

**FIRST AMENDMENT TO PURCHASE AND SALE AND
ESCROW INSTRUCTIONS AGREEMENT**

THIS FIRST AMENDMENT TO PURCHASE AND SALE AND ESCROW INSTRUCTIONS (this “**Amendment**”) is dated as of September ____, 2017 (the “**Effective Date**”), by and between the CITY OF CATHEDRAL CITY, a California charter city and municipal corporation, acting solely in its role as the Successor Housing Agency of the former Redevelopment Agency of the City of Cathedral City (“**Seller**”), and CATHEDRAL CANYON DEVELOPMENT LLC, a California limited liability company (“**Buyer**”), and amends that certain Agreement of Purchase and Sale and Escrow Instructions dated as of April 26, 2016 (the “**Agreement**”). Capitalized terms used herein shall have the meanings given them in the Agreement unless otherwise defined herein. To the extent of any inconsistencies between the terms set forth in the Agreement and this Amendment, the terms stated in this Amendment shall control.

RECITALS:

- A. Pursuant to Section 5.1 of the Agreement Buyer may, upon written notice, extend the Outside Closing Date for the transaction by six (6) months provided Buyer deposits the amount of \$165,500 into Escrow (“**Additional Deposit**”). By this Amendment Buyer and Seller agree that the Additional Deposit, as a portion of the Deposit, is fully refundable to Buyer in the event Buyer, despite using commercially reasonable good faith efforts, is unable to obtain by the Outside Closing Date set forth on Exhibit C (Performance Schedule) attached to the Performance Agreement all City entitlements necessary to develop the Project.

- B. Pursuant to Section 5.3.1 of the Agreement, Buyer is required to complete construction of the Project within eighteen (18) months following the close of escrow. Buyer and Seller agree to remove this language in Section 5.3.1 and, on a going forward basis, refer to Exhibit C (Performance Schedule) attached to the Performance Agreement alone for time requirements for Buyer’s processing of entitlements and development of the Project, including, completion of construction of the Project.

- C. Pursuant to Section 5.3.2 of the Agreement, if the Parties are unable to mutually agree on a form of Performance Agreement within sixty (60) days following the expiration of the Due Diligence Period, then either Party may terminate this Agreement. Buyer and Seller agree to revise the language in Section 5.3.2 to reflect that the Parties have (90) days following the expiration of Due Diligence to mutually agree on a form of Performance Agreement.

NOW, THEREFORE, in consideration of the foregoing, and other valuable consideration, the Parties hereby agree to reinstate and amend the Agreement on the following terms and conditions:

1. Buyer and Seller agree to revise Section 2.2 of the Agreement to include the following language as the fourth sentence of the section: “In addition, the Deposit shall be remitted to Buyer in the event Buyer, despite using commercially reasonable good faith efforts, is unable to obtain all City entitlements necessary to develop the Project by the Outside Closing Date set forth on Exhibit C (Performance Schedule) attached the Performance Agreement.”
2. Buyer and Seller agree to revise the first sentence of Section 5.3.1 of the Agreement to read as follows: “As a condition to the Close of Escrow, Buyer, Seller, and City Urban Revitalization Corporation (“**CURC**”), must negotiate and execute a mutually acceptable agreement (“**Performance Agreement**”) that provides, among other things: (a) a description of the proposed project to be developed upon the Property, and agreed to by Buyer, Seller, and CURC (“**Project**”), subject to the City’s entitlement process, (b) time requirements for Buyer’s processing of entitlements and development of the Project, including, without limitation, completion of construction of the Project, as reflected in Exhibit C (Performance Schedule) attached to the Performance Agreement, and (c) Buyer’s continuing post-closing obligations with respect to the Project.”
3. Buyer and Seller agree to revise the first sentence of Section 5.3.2 of the Agreement to read as follows: “If the Parties are unable to mutually agree on a form of Performance Agreement within ninety (90) days following the expiration of the Due Diligence Period (“**Performance Agreement Period**”), then either Party may terminate this Agreement and, upon such termination, the Deposit will be returned to Buyer and neither Party will have any further rights or obligations hereunder, except as otherwise provided by Section 13.”
4. Except as modified by this Amendment, all of the terms and provisions of the Agreement shall remain in full force and effect. In the event of any inconsistency between the provisions of the Agreement and this Amendment, the provisions of this Amendment shall govern and control. This Amendment may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute but one and the same instrument.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

WHEREFORE, the Parties, intending to be bound hereby, have affixed their authorized signatures to this Agreement.

SELLER:

BUYER:

CITY OF CATHEDRAL CITY, a
California municipal corporation

CATHEDRAL CANYON DEVELOPMENT
LLC, a California limited liability company

By: _____
Charles P. McClendon,
City Manager
Date: _____, 2017

By: _____
Name: Eric Keillor
Its: Managing Member
Date: _____, 2017

APPROVED AS TO LEGAL FORM:

By: _____
Name: Peter Derbonne
Its: Managing Member
Date: _____, 2017

By: _____
Eric S. Vail, City Attorney
Date: _____, 2017

ATTEST:

By: _____
Tracey Martinez, City Clerk
Date: _____, 2017

ESCROW AGENT:

The Escrow Agent is executing this Agreement to evidence its agreement to hold the Deposit and act as escrow agent in accordance with the terms and conditions of this Agreement.

FIRST AMERICAN TITLE INSURANCE COMPANY

By: _____
Name:
Title:

This Notary Acknowledgement is attached to a document entitled **FIRST AMENDMENT TO PURCHASE AND SALE AND ESCROW INSTRUCTIONS AGREEMENT.**

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

STATE OF CALIFORNIA
COUNTY OF _____)

On _____ before me, _____
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

This Notary Acknowledgement is attached to a document entitled **FIRST AMENDMENT TO PURCHASE AND SALE AND ESCROW INSTRUCTIONS AGREEMENT.**

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

WITNESS my hand and official seal.

Signature _____ (Seal)