

**PURCHASE AND SALE AGREEMENT
CITY OF LA HABRA AND
THE LA HABRA HOUSING AUTHORITY
(209 North Euclid Street)**

This Agreement of Purchase and Sale ("Agreement"), entered into on January 19, 2021, by and between the City of La Habra, a municipal corporation ("City") and the La Habra Housing Authority ("Seller").

RECITALS

A. Seller is the owner of approximately 6,576 square feet of real property, which includes all of the real property identified as Assessor's Parcel Number 022-062-07, in the City of La Habra, County of Orange, California, which is located on 209 North Euclid Street, La Habra, California, which is legally described in **Exhibit A**, and as further depicted in **Exhibit B**, and the related improvements and appurtenances ("Property").

B. City desires to purchase the Property from Seller, and Seller desires to sell and convey the Property and all rights appurtenant thereto, on the terms and conditions in this Agreement.

Now, therefore, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

AGREEMENT

Section 1. Purchase and Sale.

Subject to all of the terms and conditions set forth in this Agreement, Seller shall sell to City, and City shall purchase from Seller, a fee simple interest in and to the Property, inclusive of any and all improvements and fixtures now or hereafter thereon, water, air and mineral rights and interests, rights, privileges and easements appurtenant thereto.

Section 2. Purchase Price.

A. Seller shall convey the Property by Grant Deed to City for valuable consideration in the amount of Two Hundred Thirty Thousand Dollars (\$230,000.00) (the "Purchase Price") on or before June 30, 2020 ("Closing").

Section 3. Fair Market Value; Just Compensation

The purchase price has been determined by the City and Seller to be fair market value and just compensation for the property, and is based on an appraisal prepared for the City by DMD Appraisals, Inc., dated June 25, 2020.

Section 4. No Marketing.

Seller agrees not to market, show, or list the Property to any other prospective buyer during the term of this Agreement.

Section 5. Conveyance of Title; Title Insurance.

- A. Seller shall by Grant Deed convey the Property to City as a fee simple interest free and clear of all title defects, liens, encumbrances, deeds of trust, mortgages, leases, real property taxes, and assessments, except as expressly approved by City under Section 6, below.
- B. City shall procure a standard California Land Title Association Standard Policy of title insurance, dated as of close of escrow, in the amount of the Purchase Price as identified in Section 2 above, and to be issued by Orange Coast Title Company showing title vested in the City of La Habra, a municipal corporation, and showing as exceptions to title only current real property taxes, not yet delinquent, and any other exceptions expressly approved by City under Section 6, below.

Section 6. Conditions for City's Benefit Only.

City's obligation to perform this Agreement is subject to the satisfaction of the following conditions, which are for City's benefit only.

- A. **Condition of Title.**
 - 1. City's obligation to purchase the Property under this Agreement is subject to Orange Coast Title Company's ability to issue its standard California Land Title Association Owner's Policy of title insurance, on its usual form, with liability not less than the Purchase Price, covering the Property, showing title vested in City, subject only to the exceptions to title which City expressly approves in writing.
 - 2. Seller shall assist City in obtaining a Preliminary Title Report for the Property ("Preliminary Title Report"). Within 10 days of receipt of the Preliminary Title Report by City, City shall provide written notice to Seller of any objection to any exception. Within ten (10) days after receipt of City's objections to the Preliminary Title Report, if any, Seller shall notify City in

writing whether Seller agrees to remove all other exceptions to title (“Unpermitted Exceptions”) prior to close of escrow. If Seller does not agree to remove all Unpermitted Exceptions, City, at its option, may either accept any Unpermitted Exception or, by written notice to Seller within ten (10) days of receipt of notice from Seller of its decision regarding Unpermitted Exceptions, terminate this Agreement and the rights and obligations of the parties hereunder. Failure to terminate this Agreement as set out herein shall be deemed to be acceptance by City of the Unpermitted Exceptions which shall then become Permitted Exceptions. The costs associated with removing any exceptions to title which Seller agrees to remove shall be borne by Seller.

Section 7. Closing Costs. City and Seller shall each pay all attorneys' fees and costs incurred by such party in connection with negotiation, execution, delivery and performance of this Agreement by such party. Seller will pay all costs associated with removing any debt encumbering the Property. The cost of the Title Policy issued at Closing shall be paid by City, and City shall pay all other closing costs, documentary transfer taxes, if any (Revenue & Taxation Code section 11922 waiver applies to City), and recording fees, if any (Government Code section 27383 waiver applies to City) due at Closing.

Section 8. Proration of Taxes and Assessments. Real and personal property taxes, assessments, and interest thereon, shall be prorated as of the Closing Date on the basis of a thirty (30) day month. All taxes and assessments applicable to the period prior to Closing shall be paid by Seller. City shall be responsible for paying and/or applying for any applicable exemptions relating to any taxes and/or assessments applicable to the period after the Closing.

Section 9. Warranties, Representations, And Covenants Of Seller.

Seller hereby warrants, represents, and/or covenants to City as of the date Seller has signed this Agreement, that:

- A. Until the closing, Seller shall not do anything which would impair Seller's title to any of the property.
- B. To the best of Seller's knowledge, neither the execution of this Agreement nor the performance of the obligations herein will conflict with, or breach any of the provisions of any bond, note, evidence of indebtedness, contract, lease, or other agreement or instrument to which Seller's property may be bound.
- C. Seller has received no notification or communication of any kind from any public entity or regulatory body, or third parties, which would indicate there are any environmental problems on, in, or under or about the Property or any notification or communication of any kind concerning pending or threatened proceedings or potential actions regarding the condition of the Property as specifically relates to environmental health and safety laws or regulations.
- D. Until the Closing, Seller shall, upon learning of any fact or condition which would cause any of the warranties and representations in these Warranties, Representations, and Covenants of Seller Section not to be true as of Closing, immediately give written notice of such fact or

condition to City.

E. Seller is not a foreign person within the meaning of 42 USCS § 1445(f)(3).

Section 10. Representations and Warranties of City.

City hereby warrants, represents, and/or covenants to Seller that:

- A. City has the legal power, right and authority to enter into this Agreement and the instruments referenced herein, to perform its obligations hereunder, and to consummate the transaction contemplated hereby.
- B. All requisite action has been taken by City in connection with the entering into of this Agreement, the execution and delivery of the instruments referenced herein, and the consummation of the transaction contemplated hereby.
- C. The individuals executing this Agreement and the instruments referenced herein on behalf of City have the legal power, right and actual authority to bind City to the terms and conditions hereof and thereof.
- D. There is no litigation pending or, to City's actual knowledge, threatened, against City or any basis therefor that might materially and detrimentally affect the ability of City to perform its obligations under this Agreement. City is not now the subject of any proceeding under the federal Bankruptcy Code or under any applicable state bankruptcy, debtor protection or insolvency statute.

Section 11. Notices. All notices to be given under this Agreement shall be in writing in the manner set forth below, addressed to the party to be served at the addresses set forth below, or at such other address for which that party may have given notice under the provisions of this Section. Any notice, demand, approval, consent, or other communication given by (a) mail shall be deemed to have been given four business days after it is deposited in the United States mail, first class and postage prepaid; (b) overnight common carrier courier service shall be deemed to be given on the business day (not including Saturday) immediately following the date it was deposited with such common carrier; (c) delivery in person or by messenger shall be deemed to have been given upon delivery in person or by messenger; or (d) electronic facsimile or email message shall be deemed to have been given on the date of transmission of the entire communication, provided that (i) such transmission occurs during 8:00 a.m. and 5:00 p.m., Pacific Time, on business days, and (ii) the sending party sends a hard copy of the original transmitted document(s) not later than the first (1st) business day following such transmission, by one of the methods described in subsections (a), (b) or (c) above.

Seller: La Habra Housing Authority
c/o City Manager's Office
Attention: Tim Shaw, Housing Authority Chair
110 East La Habra Boulevard
La Habra, CA 90631

City: Jim Sadro, City Manager
City of La Habra
110 East La Habra Boulevard
La Habra, CA 90631

Section 12. Possession. The City shall have the right of possession and use of the Property commencing on the date that this Agreement is executed by both parties. If the Property subsequently is not acquired by City for any reason, City shall restore the Property to the condition existing at the time this Agreement was executed, unless otherwise agreed to by the parties.

Section 13. Attorney Fees; Litigation Costs. If any legal action or other proceeding, including arbitration or an action for declaratory relief, is brought to enforce this Agreement or because of a dispute, breach, default, or misrepresentation in connection with this Agreement, the prevailing party shall be entitled to recover reasonable attorney fees and other costs, in addition to any other proper relief. Prevailing party includes (a) a party who dismisses an action in exchange for sums allegedly due; (b) the party that receives performance from the other party of an alleged breach of covenant or a desired remedy, if it is substantially equal to the relief sought in an action; or (c) the party determined to be prevailing by a court of law.

Whenever provision is made in this Agreement for the payment of attorney's fees, such fees shall be payable whether the legal services are rendered by a salaried employee for the party or by independent counsel and shall include such fees as are incurred in connection with any pretrial proceeding, trial or appeal of the action.

Any award of damages following judicial remedy or arbitration as a result of the breach of this Agreement or any of its provisions shall include an award of prejudgment interest from the date of the breach at the maximum amount of interest allowed by law.

Section 14. Time of the Essence. Time is of the essence in this Agreement and every provision contained in this Agreement.

Section 15. Construction; Severability. The title and headings of the Sections in this Agreement are intended solely for reference and do not modify, explain, or construe any provision of this Agreement. All references to sections, recitals, and the preamble shall, unless otherwise stated, refer to the Sections, Recitals, and Preamble of this Agreement. Except where otherwise stated, all references to days are to calendar days. Whenever under the terms of this Agreement the time for performance of a covenant or condition falls on a Saturday, Sunday, or holiday (as defined in Section 6700 of the California Government Code) (each a "Non-Business Day"), such time for performance will be extended to the next business day. "Business Days" means days other than Non-Business Days. In construing this Agreement, the singular form shall include the plural and vice versa. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties have prepared the agreement. If any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be enforced to the fullest extent permitted by law.

Section 16. Integration. This Agreement, all attached exhibits, and all related documents referred to in this Agreement, constitute the entire agreement between the parties. There are no oral or parol agreements which are not expressly set forth in this Agreement and the related documents being executed in connection with this Agreement. This Agreement may not be modified, amended, or otherwise changed except by a writing executed by the party to be charged.

Section 17. Interpretation. Throughout this Agreement, (a) the plural and singular numbers will each be considered to include the other; (b) the masculine, feminine, and neuter genders will each be considered to include the others; (c) "shall," "will," "must," "agrees," and "covenants" are each mandatory; (d) "may" is permissive; (e) "or" is not exclusive; and (f) "includes" and "including" are not limiting.

Section 18. Third-Party Rights. Nothing in this Agreement, express or implied, is intended to confer upon any person, other than the parties and their respective successors and assigns, any rights or remedies.

Section 19. Waivers. No waiver or breach of any provision shall be deemed a waiver of any other provision. No extension of time for performance of any obligation or act shall be deemed an extension of time for any other obligation or act. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

Section 20. No Merger. All covenants of City or Seller which are intended hereunder to be performed in whole or in part after the Close of Escrow, and all warranties and representations and indemnities in this Agreement will survive the Closing and will not merge in any instrument conveying title to City, subject to any limitation on the period of time of such survival specified herein, and inure to the benefit of and be binding on the parties' respective successors and assigns.

Section 21. Full Consideration. Seller expressly agrees that the consideration provided to Seller by City under this Agreement is the full amount of consideration to be paid by City for acquisition of the Property. By execution of this Agreement and acceptance of this consideration, Seller expressly agrees that this consideration fully satisfies all City's legal obligations to pay just compensation for the Property, and Seller releases City from any and all claims Seller may have against City for compensation.

Section 22. Incorporation of Exhibits. All attached exhibits are incorporated in this Agreement by reference.

Section 23. Authority of Parties. All persons executing this Agreement on behalf of a party warrant that they have the authority to execute this Agreement on behalf of that party.

Section 24. Further Documents and Acts. Each of the parties hereto agrees to cooperate in good faith with each other, and to execute and deliver such further documents and perform such other acts as may be reasonably necessary or appropriate to consummate and carry into effect the transactions contemplated under this Agreement, and this Section 28 shall survive the Close of Escrow.

Section 25. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument. The execution of this Agreement shall be deemed to have occurred, and this Agreement shall be enforceable and effective, only upon the complete execution of this Agreement by Seller and City.

Section 36. Governing Law. This Agreement shall be governed by and construed in accordance with California law.

The parties have executed this Agreement as of the dates written below.

City: CITY OF LA HABRA, a municipal corporation

By: _____
Jim Sadro, City Manager

Dated: _____, 2021

Seller: LA HABRA HOUSING AUTHORITY

By: _____
Tim Shaw, Housing Authority Chair

Dated: _____, 2021

Approved as to Form:

Richard D. Jones, City Attorney
City of La Habra

Exhibits

Exhibit A – Legal Description of Property

Exhibit B – Map of Property