

PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS

This Purchase and Sale Agreement and Joint Escrow Instructions (this “**Agreement**”) is made as of [_____, 2021] (the “**Effective Date**”), by and between the MARK A. WARREN TRUST dated 11/6/1986, Mark A. Warren and Patricia R. Warren, Trustees (“**Seller**”) and the CITY OF POMONA, a California municipal corporation (“**Buyer**”). Hereinafter, Buyer and Seller may be referred to individually as a “**Party**,” or jointly as the “**Parties**.”

RECITALS

A. WHEREAS, Seller owns certain real property located in the County of Los Angeles, California, at 1172 East Pasadena Street, Pomona, California 91767, Assessor Parcel No. 8323-016-016, as more particularly described in **Exhibit A** attached hereto (the “**Property**”). Reference herein to “Property” shall include all of Seller’s right, title and interest in and to any and all improvements, fixtures, rights-of-way, utility rights, entitlements, claims or other benefits in any way connected with the Property.

NOW, THEREFORE, in consideration of the foregoing Recitals, which Recitals are incorporated herein by this reference, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and for the mutual covenants contained herein, the Parties hereby agree as follows:

ARTICLE 1. AGREEMENT OF SALE.

1.1 **Property.** Seller agrees to sell the Property to Buyer and Buyer agrees to purchase the Property from Seller, upon the terms and conditions set forth herein.

1.2 **Time.** Escrow shall close (the “**Closing**”) on the day that is the third Business Day following the satisfaction or waiver of all conditions set forth in Article 3 or _____, 2021, whichever occurs first.

ARTICLE 2. PURCHASE PRICE.

2.1 **Amount.** The purchase price (the “**Purchase Price**”) for the Property shall be One Million Two Hundred Fifty Thousand Dollars (\$1,250,000), which includes, without limitation, full payment of just compensation, claims for inverse condemnation or unreasonable precondemnation conduct, attorneys’ fees, costs and interest in complete settlement of all claims (known and unknown), causes of action and demands of Seller against the Buyer because of Buyer’s purchase of the Property, and for any and all claims (known and unknown) arising from or relating to the purchase and sale which is the subject of this Agreement, including but not limited to any claim for relocation benefits pursuant to the Uniform Relocation Act, Government Code Section 7260 *et seq.* Seller shall complete and deliver to Escrow, within 3 days of escrow opening, written instructions for wiring the Purchase Price to Seller’s bank or brokerage account.

ARTICLE 3. CONDITIONS PRECEDENT

3.1 Buyer's Conditions. Buyer's obligations under this Agreement are expressly subject to the timely fulfillment of the conditions set forth in this Section 3.1 on or before the Closing Date, or such earlier date as is set forth below. Each condition may be waived in whole or in part by Buyer by written notice to Seller.

3.1.1 Performance of Covenants. Seller performing and complying in all material respects with all of the terms of this Agreement to be performed and complied with by Seller prior to or at the Closing.

3.1.2 Representations and Warranties. The representations and warranties of Seller set forth in Article 4 being true and accurate on the Closing Date, as if made on such date.

3.1.3 Non-Foreign Certification. Seller having executed and delivered to Buyer on or prior to the Closing Date a non-foreign certification (the "**Non-Foreign Certification**") in the form attached as **Exhibit B**.

3.2 Seller's Conditions. Seller's obligations under this Agreement are expressly subject to the timely fulfillment of the conditions set forth in this Section 3.2 on or before the Closing Date, or such earlier date as is set forth below. Each condition may be waived in whole or part by Seller by written notice to Buyer.

3.2.1 Covenants. Buyer performing and complying in all material respects with all of the terms of this Agreement to be performed and complied with by Buyer prior to or at the Closing.

3.2.2 Representations and Warranties. The representations of Buyer set forth in Article 5 being true and accurate on the Closing Date, as if made on such date.

ARTICLE 4. SELLER'S REPRESENTATIONS AND WARRANTIES.

Subject to the Disclaimer of Warranties contained in Section 4.3, Seller hereby makes the following representations and warranties to Buyer with the understanding that each such representation and warranty is material and is being relied upon by Buyer:

4.1 Seller's Authority. The execution, delivery and performance of this Agreement by Seller have been duly and validly authorized by all necessary action and proceedings, and no further action or authorization is necessary on the part of Seller in order to consummate the transactions contemplated herein. This Agreement and the other documents executed by Seller in connection herewith are legal, valid and binding obligations of Seller, enforceable in accordance with their respective terms.

4.2 Foreign Person. Seller is not a "foreign person" within the meaning of Section 1445(f) of the Internal Revenue Code.

4.3 Disclaimer of Warranties; "AS IS" Purchase. The sale of the Property to Buyer is made without any warranty or representation of any kind by Seller, either express or implied or

arising by operation of law, and Seller shall have no liability with respect to the nature, value, uses, habitability, merchantability, suitability, condition, design, operation, rents, financial condition or prospects, fitness for purpose or use, or the manner, construction, condition or state of repair or lack of repair of the improvements of the Property (or any part thereof), or any other aspect, portion or component of the Property whatsoever, it being specifically understood and agreed that Buyer had full opportunity, to determine for itself the condition of the Property. On September 9, 2021, Buyer and Buyer's representatives inspected the Property, including the interior of each apartment unit, and found the Property to be in satisfactory condition for Buyer's intended purpose. Five (5) days prior to close of escrow, Buyer shall have right to conduct a second inspection of the Property to confirm that the Property is in the same or better condition than on the first inspection. Exhibit D-1, when signed by all parties, will confirm that the Property is in satisfactory condition for Buyer's intended purposes

Buyer's Initials: _____

4.4 Tenant Leases. Apartments 1 and 2 are rented to TriCity Mental Health Service on a month-to-month basis and may be subject to the COVID-19 eviction moratorium. Apartment 4 was rented in July 2021 on a month-to-month basis.

ARTICLE 5. BUYER'S REPRESENTATIONS AND WARRANTIES.

Buyer makes the following representation and warranties to Seller with the understanding that each such representation and warranty is material and is being relied upon by Seller:

5.1 Buyer's Authority. The execution, delivery and performance of this Agreement by Buyer have been duly and validly authorized by all necessary action and proceedings, and no further action or authorization is necessary on the part of Buyer in order to consummate the transactions contemplated herein.

5.2 No Conflict. Neither the execution nor delivery of this Agreement by Buyer, nor performance of any of its obligations hereunder, nor consummation of the transactions contemplated hereby, shall conflict with, result in a breach of, or constitute a default under, the terms and conditions of the organizational documents pursuant to which Buyer was organized, or any agreement to which Buyer is a party or is bound, or any order or regulation of any court, regulatory body, administrative agency or governmental body having jurisdiction over Buyer.

ARTICLE 6. SURVIVAL OF REPRESENTATIONS AND WARRANTIES.

6.1 Survival of Warranties. Buyer and Seller agree that each representation and warranty in Articles 4 and 5, respectively, shall survive the Closing Date and shall not merge with the delivery to Buyer of the Grant Deed (as defined below).

6.2 Notice of Changed Circumstances. If either Party becomes aware of any fact or circumstance which would render false or misleading a representation or warranty made by such Party, then it shall immediately give notice of such fact or circumstance to the other Party, but such notice shall not relieve any Party of any liabilities or obligations with respect to any representation or warranty.

ARTICLE 7. SELLER'S PRE-CLOSING COVENANTS.

Seller shall comply with the covenants contained in this Article 7 from the Effective Date through the Closing Date unless Buyer consents otherwise in writing. Buyer may grant or withhold any such consent requested by Seller in Buyer's sole discretion.

7.1 Contracts and Documents. Seller shall not, without Buyer's approval, enter into any material agreement of any type affecting the Property that would survive the Closing Date.

7.2 Insurance. Seller shall maintain or cause to be maintained in full force and effect its present insurance policies for the Property.

7.3 No Transfers. Seller shall not sell, encumber or otherwise transfer any interest in all or any portion of the Property, or agree to do so.

7.4 Maintenance. At its sole cost and expense, Seller shall operate and maintain the Property such that on the Closing Date the Property shall be in at least as good a condition and repair as on the Effective Date, reasonable wear and tear excepted. Without limiting the generality of the foregoing, Seller shall, at a minimum, spend such amounts for repair and maintenance as are consistent with its prior practice. Seller shall promptly advise Buyer of any significant repair or improvement required to keep the Property in such condition. Seller shall not make any material alterations to the Property.

7.5 Best Efforts. Seller shall use its best efforts to cause the conditions set forth in Section 3.1 to be satisfied by the Closing Date, and Seller shall not take or permit any action that would result in any of the representations and warranties set forth in Article 4 becoming false or incorrect.

ARTICLE 8. CLOSING.

8.1 Escrow. This Article 8, together with such additional instructions to First American Title Company, Attention: Maureen Collier, Escrow Officer, 4 First American Way, Santa Ana, CA 92707, mcollier@firstam.com, (714) 250-4808 ("**Escrow Holder**") that the Parties shall reasonably request and the Parties shall agree to, shall constitute the escrow instructions to Escrow Holder. If there is any inconsistency between this Agreement and the Escrow Holder's additional escrow instructions, this Agreement shall control unless the intent to amend this Agreement is clearly stated in said additional instructions. Buyer and Seller shall cause Escrow Holder to execute and deliver a counterpart of this Agreement to each of them.

8.2 Seller's Deposit of Documents and Funds Into Escrow. Seller shall deposit into escrow on or before Closing the following documents:

8.2.1 A duly executed and acknowledged grant deed conveying the Property to Buyer ("**Grant Deed**") in the form attached as **Exhibit C**;

8.2.2 Seller's Non-foreign Certification;

8.2.3 Such additional documents, including written escrow instructions consistent with this Agreement, as may be necessary for conveyance of the Property in accordance with this Agreement.

8.3 Deliveries Outside of Escrow. Notwithstanding Section 8.2, Seller and Buyer may elect to deliver the documents described in Section 8.2 outside of escrow (other than documents which are to be recorded) by giving Escrow Holder a joint written notice of such election, specifying the documents which will be so delivered outside of escrow. Upon receipt of such notice, Escrow Holder shall have no further obligation concerning such specified documents.

8.4 Buyer's Deposit of Documents and Funds. Buyer shall deposit into escrow:

8.4.1 The Purchase Price in accordance with the provisions of Article 2, plus or minus prorations as provided in Section 8.8, by cashier's or certified check or electronic transfer of federal funds to Escrow Holder, on or before the Closing Date;

8.4.2 Any and all closing costs, including but not limited to any escrow fees, recording costs, costs of any title insurance policy that Buyer may desire, documentary transfer taxes, if any, and all of Seller's sales costs; and

8.4.3 Such additional documents, including written escrow instructions consistent with this Agreement, as may be necessary or desirable for conveyance of the Property in accordance with this Agreement.

8.5 Default, Termination and Remedies.

8.5.1 Buyer's Termination. This Agreement shall automatically terminate without further notice or action by Buyer upon the occurrence of any of the following events, provided that Buyer is not then in material breach of this Agreement: any condition to Closing contained in Section 3.1 has not been satisfied or waived by Buyer by the Closing Date. In such event, the Parties shall have no further obligation to each other except for those obligations that specifically survive the termination of this Agreement.

8.5.2 Seller's Termination. Provided that Seller is not then in material breach of this Agreement, this Agreement shall automatically terminate without further notice or action by Seller if any condition to Closing contained in Section 3.2 has not been satisfied or waived by Seller by the Closing Date.

8.5.3 Release from Escrow. Upon termination of this Agreement pursuant to Section 8.5.1 or 8.5.2, Escrow Holder shall promptly return to Buyer and Seller, respectively, all documents and monies deposited by them into escrow without prejudice to their rights and remedies hereunder.

8.5.4 Remedies.

(a) Buyer's Remedies. If the sale of the Property is not consummated due to Seller's default under this Agreement, then Buyer shall provide Seller with written notice of Seller's alleged default ("**Notice of Seller Default**"), and Seller shall have five

(5) business days or until the then scheduled Closing Date, whichever is earlier, to cure the default (the “**Cure Period**”). If Seller fails to cure the default during the Cure Period, then Buyer may elect, as Buyer’s sole and exclusive remedy, either to: (i) terminate this Agreement, in which event neither Party shall have any further rights or obligations under this Agreement, or (ii) enforce specific performance of this Agreement and/or seek damages in accordance with Paragraph 8.5.4(b) below, provided that any such suit for specific performance or damages must be brought within thirty (30) days of the expiration of the Cure Period. Buyer shall be deemed to have elected to terminate this Agreement pursuant to clause (i) hereinabove if it fails to commence an action within thirty (30) days following the expiration of the Cure Period.

- (b) Limitation of Seller’s Liability. Notwithstanding anything to the contrary contained in this Agreement, after Closing, Buyer agrees, to the fullest extent permitted by law, that the maximum aggregate liability of Seller, and the maximum aggregate amount which may be awarded to and collected by Buyer (including, without limitation, for any breach of any representation, warranty and/or covenant by Seller), in connection with the Property and/or the sale of the Property to Buyer, including, without limitation, under this Agreement or any documents executed in furtherance of it, including but not limited to any deed, bill of sale, or assignment of leases, shall under no circumstances whatsoever exceed three percent (3%) of the Purchase Price. The foregoing amount shall not include escrow cancellation fees and title company charges, which shall be borne entirely by Seller in the event of Seller’s default.
- (c) Seller’s Remedies; LIQUIDATED DAMAGES. THE PARTIES AGREE THAT IT WOULD BE IMPRACTICAL OR EXTREMELY DIFFICULT TO FIX, PRIOR TO SIGNING THIS AGREEMENT, THE ACTUAL DAMAGES WHICH WOULD BE SUFFERED BY SELLER IF BUYER FAILS TO COMPLY WITH OR PERFORM BUYER’S OBLIGATIONS UNDER THIS AGREEMENT. THEREFORE, SO LONG AS SELLER HAS FULFILLED OR HAS OFFERED TO FULFILL ITS OBLIGATIONS UNDER SECTION 3.1 ABOVE, IF BUYER BREACHES THIS AGREEMENT SELLER SHALL BE ENTITLED TO LIQUIDATED DAMAGES IN THE AMOUNT OF THREE PERCENT (3%) OF THE PURCHASE PRICE. UPON PAYMENT OF SAID SUM TO SELLER, BUYER SHALL BE RELEASED FROM ANY FURTHER LIABILITY TO SELLER, AND ANY ESCROW CANCELLATION FEES AND TITLE COMPANY CHARGES SHALL BE PAID BY BUYER.

SELLER’S INITIALS

BUYER’S INITIALS

- (d) Waiver of Specific Performance by Seller. SELLER HEREBY WAIVES THE RIGHT TO MAINTAIN AN ACTION FOR SPECIFIC PERFORMANCE OF BUYER’S OBLIGATION TO PURCHASE THE PROPERTY AND SELLER AGREES THAT SELLER CAN BE ADEQUATELY COMPENSATED IN MONEY DAMAGES IF BUYER FAILS TO PURCHASE THE PROPERTY IN

BREACH OF THIS AGREEMENT. SELLER ACKNOWLEDGES THAT THE PROVISIONS OF THIS PARAGRAPH ARE A MATERIAL PART OF THE CONSIDERATION BEING GIVEN TO BUYER FOR ENTERING INTO THIS AGREEMENT AND THAT BUYER WOULD BE UNWILLING TO ENTER INTO THIS AGREEMENT IN THE ABSENCE OF THE PROVISIONS OF THIS PARAGRAPH.

SELLER’S INITIALS

8.6 California Civil Code Section 1542. Buyer and Seller each hereby acknowledges that it has either consulted with legal counsel, or had an opportunity to consult with legal counsel, regarding the provisions of California Civil Code Section 1542, which provides:

“A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.”

Buyer and Seller each acknowledges that with respect to the purchase and sale of the Property, each may have sustained damage, loss, costs or expenses which are presently unknown and unsuspected, and such damage, loss, costs or expenses which may have been sustained, may give rise to additional damage, loss, costs or expenses in the future. Nevertheless, Buyer and Seller each hereby acknowledges, represents and warrants that this Agreement has been negotiated and agreed upon in light of that situation, and hereby waives, to the maximum legal extent, any rights accruing to it under Section 1542 or other statute or judicial decision of similar effect. Neither Buyer nor Seller by this waiver waive its respective rights with respect to a default by the other under this Agreement or other provisions for its benefit as described herein.

SELLER’S INITIALS

BUYER’S INITIALS

This acknowledgment and release shall survive the Close of Escrow.

8.7 Closing. When Escrow Holder has received all documents and funds identified in Sections 8.2 and 8.4, has received notification from Buyer and Seller that all conditions to Closing to be satisfied outside of escrow have been satisfied or waived, then, and only then, Escrow Holder shall:

8.7.1 Record the Grant Deed;

8.7.2 Cause the Title Company to issue the Title Policy to Buyer, if requested and paid for by Buyer;

8.7.3 To the extent not otherwise delivered to Buyer outside of escrow, deliver to Buyer: (a) a conformed copy (showing all recording information thereon) of the Grant Deed; and (b) the Non-foreign Certification; and

8.7.4 Deliver the Purchase Price to Seller.

Escrow Holder shall prepare and sign closing statements showing all receipts and disbursements and deliver copies to Buyer and Seller and, if applicable, shall file with the Internal Revenue Service (with copies to Buyer and Seller) the reporting statement required under Section 6045(e) of the Internal Revenue Code. “**Close of Escrow**” shall mean the date on which the Grant Deed conveying title from Seller to Buyer is recorded in the Official Records of the County Recorder of Los Angeles County, California. Close of Escrow shall occur within thirty (30) business days after the expiration of the Due Diligence Period.

8.8 Prorations. Buyer shall be responsible for all closing costs. Seller shall be responsible for its prorated share of real estate taxes and its broker fees involved with this transaction. Subject to the other provisions of this Section 8.8, all receipts and disbursements of the Property will be prorated as of 11:59 p.m. on the day immediately preceding the Closing Date. Not less than five (5) business days prior to the Closing, Seller shall submit to Buyer for its approval a tentative prorations schedule showing the categories and amounts of all prorations proposed. The parties shall agree on a final prorations schedule prior to the Closing and shall deliver the same to Escrow Holder. If following the Closing either party discovers an error in the prorations statement, it shall notify the other party and the parties shall promptly make any adjustment required.

8.8.1 Capital Expenditures and Accounts Payable. All capital and other improvements (including labor and material) which have been performed or contracted for, by or on behalf of Seller prior to the Closing Date, and all sums due for accounts payable which have been incurred with respect to the Property prior to the Closing Date shall be paid by Seller. Buyer shall furnish to Seller for payment any bills for such period received after the Closing Date, and Buyer shall have no further obligation with respect thereto.

8.8.2 Property Taxes. All real and personal property ad valorem taxes and special assessments, if any, whether payable in installments or not, including without limitation, all supplemental taxes attributable to the period prior to the Closing Date for the calendar year in which the Closing occurs, shall be prorated to the Closing Date, based on the latest available tax rate and assessed valuation. If the amount of any installment of real property taxes is not known as of the Closing Date, then a proration shall be made by the parties based on a reasonable estimate of the real property taxes applicable to the Property and the parties shall adjust the proration when the actual amount becomes known upon the written request of either party made to the other.

8.8.3 Utility Charges. All utility charges shall be prorated as of the Closing Date and Seller shall obtain a final billing therefor. The parties will cooperate in coordinating transfer of all utility accounts from Seller to Buyer and avoiding any interruption in utility service to the Property.

8.9 Possession. Seller shall deliver its right of possession of the Property to Buyer on the Closing Date. Buyer shall take possession of the Property, subject to the tenancies set forth in Section 4.4, immediately following Close of Escrow.

ARTICLE 9. GENERAL.

9.1 Notices. All notices, demands, approvals, and other communications provided for in this Agreement shall be in writing and shall be effective (a) when personally delivered to the recipient at the recipient's address set forth below; (b) five business days after deposit in a sealed envelope in the United States mail, postage prepaid, by registered or certified mail, return receipt requested, addressed to the recipient as set forth below; or (c) one (1) business day after deposit with a recognized overnight courier or delivery service, addressed to the recipient as set forth below, whichever is earlier. If the date on which any notice to be given hereunder 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.

The addresses for notice are:

SELLER:	THE MARK A. WARREN TRUST 788 Via Santo Tomas Claremont, CA 91711 Phone: (909) 224-0359 Email: Mark@bmrrentals.com
BUYER:	CITY OF POMONA Attn: City Manager & Deputy City Manager 505 S. Garey Avenue, Box 660 Pomona, CA 91769 Phone: (909) 620-2051 Email: james_makshanoff@ci.pomona.ca.us
With a copy to:	Best Best & Krieger, LLP Attn: Sonia Carvalho, Esq. 18101 Von Karman Ave., Suite 1000 Irvine, CA 92612 Phone: 949-263-2603 Email: Sonia.Carvalho@bbklaw.com
ESCROW HOLDER:	FIRST AMERICAN TITLE INSURANCE COMPANY Attn: Maureen Collier 4 First American Way Santa Ana, CA 92707 Phone: 714-250-4808 Email: mcollier@firstam.com

With a copy to:

FIRST AMERICAN TITLE INSURANCE
COMPANY

Attn: Michael Williams, National Account Manager
18500 Von Karman Ave., Suite 600
Irvine, CA 92612
Phone: 714-250-4808
Email: orangeescrow1@firstam.com

Any party may change its address by written notice to the others given in the manner set forth above.

9.2 Entire Agreement. This Agreement and Exhibits hereto contain the entire agreement and understanding between Buyer and Seller concerning the subject matter of this Agreement and supersede all prior agreements, including any previous letter of intent or 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.

9.3 Amendments and Waivers. No addition to or modification of this Agreement shall be effective unless set forth in writing and signed by the party against whom the addition or modification is sought to be enforced. The party benefited by any condition or obligation may waive the same, but such waiver shall not be enforceable by another party unless made in writing and signed by the waiving party.

9.4 Invalidity of Provision. If any provision of this Agreement as applied to either party or to any circumstance shall be adjudged by a court of competent jurisdiction to be void or unenforceable for any reason, the same shall in no way affect (to the maximum extent permissible by law) any other provision of this Agreement, the application of any such provision under circumstances different from those adjudicated by the court, or the validity or enforceability of this Agreement as a whole.

9.5 References. Unless otherwise indicated, (a) all Article, Section, and Exhibit references are to the articles, sections, and exhibits of this Agreement, and (b) all references to days are to calendar days, unless otherwise indicated. All the Exhibits attached hereto are incorporated herein by this reference. Whenever under the terms of this Agreement the time for performance of a covenant or condition falls upon a Saturday, Sunday or California state holiday, such time for performance shall be extended to the next business day (each, a "Business Day"). The headings used in this Agreement are provided for convenience only and this Agreement shall be interpreted without reference to any headings. The masculine, feminine or neuter gender and the singular or plural number shall be deemed to include the others whenever the context so indicates or requires.

9.6 Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California applicable to contracts made and to be performed in California. The parties agree that the state and federal courts in Los Angeles County shall have sole jurisdiction over this Agreement and any dispute thereof

9.7 Time. Time is of the essence in the performance of the parties' respective obligations under this Agreement.

9.8 Attorneys' Fees. In the event of any legal or equitable proceeding to enforce any of the terms or conditions of this Agreement, or any alleged disputes, breaches, defaults or misrepresentations in connection with any provision of this Agreement, the prevailing party in such proceeding shall be entitled to recover its reasonable costs and expenses, including, without limitation, reasonable attorneys' fees and costs of defense paid or incurred in good faith.

9.9 Assignment. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. However, Seller shall not have the right to assign all or any portion of its interest in this Agreement without Buyer's prior written consent. Buyer shall not have the right to assign all or any portion of its interest in this Agreement without Seller's prior written consent, which Seller may grant or deny in its sole discretion.

9.10 Cooperation With Exchange. Each party agrees to cooperate with the other if such party intends to accomplish a tax-deferred exchange pursuant to Section 1031 of the Internal Revenue Code of 1986. Buyer and/or Seller may assign this Agreement to an exchange intermediary for the purpose of facilitating such an exchange by the assigning party. Buyer's duty to cooperate shall be limited to the transfer of money to Seller or Seller's designee in exchange for the Property, and in no event shall Buyer act as purchaser or acquirer of any exchange property. Seller's duty to cooperate shall be limited to the transfer of the Property to Buyer or Buyer's designee and in no event will Seller exchange the Purchase Property for any exchange property designated by Buyer. The requesting party shall indemnify and defend and hold the other party harmless from any claims, loss, damages or liability arising out of participation in an exchange.

9.11 No Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any person other than the parties to it and their respective permitted successors and assigns, nor is anything in this Agreement intended to relieve or discharge any obligation of any third person to any party hereto or give any third person any right of subrogation or action over against any party to this Agreement.

9.12 Electronically Transmitted/Counterpart Documents. In the event Buyer or Seller utilizes electronically transmitted signed documents (e-mail or facsimile), the Parties hereby agree to accept and instruct Escrow Holder to rely upon such documents as if they bore original signatures. If required by Escrow Holder, Buyer and Seller hereby acknowledge and agree to provide to Escrow Holder, within seventy two (72) hours after transmission, such documents bearing the original signatures. Buyer and Seller further acknowledge and agree that electronically transmitted documents bearing non original signatures will not be accepted for recording and that the Parties will provide originally executed documents to Escrow Holder for such purpose. Escrow Holder is authorized to utilize documents which have been signed by Buyer and Seller in counterparts.

9.13 Counterparts. This Agreement may be executed in counterparts and when so executed by the parties, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument that shall be binding upon the parties, notwithstanding that the parties may not be signatories to the same counterpart or counterparts. The parties may

integrate their respective counterparts by attaching the signature pages of each separate counterpart to a single counterpart.

[Signatures on Following Page]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

Date: [_____], 2021

BUYER:

CITY OF POMONA, a California municipal corporation

By: _____

Name: _____

Its: _____

APPROVED AS TO FORM:

ATTEST:

BEST BEST & KRIEGER LLP

By: _____
Sonia Carvalho, City Attorney

By: _____
Rosalia A. Butler, City Clerk

Date: [_____], 2021

SELLER:

The MARK A. WARREN TRUST dated 11/6/1986, Mark A. Warren and Patricia R. Warren, Trustees

By: _____

Name: _____

Its: _____

Acceptance by Escrow Holder

Escrow Holder acknowledges receipt of the foregoing Agreement and accepts the instructions contained therein.

Date: [_____], 2021

By: _____

Name: _____

Title: _____

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

That certain real property located in the City of Pomona, Los Angeles County, California, described as follows:

[INSERT DESCRIPTION]

APN: 8323-016-016

EXHIBIT B
NON-FOREIGN CERTIFICATION

SELLER'S CERTIFICATION OF NON-FOREIGN STATUS

This form is provided so that the Seller in this transaction can certify compliance with the Foreign Investment in Real Property Tax Act to the Escrow Agent and Buyer. Buyer ("**Transferee**") must retain a copy of this document until after the fifth taxable year following the transfer.

Section 1445 of the Internal Revenue Code of 1986, as amended ("**Code**") provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. For U.S. tax purposes (including section 1445), the owner of a disregarded entity (which has legal title to a U.S. real property interest under local law) will be the transferor of the property and not the disregarded entity. To inform Transferee that withholding of tax is not required upon the disposition of a U.S. real property interest, the undersigned hereby certifies the following on behalf of the Mark A. Warren Trust ("**Transferor**"):

1. The Transferor is not a foreign corporation, foreign partnership, foreign trust, foreign estate or foreign person (as those terms are defined in the Code and the Income Tax Regulations promulgated thereunder).

2. The Transferor is not a disregarded entity as defined in Income Tax Regulation Section 1.1445-2(b)(2)(iii).

3. The Transferor's U.S. employer or tax identification number is [INSERT NUMBER].

4. The Transferor's office address is

788 Via Santo Tomas, Claremont, CA 91711

The Transferor understands that this Certification may be disclosed to the Internal Revenue Service by the Transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury I declare that I have examined this Certification and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of the Transferor.

Date: [_____], 2021

TRANSFEROR: MARK A. WARREN
 TRUST dated 11/6/1986, Mark A. Warren
 and Patricia R. Warren, Trustees

By: _____

Name: _____

Its: _____

**EXHIBIT C
GRANT DEED**

RECORDING REQUESTED BY

WHEN RECORDED RETURN TO:

Best Best & Krieger LLP
Attn: Sonia Carvalho
18101 Von Karman Ave, Unit 1000
Irvine, CA 92612

FREE RECORDING:

This instrument is for the benefit of the City of Pomona and is entitled to be recorded without fee or tax. (Govt. Code 6103, 27383 and Rev. & Tax Code 11922)

APN: 8323-016-016

Above Space for Recorder's Use Only

GRANT DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the MARK A. WARREN TRUST, a trust ("**Grantor**"), hereby grants to the CITY OF POMONA, a California municipal corporation ("**Grantee**"), the following described real property (the "**Property**") situated in the City of Pomona, County of Los Angeles, State of California:

SEE EXHIBIT 1 ATTACHED HERETO

THE PROPERTY IS CONVEYED TO GRANTEE SUBJECT TO:

- (a) All liens, encumbrances, easements, covenants, conditions and restrictions of record;
- (b) All matters which would be revealed or disclosed by an accurate survey or physical inspection of the Property;
- (c) A lien not yet delinquent for taxes for real property and personal property, and for any general or special assessments against the Property; and
- (d) Zoning ordinances and regulations and any other laws, ordinances and governmental regulations and restrictions regulating the use, occupancy or enjoyment of the Property.

IN WITNESS WHEREOF, Grantor has caused its name to be affixed hereto and this instrument to be executed by its duly authorized officer.

Dated: _____

GRANTOR:
MARK A. WARREN TRUST dated
11/6/1986, Mark A. Warren and Patricia R.
Warren, Trustees

Name: _____

Its: _____

EXHIBIT C-1

ACKNOWLEDGEMENT

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.
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STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

On _____, 20__ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: _____ (Seal)

EXHIBIT 1 TO GRANT DEED

LEGAL DESCRIPTION

That certain real property located in the City of Pomona, Los Angeles County, California,
described as follows:

[INSERT LEGAL DESCRIPTION]

APN: 8323-016-016

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the Grant Deed to which this Certificate of Acceptance is attached

from: MARK A. WARREN TRUST, a trust (“Grantor”)

to: CITY OF POMONA, a California municipal corporation (“Grantee”) is hereby accepted by the undersigned officer on behalf of Grantee pursuant to authority conferred by the Grantee’s governing board on _____ pursuant to _____, and Grantee hereby consents to recordation of said Grant Deed.

Date: [_____, 2021

CITY OF POMONA, a California municipal
corporation

By: _____

Name: _____

Its: _____

CERTIFICATE OF ACCEPTANCE

EXHIBIT D
VERIFICATION OF PROPERTY CONDITION

Property Address: 1172 E Pasadena St Pomona CA 91767 The purpose of this inspection is to satisfy Buyer regarding the condition of the Property. Buyer and Seller understand and agree that unless otherwise agreed in the prior contractual agreement between Buyer and Seller: (i) a final inspection is not a contingency of the purchase and sale, and (ii) the inspection or waiver is not intended in any way to alter the contractual obligations of Seller regarding the condition of Property to be delivered to Buyer at possession date. The inspection or waiver is not based upon any statement or representation by Broker(s), or brokerage employees. The undersigned agree to hold Broker(s), and brokerage employees harmless from any liability, claims, demands, damages or costs arising out of the contractual obligations of Buyer and Seller concerning the condition of Property.

Buyer acknowledges (1) that the Property is in substantially the same condition as on September 9, 2021; and (2) Seller has completed any repairs, alterations, replacements or modifications as agreed to by Buyer and Seller with the following exceptions:

The evaluation of the condition of the Property, including any items listed above, is based upon a personal inspection by Buyer and/or tests, surveys, inspections, or other studies performed by inspector(s) selected by Buyer.

When signed by all parties, this fulfills all conditions as set from in Section 4.3 of the original purchase agreement.

Receipt of a copy is hereby acknowledged.

Dated: October 1, 2021

BUYER
CITY OF POMONA

By: _____
Authorized Representative

Dated: October 1, 2021

SELLER

By: _____
Mark A. Warren, Trustee

Dated: October 1, 2021

SELLER

By: _____
Patricia R. Warren, Trustee