate this Agreement, in which event this Agreement shall terminate with respect to all parties, except those obligations which expressly survive the termination of this Agreement, and the Deposit, if applicable, shall be returned to Buyer.

4.4. Seller's Conditions to Closing. The obligations of Seller to consummate the transactions provided for herein are subject to and contingent upon the satisfaction only of the following conditions or the waiver of same by Seller in writing:

4.4.1. Accuracy of Buyer's Representations and Warranties. All of the representations and warranties of Buyer contained in this Agreement shall be true and correct in all material respects as of the date made and as of the Closing.

4.4.2. Buyer's Performance. Buyer shall have performed, satisfied and complied in all material respects with all material agreements, covenants and conditions required hereby to be performed or complied with by Buyer on or before the Closing, including without limitation, payment in full of the Purchase Price.

4.4.3. Permit Application. Solely with respect to the Phase 1 Closing, Buyer has submitted a fully completed application for a building permit for an office building containing at least 125,000 square feet. Solely with respect to the Phase 2 Closing, Buyer has submitted a fully completed application for a building permit for an office building containing at least 250,000 square feet (subject to modification in the event the Pond Approval is

not obtained). And solely with respect to the Phase 3 Closing (if applicable as provided in this Agreement), Buyer has submitted a fully completed application for a building permit for an apartment building containing at least 180 units.

If any of these conditions contained in Section 4.4.1 to 4.4.3 are not satisfied, as determined by Seller, or waived in writing by Seller, by the Closing Deadline, Seller may at any time thereafter and until such time as such conditions are satisfied, terminate this Agreement, in which event this Agreement shall terminate with respect to all parties, except those obligations which expressly survive the termination of this Agreement, and (a) in the event of a termination and provided the Inspection Period has expired, the Deposit shall be paid to Seller, and (b) if the Inspection Period has not expired, the Deposit shall be returned to Buyer.

4.5. Closing Costs and Charges.

4.5.1. Seller's Costs. At each Closing, Seller shall pay (a) one-half of Escrow Holder's fees in connection with the Escrow (including any cancellation fees), (b) all prepayment penalties and other amounts necessary to release all existing notes, liens and security interests against the Property, (c) all of Seller's attorney's fees and costs, (d) the cost of recording the Deed and Notice of Conditional Purchase Option, (e) that portion of the cost of the Title Policy payable by Seller hereunder pursuant to Section 5.2, and (f) such other incidental costs and fees customarily paid by sellers in land transactions of this nature in the county in which the Property is situated.

4.5.2. Buyer's Costs. At each Closing, Buyer shall pay (a) one-half of Escrow Holder's fees in connection with the Escrow (including any cancellation fees), (b) all of Buyer's attorney's fees and costs, (c) that portion of the cost of the Title Policy payable by Buyer hereunder pursuant to Section 5.2, (d) the cost of the Survey, and (e) such other incidental costs and fees customarily paid by buyers in land transactions of this nature in the county in which the Property is situated.

4.5.3. Taxes and Utilities. All ad valorem and excise taxes and utilities shall be prorated to each Closing. If the current year's taxes are not known as of the Closing, the proration shall be based upon the previous year's taxes with an adjustment made between Seller and Buyer when the current year's taxes are known. In the event any greenbelt or farmland assessment taxes are payable with respect to the Property, Seller shall pay for all such taxes at the Closing. Seller shall pay in full all special assessments or personal property taxes on the Property. Seller shall pay all transfer, deed or similar taxes payable with respect to the transfer of the Property to any governmental authority.

4.5.4. Corrections. If any errors or omissions are made regarding adjustments and prorations as set forth herein, the parties shall make the appropriate corrections promptly upon discovery thereof. If any estimates are made at any Closing regarding adjustments or prorations, the parties shall make the appropriate correction promptly when accurate information becomes available. Any corrected adjustment or proration shall be paid in cash to the party entitled thereto. The provisions of this Section 4.5.4 shall survive the each Closing for a period of one (1) year after that specific Closing.

4.6. Deposit of Documents by Seller. On or before each Closing, Seller must deposit, or cause to be deposited, the following items into Escrow, each of which must be duly executed and acknowledged by Seller where appropriate (notwithstanding anything to the contrary herein or elsewhere, if Buyer fails to timely deposit any documents or funds when required, then Seller may immediately (or later) withdraw its documents and funds from Escrow without further instructions, and despite any contrary instructions from Buyer, and Escrow Holder will comply with any request by Seller in this regard):

- (a) The Deed;
- (b) The Notice of Conditional Purchase Option;
- (c) The Certification;
- (d) Such title affidavits and indemnities required by the Title Company in order for the Title Company to issue the Title Policy; and
- (e) All other documents as may reasonably be required by Escrow Holder to close the Escrow in accordance with this Agreement.

4.7. Deposit of Documents and Funds by Buyer. On or before each Closing, Buyer must deposit the following items into Escrow, each of which must be duly executed and acknowledged by Buyer where appropriate (notwithstanding anything to the contrary herein or elsewhere, if Seller fails to timely deposit any documents or funds when required, then Buyer may immediately (or later) withdraw its documents and funds from Escrow without further instructions, and despite any contrary instructions from Seller, and Escrow Holder will comply with any request by Buyer in this regard):

- (a) The Cash Balance for the applicable Phase(s); and
- (b) All other funds and documents as may reasonably be required by Escrow Holder or Seller to close the Escrow in accordance with this Agreement.

4.8. Delivery of Documents and Funds at Closing. Provided that all conditions to the Closing set forth in this Agreement have been satisfied or, as to any condition not satisfied, waived by the party intended to be benefited thereby, on the date of each Closing, Escrow Holder shall conduct that Closing by recording and/or distributing the following documents and funds in the following manner:

4.8.1. Recorded Documents. Record the Deed and the Notice of Conditional Purchase Option in the Official Records of Salt Lake County, Utah.

4.8.2. Purchase Price. Deliver to Seller (a) amounts shown in the Settlement Statement, and (b) copies of all documents deposited with Escrow Agent pursuant to this Agreement.

4.8.3. Buyer's Documents. Deliver to Buyer: (a) the original Title Policy within 28 days after Closing; (b) the original Certification; and (c) copies of all other documents deposited with Escrow Agent pursuant to this Agreement.

5. Title Matters; Conveyance of the Property.

5.1. Preliminary Title Report.

5.1.1. By or before the date that is 21 days after the Effective Date, Seller shall cause to be provided to Buyer a PTR. Before the Closing of the first Phase, Buyer will, at its own cost and effort, obtain a Survey. On or before the date of expiration of the Inspection Period (as applicable, the "**Title and Survey Objection Period**"), Buyer may elect to deliver written notice to Seller (the "**Objection Notice**") of any objections to matters disclosed in the PTR and/or Survey (the "**Objections**") to which Buyer objects; provided, Seller shall be deemed to have received Buyer's objection to all Seller Encumbrances (defined below), regardless of whether or not Buyer actually notifies Seller of the same. If Buyer does not expressly object in writing to any exception or other matter in the PTR and the Survey before 5:00 p.m. (Mountain Time) on the last day of the Title and Survey Objection Period, then Buyer shall be deemed to have approved the matters set forth in the PTR and/or the Survey (other than Seller Encumbrances). If Buyer disapproves of any item in the PTR and/or the Survey, then Buyer shall deliver an Objection Notice before 5:00 p.m. (Mountain Time) on the last day of the Title and Survey Objection Period. Any matters set forth in the PTR or Survey which Buyer does not object (other than Seller Encumbrances) to prior to the expiration of the Title and Survey Objection Period shall be deemed "**Permitted Exceptions.**" Seller shall have the right, but not the obligation, to notify Buyer in writing within seven days after Seller's receipt of the Objection Notice (the "**Title Cure Period**") whether or not Seller will remove or cure such disapproved items, and/or to obtain a bond or title commitment (or endorsement, subject to Buyer's approval, which will not be unreasonably withheld or delayed, and shall be deemed given to the extent the endorsement is consistent with customary practice) curing such Objections prior to the Closing. Seller's failure to deliver such notice to Buyer with respect to any disapproved item shall be deemed to be an election by Seller not to so remove or to cure such item or obtain such a bond, title commitment or endorsement. Notwithstanding anything set forth herein to the contrary, any mortgages, deeds of trust, mechanic's liens or other encumbrances which can be removed by the payment of money (the "**Seller Encumbrances**") shall, without exception, be removed by Seller at or prior to the Closing. Except as contemplated by this Agreement, Seller shall not create new exceptions to title on the Property after the date of the PTR.

5.1.2. If Seller elects not to remove all or any of the Objections (other than Seller Encumbrances which Seller shall be obligated to removed) or fails to notify Buyer prior to the expiration of the Title Cure Period that Seller will remove or cure all such Objections or obtain a bond or title commitment or endorsement removing the effect of such items as exceptions to the Title Policy prior to the Closing, then Buyer shall have, as Buyer's sole and exclusive remedy, the right exercisable on or before the date which is 14 days after the expiration of the Title Cure Period to either (i) waive those Objections which Seller has not agreed to cure (in which event such Objections shall be Permitted Exceptions), or (ii) to terminate this Agreement and the Escrow by giving written notice of such termination to Seller and to Escrow Holder in which case the Deposit shall be returned to Buyer and all of the parties rights and obligations under

this Agreement shall terminate, except those surviving the termination of this Agreement. Buyer's failure to provide Seller or Escrow Holder with written notice of termination within said 14-day period shall be deemed to constitute an election by Buyer to terminate this Agreement under clause (ii) above. Additionally, after giving notice of Seller's election to remove or cure any Objections, in the event Seller is unable prior to the date of Closing to so remove or to cure any disapproved item or to obtain such a bond or a title commitment or endorsement prior to or at the Closing in accordance with Seller's notification, Seller shall so notify Buyer, and Buyer shall have the right, exercisable on or before fourteen (14) days after Seller's notice to exercise either of the options described in clause (i) or (ii) above; provided, in the event Buyer exercise the right to terminate this Agreement, Seller shall reimburse Buyer for Buyer's out-of-pocket costs and expenses incurred in connection with the transactions contemplated by this Agreement. Buyer's failure to provide Seller or Escrow Holder with written notice of termination within said 14-day day period shall constitute Buyer's election under clause (ii) above.

5.1.3. If exceptions to title are created after the date of the PTR (the "**New Title Exceptions**"), at Buyer's election, Seller shall remove such New Title Exceptions on or prior to the Closing. In the event Seller fails to remove the New Title Exceptions on or prior to the Closing, Buyer shall have the right to either (i) accept such New Title Exceptions and proceed to Closing, or (ii) terminate this Agreement. In the event Buyer terminates this Agreement as a result of New Title Exceptions, then in addition to the return of the Deposit to Buyer, Seller shall reimburse Buyer for Buyer's out-of-pocket costs and expenses incurred in connection with the transactions contemplated by this Agreement.

5.2. Buyer's Title Policy. At each Closing, Escrow Holder shall cause the Title Company, at Seller's cost, to issue to Buyer the Title Policy for each applicable Phase. If Buyer elects to obtain an ALTA Owner's Extended Coverage Policy of Title Insurance, Buyer shall pay any amount in excess of such cost of a Standard Owner's Policy and shall also be responsible for the cost of any endorsements not included in a Standard Owner's Policy, except for such endorsements as are required to cure any Objections which Seller has agreed to cure pursuant to Section 5.1 above, which endorsements shall be paid by Seller at the Closing. Seller shall provide such additional documents as reasonably required by Title Company in connection with such Extended Coverage Policy.

5.3. Deed. Seller shall convey title to the applicable Phase to Buyer by the Deed, subject only to the Permitted Exceptions.

5.4. Delivery of Possession. Seller shall deliver possession of the applicable Phase to Buyer at the Closing.

6. Commissions. Buyer and Seller each represent and warrant to the other that there are no commissions, finder's fees or brokerage fees arising out of the transactions contemplated by this Agreement as a result of Seller's or Buyer's actions. Seller shall indemnify and hold Buyer harmless from and against any and all liabilities, claims, demands, costs and expenses, including, without limitation, reasonable attorneys' fees and costs in connection with claims for any such commissions, finders' fees or brokerage fees arising out of Seller's actions. Buyer shall indemnify and hold Seller harmless from and against any and all liabilities, claims,

demands, damages, costs and expenses, including, without limitation, reasonable attorneys' fees and court costs, in connection with claims for any such commissions, finders' fees or brokerage fees arising out of Buyer's actions.

7. Damage or Destruction; Condemnation.

7.1. Casualty Damage. If any of the improvements on the Land are damaged by any casualty which constitutes a Major Casualty, Buyer shall have the right, by giving notice to Seller before the date of the applicable Closing, to terminate this Agreement with respect to any Phases which have not then been purchased. If the improvements or any of them are damaged by any casualty which does not constitute a Major Casualty or if Buyer has the right to terminate this Agreement pursuant to the preceding sentence but does not exercise such right, then this Agreement shall remain in full force and effect and, at the Closing, Buyer shall take title to the Property subject to such casualty without any reduction or offset to the Purchase Price, except that Seller shall assign and/or pay all proceeds of insurance payable as a result of such casualty to Buyer.

7.2. Eminent Domain. If, prior to the applicable Closing, written notice from a governmental entity is received by Seller evidencing notice of intent to exercise its power of eminent domain of all or any portion of the Property, or proceedings are commenced for the taking by exercise of the power of eminent domain of all or any portion of the Property with respect to any Phases which have not then been purchased, Buyer shall have the right, by giving notice to Seller to terminate this Agreement. If there is any right to terminate this Agreement pursuant to the preceding sentence but Buyer does not exercise such right, then this Agreement shall remain in full force and effect, and Buyer shall take title to the Property subject to such taking without any reduction or offset to the Purchase Price provided any condemnation proceeds shall be paid at Closing to Buyer (and/or assigned to Buyer at Closing if such condemnation proceeds have not been paid in full prior to the Closing).

7.3. Notice to Buyer. Seller shall give written notice to Buyer of the occurrence of any casualty or threat of condemnation within seven days of Seller obtaining knowledge of such casualty or condemnation. For purposes of this subsection, the knowledge of Seller shall be limited to the actual knowledge of the Seller's Redevelopment Director.

8. Seller's Representations and Warranties. Seller hereby represents and warrants to Buyer as of the Effective Date and as of date of each Closing, as follows:

8.1. This Agreement and all agreements required to be executed and delivered under this Agreement have been duly authorized by requisite action and is enforceable against Seller in accordance with its terms; neither the execution and delivery of this Agreement nor the consummation of the sale or transactions provided for herein will constitute a violation or breach by Seller of any provision of any agreement or other instrument to which Seller is a party or to which Seller may be subject although not a party, or will result in or constitute a violation or breach of any judgment, order, writ, junction or decree issued against or binding upon Seller or the Property;

8.2. There is no action, suit, proceeding or claim affecting the Property, or any portion thereof, nor affecting Seller and relating to the ownership, operation, use or occupancy of the Property, pending or being prosecuted in any court or by or before any federal, State, county or municipal department, commission, board, bureau or agency or other governmental entity, nor, to Seller's knowledge, is any such action, suit, proceeding or claim threatened or asserted;

8.3. Seller is not a foreign person or entity as defined in Section 1445 of the Internal Revenue Code of 1986, as amended, and Buyer is not obligated to withhold portions of the Purchase Price for the benefit of the Internal Revenue Service;

8.4. No attachment, execution, assignment for the benefit of creditors, receivership, conservatorship or voluntary or involuntary proceedings in bankruptcy or pursuant to any other debtor relief laws is contemplated or has been filed by or against Seller or the Property, nor is any such action pending by or against Seller or the Property;

8.5. No lease, contract, instrument or agreement which is not disclosed in the Property PTR exists relating to the Property or any portion thereof;

8.6. Seller has no knowledge of any person, firm or entity, other than Buyer, having any right to purchase, lease or otherwise acquire or possess the Property or any part thereof;

8.7. Seller has no knowledge that, and has not received any written or other notice that, the Property is in breach of any law, ordinance or regulation, or any order of any court, or any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality wherever located, including, without limitation, those relating to environmental matters and hazardous waste, and no claim, action, suit or proceeding is pending, or, to Seller's knowledge, threatened against or affecting Seller or the Property, at law or in equity, or before or by any federal, state, municipal or other governmental department, commission, board, bureau, agency or entity wherever located, with respect to the Property or Seller's use and operation of the Property; and

8.8. There is no pending or, to Seller's knowledge, threatened condemnation of any portion of the Property.

For purposes hereof, the knowledge of Seller shall mean the actual knowledge of the person serving as Seller's Economic Development Director, based on a reasonable review of Seller's files, but without any obligation for or assurance of additional investigation.

9. **Buyer's Representations and Warranties.** Buyer hereby represents and warrants to Seller, as of the Effective Date and as of the date of each Closing, that: this Agreement and all agreements required to be executed and delivered under this Agreement have been duly authorized by requisite action and is enforceable against Buyer in accordance with its terms; neither the execution and delivery of this Agreement nor the consummation of the sale provided for herein will constitute a violation or breach by Buyer of any provision of any agreement or other instrument to which Buyer is a party or to which Buyer may be subject although not a party, or

will result in or constitute a violation or breach of any judgment, order, writ, junction or decree issued against or binding upon Buyer; Buyer's offer and decision to purchase the Property is based upon its own independent evaluation of the Property and such materials as are deemed relevant by Buyer and its agents. Buyer further acknowledges that neither Seller nor any employee, agent, legal counsel or other representative of Seller have been authorized to make and Buyer has not relied upon, any statement or representation other than those specifically set forth in this Agreement.

10. Inspection and Review; Access to the Property; Notice of Defects.

10.1. Inspection. Promptly after the Effective Date, Seller will make available to Buyer (whether or not the same are actually reviewed by Buyer) the Property Files which shall continue to be maintained by Seller at a location to be specified to Buyer in writing, and to which Buyer shall have access as set forth below.

10.2. Right of Inspection. From and after the Effective Date and continuing until the termination of this Agreement, Buyer shall have the right to enter on and make physical inspections of the Property and to otherwise have its consultants, architects or engineers conduct such investigations or prepare such materials as deemed advisable by Buyer. If Buyer determines, for any reason, or for no reason, that Buyer does not desire to purchase the Property, Buyer may, subject to the terms of this Section 10.2, terminate this Agreement by delivering written notice of its intent to terminate this Agreement to Seller before the expiration of the Inspection Period, in which event the Escrow Holder shall promptly return the Deposit to Buyer without further instructions, and despite any contrary instructions from Seller. If Buyer elects to terminate this Agreement, Buyer must, upon written request by Seller, and provided Seller reimburses Buyer for the out of pocket costs of performing the Property Studies, cause the Property Studies to be furnished to Seller; provided Buyer shall not be deemed to have provided any representation or warranty as to the accuracy of any information contained in the Property Studies. Access to the Property shall be subject to the following additional limitations and conditions:

(a) All employees, agents, independent contractors and invitees conducting such inspections and examinations shall possess worker's compensation insurance to the extent required by local law, and proof thereof shall be promptly provided to Seller upon request prior to the commencement of any such activities.

(b) Buyer shall deliver to Seller a certificate of insurance naming Seller as an additional insured, evidencing public liability insurance issued by an insurance company having a rating of at least "A VIII" by A.M. Best Company, with limits of at least \$2,000,000 per occurrence for bodily or personal injury or death and \$1,000,000 per occurrence for property damage, provided that in lieu of such certificate, Buyer may instead retain engineers, inspectors and consultants that carry such insurance;

(c) All inspections shall be upon reasonable advance notice to Seller and a representative of Seller shall have the right to be present when Buyer or its representatives conducts its or their investigations of the Property;

(d) Neither Buyer nor its agents or representatives shall unreasonably interfere with the use, occupancy or enjoyment of the Property by Seller;

(e) Buyer must, at its own expense, promptly repair any damage caused by its investigation of the Property;

(f) Buyer must protect, indemnify, defend (with counsel approved by the Indemnified Party(ies), which approval shall not be unreasonably withheld, conditioned, or delayed) and hold the Seller and Seller's officers, directors, shareholders, participants, affiliates, employees, representatives, invitees, tenants, agents and contractors (the "**Indemnified Parties**") free and harmless from and against any and all claims, damages, liens, stop notices, liabilities, losses, costs and expenses, including attorneys' fees and court costs, to the extent resulting from, arising out of, or related to Buyer's inspection and testing of the Property, or other work done on the Property, including, without limitation, repairing any and all damages to any portion of the Property to the extent resulting out of Buyer's conducting such due diligence, inspections, surveys, tests, plans, drawings and studies. The indemnification set forth in this Section shall not apply to (i) Buyer's discovery of any pre-existing condition (including, without limitation, the existence of any hazardous or toxic substances in, on, under or about the Property or any adjoining property seller's adjoining property), (ii) any exacerbation of a pre-existing condition in, on, under or about the Property, except to the extent, if any, said pre-existing condition was disclosed by Seller in writing to Buyer and such exacerbation results from the willful or negligent act or omission of Buyer, its agents, contractors or employees, or (iii) any acts or omissions of an Indemnified Party. Buyer shall keep the Property free and clear of any mechanics' liens or materialmen's liens related to Buyers' right of inspection and the activities contemplated by Section 10.2 of this Agreement. Buyer's indemnification obligations set forth herein shall survive the Closing, shall not be merged with the Deed, and shall survive any termination of this Agreement and/or the Escrow prior to the Closing;

(g) Buyer may not drill test wells or engage in any other invasive testing or sampling of the Property without Seller's advance written consent (which may be evidenced by email from the Seller's Redevelopment Director);

(h) No amounts expended by Buyer for or in connection with its inspections and/or due diligence or otherwise in connection with the acquisition of the Property herein shall, except as otherwise expressly provided herein to the contrary, be reimbursed to Buyer or credited to or against the Purchase Price; and

(i) Buyer acknowledges that prior to the Closing: (i) Buyer has or will have conducted such surveys and inspections, and made such tests and other studies of the Property to the extent Buyer deems necessary or advisable, and (ii) Seller has or will have provided Buyer with adequate opportunity to make such inspections and investigations concerning the Property, to the extent Buyer has, in Buyer's discretion, deemed necessary or advisable as a condition precedent to Buyer's purchase of the Property and to determine the physical, environmental, land use and other characteristics of the Property (including, without limitation, its subsurface) and its suitability for Buyer's intended use.

11. Default.

11.1. Seller's Remedies. LIQUIDATED DAMAGES - DEPOSIT.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, IF BUYER HAS NOT TERMINATED THIS AGREEMENT IN WRITING PRIOR TO THE EXPIRATION OF THE INSPECTION PERIOD AND BUYER MATERIALLY BREACHES OR FAILS TO COMPLY WITH ANY COVENANT OR OBLIGATION HEREUNDER, INCLUDING, WITHOUT LIMITATION, IF THE SALE OF THE PROPERTY TO BUYER IS NOT CONSUMMATED AS AND WHEN CONTEMPLATED HEREIN AND SUCH DEFAULT CONTINUES FOR A PERIOD OF TEN DAYS AFTER NOTICE FROM SELLER, FOR ANY REASON OTHER THAN (A) SELLER'S MATERIAL DEFAULT UNDER THIS AGREEMENT WHICH IS NOT PROMPTLY CURED AS PROVIDED IN SECTION 11.2 BELOW, OR (B) A TERMINATION PURSUANT TO AND IN ACCORDANCE WITH ANY OF SECTIONS 4.3, 5.1, 7.1, 7.2, 10 OR 11.2 (IN WHICH EVENT THE DEPOSIT SHALL BE APPLIED IN ACCORDANCE WITH SUCH SECTIONS), THEN SELLER SHALL HAVE THE RIGHT TO TERMINATE THIS AGREEMENT BY DELIVERING WRITTEN NOTICE TO BUYER AND THEREAFTER SELLER SHALL HAVE NO FURTHER OBLIGATIONS OR LIABILITIES TO BUYER UNDER THIS AGREEMENT AND AS SELLER'S SOLE AND EXCLUSIVE REMEDY SELLER SHALL BE ENTITLED TO RETAIN THE DEPOSIT (INCLUDING ANY INTEREST THEREON) AS SELLER'S LIQUIDATED DAMAGES AND ESCROW HOLDER SHALL IMMEDIATELY PAY THE DEPOSIT TO SELLER WITHOUT THE NEED FOR ANY FURTHER INSTRUCTIONS OR DEMANDS BY SELLER OR BUYER (AND NOTWITHSTANDING ANY INSTRUCTIONS OR DEMANDS BY BUYER TO THE CONTRARY). THE PARTIES AGREE THAT IT WOULD BE IMPRACTICABLE AND EXTREMELY DIFFICULT TO ASCERTAIN THE ACTUAL DAMAGES SUFFERED BY SELLER AS A RESULT OF BUYER'S FAILURE TO COMPLETE THE PURCHASE OF THE PROPERTY PURSUANT TO THIS AGREEMENT, AND THAT UNDER THE CIRCUMSTANCES EXISTING AS OF THE DATE OF THIS AGREEMENT, THE LIQUIDATED DAMAGES PROVIDED FOR IN THIS SECTION REPRESENTS A REASONABLE ESTIMATE OF THE DAMAGES WHICH SELLER WILL INCUR AS A RESULT OF SUCH FAILURE; PROVIDED, HOWEVER, THAT THIS PROVISION SHALL NOT LIMIT SELLER'S RIGHTS TO RECEIVE REIMBURSEMENT FOR ATTORNEYS' FEES, NOR WAIVE OR AFFECT SELLER'S RIGHTS WITH RESPECT TO BUYER'S INDEMNITY OBLIGATIONS UNDER OTHER SECTIONS OF THIS AGREEMENT. THE PARTIES ACKNOWLEDGE THAT THE PAYMENT OF SUCH LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO SELLER.

11.2. Buyer's Remedies. In the event Seller breaches or defaults with respect to any provision of this Agreement (for the purposes of this Section 11.2, collectively, a "breach"), then Buyer shall be entitled to deliver to Seller written notice of such breach, which notice shall set forth complete information about the nature of the breach. Seller shall have a period of twenty-eight (28) days to cure such breach. If such breach remains uncured beyond the twenty-eight (28) day period described above, then Buyer may elect to pursue any remedies available at law or in equity, including commencing an action for specific performance, provided Buyer shall not be entitled to any damages whatsoever in connection with such action for specific

performance, except for the reimbursement of attorneys' fees as provided below and payment of indemnification obligations as expressly provided herein.

12. Certain Occurrences May Affect the Condition of the Property. Buyer represents and warrants that Buyer has, or shall have as of the expiration of the Inspection Period, inspected and conducted tests and studies of the Property to the satisfaction of Buyer and that Buyer is familiar with the general condition of the Property. Buyer understands and acknowledges that the Property may be subject to earthquake, fire, floods, erosion, high water table, dangerous underground soil conditions, hazardous substances and similar occurrences that may alter its condition or affect its suitability for any proposed use. Seller shall have no responsibility or liability with respect to any such occurrence and such occurrences shall not affect Buyer's obligations hereunder except as set forth in Sections 7 and 14.

13. Property "AS IS"

13.1. No Side Agreements or Representations. No person acting on behalf of Seller or Buyer is authorized to make any representation, warranty, agreement, statement, guarantee or promise regarding the Property or the transaction contemplated herein or the zoning, construction, physical condition or other status of the Property except as may be expressly set forth in this Agreement or another agreement executed by Seller or Buyer and delivered to the other party and, by executing this Agreement, each of Buyer and Seller acknowledges that no person has made any such statement, agreement warranty, guarantee or promise. No representation, warranty, agreement, statement, guarantee or promise, if any made by any person acting on behalf of Seller or Buyer which is not specifically contained in this Agreement will be valid or binding on Seller or Buyer, as applicable.

13.2. AS-IS CONDITION. BUYER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS SPECIFICALLY PROVIDED HEREIN OR ANY OTHER DOCUMENTS EXECUTED OR REQUIRED TO BE EXECUTED PURSUANT TO THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THE DEED, SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO ANY MATTER, INCLUDING WITHOUT LIMITATION WITH RESPECT TO THE (I) VALUE OF THE PROPERTY; (II) INCOME TO BE DERIVED FROM THE PROPERTY; (III) SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH BUYER MAY CONDUCT THEREON, INCLUDING THE POSSIBILITIES FOR FUTURE DEVELOPMENT OF THE PROPERTY; (IV) HABITABILITY, MERCHANTABILITY, MARKETABILITY, TITLE, OWNERSHIP, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY; (V) NATURE, QUALITY OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL AND GEOLOGY OF THE PROPERTY; (VI) COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY; (VII) MANNER OR QUALITY OF THE CONSTRUCTION OR

MATERIALS, IF ANY, INCORPORATED INTO THE PROPERTY; (VIII) COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION OR LAND USE LAWS, RULES, REGULATION, ORDERS OR REQUIREMENTS, INCLUDING BUT NOT LIMITED TO, TITLE III OF THE AMERICANS WITH DISABILITIES ACT OF 1990, THE FEDERAL WATER POLLUTION CONTROL ACT, THE FEDERAL RESOURCE CONSERVATION AND RECOVERY ACT, THE U.S. ENVIRONMENTAL PROTECTION AGENCY REGULATIONS AT 40 C.F.R., PART 261, THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT OF 1980, AS AMENDED, THE RESOURCE CONSERVATION AND RECOVERY ACT OF 1976, THE CLEAN WATER ACT, THE SAFE DRINKING WATER ACT, THE HAZARDOUS MATERIALS TRANSPORTATION ACT, THE TOXIC SUBSTANCE CONTROL ACT, AND REGULATIONS PROMULGATED UNDER ANY OF THE FOREGOING; (IX) PRESENCE OR ABSENCE OF HAZARDOUS MATERIALS AT, ON, UNDER, OR ADJACENT TO THE PROPERTY; (X) CONTENT, COMPLETENESS OR ACCURACY OF ANY INFORMATION OR DOCUMENTS RELATING TO THE PROPERTY OR TITLE REPORT OR SURVEY; (XI) CONFORMITY OF THE IMPROVEMENTS TO ANY PLANS OR SPECIFICATIONS THAT MAY HAVE BEEN OR MAY BE PROVIDED TO BUYER; (XII) CONFORMITY OF THE PROPERTY TO PAST, CURRENT OR FUTURE APPLICABLE ZONING OR BUILDING REQUIREMENTS; (XIII) DEFICIENCY OF ANY UNDERSHORING; (XIV) DEFICIENCY OF ANY DRAINAGE; (XV) FACT THAT ALL OR A PORTION OF THE PROPERTY MAY BE LOCATED ON OR NEAR AN EARTHQUAKE FAULT LINE; OR (XVI) EXISTENCE OF VESTED LAND USE, ZONING OR BUILDING ENTITLEMENTS AFFECTING THE PROPERTY.

BUYER FURTHER ACKNOWLEDGES AND AGREES THAT HAVING BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PROPERTY AND REVIEW INFORMATION AND DOCUMENTATION AFFECTING OR RELATING TO THE PROPERTY, AND EXCEPT WITH RESPECT TO THE REPRESENTATION, WARRANTIES, AGREEMENTS AND COVENANTS OF SELLER EXPRESSLY SET FORTH HEREIN OR IN ANY OTHER DOCUMENTS REQUIRED TO BE DELIVERED HEREUNDER, BUYER IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND REVIEW OF SUCH INFORMATION AND DOCUMENTATION. BUYER FURTHER ACKNOWLEDGES AND AGREES THAT ANY INFORMATION MADE AVAILABLE TO BUYER OR PROVIDED OR TO BE PROVIDED BY OR ON BEHALF OF SELLER WITH RESPECT TO THE PROPERTY WAS OBTAINED FROM A VARIETY OF SOURCES AND PROVIDERS AND THAT SELLER, HAVING RECENTLY ACQUIRED THE PROPERTY AS SUCCESSOR TO A FORECLOSING BANK, HAS NOT MADE ANY INDEPENDENT INVESTIGATION OR VERIFICATION OF SUCH INFORMATION AND MAKES NO REPRESENTATIONS AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION, EXCEPT THAT SELLER DOES REPRESENT AND WARRANT THAT SELLER HAS PROVIDED TRUE, CORRECT AND COMPLETE COPIES OF ALL SUCH INFORMATION IN SELLER'S POSSESSION OR CONTROL. BUYER AGREES TO FULLY AND IRREVOCABLY RELEASE ALL SUCH SOURCES AND PROVIDERS OF INFORMATION AND PREPARERS OF INFORMATION AND DOCUMENTATION AFFECTING THE PROPERTY RETAINED OR PROVIDED BY SELLER FROM ANY AND ALL CLAIMS THAT THEY MAY NOW HAVE OR HEREAFTER ACQUIRE AGAINST SUCH SOURCES AND PROVIDERS AND PREPARERS OF INFORMATION FOR ANY COSTS, LOSS, LIABILITY, DAMAGE,

EXPENSE, DEMAND, ACTION OR CAUSE OF ACTION ARISING FROM SUCH INFORMATION OR DOCUMENTATION EXCEPT, WITH RESPECT TO SELLER, AS A RESULT OF SELLER FAILING TO DELIVER TRUE, CORRECT AND COMPLETE COPIES OF SUCH DOCUMENTS WHICH ARE IN SELLER'S POSSESSION OR CONTROL. SELLER IS NOT LIABLE OR BOUND IN ANY MANNER BY ANY ORAL OR WRITTEN STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY, OR THE OPERATION THEREOF, FURNISHED BY ANY REAL ESTATE BROKER, AGENT, SERVANT OR OTHER PERSON OR ENTITY (OTHER THAN WRITTEN STATEMENTS PROVIDED BY SELLER'S EMPLOYEES AND OFFICERS). BUYER FURTHER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE SALE OF THE PROPERTY AS PROVIDED FOR HEREIN IS MADE ON AN "AS IS" CONDITION AND BASIS WITH ALL FAULTS, AND THAT SELLER NOR HAS NO OBLIGATIONS TO MAKE REPAIRS, REPLACEMENTS OR IMPROVEMENTS EXCEPT AS MAY OTHERWISE BE EXPRESSLY STATED HEREIN.

14. Additional Covenants and Agreements.

14.1. Operating Covenants. From the Effective Date through the date of Closing, Seller shall cause the Property to be operated and maintained in a manner consistent with Seller's current practice.

14.2. Termination of Insurance. The policies of insurance currently in effect with respect to the Property (with such modifications as Seller deems appropriate) shall be terminated at or after the Closing, at Seller's option in its sole and absolute discretion.

14.3. Additional Agreements. During the term of this Agreement, Seller shall not, without the prior written consent of Buyer, which consent Buyer shall have no obligation to grant and which consent, if granted, may be conditioned in such manner as Buyer shall deem to be appropriate in the sole discretion of Buyer: (i) grant any licenses, easements or other uses affecting any portion of Property; (ii) permit any work to be done on, or any mechanic's or materialman's lien to attach to, any portion of the Property; (iii) place or permit to be placed on, or remove or permit to be removed from the Property, any buildings, structures or other improvements of any kind; (iv) place or permit to be placed on the Property any trash, refuse or fill materials of any kind; or (v) excavate or permit the excavation of the Property or any portion thereof.

15. Attorney's Fees. If any action or proceeding is commenced by either party to enforce their rights under this Agreement (in accordance with its terms) or to collect damages as a result of the breach of any of the provisions of this Agreement, the prevailing party in such action or proceeding, including any bankruptcy, insolvency or appellate proceedings, shall be entitled to recover all reasonable out of pocket costs and expenses, including, without limitation, reasonable attorneys' fees and court costs, in addition to any other relief awarded by the court.

16. Notices. Any notice or designation to be given hereunder shall be given (a) by personal delivery, (b) by placing the notice or designation in the United States mail, certified

or registered, properly stamped, or (c) via overnight delivery by a nationally recognized courier service, and addressed to the address shown below or such other address as the respective party may direct in writing to the other, or by personal delivery to such address by a party, or by a delivery service which documents delivery, and such notice or designation shall be deemed to be received (i) if by personal delivery, on the date actually delivery, (ii) if by delivery in the United States Mail, three (3) business days after deposit with the United States Mail, and (iii) one (1) business day after such notice was delivered to a national courier service. The following addresses may be changed by written notice given in accordance with this Section:

If to Seller: Redevelopment Agency of Sandy City
 10000 Centennial Parkway
 Sandy, UT 84070
 Attn: Redevelopment Director

With a copy to:

Sandy City Attorney's Office
10000 Centennial Parkway
Sandy, UT 84070

And with a copy to:

McDonald Fielding, PLLC
Attn: Kyle Fielding
175 W Canyon Crest Road, Suite 204
Alpine UT 84004

If to Buyer: Raddon Summit, LLC
 1111 South Draper Parkway
 Suite 101
 Draper, Utah 84020
 Attention: Ron Raddon

With a copy to:

Parr Brown Gee & Loveless
101 South 200 East, Suite 700
Salt Lake City, Utah 84111
Attention: Lamont Richardson

17. Amendment; Complete Agreement. All amendments and supplements to this Agreement must be in writing and executed by Buyer and Seller. This Agreement, including the exhibits, attachments, documents and agreements to be delivered pursuant hereto, contains the entire agreement and understanding between Buyer and Seller concerning the subject matter of this Agreement and supersedes all prior agreements, terms, understandings, conditions, representations and warranties, whether written or oral, made by Buyer or Seller concerning the

Property or the other matters which are the subject of this Agreement, including, without limitation, matters contained in any offering circular or marketing materials relating to the Property.

18. **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the internal laws of the Utah without regard to rules concerning conflicts of law.

19. **Severability.** If any provision of this Agreement or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement (including the application of such provision to persons or circumstances other than those with respect to which it is held invalid or unenforceable) shall not be affected thereby, and each provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

20. **Counterparts, Headings and Defined Terms.** This Agreement may be executed in counterparts, each of which shall be an original, but all of which together shall constitute one agreement. The headings to sections of this Agreement are for convenient reference only and shall not be used in interpreting this Agreement. Execution may be made electronically.

21. **Time of Essence.** Time is of the essence of this Agreement.

22. **Waiver.** Except as expressly stated that a failure to act shall constitute to a waiver, no waiver by Buyer or Seller of any of the terms or conditions of this Agreement or any of their respective rights under this Agreement shall be effective unless such waiver is in writing and signed by the party charged with the waiver.

23. **Third Parties.** This Agreement is entered into for the sole benefit of Buyer and Seller and their respective permitted successors and assigns. No party other than Buyer and Seller and such permitted successors and assigns shall have any right of action under or rights or remedies by reason of this Agreement.

24. **Additional Documents.** Each party agrees to perform any further acts and to execute and deliver such further documents which may be reasonably necessary to carry out the terms of this Agreement.

25. **Independent Counsel.** Buyer and Seller each acknowledge that: (i) they have been represented by independent counsel in connection with this Agreement; (ii) they have executed this Agreement with the advice of such counsel; and (iii) this Agreement is the result of negotiations between the parties hereto and the advice and assistance of their respective counsel. The fact that this Agreement may have been prepared by Seller's counsel or Buyer's counsel as a matter of convenience shall have no import or significance. Any uncertainty or ambiguity in this Agreement shall not be construed against Seller because Seller's counsel prepared this Agreement or Buyer because Buyer's counsel prepared this Agreement.

26. **Land Use Approvals.** At any time during the term of this Agreement, Buyer may seek the rezoning and/or subdivision of the Property, including any and all permits, licenses and other land use approvals (both preliminary and final) required for the development of the Project (collectively, the "**Land Use Approvals**"). However, Buyer cannot obtain such Land

Use Approvals which are effective prior to date of Closing or which will be binding on Seller if this Agreement is terminated prior to the date of Closing. Seller shall reasonably cooperate with Buyer in obtaining the Land Use Approvals, which cooperation may include, but not be limited to, joining in applications, providing information, data, and other reports in Seller's possession and control, attending and testifying in favor of (or if permitted by the local authority, indicating by written correspondence that Seller has no objection to) such Land Use Approvals at meetings and hearings, and providing such other assistance as Buyer may reasonably request from time to time. Nothing in this Agreement creates or implies any Land Use Approvals.

27. **Condominium.** Seller acknowledges that it is the Buyer's intent to construct the Development Project as a Condominium, with each Phase being a separate Condominium unit, with the Phase 2 Office and Hotel being a separate Condominium unit within the same building.

28. **Release.** Except for Seller's express representations, warranties and covenants contained herein, Buyer shall rely solely upon Buyer's own knowledge of the Property based on its investigation of the Property and its own inspection of the Property in determining the Property's physical condition. Buyer and anyone claiming by, through or under Buyer hereby waives its right to recover from and fully and irrevocably releases Seller, and Seller's direct and indirect owners, employees, officers, directors, representatives, agents, servants, lenders, attorneys, affiliates, parent, subsidiaries, successors and assigns, and all persons, firms, corporations and organizations acting on its behalf (the "**Released Parties**") from any and all claims that it may now have or hereafter acquires against any of the Released Parties for any costs, loss, liability, damage, expenses, demand, action or cause of action and attorneys' fees and costs and claims therefor, whether direct or indirect, known or unknown, or foreseen or unforeseen (collectively, "**Claims**") arising from or related to any construction defects, structural defects, errors, omissions or other conditions, latent or otherwise, including environmental matters, affecting the Property, or any portion thereof. This release includes claims of which Buyer is presently unaware or which Buyer does not presently suspect to exist which, if known by Buyer, would materially affect Buyer's release hereunder, but does not constitute a release of Seller's obligations to comply with and perform under the express terms of this Agreement.

29. **Hazardous Substances.** If Buyer discovers any Hazardous Substances or other environmental condition subject to legal requirements for corrective action or affecting the Property, Buyer shall immediately notify Seller.

30. **Indemnification.**

30.1. Buyer shall indemnify, defend, protect and hold harmless the Released Parties from and against any and all Claims which may arise from or be related to (a) subject to the provisions of Section 38 hereof, any inaccuracy in any representation or warranty made by Buyer in this Agreement, and (b) Buyer's breach of any covenant or agreement contained in this Agreement (provided any such indemnification under this subsection (b) shall be limited to recovery of the Deposit, unless such termination occurs prior to the expiration of the Inspection Period in which event Seller's remedy shall be limited solely to the termination of this Agreement).

Buyer's indemnification obligations hereunder shall survive the Closing and shall survive any termination of this Agreement and/or the Escrow prior to the Closing.

30.2. Seller shall indemnify, defend, protect and hold harmless Buyer and Buyer's direct and indirect owners, employees, officers, directors, representatives, agents, servants, lenders, attorneys, affiliates, parent, subsidiaries, successors and assigns, and all persons, firms, corporations and organizations acting on its behalf from and against any and all Claims which may arise from or be related to (a) subject to the provisions of Section 38 hereof, any inaccuracy in any representation or warranty made by Seller in this Agreement, and (b) Seller's breach of any covenant or agreement contained in this Agreement.

31. Assignment. Buyer shall neither assign its rights nor delegate its obligations hereunder without obtaining Seller's prior written consent, which may be withheld in Seller's sole and absolute discretion. For purposes of this Section 31, "Seller's prior written consent" shall mean a writing executed by the Seller's Mayor, in the Mayor's sole discretion. Any purported or attempted assignment or delegation in without obtaining Seller's prior written consent shall be void and of no effect. Notwithstanding the foregoing, however, Buyer shall have the right to assign its rights and obligations under this Agreement, by giving prior written notice to Seller prior to the date of Closing and further provided that such assignee assume the obligations of Buyer hereunder from and after the date of such assignment, to any affiliate entity that controls Buyer or that is controlled by Buyer or under common control with Buyer. For the purposes of this Section 31, "control" shall mean any person or entity with (i) ownership, directly or indirectly, of at least fifty-one percent (51%) of the voting securities of, or the possession of the right to vote in the ordinary direction of its affairs at least fifty-one percent (51%) of the voting interest in Buyer, or (ii) the power to direct or cause the direction of the management and policies of Buyer, whether through the ownership of voting shares, by contract or otherwise. Seller shall neither assign its rights nor delegate its obligations hereunder without obtaining Buyer's prior written consent, which may be withheld in Buyer's sole and absolute discretion. Any purported or attempted assignment or delegation in without obtaining Buyer's prior written consent shall be void and of no effect. Notwithstanding the foregoing to the contrary, if Buyer is in default under this Agreement beyond all applicable notice and cure periods, Seller may, at Seller's election, assign its rights to purchase a Phase as permitted under Section 3.4 without Buyer's consent.

32. Successors and Assigns. Subject to the restrictions on transfer set forth in Section 31, this Agreement shall be binding upon and inure to the benefits of the heirs, successors and assigns of the parties hereto. In no event shall Buyer have any right to delay or postpone the Closing to create a partnership, corporation or other form of business association or to obtain financing to acquire title to the Property or to coordinate with any other sale, transfer, exchange or conveyance.

33. Exhibits. Each reference to a Section, Exhibit or Schedule in this Agreement shall mean the sections of this Agreement and the exhibits and schedules attached to this Agreement, unless the context requires otherwise. Each such exhibit and schedule is incorporated herein by this reference.

34. **Business Days.** If the date on which any act or event hereunder is to occur falls on a Saturday, Sunday or legal holiday, then such date shall automatically be extended to the next business day immediately following such Saturday, Sunday or legal holiday.

35. **Consents and Approvals.** Whenever the consent or approval of Seller or Buyer is required under the terms of or in connection with the transaction contemplated under this Agreement, such consent or approval shall not be unreasonably withheld, conditioned or delayed, unless expressly provided in this Agreement to the contrary.

36. **No Reservation of Property.** The preparation and/or delivery of unsigned drafts of this Agreement shall not create any legally binding rights in the Property and/or obligations of the parties, and Buyer and Seller acknowledge that this Agreement shall be of no effect until it is duly executed by both Buyer and Seller. Upon the full execution of this Agreement by both Buyer and Seller, Seller shall not market the Property and/or to negotiate with other potential purchasers of the Property.

37. **Duty of Confidentiality.** Buyer and Seller each represents and warrants to that other party that it shall keep confidential this Agreement and all information and/or reports obtained from Seller, Buyer or any other source, related to or connected with the Property, the other party's identity and identifying characteristics of Seller, Buyer or their respective Affiliates, or this transaction, and will not disclose any such information to any person or entity without obtaining the prior written consent of the other party; provided, no such consent shall be required in connection with disclosure (a) to Buyer's or Seller's accountants, attorneys, employees, agents or lenders, (b) to potential purchasers or users of the Property, or (c) as may otherwise be particularly required by applicable law.

38. **Survival of Certain Provisions.** The representations and warranties made herein shall survive each respective Closing and shall not merge into the respective Deed and the recordation thereof in the official records of Salt Lake County; provided, that a party asserting a breach must give the other party written notice of any claim it may have against the such other party for a breach by the respective representation or warranty within one (1) year after the respective Closing. Any claim which the asserting party may have at any time, whether known or unknown, which is not asserted within such one-year period shall not be valid or effective, and such other party shall have no liability with respect thereto. The provisions of this Section shall survive each respective Closing.

39. **1031 Exchange.** If Buyer desires to structure an exchange under Section 1031 of the Internal Revenue Code of 1986, as amended, in connection with this transaction, then Seller agrees to cooperate in completing such exchange, subject to the following terms and conditions:

39.1. Seller shall not be obligated to delay the Closing;

39.2. Any additional out of pocket cost in connection with the exchange shall be borne by Buyer;

39.3. Seller shall not be obligated to take title to any property in connection with any such exchange or to execute any note, contract, or other document providing for any personal liability whatsoever;

39.4. Buyer shall defend (with counsel reasonably acceptable to the other), indemnify, and hold the other party harmless from and against any and all claims, demands, liabilities, costs, expenses, damages, and losses (including, without limitation, attorney fees, and costs) in any way arising out of or in connection with or resulting from the indemnified party's participation in any such exchange;

39.5. The conveyance of the Property to Buyer and the Closing shall not be conditioned upon either party's ability to effectuate an exchange; and

39.6. Buyer's rights and obligations under this Agreement may be assigned to an intermediary of said party's choice for the sole purpose of completing such an exchange. The other party agrees to reasonably cooperate with the party initiating the exchange and any such intermediary in a manner reasonably necessary to complete the exchange.

[End of Agreement – Signature page to follow]

IN WITNESS WHEREOF, the parties hereto have executed this Purchase and Sale Agreement and Escrow Instructions as of the date first above written.

SELLER:

REDEVELOPMENT AGENCY OF SANDY CITY,
A Utah political subdivision

ATTEST:

Kurt Bradburn, Executive Director

Secretary

BUYER:

RADDON SUMMIT, LLC, a Utah limited liability
company

By: _____
Name: _____
Its: _____

ACCEPTANCE BY ESCROW HOLDER:

Dated: _____, 2019.

METRO NATIONAL TITLE

By: _____
Name: _____
Title _____

EXHIBIT "A"

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

[_____]

Escrow No.

Tax Parcel No.

SPECIAL WARRANTY DEED

FOR VALUE RECEIVED, the receipt and sufficiency of which are hereby acknowledged, the Redevelopment Agency of Sandy City, a Utah political subdivision (the "Grantor"), hereby conveys and warrants against all who claim by, through, or under the Grantor and no one else, to [BUYER, a _____] (the "Grantee"), whose address is _____, that certain parcel of real property in the County of Salt Lake, State of Utah, more particularly described as follows:

See **Exhibit A-1** attached hereto and incorporated herein.

SUBJECT TO: those certain Permitted Encumbrances described in "Exhibit 1" hereto and incorporated herein by reference.

Grantor has executed this Deed on this ____ day of _____, 201__.

REDEVELOPMENT AGENCY OF SANDY CITY,
A Utah political subdivision

ATTEST:

Executive Director

Secretary

In the County of _____, State of _____, the foregoing instrument was acknowledged before me, a Notary Public, this ____ day of _____, 201__, by _____, Executive Director of the Grantor.

Notary Public

Exhibit A-1 to Special Warranty Deed

Proposed Lot 1, Cairns South Subdivision (i.e, Phase 1)

A parcel of land located in the Northeast Quarter of Section 13, Township 3 South, Range 1 West, Salt Lake Base and Meridian, Salt Lake County, Utah, being Lot 1 of the proposed Cairns South Subdivision, described by metes and bounds as follows:

Beginning at a point which lies South $0^{\circ}01'50''$ East 27.90 feet along the monument line in State Street and West 1973.864 feet from a Salt Lake County monument on the centerline of State Street at 10200 South, which is located North $89^{\circ}53'20''$ East 92.33 feet from the Northeast Corner of Section 13, Township 3 South, Range 1 West, Salt Lake Base and Meridian (Basis of bearing being South $0^{\circ}01'50''$ East 2599.11 feet along the monument line in State Street between the monuments found marking the intersections of 10200 South and 10600 South Streets),

thence along the westerly right-of-way line of Monroe Street the following four (4) courses: (1) South $0^{\circ}09'41''$ West 54.42 feet to a point of curvature;

(2) Southeasterly 153.96 feet along the arc of a tangent curve to the left having a radius of 559.50 feet, a central angle of $15^{\circ}45'58''$ and a chord bearing and length of South $7^{\circ}43'18''$ East 153.47 feet to a point of tangency;

(3) South $15^{\circ}36'17''$ East 166.77 feet to a point of curvature;

(4) Southeasterly 5.126 feet along the arc of a tangent curve to the right having a radius of 460.50 feet, a central angle of $0^{\circ}38'16''$ and a chord bearing and length of South $15^{\circ}17'09''$ East 5.126;

thence along the northerly and easterly edge of an existing concrete sidewalk the following twenty (20) courses:

(1) Northwesterly 25.339 feet along the arc of a non-tangent curve to the right whose center bears North $1^{\circ}48'02''$ West 51.00 feet, has a central angle of $28^{\circ}28'02''$ and a chord bearing and length of North $77^{\circ}34'01''$ West 25.079 feet to a point of reverse curvature;

(2) Northwesterly 66.516 feet along the arc of a reverse curve to the left whose center bears South $26^{\circ}40'00''$ West 101.00 feet, has a central angle of $37^{\circ}44'00''$ and a chord bearing and length of North $82^{\circ}12'00''$ West 65.320 feet to a point of reverse curvature;

(3) Northwesterly 25.662 feet along the arc of reverse curve to the right whose center bears North $11^{\circ}04'00''$ West 47.00 feet, has a central angle of $31^{\circ}17'00''$ and a chord bearing and length of North $85^{\circ}25'30''$ West 25.344 feet to a point of reverse curvature;

- (4) Northwesterly 9.032 feet along the arc of a reverse curve to the left whose center bears South $20^{\circ}13'00''$ West 150.00 feet, has a central angle of $3^{\circ}27'00''$ and a chord bearing and length of North $71^{\circ}30'30''$ West 9.031 feet to a point of tangency;
- (5) North $73^{\circ}14'00''$ West 10.50 feet to a point of curvature;
- (6) Northwesterly 66.157 feet along the arc of a tangent curve to the left whose center bears South $16^{\circ}46'00''$ West 180.00 feet, has a central angle of $21^{\circ}03'30''$ and a chord bearing and length of North $83^{\circ}45'45''$ West 65.785 feet to a point of compound curvature;
- (7) Southwesterly 40.841 feet along the arc of a compound curve to the left whose center bears South $4^{\circ}17'30''$ East 120.00 feet, has a central angle of $19^{\circ}30'00''$ and a chord bearing and length of South $75^{\circ}57'30''$ West 40.644 feet to a point of reverse curvature;
- (8) Northwesterly 14.148 feet along the arc of a reverse curve to the right whose center bears North $23^{\circ}47'30''$ West 8.00 feet, has a central angle of $101^{\circ}19'30''$ and a chord bearing and length of North $63^{\circ}07'45''$ West 12.375 feet to a point of compound curvature;
- (9) Northwesterly 27.860 feet along the arc of a compound curve to the right whose center bears North $77^{\circ}32'00''$ East 75.00 feet, has a central angle of $21^{\circ}17'00''$ and a chord bearing and length of North $1^{\circ}49'30''$ West 27.700 feet to a point of reverse curvature;
- (10) Northwesterly 39.567 feet along the arc of a reverse curve to the left whose center bears North $81^{\circ}11'00''$ West 60.00 feet, has a central angle of $37^{\circ}47'00''$ and a chord bearing and length of North $10^{\circ}04'30''$ West 38.854 feet to a point of tangency;
- (11) North $28^{\circ}58'00''$ West 11.87 feet to a point of curvature;
- (12) Northwesterly 13.398 feet along the arc of a tangent curve to the right whose center bears North $61^{\circ}02'00''$ East 70.00 feet, has a central angle of $10^{\circ}58'00''$ and a chord bearing and length of North $23^{\circ}29'00''$ West 13.378 feet to a point of compound curvature;
- (13) Northwesterly 15.197 feet along the arc of a compound curve to the right whose center bears North $72^{\circ}00'00''$ East 27.00 feet, has a central angle of $32^{\circ}15'00''$ and a chord bearing and length of North $1^{\circ}52'30''$ West 14.998 feet to a point of tangency;
- (14) North $14^{\circ}15'00''$ East 11.87 feet to a point of curvature;
- (15) Northwesterly 48.846 feet along the arc of a tangent curve to the left whose center bears North $75^{\circ}45'00''$ West 80.00 feet, has a central angle of $34^{\circ}59'00''$ and a chord bearing and length of North $3^{\circ}14'30''$ West 48.091 feet to a point of compound curvature;

(16) Northwesterly 17.125 feet along the arc of a compound curve to the left whose center bears South 69°16'00" West 290.00 feet, has a central angle of 3°23'00" and a chord bearing and length of North 22°25'30" West 17.122 feet to a point of tangency;

(17) North 24°07'00" West 10.00 feet to a point of curvature;

(18) Northwesterly 33.190 feet along the arc of a tangent curve to the right whose center bears North 65°53'00" East 100.00 feet, has a central angle of 19°01'00" and a chord bearing and length of North 14°36'30" West 33.038 feet to a point of tangency;

(19) North 5°06'00" West 26.50 feet to a point of curvature;

(20) Northwesterly 66.004 feet along the arc of a tangent curve to the left whose center bears South 84°54'00" West 115.00 feet, has a central angle of 32°53'06" and a chord bearing and length of North 21°32'33" West 65.102 feet;

thence Northwesterly 40.947 feet along the arc of a non-tangent curve to the right whose center bears North 84°07'06.1" East 34,179.50 feet, has a central angle of 0°04'07.11" and a chord bearing and length of North 5°50'50" West 40.947 feet;

thence South 89°50'19" East 250.70 feet to the Point of Beginning.

The above-described parcel of land contains approximately 81,467 square feet in area or 1.870 acres.

Proposed Lot 2, Cairns South Subdivision (i.e., Phase 2)

A parcel of land located in the Northeast Quarter of Section 13, Township 3 South, Range 1 West, Salt Lake Base and Meridian, Salt Lake County, Utah being Lot 2 of the proposed Cairns South Subdivision, described by metes and bounds as follows:

Beginning at a point which lies South 0°01'50" East 60.137 feet along the monument line in State Street and West 1402.775 feet from a Salt Lake County monument on the centerline of State Street at 10200 South, which is located North 89°53'20" East 92.33 feet from the Northeast Corner of Section 13, Township 3 South, Range 1 West, Salt Lake Base and Meridian (Basis of bearing being South 0°01'50" East 2599.11 feet along the monument line in State Street between the monuments found marking the intersections of 10200 South and 10600 South Streets),

thence along the westerly right-of-way line of Centennial Parkway, South 0°01'34" West 391.13 feet;

thence North 89°49'53" West 9.693 feet, more or less, to a northeasterly corner of AMENDED LOT 1 SOUTHTOWNE CENTER MALL SUBDIVISION, recorded August 15, 2005 as Entry No. 9461246 in Book 2005P of plats at Page 250 in the office of the Salt Lake County Recorder;

thence along the northerly boundary of said subdivision and beyond, North 89°49'53" West 384.179 feet to intersect the easterly right-of-way line of Monroe Street;

thence along said easterly right-of-way line the following five (5) courses:

(1) Northwesterly 83.43 feet along the arc of a non-tangent curve to the left whose center bears South 82°56'19" West 559.50 feet, has a central angle of 8°32'36" and a chord bearing and length of North 11°19'59" West 83.35 feet to a point of tangency;

(2) North 15°36'17" West 166.77 feet to a point of curvature;

(3) Northwesterly 126.72 feet along the arc of a tangent curve to the right whose center bears North 74°23'43" East 460.50 feet, a central angle of 15°45'58" and a chord bearing and length of North 7°43'18" West 126.32 feet to a point of tangency;

(4) North 0°09'41" East 22.29 feet to a point of curvature;

(5) Northeasterly 39.185 feet along the arc of a tangent curve to the right whose center bears South 89°50'19" East 25.00 feet, has a central angle of 89°48'19" and a chord bearing and length of North 45°03'50" East 35.295 feet to a point of tangency with the southerly right-of-way line of 10200 South Street;

thence along said southerly-right-of-way line, North 89°58'00" East 422.20 feet to a point of curvature;

thence Southeasterly 39.296 feet along the arc of a tangent curve to the right whose center bears South 0°02'00" East 25.00 feet, has a central angle of 90°03'34" and a chord bearing and length of South 45°00'13" East 35.374 feet to the Point of Beginning.

The above-described parcel of land contains approximately 183,013 square feet in area or 4.201 acres.

Proposed Wetlands Area Description (i.e., Phase 3)

A parcel of land located in the Northeast Quarter of Section 13, Township 3 South, Range 1 West, Salt Lake Base and Meridian, Salt Lake County, Utah being more particularly described as follows:

Beginning at a point which lies North $89^{\circ}49'53''$ West 1027.21 feet, South $0^{\circ}00'36''$ West 62.87 feet and North $89^{\circ}59'24''$ West 71.44 feet from the Northeast Corner of Section 13, Township 3 South, Range 1 West, Salt Lake Base and Meridian (Basis of bearing being South $0^{\circ}01'50''$ East 2599.11 feet along the monument line in State Street between the monuments found marking the intersections of 10600 South and 10200 South Streets), said Northeast Corner of Section 13 being South $89^{\circ}53'20''$ West 92.33 feet from the monument at the intersection of 10200 South and State Streets;

thence South $0^{\circ}01'34''$ West 347.76 feet;

thence South $88^{\circ}45'00''$ West 150.04 feet;

thence North $0^{\circ}01'34''$ East 351.00 feet to a point of curvature;

thence Northeasterly 39.24 feet along the arc of a tangent curve to the right having a radius of 25.00 feet, a central angle of $89^{\circ}56'25''$ and a chord bearing and length of North $44^{\circ}59'47''$ East 35.34 feet to a point of tangency;

thence North $89^{\circ}58'00''$ East 100.00 feet to a point of curvature;

thence Southeasterly 39.30 feet along the arc of a tangent curve to the right having a radius of 25.00 feet, a central angle of $90^{\circ}03'35''$ and a chord bearing and length of South $45^{\circ}00'13''$ East 35.37 feet to the Point of Beginning.

The above-described parcel of land contains approximately 55,889 square feet in area or 1.283 acres.

PERMITTED ENCUMBRANCES:

[to be inserted]

Exhibit “B”

[Form of] Notice of Conditional Purchase Option

[attached]

Recording requested by:
Sandy City
10000 Centennial Parkway
Sandy, UT 84070

Tax ID No(s).

NOTICE OF CONDITIONAL PURCHASE OPTION

Notice is hereby given to all persons of the rights of Redevelopment Agency of Sandy City, a Utah political subdivision (the “**Agency**”), relating to the property described in **Exhibit B-1** attached hereto and incorporated by this reference (the “**Property**”), under a certain Purchase and Sale Agreement and Escrow Instructions dated as of _____, 2019 (the “**Agreement**”), between the Agency and [Buyer, a _____] (the “**Property Owner**”), as such Agreement may be amended or assigned. Under the Agreement, the Property Owner has agreed to develop and construct certain building and parking improvements upon the Property, and the Agency has a conditional option to recapture/purchase the Property if there is a failure of the Property Owner to timely do so. The Agreement further provides that the obligations concerning the development and improvement of the Property touch and concern, and are a burden upon and will run with, the Property, and all successors and assigns of the Property, until the termination of the Agreement according to the terms of the Agreement. Nothing in this document modifies or amends the Agreement and if there is a conflict in terms between this document and the Agreement, the terms of the Agreement shall prevail. As provided in Section 3 of the Agreement, the option of the Agency, and all rights of the Agency under the Agreement, are hereby made subject and subordinate to the rights of any bona fide third party mortgagee, lender, trustee, and/or beneficiary of the Property.

Executed this ____ day of _____, 201____, by:

REDEVELOPMENT AGENCY OF SANDY CITY

[FORM ONLY – DO NOT SIGN]

Executive Director

Attest:

[FORM ONLY – DO NOT SIGN]

Secretary

In the State of Utah, County of _____, the foregoing instrument was acknowledged before me this ____ day of _____, 201____, by _____, Executive Director.

[FORM ONLY – DO NOT SIGN]

Notary Public

Exhibit B-1
Legal Description of the Property

Proposed Lot 1, Cairns South Subdivision (i.e, Phase 1)

A parcel of land located in the Northeast Quarter of Section 13, Township 3 South, Range 1 West, Salt Lake Base and Meridian, Salt Lake County, Utah, being Lot 1 of the proposed Cairns South Subdivision, described by metes and bounds as follows:

Beginning at a point which lies South 0°01'50" East 27.90 feet along the monument line in State Street and West 1973.864 feet from a Salt Lake County monument on the centerline of State Street at 10200 South, which is located North 89°53'20" East 92.33 feet from the Northeast Corner of Section 13, Township 3 South, Range 1 West, Salt Lake Base and Meridian (Basis of bearing being South 0°01'50" East 2599.11 feet along the monument line in State Street between the monuments found marking the intersections of 10200 South and 10600 South Streets),

thence along the westerly right-of-way line of Monroe Street the following four (4) courses: (1) South 0°09'41" West 54.42 feet to a point of curvature;

(2) Southeasterly 153.96 feet along the arc of a tangent curve to the left having a radius of 559.50 feet, a central angle of 15°45'58" and a chord bearing and length of South 7°43'18" East 153.47 feet to a point of tangency;

(3) South 15°36'17" East 166.77 feet to a point of curvature;

(4) Southeasterly 5.126 feet along the arc of a tangent curve to the right having a radius of 460.50 feet, a central angle of 0°38'16" and a chord bearing and length of South 15°17'09" East 5.126;

thence along the northerly and easterly edge of an existing concrete sidewalk the following twenty (20) courses:

(1) Northwesterly 25.339 feet along the arc of a non-tangent curve to the right whose center bears North 1°48'02" West 51.00 feet, has a central angle of 28°28'02" and a chord bearing and length of North 77°34'01" West 25.079 feet to a point of reverse curvature;

(2) Northwesterly 66.516 feet along the arc of a reverse curve to the left whose center bears South 26°40'00" West 101.00 feet, has a central angle of 37°44'00" and a chord bearing and length of North 82°12'00" West 65.320 feet to a point of reverse curvature;

- (3) Northwesterly 25.662 feet along the arc of reverse curve to the right whose center bears North $11^{\circ}04'00''$ West 47.00 feet, has a central angle of $31^{\circ}17'00''$ and a chord bearing and length of North $85^{\circ}25'30''$ West 25.344 feet to a point of reverse curvature;
- (4) Northwesterly 9.032 feet along the arc of a reverse curve to the left whose center bears South $20^{\circ}13'00''$ West 150.00 feet, has a central angle of $3^{\circ}27'00''$ and a chord bearing and length of North $71^{\circ}30'30''$ West 9.031 feet to a point of tangency;
- (5) North $73^{\circ}14'00''$ West 10.50 feet to a point of curvature;
- (6) Northwesterly 66.157 feet along the arc of a tangent curve to the left whose center bears South $16^{\circ}46'00''$ West 180.00 feet, has a central angle of $21^{\circ}03'30''$ and a chord bearing and length of North $83^{\circ}45'45''$ West 65.785 feet to a point of compound curvature;
- (7) Southwesterly 40.841 feet along the arc of a compound curve to the left whose center bears South $4^{\circ}17'30''$ East 120.00 feet, has a central angle of $19^{\circ}30'00''$ and a chord bearing and length of South $75^{\circ}57'30''$ West 40.644 feet to a point of reverse curvature;
- (8) Northwesterly 14.148 feet along the arc of a reverse curve to the right whose center bears North $23^{\circ}47'30''$ West 8.00 feet, has a central angle of $101^{\circ}19'30''$ and a chord bearing and length of North $63^{\circ}07'45''$ West 12.375 feet to a point of compound curvature;
- (9) Northwesterly 27.860 feet along the arc of a compound curve to the right whose center bears North $77^{\circ}32'00''$ East 75.00 feet, has a central angle of $21^{\circ}17'00''$ and a chord bearing and length of North $1^{\circ}49'30''$ West 27.700 feet to a point of reverse curvature;
- (10) Northwesterly 39.567 feet along the arc of a reverse curve to the left whose center bears North $81^{\circ}11'00''$ West 60.00 feet, has a central angle of $37^{\circ}47'00''$ and a chord bearing and length of North $10^{\circ}04'30''$ West 38.854 feet to a point of tangency;
- (11) North $28^{\circ}58'00''$ West 11.87 feet to a point of curvature;
- (12) Northwesterly 13.398 feet along the arc of a tangent curve to the right whose center bears North $61^{\circ}02'00''$ East 70.00 feet, has a central angle of $10^{\circ}58'00''$ and a chord bearing and length of North $23^{\circ}29'00''$ West 13.378 feet to a point of compound curvature;
- (13) Northwesterly 15.197 feet along the arc of a compound curve to the right whose center bears North $72^{\circ}00'00''$ East 27.00 feet, has a central angle of $32^{\circ}15'00''$ and a chord bearing and length of North $1^{\circ}52'30''$ West 14.998 feet to a point of tangency;
- (14) North $14^{\circ}15'00''$ East 11.87 feet to a point of curvature;

(15) Northwesterly 48.846 feet along the arc of a tangent curve to the left whose center bears North 75°45'00" West 80.00 feet, has a central angle of 34°59'00" and a chord bearing and length of North 3°14'30" West 48.091 feet to a point of compound curvature;

(16) Northwesterly 17.125 feet along the arc of a compound curve to the left whose center bears South 69°16'00" West 290.00 feet, has a central angle of 3°23'00" and a chord bearing and length of North 22°25'30" West 17.122 feet to a point of tangency;

(17) North 24°07'00" West 10.00 feet to a point of curvature;

(18) Northwesterly 33.190 feet along the arc of a tangent curve to the right whose center bears North 65°53'00" East 100.00 feet, has a central angle of 19°01'00" and a chord bearing and length of North 14°36'30" West 33.038 feet to a point of tangency;

(19) North 5°06'00" West 26.50 feet to a point of curvature;

(20) Northwesterly 66.004 feet along the arc of a tangent curve to the left whose center bears South 84°54'00" West 115.00 feet, has a central angle of 32°53'06" and a chord bearing and length of North 21°32'33" West 65.102 feet;

thence Northwesterly 40.947 feet along the arc of a non-tangent curve to the right whose center bears North 84°07'06.1" East 34,179.50 feet, has a central angle of 0°04'07.11" and a chord bearing and length of North 5°50'50" West 40.947 feet;

thence South 89°50'19" East 250.70 feet to the Point of Beginning.

The above-described parcel of land contains approximately 81,467 square feet in area or 1.870 acres.

Proposed Lot 2, Cairns South Subdivision (i.e., Phase 2)

A parcel of land located in the Northeast Quarter of Section 13, Township 3 South, Range 1 West, Salt Lake Base and Meridian, Salt Lake County, Utah being Lot 2 of the proposed Cairns South Subdivision, described by metes and bounds as follows:

Beginning at a point which lies South 0°01'50" East 60.137 feet along the monument line in State Street and West 1402.775 feet from a Salt Lake County monument on the centerline of State Street at 10200 South, which is located North 89°53'20" East 92.33 feet from the Northeast Corner of Section 13, Township 3 South, Range 1 West, Salt Lake Base and Meridian (Basis of bearing being South 0°01'50" East 2599.11 feet along the monument line in State Street between the monuments found marking the intersections of 10200 South and 10600 South Streets),

thence along the westerly right-of-way line of Centennial Parkway, South 0°01'34" West 391.13 feet;

thence North 89°49'53" West 9.693 feet, more or less, to a northeasterly corner of AMENDED LOT 1 SOUTHTOWNE CENTER MALL SUBDIVISION, recorded August 15, 2005 as Entry No. 9461246 in Book 2005P of plats at Page 250 in the office of the Salt Lake County Recorder;

thence along the northerly boundary of said subdivision and beyond, North 89°49'53" West 384.179 feet to intersect the easterly right-of-way line of Monroe Street;

thence along said easterly right-of-way line the following five (5) courses:

(1) Northwesterly 83.43 feet along the arc of a non-tangent curve to the left whose center bears South 82°56'19" West 559.50 feet, has a central angle of 8°32'36" and a chord bearing and length of North 11°19'59" West 83.35 feet to a point of tangency;

(2) North 15°36'17" West 166.77 feet to a point of curvature;

(3) Northwesterly 126.72 feet along the arc of a tangent curve to the right whose center bears North 74°23'43" East 460.50 feet, a central angle of 15°45'58" and a chord bearing and length of North 7°43'18" West 126.32 feet to a point of tangency;

(4) North 0°09'41" East 22.29 feet to a point of curvature;

(5) Northeasterly 39.185 feet along the arc of a tangent curve to the right whose center bears South 89°50'19" East 25.00 feet, has a central angle of 89°48'19" and a chord bearing and length of North 45°03'50" East 35.295 feet to a point of tangency with the southerly right-of-way line of 10200 South Street;

thence along said southerly-right-of-way line, North 89°58'00" East 422.20 feet to a point of curvature;

thence Southeasterly 39.296 feet along the arc of a tangent curve to the right whose center bears South 0°02'00" East 25.00 feet, has a central angle of 90°03'34" and a chord bearing and length of South 45°00'13" East 35.374 feet to the Point of Beginning.

The above-described parcel of land contains approximately 183,013 square feet in area or 4.201 acres.

Proposed Wetlands Area Description (i.e., Phase 3)

A parcel of land located in the Northeast Quarter of Section 13, Township 3 South, Range 1 West, Salt Lake Base and Meridian, Salt Lake County, Utah being more particularly described as follows:

Beginning at a point which lies North $89^{\circ}49'53''$ West 1027.21 feet, South $0^{\circ}00'36''$ West 62.87 feet and North $89^{\circ}59'24''$ West 71.44 feet from the Northeast Corner of Section 13, Township 3 South, Range 1 West, Salt Lake Base and Meridian (Basis of bearing being South $0^{\circ}01'50''$ East 2599.11 feet along the monument line in State Street between the monuments found marking the intersections of 10600 South and 10200 South Streets), said Northeast Corner of Section 13 being South $89^{\circ}53'20''$ West 92.33 feet from the monument at the intersection of 10200 South and State Streets;

thence South $0^{\circ}01'34''$ West 347.76 feet;

thence South $88^{\circ}45'00''$ West 150.04 feet;

thence North $0^{\circ}01'34''$ East 351.00 feet to a point of curvature;

thence Northeasterly 39.24 feet along the arc of a tangent curve to the right having a radius of 25.00 feet, a central angle of $89^{\circ}56'25''$ and a chord bearing and length of North $44^{\circ}59'47''$ East 35.34 feet to a point of tangency;

thence North $89^{\circ}58'00''$ East 100.00 feet to a point of curvature;

thence Southeasterly 39.30 feet along the arc of a tangent curve to the right having a radius of 25.00 feet, a central angle of $90^{\circ}03'35''$ and a chord bearing and length of South $45^{\circ}00'13''$ East 35.37 feet to the Point of Beginning.

The above-described parcel of land contains approximately 55,889 square feet in area or 1.283 acres.

Exhibit “C”

[Form of] Release of Notice of Conditional Purchase Option

[attached]

Recording requested by:

Tax ID No(s).

**RELEASE OF NOTICE OF CONDITIONAL
PURCHASE OPTION**

THIS RELEASE OF NOTICE OF CONDITIONAL PURCHASE OPTION gives notice of the termination and release of a Notice of Conditional Purchase Option (the “**Notice**”), which Notice was filed for record as Entry No. _____ in Book ____ at page __ in the Office of the Salt Lake County Recorder. The Notice provided notice of a certain conditional purchase option under Section 3 of the Purchase and Sale Agreement and Joint Escrow Instructions dated as of _____, 2019, between the Redevelopment Agency of Sandy City and [Buyer, a _____] (as amended or assigned, the “**Agreement**”), which Agreement is described in the Notice and relates to the property described in **Exhibit C-1** attached hereto and incorporated by this reference (the “**Released Property**”). The Agreement has terminated with respect to the Released Property, and the Redevelopment Agency of Sandy City no longer has a right to purchase the Released Property. Accordingly, the Notice is terminated, and the burdens and obligations of the Agreement and the Notice are hereby and forever released and discharged from the Released Property, and are of no further force or effect with respect to the Released Property.

IN WITNESS WHEREOF, the undersigned has executed this Release of Notice of Conditional Purchase Option.

[FORM ONLY – DO NOT SIGN]

Name:

Title:

In the State of Utah, County of _____, the foregoing instrument was acknowledged before me this ____ day of _____, 20__, by who acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) on behalf of _____.

[FORM ONLY – DO NOT SIGN]

Notary Public

Exhibit C-1
Legal Description of the Released Property

Proposed Lot 1, Cairns South Subdivision (i.e, Phase 1)

A parcel of land located in the Northeast Quarter of Section 13, Township 3 South, Range 1 West, Salt Lake Base and Meridian, Salt Lake County, Utah, being Lot 1 of the proposed Cairns South Subdivision, described by metes and bounds as follows:

Beginning at a point which lies South $0^{\circ}01'50''$ East 27.90 feet along the monument line in State Street and West 1973.864 feet from a Salt Lake County monument on the centerline of State Street at 10200 South, which is located North $89^{\circ}53'20''$ East 92.33 feet from the Northeast Corner of Section 13, Township 3 South, Range 1 West, Salt Lake Base and Meridian (Basis of bearing being South $0^{\circ}01'50''$ East 2599.11 feet along the monument line in State Street between the monuments found marking the intersections of 10200 South and 10600 South Streets),

thence along the westerly right-of-way line of Monroe Street the following four (4) courses: (1) South $0^{\circ}09'41''$ West 54.42 feet to a point of curvature;

(2) Southeasterly 153.96 feet along the arc of a tangent curve to the left having a radius of 559.50 feet, a central angle of $15^{\circ}45'58''$ and a chord bearing and length of South $7^{\circ}43'18''$ East 153.47 feet to a point of tangency;

(3) South $15^{\circ}36'17''$ East 166.77 feet to a point of curvature;

(4) Southeasterly 5.126 feet along the arc of a tangent curve to the right having a radius of 460.50 feet, a central angle of $0^{\circ}38'16''$ and a chord bearing and length of South $15^{\circ}17'09''$ East 5.126;

thence along the northerly and easterly edge of an existing concrete sidewalk the following twenty (20) courses:

(1) Northwesterly 25.339 feet along the arc of a non-tangent curve to the right whose center bears North $1^{\circ}48'02''$ West 51.00 feet, has a central angle of $28^{\circ}28'02''$ and a chord bearing and length of North $77^{\circ}34'01''$ West 25.079 feet to a point of reverse curvature;

(2) Northwesterly 66.516 feet along the arc of a reverse curve to the left whose center bears South $26^{\circ}40'00''$ West 101.00 feet, has a central angle of $37^{\circ}44'00''$ and a chord bearing and length of North $82^{\circ}12'00''$ West 65.320 feet to a point of reverse curvature;

(3) Northwesterly 25.662 feet along the arc of reverse curve to the right whose center bears North $11^{\circ}04'00''$ West 47.00 feet, has a central angle of $31^{\circ}17'00''$ and a chord bearing and length of North $85^{\circ}25'30''$ West 25.344 feet to a point of reverse curvature;

(4) Northwesterly 9.032 feet along the arc of a reverse curve to the left whose center bears South $20^{\circ}13'00''$ West 150.00 feet, has a central angle of $3^{\circ}27'00''$ and a chord bearing and length of North $71^{\circ}30'30''$ West 9.031 feet to a point of tangency;

(5) North $73^{\circ}14'00''$ West 10.50 feet to a point of curvature;

(6) Northwesterly 66.157 feet along the arc of a tangent curve to the left whose center bears South $16^{\circ}46'00''$ West 180.00 feet, has a central angle of $21^{\circ}03'30''$ and a chord bearing and length of North $83^{\circ}45'45''$ West 65.785 feet to a point of compound curvature;

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(14) North $14^{\circ}15'00''$ East 11.87 feet to a point of curvature;

(15) Northwesterly 48.846 feet along the arc of a tangent curve to the left whose center bears North 75°45'00" West 80.00 feet, has a central angle of 34°59'00" and a chord bearing and length of North 3°14'30" West 48.091 feet to a point of compound curvature;

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(17) North 24°07'00" West 10.00 feet to a point of curvature;

(18) Northwesterly 33.190 feet along the arc of a tangent curve to the right whose center bears North 65°53'00" East 100.00 feet, has a central angle of 19°01'00" and a chord bearing and length of North 14°36'30" West 33.038 feet to a point of tangency;

(19) North 5°06'00" West 26.50 feet to a point of curvature;

(20) Northwesterly 66.004 feet along the arc of a tangent curve to the left whose center bears South 84°54'00" West 115.00 feet, has a central angle of 32°53'06" and a chord bearing and length of North 21°32'33" West 65.102 feet;

thence Northwesterly 40.947 feet along the arc of a non-tangent curve to the right whose center bears North 84°07'06.1" East 34,179.50 feet, has a central angle of 0°04'07.11" and a chord bearing and length of North 5°50'50" West 40.947 feet;

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A parcel of land located in the Northeast Quarter of Section 13, Township 3 South, Range 1 West, Salt Lake Base and Meridian, Salt Lake County, Utah being Lot 2 of the proposed Cairns South Subdivision, described by metes and bounds as follows:

Beginning at a point which lies South 0°01'50" East 60.137 feet along the monument line in State Street and West 1402.775 feet from a Salt Lake County monument on the centerline of State Street at 10200 South, which is located North 89°53'20" East 92.33 feet from the Northeast Corner of Section 13, Township 3 South, Range 1 West, Salt Lake Base and Meridian (Basis of bearing being South 0°01'50" East 2599.11 feet along the monument line in State Street between the monuments found marking the intersections of 10200 South and 10600 South Streets),

thence along the westerly right-of-way line of Centennial Parkway, South 0°01'34" West 391.13 feet;

thence North 89°49'53" West 9.693 feet, more or less, to a northeasterly corner of AMENDED LOT 1 SOUTHTOWNE CENTER MALL SUBDIVISION, recorded August 15, 2005 as Entry No. 9461246 in Book 2005P of plats at Page 250 in the office of the Salt Lake County Recorder;

thence along the northerly boundary of said subdivision and beyond, North 89°49'53" West 384.179 feet to intersect the easterly right-of-way line of Monroe Street;

thence along said easterly right-of-way line the following five (5) courses:

(1) Northwesterly 83.43 feet along the arc of a non-tangent curve to the left whose center bears South 82°56'19" West 559.50 feet, has a central angle of 8°32'36" and a chord bearing and length of North 11°19'59" West 83.35 feet to a point of tangency;

(2) North 15°36'17" West 166.77 feet to a point of curvature;

(3) Northwesterly 126.72 feet along the arc of a tangent curve to the right whose center bears North 74°23'43" East 460.50 feet, a central angle of 15°45'58" and a chord bearing and length of North 7°43'18" West 126.32 feet to a point of tangency;

(4) North 0°09'41" East 22.29 feet to a point of curvature;

(5) Northeasterly 39.185 feet along the arc of a tangent curve to the right whose center bears South 89°50'19" East 25.00 feet, has a central angle of 89°48'19" and a chord bearing and length of North 45°03'50" East 35.295 feet to a point of tangency with the southerly right-of-way line of 10200 South Street;

thence along said southerly-right-of-way line, North 89°58'00" East 422.20 feet to a point of curvature;

thence Southeasterly 39.296 feet along the arc of a tangent curve to the right whose center bears South 0°02'00" East 25.00 feet, has a central angle of 90°03'34" and a chord bearing and length of South 45°00'13" East 35.374 feet to the Point of Beginning.

The above-described parcel of land contains approximately 183,013 square feet in area or 4.201 acres.

Proposed Wetlands Area Description (i.e., Phase 3)

A parcel of land located in the Northeast Quarter of Section 13, Township 3 South, Range 1 West, Salt Lake Base and Meridian, Salt Lake County, Utah being more particularly described as follows:

Beginning at a point which lies North $89^{\circ}49'53''$ West 1027.21 feet, South $0^{\circ}00'36''$ West 62.87 feet and North $89^{\circ}59'24''$ West 71.44 feet from the Northeast Corner of Section 13, Township 3 South, Range 1 West, Salt Lake Base and Meridian (Basis of bearing being South $0^{\circ}01'50''$ East 2599.11 feet along the monument line in State Street between the monuments found marking the intersections of 10600 South and 10200 South Streets), said Northeast Corner of Section 13 being South $89^{\circ}53'20''$ West 92.33 feet from the monument at the intersection of 10200 South and State Streets;

thence South $0^{\circ}01'34''$ West 347.76 feet;

thence South $88^{\circ}45'00''$ West 150.04 feet;

thence North $0^{\circ}01'34''$ East 351.00 feet to a point of curvature;

thence Northeasterly 39.24 feet along the arc of a tangent curve to the right having a radius of 25.00 feet, a central angle of $89^{\circ}56'25''$ and a chord bearing and length of North $44^{\circ}59'47''$ East 35.34 feet to a point of tangency;

thence North $89^{\circ}58'00''$ East 100.00 feet to a point of curvature;

thence Southeasterly 39.30 feet along the arc of a tangent curve to the right having a radius of 25.00 feet, a central angle of $90^{\circ}03'35''$ and a chord bearing and length of South $45^{\circ}00'13''$ East 35.37 feet to the Point of Beginning.

The above-described parcel of land contains approximately 55,889 square feet in area or 1.283 acres.

Exhibit "D"

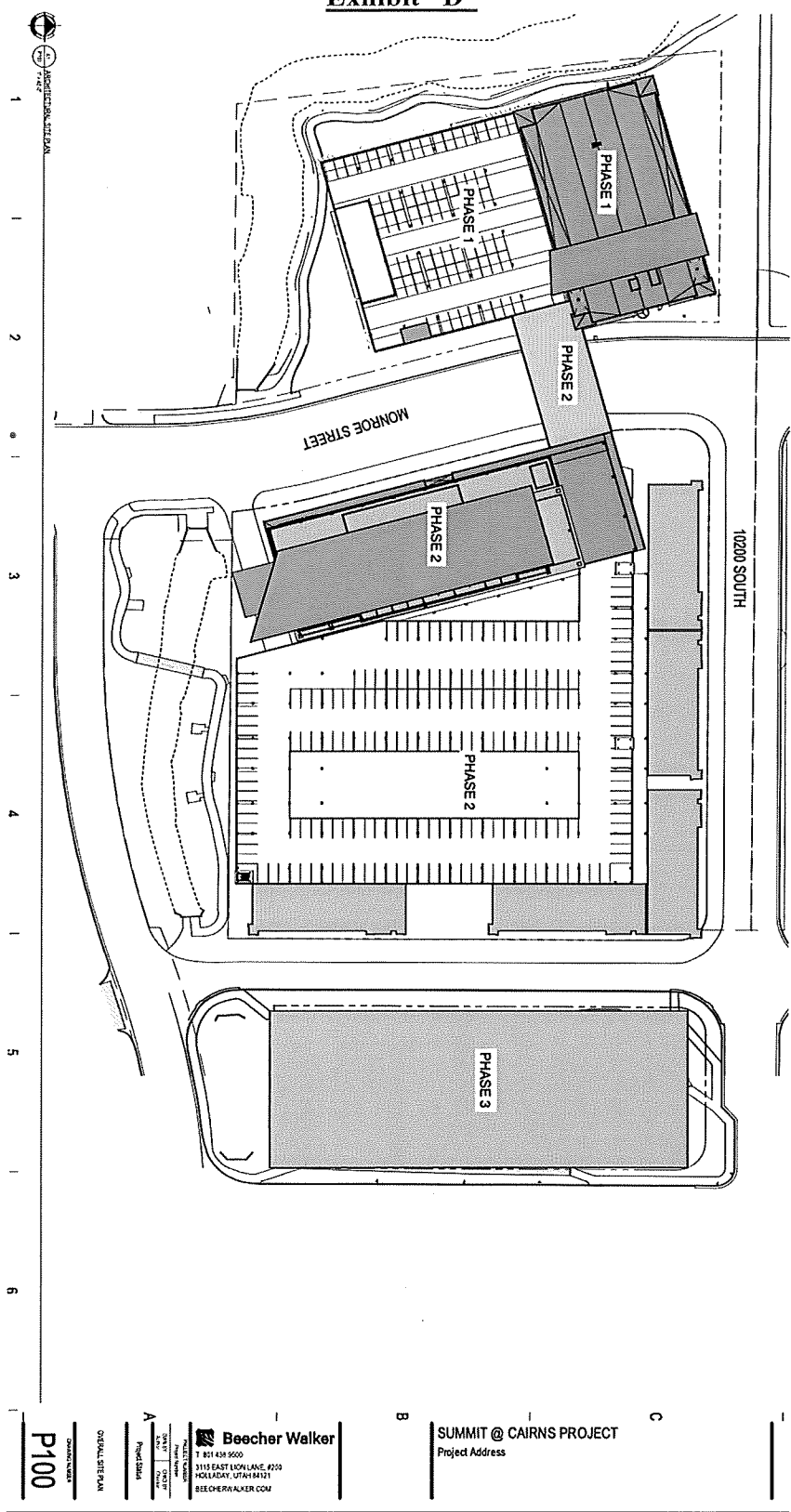


Exhibit "E"

Construction Schedule

Phase	*Deadline to commence construction of any improvement within the Phase	*Deadline to substantially complete construction of all improvements within the Phase
1	90 days after the Closing of first Phase	Two years after commencement
2	90 days after the Closing of the second Phase	Three years after commencement
3	90 days after the Closing of the third Phase	Three years after commencement

*All deadlines will be automatically extended by eighteen (18) months if Seller does not timely obtain Pond Approval (as defined in the Agreement), in order to give Buyer time to redesign Phase 2. Phase 3 only applies if the Seller timely obtains Pond Approval.

Resolution No. RD 19-09

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF SANDY CITY AUTHORIZING THE EXECUTION OF A TAX INCREMENT PARTICIPATION AGREEMENT WITH RADDON SUMMIT, LLC RELATING TO NEW COMMERCIAL DEVELOPMENT WITHIN THE CIVIC CENTER NORTH REDEVELOPMENT PROJECT AREA.

WHEREAS the Redevelopment Agency of Sandy City (the “Agency”) has been created by the Sandy City Council to transact the business and exercise all of the powers provided for by Title 17C of the Utah Code Annotated, “Limited Purpose Local Government Entities—Community Reinvestment Agency Act” (the “Act”);

WHEREAS, the Agency, in furtherance of the purposes of the Act and the Project Area Plan for the Civic Center North Redevelopment Project Area (the “Project Area”), desires to enter into a Tax Increment Participation Agreement (the “Agreement”), substantially in the form attached hereto as **Exhibit A**, encouraging and promoting the private development of a major mixed use campus and associated parking structure within the Project Area.

NOW, THEREFORE, BE IT RESOLVED BY GOVERNING BODY OF THE REDEVELOPMENT AGENCY OF SANDY CITY:

1. The Agreement in substantially the form attached hereto as **Exhibit A** is hereby approved, and the Executive Director of the Agency is authorized and directed to execute the same for and on behalf of the Agency. The Executive Director is authorized to approve any minor modifications, amendments, or revisions to the Agreement as may be in the Agency’s best interest and in harmony with the intent and purpose of the Agreement, and the Executive Director’s signature upon the final Agreement shall constitute the Agency Board’s acceptance of all such minor modifications, amendments, or revisions.

2. This resolution takes effect upon adoption.

THIS RESOLUTION IS APPROVED AND ADOPTED BY THE REDEVELOPMENT AGENCY OF SANDY CITY on this October 22, 2019.

Chris McCandless, *Chair*

Attest:

Vickey Barrett, *Secretary*

Exhibit A
Form of Agreement

**Summary of Tax Increment Participation Agreement
b/w Sandy RDA and Raddon Summit re Cairns**
Prepared by Kyle Fielding, McDonald Fielding, PLLC, on October 11, 2019

Two forms of incentives offered:

1. Cash payments following completion of parking structures

Cash available from land sales proceeds

\$662,354 w/in 60 days after certificate of occupancy on 500 parking stalls

\$3,495,548 w/in 60 days after certificate of occupancy on 1,000 parking stalls

(1,500 parking stalls total, minimum, with a repayment developer obligation if that minimum is not timely achieved)

2. Annual tax increment reimbursements

Post-performance) - only available if developer actually builds improvements

Developer receives 85% of all tax increment generated from this project only (not the entire project area) until 2032

RDA retains remaining 15% of tax increment for administration/CFFP

No cap on total tax increment to the developer, in order to incentivize maximum utility of the land – LYRB study supports this approach, as the projected tax increment is within the range of the identified “gap”

Default of the developer under the PSA constitutes a default under the Participation Agreement.

Agency/City entitled to four days of use of the hotel meeting space (four days each year), through 2032

Public use of parking structures outside normal business hours (subject to certain reasonable reserved spaces) perpetually

TAX INCREMENT PARTICIPATION AGREEMENT

This Tax Increment Participation Agreement (this "Agreement") is entered into as of October 22, 2019, between **Raddon Summit, LLC**, a Utah limited liability company (the "Company") and the **Redevelopment Agency of Sandy City**, a Utah political subdivision (the "Agency"), on the following terms:

Recitals

A. The Agency is the owner of, and/or has the right to acquire, certain real property located in Sandy City, Utah, described and depicted in the attached **Exhibit A** (the "Property"), and the Agency has entered into a Purchase and Sale Agreement and Escrow Instructions dated on or about the same date of this Agreement (the "PSA") with the Company providing for the sale of the Property by the Agency to the Company;

B. Pursuant to the PSA, the Company will acquire the Property from the Agency;

C. The Property is located within the boundaries of a redevelopment project area created by the Agency and known as the Civic Center North Neighborhood Development (*i.e.*, Redevelopment) Project Area (the "Project Area");

D. The PSA requires the Company to construct multiple development improvements on the Property, in two or three distinct phases (depending on the Company obtaining certain approvals) as specified in the PSA (the "Project"), which Project will be of great benefit to the Project Area and to Sandy City and its residents;

E. The Company has presented to the Agency and its consultants sufficient information, including development plans and alternatives, and other information, showing justification for the Agency's participation in the cost of construction of the parking structure and other related improvements, including an occupiable sky floor over Monroe street (the "Occupiable Sky Floor"), that will be part of the Project;

F. The Agency has adopted the Civic Center North Neighborhood Development Plan (the "Plan"), which, in connection with Utah Code Ann. § 17C-1-403, authorizes the Agency to collect and use tax increment for, among other things, the purposes of this Agreement;

G. Due to its location within the Project Area, the Property will generate tax increment revenues that will be diverted to the Agency under the Plan and as provided in Utah Code Ann. § 17C-1-403 (2017);

H. The Agency's collection of tax increment from the Project Area according to the Plan and Utah Code Ann. § 17C-1-403 (2017) was set to expire after the tax year 2022, but the Agency has negotiated various Interlocal Cooperation Agreements with some or all of the taxing entities within the

Project Area (each an “Interlocal Agreement”) which are attached hereto as Exhibit B in order to extend the Agency’s collection of a portion of the tax increment from the Project Area as permitted under Utah Code Ann. § 17C-2-207 (2017) for an additional ten years (until 2032).

AGREEMENT:

NOW THEREFORE, in consideration of the mutual covenants, conditions, and considerations as more fully set forth below, the parties hereby agree as follows:

1. **Company Commitments.** Despite anything else in this Agreement to the contrary, the Company’s right to receive any future payment(s) from the Agency under this Agreement are conditional on the Company timely satisfying each of the following conditions precedent (the parties acknowledge that the Company will have the right to collect and, subject to Section 5 *below*, retain certain payments as specified in Section 2 *below* after the completion of some, but not all of the following commitments) (each a “Company Commitment”):

- a. The Company must, by or before the deadline for completion as specified in the PSA (and the expiration of all applicable notice and cure periods), substantially complete construction, as evidenced by obtaining a temporary certificate of occupancy, of a parking structure (the “Phase 1 Parking Structure”) with at least (i) if the Company elects to construct Phase 1 before Phase 2, 500 parking stalls in Phase 1 of the Project, or (ii) if the Company elects to construct Phase 2 before Phase 1, the number of stalls required to have at least 1,500 parking stalls in the entire Project.
- b. The Company must, by or before the deadline for completion as specified in the PSA (and the expiration of all applicable notice and cure periods), substantially complete construction, as evidenced by obtaining a temporary certificate of occupancy, of a parking structure (the “Phase 2 Parking Structure”), will provide at least: (i) if the Company elects to construct Phase 2 before Phase 1, 1,000 parking stalls in Phase 2 of the Project, or (b) if the Company elects to construct Phase 1 before Phase 2, the number of stalls required to have at least 1,500 parking stalls in the entire Project.
- c. The Company must make the entire Phase 1 Parking Structure and Phase 2 Parking Structure available for use by Sandy City and/or the general public on at all times outside of normal business hours as reasonably determined by the Company; provided, the Company may reserve stalls for uses by the Hotel, including valet parking and exclusive hotel guest parking, residential/condominium units and limited reserved office parking. Despite anything in this Agreement to the contrary, the rights of Sandy City and/or the general public to use the Phase 1 Parking Structure and Phase 2 Parking Structure survive perpetually for as long as either of those structures remain in operation.
- d. The Company will grant the Agency and Sandy City, and their invitees/guests/permittees (collectively, the “City Guests”), the use of meeting space in Phase 2 for up to four days annually through and including the calendar year 2032, at no charge to the City Guests for

rent or utilities (but acknowledging the City Guests will be responsible for incidental and event-specific costs such as food, beverages and entertainment), which use shall be subject to such meeting space not being previously reserved by third parties as determined at the time the City Guests request the use of such meeting space, provided, the City Guests, unless otherwise agreed by the hotel operator, may only request the use of such meeting space if such request for a calendar year is made on or before November 30th of the prior calendar year, and in no event will a request in a calendar year be made for a reservation that is beyond the next calendar year.

- e. Sandy City is currently considering promoting and/or establishing a downtown association, the purview of which will likely include the Property. The Company agrees to participate in the downtown association if and when it is promoted or created, upon request from the Agency or Sandy City, provided the terms of such participation are reasonably acceptable to the Company and do not materially increase the Company's obligations or decrease Company's rights with respect to the Property or otherwise.
- f. The Company must timely comply with all other obligations and deadlines as specified in the PSA.
- g. The Company must timely and properly pay, or cause to be paid, all taxes assessed on or generated from the Property and the Project which are owned by the Company or its affiliates, including but not necessarily limited to real property, personal property, *ad valorem*, and sales taxes, to the appropriate taxing authorities. To the extent such taxes are not paid by any owner of the Property, the Company understands that amounts payable to the Company which are dependent on the payment of such taxes shall be reduced until such taxes are paid. The Company reserves all, and does not waive or relinquish any, rights available at law or in equity to appeal or contest any taxes or assessments on the Property. The Company acknowledges that the Agency will not have any tax increment funds to pay to the Company if the Company does not first pay the taxes on the Property.

2. **Post-Performance Reimbursement.** The Agency agrees to contribute to the Company the following payments, on a post-performance reimbursement basis after timely completion of each of the respective Company Commitments, for a portion of the extraordinary costs of developing the Phase 1 Parking Structure, the Phase 2 Parking Structure, and the Occupiable Sky Floor, within the Project:

a. Within 60 days after the date the Company has timely obtained a temporary or permanent certificate of occupancy for all of the improvements included within "Phase 1" as defined by the PSA (including, without limitation, the Phase 1 Parking Structure), the Agency will make a one-time cash payment to the Company in the amount of \$662,354, as reimbursement for a portion of the Company's expenses in constructing the Phase 1 Parking Structure. Upon request by the Agency, the Company must first provide evidence of payment of at least \$662,354 in costs towards the construction of the parking facilities. To be clear, this one-time payment is not conditional on the receipt of any tax increment by the Agency. The

foregoing is conditioned only on satisfaction of the obligations under Sections 1a., c. (with respect to the Phase 1 Parking Structure), e (if applicable), f. and g.

b. Within 60 days after the date the Company has timely obtained a temporary or permanent certificate of occupancy for all of the improvements included within "Phase 2" as defined by the PSA (including, without limitation, the Phase 2 Parking Structure), the Agency will make a one-time cash payment to the Company in the amount of \$3,495,548, as reimbursement for a portion of the Company's expenses in constructing the parking facilities associated with Phase 2. Upon request by the Agency, the Company must first provide evidence of payment of at least \$3,495,548 in costs towards the construction of those parking facilities. To be clear, this one-time payment is not conditional on the receipt of any tax increment by the Agency.

c. In addition to each of the two one-time cash payments specified in subsections 2.a. and 2.b. *above*, the Agency will pay to the Company annually, beginning with a payment for the first year in which construction commences on any improvement in Phase 1 and ending with a final payment for the final year of the remaining tax increment collection period for the Project Area under the Interlocal Agreements, which is currently 2032 (each such annual payment is referred to as an "Annual Increment Payment"), 85% of all tax increment revenues generated, and actually received by the Agency from Salt Lake County, in any year from the Project. The Agency will retain the remaining 15% of tax increment revenues for other Agency uses/obligations as permitted under the Plan and/or the Interlocal Agreements. Until Phase 2 is required to be complete pursuant to the PSA, the foregoing payments are conditioned only on satisfaction of the obligations under Sections 1a., c. (with respect to the Phase 1 Parking Structure), e (if applicable), f. and g.

d. The Agency will continue making Annual Increment Payments until the Agency no longer has the right to receive tax increment from the Project Area because the final year of the tax increment collection period (2032), has passed.

e. Notwithstanding anything in this Agreement to the contrary, if the Company does not timely satisfy each of the Company Commitments by the respective deadline specified in Section 1 *above*, as applicable, then the Agency will retain all tax increment generated from the Property until such condition(s) is/are satisfied, in which event the Agency will make such retained payments to the Company in a partial amount as follows: for every 30 days that passes beyond the stated deadline, the Agency will reduce the amount of the Annual Increment Payment for a particular year by 5% of the total initial Annual Increment Payment (*i.e.*, after 600 days, the Annual Increment Payment for a particular year would be reduced to zero). In addition to the foregoing, if the Company or hotel operator refused to permit the City Guests to use available meeting space on the terms described herein, and if as a result of such failure the City Guests do not use meeting space on four (4) separate occasions in a calendar year, the Agency will be entitled to withhold and retain \$50,000 from the tax increment generated during such calendar year.

f. Notwithstanding anything in this Agreement to the contrary, all obligations of the Agency to pay any Annual Increment Payment(s) to the Company are conditional on the Company timely and properly paying all taxes assessed on or generated from the Property which is owned by the Company and its affiliates, including but not necessarily limited to real property, personal property, *ad valorem*, and sales taxes, to the appropriate taxing authorities. The Company reserves all, and does not waive or relinquish any, rights available at law or in equity to appeal or contest any taxes or assessments on the Property. The Company acknowledges that the Agency will not have any tax increment funds to pay to the Company if the Company does not first pay the taxes on the Property. In the case of the Company paying property taxes for the Property on a delinquent basis, the Agency shall be required to pay tax increment from such delinquent payments only to the extent tax increment from such delinquent taxes are reasonably identifiable as being tax increment from the Property.

g. The Agency agrees that the Agency shall not, without the prior written consent of the Company, cause, permit or consent to any modifications or amendments to any of the Interlocal Agreements in a manner that reduces the amount of tax increment to be paid to the Agency, on either an annual or cumulative basis, from the Project Area.

3. **Default under PSA.** All obligations of the Agency under this Agreement, including without limitation the Agency's obligation to continue to pay any amounts to the Company, are conditional on the Company not materially breaching or being in default of its obligations under the PSA (strictly after expiration of any applicable notice and cure period(s) provided in the PSA). If the Company materially breaches or defaults under the PSA (after expiration of any applicable cure period(s) provided in the PSA), then the Company will be considered in material breach of this Agreement and, if elected by the Agency pursuant to a written notice by the Agency, the Company will immediately and automatically forfeit the right to any future payment of funds from the Agency under this Agreement. Except as expressly provided in Section 5 *below*, the Company will not be obligated to refund any amounts already received at the time of material default/breach. The notice and cure provisions in Section 8 *below* do not apply to any default under this Section 3; in other words, once the cure period(s) under the PSA have expired, there are no further cure periods or notice requirements under this Agreement.

4. **Timing of Annual Incentive Payments.** Subject to Sections 1, 2 and 3 *above*, the Agency will make the first Annual Increment Payment within thirty days after the Agency receives from the Salt Lake County Treasurer the final tax increment payment for the calendar year in which the Phase 1 improvements are assessed and appear on the tax rolls for Salt Lake County, and, subject to Section 5 *above*, the Agency will continue making the Annual Increment Payments each successive year within the same thirty-day period for so long as the Agency is entitled to collect tax increment from the Project Area (as may be extended, if at all, from time to time). For informational purposes, the Agency typically receives tax increment payments from the Salt Lake County Treasurer in March or April (for the preceding tax year), which means the Agency will likely pay the first Annual Increment Payment to the Company around April or May for the preceding calendar year.

5. **Repayment Obligation.** If the Company elects to construct Phase 1 before Phase 2 and fails to substantially complete construction of all improvements in Phase 2 by the deadline specified in the PSA (and after expiration of any applicable cure period(s) in the PSA), then the Company agrees to promptly reimburse the Agency the \$662,354 paid by the Agency to the Company under subsection 2.a *above*. If the Company elects to construct Phase 2 before Phase 1 and fails to substantially complete construction of all improvements in Phase 1 by the deadline specified in the PSA (and after expiration of any applicable cure period(s) in the PSA), then the Company agrees to promptly reimburse the Agency the \$3,495,548 paid by the Agency to the Company under subsection 2.b *above*.

6. **Agency Authority.** The Company acknowledges that:

a. the Agency is a political subdivision of the State of Utah operating and existing under Title 17C of the Utah Code Ann., separate and distinct from the City, for the purpose of, among other things, promoting the urban renewal, economic development and community development in the City;

b. the City is not a party to this Agreement, and the City will not have any commitments, obligations, duties, liabilities or obligations under this Agreement;

c. the Agency has no independent taxing power, and therefore the Agency's sole source of revenue, at least for purposes of this Agreement, is the sales tax revenues pledged by the City under the City Interlocal Agreement;

d. if Utah law is amended or superseded by new law that has the effect of reducing or eliminating the amount of sales tax revenue to be paid to the Agency, the Agency's payment obligations will be accordingly reduced or eliminated. The Company, however, specifically reserves and does not waive hereunder any right it may have to challenge any law change that would reduce or eliminate the payment of tax increment to the Agency. The Company acknowledges, understands and agrees that the Agency is under no obligation to challenge a change in law that reduces or eliminates the payment of tax increment to the Agency; provided, the Agency will not oppose the Company, if Company challenges a change in the law that reduces or eliminates the payment of tax increment to the Agency. In the event any change in law invalidates the tax increment provided in support of the Project, the Company is hereby released from any and all obligations made by the Participant to Agency and City Guests;

e. if a court of competent jurisdiction declares that the Agency cannot legally receive sales tax revenues, or make payments to the Company from sales tax revenues as provided in this Agreement, or takes any other action which eliminates or reduces the amount of sales tax revenues paid to the Agency, the Agency's payment obligations shall be accordingly reduced or eliminated. The Company, however, specifically reserves and does not waive hereunder any right it may have to challenge any ruling that would reduce or eliminate the payment of tax increment to the Agency. The Company acknowledges, understands and agrees that the Agency is under no obligation to

challenge a ruling that reduces or eliminates the payment of tax increment to the Agency; provided, the Agency will not oppose the Company, if Company challenges a ruling that reduces or eliminates the payment of tax increment to the Agency. In the event any ruling invalidates the tax increment provided in support of the Project, the Company is hereby released from any and all obligations made by the Participant to Agency and City Guests; and

- f. the Agency has no power or authority to grant any land use approvals;
- g. nothing in this Agreement creates, implies, or guarantees any land use approvals; and
- h. all land use approvals are subject to the standard requirements of applicable state and City laws and regulations.

7. **Encumbrance of Tax Increment.** The Agency represents that no tax increment generated from the Project has been pledged to any other person or entity. The Agency agrees that, except in connection with a repayment pursuant to Section 5, the Agency shall not, without the prior written consent of the Company, which may be withheld in the Company's sole and absolute discretion, issue any bonds or other indebtedness that are secured by tax increment generated from the Project and payable to the Company pursuant to the terms hereof or otherwise take any action which could restrict or impede the payment of the amounts hereunder to the Company, in each case, in whole or in part, until the expiration of increment period (2032); provided, however, the foregoing will not prevent the Agency from retaining or using the portion of the tax increment payable to the Agency (and not required to be paid to Developer) for any lawful and authorized purpose.

8. **Default.** If a default under this Agreement occurs other than as provided in Section 1.a, 1.b, 2.e or 3 *above*, the non-defaulting party shall give written notice of the default (a "**Default Notice**") to the party in default, specifying the nature of the default. Failure or delay in giving a Default Notice shall not constitute a waiver of any default or operate as a waiver of any rights or remedies of the non-defaulting party; but the non-defaulting party shall have no right to exercise any remedy hereunder without delivering the Default Notice as provided herein. Delays by either party in asserting any right or remedy hereunder shall not deprive either party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies. The non-defaulting party shall have no right to exercise a right or remedy hereunder unless the subject default continues uncured for a period of thirty (30) days after delivery of the Default Notice with respect thereto or, where the default is of a nature which cannot be cured within such thirty (30) day period, the defaulting party fails to commence such cure within thirty (30) days and to diligently proceed to complete the same. A default which can be cured by the payment of money is understood and agreed to be among the types of defaults which can be cured within thirty (30) days. This Section 8 does not apply to (i) the 30-day periods for 5% reductions in the Annual Increment Payments specified in Section 2.e *above*, or (ii) a default under the PSA beyond all applicable notice and cure periods as described in Section 3 *above*, or (iv) the deadlines for

completion under Sections 1.a and 1.b *above*.

9. **No Public Dedication.** Nothing contained in this Agreement shall be deemed to be a gift or dedication of all or any portion of the Property or Project for the general public or for any public purpose whatsoever.

10. **Agreement Term.** This Agreement will remain in force until the parking rights of Sandy City under subsection 1.c *above* terminate. When the parking rights of Sandy City under subsection 1.c *above* terminate, this Agreement will immediately and automatically terminate.

11. **Successors and Assigns.** This Agreement is binding upon the parties and their respective successors and assigns. Neither party may assign or delegate any of its rights or duties under this Agreement without the prior written consent of the other party. Notwithstanding the foregoing, (a) the Company may assign this Agreement to any entity which is controlled by, controlling or under common control with the Company, and (b) the Company may assign the right to receive payments hereunder to a lender of the Company (including any lender making a loan to finance the project), without the consent of the Agency.

12. **Amendments.** Except as otherwise provided herein, this Agreement may be modified or amended by, and only by, a written instrument duly authorized and executed by the Company and the Agency.

13. **Waiver.** The waiver by any party of any right granted to it hereunder shall not be deemed a waiver of any other right or of a subsequent right obtained by reason of the matter previously waived.

14. **Governing Law and Interpretation.** This Agreement shall be governed by the laws of the State of Utah, and any action pertaining hereto shall be brought in the applicable state or federal court having jurisdiction in Salt Lake County, Utah.

15. **Indemnification.** The Company agrees to indemnify, defend (with counsel of the Indemnitees' choosing), and hold the Agency and the City, including their respective officers, directors, agents, employees, contractors, and consultants (the "Indemnitees"), harmless from and against all liability, loss, damage, costs or expenses, including attorneys' fees and court costs, arising from or as a result of (a) death, injury, accident, loss or damage of any kind to the extent arising out of the negligence or willful misconduct of the Company with respect to the Property, or (b) any claim by a third party that the Agency or the City is acting as a joint venture or partnership with the Company.

16. **Incorporation of Recitals and Exhibits/Integration.** The above recitals and the City Interlocal Agreement are hereby incorporated and made an integral and binding part of this Agreement. There are no other contracts, understandings, representations, or agreements, written or verbal, between the parties relating in any way to the subject matter of this Agreement. No party is relying on any verbal or written statements of the other than those expressly in this Agreement.

Notwithstanding the foregoing, however, the parties acknowledge that certain provisions of the PSA survive and will continue to exist according to their terms as written, and will be read harmoniously with this Agreement. If there is any conflict between the PSA and the terms of this Agreement, the terms of this Agreement will prevail

17. **Further Assurances.** The parties shall cooperate, take such additional actions, sign such additional documentation, and provide such additional information as reasonably necessary to accomplish the objectives set forth in this Agreement.

18. **Third-Party Beneficiaries.** Except for Sandy City which is an intended third-party beneficiary as described in the immediately preceding paragraph regarding indemnification, this Agreement is intended solely for the benefit of the Agency and the Company and there are no intended third-party beneficiaries.

19. **No Liability of Officials or Employees.** No director, officer, agent, employee, or consultant of the Agency or the Company shall be personally liable to the other party hereto, or any successor in interest, in the event of any default or breach by the Agency or Company or for any amount which may become due to the Company or its successors or on any obligations under the terms of this Agreement.

20. **No Legal Relationships.** The parties disclaim any partnership, joint venture, fiduciary, agency or employment status or relationship between them. No party has the authority to make any representation or warranty or incur any obligation or liability on behalf of the other party, nor shall they make any representation to any third party inconsistent with this paragraph.

21. **Attorneys' Fees.** In the event of litigation between the parties related to this Agreement, the Court must award the prevailing party its costs, expenses, and reasonable attorneys' fees, such fees to be determined by the court sitting without a jury.

22. **Severability.** If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction or as a result of future legislative action, and if the rights or obligations of any Party hereto under this Agreement will not be materially and adversely affected thereby,

- a. such holding or action shall be strictly construed;
- b. such provision shall be fully severable;
- c. this Agreement shall be construed and enforced as if such provision had never comprised a part hereof;
- d. the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the invalid or unenforceable provision or by its severance from this Agreement; and

e. in lieu of such illegal, invalid, or unenforceable provision, the Parties hereto shall use commercially reasonable efforts to negotiate in good faith a substitute, legal, valid, and enforceable provision that most nearly effects the Parties' intent in entering into this Agreement.

23. **Time is of the Essence.** Time is of the essence with respect to each and every term, condition, obligation and provision hereof.

24. **Waiver of Jury Trial.** The Parties irrevocably waive any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement.

25. **Force Majeure.** The Agency or the Company shall be excused, without penalty, for the period of any delay in the performance of any obligations hereunder when prevented from doing so by causes beyond its control, which shall include without limitation acts of God, governmental restrictions, strikes, labor disturbances, shortages of materials or supplies and the inability to obtain reasonable substitutes, and actions or inactions of governmental authorities (a "Force Majeure Event"). In connection with any Force Majeure Event, the party claiming such Force Majeure Event must use commercially reasonable efforts to mitigate the effect of such Force Majeure Event. Nothing contained in this paragraph shall excuse either party from paying in a timely fashion any payments due under the terms of this Agreement.

26. **Limitation of Remedies.** The Company's sole and exclusive remedy for any non-performance or breach of the Agency's express or implied covenants of this Agreement is declaratory relief construing this Agreement's rights and obligations and specific performance of this Agreement. Under no circumstances shall the Agency be liable to the Company or its successors-in-interest for any monetary damages, including, but not limited to, costs, fees, special, general, direct, indirect, delay, compensatory, expectancy, consequential, reliance, out-of-pocket, restitution, or other damages, except as otherwise expressly stated herein. Nothing in this Agreement shall relieve the Company or its successors-in-interest of the requirement to exhaust available administrative remedies. The Agency's sole and exclusive remedy for any non-performance or breach of the Company's express or implied covenants of this Agreement is declaratory relief construing this Agreement's rights and obligations and specific performance of this Agreement. Under no circumstances shall the Company be liable to the Agency or its successors-in-interest for any monetary damages, including, but not limited to, costs, fees, special, general, direct, indirect, delay, compensatory, expectancy, consequential, reliance, out-of-pocket, restitution, or other damages, except as otherwise expressly stated herein.

27. **Authority.** The individuals executing this Agreement represent and warrant to the Parties that they possess the legal authority to execute this Agreement pursuant to the terms herein.

28. **Notices.** All notices, demands, requests, or other communications required or permitted by this Lease shall be in writing and effective when received, and delivery shall be made personally, or by registered or certified mail, return receipt requested, postage prepaid, or overnight courier, addressed as follows:

If to Seller: Redevelopment Agency of Sandy City
 10000 Centennial Parkway
 Sandy, UT 84070
 Attn: Redevelopment Director

With a copy to:

Sandy City Attorney's Office
10000 Centennial Parkway
Sandy, UT 84070

And with a copy to:

McDonald Fielding, PLLC
Attn: Kyle Fielding
175 W Canyon Crest Road, Suite 204
Alpine UT 84004

If to Buyer: Raddon Summit, LLC
 1111 South Draper Parkway
 Suite 101
 Draper, Utah 84020
 Attention: Ron Raddon

With a copy to:

Parr Brown Gee & Loveless
101 South 200 East, Suite 700
Salt Lake City, Utah 8411
Attention: Lamont Richardson

29. **Mutual Preparation in Document Preparation.** Each party has participated materially in the negotiation and preparation of this Agreement and any related items; in the event of a dispute concerning the interpretation of any provision of this Agreement or any related item, both parties will be deemed to have jointly drafted this Agreement and the rule of construction to the effect that certain ambiguities are to be construed against the party drafting a document will not apply.

[End of Agreement – Signature Page Follows]

THIS PARTICIPATION AGREEMENT IS EXECUTED effective as of the date written above:

COMPANY: RADDON SUMMIT, LLC, a Utah limited liability
company

By: _____
Name:
Title:

AGENCY: REDEVELOPMENT AGENCY OF SANDY CITY,
a Utah political subdivision

By: _____
Executive Director

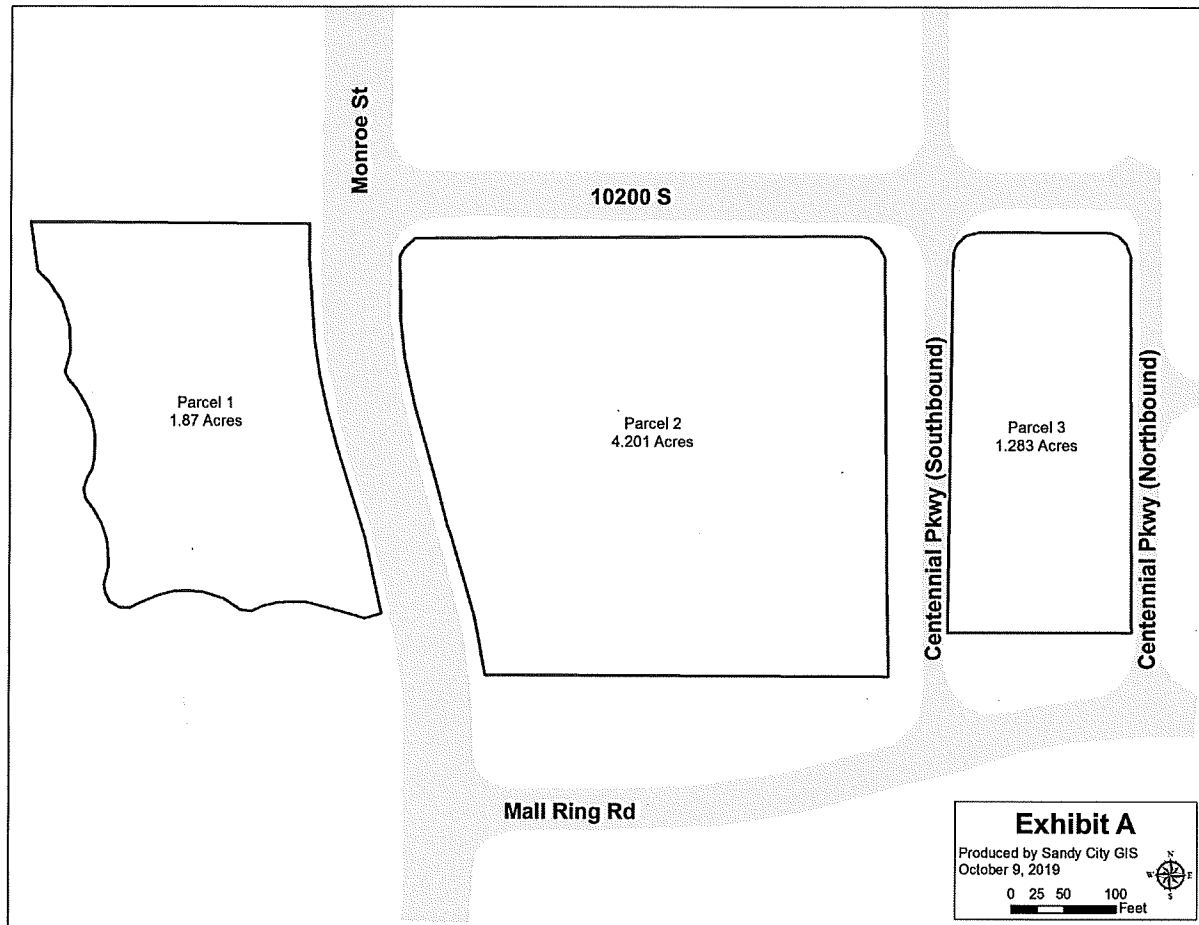
Attest:

Secretary

[Exhibit A attached]

Exhibit A

Map/Legal Description of the Property



Parcel 1

A parcel of land located in the Northeast Quarter of Section 13, Township 3 South, Range 1 West, Salt Lake Base and Meridian, Salt Lake County, Utah, being Lot 1 of the proposed Carins South Subdivision, described by metes and bounds as follows:

Beginning at a point which lies South $0^{\circ}01'50''$ East 27.90 feet along the monument line in State Street and West 1973.864 feet from a Salt Lake County monument on the centerline of State Street at 10200 South, which is located North $89^{\circ}53'20''$ East 92.33 feet from the Northeast Corner of Section 13, Township 3 South, Range 1 West, Salt Lake Base and Meridian (Basis of bearing being South $0^{\circ}01'50''$ East 2599.11 feet along the monument line in State Street between the monuments found marking the intersections of 10200 South and 10600 South Streets),

thence along the westerly right-of-way line of Monroe Street the following four (4) courses: (1)

South $0^{\circ}09'41''$ West 54.42 feet to a point of curvature;

(2) Southeasterly 153.96 feet along the arc of a tangent curve to the left having a radius of 559.50 feet, a central angle of $15^{\circ}45'58''$ and a chord bearing and length of South $7^{\circ}43'18''$ East 153.47 feet to a point of tangency;

(3) South $15^{\circ}36'17''$ East 166.77 feet to a point of curvature;

(4) Southeasterly 5.126 feet along the arc of a tangent curve to the right having a radius of 460.50 feet, a central angle of $0^{\circ}38'16''$ and a chord bearing and length of South $15^{\circ}17'09''$ East 5.126;

thence along the northerly and easterly edge of an existing concrete sidewalk the following twenty (20) courses:

(1) Northwesterly 25.339 feet along the arc of a non-tangent curve to the right whose center bears North $1^{\circ}48'02''$ West 51.00 feet, has a central angle of $28^{\circ}28'02''$ and a chord bearing and length of North $77^{\circ}34'01''$ West 25.079 feet to a point of reverse curvature;

(2) Northwesterly 66.516 feet along the arc of a reverse curve to the left whose center bears South $26^{\circ}40'00''$ West 101.00 feet, has a central angle of $37^{\circ}44'00''$ and a chord bearing and length of North $82^{\circ}12'00''$ West 65.320 feet to a point of reverse curvature;

(3) Northwesterly 25.662 feet along the arc of reverse curve to the right whose center bears North $11^{\circ}04'00''$ West 47.00 feet, has a central angle of $31^{\circ}17'00''$ and a chord bearing and length of North $85^{\circ}25'30''$ West 25.344 feet to a point of reverse curvature;

(4) Northwesterly 9.032 feet along the arc of a reverse curve to the left whose center bears South $20^{\circ}13'00''$ West 150.00 feet, has a central angle of $3^{\circ}27'00''$ and a chord bearing and length of North $71^{\circ}30'30''$ West 9.031 feet to a point of tangency;

(5) North $73^{\circ}14'00''$ West 10.50 feet to a point of curvature;

(6) Northwesterly 66.157 feet along the arc of a tangent curve to the left whose center bears South $16^{\circ}46'00''$ West 180.00 feet, has a central angle of $21^{\circ}03'30''$ and a chord bearing and length of North $83^{\circ}45'45''$ West 65.785 feet to a point of compound curvature;

(7) Southwesterly 40.841 feet along the arc of a compound curve to the left whose center bears South $4^{\circ}17'30''$ East 120.00 feet, has a central angle of $19^{\circ}30'00''$ and a chord bearing and length of South $75^{\circ}57'30''$ West 40.644 feet to a point of reverse curvature;

(8) Northwesterly 14.148 feet along the arc of a reverse curve to the right whose center bears North $23^{\circ}47'30''$ West 8.00 feet, has a central angle of $101^{\circ}19'30''$ and a chord bearing and length of North $63^{\circ}07'45''$ West 12.375 feet to a point of compound curvature;

(9) Northwesterly 27.860 feet along the arc of a compound curve to the right whose center bears North $77^{\circ}32'00''$ East 75.00 feet, has a central angle of $21^{\circ}17'00''$ and a chord bearing and length of North $1^{\circ}49'30''$ West 27.700 feet to a point of reverse curvature;

(10) Northwesterly 39.567 feet along the arc of a reverse curve to the left whose center bears North $81^{\circ}11'00''$ West 60.00 feet, has a central angle of $37^{\circ}47'00''$ and a chord bearing and length of North $10^{\circ}04'30''$ West 38.854 feet to a point of tangency;

(11) North $28^{\circ}58'00''$ West 11.87 feet to a point of curvature;

(12) Northwesterly 13.398 feet along the arc of a tangent curve to the right whose center bears North $61^{\circ}02'00''$ East 70.00 feet, has a central angle of $10^{\circ}58'00''$ and a chord bearing and length of North $23^{\circ}29'00''$ West 13.378 feet to a point of compound curvature;

(13) Northwesterly 15.197 feet along the arc of a compound curve to the right whose center bears North $72^{\circ}00'00''$ East 27.00 feet, has a central angle of $32^{\circ}15'00''$ and a chord bearing and length of North $1^{\circ}52'30''$ West 14.998 feet to a point of tangency;

(14) North $14^{\circ}15'00''$ East 11.87 feet to a point of curvature;

(15) Northwesterly 48.846 feet along the arc of a tangent curve to the left whose center bears North $75^{\circ}45'00''$ West 80.00 feet, has a central angle of $34^{\circ}59'00''$ and a chord bearing and length of North $3^{\circ}14'30''$ West 48.091 feet to a point of compound curvature;

(16) Northwesterly 17.125 feet along the arc of a compound curve to the left whose center bears South $69^{\circ}16'00''$ West 290.00 feet, has a central angle of $3^{\circ}23'00''$ and a chord bearing and length of North $22^{\circ}25'30''$ West 17.122 feet to a point of tangency;

(17) North $24^{\circ}07'00''$ West 10.00 feet to a point of curvature;

(18) Northwesterly 33.190 feet along the arc of a tangent curve to the right whose center bears North $65^{\circ}53'00''$ East 100.00 feet, has a central angle of $19^{\circ}01'00''$ and a chord bearing and length of North $14^{\circ}36'30''$ West 33.038 feet to a point of tangency;

(19) North $5^{\circ}06'00''$ West 26.50 feet to a point of curvature;

(20) Northwesterly 66.004 feet along the arc of a tangent curve to the left whose center bears South $84^{\circ}54'00''$ West 115.00 feet, has a central angle of $32^{\circ}53'06''$ and a chord bearing and length of North $21^{\circ}32'33''$ West 65.102 feet;

thence Northwesterly 40.947 feet along the arc of a non-tangent curve to the right whose center bears North $84^{\circ}07'06.1''$ East 34,179.50 feet, has a central angle of $0^{\circ}04'07.11''$ and a chord bearing and length of North $5^{\circ}50'50''$ West 40.947 feet;

thence South 89°50'19" East 250.70 feet to the Point of Beginning.

The above-described parcel of land contains approximately 81,467 square feet in area or 1.870 acres.

Parcel 2

A parcel of land located in the Northeast Quarter of Section 13, Township 3 South, Range 1 West, Salt Lake Base and Meridian, Salt Lake County, Utah being Lot 2 of the proposed Carins South Subdivision, described by metes and bounds as follows:

Beginning at a point which lies South 0°01'50" East 60.137 feet along the monument line in State Street and West 1402.775 feet from a Salt Lake County monument on the centerline of State Street at 10200 South, which is located North 89°53'20" East 92.33 feet from the Northeast Corner of Section 13, Township 3 South, Range 1 West, Salt Lake Base and Meridian (Basis of bearing being South 0°01'50" East 2599.11 feet along the monument line in State Street between the monuments found marking the intersections of 10200 South and 10600 South Streets),

thence along the westerly right-of-way line of Centennial Parkway, South 0°01'34" West 391.13 feet;

thence North 89°49'53" West 9.693 feet, more or less, to a northeasterly corner of AMENDED LOT 1 SOUTHTOWNE CENTER MALL SUBDIVISION, recorded August 15, 2005 as Entry No. 9461246 in Book 2005P of plats at Page 250 in the office of the Salt Lake County Recorder;

thence along the northerly boundary of said subdivision and beyond, North 89°49'53" West 384.179 feet to intersect the easterly right-of-way line of Monroe Street;

thence along said easterly right-of-way line the following five (5) courses:

(1) Northwesterly 83.43 feet along the arc of a non-tangent curve to the left whose center bears South 82°56'19" West 559.50 feet, has a central angle of 8°32'36" and a chord bearing and length of North 11°19'59" West 83.35 feet to a point of tangency;

(2) North 15°36'17" West 166.77 feet to a point of curvature;

(3) Northwesterly 126.72 feet along the arc of a tangent curve to the right whose center bears North 74°23'43" East 460.50 feet, a central angle of 15°45'58" and a chord bearing and length of North 7°43'18" West 126.32 feet to a point of tangency;

(4) North 0°09'41" East 22.29 feet to a point of curvature;

(5) Northeasterly 39.185 feet along the arc of a tangent curve to the right whose center bears

South 89°50'19" East 25.00 feet, has a central angle of 89°48'19" and a chord bearing and length of North 45°03'50" East 35.295 feet to a point of tangency with the southerly right-of-way line of 10200 South Street;

thence along said southerly-right-of-way line, North 89°58'00" East 422.20 feet to a point of curvature;

thence Southeasterly 39.296 feet along the arc of a tangent curve to the right whose center bears South 0°02'00" East 25.00 feet, has a central angle of 90°03'34" and a chord bearing and length of South 45°00'13" East 35.374 feet to the Point of Beginning.

The above-described parcel of land contains approximately 183,013 square feet in area or 4.201 acres.

Parcel 3

A parcel of land located in the Northeast Quarter of Section 13, Township 3 South, Range 1 West, Salt Lake Base and Meridian, Salt Lake County, Utah being more particularly described as follows:

Beginning at a point which lies North 89°49'53" West 1027.21 feet, South 0°00'36" West 62.87 feet and North 89°59'24" West 71.44 feet from the Northeast Corner of Section 13, Township 3 South, Range 1 West, Salt Lake Base and Meridian (Basis of bearing being South 0°01'50" East 2599.11 feet along the monument line in State Street between the monuments found marking the intersections of 10600 South and 10200 South Streets), said Northeast Corner of Section 13 being South 89°53'20" West 92.33 feet from the monument at the intersection of 10200 South and State Streets;

thence South 0°01'34" West 347.76 feet;

thence South 88°45'00" West 150.04 feet;

thence North 0°01'34" East 351.00 feet to a point of curvature;

thence Northeasterly 39.24 feet along the arc of a tangent curve to the right having a radius of 25.00 feet, a central angle of 89°56'25" and a chord bearing and length of North 44°59'47" East 35.34 feet to a point of tangency;

thence North 89°58'00" East 100.00 feet to a point of curvature;

thence Southeasterly 39.30 feet along the arc of a tangent curve to the right having a radius of 25.00 feet, a central angle of 90°03'35" and a chord bearing and length of South 45°00'13" East 35.37 feet to the Point of Beginning.

The above-described parcel of land contains approximately 55,889 square feet in area or 1.283 acres.